



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT

NATIONAL ASSEMBLY

THE HANSARD

VOL. II NO. 50

THE HANSARD

Wednesday, 21st June 2023

The House met at 2.30 p.m.

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

PRAYERS

Hon. Speaker: Hon. Members, we have quorum to transact business. Clerks-at-the-Table.

(Hon. Adan Keynan walked into the Chamber)

Take the nearest seat, Hon. Keynan.

COMMUNICATIONS FROM THE CHAIR

VISITING DELEGATION FROM THE PARLIAMENT OF UGANDA

Hon. Members, I have two short communications. One is on acknowledging visitors in the Speaker's Gallery. I wish to introduce to you a delegation of staff from the Parliament of Uganda seated in the Speaker's Gallery. The delegation comprises:

- | | | |
|-------------------------------|---|---------------|
| 1. Mr. Simon Peter Waiswa | - | Legal Counsel |
| 2. Mr. John Fredrick Buteraba | - | Legal Counsel |
| 3. Mr. Benedict Arinaitwe | - | Legal Counsel |
| 4. Ms. Gloria Achayo | - | Legal Counsel |
| 5. Ms. Ivy Kemigisha | - | Legal Counsel |
| 6. Ms. Racheal Ampirwe | - | Legal Counsel |
| 7. Mr. Colline Nakiranda | - | Legal Counsel |
| 8. Mr. Dennis Okuno | - | Legal Clerk |
| 9. Mr. Tom Inyalio | - | Legal Clerk |

The delegation, drawn from the Department of Litigation and Compliance of the Parliament of Uganda, is in the country on a benchmarking study visit to our Parliament, specifically to share best practices. Hon. Members, on my behalf and that of the House, I welcome the team to the National Assembly and wish them fruitful engagements during their stay in the country.

Thank you.

(Applause)

DELEGATION FROM THE ZIMBABWE JOINT COMMAND STAFF COLLEGE

The second Communication is to welcome a visiting delegation from Zimbabwe's Joint Command Staff College. Hon. Members, I wish to introduce to you a delegation from the Zimbabwe's Joint Command Staff College seated in the Speaker's Gallery. The delegation comprises:

- | | | |
|-----------------------------------|---|---------------------|
| 1. Brig. Gen. (Dr) Joe Muzvidziwa | - | Commandant, Head of |
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		Delegation;
2. Col. Waluza Alipole	-	Director of Study;
3. Lt. Col. Chance Mkwananzi	-	Directing Staff Term 2;
4. Lt. Col. Titus Wallace	-	Directing Staff Term 2;
5. Maj. Tommy Midzi	-	General Staff Officer, Coordinator;
6. Lt. Col. Kenneth Malaka	-	Student;
7. Squadron Leader Ackroid Moyo	-	Student;
8. Maj. Simbarashe Chapungu	-	Student;
9. Squadron Leader Mufaro Motsi	-	Student;
10. Maj. Smart Mutorera	-	Student;
11. Maj. Puleng Macheli	-	Student;
12. Maj. Albert Mukinda	-	Student;
13. Maj. Godknows Mawela	-	Student;
14. Maj. Stein Kusizani	-	Student;
15. Squadron Leader Munyaradzi Madombwe	-	Student;
16. Maj. Brighton Shana	-	Student;
17. Maj. Washington Barwa	-	Student;
18. Squadron Leader Nigel Dube	-	Student; and,
19. Maj. Kennias Mugiya	-	Student.

The following persons from Kenya are accompanying the delegation:

1. Lt. Col. S. Kyeva Munyao - Senior Escorting Officer;
2. Maj. Ndwiga - Assistant Escorting Officer; and,
3. Warrant Officer I Nelson Mukolwe - Defence Relations Officer, MFA.

The delegation, drawn from various countries, among them the Republic of Zimbabwe, the Republic of South Africa, the Republic of Zambia and the Kingdom of Lesotho, is in the country on a geo-political study tour to various ministries and state departments, specifically to share best practices. On my behalf and that of the House, I welcome them to the National Assembly and wish them fruitful engagements during their stay in the country.

Thank you.

(Applause)

I think there are also some students in the Public Gallery, but I have not been given the list. We will acknowledge them when I get the list.

We have the Chairperson of the Departmental Committee on Defence, Intelligence and Foreign Relations under the next Order. If he is absent, let us have the Chairperson of the Public Debt and Privatisation Committee. Is there anybody from the Public Debt and Privatisation Committee? Yes, Hon. Makali Mulu. Can you lay your Paper? Let us have the Chairperson of the Departmental Committee on Environment, Forestry and Mining as Makali Mulu organises himself.

PAPERS

Hon. David Gikaria (Nakuru Town East, UDA): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Departmental Committee on Environment, Forestry and Mining on its consideration of the ratification of the Minamata Convention on Mercury.

Hon. Speaker: Chairperson, Committee on Delegated Legislation.

Hon. Samuel Chepkong'a (Ainabkoi, UDA): Thank you very much, Hon. Speaker. I beg to lay the following Paper on the Table:

Report of the Committee on Delegated Legislation on its consideration of the Public Finance Management (National Peace Support Operations Fund) Regulations, 2023, Legal Notice No.58 of 2023.

I thank you, Hon. Speaker.

Hon. Speaker: Chairperson, Departmental Committee on Justice and Legal Affairs.

Hon. George Murugara (Tharaka, UDA): Hon. Speaker. We have just concluded the Report. Kindly indulge me for a short while. They are binding.

Hon. Speaker: I do not want you to disrupt business when we start. Do you want to lay it tomorrow morning? Or you have to do it today?

Hon. George Murugara (Tharaka, UDA): I have to do it today.

Hon. Speaker: So, how much time do you require?

Hon. Kangogo Bowen (Marakwet East, UDA): Another 20 minutes or so.

Hon. Speaker: 20 minutes?

Hon. George Murugara (Tharaka, UDA): As we finish the procedural Motions, possibly I will come over to you, Sir.

Hon. Speaker: Okay. Chairperson, Public Debt and Privatisation Committee. Hon. Makali Mulu, you appear to have two papers to lay?

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Yes. Thank you, Hon. Speaker. We are in the same situation with the Departmental Committee on Justice and Legal Affairs. We sat up to 1.00 p.m. The Clerks-at-the-Table are sorting out the matter.

Hon. Speaker: Okay. Organise yourselves. Have your documents in the next 10 minutes. We go back to the Chairperson, Departmental Committee on Defence, Intelligence and Foreign Relations. *Wapi* Hon. Nelson Koech?

An Hon. Member: Ndiyo huyu!

Hon. Speaker: Are you ready to lay your Paper? Give him the microphone.

Hon. Nelson Koech (Belgut, UDA): Apologies, Hon. Speaker. I beg to lay the following Paper on the Table:

Report of the Departmental Committee on Defence, Intelligence and Foreign Relations on its participation at the 36th Ordinary Session of the African Union held in Addis Ababa, Ethiopia, from 14th to 20th February 2023.

Hon. Speaker: Thank you. Next Order.

NOTICES OF MOTIONS

Hon. Speaker: Hon. John Kiarie. Member for Dagoretti South. Hon. Members, any Chairperson who has documents to lay on the Table or notice of Motion to place before the House, I will not, as a Chair, entertain requests such as: "Give me 10 minutes I am stuck in traffic." Every Member here came through traffic and you must know that the House starts at 2.30 p.m. If you are laying any documents, it is always among the first orders. If you have notices of motions, it is always among the first orders. So, if you miss the train, you miss the opportunity as well.

Hon. Abdul Haro, Mandera South.

DEVELOPMENT OF SATELLITE-BASED CLIMATE CHANGE MONITORING POLICY

Hon. Abdul Haro (Mandera South, UDM): Thank you, Hon. Speaker. I beg to give notice of the following Motion:

THAT, aware that the Constitution recognises the peoples' respect for the environment as the country's heritage and the commitment to sustaining the environment for future generations; further aware that the cyclic drought in the country has caused devastating effects and serious disruption to the economy; recognising that, climate change is a global problem with developing countries being the most affected as those regions are dependent on climate sensitive sectors such as agriculture and forestry; further recognizing that the severe effects of climate change are already being experienced in the form of frequent droughts, flooding and other extreme weather occurrences; concerned that the current climate change monitoring mechanisms in the country are based on traditional methods which rely on ground observations and climate models which have limitations in terms of accuracy, timeliness and spatial coverage; noting that the country recently launched its first operational satellite to collect and transmit high-quality data; further noting that this technology can help in accurately monitoring and forecasting climatic and weather patterns; cognizant of the fact that other jurisdictions have made use of this technology to monitor climate change with marked positive impacts; appreciating that the use of technology, especially satellite technology, would allow enhanced monitoring that can have significant impact on sustainable environmental management; further appreciating that this technology would be useful in monitoring difficult-to-reach, expansive and unsafe areas; now therefore, this House resolves that the Ministry of Environment and Forestry develops a policy on Information Technology (IT) that deploys the use of satellites in the monitoring and forecasting of climatic conditions with the objective of ensuring timely and accurate data collection to enhance the country's capacity to respond to weather-related risks and vulnerabilities, including climate change.

Thank you, Hon. Speaker.

(Hon. Speaker consulted with the Clerk-at-the-Table)

Hon. Speaker: Departmental Committee on Environment, Forestry and Mining.

RATIFICATION OF THE MINIMATA CONVENTION ON MERCURY

Hon. David Gikaria (Nakuru Town East, UDA): Thank you, Hon. Speaker. I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Departmental Committee on Environment, Forestry and Mining on its consideration of the ratification of the Minimata Convention on Mercury, laid on the Table of the House on Wednesday, 21st June 2023 and, pursuant to the provisions of Section 8(4) of the Treaty Making and Ratification Act, 2012, approves the Report of the Departmental Committee on Environment, Forestry and Mining on its consideration of the ratification of the Minimata Convention on Mercury.

Thank you, Hon. Speaker.

Hon. Speaker: Chairperson, Committee on Delegated Legislation.

ADOPTION OF THE REPORT ON THE PUBLIC FINANCE MANAGEMENT (NATIONAL PEACE SUPPORT OPERATIONS FUND) REGULATIONS, 2023

Hon. Samuel Chepkong'a (Ainabkoi, UDA): Thank you very much, Hon. Speaker. The Chairperson, Departmental Committee on Education was engaging me on education matters in my constituency. So, I forgot that I was on the Order Paper.

I beg to give notice of the following Motion:

THAT, this House adopts the Report of the Committee on Delegated Legislation on its consideration of the Public Finance Management (National Peace Support Operations Fund) Regulations, 2023, Legal Notice No.58 of 2023 laid on the Table of the House on Wednesday, 21st June 2023 and, pursuant to the provisions of Section 24(4) of the Public Finance Management Act, 2012, approves the Public Finance Management (National Peace Support Operations Fund) Regulations, 2023, Legal Notice No.58 of 2023.

Hon. Speaker: Hon. Murugara, I believe this suffers the same fate?

Hon. George Murugara (Tharaka, UDA): Yes.

Hon. Speaker: So, we will come back to you.

Hon. George Murugara (Tharaka, UDA): Shortly. Thank you very much, Hon. Speaker.

Hon. Speaker: Okay, we will come back to the Public Debt and Privatisation Committee later. Next Order.

PROCEDURAL MOTIONS

EXTENSION OF SITTING TIME

Hon. Speaker: Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): 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 today, Wednesday, 21st June 2023, be reached before conclusion of the business appearing under Order No.10 of today's Order Paper, being Committee of the Whole House on the Finance Bill, 2023, the Sitting of the House shall stand extended until the conclusion of the said business.

Hon. Speaker, just as we did yesterday, because of the constraints of time, Members will appreciate that the Bill has close to 80-plus clauses, including the New Clauses, and we may not be able to finish before the time appointed for the House to rise at 9.00 p.m.

I do hope that we should be able to push very hard. In case we are not able to, we will extend the House until probably, around midnight.

In a very special manner, allow me to thank the 176 Members from the Kenya Kwanza Coalition and the 65 Members from the Azimio la Umoja-One Kenya Alliance, who sat through the Sittings until close to 1.00 a.m., when the House rose. It is a demonstration of the commitment that all the 242 Members have to their work. That commitment was demonstrated early this morning when the House rose some minutes to 1.00 a.m. The same Members were here by 9.30 a.m. this morning. Hon. John Mbadi (CPA) was among the last Members to leave and among the first Members to be here this morning.

Hon. Speaker, I beg that we be patient. We are doing this for our good country and for the welfare of the society and the just Government of the people of Kenya. I invite all of you to bear and be with us until whatever time we will finish.

Allow me to ask the Chairman of the Water, Irrigation and Sanitation Committee, Hon. Kangogo Bowen, to second.

Hon. Kangogo Bowen (Marakwet East, UDA): Thank you, Hon. Speaker. I want to second the Leader of the Majority Party. The business before us is very important, especially

the Finance Bill. The whole country is looking at this House to pass this Bill so that we are able to develop the country.

I do not want to say a lot. Just as the Leader of the Majority Party has said, I want to appreciate all my colleagues who sat for long hours last evening; and even as we engage today, I want to thank all the colleagues who were able to conduct themselves with decorum because this is a House of debate. Where there are proposers and opposers of a Bill, we can always agree to vote either way and without necessarily creating conflict here and there.

Hon. Speaker, I second.

Hon. Speaker: Order, Hon. Members. Hon. Shakeel, take the nearest seat.

(Question proposed)

(Question put and agreed to)

Next Order!

RESOLUTION TO HOLD A SITTING ON THURSDAY MORNING

Hon. Speaker: Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, I beg to move:

THAT, pursuant to the provisions of Standing Order 30(3)(b), this House resolves to hold a Morning Sitting on Thursday, 22nd June 2023 commencing at 9:30 a.m. for purposes of considering the Finance Bill, 2023 and other priority Budget-related businesses, should we not be able to conclude business of the Finance Bill today.

As I mentioned, you will accord the House time to conclude with all the stages of the following Bills:

1. The County Allocation of Revenue Bill (Senate Bill No.16 of 2023).
2. The Equalization Fund Appropriation Bill (Senate Bill No.3 of 2023).
3. The Supplementary II Appropriations Bill, 2023.

Those who were here in the morning will appreciate that the Budget and Appropriations Committee tabled its Report and we debated all the three Motions. It is important that we move on to the next stages tomorrow as we had indicated yesterday. We agreed in the House Business Committee (HBC) that these being Finance-related Bills, they have timelines and deadlines which we need to beat.

With those few remarks, and this being a Procedural Motion, I want to ask the Hon. Member for Samburu County, the indomitable Woman Representative, Hon. Pauline Lenguris to second.

Hon. Speaker: Hon. Pauline. The microphone is next to you.

Hon. Pauline Lenguris (Samburu County, UDA): Thank you, Hon. Speaker. I second.

Hon. Speaker: Order, Hon. Members.

(Question proposed)

(Question put and agreed to)

Hon. Members, I will go back to Order 5 and allow the Chairman of the Departmental Committee on Justice and Legal Affairs (JLAC) to lay a Paper on the Table.

Hon. George Murugara (Tharaka, UDA): And also give notice.

Hon. Speaker: That is a different Order. Lay your Paper first!

PAPER

Hon. George Murugara (Tharaka, UDA): Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Departmental Committee Justice and Legal Affairs (JLAC) on the vetting of Ms. Salome Wairimu Muhia-Beacco for appointment as Principal Secretary, State Department for Correctional Services.

Thank you, Hon. Speaker.

Hon. Speaker: Thank you, Chairman. Hon. Makali Mulu, are you ready? Let us now move on to Order No.6. Member for Dagoretti South.

Hon. John Kiarie (Dagoretti South, UDA): Thank you very much, Hon. Speaker for your magnanimity.

It is not my habit to be late. I was out on a Speaker's sanctioned mission for a caucus that belongs to this House.

NOTICES OF MOTIONS

ESTABLISHMENT OF A SCIENCE MUSEUM IN KENYA

Hon. John Kiarie (Dagoretti South, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, aware Article 11(2)(d) of the Constitution provides that the Government shall recognise the role of science and indigenous technologies in the development of the nation, further aware that the Vision 2030 provides for the integration of information, communication and technology in the country's transformation agenda; concerned that there exists no science museum for consolidation of indigenous scientific and technological innovations and training research purposes in the whole East African region, appreciating that the integration of science technology would greatly enhance Kenya's economic and societal success, noting that there is potential for growth in the technology sector by establishing a science museum, further noting that the informal science education plays a key role in the progression of Science, Technology, Engineering and Mathematics commonly known as STEM, acknowledging that science museums operate as the nexus between science practitioners, policy makers and the public; cognisant of the fact that a science museum in the country would greatly impact on the economy of the country in the quest to become an industrialised nation, now, therefore, this House resolves that the national Government, through the relevant ministry, establishes and operationalises a science museum in this country.

I signed this on the 8th of June 2023. I would also like to note that there is a delegation from Dagoretti South Constituency, Ndururua Secondary School in the House. The school was built out of the National Government Constituencies Development Fund (NG-CDF) of Dagoretti South Constituency.

I appreciate Hon. Speaker.

Hon. Speaker: Thank you Hon. Kiarie. Hon. Makali Mulu, your matter will be stayed to tomorrow.

Hon. Members allow me to acknowledge the following schools:

1. Moi Amalo High school, Kuresoi South, Nakuru.
2. GSU Primary School, Juja, Kiambu.

3. Malewa High School, Kipipiri, Nyandarua.
4. Ndiuni Primary School, Tharaka, Tharaka Nithi.
5. Public Researchers from Moiben, Uasin Gichu.

On your behalf and my behalf, I welcome them to the House of Parliament.
Leader of the Majority Party and Minority Party, can you approach the Chair.
Order, Hon. Members.

(Hon. Speaker consulted with the Leader of the Majority Party and the Leader of the Minority Party)

APPOINTMENT OF NOMINEE AS PRINCIPAL SECRETARY
STATE DEPARTMENT FOR CORRECTIONAL SERVICES

Hon. George Murugara (Tharaka, UDA): Hon. Speaker, I beg to give notice of the following Motion:

THAT, taking into consideration the findings of the Departmental Committee on Justice and Legal Affairs in its Report on the vetting of a nominee for appointment as Principal Secretary, State Department for Correctional Services, laid on the Table of the House on Wednesday, 21st June 2023 and, pursuant to the provisions of Article 155(3)(b) of the Constitution and Section 8(1) of the Public Appointments Parliamentary Approval Act, 2011, approves the appointment of Ms. Salome Wairimu Muhia-Beacco as the Principal Secretary, State Department for Correctional Services.

Hon. Speaker: Thank you Hon. Murugara. Hon. Members, we are moving on to Order No.10

(Loud consultations)

Order, Hon. Members. Allow me to salute the House for your tremendous industry and great conduct yesterday, where you went through many clauses of the Finance Bill. As we said yesterday, we are moving into the Committee of the whole House now. You have resolved as a House that you will sit up to the end of the day. The end of the day means midnight. If close to midnight you call for a division, you will sit for as long as the division subsists and finish only when you finish with it.

Where is Hon. Makali Mulu? Before we go into the Committee of the Whole House, he needs to lay his document. In his absence, a member of the Public Debt and Privatisation Committee could do it. The matter is supposed to come up tomorrow and so, we do not want to lock them out. A member of the Public Debt and Privatisation Committee. Could you pass the document to Hon. Omboko Milemba to lay it and give notice of Motion? Do it in the shortest time possible.

Hon. Makali is here. You can pass it on to him if you wish.

Hon. Omboko Milemba (Emuhaya, ANC): He is the leader and so, let me pass it over to him.

Hon. Speaker: Serjeant-at-Arms, can you pass those documents to Hon. Makali Mulu? Hon. Makali Mulu, you are always known to be more organised than you are displaying today. Go to Order No.5, and lay your papers.

PAPERS

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you very much Hon. Speaker. I really apologise for this mix-up. We had to get the documents signed.

Hon. Speaker, I beg to lay the following Paper on the Table:

Report of the Public Debts and Privatisation Committee on its consideration of the Consolidated Fund Service Expenditures under the Financial Year 2023/2024 Budget Estimates.

Hon. Speaker: There is much more than that. You are supposed to lay what you have said and then the Public Finance Management (Amendment) Bill.

Hon. (Dr) Makali Mulu (Kitui Central, WDM) That has not come.

Hon. Speaker: Then you have another report on the Public Debt and Privatisation Committee. Do you have that?

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you, Hon Speaker.

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

Report of the Public Debt and Privatisation Committee on its consideration of the Public Finance Management (Amendment Bill) National Assembly Bill No.16 of 2023.

Hon. Speaker: Thank you, Hon. Makali Mulu. Now go to Order No. 6 and give your notices of Motions.

NOTICES OF MOTIONS

ADOPTION OF REPORT OF THE PUBLIC DEBT AND PRIVATISATION COMMITTEE ON CONSOLIDATED FUNDS SERVICES EXPENDITURES

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you, Hon Speaker. I beg to give notices of the following Motions:

THAT, this House adopts the Report of the Public Debt and Privatisation Committee on its consideration of the Consolidated Funds Services Expenditures under the Financial Year 2023/2024 Budget Estimates, laid on the Table of the House on Wednesday, 21st June 2023.

ADOPTION OF REPORT OF THE PUBLIC DEBT AND PRIVATISATION COMMITTEE ON PUBLIC FINANCE MANAGEMENT (AMENDMENT BILL), NATIONAL ASSEMBLY BILL NO.16 OF 2023

THAT, this House adopts the Report of the Public Debt and Privatisation Committee on its consideration of the Public Finance Management (Amendment Bill), National Assembly Bill No.16 of 2023.

Hon. Speaker: Thank you, Hon. Makali Mulu. Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

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

IN THE COMMITTEE

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

THE FINANCE BILL
(National Assembly Bill No.14 of 2023)

(Resumption of consideration interrupted on 20.6.2023 - Afternoon Sitting)

The Temporary Chairlady (Hon. Martha Wangari): Order, Hon. Members! We are now continuing with the Committee of the whole House. We reached Clause 24 yesterday. Today, we will start from Clause 25.

Some ground rules: we debated during the Second Reading. I will indulge some debate in Committee of the whole House on some clauses for a maximum of two minutes per Member. We will keep it at the minimum.

Order, Hon. Members! We will start with Clause 25.

Hon. Jared, we exhausted Clause 24 yesterday. We are not going back to it. We are going to Clause 25.

(Clauses 25, 26 and 27 agreed to)

New Clause 17A

THAT, the Bill be amended by inserting the following new clause immediately after clause 17—

Amendment of
section 28A of
Cap.470.

17A. Section 28A of the Income Tax Act is amended-

- (a) in paragraph (b), by inserting the words “or other manufacturing activities including refining” immediately after the words “human vaccines”;
- and
- (b) by inserting the word “and” at the end of paragraph.

The Temporary Chairlady (Hon. Martha Wangari): Order, Members! If you are willing to speak to a certain clause, press the intervention button so that we can have order in the House. I will allow a few Members and if you are not willing to speak on this clause, kindly withdraw your card. Mover.

Hon. Kuria Kimani (Molo, UDA): Thank you Hon. Temporary Chairlady. I beg to move that new clause 17A be read a Second Time. The new clause is adding the words ‘or other manufacturing activities including refining’ so that we incentivise manufacturers involved in refining activities. This is to ensure that every manufacturer in the refining pharmaceutical sector will enjoy the tax incentive proposed in New Clause 17 A. I beg to move.

(The new clause was read a First Time)

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

The Temporary Chairlady (Hon. Martha Wangari): Thank you, Chairperson. Leader of the Minority Party, do you intend to speak on this one? If not, Hon. Beatrice Elachi, do you intend to speak on this one? Alright. Member for Yatta

Hon. Robert Ngui (Yatta, WDM): Thank you, Hon. Temporary Chairlady. I want to know what was wrong with the way the clause was stated. What has prompted the Chairman

of the Departmental Committee on Finance and National Planning to introduce a new clause? Can he provide clarity before we make it part of the Bill?

The Temporary Chairlady (Hon. Martha Wangari): Order, Members! If you listened to the Mover, he gave a background on that clause.

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

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

New Clause 21A

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

Amendment of section 133 of Cap. 470. **21A.** The Income Tax Act is amended in section 133(6), by deleting the expression “31st December, 2023” and substituting therefor the expression “31st December, 2024.”

The Temporary Chairlady (Hon. Martha Wangari): Mover.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairlady, I beg to move that new clause 21A be now read a Second Time.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Chairman, for good order and for everyone to follow, briefly explain what the clause is about.

Hon. Kuria Kimani (Molo, UDA): Section 133(6) of the Income Tax Act is being amended to extend the period given to capital expenditure for construction of bulk grain handling facilities supporting the Standard Gauge Railway (SGR) in the Business Laws Amendment Act, 2020. These are some of the amendments we do to clauses that affect particular sectors. During public participation, we tried to accommodate as many views as possible so that we can make our business environment predictable. So, an incentive forwarded to a business two years ago is not taken away a few months later after making huge investments in that sector.

The Temporary Chairlady (Hon. Martha Wangari): Thank you.

(The new clause was read a First Time)

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

Member for Seme.

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Temporary Chairlady, I think what the Chairman has done is inadequate. This is a new clause and he should read it and then explain the import and what it means. A new clause is different from an amendment. This is a completely new thing and Members need to know the rationale behind it so that we can contribute effectively.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Chairman, just read or expound briefly in two minutes what this clause is all about.

Hon. Kuria Kimani (Molo, UDA): I thought I had but let me do it again.

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

Amendment of section 133 of Cap. 470. **21A.** The Income Tax Act is amended in section 133(6), by deleting the expression “31st December, 2023” and substituting therefor the expression “31st December, 2024.”

This is capital expenditure incentive provided for construction of bulk grain handling facilities supporting the SGR. This incentive was for this sector but is expiring on 31st December 2023. Such huge investments would need to be given a longer duration of time so as to make sense to these businesses because they involve a very huge cash flow. The proposal is to extend the expiry date of this incentive from 31st December, 2023 to 31st December, 2024. I hope this is clear.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Members, I think the Chairman has explained the new clause. I know Hon. Nyikal knows this process because we are at a point where he can come in. We have debate during Second Reading of the new clause. So, if you have something to say, this is your opportunity.

(The new clause was read a First Time)

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

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Temporary Chairlady, we have heard it is a new clause. What we have done is First Reading then we will have Second Reading.

The Temporary Chairlady (Hon. Martha Wangari): Member for Seme, if you listened clearly, the clause was read a second time. That is how far we have gone. Is that clear?

Hon. (Dr) James Nyikal (Seme, ODM): It is clear. We can continue to debate.

The Temporary Chairlady (Hon. Martha Wangari): Maximum of two minutes.

Hon. (Dr) James Nyikal (Seme, ODM): It is a good thing to give this incentive again and again. If we give a longer extension period, we need to know the plan for the SGR because it is not progressing. So, why are we extending the period?

The Temporary Chairlady (Hon. Martha Wangari): Thank you, Member for Seme. Member for Kathiani.

Hon. Robert Mbui (Kathiani, WDM): Thank you, Hon. Temporary Chairlady. My concern is that the Committee, through the Chairman, is providing incentive. This incentive is being given, in his own words, to those with very big businesses. I am concerned because he continuously increases taxes for those who are not doing well. On one hand, he is raising the big business people while on the other hand, he is killing the hustlers. This is something we need to oppose. If you want to give incentives, give them to the hustlers.

The Temporary Chairlady (Hon. Martha Wangari): Thank you, Member for Kathiani. We will get to the vote. Chairman, please, put this to rest.

Hon. Kuria Kimani (Molo, UDA): Thank you, Hon. Temporary Chairlady. Perhaps, the way I explained may have been misinterpreted. What the Committee endeavoured to do, and you will find this in the other proposed amendments, is such that if a product was tax exempt last year and we are zero-rating it this year, we ensured it remains zero-rated. For example, if an incentive is provided to a sector that had agreements with a ministry or the Government of Kenya, then we extended that duration.

Hon. Chairlady, it is good that my good friend, Hon. Robert Mbui, did mention that. It is the same thing we will be doing to the amnesty, fines and penalties to taxpayers. We found that the incentives being provided were expiring last year. If you find me moving the proposal to continue extending that amnesty to another year, it is nothing unprocedural. It is to make

sure that we have as much a predictable tax environment in our country as it is equitably possible.

Hon. Jared Okello (Nyando, ODM): On a point of order.

The Temporary Chairlady (Hon. Martha Wangari): What is your point of order, Hon. Jared Okello?

Hon. Jared Okello (Nyando, ODM): I thank you, Hon. Temporary Chairlady. There is a conundrum from the Chair. I am perplexed that this did not emanate from the National Treasury or from the Ministry itself. It has come as a proposal by the Committee. Whose interest is the Committee serving? Unless we are lobbyist in this House and that there are people out there who are telling us what to do and then infuse them into such a serious Bill from the National Treasury. We need an explanation. If the minutes you had did not have it as a proposal, where did it come from?

(Several Members spoke off the record)

The Temporary Chairlady (Hon. Martha Wangari): Order Members. I still insist that we are not at the Second Reading. However, I will give the Chair a chance to clarify the question raised by Hon. Jared Okello.

Hon. Kuria Kimani (Molo, UDA): Thank you Chair. Every amendment that you find in this particular Clause... I did explain this yesterday. We have had concurrence with the National Treasury, including discussions we had this morning. Every amendment that you see in this Bill, being a money Bill, has a financial implication. Therefore, I cannot come here and move an amendment or additional clause to something that has critical financial implication without full consultation with the National Treasury.

The Temporary Chairlady (Hon. Martha Wangari): Well said Chairman.

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

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

Clause 28

The Temporary Chairlady (Hon. Martha Wangari): I am told Clause 28 has no amendment. Order, Members. I know there is special interest on Clause 28, but we are actually not having any amendment that is on record.

(Several Members spoke off the record)

Order, Members. This was not one of the ones that was allowed by the Hon. Speaker. However, we have consulted and we will allow a small window for debate on Clause 28 before I put the Question. I will give a few Members starting with Hon. Anthony Oluoch.

Hon. Anthony Oluoch (Mathare, ODM): Thank you, Hon. Temporary Chairlady, even though this was one of the non-exempt ones and it touches on the fuel levy, it is a 100 per cent increment on fuel levy and petroleum products. This will have an effect on the manufacturing industry, cost of transport and electricity. Generally, it will place Kenyans who are already suffering in a very precarious situation in terms of their daily life. This clause should be dropped.

The Temporary Chairlady (Hon. Martha Wangari): Order, Members. I want you to know this is an exemption. I am going to give three more Members. I will start with Hon. Mark Mwenje.

Hon. Mark Mwenje (Embakasi West, Jubilee): Thank you, Hon. Temporary Chair. As an elected leader and in politics, there is a principle of reciprocity. That the people trust us with leadership and in return we must represent their interests. When we do not do that as leaders, people suffer. In this case, we have allowed the Kenya Kwanza proposal to increase fuel that will amount to Ksh13 or more. That increases the cost of living. The one that they always promised that it would come down.

The Temporary Chairlady (Hon. Martha Wangari): Order, Member. Two minutes are up. Please.

Hon. Mark Mwenje (Embakasi West, Jubilee): I do not think even a minute is over. Surely, it cannot be.

The Temporary Chairlady (Hon. Martha Wangari): It is. Order Members. I know there are Members who had proposed some amendments and they were dropped because of Article 114. I will give Hon. Dr Makali Mulu a chance. You have the Floor.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you, Hon. Temporary Chairlady. I had proposed that we delete this clause. My intention was to retain Value Added Tax (VAT) on fuel where it is now at 8 per cent. The justification was that anytime you increase VAT on fuel, you will affect issues of transportation, manufacturing, production and, more so, in the areas of agricultural productivity. It will even affect electricity, which is a source of energy. This is not the right time to increase this tax.

The Temporary Chairlady (Hon. Martha Wangari): Thank you. Let us have Hon. Mishi Mboko.

Hon. Mishi Mboko (Likoni, ODM): Thank you, Hon. Temporary Chairlady. It is good that we retain the 8 per cent rather than increasing it to 16 per cent. The cost of living is very high and if you increase it to 16 per cent, it means the cost of production is going to be very high. The high cost of production is going to affect agriculture, which depends on machinery. The machinery depends on petrol and diesel power. The cost of transportation is going to be high. Kenyans cannot afford to pay fares from where they are to working places and even to schools. If you increase it, it means the cost of living is going to be high because the cost of *unga*, rice, cooking fat and everything else will be high. We are tired as Kenyans. Kenyans are hungry and they do not have money. I beg my colleagues to be objective leaders and reject this amendment and return it to 8 per cent.

The Temporary Chairlady (Hon. Martha Wangari): I would like to give the Chair of Budget and Appropriations Committee two minutes.

(Several Members spoke off the record)

Hon. Ndindi Nyoro!

Hon. Ndindi Nyoro (Kiharu, UDA): Thank you, Hon. Temporary Chairlady I rise to agree with Hon. Kuria Kimani. In the year 2023/2024, we have allocated Ksh25 billion to the fuel subsidy that was promised, but was never paid. We have also allocated Ksh250 billion to our roads. If you want development, especially in terms of roads, money has to come from somewhere. That is the reason.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Junet.

Hon. Junet Mohamed (Suna East, ODM): Thank you, Hon. Temporary Chairlady. This is the most offensive clause in this Bill. Increasing VAT on fuel from 8 per cent to 16 per cent will make life very expensive for Kenyans. I remember that when the Kenya Kwanza Coalition was launching its Manifesto during campaigns for the last general election, they told

us that the reason for the high cost of fuel is taxation. They said that they would look into it and reduce taxes on fuel. This afternoon, in broad daylight, on 21st June 2023, they are asking us to increase taxes on fuel. What a paradox that is!

Hon. Temporary Chairlady, let us agree on this one. We must remove VAT on fuel. Otherwise, I promise you that there will be a revolution in this country if this clause passes. I promise you.

(Loud consultations)

The Temporary Chairlady (Hon. Martha Wangari): Order, Members! Order. Just sit down. Is that microphone better? Thank you. Order, Members. If you agree each takes two minutes, many of you will speak to this clause. Just take your seats. Member for Kisii.

Hon. Dorice Donya (Kisii County, WDM): Just hold on. It is my turn. Hon. Temporary Chairlady, thank you very much for giving me this opportunity. Doubling the cost of fuel will mean that even Kenya Kwanza's agenda will not thrive. The country is already poor. It cannot thrive.

(Loud consultations)

Even if you open your mouth and shout some more, the fact remains that Kenya is poor, and bodaboda riders and *mama mbogas* will suffer.

The Temporary Chairlady (Hon. Martha Wangari): Order! Order, Hon. Toto! Leader of the Majority Party. Order, Members!

(Loud consultations)

Hon. Kimani Ichung'wah (Kikuyu, UDA): On a point of order, Hon. Temporary Chairlady.

(Hon. Raphael Wanjala stood in the Gangway)

The Temporary Chairlady (Hon. Martha Wangari): Leader of the Majority Party. The Leader of the Majority Party is on a point of order. Sit down, Hon. Wanjala. Take your seat.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Chairlady, I am on a point of order and I am sorry to interrupt the Member for Kisii County. As Hon. Junet has said, this is one of the most important clauses in this Bill. As CPA Mbadi says, it is the backbone of this Bill. This House is a debating chamber. We all have a right to speak and be heard by our constituents. I just want to beg

The Temporary Chairlady (Hon. Martha Wangari): Order!

Hon. Kimani Ichung'wah (Kikuyu, UDA): I know it may not be practical for every one of us to speak to this clause, but it is only fair for us to be seen by our constituents to be debating facts and not shouting at each other. I beg both sides of the political divide to allow each other to be heard. Allow the Member for Kisii to be heard, even if you do not agree with what she is saying. Wait for the opportunity to say your piece.

(Loud consultations)

The Temporary Chairlady (Hon. Martha Wangari): Order, Members! If you shout, nobody will be heard. Hon. Toto, you had your two minutes. I am going to give the Member

for Homa Bay a maximum of two minutes. The Member for Homa Bay County, Hon. Bensuda *mwenyewe*. Hon. Kaluma, please, hold on.

Hon. Atieno Bensuda (Homa Bay County, ODM): I hold on?

The Temporary Chairlady (Hon. Martha Wangari): No! Go on. Go on, Hon. Bensuda.

Hon. Atieno Bensuda (Homa Bay County, ODM): Thank you very much, Hon. Temporary Chairlady. I would like all of us to adhere to silence so that we are heard. I support the positive statement by the Leader of the Majority Party. It is the only one of his proposals that I will ever support. We must keep quiet so that Kenyans can listen to us, and we debate objectively.

On to the point that I want to make. In the first place, Kenya is a developing nation. We are not developed. I am hearing noise.

(Laughter)

The Temporary Chairlady (Hon. Martha Wangari): Hon. Bensuda, I know you are a teacher. For now, be the Member for Homa Bay County.

Hon. Atieno Bensuda (Homa Bay County, ODM): Yes, I have been given two minutes. I want to be very fast. Hon. Members, we know that... Hold on with your point of order! We know that our country is a developing nation. When developing, we must be progressive in any issue that we engage in. I also agree that we cannot run this country without strategic approaches. Therefore, after we have nearly taxed everything, there is no need of pretending to execute and implement 16 per cent taxation.

Hon. Temporary Chairlady, this Government talked about creating employment for our youths. It is very clear that most of us do not have employment opportunities for our youth. One industry that must be supported, as has been proposed by the Kisii Women Representative, is the bodaboda industry. The bodaboda sector requires fuel. Even the Members who are here...

The Temporary Chairlady (Hon. Martha Wangari): We have heard you, Hon. Member. Member for Githunguri.

Hon. Gathoni Wamuchomba (Githunguri, UDA): Thank you, Hon. Temporary Chairlady. I rise to give my humble opinion on the issue of increasing tax levies on fuel, especially the VAT. Those that are privileged to have been in this House in 2018, and are now here know what happened to the economy when we raised taxes on fuel. We are reaping from what we did. As we speak, life is unbearable for citizens of this Republic. We cannot afford to increase levies on fuel because fuel is a catalyst for everything, from production to marketing, and the welfare of the people.

I want to be on record that our people are currently suffering. Production, especially in our rural areas, will fall to zero if we increase taxes on fuel.

(Applause)

Therefore, I want to say it very clearly that if you want to revamp the economy of this country, increasing taxes on fuel is not the solution. The solution is empowering our farmers who produce crops that bring dollars into the country. We bring more dollars into the country by selling more produce so that we can subsidise Government expenditure.

On that note, I rise to reject the increase of the Fuel Levy.

The Temporary Chairlady (Hon. Martha Wangari): Member for Chuka/Igambang'ombe.

Hon. Patrick Ntwiga (Chuka/Igambang'ombe, UDA): Thank you, Hon. Temporary Chairlady. I stand here today... Kagombe, I am the big *ng'ombe*. You are the small *ng'ombe*.

(Hon. GG Kagombe spoke off the record)

The Temporary Chairlady (Hon. Martha Wangari): Hon. Patrick, you are out of order. You have a maximum of two minutes.

Hon. Patrick Ntwiga (Chuka/Igambang'ombe, UDA): Hon. Temporary Chairlady, I rise to support this clause, having listened to the hypocrisy in this House today. We debated on the Budget in this House and I did not hear the other side of the divide reject even a single clause. They supported how we will have electricity, water and roads in this country. However, when it comes to the ways of raising money for the same, they are opposing them. Our friends shout to the Hon. Speaker every day here that there will be no Parliament without NG-CDF. There is no gain without pain. If you want NG-CDF, then you must pay for it. If you want roads like in my constituency, you must pay for them. I have a number of roads that have stalled and I wish that their construction can continue.

I support this amendment because it is progressive. Thank you, Hon. Temporary Chairlady.

(Loud consultations)

The Temporary Chairlady (Hon. Martha Wangari): Hon. Members, you cannot all speak on this matter. Before I put the Question, I will give the opportunity the Member for Kilifi, Hon. Kalasinga, Hon. Bowen and then we close at that. Member for Kilifi, Hon. Mbeyu.

Hon. Gertrude Mwanyanje (Kilifi County, ODM): Ahsante, Mwenyekiti wa Muda. Ninataka kuzungumzia hiki Kifungu cha kuongeza ushuru wa mafuta. Tusidanganywe. Roma haikujengwa mara moja. Serikali ya Kenya Kwanza inataka kujenga Roma wakati mmoja. Hamuwezi kuongeza ushuru wa mafuta kwa asilimia 100 - kutoka asilimia nane hadi 16. Ulisikia wapi? Mlisema Kenya haina pesa na mnataka kuongeza bei ya mafuta kwa asilimia 100. Hawa mama mboga wanaoenda sokoni wataenda na mafuta ya gari gani waweze kujikimu? Hawa bodaboda mlikuwa mnawazungumzia wataweza kufanya kazi yao vipi? Serikali msituchezee. Ushuru wa mafuta ubaki asilimia nane au urudi kwa asimilia tano, lakini sio 16. Mtajua sisi ni akina nani. Hamuwezi kufanyia Wakenya hivi. Haya siyo mliyowaambia Wakenya. Mama mboga watabeba mboga vipi na asilimia 16 ya mafuta?

The Temporary Chairlady (Hon. Martha Wangari): Mhe. Mbeyu, Jumba hili ni la mdahalo na siyo la kutupiana maneno. Tujaribu sana kufuata Kanuni zetu. Nampatia Mhe. Kalasinga nafasi hii.

Hon. Majimbo Kalasinga (Kabuchai, FORD-K): Thank you very much, Hon. Temporary Speaker. This is the time Kenyans watch us on televisions. This House must make a decision that saves Kenyans out there. As a person who comes from the western part of Kenya, we cannot grind and eat ugali of grade 3 without going to our posho mills. If we increase the price of fuel, we shall paralyse our stomachs. As I talk now, we have farmers in the Rift Valley who use tractors to plough their farms. If we increase the price of fuel, they are watching us now. I want to give a warning to this House now. I can even plead and kneel down so that Kenyans can be given freedom which comes from here.

Thank you, Hon. Temporary Chairlady.

(Loud consultations)

The Temporary Chairlady (Hon. Martha Wangari): Hon. Bowen.

Hon. Kangogo Bowen (Marakwet East, UDA): Thank you, Hon. Temporary Chairlady. I want to support the amendment. This is not the first time that this increment to 16 per cent is being introduced. It has been there before. The handshake brothers gave out fuel

subsidy which was misused. The Government paid over Ksh50 billions of fuel subsidy. If we have to achieve the development within the Kenya Kwanza Manifesto, we need to have the 16 per cent. We need to stop the fuel subsidy which was misused by the last regime.

The Temporary Chairlady (Hon. Martha Wangari): Whip of the Majority Party.

Hon. Silvanus Osoro (South Mugarango, UDA): Thank you, Hon. Temporary Chairlady. I agree with several Members that it is, indeed, true that this is a very emotive topic, especially when you talk about the increase of VAT on fuel. Even as we bash the proposal to raise the 8 per cent VAT to 16 per cent, we also need to be honest enough and inform the public that it was passed in the previous Parliament, and deferred to this Parliament.

(Loud consultations)

But be that as it may, it is important for the House to know that the Government has taken several measures to mitigate the increase of 8 per cent. The escalating dollar has been mitigated through the Government to Government interventions.

Hon. Wanami Wamboka (Bumula, DAP-K): On a point of order, Hon. Temporary Chairlady.

(Hon. Wanami Wamboka and several Members stood up in their places)

The Temporary Chairlady (Hon. Martha Wangari): Order, Hon. Members. I will give the opportunity to one person at a time. Please, take your seats. Hon. Wamboka, what is your point of order? Order, Whip of the Majority Party.

Hon. Wanami Wamboka (Bumula, DAP-K): Hon. Temporary Chairlady, we are in the 13th Parliament. We are here to look at issues as they come to us and as fresh as they are. Is the Hon. Member in order to mislead the House that we are looking at a Bill that was passed in the 12th Parliament? They have just presented this Bill that is retrogressive and will hurt *mwananchi* and bodaboda riders.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Wamboka, that is a point of debate. Whip of the Majority Party, finalise.

Hon. Silvanus Osoro (South Mugarango, UDA): Let me finalise by saying this for clarity purposes. I am talking of deferment. This issue was deferred from 2018 to this Parliament. Be that as it may, the Government has taken other mitigation measures to curb the challenge of escalating... Do you want us to operate on subsidy?

(Several Members stood up in their places)

The Temporary Chairlady (Hon. Martha Wangari): Order, Members. If you are on your feet, I will not give you an opportunity to contribute.

Hon. John Mbadi (Nominated, ODM): On a point of order, Hon. Temporary Chairlady.

The Temporary Chairlady (Hon. Martha Wangari): Nominated Member, Hon. Mbadi, what is out of order?

Hon. John Mbadi (Nominated, ODM): Hon. Temporary Chairlady, we all know that this is a House of records. You have to be factual and truthful. The Whip of the Majority Party is misleading the whole country, which is watching, that the last Parliament passed VAT on petroleum at 16 per cent and it was deferred. That is not correct.

If he has forgotten, the last Parliament rejected 16 per cent VAT. We only allowed 8 per cent after the President's Memorandum. There was no deferment.

The Temporary Chairlady (Hon. Martha Wangari): Order, Hon. Mbadi. You are debating. Chairperson of the Departmental Committee on Finance and National Planning.

Hon. Kuria Kimani (Molo, UDA): Thank you, Hon. Temporary Chairlady. I know this issue has been extremely emotive. I would not like to dwell on the politics but look at these proposals from the financial perspective as we did. We have three types of VAT in this country. A product is either zero-rated, tax exempted or vatable. For the vatable supplies, whether goods or services, all of them are at 16 per cent, apart from fuel which is at 8 per cent. What does that do for that particular sector? There is something called input VAT and output VAT. So, all the players in this particular fuel sector pay input tax at 16 per cent while they sell that fuel to the market at 8 per cent. When they go to claim their VAT, they are always on a credit position.

(Loud consultations)

Let me finish.

(Loud consultations)

What it means to be on a credit position...

(Loud consultations)

We heard you. Give me a minute to finish my argument. What it means to be on a credit position is that the taxpayer's money has been paying the remaining 8 per cent. That is it.

(Loud consultations)

For the 8 per cent, we have been subsidising by charging VAT on fuel at 8 per cent and 16 per cent for all other supplies. It means it is taxpayer's money that was paying that 8 per cent. This is what this proposal is curing. Members of public told us to look at other taxes on fuel. We looked at them. All Members of Parliament here know that the Fuel Levy is distributed equitably among all 290 constituencies in this country to repair our murrum roads. That is a fact. We looked at other taxes in fuel that we can reduce. We looked at Import Declaration Fees (IDF). We have reduced that from 3.5 per cent to 2.5 per cent. We looked at the Railway Development Levy. We have reduced that from 2 per cent to 1.5 per cent. Those are facts. I have finalised.

The Temporary Chairlady (Hon. Martha Wangari): Wind up, Chair. The Leader of the Minority Party.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Temporary Chairlady, let me add my voice to this debate. Clearly, this will be the saddest day in the history of this country if this clause, by any chance, becomes part of the Bill and VAT on fuel increases to 16 per cent. If there is one thing that is going to affect the common person and increase the cost of living in all aspects, it is this proposed increment of VAT on fuel. We all know for sure that fuel is the driver of our economy on all facets. One thing this Government should have done to the so-called hustlers was to cushion them from an increment in the cost of fuel.

There is nowhere in law where we are compelled to have a uniform rate of VAT on all products and services. The rates of VAT can vary, and they have varied before. If there is a demonstration of lack of interest in the welfare of bodaboda and *mama mboga*, it is this decision or attempt by Kenya Kwanza Government to increase VAT on fuel. If by any chance, and God forbid, this Finance Bill passes and it becomes an Act of Parliament, I can tell you that will mark the beginning of the fall of this regime. I can tell you. It will not take long.

The Temporary Chairlady (Hon. Martha Wangari): Finally, the Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Temporary Chairlady.

We should not be worried when others prophesise the beginning of an end of a regime. We have seen many other prophesies before, including those from Shakahola.

(Hon. Gertrude Mwanyanje consulted loudly)

Hon. Temporary Chairlady, protect me from the Member of Parliament for Kilifi County.

The Temporary Chairlady (Hon. Martha Wangari): Please wind up, Leader of the Majority Party. Wind up.

Hon. Kimani Ichung'wah (Kikuyu, UDA): It is, indeed, true that a rise in VAT by 8 per cent will occasion a rise in fuel prices. However, it must not be lost on us that it would be worse without Government-to-Government intervention on fuel prices. Today, with the dollar trading at Ksh140 plus, the cost of fuel would be at a figure of about Ksh210 plus were it not for necessary interventions done by this regime.

My second point is that it is true what the Leader of the Minority Party said, that you could have varying rates of VAT. However, it becomes problematic. Members are aware that all marketers in this country have taken advantage of the varying interest rates. The problem that we have with VAT claims on input tax is because of those varying interest rates. That is a fact you cannot dispute.

Thirdly, even at 16 per cent, Kenya's VAT is still the lowest in the region because our country is a market leader and the strongest economy. Uganda's VAT on fuel is at 18 per cent. Our friends Tanzania and Rwanda are also at 18 per cent. We promised to reduce taxes during campaigns. It is true that there have been reductions on taxes on fuel. The Chair has enumerated the Railway Development Levy that has gone down. The IDF has also gone down. Those are taxes and levies on fuel, just as President William Ruto promised during the famous Presidential Debate.

(Loud consultations)

The Temporary Chairlady (Hon. Martha Wangari): Order, Members.

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

The Temporary Chairlady (Hon. Martha Wangari): Order, Leader of the Majority Party. Hon. Junet, what is out of order?

Hon. Junet Mohamed (Suna East, ODM): This is a House of record, procedure and everything. Is it in order for the Leader of the Majority Party to mislead the House that the rate of VAT on fuel in Uganda and Tanzania is higher than in Kenya when he knows very well that fuel is by far cheaper in Uganda and Tanzania?

(Applause)

The Temporary Chairlady (Hon. Martha Wangari): Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): You know I have tremendous respect for my friend and brother, Hon. Junet. That is why I endeavour to protect him from people shouting at him when he is speaking because he has very good points. Indeed, it is true fuel could be cheaper in Uganda and Tanzania. However, look at the interventions there. They include subsidies. This Government did away with the same subsidies at the beginning of this regime.

(Hon. John Mbadi consulted loudly)

Protect me from Hon. John Mbadi, who is up on his feet.

The Temporary Chairlady (Hon. Martha Wangari): Order, Members. Leader of the Majority Party, wind up.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you for the protection, Hon. Temporary Chairlady.

We must speak this truth to our people. The subsidies that were on fuel before this regime came to power were costing the taxpayer a whooping Ksh16 billion per month. The level of debt we are talking about today is because of those subsidies. Therefore, if we speak about what we have said to the people of Kenya, count the Ksh16 billion that we have saved hustlers from paying every month. Count the Railway Development Levy.

The Temporary Chairlady (Hon. Martha Wangari): Wind up, Leader of the Majority Party. Your time is up.

(Clause 28 agreed to)

(Several Members stood up in their places)

Hon. Members: Division. Division.

The Temporary Chairlady (Hon. Martha Wangari): Yes. We have ascertained that we have the numbers for a Division, raised by the Minority side. We will ring the Division Bell for 10 minutes.

(The Division Bell was rung)

Order, Members. Take your seats.

Hon. Waluke, Major Bashir, Hon. Oundo, Hon. Caleb Amisi, Hon. Tindi Mwale, Hon. Bedzimba, Hon. Manduku, Hon. Gachagua and Hon. Wamboka, take your seats. Order Members. Member for Gem, take your seat. Hon Members, I wish to remind you about decorum during division. As per Standing Order 76(4), during division, Members shall maintain order in the House and shall be in their designated seats. They must remain seated until the results are announced.

I direct the Serjeant-at-Arms to close the door and draw the Bars. The Majority and Minority sides have nominated their Tellers. I will also seek that they maintain order. There will be no talking or shouting by the Tellers. They will only identify that a certain Member has spoken. When you stand, we are able to tell who you are. The names will be called in alphabetical order of the constituency.

Hon Masara, take your seat. Order, Members. Order, Hon. Members. Hon. Atandi, I can hear you from here. Take your vote.

(Voting in progress)

(Hon. Didmus Barasa stood in his place)

Order, Hon. Didmus. Take your seat.

(Voting in progress)

(Hon. John Koyi and Hon Raphael Wanjala consulted loudly)

Order, Member for Sirisia and Member for Budalang'i.

(Voting in progress)

(Loud consultations)

Order, Members. The Standing Orders are very clear. You should only rise in your place and either vote yes, no or abstain. Please do not give speeches or justifications. Just take your votes.

(Voting in progress)

(Hon. Emmanuel Wangwe stood up in his place)

Hon. Emmanuel Wangwe, take your seat. It is Division.

(Voting in progress)

(Loud consultations)

The Temporary Chairlady (Hon. Martha Wangari): Order Members.

(Voting in progress)

(Loud consultations)

Order Members. Clerk-at-the-Table, call out Kinango again.

(Voting in progress)

(Loud consultations)

The Temporary Chairlady (Hon. Martha Wangari): Order Members. Maintain silence. Take your seats.

(Voting in progress)

(Loud consultations)

The Temporary Chairlady (Hon. Martha Wangari): Hon. Kamene you are out of order! Order, Members! Maintain decorum until the end of the division. Order! Member for Mathare, I will rule your vote invalid. Take your vote. Order, Members! Hon. Katana, and Hon. Abdi, you are all out of order. Go back to Hon. Kirwa. Retake Hon. Feizal. Hon. Naicca is in the House. Order Members! Order! We got your vote.

(Voting in progress)

(Loud Consultations)

The Temporary Chairlady (Hon. Martha Wangari): Order, Hon. Members! The side of the Majority Party, order!

(Hon. Nelson Koech and Julius Rutto consulted loudly)

Members for Belgut and Kesses, take your seats!

(Voting in progress)

(Several Members stood along the Gangways)

The Temporary Chairlady (Hon. Martha Wangari): If you are done taking your vote, take your seat! Hon. Emaase and Hon. Kiplagat, take your seats!

(Voting in progress)

The Temporary Chairlady (Hon. Martha Wangari): Order, Hon. Member. Just say, “Yes”.

Hon. John Mbadi (Nominated, ODM): I have not voted.

The Temporary Chairlady (Hon. Martha Wangari): Okay.

(Voting in progress)

The Temporary Chairlady (Hon. Martha Wangari): Order, Hon. Members. Let me explain. There are some Members who are in the washroom: Hon. Farah Maalim, Hon. Tongoyo, and the Member for Othaya, Hon. Wainaina. The three will vote.

(Voting in progress)

(Loud consultations)

The Temporary Chairlady (Hon. Martha Wangari): Order, Hon. Members. The Member for Narok West and Hon. Farah have voted. Hon. Wainaina....

(Voting in progress)

DIVISION

(Question put and the House divided)

Tellers of the Ayes: Hon. Eric Kahugu and Hon. Ruku GK.

Tellers of the Noes: Hon. Dick Oyugi and Hon. Bisau Kakai.

The Temporary Chairlady (Hon. Martha Wangari): Order, Members. We have the result of the Division that Clause 28 be part of the Bill. A total of 272 Members took their vote. The Ayes have 184 votes and the Noes have 88 votes. Therefore, the Ayes have it.

(Applause)

RESULTS

AYES

- | | | | |
|-----|----------------------------|-----|-------------------------------------|
| 1. | Hon. Samwel Chepkong'a | 50. | Hon. John Makali |
| 2. | Hon. Benjamin Lang'at | 51. | Hon. Peter Kihungi |
| 3. | Hon. Marianne Kitany | 52. | Hon. Fabian Muli |
| 4. | Hon. Irene Njoki | 53. | Hon. Samwel Chumel |
| 5. | Hon. Joshua Kandie | 54. | Hon. Adams Korir |
| 6. | Hon. Joseph Makilap | 55. | Beatrice Kemei |
| 7. | Hon. Charles Kamuren | 56. | Hon. Julius Rutto |
| 8. | Hon. Nelson Koech | 57. | Hon. Njuguna Kawanjiku |
| 9. | Hon. Alfah Miruka | 58. | Hon. John Waithaka |
| 10. | Hon. Linet Chepkorir | 59. | Hon. Mwengi Mutuse |
| 11. | Hon. Kilel Richard | 60. | Hon. Antony Wainaina |
| 12. | Hon. Richard Yegon | 61. | Hon. Joseph Munyoro |
| 13. | Hon. Gideon Ochanda | 62. | Hon. Ndindi Nyoro |
| 14. | Hon. Catherine Wambilianga | 63. | Hon. Kimani Ichung'wah |
| 15. | Hon. Mugambi Rindikiri | 64. | Hon. Owen Baya |
| 16. | Hon. Victor Koech | 65. | Hon. Didmus Barasa |
| 17. | Hon. Paul Biego | 66. | Hon. Gonzi Rai |
| 18. | Hon. Patrick Ntwiga | 67. | Hon. Kwenya Thuku |
| 19. | Hon. Farah Maalim | 68. | Hon. Joseph Chererot |
| 20. | Hon. John Kiarie | 69. | Hon. Hilary Kosgei |
| 21. | Hon. Musa Sirma | 70. | Hon. Njeri Maina |
| 22. | Hon. Adan Keynan | 71. | Hon. Joseph Gitari |
| 23. | Hon. Caroline Ng'elechei | 72. | Hon. (Dr) Rachael Nyamai |
| 24. | Hon. Mejjadonk Gathiru | 73. | Hon. Japheth Nyakundi |
| 25. | Hon. James Gakuya | 74. | Hon. Brighton Yegon |
| 26. | Hon. Pamela Njeru | 75. | Hon. Joseph Tonui |
| 27. | Hon. Josses Lelmengit | 76. | Hon. Maisori Kemero |
| 28. | Hon. Omboko Milemba | 77. | Hon. Mathias Robi |
| 29. | Hon. Johana Kipyegon | 78. | Hon. Ferdinand Wanyonyi |
| 30. | Hon. (Dr) Robert Pukose | 79. | Hon. Jane Kagiri |
| 31. | Hon. Farah Yakub | 80. | Hon. Mwangi Kiunjuri |
| 32. | Hon. Kenneth Tungule | 81. | Hon. Sarah Korere |
| 33. | Hon. Dekow Mohamed | 82. | Hon. Wachira Karani |
| 34. | Hon. Wakili Edward Muriu | 83. | Hon. Joseph Lekuton |
| 35. | Hon. Elisha Odhiambo | 84. | Hon. Muthoni Marubu |
| 36. | Hon. Gichimu Githinji | 85. | Hon. Ruweida Mohamed |
| 37. | Hon. Daniel Karitho | 86. | Hon. Stanley Muthama |
| 38. | Hon. Julius M'anaiba | 87. | Hon. (Eng.) John Kiragu |
| 39. | Hon. John Paul Mwirigi | 88. | Hon. Protus Akujah |
| 40. | Hon. Abdi Ali Abdi | 89. | Hon. Chiforomodo Mangale |
| 41. | Hon. Mumina Bonaya | 90. | Hon. Caleb Mule |
| 42. | Hon. George Koimburi | 91. | Hon. (Major) (Rtd) Abdullahi Sheikh |
| 43. | Hon. Githua Wamacukuru | 92. | Hon. Abdul Haro |
| 44. | Hon. Titus Lotee | 93. | Hon. Yusuf Adan |
| 45. | Hon. Leah Sankaire | 94. | Hon. Gitonga Mukunji |
| 46. | Hon. Onesmus Ngogoyo | 95. | Hon. Mary Njoroge |
| 47. | Hon. George Sunkuyia | 96. | Hon. Kangogo Bowen |
| 48. | Hon. Yusuf Hassan | 97. | Hon. Timothy Kipchumba |
| 49. | Hon. Njuguna Chege | | |

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|--------------------------------|-------------------------------|
| 98. Hon. Naomi Waqo | 142.Hon. Clement Sloya |
| 99. Hon. Joshua Mwalyo | 143.Hon. Ali Raso |
| 100.Hon. Edwin Gichuki | 144.Hon. Pauline Lenguris |
| 101.Hon. Eric Kahugu | 145.Hon. Letipila Eli |
| 102.Hon. Kassim Tandaza | 146.Hon. Fred Ikana |
| 103.Hon. Ruku GK | 147.Hon. Peter Lochakapong |
| 104.Hon. (Eng.) Nebart Muriuki | 148.Hon. Justice Kemei |
| 105.Hon. Elizabeth Kailemia | 149.Hon. John Koyi |
| 106.Hon. Kiborek Reuben | 150.Hon. Francis Sigei |
| 107.Hon. Phylis Bartoo | 151.Hon. (Dr) Shadrack Mwiti |
| 108.Hon. Kuria Kimani | 152.Hon. Silvanus Osoro |
| 109.Hon. Feisal Bader | 153.Hon. David Kiplagat |
| 110.Hon. Kaguchia John | 154.Hon. Samuel Gachobe |
| 111.Hon. Betty Maina | 155.Hon. Haika Mizighi |
| 112.Hon. Vincent Musau | 156.Hon. Hussein Abdi |
| 113.Hon. Mary Maingi | 157.Hon. Mary Emaase |
| 114.Hon. Esther Passaris | 158.Hon. Geoffrey Wandeto |
| 115.Hon. Jayne Kihara | 159.Hon. George Murugara |
| 116.Hon. Liza Chelule | 160.Hon. Alice Ng'ang'a |
| 117.Hon. David Gikaria | 161.Hon. Kassait Kamket |
| 118.Hon. Rebecca Tonkei | 162.Hon. (Dr) John K. Mutunga |
| 119.Hon. Lemanken Aramat | 163.Hon. Julius Melly |
| 120.Hon. Agnes Mantaine | 164.Hon. Lillian Siyoi |
| 121.Hon. Kitilai Ntutu | 165.Hon. Janet Sitienei |
| 122.Hon. Gabriel Tongoyo | 166.Hon. Cecilia A. Ngitit |
| 123.Hon. George Gachagua | 167.Hon. Joseph Emathe |
| 124.Hon. George Kariuki | 168.Hon. Daniel Nanok |
| 125.Hon. Charity Chepkwony | 169.Hon. Gladys Boss |
| 126.Hon. Rahim Dawood | 170.Hon. David Ochieng' |
| 127.Hon. Joash Nyamoko | 171.Hon. Mark Nyamita |
| 128.Hon. Mohamed Ali | 172.Hon. Ernest Kivai |
| 129.Hon. Faith Gitau | 173.Hon. Adagala Beatrice |
| 130.Hon. Zaheer Jhanda | 174.Hon. Aden Mohammed |
| 131.Hon. Daniel Manduku | 175.Hon. Martin Wanyonyi |
| 132.Hon. Rahab Mukami | 176.Hon. Daniel Wanyama |
| 133.Hon. Duncan Mathenge | 177.Hon. Stephen Mogaka |
| 134.Hon. Michael Muchira | 178.Hon. Abdisirat Khalif |
| 135.Hon. David Kiaraho | 179.Hon. Suleka Harun |
| 136.Hon. Michael Wainaina | 180.Hon. Dorothy Muthoni |
| 137.Hon. Kenga Mupe | 181.Hon. Joseph Wainaina |
| 138.Hon. Paul Chebor | 182.Hon. (Dr) Jackson Kosgei |
| 139.Hon. Kamande Mwafrika | 183.Hon. Wanjiru Mwangi |
| 140.Hon. Simon King'ara | 184.Hon. Abubakar TalibNOES |
| 141.Hon. Muchangi Karemba | |

NOES

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|--------------------------|-------------------------|
| 1. Hon. Samuel Atandi | 4. Hon. Charles Onchoke |
| 2. Hon. Innocent Obiri | 5. Hon. Patrick Osero |
| 3. Hon. Nolfason Barongo | 6. Hon. Raphael Wanjala |

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|-----|--------------------------|-----|----------------------------|
| 7. | Hon. Wanami Wamboka | 48. | Hon. Mishi Mboko |
| 8. | Hon. Nicholas Mwale | 49. | Hon. Dick Oyugi |
| 9. | Hon. Maero Oyula | 50. | Hon. Nabii Nabwera |
| 10. | Hon. Omar Mwinyi | 51. | Hon. Joyce Kamene |
| 11. | Hon. Patrick Simiyu | 52. | Hon. Harrison Kombe |
| 12. | Hon. Beatrice Elachi | 53. | Hon. George Aladwa |
| 13. | Hon. Babu Owino | 54. | Hon. Rose Mumo |
| 14. | Hon. Julius Mawathe | 55. | Hon. Amina Mnyazi |
| 15. | Hon. Mark Mwenje | 56. | Hon. Hussein Weytan |
| 16. | Hon. (Dr) Ojiambo Oundo | 57. | Hon. Anthony Oluoch |
| 17. | Hon. Said Hiribae, | 58. | Hon. Kivasu Nzioka |
| 18. | Hon. Gathoni Wamuchomba | 59. | Hon. Zamzam Mohammed |
| 19. | Hon. Atieno Bensuda | 60. | Hon. (Prof) Guyo Jaldesa |
| 20. | Hon. Peter Kaluma | 61. | Hon. Peter Salasya |
| 21. | Hon. Bernard Shinali | 62. | Hon. Johnson Naicca |
| 22. | Hon. Bidu Mohamed | 63. | Hon. Mohamed Machele |
| 23. | Hon. Eve Obara | 64. | Hon. Gideon Mulyungi |
| 24. | Hon. Majimbo Kalasinga | 65. | Hon. (Eng.) Paul Nzengu |
| 25. | Hon. Memusi Kanchory | 66. | Hon. Emmanuel Wangwe |
| 26. | Hon. Kakuta Maimai | 67. | Hon. Martin Owino |
| 27. | Hon. Elsie Muhanda | 68. | Hon. Aduma Owuor |
| 28. | Hon. Paul Katana | 69. | Hon. Jared Okello |
| 29. | Hon. Adipo Okuome | 70. | Hon. Tom Odege |
| 30. | Hon. Charles Ong'ondo | 71. | Hon. David Pkosing |
| 31. | Hon. Robert Mbui | 72. | Hon. (Dr) Otiende Amollo |
| 32. | Hon. Christopher Wangaya | 73. | Hon. Caleb Amisi |
| 33. | Hon. Jessica Mbalu | 74. | Hon. Jackson Lekumontare |
| 34. | Hon. Julius Sunkuli | 75. | Hon. Naisula Lesuuda |
| 35. | Hon. Gertrude Mwanyanje | 76. | Hon. (Dr) James Nyikal |
| 36. | Hon. Thuddeus Nzambia | 77. | Hon. (Dr) Christine Ombaka |
| 37. | Hon. Bisau Kakai | 78. | Hon. Amos Maina |
| 38. | Hon. Rashid Bedzimba | 79. | Hon. Junet Mohamed |
| 39. | Hon. Dorice Donya | 80. | Hon. Peter Masara |
| 40. | Hon. Ruth Odinga | 81. | Hon. John Bwire |
| 41. | Hon. Joshua Oron | 82. | Hon. John Namoit |
| 42. | Hon. Irene Kasalu | 83. | Hon. Opiyo Wandayi |
| 43. | Hon. (Dr) Makali Mulu | 84. | Hon. Khamis Chome |
| 44. | Hon. David Mwalika | 85. | Hon. Tim Wanyonyi |
| 45. | Hon. Edith Nyenze | 86. | Hon. Danson Mwashako |
| 46. | Hon. Antony Kibagendi | 87. | Hon. Robert Ngu |
| 47. | Hon. Fatuma Masito | 88. | Hon. John Mbadi |

(Question carried by 184 votes to 88)

(Clause 28 agreed to)

The Temporary Chairlady (Hon. Martha Wangari): Order, Members. I order that the Bars be drawn and the doors be opened.

(Loud consultations)

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Order, Members. Let us continue with the Committee of the Whole House.

(Clauses 29, 30, 31 and 32 agreed to)

Clause 33

The Temporary Chairlady (Hon. Martha Wangari): Mover, the Chair of the Departmental Committee on Finance and National Planning.

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

THAT, Clause 33 of the Bill be amended—

(a) in paragraph (a)-

- (i) by deleting the expression “and 3003.90.00” appearing in sub-paragraph (xiii);
- (ii) by deleting sub-paragraph (xv);
- (iii) by deleting the words “one hundred” appearing in sub-paragraph (xvi) and substituting therefor the words “fifty”;
- (iv) by deleting sub-paragraph (xix);
- (v) by inserting the following new sub-paragraph immediately after sub-paragraph (xxviii)-

(xxviii) by amending paragraph 145 in paragraph (b) by inserting the words “or other manufacturing activities including refining” immediately after the words “human vaccines”;

(vi) by deleting paragraph (xxix);

(vii) in sub-paragraph (xxx) by-

- (i) deleting paragraph 147;
- (ii) deleting paragraph 148;
- (iii) deleting paragraph 149;
- (iv) deleting paragraph 150;
- (v) deleting paragraph 151;
- (vi) deleting paragraph 152;
- (vii) deleting paragraph 153;
- (viii) deleting paragraph 154;

(viii) in sub-paragraph (xxx) by inserting the following new paragraph immediately after paragraph 154-

155. Taxable supplies made to or by a school feeding programme recognised by the Cabinet Secretary responsible for education.

(b) in paragraph (b) by-

- (i) deleting sub-paragraph (i);
- (ii) deleting sub-paragraph (ii);
- (iii) deleting sub-paragraph (iii);

(iv) deleting sub-paragraph (iv) and substituting therefor the following new sub-paragraph-

(iv) in paragraph 34 -

(a) by deleting the words “goods, inputs and raw materials” and substituting therefor the word “services”;

(b) by inserting the words “or other manufacturing activities including refining” immediately after the words “human vaccines” in paragraph (b); and

(v) by deleting sub-paragraph (v).

This Clause 33(a) is a clean-up. The proposed amendment is a clean-up of the tariff code. On two, we are extending exemption status to taxable supplies that are used for construction of tourism facilities. On part three, last year, we did an investment deduction for construction of hospital beds to 50. The Bill was proposing to increase from 50 to 100 beds. We are retaining it at 50 beds. We are restoring the construction of plastic manufacturing plants into exemption status.

Part seven is the most important one where we are taking back items from Schedule One to Schedule Two. These are the items that were removed from tax exempt to zero-rated. This includes manufacturing of fertilisers, pharmaceuticals and human vaccines. That is why you will see the deletion of 147, 148, 149, 150, 151, 152, 153 and 154. All these deletions are taking those particular items from exempt back to zero-rating, so that we can have the cost of manufacturing fertilisers, pharmaceuticals, human vaccines and medicine reduced.

With that, I move.

The Temporary Chairlady (Hon. Martha Wangari): Order, Members. Hon. Mbadi, wait.

(Question of the amendment proposed)

Hon. Mbadi.

Hon. John Mbadi (Nominated, ODM): Thank you, Hon. Temporary Chairlady. These amendments make me very excited. I am excited because the Committee listened to me and the entire Azimio One Kenya Alliance on this matter.

We were being told that many commodities were being removed from zero-rating to exemption. I am happy that raw materials for pharmaceuticals will now be zero-rated in 147; Pest Control in 148; Raw materials for Pest Control Products, 149; Sugarcane transportation from farms to Milling Factories, 150; Fertilisers, 151; Raw Materials for Manufacture of Fertilisers, 152; and Liquefied Petroleum Gas (LPG), 153.

I am very excited that these amendments have been carried by the Committee and I support it fully. We are going to zero-rate them when we go to 34.

I thank the Committee for listening, and particularly, to me. When I was explaining zero-rating and exemption, many of you listened and understood what I meant. This is going to make life to remain the way it is if this is implemented. How I wish the same happened to the Petroleum Levy.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Members, we will keep this at two minutes maximum. I know there are other Members who have amendments. Unless you are rising to withdraw your amendment, you will have your chance after we deal with the amendment by the Chair.

Hon. Hamisi, Hon. Lesuuda, Hon. Basil, Hon. Atandi, Hon. Oluoch and Hon. Mbui, all of you will be heard at the point of your amendments. Let us first exhaust the amendment by the Chair of the Departmental Committee on Finance and National Planning. I hope the Members who have shown interest want to speak to the amendment by the Chair.

Member for Dagoretti North, do you want to speak on this one?

Hon. Beatrice Elachi (Dagoretti North, ODM): No.

(Hon Antony Oluoch rose on a point of order.)

Member for Mathare, what is out of order?

Hon. Antony Oluoch (Mathare, ODM): Hon. Temporary Chair, there was a precedent set yesterday by your co-chair - that, where there are other amendments, you will allow the

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Members who have proposed the amendments to ventilate theirs first and then later allow the chairs to ventilate theirs. This is so that if these ones collapse, as they might or not, then the amendments by the Chair of the Departmental Committee on Finance and National Planning comes last. I can see the Chair agreeing with me. Once we carry these amendments, there might be no need to listen to the other Members.

Please guide us.

The Temporary Chairlady (Hon. Martha Wangari): Order, Hon. Members. We will continue as we have stated. Under the clause that we have voted on, ordinarily, there would be no debate, but we opened it and let Members to ventilate even though the amendment was not on the Order Paper.

In this case, we will continue with the amendment by the Chair of the Departmental Committee on Finance and National Planning. Some of the amendments, thereof, will be affected depending on how this one goes but we will give priority to this one as listed in the Order Paper.

I will give the first chance to the Member for Dagoretti North.

Hon. Beatrice Elachi (Dagoretti North, ODM): Thank you very much, Hon. Temporary Chair. I also want to thank the Committee and the Chair. I know most of our people who looked at exemption versus zero-rating, especially those who are running industries, were very worried. On behalf of the women who have industries, I want to thank the Chair. I do not want to talk about the issue of fuel. We have exhausted it but I want us to look at Excise Duty and see how we can deal with it.

I keep on reminding the Chair of the Departmental Committee of Finance and National Planning that we must deal with the Customs Department so that as we deal with all these things, they will help us to see the betterment of what we are doing in this House, and our citizens will benefit from our work.

Thank you, Chair.

The Temporary Chairlady (Hon. Martha Wangari): Member for Tinderet.

Hon. Julius Melly (Tinderet, UDA): Thank you, Hon. Temporary Chair. I thank the Mover of the Bill, especially on the issue of transportation of agricultural produce like sugarcane, tea and coffee. This amendment will promote activities of farmers across the country. The profits of farming will be higher and businesses will go on well.

I support.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Atandi.

Hon. Samuel Atandi (Alego Usonga, ODM): Hon. Temporary Chairlady, I would also like to support the amendments by the Chair of the Departmental Committee on Finance and National Planning, especially the ones deleting Value Added Tax on corn products, cassava and foodstuffs. This is something that is very important for us because our people are going to afford basic commodities.

Thank you.

The Temporary Chairlady (Hon. Martha Wangari): Leader of Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you, Hon. Temporary Chair. We were consulting with Members here. Let me support this amendment. Hon. John Mbadi said that the Departmental Committee on Finance and National Planning took a lot of time to listen to Kenyans, which is true.

Some of these proposals came out of the public participation exercise. It is sad that one media house was trying to incite Kenyans that the public participation exercise was an exercise in futility. It is testament, from what Members are saying here, that the Departmental Committee on Finance and National Planning listened to the views of Kenyans.

I support and buttress the point that we are, indeed, intent on bringing down the cost of living. The effects of zero-rating farm inputs, like fertilisers, and transportation of sugarcane

from farms to factories will trickle down to the farmer and consequently ensure that we are able to produce at a lower cost. In the long run, the people of Kenya will enjoy a lower cost of living. That is what the people of Kenya have been asking for.

This is one of the Bills that were most vilified but I am glad that today, in this debate, Members are telling the truth. What is good is that they are calling it good. What they have a problem with, they are saying it. That is the way we should be engaging in the country and not vilifying and demonising everything.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Members, let us cap a Member's speech to a maximum of two minutes.

Hon. Masara.

Hon. Peter Masara (Suna West, ODM): Thank you, Hon. Temporary Chair. For the first time, I want to appreciate what the Chair of the Departmental Committee on Finance and National Planning, my friend whom I was with in the Parliamentary Accounts Committee (PAC) for five years, did. The Committee Members have appreciated the work of public participation. How I wish they could do this with regard to all the clauses. The people are crying. If you can hear their views and accommodate them in a clause and make the changes, it will not change your status in the society. You will be appreciated now and forever.

I come from a constituency where sugarcane growing is a major economic activity that has helped very many people. Were it not for the changes, it would have really affected farmers who grow sugarcane.

Thank you very much. I hope on the remaining clauses, we will get similar responses.

The Temporary Chairlady (Hon. Martha Wangari): I see that there is concurrence on this Clause. I will give Hon. Gichimu a chance then the Chair of the Departmental Committee on Finance and National Planning will close it.

Hon. Gichimu Githinji (Gichugu, UDA): Thank you, Hon. Temporary Chair. I am equally excited like Hon. Mbadi because the people of Gichugu Constituency undertake a lot of tea and coffee farming. With these amendments, we will be saving a lot in terms of operational costs. I agree with the Leader of Majority Party that this Committee conducted proper public participation. That is why even Hon. John Mbadi's views found their way into this Bill.

I support.

The Temporary Chairlady (Hon. Martha Wangari): Chair of Departmental Committee on Finance and National Planning

Hon. Kimani Kuria (Molo, UDA): I welcome the good remarks by my colleagues. I just want to inform this House that there are two fundamental changes that we made on this particular clause that are important. I realise that I did not mention them when I was moving the amendment. We agreed that re-introduction of exemption on taxable food supplies for the School Feeding Programme be moved to exempt supplies.

Yesterday, we saw the Governor of Nairobi launching a very successful school feeding programme. We also have a school feeding programme being undertaken by Hon. K.J in Dagoretti South Constituency. We want to encourage any business in this country that can invest, through their corporate social responsibility, in the school feeding programme to do so. We have introduced a new clause that exempts such food supplies from taxation.

Lastly, we found a very interesting clause that exempted transfer of businesses from VAT. The financial implication of this is that we were losing Ksh100 billion. By deleting Clause 7, thus making transfer of business as a going concern a taxable service, we will raise, through this particular amendment, Ksh100 billion. That is one of the greatest successes we can say we have had through public participation.

The Temporary Chairlady (Hon. Martha Wangari): Member for Nyando, what is so burning?

Hon. Jared Okello (Nyando, ODM): Hon. Temporary Chairlady, as a result of the presentations, appeals and lamentations that we, as Azimio One Kenya Alliance, made on behalf of Kenyans, the Committee has ceded some ground. However, again, sometimes it becomes very difficult to tell what is exempted from taxation and what is zero-rated. We are pursuing the zero-rating angle because somebody has a right to claim for vatable taxes on raw materials but when a such raw material is only exempted, you only claim VAT on the final product. If it exempted, at the end of the day, the production costs become much higher. These are costs which are eventually transferred to Kenyans or whoever the end user of the finished product will be. That is why we have been pursuing this angle vigorously, on behalf of Kenyans.

I was very disturbed that we were going to apply taxes on pharmaceuticals and medicines. There are people with medical conditions that require them to use insulin on a daily basis. Putting more taxes on insulin was going to be unbearable on those who consume this product and by the end of the day shortening their life-span on this earth.

I support this amendment and hope that we will reach consensus on most of the divisive clauses.

The Temporary Chairlady (Hon. Martha Wangari): Thank you Hon. Member.

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

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

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

Next is Hon. Amisi's amendment. The amendment is dropped because the Member is not in the House.

*(Proposed amendment by Hon.
Caleb Amisi dropped)*

The amendment by Hon. Naisula will fall because the Committee's amendment has been carried.

*(Proposed amendment by Hon.
Naisula Lesuuda dropped)*

Is Hon. Basil in the House? Please, move your amendment.

Hon. Robert Ngui (Yatta, WDM): Hon. Temporary Chairlady, I beg to move:

THAT, the Bill be amended in Clause 33 (a) by deleting sub-paragraph (xiv).

The country is struggling to raise taxes, particularly on aerial assets. So, we need to re-introduce taxation on aerial assets like choppers and aeroplanes of high value so that we raise more revenue for the Government as opposed to taxing already over-taxed Kenyans.

Thank you.

(Question of the amendment proposed)

The Temporary Chairlady (Hon. Martha Wangari): Order, Members! I will give chance to as many of you as possible. We still maintain two minutes maximum. I will start with Hon. Naisula.

(Hon. Samuel Atandi stood in his place)

Hon. Atandi, take your seat.

Hon. Naisula Lesuuda (Samburu West, KANU): Hon. Temporary Chairlady, I rise to seek your indulgence - that, if a Member has an amendment and it turns out to be similar to that of the Departmental Committee on Finance and National Planning and, therefore, has to be dropped, you probably give such Member a chance to say something about the amendment because they took time to work on that amendment.

I know that we have passed my amendment but I just want to thank the Chairperson of the Departmental Committee on Finance and National Planning for zero-rating materials for tourism. Some of us come from counties that rely on tourism. We are just from COVID-19 and many counties are trying to revamp their tourism industries. As we know, the tourism industry earns us foreign exchange. I thank him for that.

I also want to comment on what the Leader of the Majority Party said - that there was a lot of misinformation. People from his political side were going to the same media houses but they could not explain what “zero-rating” and “tax exemption” are. Of course, the media and Kenyans take what has been presented to them. In future, it is important to get expertise. They can borrow expertise from us. Someone like Hon. Mbadi can explain those terms very well and Kenyans will be convinced.

Thank you.

The Temporary Chairlady (Hon. Martha Wangari): Thank you Member for Samburu West. Chairperson of the Budget and Appropriations Committee, proceed.

Hon. Ndindi Nyoro (Kiharu, UDA): Thank you very much, Hon. Temporary Chairlady. I rise to vehemently oppose the amendment by Hon. Basil. Many times, when we read about helicopters and other aircraft, we tend to think that we are dealing with bourgeoisie or people who have them or the owners. One of the reasons the Committee came up with this proposal is because Wilson Airport is currently one of the busiest hubs in Africa. Aircraft are not licensed only for the countries in which they are domiciled. Aircraft move from one country to another. In the past, we shifted all aircraft servicing jobs, including servicing of helicopters, to other countries - more so to our neighbouring countries. In order to protect the quality of aircraft servicing jobs, I vehemently oppose the amendment.

The Temporary Chairlady (Hon. Martha Wangari): Leader of the Minority Party.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Temporary Chairlady, I support the proposed amendment by Hon. Basil for the simple reason that we cannot continue to be this insensitive. How come we are so quick to off-load the burden on those who have opposed to removing the burden on those who do not have? I know for sure that, as we speak, people are competing in this House - especially those on the other side of the House - on who will become the first dollar millionaire in the course of the current Parliament. A number of our colleagues here have actually placed orders for supply of helicopters and other types of aircraft. This is a very serious matter.

Hon. Temporary Chairlady, as you know, I am one of the few people who are privileged to have a lot of information. I have got prior information that a number of our colleagues here have placed orders to be supplied with choppers.

The Hon. Chairlady (Hon. Martha Wangari): Leader of Minority Party, your time is up.

Hon. Rahim is next.

Hon. Rahim Dawood (North Imenti, IND): Hon. Temporary Chairlady, I oppose the amendment. The House is being misinformed. Whatever is being waived is not for the rich. It is for simulators meant for training purposes and spare parts, from where our people will get jobs. It has nothing to do with the rich who own helicopters. So, let us not lie to the country and to the people. Let us be frank about what is being said.

I oppose.

The Temporary Chairlady (Hon. Martha Wangari): Finally, Hon. Otiende.

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Hon. Temporary Chairlady, very briefly, I support this amendment. It is not true that what is being waived is for training and such purposes. You would want to ask, if this was in the interest of the people, why not encourage such an incentive for motorcycles, ships and vehicles? Why choppers? It is because there is a private interest. There are people with private hangers at Wilson Airport, and they want to benefit. This is unfriendly to the ordinary Kenyans.

Thank you.

The Temporary Chairlady (Hon. Martha Wangari): Member for Kimilili.

Hon. Didmus Barasa (Kimilili, UDA): Hon. Temporary Chairlady, I want to oppose the amendment by Hon. Basil because we want to bring aircraft maintenance at Wilson Airport back so that the young people can continue to benefit. Supporting this amendment is tantamount to saying we want jobless Kenyans to remain jobless. We want to bring back the business of servicing and repairing of airplanes at Wilson Airport. I vehemently oppose this amendment.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Owen Baya.

Hon. Owen Baya (Kilifi North, UDA): Thank you, Hon. Temporary Chairlady. You know, there is a lot of misinformation on this Bill. It is very important that we correct this because we want to create high-end jobs and good engineers at Wilson Airport. I oppose this amendment. As we know, Dubai is a big beneficiary of aircraft maintenance. Very many Kenyans and people from other parts of the world are employed there, and they earn a lot of money. We would not be fair to this country if we support this amendment. We want to ensure that we create quality jobs by having more aircraft from other countries getting repaired at Wilson Airport. It also gives us an opportunity to open airports in our constituencies to repair aircraft. We have a whole industry to explore. Hon. Basil, you are my friend, but on this one, you are wrong.

I oppose the amendment.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Mary Emaase.

Hon. Mary Emaase (Teso South, UDA): Thank you, Hon. Temporary Chairlady. I oppose this amendment. We promised Kenyans jobs and this is one of the ways to create opportunities. As at now, we are losing these opportunities to our neighbouring countries. So, we must oppose this amendment for us to create opportunities for our young people.

Thank you.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Robert Atandi.

Hon. Robert Atandi (Alego Usonga, ODM): Hon. Temporary Chairlady, I have a lot of respect for my Chairman, Hon. Ndindi Nyoro, but I disagree with him on this one. You did not promise to create white collar jobs. You wanted hustlers to get jobs. I am aware, my brothers Hon. Silvanus Osoro and Hon. Kimani Ichung'wah. Your choppers are coming and you want to avoid paying tax.

(Laughter)

You must pay VAT on the choppers you already ordered. So, the intention of this amendment is for Kenya Kwanza billionaires to own choppers. We must stop these people from avoiding paying taxes. I support this amendment. We must adopt it.

The Temporary Chairman (Hon. Martha Wangari): What is out of order, Majority Whip?

Hon. Silvanus Osoro (South Mugirango, UDA): Hon. Temporary Chairlady, I am aware that Hon. Kimani Ichung'wah, who has been mentioned by Hon. Atandi, bought a chopper about four years ago. As for me, not unless he is speaking of a different person, I have not bought a chopper unless he is paying it on my behalf.

The Temporary Speaker (Hon. Martha Wangari): Order, Members! We will now hear the Member for Dagoretti South and then I will put the Question.

Hon. John Kiarie (Dagoretti South, UDA): Thank you, Hon. Temporary Chairlady. The point I want to make is that this is not a topic we should be splitting hairs about. Hon. Robert Basil might have a good intention. However, the details he has are extremely wrong. The intention of this proposal is to support a dwindling aviation industry. Aviation is two things - it is the vessels and the humans. In Kenya, we are suffering because we do not manufacture vessels. However, we train pilots, engineers and technicians. First, our technicians are no longer getting jobs because the aircraft are being taken to neighbouring countries where the terms, conditions and taxes on spare parts are favourable. Secondly, there are simulators for training. So, Kenya ends up being a training ground.

I vehemently oppose this amendment.

The Temporary Chairlady (Hon. Martha Wangari): Order, Members! Order! I will now put the Question.

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

Hon. Members, consequently, Hon. Robert Atandi's amendment has fallen.

Hon. Samuel Atandi (Alego Usonga, ODM): Hon. Temporary Chairlady, I wanted to alert you that my amendment and the one by Hon. Basil are similar. That is why I wanted you to allow me to make a contribution on his amendment but you did not listen to me.

Thank you.

*(Proposed amendment by Hon.
Samuel Atandi dropped)*

The Temporary Chairlady (Hon. Martha Wangari): Hon. Samuel Atandi, when we were discussing the ground rules, we said that if you wish to withdraw your amendment you are allowed. So, we will now go to the Member for Mathare.

Member for Mathare, your amendment falls if the Committee's is carried.

*(Proposed amendment by Hon.
Anthony Oluoch dropped)*

Hon. Anthony Oluoch (Mathare, ODM): On a point of order, Hon. Temporary Chairlady.

The Temporary Speaker (Hon. Martha Wangari): Hon. Anthony Oluoch what is out of order?

Hon. Anthony Oluoch (Mathare, ODM): Thank you Hon. Temporary Chairlady. As you may remember, I had indicated that for purposes of neatness, because we had several

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amendments, you allow other Members to speak. Remember this is one of the clauses that the Speaker directed that Members be allowed to debate exhaustively. There was precedence yesterday and I besiege you to allow the rest of us to move our amendments before you get to the Chairman of the Departmental Committee on Finance and National Planning. I tried to intervene so that I could speak, being fully aware that if Hon. Basil's amendment is shot down, mine is also shot down. However, you did not see me. You should allow people to debate, ventilate and say what they want to say. We are here to make laws, not run through as voting machines. So, I want to be allowed to prosecute my amendments notwithstanding the fact that Hon. Basil's has fallen. Allow me to prosecute mine.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Members, I will allow ventilation on this one. However, regarding what Hon. Anthony Oluoch has said, the Speaker was clear that the amendments would be listed here with a clear direction on how to prosecute them. As regards your amendment, if the Committee's is carried, automatically yours falls. You cannot prosecute your amendment but ventilate on it. I will give this chance to the Leader of the Majority Party and then I will come to you.

Hon. Kimani Ichung'wah (Kikuyu, UDA): I rise to oppose that amendment. You know we lose a lot of truth when we view everything from the prism of our politics. We also tend to distort a lot of information on what is in the Bill. For instance, the purported VAT on the choppers.

The Temporary Chairlady (Hon. Martha Wangari): Leader of the Majority Party, let me give some guidance. We have dispensed with Hon. Basil's amendments. Please, speak to what Hon. Anthony Oluoch raised.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you. It is not on the same issue of choppers?

The Temporary Speaker (Hon. Martha Wangari): Hon. Anthony Oluoch, I will give you the microphone but do not take us back.

Hon. Anthony Oluoch (Mathare, ODM): Okay. Will you allow me to ventilate the point of order or my amendment?

The Temporary Speaker (Hon. Martha Wangari): I have already given direction that since your amendment has fallen, you cannot prosecute it.

Hon. Anthony Oluoch (Mathare, ODM): Hon. Temporary Chairlady, going forward, this is now...

The Temporary Chairlady (Hon. Martha Wangari): Order, Hon. Members. I would like to give chance to the Member for Dagoretti North, Hon. Elachi.

Hon. Beatrice Elachi (Dagoretti North, ODM): Thank you, Hon. Temporary Chairlady. For purposes of procedure, it is very important when we finish voting, we move on to the next one. It is not right, in terms of procedure that we go back yet we have already voted. Let us move on to the next amendment. The amendment has passed.

(Loud consultations)

(Hon. John Mbadi stood in his place)

The Temporary Chairlady (Hon. Martha Wangari): Order Members! Hon. Mbadi, please take your seat. We have prosecuted all the amendments by the fact that we have prosecuted the Chairman's amendment and it has gone through. Others have fallen. We have prosecuted the amendment by Hon. Basil and it has fallen. You are now going to take a vote on the global Question on the amendment by the Chairman of the Departmental Committee on Finance and National Planning.

(Loud consultations)

Order Members! I want to give direction. Please, do not reopen the already prosecuted matters. Leader of the Majority Party, do not reopen the debate on Hon. Basil's amendment because we have already taken a vote on it.

Hon. Mbadi, what is burning?

Hon. John Mbadi (Nominated, ODM): Hon. Temporary Chairlady, we will be into this unless we get the procedure right. We need to help Members. If Members have similar amendments to that of the Committee, the Committee's amendment take priority. Members need to understand that bit. Unfortunately, they have not understood it and that is why they are demanding that you allow them first. The moment we carry an amendment of the Committee, then all the amendments which are similar to the Committee's amendment fall. That is the way we should proceed. There should be no any other argument about it so that we move forward.

The Temporary Chairlady (Hon. Martha Wangari): Order Members.

(Clause 33 as amended agreed to)

Clause 34

The Temporary Chairlady (Hon. Martha Wangari): Chairman of Departmental Committee on Finance and National Planning.

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

THAT, clause 34 (a) of the Bill be amended-

- (a) by deleting sub-paragraph (i);
- (b) by deleting sub-paragraph (ii);
- (c) by deleting sub-paragraph (iii);
- (d) by deleting sub-paragraph (v);
- (e) by deleting sub-paragraph (vi) and substituting therefor the following new sub-paragraph-

(vi) by deleting paragraph 23 and substituting therefor the following new paragraph

23. The exportation of taxable services.

- (f) by deleting sub-paragraph (vii);
- (g) by deleting sub-paragraph (viii).
- (h) by inserting the following paragraphs in sub-paragraph (ix) immediately after the new paragraph 26-

27. Liquefied Petroleum gas.

28. All tea and coffee locally purchased for the purpose of value addition before exportation subject to approval by the Commissioner-General.

29. The supply of locally assembled and manufactured mobile phones.

30. The supply of motorcycles of tariff heading 8711.60.00.

31. The supply of lithium ion batteries.

32. The supply of electric buses of tariff heading 87.02.

33. Inputs or raw materials locally purchased or imported for the manufacture of animal feeds.

34. Bioethanol vapour (BEV) Stoves classified under HS Code 7321.12.00 (cooking appliances and plate warmers for liquid fuel).

Hon. Temporary Chairlady, in addition to the above amendments, I beg to move:

THAT, Clause 34 be further amended in sub paragraph 10 by inserting the following new item immediately after item 30 -

34. (a) supply of electric bicycles.

This particular clause recommends to taking items from exemption to zero rating. Last year, we passed an amendment here in the last Finance Bill that provided zero rating of exportation of taxable services, but we added other words saying “export of taxable services for business process services.”

As a result of just including the words “business processing”, it meant that that particular clause has not been possible to implement. Therefore, this amendment is deleting that business process operation so that we zero-rate exportation of taxable services. We have a rule in this country that all goods meant for export are zero-rated and, therefore, we are giving a similar treatment to export of services so that they are also zero-rated.

Secondly, we are looking at something on green energy. By us giving incentives to our manufacturers to go green, we are proposing that supply of lithium ion batteries that are going to be used on electronic motor vehicles and electronic motorcycles to be zero-rated. We are also saying that importation of electric buses be zero-rated. That is very crucial. It is equally important for the manufacture of animal feeds to be also zero-rated. This is going to bring down the cost of animal feeds. In addition, the clause on Liquefied Petroleum Gas (LPG) has been put for exemption but we are now recommending it to be zero-rated.

Lastly, bio ethanol vapour stoves are recommended for zero-rating. During public participation, a demonstration was done to us of Kenyans who have provided technology that is allowing use of bio-ethanol fuel that is going to reduce the cost of cooking to Ksh10 per meal. The stoves are available in the market at only Ksh1,520. These are some of the measures that the Committee put in place to make sure that we carry on our tax incentives towards going green and mitigate the impact that the increase in VAT might have on the cost of fuel in this particular country.

With that, I beg to move.

(Question of the amendment proposed)

Hon. Kimani Ichung’wah (Kikuyu, UDA): Thank you, Hon. Chairlady. I rise to support the amendments by the Committee. As the Chairman has said, it is not just bio-ethanol fuel that will make the cost of living more affordable for Kenyans in terms of cooking gas or rather the reduction of VAT on cooking gas or LPG gas.

It is also true that when we zero-rate batteries, electric vehicles and electric motorcycles, we reduce the numbers of motorcycles that are using fossil, about which we are all complaining that it is getting expensive. A reduction in demand either from bodaboda riders or other courier service providers who use motorcycles thus encouraging even the use of more green energy with the electric motorcycle, electric buses and motorcars, will not only safeguard our environment in this era of climate change but will help us to reduce our demand for fuel and enable us to save on foreign exchange reserves and consequently bring down the cost of living for millions of Kenyans. To the hustlers, who are being told that they have been abandoned, we are saying it is time to move from fossil fuel-powered engines to electric-powered motorcycles that will be more profitable to operate.

Finally, if we look at everything from the prism of politics, we will get it wrong and misinform Kenyans. On issues we have conversed here, like that on helicopter spares, VAT is still payable. What is being removed is VAT on spare parts for helicopters. That is what is guaranteed.

The Temporary Chairlady (Hon. Martha Wangari): Let us have Hon. Makali Mulu.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you, Hon. Chairlady. The move to move certain products from tax exemption to zero-rating is good because it makes commodities cheaper than they are. This is the way to go, moreso when we target the hustlers.

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It only becomes tricky when you do the same but for commodities and goods that target the rich. As long as the goods targeted are the ones that target the people at the bottom of the pyramid, I support.

The Temporary Chairlady (Hon. Martha Wangari): Order Members. I will give Hon. (Dr) Mutunga a maximum of two minutes.

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Thank you, Hon. Temporary Chairlady. Moving things from duty exemption to zero-rating makes them cheaper. It also creates a possibility for us to diversify. The introduction of electric motor vehicles and electric motor bikes gives us an opportunity to move away from fossil fuel, which has been running the motorbikes as we have them right now. I believe this is the best way to go. Kenya is diversifying and growing with the rest of the world. That is a move in the right direction. So, it is important for us to consider it in that manner.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Mbadi, you will have one minute then I will give the Floor to the Chair before I put the Question.

Hon. John Mbadi (Nominated, ODM): Hon. Temporary Chairlady, I agree that zero-rating is good. That is what we were talking about; moving commodities from zero-rating. However, allow me to ask the Chair of the Committee a question. He has sanitised and brought back all the commodities that were being removed from zero-rating to tax exemption, except maize flour, corn flour, cassava flour and wheat flour - all of which are very important. He has left them out. I want to know the rationale of leaving them out from the many other items that we complained about. These ones are very critical. With your permission, can the Chair of the Committee explain to us why he left out maize flour, cassava flour and wheat flour?

The Temporary Chairlady (Hon. Martha Wangari): Hon. Chair, you have one minute to summarise then I put the Question.

Hon. Kuria Kimani (Molo, UDA): I will be very brief, Hon. Temporary Chairlady. Thank you, very much CPA Mbadi for that Question. On the issue of maize flour, if you check the VAT Act, it appears on the first schedule as exempt. That is page 35, 108. It appears again on the second schedule for zero-rate, two times; Clauses 20 and 22. What we have done is to propose deletion where it appears as exempt, and where it appears twice in Clauses 20 and 22 we have proposed deleting Clause 22 so that we only have one Clause which captures supply of maize flour, cassava flour and wheat flour as zero-rated.

Thank you.

The Temporary Chairlady (Hon. Martha Wangari): Thank you. I will now put the Question.

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

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

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

The Temporary Chairlady (Hon. Martha Wangari): Hon. Oluoch had an amendment, However, because the Committee's amendment has been carried, his amendment is dropped.

Hon. Kaluma had an amendment but he is not in the House. So, his amendment is dropped.

(Proposed amendments by Hon. Oluoch and Hon. Peter Kaluma dropped)

The Temporary Chairlady (Hon. Martha Wangari): I will now put the global Question.

(Clause 34 as amended agreed to)

New Clause 29A

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

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

Amendment of section 12 of No. 35 of 2013.	29A. Section 12 of the Value Added Tax Act, 2013 is amended by inserting the following new subsection immediately after subsection (1) – (1A) Subject to sub-section (1), in the case of the national carrier, the time of supply shall be the date on which the goods are delivered or services performed.
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(The new clause was read a First Time)

The Temporary Chairlady (Hon. Martha Wangari): Mover, move the Second Reading.

Hon. Kuria Kimani (Molo, UDA): Thank you, Hon. Temporary Chairlady. I beg to move that the New Clause 29A be now read a Second Time.

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

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

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

New Clause 30A

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

THAT, the Bill be amended by inserting the following new clause immediately after clause 30—

Amendment section 31 of No. 35 of 2013.	30A. Section 31 of the Value Added Tax Act, 2013 is amended by deleting sub-section (1) and substituting therefor the following new sub-section –
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(1) Where a registered person has made a supply and has accounted for and paid tax on that supply but has not received any payment from the person liable to pay the tax on that supply and that person-

- (a) has not received any payment from the person liable to pay the tax, he may, after a period of three years from the date of the supply; or
- (b) the person to whom the supply was made has been placed under statutory management through the appointment of an administrator, receiver or liquidator

he may apply to the Commissioner for refund of the tax involved:

Provided that-

- (a) no application for a refund shall be made under this section after the expiry of ten years from the date of supply;
- (b) the refund shall be made in compliance with section 47(5) of the Tax Procedures Act;
- (c) or the amounts may be credited to the tax payer's record for use against future value added tax liabilities;
- (d) where the tax refunded under sub-section (1) and (2) is subsequently recovered from the recipient of the supply, the registered person shall refund the tax to the Commissioner with sixty days of the date of recovery;
- (e) if the payment is made within the time specified under subsection (1) and (2), an interest of two per cent per month or part thereof of the tax refunded shall forthwith be due and payable and the interest shall not exceed one hundred per cent of the refunded amount.

(The new clause was read a First Time)

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairlady, I beg to move that the New Clause 30A be now read a Second Time. A quick explanation is that this amendment is to deal with challenges of bad debts and VAT refunds. A brief explanation is that we have a tax of about Ksh390 billion we cannot collect. Some of it is bad debts and VAT refunds. This clause is supposed to do a clean-up and ensure that the bad debts are not collectable because those companies have gone into statutory management and written off.

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

Hon. Members: Put the Question!

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

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

(Clause 35 agreed to)

Clause 36

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairlady, I beg to move:
THAT, Clause 36 be deleted.

This was one of the very much debated cases from public participation. The clause required payers of tax to deposit 20 per cent. The Committee has deleted this.

I thank you.

(Question of the amendment proposed)

(Loud consultations)

The Temporary Chairlady (Hon. Martha Wangari): Order, Members. I know Hon. Oluoch, Hon. Makali, Hon. Oundo, Hon. Kaluma, Hon. Mbui and Hon. Didmus had proposed amendments. However, we cannot all speak to this matter. I will give Hon. Oluoch and Hon. Didmus chance then I will put the Question.

Hon. Antony Oluoch (Mathare, ODM): I thank the Chairman of the Departmental Committee on Finance and National Planning and support that the clause be deleted. The clause would have been punitive if it remained as it is. This would go against the rules of natural justice where all the Kenya Revenue Authority (KRA) would need to do is to claim a certain amount of tax that would be arbitrary. One of the rules of natural justice is to prevent public authority or agency from arbitrariness. I rise to support this proposed amendment by the Chair of the Departmental Committee on Finance and National Planning. I can see the Chair is nodding in agreement.

Hon. Didmus Barasa (Kimilili, UDA): Thank you, Hon. Temporary Chairlady. I support the position of the Chair of the Departmental Committee on Finance and National Planning. I congratulate him. I ask Members who may have other amendments on other areas to read the mood of the House and drop them.

I support the amendment.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Oundo, you have one minute.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Honestly speaking, whoever drafted this amendment must be somebody who does not live in this country. It offends Article 48 of the Constitution of Kenya. That is why, among other reasons, we had proposed its deletion. It is good that the Committee has carried the amendment. At least, for once, I can thank them for a job-well-done.

Thank you.

The Temporary Chairlady (Hon. Martha Wangari): Hon. Makali, you have one minute. Chances are only to those who had amendments.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Hon. Temporary Chairlady, I wish to join my colleagues in thanking the Chair of the Departmental Committee on Finance and National Planning for listening to the voice of reason. It is important that this amendment is deleted. That is why I was proposing that we delete it.

Thank you.

The Temporary Chairlady (Hon. Martha Wangari): I see Members who had amendments have all got a chance to speak.

(Question, that the words to be left)

out be left out, put and agreed to)

(Clause 36 deleted)

(Clauses 37, 38 and 39 agreed to)

Clause 40

The Temporary Chairlady (Hon. Martha Wangari): Chair, Departmental Committee on Finance and National Planning.

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

THAT, Clause 40 of the Bill be amended in the proposed sub-section (6)-

- (a) by deleting the words “commits an offence, if that person” and substituting therefor the word “who”;
- (b) in paragraph (b) by deleting the words “is in possession of” and substituting therefor the words “knowingly is in possession of”;
- (c) in paragraph (e) by deleting the words “is in possession of” and substituting therefor the words “knowingly is in possession of”;
- (d) in paragraph (f) by deleting the words “is in possession of” and substituting therefor the words “knowingly is in possession of”;
- (e) by inserting the words “commits an offence” immediately after paragraph (g).

This is where there was proposed punishments and fines when you deal with excise stamps. We have cleaned it up to only allow those offences relating to excisable stamps such that those that will attract criminal liability are those people that have a criminal mind. My legal friends told me it is called *mens rea*. So, in the normal dealing of excisable stamps, if you just destroyed unknowingly without having a criminal mind, then you have not committed any offence.

(Question of the amendment proposed)

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

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

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

(Clause 40 as amended agreed to)

(Clauses 41 and 42 agreed to)

Clause 43

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

THAT, Clause 43 of the Bill be amended—in paragraph (a) -

- (i) by inserting the word “Imported” immediately after the expression “1704;” in sub-paragraph (ii);
- (ii) by deleting sub-paragraph (iv);
- (iii) by deleting sub-paragraph (v);
- (iv) by inserting the following new sub-paragraph immediately after paragraph (v)-
 - (va) by deleting the following description “Motorcycles of tariff 87.11 other than motorcycle ambulances and locally assembled motorcycles” and substituting therefor the following new description “Motorcycles of tariff 87.11 other than motorcycle ambulances, locally assembled motorcycles and electric motorcycles”;
 - (vb) in the item of tariff description “Imported Glass bottles (excluding imported glass bottles for packaging of pharmaceutical products)” by deleting the rate of excise duty of “25%” and substituting therefor the rate of excise duty of “35%”;
 - (vc) in the item of tariff description “Imported Alkyd” by deleting the rate of excise duty of “10%” and substituting therefor the rate of excise duty of “20%”;
 - (vd) in the item of tariff description “Imported Unsaturated polyester” by deleting the rate of excise duty of “10%” and substituting therefor the rate of excise duty of “20%”;
 - (ve) in the item of tariff description “Imported Emulsion VAM” by deleting the rate of excise duty of “10%” and substituting therefor the rate of excise duty of “20%”;
 - (vf) in the item of tariff description “Imported Emulsion - styrene Acrylic” by deleting the rate of excise duty of “10%” and substituting therefor the rate of excise duty of “20%”;
 - (vg) in the item of tariff description “Imported Homopolymers” by deleting the rate of excise duty of “10%” and substituting therefor the rate of excise duty of “20%”;
 - (vh) in the item of tariff description “Imported Emulsion B.A.M.” by deleting the rate of excise duty of “10%” and substituting therefor the rate of excise duty of “20%”.
- (v) in subparagraph (vi)-
 - (a) in the item of description “Imported fish” by amending the rate of excise duty by deleting the expression “Ksh100,000 per metric tonne or” and by deleting “20%” and substituting therefor “10%”;
 - (b) by deleting the description “sugar excluding sugar imported or locally purchased by a registered pharmaceutical manufacturer” and substituting therefor “Imported sugar excluding imported sugar purchased by a registered pharmaceutical manufacturer”;
 - (c) by deleting the item of description “Human hair and other products of tariff heading 6703” and the corresponding rate of excise duty;
 - (d) by deleting the item of description “Wigs, false beards, eyebrows and eyelashes, switches and the like, and other

products of heading 6704” and the corresponding rate of excise duty;

(e) (e) by deleting the item of description “Artificial nails of tariff no.3926.90.90” and the corresponding rate of excise duty;

(f) by deleting the description “Imported furniture excluding furniture excluding furniture originating from East African Community State that meet the East African Community Rules of Origin” and substituting therefor the following description “Imported furniture of tariff heading 9403 excluding furniture excluding furniture originating from East African Community State that meet the East African Community Rules of Origin”;

(g) in the item “Imported Test liner of heading 4805.24.00” by inserting the word “non-virgin” immediately after the word “Imported”;

(h) in the item “Imported Fluting medium of heading 4805.19.00” by inserting the word “non-virgin” immediately after the word “Imported”;

(i) by inserting the following new items in subparagraph (vi) immediately after the item of tariff description “Imported fluting medium of heading 4805.19.00”–

<i>Description</i>	<i>Rate of excise duty</i>
Imported cartons, boxes and cases of corrugated paper or paper board and imported folding cartons, boxes and case of non-corrugated paper or paper board and imported skillets, free-hinge lid packets of tariff heading 4819.10.00, 4819.20.10 and 4819.20.90	25%
Imported plates of plastic of tariff heading 3919.90.90, 3920.10.90, 3920.43.90, 3920.62.90 and 3921.19.90	25%
Imported paper or paper board, labels of all kinds whether or not printed of tariff heading 4821.10.00 and 4821.90.00	25%

(b) in paragraph (b)-

(j) by deleting the words “twenty per cent” appearing in sub-paragraph (iv) and substituting therefor the words “twelve point five per cent”;

(ii) by deleting the words “twenty per cent” appearing in sub-paragraph (v) and substituting therefor the words “twelve point five per cent”;

(iii) by deleting the words “twenty per cent” appearing in sub-paragraph (vi) and substituting therefor the words “twelve point five per cent”

(iv) by deleting the words “twenty per cent” appearing in sub-paragraph (vii) and substituting therefor the words “twelve point five per cent”;

(v) by deleting sub-paragraph (viii);

(c) in paragraph (c) by deleting sub-paragraph (ii).

We are generally incentivising where we think we have capacity to produce and manufacture our own goods. We make importation of what is made locally more expensive. It has a proposed excise duty of 10.5 per cent on imported fish.

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

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

We have also exempted locally manufactured sugar and deleted the clause that was introducing Excise Duty on human hair. This was one of the beautiful stories that we got during public participation. Many people, especially women, suffer from cancer. When they go through chemotherapy, they lose their hair. So, you may find them wearing a wig and you might think that it is a luxury, but it is because of a medical condition. So, we have removed that Excise Duty on human hair.

Lastly, Hon. Temporary Chairman, we proposed to reduce Excise Duty on gaming from 20 per cent to 12.5 per cent.

With that, I beg to move the amendment.

The Temporary Chairman (Hon. David Ochieng'): Members, although this clause has many amendments, I directed that once we carry the Chairperson's amendments, there will be consequences.

(Question of the amendment proposed)

As I said, I recognise that this clause has several amendments. I have directed that if the Chairperson's amendments go through, some amendments like those ones by Hon. Oluoch, Hon. Okello, and Hon. Didmus, which are being dropped, will fall *in limine*. But I will allow each of you who has an amendment to speak for a minute, and then we dispense with the clause.

Hon. Oluoch, you have one minute.

Hon. Anthony Oluoch (Mathare, ODM): Thank you, Hon. Temporary Chairman. I thank the Chairperson of the Departmental Committee on Finance and National Planning for moving these amendments. This Excise Duty would have affected the youth, especially hustlers and people in informal settlements, who eke out a living from the beauty industry such as salon owners. Therefore, this is a big plus for Kenyans, for bipartisanship, and for those people who fall in this bracket who came during public participation and demanded not to be taxed.

Therefore, I thank the Chairperson and I support the amendment.

The Temporary Chairman (Hon. David Ochieng'): Okay. Hon. Okello, you have one minute.

Hon. Jared Okello (Nyando, ODM): Hon. Temporary Chairman, whereas I acknowledge that the import of this amendment as proposed by the Chairperson was to curtail issues of importation of fish into the country, statistics indicate that this country consumes 400 metric tonnes of fish in a year, whereas we only locally produce 163 metric tonnes. That, therefore, leaves a huge gap that can only be covered through importation. It is true that those who import fish into the country pay taxes amounting to Ksh1.5 billion every year. They also have employees that they engage to undertake various activities within those industries. Again, we have never had a glut of fish for us to claim that we have more fish than we need in the

country that will expose us to many problems. We have a scarcity because even the importation of fish into the country is just...

The Temporary Chairman (Hon. David Ochieng’): Thank you. Hon. Atandi. Is he in the House? Hon. Mpuru. Hon. Mbui. Hon. Didmus Barasa.

Hon. Didmus Barasa (Kimilili, UDA): Thank you, Hon. Temporary Chairperson. I had proposed an amendment to increase the Excise Duty on human hair by 10 per cent. In the same breath, the Chairperson has explained that we should zero-rate this product so that our young ladies and women can continue to use them and engage in business. I wish to drop this amendment. I do not wish to further proceed with it. I support the position taken by the Chairperson of the Departmental Committee on Finance and National Planning.

Thank you.

(Proposed amendment by Hon. Didmus Barasa withdrawn)

The Temporary Chairman (Hon. David Ochieng’): Hon. Mwenje, you have one minute.

Hon. Mark Mwenje (Embakasi West, JP): Thank you, Hon. Temporary Chairman. I want to also thank the Committee, especially on the Excise Duty on gaming tax which was at 20 per cent. I think it has been reduced to 12.5 per cent. We had hoped for more.

It is important that we protect the betting industry to ensure it does not go to the black market. That way, we will start losing even more money that should be going to our Government. We thank the Chairperson. For that reason, I support the amendment.

The Temporary Chairman (Hon. David Ochieng’): Thank you. Hon. Mbadi, contribute for one minute, please. This is the last contribution on this amendment.

Hon. John Mbadi (Nominated, ODM): I want to talk about imported fish. Even though this amendment is making it better than what was in the original Bill, it is 10 per cent as opposed to 20 per cent, and Ksh100,000. However, I wish we can have an amendment where we remove this duty completely. We want to eat fish. The fish in the country is very expensive. The problem that we have is not the market where fishermen will take our fish. The market is there but there is no fish in this country. As we give capacity to local farming of fish, we should still allow fish to be brought to the country cheaply. You are going to kill our people. They love fish. We need to eat it.

The Temporary Chairman (Hon. David Ochieng’): Leader of the Majority Party.

Hon. Kimani Ichung’wah (Kikuyu, UDA): Hon. Temporary Chairman, there is misnomer that it is only those people who live at the coastline and around the lakes who have fish. It is true that fish is expensive in this country, and so is all our other meat. The solution is to encourage farming of fish. We need to encourage our people to rear fish. These levies are there to encourage them, so that we dissuade people from importing fish from China.

Fish is expensive today. We are importing expensive fish. I heard that we get salmon from Sweden and Norway. Why not keep our salmon here? Tilapia and some other species which I cannot remember their names come from China. We need to encourage even farmers in Kikuyu to rear fish. I know farmers in Kikuyu who rear and sell fish in Nairobi markets. The solution is not to say that we should not punish those who import by imposing a levy but to encourage local production. That is how we will save our foreign exchange reserve. Those who support the importation of fish are the ones who come from a fishing zone along the coastline or Lake Victoria. You should encourage our fishermen to rear more fish. We should also encourage the Ministry of Mining, the Blue Economy and Maritime Affairs to train our fishermen on how to protect the stock we have around the lake.

The Temporary Chairman (Hon. David Ochieng’): The person who will have the last bite on the fish is Hon. Junet.

Hon. Junet Mohamed (Suna East, ODM): Hon. Temporary Chairman, this 10 per cent on fish will cause a lot of scarcity. You do not start by creating scarcity but by developing first. We do not have enough fish in this country because there is a deliberate application of policy by governments since Independence to put money where there is fish. Instead of putting money in Lake Victoria where there is fish or in the Indian Ocean, people are told to put up dams and small pans in their homes which cannot produce any fish. If we put enough resources in the lake region, I can guarantee you that there will be a lot of fish in this country.

The other thing I am happy about this amendment is that the level of desperation for taxation in the Finance Bill, 2023, is too much. They are trying to tax even fake beards and nails. Who wants to make beards in Kenya? Who is interested? Who is this man in Parliament who is interested in fake beards?

The Temporary Chairman (Hon. David Ochieng’): Thank you, Hon. Junet. I want to put the Question. We have had enough debate on this amendment.

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

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

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

The Temporary Chairman (Hon. David Ochieng’): Hon. Sunkuyia too had an amendment on this.

Hon. George Sunkuyia (Kajiado West, UDA): I beg to move:

THAT, Clause 43 of the Bill be amended in paragraph (a) by inserting the following new table after the second table appearing in paragraph (a)(vi)—

<i>Description</i>	<i>Rate of excise duty</i>
Imported bathing soap or toilet soap of tariff no. 3401.11.00	10%
Imported detergent powder of tariff no. 3402.50.00	10%
Imported linear alkydbenzene sulphonic acid of tariff no. 3402.31.00	10%

(Subject to Article 114 of the Constitution)

My amendment is to provide for a 10 per cent Excise Duty on imported soap, detergents, and sulphonic acid. There has been an increase in importation of soap detergents and sulphonic acid in Kenya. We have sufficient local capacity to produce these products. The amendment will protect our local manufacturers and address cheap imports of soap and related products.

(Question of the amendment proposed)

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

The temporary Chairman (Hon. David Ochieng’): Having cleared that, the amendment by the Chairman of the Departmental Committee on Blue Economy and Irrigation went with the amendments given by the Chairperson of the Departmental Committee on Finance and National Planning. It will not be pursued.

(Clause 43 as amended agreed to)

New Clause 40A

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

THAT, the Bill be amended by inserting the following new clause immediately after Clause 40–

Amendment
of section 36
of No. 23 of
2015.

40A. Section 36 of the Excise Duty Act, 2015, is amended by inserting the following new subsection immediately after subsection (1)–

(1A) Despite subsection (1), in the case of a licensed manufacturer of alcoholic beverages, excise duty shall be payable to the Commissioner within twenty-four hours upon removal of the goods from the stockroom.

(The new clause was read a First Time)

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move that the new clause 40A be now read a Second Time. This is where we are requiring that Excise Duty on alcoholic drinks be made as they pass from the stockroom. This is meant to get rid of the menace of illicit brews that has exhibited in our markets by making sure that the only brews in the markets are licit. Thank you.

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

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

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

New Clause 43A

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

THAT, the Bill be amended by inserting the following new clause immediately after clause 43–

Amendment of the
Second Schedule to
No. 35 of 2015.

43A. The Second Schedule to the Excise Duty Act, 2015 is amended in Part A by inserting the following new paragraph immediately after paragraph 16–

17. Disassembled or unassembled kits for local assembly or manufacture mobile phones.

(The new clause was read a First Time)

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move that the New Clause 43A be now read a Second Time. This is where we are exempting manufacture of mobile phones in the country from payment of Excise Duty. One of the great benefits we found from public participation is that Kenya has the capacity to manufacture our mobile phones. We are zero-rating all raw materials and assembling parts that are going to be used for manufacture of mobile phones, and removing Excise Duty on the sale of mobile phones. We hope that by doing this, Kenya will be the first country in Africa to manufacture and export our own mobile phones to the rest of Africa.

I beg to move the amendment, Hon. Temporary Chairman.

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

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

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

(Clauses 44, 45 and 46 agreed to)

Clause 47

The Temporary Chairman (Hon. David Ochieng’): Mover.

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

THAT, Clause 47 of the Bill amended in the proposed Section 23A by inserting the words “airline passenger ticketing” immediately after the word “interest” appearing in sub-section (4).

We are exempting tax invoices for air tickets. If you book a flight today for December, we issue you with a tax receipt. If you decide to change your flight or the fee changes, it makes the administration of that tax impossible. This is to exempt airline passenger ticketing from the requirement of issuance of electronic tax invoices.

(Question of the amendment proposed)

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

(Clause 47 as amended agreed to)

(Clause 48 agreed to)

Clause 49

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

THAT, Clause 49 of the Bill be amended in the proposed new Section 32A by renumbering the second subsection (3) and subsections (4), (5), (6), (7), (8), (9) as (4), (5), (6), (7), (8), (9) and (10).

Hon. Temporary Chairman, this is a renumbering of those provisions. It is just a clean-up.

(Question of the amendment proposed)

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

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

(Clause 49 as amended agreed to)

(Clause 50 agreed to)

Clause 51

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

THAT, Clause 51 of the Bill be amended in the proposed new Section 37E-

- (a) in subsection (1) by deleting the words “or fines” immediately after the words “or interest”;
- (b) In subsection (2) by deleting the words “, penalties or fines” immediately after the words “amnesty of interest” and substituting therefor the words “or penalties”;
- (c) In subsection (3) (a) by deleting the words “, penalties or fines” immediately after the words “amnesty of interest” and substituting therefor the words “or penalties”;
- (d) By deleting subsection (4) and substituting therefor the following new subsections-

(4) Despite subsection (2), any amount of principal tax as at 31st December 2022 that remains unpaid on the 30th June, 2024, shall attract interest and penalties for which no amnesty shall be granted under this section.

(5) Despite subsection (1) the Commissioner shall not remit, in whole or in part, any penalty or interest payable by a person, imposed under section 85.

We are extending amnesty for those who perhaps registered a company five years ago, and do not know whether they registered it for VAT or not. Therefore, they unknowingly accumulate penalties and interest. If they apply to the Commissioner-General, they will be able to get amnesty for those penalties and interests that may have accrued, as long as they pay the principal amount.

With that, I beg to move the amendment.

(Question of the amendment proposed)

The Temporary Chairman (Hon. David Ochieng’): Hon. Nyikal.

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Speaker. Does this amnesty have a time limit or will it be continuous? What is the time limit?

The Temporary Speaker (Hon. David Ochieng’): Hon. Mbadi has the answer for you.

Hon. John Mbadi (Nominated, ODM): This is conditioned to June 2024. My only concern with this is that we may be setting a bad precedent that anytime a new regime is in place, we will be giving tax amnesty to people who refuse to pay taxes. I allow it but I am really disturbed that it will set a very bad precedent.

(Question of the amendment proposed)

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

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

(Clause 51 as amended agreed to)

Clause 52

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:
THAT, Clause 52 of the Bill be deleted.

Again, Clause 52 gives the Commissioner-General of KRA the power to take over your property if you have a tax dispute. Therefore, this deletion removes the proposal for registration of security for unpaid taxes without the notice to the taxpayer. Now, they have to notify the taxpayer that their property is being seized for their unpaid taxes.

(Question of the amendment proposed)

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

(Clause 52 deleted)

(Clause 53 agreed to)

Clause 54

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:
THAT, Clause 54 of the Bill be amended—

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

(a) in the proviso to subsection (1), by deleting the words “commencement of this Act” and substitute therefor the expression “1st July, 2022”.

(b) in paragraph (b) by deleting the words “three days” and substituting therefor the words “five working days”;

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

(c) in subsection 4C (b) by deleting the words “twentieth day of the month following that in which” and substituting therefor the words “fifth working day after”.

This clause required taxes to be paid within 24 hours. We are extending this from 24 hours to 5 working days.

(Question of the amendment proposed)

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

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

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

(Clause 54 as amended agreed to)

(Clauses 55, 56, 57 and 58 agreed to)

Clause 59

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

THAT, Clause 59 of the Bill be deleted.

This is where in case of a case at the tribunal court, you are not allowed to introduce more evidence. So, we are now proposing a deletion of this, so that you are allowed to introduce new evidence to argue out your tax case.

(Question of the amendment proposed)

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

(Clause 59 deleted)

(Clause 60 agreed to)

Clause 61

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

THAT, Clause 61 of the Bill be deleted.

This is one of the clauses that members of the public told us that they were impeding them to access justice. This is similar to the other two that we have deleted.

(Question of the amendment proposed)

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

(Clause 61 deleted)

Clause 62

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

THAT, Clause 62 of the Bill be amended in the proposed new Section 86 by deleting the words “of one million shillings or an amount equal to ten times the amount of the tax due, whichever is higher, appearing in sub-section (2) and substituting therefor the words “two times the tax due”.

Hon. Temporary Chairman, this is where the Kenya Revenue Authority was providing a fine of Ksh1 million or 10 times their tax due. We are proposing to reduce that to at least two times the tax due, so that we reduce the penalties that are being imposed on taxpayers when they are unable to, for example, to use the e-TIMS system or remit their taxes on time.

(Question of the amendment proposed)

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

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

(Clause 62 as amended agreed to)

(Clauses 63, 64 and 65 agreed to)

Clause 66

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

THAT, Clause 66 of the Bill be deleted.

This amendment seeks to delete the proposal to run concurrent civil and criminal proceedings on tax matters. We, again, listened to members of the public. We want to give them a chance of a fair hearing when they go to court. We will not allow these two cases to continue concurrently.

(Question of the amendment proposed)

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

(Clause 66 deleted)

(Clause 67 agreed to)

Clause 68

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

THAT, Clause 68 of the Bill be amended in the proposed new section 7A by deleting the word “to” appearing in subsection (4) immediately after the word “not”. This is just a correction of a grammatical error in the Bill.

(Question of the amendment proposed)

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

(Clause 68 as amended agreed to)

Clause 69

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

THAT, Clause 69 of the Bill be amended in paragraph (a) by deleting the words “two point five” and substituting therefore the word “two”.

This amendment is referencing the Railway Development Levy as being 2.5 per cent whereas in the Act it is 2 per cent. So, it is more of a clean-up for an error in reference to the Railway Development Levy.

(Question of the amendment proposed)

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

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

(Clause 69 as amended agreed to)

Clause 70

Hon. Kuria Kimani (Molo, UDA): Hon. Chair I beg to move:

THAT, Clause 70 of the Bill be amended—

- (a) in paragraph (b) by deleting the expression “USD0.52” and substituting therefor the expression “USD0.55/kg”;
- (b) in paragraph (d) by deleting the expression “USD0.52” and substituting therefor the expression “USD0.55/kg”;
- (c) in paragraph (e) by deleting the expression “USD0.52” and substituting therefor the expression “USD0.55/kg”;
- (d) in paragraph (f) by deleting the expression “USD0.52” and substituting therefor the expression “USD 0.55/kg”;
- (e) in paragraph (g) by deleting the expression “USD0.52/kg” and substituting therefor the expression “USD0.55/kg”;
- (f) in paragraph (h) by deleting the expression “USD0.52” and substituting therefor the expression “USD0.55/kg”;

- (g) in paragraph (i) by deleting the expression “USD0.52” and substituting therefor the expression “USD0.55/kg”;
- (h) in paragraph (j) by deleting the expression “USD0.52” and substituting therefor the expression “USD0.55/kg”;
- (i) in paragraph (k) by deleting the expression “USD0.52” and substituting therefor the expression “USD0.55/kg”;
- (j) in paragraph (l) by deleting the expression “USD0.52” and substituting therefor the expression “USD0.55/kg”;
- (k) in paragraph (m) by deleting the expression “USD0.52” and substituting therefor the expression “USD0.55/kg”;
- (l) in paragraph (n) by deleting the expression “USD0.52” and substituting therefor the expression “USD0.55/kg”;
- (m) in paragraph (o) by deleting the expression “USD0.52” and substituting therefor the expression “USD0.55/kg”;
- (n) in paragraph (p) by deleting the expression “USD0.52” and substituting therefor the expression “USD0.55/kg”;
- (o) in paragraph (q) by deleting the expression “USD0.52” and substituting therefor the expression “USD0.55/kg”;
- (p) by inserting the following new paragraphs immediately after paragraph (i)—
 - (ia) by deleting the expression “80% or USD0.55” appearing in tariff no. 4301.60.00 and substituting therefor the expression “50% or USD0.32 whichever is higher”;
 - (ib) by deleting the expression “80% or USD0.55” appearing in tariff no. 4301.30.00 and substituting therefor the expression “50% or USD0.32 whichever is higher”;
 - (ic) by deleting the expression “80% or USD0.55” appearing in tariff no. 4302.30.00 and substituting therefor the expression “50% or USD0.32 whichever is higher”;
 - (q) by inserting the following new paragraph immediately after paragraph (w)—
 - (x) by deleting the tariff description together with the rate of export levy corresponding to tariff number “4101.40.00”;
 - (y) by deleting tariff description together with the rate of export levy corresponding to the tariff number “8109.39.00”.

This has two elements. One is a clean-up on the tariff numbers while the other one is to harmonize the Export Development Levy not to be subject to inflation adjustment as at October 2022.

(Question of the amendment proposed)

Hon. John Mbadi (Nominated, ODM): Chairman, I want the Chair of the Committee to guide me on this because the suggestion we are making here is to delete the expression of USD0.5 and substitute with USD0.55 per kilogramme. However, looking at the tariffs that are given on page 368 of the Bill, for example, and let me pick one, Tariff No.4102.21.0....

(Hon. Didmus Barasa consulted Hon. Kimani Kuria)

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Kindly, Hon. Didmus Barasa, can you allow the Chair to listen to me because I want him to clarify this point?

Hon. Temporary Chairman, I am looking at Tariff 4102.21.00 on page 361, which is at USD0.52 per kilogramme. Why are you bringing USD0.55 per kilogramme? I do not see where you are getting the USD0.55. All along in the tariffs, I see USD0.52. Could you explain exactly what you are trying to do? That is the bit that I do not understand.

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

Hon. Kuria Kimani (Molo, UDA): Thank you. This particular amendment was later proposed by the National Treasury following the fluctuations in the exchange rate. The rate at which the Kenya shilling was exchanging to the dollar by publishing of the Bill by the time we completed the Report was different and that necessitated that change from USD0.52 to USD0.55.

The Temporary Chairman (Hon. David Ochieng’): Hon. Nyikal one minute.

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Temporary Chairman, while we are not all tax experts, this looks to me on the face of it as something being increased from USD0.52 to USD0.55. For a layman like me, can it be explained what it is that is being increased? If you move from USD0.52 to USD0.55, you have increased something.

The Temporary Chairman (Hon. David Ochieng’): He has explained it.

Hon. John Mbadi (Nominated, ODM): Can I just help him?

The Temporary Chairman (Hon. David Ochieng’): No, we cannot go back and forth Hon. Mbadi.

(Hon. John Mbadi spoke off record)

Okay, take 30 seconds.

Hon. John Mbadi (Nominated, ODM): Actually, the difficulty that Hon. Nyikal is going through is simple. Dr Nyikal is making it better because he is moving it from USD 0.55/kg to USD 0.32/kg. So, the difference was between USD 0.52/kg compared to USD 0.55/kg. But it is falling to USD 0.32/kg, which is better.

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

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

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

(Clause 70 as amended agreed to)

Clause 71

The Temporary Chairman (Hon. David Ochieng’): Mover.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:
THAT, Clause 71 of the Bill be amended –

- (a) in paragraph (a) by inserting the following sub-paragraphs immediately after sub-paragraph (iii)-
- (iiia) by inserting the following new paragraph immediately after paragraph(xv)—
 - (xva) Any other aircraft spare parts including aircraft engines imported by aircraft operators or persons engaged in the business of aircraft maintenance upon recommendation by the competent authority responsible for civil aviation.
 - (iiib) in paragraph (xxvc) (b) by inserting the words “or other manufacturing activities including refining” immediately after the words “human vaccines”;
- (b) in paragraph (a) (iv) by inserting the following new paragraphs immediately after paragraph (xxviii)-
- (xxix) the supply of denatured ethanol of tariff number 2207.20.00;
 - (xxx) bioethanol vapour (BEV) stoves classified under HS Code 7321.12.00 (cooking appliances and plate warmers for liquid fuel).
- (c) in paragraph (b), by inserting the following new items immediately after item (ii)—
- (iia) in paragraph (viii)(b), by inserting the words “or other manufacturing activities including refining” immediately after the words “human vaccines”;
- (d) in paragraph (b) (iv) by inserting the following new paragraphs immediately after paragraph (xiii)-
- (xiv) the supply of denatured ethanol of tariff number 2207.20.00;
 - (xv) bioethanol vapour (BEV) stoves classified under HS Code 7321.12.00 (cooking appliances and plate warmers for liquid fuel);
 - (xvi) any other aircraft spare parts including aircraft engines imported by aircraft operators or persons engaged in the business of aircraft maintenance upon recommendation by the competent authority responsible for civil aviation.

This amendment is exempting bioethanol vapour stoves from levies. The Leader of Majority Party and I spoke about this issue. We found it to be a great way of reducing the cost of living of Kenyans by use of the bioethanol technology, which reduces the cost of preparing a meal for four to Ksh10 per meal. Those stoves cost only Ksh1,520, and through this incentive, the cost of cooking in our homes will go down than.

Hon. Temporary Chairman, I beg to move.

(Question of the amendment proposed)

The Temporary Chairman (Hon. David Ochieng’): Leader of the Majority Party.

Hon. Kimani Ichung’wah (Kikuyu, UDA): Thank you Hon. Temporary Chairman. In support of what the Chairman has said, the use of bioethanol stoves will secure the health of our people. Many people are still using kerosene-based stoves while others are using charcoal, further degrading our forests and putting their health and lives in danger. These stoves will go for a minimum of Ksh1,500, thus making them affordable to millions of our people whose health will be better.

As you can see in part (d)(xvi), there is mention of aircraft spare parts. This is the point I want to belabour. That aircraft spare parts are different from aircraft, which will still be subjected to taxation. Thousands of our youths trained in civil aviation and aeronautical engineering use those spare parts. It is a fact of life that a number of aircraft registered in this

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country have migrated to Uganda and Ethiopia for servicing. With the lowering of taxes of the aircraft spare parts, thousands of our youth will maintain their jobs. Therefore, securing...

(Loud consultations)

The Temporary Chairman (Hon. David Ochieng’): Order, Members! Order! The Leader of the Majority Party will be heard in silence.

Hon. Kimani Ichung’wah (Kikuyu, UDA): Hon. Temporary Chairman, you need to protect me from Members near the Member for Kilifi. That is where noise is coming from. As I was saying in terms of aircraft safety, we were putting the lives of our passengers at risk when those operating aircraft have...

The Temporary Chairman (Hon. David Ochieng’): Hon. Members, the point being made by the Leader of the Majority Party is important, and he should be heard in silence. Order, Members! Order! Hon. DK.

Hon. Kimani Ichung’wah (Kikuyu, UDA): Thank you, Hon. Temporary Chairman, for your protection. As I was saying, we were putting our lives and those using aircraft in danger by making aircraft spare parts unaffordable, because many people get tempted. You have seen the number of aircraft crashes around this country. Even Hon. Junet was fond of using choppers during the campaign. He was putting his life in danger. With the reduction of those taxes, we not only secure jobs, but also the lives of Kenyans who will now enjoy aircraft services without operators having to worry about the cost of those spare parts.

I beg to support.

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

Hon. Junet Mohamed (Suna East, ODM): Hon. Temporary Chairman, I wish that we would be discussing spares for bicycles, stoves, bodaboda and such kind of things in this amendment. How many people in this country work in the air industry as engineers and mechanics? Do the people who work in that sector even save any money from the cost of spares? No. It is the owners of the aircraft; the big men.

The Temporary Chairman (Hon. David Ochieng’): Allow Hon. Junet 30 seconds so that he winds up.

Hon. Junet Mohamed (Suna East, ODM): Let us not dwell on the point that we are going to employ youths in helicopters so much. No youths work in helicopters. Let us be honest with each other. Just say you want to buy a helicopter, and you want it to be cheap, then we will agree on this as a House. The ones who can afford can go and buy. I am told Hon. Ichung’wah has one already.

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

Hon. Dorice Donya (Kisii County, WDM): Thank you, Hon. Temporary Chairman. When Hon. Ichung’wah was speaking, he said that the rich will help the poor. That was his point. Now the poor want to help themselves through helicopters. We have prioritised sanitary pads in a wrong place – in the Ministry of Education – instead of giving that kitty to Women Representatives. Those are wrong priorities placed in wrong places. Nothing is right.

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

(Loud consultations)

We will hear Hon. Mawathe in silence.

Hon. Julius Mawathe (Embakasi South, WDM): Nashukuru sana Mhe. Mwenyekiti wa Muda, kwa kunipa fursa hii ili nichangie. Ni makosa sana kupunguza bei ya helikopta za matajiri kwa kupunguza ushuru wa helikopta ndio waweze kuzinunua.

The Temporary Chairman (Hon. David Ochieng’): No, Hon. Mawathe. Order! Take your seat.

Hon. Kimani Ichung’wah (Kikuyu, UDA): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. David Ochieng’): What is out of order, Hon. Ichung’wah?

Hon. Kimani Ichung’wah (Kikuyu, UDA): Ninasimama kwa Hoja ya Nidhamu kwa sababu Mhe. Mawathe ananena kwa lugha ya Kiswahili, nami nitatumia hiyo lugha. Ni vyema kuwajulisha Wakenya mambo tunayojadili na yaliyomo katika Mswada huu wa Fedha. Ninataka Mhe. Mawathe atuonyeshe ni wapi katika huu Mswada ambapo ushuru wa ndege za helikopta umetolewa. Hii ni kwa sababu nimekariri kuwa ushuru unaoshukishwa, hasa jambo tunalooonga saa hii, ni kitu kiitwacho *miscellaneous levies* kwa lugha ya Kimombo. Najua Mhe. Mawathe hajasoma Mswada huu. Kwa hivyo, haelewi ninazungumzia nini, na ndio maana anafanya siasa.

The Temporary Chairman (Hon. David Ochieng’): Ahsante. Mhe. Mawathe, utachangia ukizingatia ukweli wa mambo. Endelea.

Hon. Julius Mawathe (Embakasi South, WDM): Asante. Wacha nichangie nikizingatia hayo. Ni makosa kwa Kiongozi wa Chama cha Walio Wengi kuashiria kuwa kuna mtu ambaye anasema mambo ya uongo. Hamna mambo ya uongo hapa. Tumezunguza bei ya vipuri vya helikopta ndio matajiri waweze kuzimudu, lakini tumeongeza ushuru wa petroli.

The Temporary Chairman (Hon. David Ochieng’): Thank you. Hon. Rutto. Let me also do this side. It cannot be this side only. Go ahead.

(Loud consultations)

Hon. Wanami Wamboka (Bumula, DAP-K): On a point of order.

The Temporary Chairman (Hon. David Ochieng’): Hon. Wamboka, what is out of order? Just hold on, Hon. Rutto.

Hon. Wanami Wamboka (Bumula, DAP-K): Hon. Temporary Chairman, just listen to me. This Kenya Kwanza Government is totally out of order by proposing to drop tax for spare parts of helicopters, and, at the same time, proposing to tax *mama mboga* and bring the *chama* women to the tax bracket.

The Temporary Chairman (Hon. David Ochieng’): Hon. Wamboka, what is out of order? Hon. Rutto, you can proceed with your point.

Hon. Julius Rutto (Kesses, UDA): Thank you very much, Hon. Temporary Chairman, for according me this opportunity. I also rise to support this amendment to the clause. We do not live in our own world. We appreciate the fact that air transport is gaining momentum within the region. It is the responsibility of each administration to come up with a policy to sort out problems of the youth and lack of employment. Therefore, reducing the tax...

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

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

(Clause 71 as amended agreed to)

Clause 72

The Temporary Chairman (Hon. David Ochieng’): Mover.

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

THAT, Clause 72 of the Bill be amended in the proposed new Third Schedule -

(a) in the item of tariff description “cement clinker” by deleting the corresponding Export and investment promotion levy rate of “10%” and substituting therefor the rate of “17.5%”;

(b) in the item of tariff description “Semi -finished products of iron or non-alloy steel containing, by weight, <0.25% of carbon; of rectangular (including square) cross-section, the width measuring less than twice the thickness” by deleting the corresponding Export and investment promotion levy rate of “10%” and substituting therefor the rate of “17.5%”;

(c) in the item of tariff description “Bars and rods of iron or non-alloy steel, hot-rolled, in irregularly wound coils of circular cross-section measuring less than 14mm in diameter of cross section measuring less than 8mm” by deleting the corresponding Export and investment promotion levy rate of “10%” and substituting therefor the rate of “17.5%”;

(d) in the item of tariff description “Bars and rods of iron or non-alloy steel, hot-rolled, in irregularly wound coils of circular cross-section measuring less than 14mm in diameter; other” by deleting the corresponding Export and investment promotion levy rate of “10%” and substituting therefor the rate of “17.5%”;

This Clause is affecting the Third Schedule where we are introducing an Export Development Levy on particular products such as cement clinker and proposing its increase to 17.5 per cent.

(Loud consultations)

The Temporary Chairman (Hon. David Ochieng’): Order, Members! Members behind the Chairperson, please, be silent.

(Hon. Joseph Makilap stood in the Gangway)

Hon. Makilap, please, take your seat. Allow the Chairperson to hear himself.

Hon. Kuria Kimani (Molo, UDA): Thank you for your protection, Hon. Temporary Chairman. I could hardly hear myself.

Hon. Temporary Chairman, these are some of the measures that are proposed in the Bill to incentivise local manufacturers, to make sure that goods that we consume in this country are manufactured in Kenya, and not to rely on imports. Remember that these imports have really affected our foreign exchange rate.

This amendment proposes an Export Development Levy of 17.5 per cent on cement clinker; semi-finished products of iron or non-alloy steel; bars and rods of iron or non-alloy steel hot-rolled; and bars and rods of iron or non-alloy steel, hot-rolled, in irregularly wound coils of circular cross-section.

Hon. Temporary Chairman, I beg to move the amendment.

(Question of the amendment proposed)

The Temporary Chairman (Hon. David Ochieng’): Hon. Mbui.

Hon. Robert Mbui (Kathiani, WDM): Thank you, Hon. Temporary Chairman. I oppose that proposed amendment because it increases levies on importation of materials that are supposed to be used for affordable housing, the programme that they have been marketing to Kenyans. The minute you increase taxes on cement clinker, steel bars, and iron bars, it means that the cost of inputs for construction will go up. What is the purpose of those extra levies? I oppose the amendment. If they want to establish affordable housing, they must do everything they can to bring down the cost of raw materials for the construction industry.

The Temporary Chairman (Hon. David Ochieng’): Thank you. Hon. Chepkong’a, you only have one minute.

Hon. Samuel Chepkong’a (Ainabkoi, UDA): Thank you, Hon. Temporary Chairman. I have very important information. I support the imposition of that tax. You may not be aware, but the East African Portland Cement Company was a net exporter of clinker. Many transporters of clinker, including myself, went out of business as a result of clinker being imported from outside the country. I was a serious transporter of East African Portland Cement clinker. When they imported clinker, small transporters like me were wiped out.

We want this tax so that the East African Portland Cement Company can go back to what it was before. This is our company. It used to export clinker to other countries, including Uganda. We cannot allow clinker from India and yet, we can produce it here.

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

Hon. Owen Baya (Kilifi North, UDA): Hon. Temporary Chairman, I would like to support the amendment. First, Kilifi County is blessed with all the materials for making clinker. It is an industry that we must grow. We must have factories and industries that produce clinker in this country. The short-term effects might hurt, but the long-term ones are good for the country - to create jobs and save on foreign exchange for this country.

Secondly, it is the issue of the steel industry. We need to have steel industries in this country. We must stop importing steel from other countries while we have enough iron ore in Taita Taveta County and other parts to make steel for the construction industry. We are not killing the construction industry.

The Temporary Chairman (Hon. David Ochieng’): Hon. Nyamai.

Hon. (Dr) Rachael Nyamai (Kitui South, JP): Thank you, Hon. Temporary Chairman. I support this amendment because it will give an opportunity to our companies to manufacture steel using iron ore from our counties. We have iron ore in Kitui, Kwale and very many other parts of this country. We would also like clinker to be manufactured here so that our young people can have jobs.

The Temporary Chairman (Hon. David Ochieng’): Lastly, Hon. Atandi.

Hon. Samuel Atandi (Alego Usonga, ODM): Hon. Temporary Chairman, I oppose the amendment. Kenya Kwanza Government is good in making promises. They can promise you anything. Hon. Baya has talked about opening a factory in Kilifi. When will he open it? He is just talking here.

The Temporary Chairman (Hon. David Ochieng’): Thank you. Leader of the Majority Party.

Hon. Kimani Ichung’wah (Kikuyu, UDA): Hon. Temporary Chairman, I rise to support this amendment. It is good to be honest to Kenyans. These levies will discourage importation of steel products for a good reason. It is also not true that it will hurt the housing industry. In the long run, we will be producing our steel from our raw materials. Those who took time to read the Kenya Kwanza Manifesto saw that mining, manufacturing and housing are among the value chains on which we want to rebuild our economy.

There is production of steel from iron ore in Taita Taveta County. The Member for Wundanyi here will tell you that Kishushe in Wundanyi in Taita Taveta County produces iron ore. However, we could not exploit that mineral resource and use it locally to benefit the people

of Wundanyi. I want you to give the Member for Wundanyi an opportunity to be heard. The people of Wundanyi want to hear their Member of Parliament supporting the exploitation of iron ore.

Hon. (Dr) Amollo (Rarieda, ODM): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. David Ochieng’): Hon. Otiende. Where is the Member for Wundanyi? Is he in the House?

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Hon. Temporary Chairman, I will contribute in the next debate. I rise on a point of order because I want the Chairman to listen and yet, he is not listening. I want him to make a clarification.

The Temporary Chairman (Hon. David Ochieng’): The Chairman of the Departmental Committee on Finance and National Planning is being asked to listen.

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Hon. Chairman, as you know by law, we are allowed to get anonymous tips. I got an anonymous tip on this clause alleging that it is contrary to Article 210 of the Constitution, which does not allow an imposition or tax waiver to benefit an individual. It may have been framed to benefit one particular steel mill. That is why it is not an allegation. I am asking a question. I have not mentioned anyone. Why is the Leader of the Majority Party jittery? I am asking the Chairman to assure me that this is not tailor-made to benefit or disadvantage one person. I have not mentioned the name and yet, the Leader of the Majority Party is jittery. I am wondering why.

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

Hon. (Dr) Otiende Amollo (Rarieda, ODM): I have not mentioned anyone.

The Temporary Chairman (Hon. David Ochieng’): Leader of the Majority Party.

Hon. Kimani Ichungw’ah (Kikuyu, UDA): I have a lot of respect for Senior Counsel Otiende Omollo. Is it Atiende Omollo or Omollo Atiende?

The Temporary Chairman (Hon. David Ochieng’): He is Hon. Otiende Amollo.

Hon. Kimani Ichungw’ah (Kikuyu, UDA): Otiende Amollo. He knows what he is doing. He is insinuating improper motive on the Chairman and Members of the Departmental Committee on Finance and National Planning. Unless Hon. Otiende Amollo can substantiate what he said about the Chairman or Members of the Departmental Committee on Finance and National Planning... You can ask a question that is leading...

(Loud consultations)

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

Hon. Kimani Ichungw’ah (Kikuyu, UDA): If you allow me, Senior Counsel, the Chairman is not the author of this Bill. The Committee listened to hundreds of people on the question of those steel issues. Hon. Otiende Amollo should name a particular person because he says he has a tip. It is only fair to this House and the people of Kenya that if you have information on someone you are able to name, you should name them, substantiate and adduce evidence before the House without imputing improper motive. Either the Chairman or the Members of the Committee, including Members of Azimio Coalition, who sat in that Committee for long hours. Or, even any business people in the country.

Hon. Member: Shakahola!

The Temporary Chairman (Hon. David Ochieng’): Thank you. I will give this chance to the Leader of the Minority Party, then the Chairman will finalise on this matter.

Hon. Otiende, let me just say this before you say what you want to say. I want to rule that Hon. Otiende is entitled to his opinion. He will keep his opinion as he said it.

The Leader of the Minority Party.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Chairman, I want to oppose this amendment for a good reason. You do not put the cart before the horse. If you want the growth

of the steel industry in the country, develop it first before you block the importation, or before you frustrate importation of the raw materials. That is basic common sense. More importantly, I am not sure that the Committee is involved in this in any way, but I think this move will end up advantaging particular players. It might not have been the intention of the Committee, but if passed in the manner that it is couched, we are likely to create a monopoly in the steel and cement industries. I can tell you that.

When I chaired the Public Account Committee (PAC) in the last Parliament, I had an encounter with those factories when they were failing to pay that development levy and so on, and so forth. In my view, this is a perfect case of State capture.

(Applause)

There is a player in the cement and steel industry based in Mombasa. I can say for sure that Mombasa Cement and Devki are the people moving... I do not want to go beyond that. I told you from the word go that my position allows me to access privileged information. I have got much more information about this that you may want to benefit from, Leader of the Majority Party, if you have time.

The Temporary Chairman (Hon. David Ochieng’): Thank you very much. Chairman of the Committee.

Hon. Kuria Kimani (Molo, UDA): Thank you, Hon. Temporary Chairman. The sentiments and questions raised on this Floor by Hon. Otiende Amollo were referred to my Committee and myself. When this matter was brought to our attention, we first asked ourselves what criteria were used to identify the products on which this export duty was introduced. We were furnished with information, including an advertisement on the local dailies of public participation that the Ministry of Investments, Trade and Industry carried out.

The Ministry of Investments, Trade and Industry went and called all those players, and we had a conversation about this. Of course, there were disagreements because when people want to continue importing things that can be made locally, they do not want to have them manufactured locally. We, therefore, looked at the best interest of the Committee and this country and realised that this was the right thing to do. There is local capacity. As Hon. Chepkong’ a has rightfully put it, a few years ago, we used to be an exporter of cement, but with time, we allowed cheap imports into our country that have completely crippled our manufacturers. We are saying that if you want to import, fine, but you have to pay 17.5 per cent. But let the local manufacturers who have the capacity to employ our people benefit from this.

The Temporary Chairman (Hon. David Ochieng’): All these are Kenyans. I now want to put the Question.

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

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

(Clause 72 as amended agreed to)

New Clause 66A

The Temporary Chairman (Hon. David Ochieng’): Mover.

Hon. Kimani Kuria (Molo, UDA): Hon. Chair, I beg to move:

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THAT, the Bill be amended by inserting the following new clause immediately before Clause 67—

Amendment of section 5 of
No. 29 of 2016.

66A. Section 5 of the Miscellaneous Fees and Levies
Act, 2016, is amended by deleting subsection 4.

(The new clause read a First Time)

Hon. Kimani Kuria (Molo, UDA): Hon. Chair, I beg to move that the New Clause 66A be now read a Second Time.

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

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

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

(Clauses 73, 74 and 75 agreed to)

Clause 76

Hon. Kimani Kuria (Molo, UDA): Hon. Chair, I beg to move:

THAT, Clause 76 of the Bill be amended by deleting Clause 76 and substituting therefor the following new clause—

Insertion of a new
section of No. 11 of
2007.

76. The Employment Act, 2007, is amended by inserting the following new sections immediately after section 31A—

Affordable
Housing
Levy.

31B. (1) Notwithstanding the provisions of section 3(2)(a), (b), (c) and (d) of the Act, each employee and employer shall pay a monthly levy to be known as the Affordable Housing Levy.

(2) The purpose of the Affordable Housing Levy shall be to provide funds for the development of affordable housing and associated social and physical infrastructure as well as the provision of affordable home financing to Kenyans.

(3) The monthly levy payable by the employer and employee shall be –

(a) one point five per centum of the employee's gross monthly salary for the employee;

(b) one point five per centum of the employee's monthly gross salary for the employer.

Obligations of
the employer

31C. (1) An employer shall—

(a) deduct an employee's monthly payment

from the employee's gross monthly salary;

(b) set aside the employer's monthly payment for each employee; and

(c) not later than nine working days after the end of the month in which the payments are due, remit an amount comprising the employee and the employer's payment.

(2) An employer who fails to comply with this section shall be liable to payment of a penalty equivalent to two per cent of the unpaid funds for every month the same remains unpaid.

Hon. Chair, there was one proposal by Hon. Caleb Mule, the Member for Machakos Town Constituency. After consultations, we agreed that...

The Temporary Chairman (Hon. David Ochieng'): Hon. Chair, kindly resume your seat for direction. There is a small direction. Hon. Members, there is a proposal for an amendment by Hon. Amisi. I do not know if he is in the House. Hon. Antony Oluoch.

Hon. Antony Oluoch (Mathare, ODM): Thank you, Hon. Temporary Chair. I beg to move:

THAT, Clause 76 of the Bill be deleted.

I rise to propose an amendment that Clause 76 of the Bill be dropped entirely. The reasons for this is that the entire question of housing has been a moving goalpost by this particular Government. It started off as a tax, mutated into a levy and, at some point, changed into saving. If you look at it in terms of the hierarchy of needs of what the people of Kenya, what the hustlers of this nation and what the people in my constituency consider to be the most important needs, number one would be the question of education. It would also impact materially or be on the same platform as the cost of living. This Government ought to put its resources and time in bringing down the cost of living as opposed to taxing people who are already overtaxed with 16 per cent on fuel and many other things, rather than to reduce the tax on helicopter parts and other things.

My proposal, Hon. Temporary Chairman, is to have this amendment completely deleted from the clause. Let the Government allow the county governments, whose role it is under Schedule 4 of the Constitution, to carry out affordable housing. If the Government must collect a tax, it can do so by having a 1 per cent or 2 per cent increase on VAT as they have done, a 1 per cent increase on Pay as You Earn (PAYE) as they have done, and then give the county government a conditional grant to do the housing within the counties. This particular tax is punitive, excessive, unnecessary, and out of touch with the taxpayer and the hustler on whose backs this Government rode. I ask that we agree to drop Clause 76 in its entirety.

Thank you.

(Question of the amendment proposed)

(Loud consultations)

(Several Hon. Members spoke off the record)

The Temporary Chairman (Hon. David Ochieng’): Hon. Members, no. On this one, I disagree with all of you. This is a very controversial clause. Allow Members to vent themselves a bit, please. I want to guide the House on this matter this way. We have seven amendments with the same import to delete. So, we have to decide whether to vote on every amendment on its own or all of them together.

(Loud consultations)

The effect of these amendments is the same. They all seek to delete. We need to agree on how we want to proceed.

Hon. Otiende.

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Thank you Hon. Temporary Chairman. My humble suggestion is that no matter the argument, if the amendment has the same effect, they will be treated together. But my suggestion is consistent with the earlier practice with earlier clauses. The Chairperson of the Committee himself has proposed an amendment. I suggest that you allow the Chairperson to propose his amendments, then you allow everyone who has proposed deletion and even who has not proposed but wants to speak, to speak to it before we come to voting. With that, we save time, are consistent and everybody gets to speak.

That is my humble suggestion.

The Temporary Chairman (Hon. David Ochieng’): Hon. Kaluma.

Hon. Peter Kaluma (Homa Bay Town, ODM): I thank you Hon. Temporary Chair. What happens when there are several similar amendments is that whichever of the similar amendments is taken collapses the others. What then happens is that because people who are seeking to make those amendments have positions to deliberate on or before the House. Everybody who had those amendments is allowed to speak on the matter. If, like myself, many of us are proposing deletion, as Hon. Oluoch, grant us the opportunity of not moving again because the effect of how we treat Hon. Oluoch will be the same, but to make our comments to persuade the House on those similar amendments.

The Temporary Chairman (Hon. David Ochieng’) Hon. Kaluma, proceed to have the first bite on this matter.

Hon. Peter Kaluma (Homa Bay Town, ODM): I thank you Hon. Temporary Chairman. I support the amendment brought by Hon. Oluoch. I brought a similar amendment also seeking to delete Clause 76 for two reasons.

Number one, the National Government deals with housing policy under Schedule 4. The matter of provision of housing or housing as a function lies with the county governments. It is not for the national Government, whether we hide it in a Finance Bill or otherwise, to deal with matters housing. Let us clear out the matters which the courts can pick on in future to stifle all these measures so that we clear them out.

Hon. Members, if we pass this, the court will pick it and say it is not a function for the national Government. Secondly, I have heard it has been changed from the housing levy to a tax. Why was it made a tax? This does not make sense. So, I urge that we agree with Hon. Anthony Oluoch and delete this to save what we have pulled through instead of having it being stopped by the court.

The Temporary Speaker (Hon. David Ochieng’): Thank you. Hon. James Nyikal. First, I will give Members who have amendments and then we will proceed from there.

Hon. (Dr) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Chairman. I also support Hon. Anthony Oluoch’s amendment, which means mine falls because they are similar. My concern is this: We are going to create a huge fund and as at now, no structures have been put in place. We do not know when they will be put in place. In this country, even huge funds with structures have not worked. Look at National Hospital Insurance Fund (NHIF), which is

structured and has a huge amount of money, but people never get treatment. How can we be sure this one without structures at this point will work? Look at National Social Security Fund (NSSF). I thought we would improve it and use that money to develop housing. That money is used to buy houses and land but not for pensioners. Show me one old man who is living well because of using the NSSF money he put aside? All that money has gone to cartels.

Similarly, we are starting something which we are not quite sure about without structures indicating who will own those houses. If you do not own a house, what will happen to the money you put there? We cannot have it as a tax or a levy without knowing where the money will go. This is a good principle, but let us not implement it at this time before we know how it will work. Otherwise, this is money for cartels to use.

The Temporary Speaker (Hon. David Ochieng): Thank you. Hon. Makali Mulu.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you Hon. Temporary Chairman...

The Temporary Speaker (Hon. David Ochieng): You have 90 seconds.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): I propose we delete this clause. The reason being the housing levy matter has been greatly debated by Kenyans. Many of them thought the Finance Bill is equal to the housing levy because a lot has been said. I want to single out a few issues. There is a general agreement that there is demand for housing in this country and we need to construct houses; but Kenyans are uncomfortable with the approach and strategy of implementing this important activity.

First is the issue of the legal framework to ensure I get a house when I contribute. That is why it is a levy and so, once you pay, you forget. Second, how many Kenyans will benefit from this, and how will they get their money back for those who do not benefit? So, Kenyans need to be more comfortable with how the housing levy is implemented. That is why we were saying the approach is wrong, and on this basis, we want to delete it from the Finance Bill.

The Temporary Speaker (Hon. David Ochieng): Thank you. Hon. Ojiambo Oundo. The Members with amendments take the first bite on this.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): I had a similar amendment which was premised on the following: That Article 43 of the Constitution provides that the Government state organs shall provide adequate housing. It goes on in the Fourth Schedule Part 2 No. 8, which is on county planning and development. Honestly, what we are doing is an illegality and unconstitutional.

Secondly, from a housing economic point of view and a policy prescription, this is a wrong approach that is not going to yield anything. I urge the Committee to drop this purely flawed way of thinking that we can solve housing in this country by this kind of approach.

I oppose this amendment.

The Temporary Chairman (Hon. David Ochieng'): Members, I still have Hon. Mbui and Hon. Basil amendments before I move to anybody else. Hon. Mbui.

Hon. Robert Mbui (Kathiani, WDM): Thank you, Hon. Temporary Chairman. Let me first address the lies that have been told about this programme. The first lie was that the people who would be deducted are those who work in Government, like the Members of Parliament, Members of County Assemblies (MCAs), teachers and so forth. It is not the truth. The truth is, they want to deduct every employee and every hustler working for any company in this country.

The second lie is that they were saying they wanted to provide employment. Not all our children work in the construction industry, including masons, plumbers, electricians or casual labourers. Some of our children are doctors. How will you employ doctors in this industry?

Finally, they must listen to the 93 per cent of Kenyans who have said they do not want this housing programme because it reduces their disposable income. National Health Insurance Fund (NHIF), National Social Security Fund (NSSF), Pay as You Earn (PAYE), VAT has gone

up. How much do you want to hurt Kenyans? Let us be fair. Let us agree and get rid of this animal called the Housing Levy.

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

Hon. Robert Basil (Yatta, WDM): Thank you, Hon. Temporary Chairman. The reason I want this clause to be deleted is because in the hierarchy of needs, food comes first before you go to housing.

Secondly, if you want to give affordable housing, remove tax on timber, steel, iron sheets and people will build houses the way they want. Employment will be generated because there would be mushrooming construction.

Housing is devolved and, therefore, this discussion should be held in the Senate. Since the Bill cannot go to the Senate, the only option we have is to delete it. That is the key reason we want it deleted and removed from the Bill.

I submit my amendment.

The Temporary Chairman (Hon. David Ochieng’): Whip of the Minority Party.

Hon. Junet Mohammed (Suna East, ODM): I stand to oppose this clause. First, we have just raised...

The Temporary Chairman (Hon. David Ochieng’): Just a minute, Hon. Junet. What we are now debating on is the deletion as proposed by Hon. Oluoch.

Hon. Junet Mohammed (Suna East, ODM): I want to support the amendments raised by all the seven Members. We have just raised taxes of salaries to 35 per cent. We are again, telling the people who are earning over Ksh800,000 to pay 3 per cent of housing levy and 2.5 per cent of NHIF. In the end, that person is going to pay 40 per cent of his salary to taxes.

It is good that the Leader of the Majority Party is here. This housing levy has reminded me of something. One time in this House, we passed another levy called the Railway Development Levy. When it was brought here under a Finance Bill like this one, we were told that this is a levy that is going to be very good, and we were going to use it to repay the loans that we had taken from China for the Standard Gauge Railway (SGR).

Three years later, an amendment was brought here by the then Leader of the Majority Party, just like Hon. Ichung’wah has. He then recommended opening up of that Fund for any use. We reminded him that we had just passed it in the House for purposes of repaying the loan on the SGR. How then was it possible that the money was going to be used elsewhere?

We are going through the same route. What goes around comes around. What is going to happen is that money is going to be collected in the name of housing, but it is going to be used for other things.

The Temporary Chairman (Hon. David Ochieng’): Thank you. Hon. Otiende had an issue on this.

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Chairman. I support the deletion. I want my colleagues to listen to me. There is a point that we made before and Hon. Kaluma made it as well. You may think that you are defeating it by numbers. If you really want the entirety of the Finance Bill, drop this housing levy. If you want its entirety to fail on this account, stick to it. It is clearly unconstitutional. Any lawyer on your side...

(An Hon. Member spoke off the record)

I am not asking; I am telling you. Any lawyer on your side will tell you that in the Fourth Schedule of the Constitution, housing is not a function of the national Government. You cannot raise a levy or a tax on something that is not your function. It is as simple as that.

That was just general advice. Let me go to the debate.

The Temporary Chairman (Hon. David Ochieng’): You have one minute to wind up.

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Hon. Temporary Chairman, first of all, there is no legal framework for this Fund. Without a proper legal framework, this will become a Ponzi scheme. None of us knows how the hustler fund scheme is being run. That is how this Housing Fund will go.

Second, there is confusion in terms between affordable housing and affordable ownership. They are both being used interchangeably and they are not the same. Affordable housing is where the house is owned by the Government and anybody can rent it cheaply. Affordable ownership is where you own a house. Our very scheme of society, Hon Osoro, does not allow you to go and own some eighth-floor house in Kisii town instead of your village.

Lastly, this amounts to servitude under Article 30 of our Constitution. Servitude is where you are told you must pay this tax, but there is no obvious way in which you will benefit from it. That is slavery and it is unconstitutional.

The Temporary Chairman (Hon. David Ochieng): Thank you. Hon. Johana Ng'eno. We have heard eight Members from this side. Let us here from the other side too.

(Loud consultations)

Order, Hon. Members! Go ahead. You have the microphone.

Hon. Johana Kipyegon (Emurua Dikirr, UDA): Thank you, Hon. Temporary Chairman. I want to assure the House and the nation that this is a very serious project that we need to support 100 per cent. As to whether this issue is constitutional or not, Article 43 of the Constitution demands the Government to provide housing to its citizens; that is accessible housing that has clean toilets and everything else. That is a constitutional provision.

When you listen to Members in this House, they all speak to the fact that there are many slums in their constituencies. There is talk about informal houses, slums, houses where policemen and prison warders live. The conditions of those houses are deplorable. How will we sort out this problem? The affordable houses that this Bill is referring to does not only address people who want to rent houses, but it also addresses people who want to own houses like those working for the Government and business people.

The Temporary Chairman (Hon. David Ochieng): I want you to wind up. You have one minute.

Hon. Johana Kipyegon (Emurua Dikirr, UDA): Hon. Temporary Chairman, we have the National Housing Development Fund and the National Housing Corporation in place. The question on the implementation of this particular Fund was addressed in this House. So, nobody should claim that... Many have wondered where the money that will be collected will go to. The Fund has custodial authority to determine where the money will go. We have also been assured that that money will be ring-fenced so that in the event the Government lacks any funds, it will not use this Fund's money.

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

Hon. George Murugara (Tharaka, UDA): Thank you, Hon. Temporary Chairman. Let nobody say that what we are doing is unconstitutional and that the courts are going to annul it. I am sorry, that is an argument, and we will also argue to retain what we are doing. Shelter is a fundamental right, and the Government is obligated to provide shelter.

(Loud consultations)

As far as the Constitution is concerned, housing policy is under the national Government. What the county governments have is development...

The Temporary Chairman (Hon. David Ochieng): Just a minute.

Hon. George Murugara (Tharaka, UDA): Yes.

The Temporary Chairman (Hon. David Ochieng’): Hon. Mbadi, this is baffling, because when I gave you a chance to speak, this side was silent throughout. I never heard anybody interrupting. I request you to also hear them in silence. This is important. Go ahead.

(Applause)

Hon. George Murugara (Tharaka, UDA): So, the housing policy is under the national Government and planning and development is under the county governments. The housing policy includes how the Government plans to provide houses. This levy will enable us to build houses in consultation with the county governments. For anybody to argue that if this passes it will be annulled by the court is a fallacy. It is similar to if I went to court to argue we retain whatever has been done. Therefore, there is nothing unconstitutional with what we are doing.

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

Hon. Hilary Kosgei (Kipkelion West, UDA): Thank you very much, Hon. Temporary Chairman. I support the housing levy as moved by the Chairperson of the Departmental Committee on Finance and National Planning and oppose the amendments by Members. I want to begin by informing Members on the other side that 80 per cent of Kenyans living in slums and other informal settlements come from their constituencies. The other 20 per cent is shared amongst us. There is no time...

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

The Temporary Chairman (Hon. David Ochieng’): The Minority Whip, what is out of order?

Hon. Junet Mohammed (Suna East, ODM): Hon. Temporary Chairman, is it in order for the Member for Kipkelion to insinuate that 80 per cent of Kenyans living in slums are from Azimio and our constituencies, especially where you come from?

(Loud consultations)

The Temporary Chairman (Hon. David Ochieng’): Order, Members! Member for Kipkelion, I advise you to be truthful.

Proceed.

Hon. Hilary Kosgei (Kipkelion West, UDA): Thank you, Hon. Temporary Chairman. Secondly, this housing...

The Temporary Chairman (Hon. David Ochieng’): Maybe, you did not get me. I meant be truthful. Do not double the lie.

Hon. Hilary Kosgei (Kipkelion West, UDA): Thank you, Hon. Temporary Chairman. As I was saying, even the presidential candidate they supported had this programme word by word, the same way we are presenting it. So, it beats logic that they are opposing programmes meant for their areas, including taxes on imported fish from China so as to protect their people.

(Applause)

Have mercy on your people. Thank you.

Hon. John Mbadi (Nominated, ODM): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. David Ochieng’): Hon. Mbadi, what is out of order?

Hon. John Mbadi (Nominated, ODM): Hon. Temporary Chairman, this is a House of records and we need to speak facts. When you have no information on something, do not talk. When we were debating the issue of fish, the Member for Kipkelion was not here. Our people

eat a lot of fish, double what is being produced. We even want fish from China because we want to eat. By the way, even Kipkelion has too many...

The Temporary Chairman (Hon. David Ochieng’): Hon. Lelmengit. Go ahead.

Hon. Josses Lelmengit (Emgwen, UDA): Thank you, Hon. Temporary Chairman. We are discussing a very important topic. I was surprised by what Hon. Robert Mbui, Member for Kathiani, said that their kids are doctors, I do not know astronauts, but they are not engineers. Yet being involved in construction industry, I know that there are too many people involved in construction including engineers and plumbers. Therefore, the kind of jobs that will be created once this project is successful will be enormous.

The Temporary Speaker (Hon. David Ochieng): Hon. John Kiarie.

Hon. John Kiarie (Dagoretti South, UDA): Thank you, Hon. Temporary Speaker. It is not in my place to request the House to, at least, be attentive to the debate. This is a critical matter that we are debating. In fact, this is a core clause in the Finance Bill.

There are two reasons why I support this clause. One, as much as the argument is being forwarded that it is not the function of national Government to build houses, it is also true that it is the national Government that gives policy on housing. The issue that is at the fore here is not about housing. If they took time to read the proposal, they would find out that it goes beyond housing. There are three cases that I can mention that speak to three constituencies in this House. The artisans in Dagoretti South who work along Ngong Road partnered with artisans from Starehe and Kamukunji to pilot the first 1,000 houses that were constructed in Park Road. These three groups of artisans netted a total of Ksh122 million, which went to the pockets of hustlers who only constructed doors and windows.

The Temporary Speaker (Hon. David Ochieng): Thank you. Let us have Hon. (Dr) John K. Mutunga

Hon. (Dr) John K. Mutunga (Tigania West, UDA): Thank you, Chair for giving me the opportunity. I just want to pose two questions: First, I would like to know that a Kenyan who is unemployed today but looking for a job, who will get an opportunity to get a job and when we ask them 10 or 15 per cent of their salary, they say no.

Secondly, we are looking at the entire country. We are a country that does not have houses. We need to build these houses so that we can bring the cost down.

The Temporary Speaker (Hon. David Ochieng): Hon. Majimbo Kalasinga

Hon. Majimbo Kalasinga (Kabuchai, FORD-K): Thank you very much, Hon. Temporary Chairman. My amendment was on the same line; it was seeking to make this scheme voluntary. However, now that I have seen this one, I also want to agree. What becomes of people who are almost retiring? How long will they pay? There are people with slim payslips and have less than Ksh500. When you pay Ksh1,000 per month, my simple calculation tells me you will pay for 125 years so that you attain that house.

The Temporary Speaker (Hon. David Ochieng): Thank you. Let us have Hon. Zamzam Mohammed.

Hon. Zamzam Mohammed (Mombasa County, ODM): Ahsante, Mhe. Mwenyekiti wa Muda. Naweza kuunga hawa ndugu zangu Waheshimiwa waliosema tukipuzilie na tukitupilie mbali kipengo hicho cha kulipisha wafanyikazi pesa za ujenzi wa nyumba. Wafanyikazi wote wa kenya wamechukua madeni.

The Temporary Speaker (Hon. David Ochieng): Just a minute. Hon. Members it is just not right to keep shouting at me when another Member is on her feet. I cannot hear them. Let us just keep our cool. This is our House and our debate. When one person is speaking, allow them to contribute. I also want to hear what he/she is saying. Go ahead.

Hon. Zamzam Mohammed (Mombasa County, ODM): Ahsante sana. Ukiwaangalia wafanyikazi wengi – waalimu na hata hao mapolisi – wamechukua pesa kwa deni na wameenda kujengea nyumba. Leo unasema katika pesa zao za mshahara wanakatwa tena pesa ya kwenda

kujenga nyumba? Mimi ninataka niulize yule mwalimu ambaye yuko Mombasa, nyumba zajengwa Nairobi, atahama vipi Mombasa na nyumba zajengwa Nairobi? Tufungue akili zetu. Tusiwe tunasukumwa katika mteremko. Tuwe viongozi ambao wanawaza, sio wale wanaokubali kila kitu. Ushuru unatolewa huku na kuongezwa kule na sisi hapa tunagonga miguu tukisema “Aye.” Wakenya wamechoka. Huu ni wizi wa dhahiri. Hatutaki watu wajengewe nyumba, bali tunaka wapewe kazi.

The Temporary Chairman (Hon. David Ochieng’): Thank you. You now have 30 seconds each. Babu Owino.

Hon. Babu Owino (Embakasi East, ODM): Hon. Temporary Chairman, before I proceed, I would like you to just give me two minutes. I will not be able to prosecute whatever I want to prosecute in only 30 seconds.

Hon. Temporary Chairman, thank you very much for giving me this opportunity to educate my fellow Members of Parliament on this matter. In economics, there are three types of goods. First, there are private goods, which are consumed by one party at a time. For example, housing, cell phones and even food. Second are public goods like roads and air/clean environment. Please, let me just prosecute my point. I am not violent on this, because I want it to stick in your mind. Third, there are merit goods. These are goods which the Government must encourage us to consume, such as education and health.

Therefore, it is not the role of the Government to provide private goods such as housing to its citizens. We have been told that the main aim of providing houses is to eradicate slums. If we encourage provision of houses in urban centres, more slums will sprout. We will create what we call in economics “the dual economy”, where we have the rural economy and the urban economy. Therefore, there will be a high crime rate because people will be moving from rural areas to urban areas to get houses.

The Temporary Chairman (Hon. David Ochieng’): Wind up, Hon. Babu.

Hon. Babu Owino (Embakasi East, ODM): Lastly, the best way to treat this housing menace is simple. The Government should come up with proper infrastructure, such as construction of electric railways which will accommodate electric trains, such that a person in Kisumu can board an electric train, work in...

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

Hon. Mishi Mboko (Likoni, ODM): Ahsante sana, Mhe. Mwenyekiti wa Muda. Pia mimi ninaunga mkono viongozi ambao wamekataa ushuru kwa ujenzi wa nyumba. Kwa miaka mingi, wafanyikazi wa umma hawajaongezwa mishahara. Kwanza tungefikiria tatizo hilo na kuongeza mishahara ya wafanyikazi wa umma, ndiposa tuweze kutoza ushuru katika zile pesa zao. Pesa za Wakenya zimekuwa zikitozwa ushuru tofauti mpaka mtu akipata pesa zake, anaona ni kama hakuna pesa ambayo anapata.

Ikiwa mimi na mume wangu sote ni wafanyikazi wa umma na tunakatwa pesa hizo, je, tutapata nyumba mbili? Tunauliza kama tutapata nyumba moja ama mbili?

The Temporary Chairman (Hon. David Ochieng’): Thank you. Hon. Alice Ng’ang’a.

Hon. Alice Ng’ang’a (Thika Town, UDA): Thank you very much, Hon. Temporary Chairman. In my constituency, there is a slum called ‘Kiandutu’. I want the people there to have decent housing. We used to be told that the three basic needs are food, clothing and shelter. We are giving those people proper shelter. I know that the other side does not want us to give people in the slums decent shelter so that during the campaign period, those people can keep clapping for them and yet, they are poor. We need to give those people the dignity they deserve. They want Kibra to remain like that so that they can find a place where they will be campaigning all the time. Those people are vulnerable. It is high time we, as a nation, said enough is enough, and we give every Kenyan a decent house. They have to live with that.

The Temporary Chairman (Hon. David Ochieng’): Hon. Ndindi Nyoro.

Hon. Ndindi Nyoro (Kiharu, UDA): Hon. Temporary Chairman, I want to raise an issue on procedure. I request you to rule on it because we have been listening to several amendments on deletion. I request that you allow the Chairperson of the Departmental Committee on Finance and National Planning to put forth his amendment. When we vote for his amendment, as Hon. Kaluma had suggested, then the rest will fall. That is my request.

(Applause)

(Loud consultations)

The Temporary Chairman (Hon. David Ochieng’): Order, Hon. Members. If Hon. Oluoch’s amendment is passed, then the matter ends there. There is nothing to talk about. That is why we have to dispose it off. I want that to be understood very well. I want us to be procedural.

Members, order. We had eight amendments with the same effect of deleting. We have allowed Members to ventilate on this matter. I will give the last two opportunities to the leaders on both sides, and then we proceed to the division.

Hon. Irene Njoki.

Hon. Irene Njoki (Bahati, JP): Thank you, Hon. Temporary Chairman. It is very ironical when we sit here as Members of Parliament who get loans at 3 per cent and yet, we do not want the normal hustler to get it at the same rate. It is very shameful when we, Members of Parliament, have hustlers in our constituencies whom we do not want to pay mortgages of Ksh5,000 where they can afford, and we want them to pay Ksh15,000. Please, let your people benefit. I come from Bahati Constituency, and I am the main beneficiary where I do not even own a bank. I support this amendment because my people will get jobs. We shall get businesses and generate income that will revolve around my constituency and others.

The Temporary Chairman (Hon. David Ochieng’): This chance goes to the Leader of the Minority Party.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Temporary Chairman, let me just say a few things. First and foremost, as I had said before, this housing levy or tax is the mother of all scandals in this Finance Bill. There are very many other scandals in this Bill, but this is the mother of all. This housing levy is akin to a pyramid scheme. As we speak, without the infrastructure, mechanisms and framework for administering it, we are basically throwing good money after bad money.

I am sure the average age of Members of Parliament in this House is about 40 or 50 years old. For the time you have lived on this earth in your village, whom have you ever heard has died because of lack of a house or shelter? Who has died in your village for lack of a house? I can tell you that the majority of people die in your villages because of hunger or lack of food. Who did this survey or research to come up with this need for houses for Kenyans? Who asked you for houses? Why are you addressing a problem that is not there? Why not deal with the problem that is there, which is lack of food? Why are you insisting on providing a house to somebody who is starving? It is unbelievable that you want to tax Kenyans. In fact, this animal has continued to mutate. It was initially a fund, it then became a saving, then a Savings and Credit Co-operative Organisation (SACCO). It became a fine, it went and became a penalty, and now it is a tax. This is the animal or mongrel called the Housing Levy.

Hon. Members: Add him one minute.

The Temporary Chairman (Hon. David Ochieng’): Add him one minute. I agree.

Hon. Opiyo Wandayi (Ugunja, ODM): Thank you very much for your indulgence. Therefore, let us not indulge in this kind of scandalous adventure if we want to save Kenyans.

We cannot afford to get into this kind of scandalous adventure when Kenyans are dying of hunger. Deal with the immediate problem, which is to address the lack of food.

The temporary Chairman (Hon. David Ochieng’): Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Temporary Chairman, I agree with the Leader of the Minority Party that we need to deal with the scandalous adventure of millions of Kenyans living in slums. We need to deal with the scandalous adventure of millions of Kenyans going without food. He has asked very pertinent questions: Why are we worrying about shelter and not food? We are worrying about shelter and food at the same time. The reason we have no food or are food insecure is the millions of acres of land that have disintegrated into slums in Kiambu County, Nakuru County, Karachuonyo Constituency, Narok County and all over the country. That is where people were farming, but we have disintegrated all that land to build slums. That is why we are food insecure today.

(Loud consultations)

Hon. Temporary Chairman, I will beg for your protection, just as I protected the Leader of the Minority Party from Members of the Kenya Kwanza Coalition. The Whip of the Minority Party is telling us that like the Railway Development Levy, this Housing Levy may be opened to other uses in future. He is probably speculating that it may open to other uses sometime in the near future. Whip of the Minority Party, I want to assure you we shall ring-fence the Housing Levy as early as tomorrow or the day we do the Appropriations Bill. We shall ring-fence its money to go only to housing. We shall be appropriating the Ksh73 billion coming out of this levy to go to the Ministry of Lands, Housing and Urban Development to deal with affordable housing in Suna East Constituency, among other 100 constituencies.

(Hon. Junet Mohamed stood up in his place)

Hon. Temporary Chairman, ask Hon. Junet to hold on. Hon. Otiende Amollo, Senior Counsel, speaks good English as much as he never went to Alliance. But he went to a good school. In his good English, he may convince the world to believe that he is the only one who can read this Constitution. The heart and soul of this Constitution is the Bill of Rights in Chapter Four.

(Loud consultations)

Protect me, Hon. Temporary Chairman. The Senior Counsel is a good man.

(Hon. Junet Mohamed spoke off the record)

The Temporary Chairman (Hon. David Ochieng’): Order, Hon. Junet. The Leader of the Majority Party will be heard in silence.

Hon. Kimani Ichung'wah (Kikuyu, UDA): I will stone you, Hon. Junet!

(Hon. Junet Mohamed stood up in his place)

The temporary Chairman (Hon. David Ochieng’): Hon. Junet, resume your seat. Proceed.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Thank you for the protection. I know Hon. Junet is averse to truth when it is being laid bare. I was speaking to my good brother the Senior Counsel, Otiende Amollo. The heart and soul of this Constitution that you wrote is the Bill of

Rights in Chapter Four. Other than under Schedule Four that you are talking to on functions of county governments and the national government, the right of every Kenyan to accessible, adequate and reasonable standards of housing and sanitation are enshrined in Article 43 under the Bill of Rights. That is not in slums. Reasonable standards of sanitation is a right enshrined under the Bill of Rights. The Bill of Rights is the soul of our Constitution. If there is anything to protect in this Constitution, it is the Bill of Rights.

(Loud consultations)

The Temporary Chairman (Hon. David Ochieng’): Proceed to wind up.

Order, Members! You know I have seen those who want to speak. We have time. I have noticed Hon. Wanjala and everyone else who wants to speak on this. There will be another amendment that you will speak to once we finish this matter. Allow him to finish and then we proceed with this process. Leader of Majority Party, please wind up.

Hon. Kimani Ichung’wah (Kikuyu, UDA): Thank you for your protection.

(Loud consultations)

The Temporary Chairman (Hon. David Ochieng’): Allow him to wind up. Proceed, please.

(Hon. Anthony Oluoch spoke off the record)

Hon. Kimani Ichung’wah (Kikuyu, UDA): Hon. Temporary Chairman, I beg that you add me the two minutes that have been wasted amid the shouting for a point of order.

As I was saying...

(Hon. Anthony Oluoch stood up in his place)

The Temporary Chairman (Hon. David Ochieng’): Hon. Oluoch, resume your seat and allow the Leader of Majority Party to finish his contribution. Thereafter, I will see what to do about it.

Hon. Kimani Ichung’wah (Kikuyu, UDA): Thank you, Hon. Temporary Chairman. As I was saying, the heart and soul of our Constitution is the Bill of Rights. It is defeatist to argue that since housing under Schedule Four of our Constitution is a function of the county government, it is unconstitutional. The Bill of Rights is the heart and soul of this Constitution. Similarly, if we appropriate national Government resources raised through taxation to healthcare, which is outrightly a devolved function, we can also appropriate resources to housing.

I also heard my good friend, Otiende Amollo, tell the Majority Party Whip that he cannot live on the 8th floor in his village in Kisii. He must build a shanty. The future is urban and through urbanisation, we will grow our economy. We have repeatedly said that urbanisation and building those houses are beyond housing. It is about millions of our youth who are languishing in poverty and are jobless in our slums. It is about millions of youths in Kathiani Constituency, lawyers, engineers and architects who will access jobs. It is not just about the menial jobs.

The Temporary Chairman (Hon. David Ochieng’): Thank you. You have 30 seconds to wind up.

Hon. Kimani Ichung’wah (Kikuyu, UDA): I need 50 seconds to finish that point. I was mentioning Kathiani deliberately because Hon. Mbui told us that housing will not create

jobs for architects, doctors, engineers and lawyers. Hon. Mbui, I want to tell you that all those jobs will be created by housing through urbanisation. When people live together, we will be able to amalgamate land and secure food for the people of Ukambani, who have had to depend on relief food for many years.

The Temporary Chairman (Hon. David Ochieng’): Thank you. Members, allow me to guide this way. Just like I have allowed Members to debate on Hon. Oluoch’s amendment, I will give a couple of you a chance to contribute on the Chairperson’s amendment so that we make progress. Those who went to Alliance High School or Butula Boys High School like me will have a chance to say something on this Bill.

(Laughter)

(Several Members spoke off the record)

The Temporary Chairman (Hon. David Ochieng’): No. After this.

Hon. Members, remember we had amendments by Hon. Oluoch, Hon. Nyikal, Hon. Makali Mulu, Hon. Oundo, Hon. Kaluma, Hon Mbui and Hon. Basil. If the vote is carried, then it applies across. If it fails, it fails with it.

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

The Temporary Chairman (Hon. David Ochieng’): Order Members. Order, Hon. Wanjala. I now call upon the Chairperson to move his amendment.

Hon. Kuria Kimani (Molo, UDA): Thank you, Hon. Temporary Chairman. I beg to move...

(Loud consultations)

Hon. Temporary Chairman, please protect me from the Members behind me. I cannot hear myself.

Hon. Temporary Chairman, I beg to move:

THAT, clause 76 of the Bill be amended by deleting clause 76 and substituting therefor the following new clause-

Insertion of a
new section of
No. 11 of 2007. **76.** The Employment Act, 2007, is amended by inserting the
following new sections immediately after section 31A—

Affordable
Housing
Levy.

31B. (1) Notwithstanding the provisions of section 3(2)(a), (b), (c) and (d) of the Act, each employee and employer shall pay a monthly levy to be known as the Affordable Housing Levy.

(2) The purpose of the Affordable Housing Levy shall be to provide funds for the development of affordable housing and associated social and physical infrastructure as well as the provision of affordable home financing to Kenyans.

(3) The monthly levy payable by the employer and employee shall be –

(a) one point five per centum of the employee’s gross monthly salary for the employee;

(b) one point five per centum of the employee’s monthly gross salary for the employer.

Obligations of
the employer

31C. (1) An employer shall—

(a) deduct an employee’s monthly payment from the employee’s gross monthly salary;

(b) set aside the employer’s monthly payment for each employee; and

(c) not later than nine working days after the end of the month in which the payments are due, remit an amount comprising the employee and the employer’s payment.

(2) An employer who fails to comply with this section shall be liable to payment of a penalty equivalent to two per cent of the unpaid funds for every month the same remains unpaid.

I beg to move a further amendment to this clause. We deliberated with the Hon. Caleb Mule, the Member for Machakos Town, and he had an amendment to clause 2A that we have agreed to carry as a Committee amendment. The amendment is that an additional Clause 31B (2) (a) be added to read as follows:

“THAT, the Affordable Housing Levy shall not be used for any other purpose other than development of affordable housing and associated social and physical infrastructure as well as the provision of affordable home financing to Kenyans.”

I move that the amendment be dealt with as an additional amendment that we have carried as a Committee. I have a few pointers on this. I have been asked why this levy is on gross pay and not on net pay. The proposal before this was at the rate of 3 per cent. After public participation, we agreed that 3 per cent would be too high to start with. We shelved this by half to 1.5 per cent. The question was, should we have it on the basic salary or the gross salary? If it was made on the basic salary, it would defeat the whole purpose. If someone earns a salary of Ksh100,000 in the private sector and this levy was based on their basic pay, then we would use tax planning and reduce their basic pay to Ksh20,000 and the Ksh80,000 would be on

allowances. The objective of the Ksh73 billion, as alluded by the Leader of the Majority Party, that targets to build affordable housing for Kenyans would be defeated.

Secondly, the initial Bill had a proposal to have a cap of Ksh2,500 for the employer and Ksh2,500 for the employee. As a Committee, we agreed to delete this particular provision. For example, Members of Parliament who earn an income of Ksh100,000, if this is capped to...

(Loud consultations)

The salaries for Members of Parliament is public knowledge. For someone who earns Ksh100,000, if you cap their contribution to 2,500, it means that they will not contribute to the earlier proposed 3 per cent. If you divide Ksh2,500 by Ksh500,000 you get 0.005 per cent. This means that this capping was advantageous to the people who earn more but punitive to those who earn less. For this reason, the Committee recommends for total deletion of this capping because anyone would have argued that it was discriminatory for people who earn less and advantageous to those who earn more.

Lastly, as at yesterday, we had 42 signed Memoranda of Understanding (MoU) between the State Department of Housing and Urban Development and county governments. Fourty two counties across the political divide - both Kenya Kwanza and Azimio governors - have signed MOU's giving land in their counties to be used for affordable housing. Everyone agrees that this is a noble course. I beg this House to agree with the amendments as proposed by the Committee.

(Loud consultations)

(Question of the amendment proposed)

The Temporary Chairman (Hon. David Ochieng'): Order, Members. Hon. Caleb Mule's amendment was carried. Allow him to have a word.

(Loud consultations)

Hon. Caleb Mule, go ahead. You have a minute.

As we try to get Hon. Mule, let us have Hon. Wanjala. You have one minute

Hon. Raphael Wanjala (Budalangi, ODM): Thank you, Hon. Temporary Chairman. We have institutions that can build houses in this country. The construction of those houses by the Kenya Kwanza Government has not started. The former Prime Minister, Hon. Raila Odinga and the late President, Mwai Kibaki, started construction of affordable houses, but they never taxed anybody. The former President, Uhuru Kenyatta, has been building houses but has never taxed anyone.

We have specific housing institutions like the National Social Security Fund (NSSF) that is supposed to construct houses, the National Housing Corporation (NHC) which is supposed to build houses, and the Lap Trust.

Two weeks ago, I was in Rwanda. They are constructing houses but they are not taxing anybody. This is a scandal in the offing like Goldenberg. As of today, NSSF coffers are empty. They have already washed it and have taken all the money. This is the same way they are dealing with the issue of housing.

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

Hon. Caleb Mule was supposed to speak next.

Hon. Caleb Mule (Machakos Town, NCCP): Thank you, Hon. Temporary Chairman. Mine is just to thank the Committee on Finance and National Planning for accepting to adopt my proposed amendment as it is in Clause 76(31B)(3), as it is in the Order Paper, which suggests that the affordable housing levy should not be used for any other purpose other than the development of affordable housing. Basically, this was to ring-fence the funds not to be used in any other purposes other than to build affordable houses.

This was necessitated by other Funds that have been there in the country, like the Sports Fund, which was set aside to grow and develop sports, and which does not serve that purpose.

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

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

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

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

(Several Members rose in their places)

Hon. Members: Division! Division!

The Temporary Chairman (Hon. David Ochieng’): I confirm that you have the numbers for Division. I, therefore, order that the Division Bell be rung for five minutes and the Clerks-at-the-Table to prepare for Division.

(The Division bell was rung)

Ring the Division Bell. Anyone out there can still come in. I have not called for the agents yet.

(Several Members stood in their places)

Order, Members! Resume your seats. Order, Members! Order! Resume your seats. Hon. K’oyoo and Hon. Waluke, resume your seats. Hon. Members, resume your seats. I now order that the Bar be drawn. Order, Members! Resume your seats. Hon. Memusi, Hon. Waluke and Hon. Bensuda, resume your seats. Order, Members! I request the Majority and Minority sides to each nominate two agents. Not 10 like those in front of me, but two only.

Hon. Members, resume your seats. Hon. DK, Hon. Ruto, Hon. Hillary and Hon. Wamaua, resume your seats. Order, Members! Hon. (Eng.) Oscar Sudi, Hon. Adipo Okuome and Hon. Kawaya, resume your seats. Order, Hon. Members! We shall vote as required by the laws and Standing Orders by stating yes or no, in silence and with decorum.

(Voting in progress)

(Loud consultations)

The Temporary Chairman (Hon. David Ochieng’): Members, be loud enough so that we can hear you.

(Voting in progress)

(Hon. Eve Obara spoke off the record)

The Temporary Chairman (Hon. David Ochieng’): Order! The person voting next was Hon. Patrick Osero, not Hon. Obara!

Hon. Eve Obara (Kabondo Kasipul, ODM): I was called before Hon. Osero. Can you start again, please?

The Temporary Chairman (Hon. David Ochieng’): Hon. Eve Obara, resume your seat. Your chance will come. Give up the microphone.

(Voting in progress)

[The Temporary Chairman (Hon. David Ochieng’) left the Chair]

[The Hon. Chairlady (Hon. Gladys Boss) took the Chair]

(Voting in progress)

Hon. Omar Mwinyi (Changamwe, ODM): Testing, testing, 123. Hon. Chairlady, I vote no.

The Chairlady: Thank you. Kindly, do not make any speeches. Just say “yes” or “no” so that we can proceed faster.

(Voting in progress)

[The Chairlady (Hon. Gladys Boss) left the Chair]

[The Temporary Chairman (Hon. David Ochieng’) took the Chair]

(Voting in progress)

(Hon. Wanami Wamboka voted by chorus)

The Temporary Chairman (Hon. David Ochieng’): Order, Hon. Wamboka! If you do that again, there will be consequences. Members will vote individually. Hon. Wamboka, if you try to vote for other Members again, there will be consequences. Members are voting for themselves. Allow them to do so.

(Voting in progress)

Hon. Babu Owino (Embakasi East, ODM): I, Babu Owino, Member of Parliament for Embakasi East Constituency, First Class Honours holder in Actuarial Science, an actuary, a lawyer, holder of six diplomas, I vote no. I am just trying to say that my conscience is clear.

Hon. Julius Mawathe (Embakasi South, WDM): I, Mawathe, on behalf of the people of Embakasi South, I vote no to this punitive levy.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): On behalf of suffering workers in this country, I vote no.

(Voting in progress)

The Temporary Chairman (Hon. David Ochieng’): We will not use the microphone going forward. You will say either ‘Yes’ or ‘No’.

Proceed.

(Voting in progress)

Order, Hon. Members. Can we have Hon. Didmus Barasa vote again?

(Voting in progress)

Hon. Ruth, Busia County, just vote from where you are.

(Voting in progress)

Hon. Members, just vote.

(Voting in progress)

(Laughter)

(Loud consultations)

The Temporary Chairman (Hon. David Ochieng’): Hon. Salasya, will you vote again?

Hon. Peter Salasya (Mumias East, DAP-K): No!

(Voting in progress)

The Temporary Chairman (Hon. David Ochieng’): Order Members. Members to my right, would you all resume your seats.

(Voting in progress)

Hon. DK, resume your seat.

(Voting in progress)

(Loud consultations)

(Voting in Progress)

DIVISION

(Question put and the House divided)

(Loud consultations)

Tellers of the Ayes: Hon. GG Kagombe and Hon. Japheth Nyakundi.

Tellers of the Noes: Hon. Babu Owino and Hon. Khamis Chome.

The Temporary Speaker (Hon. David Ochieng’): Order, Hon. Members. Resume your seats. Hon. Sunkuiya take your seat. Order, Members.

These are the results of the voting of the Division that Clause 76 as amended be part of the Bill. Members present and voted are 256. The Ayes have 184 votes, while the Nays have 72 votes. Therefore, the Ayes have it.

RESULTS

AYES

- | | |
|------------------------------|-------------------------------|
| 1. Hon. Samwel Chepkonga | 40. Hon. Julius M’anaiba |
| 2. Hon. Benjamin Lang’at | 41. Hon. John Paul Mwirigi |
| 3. Hon. Marianne Kitany | 42. Hon. Abdi Ali Abdi |
| 4. Hon. Irene Njoki | 43. Hon. Mumina Bonaya |
| 5. Hon. Joshua Kandie | 44. Hon. George Koimburi |
| 6. Hon. Joseph Makilap | 45. Hon. Githua Wamacukuru |
| 7. Hon. Charles Kamuren | 46. Hon. Onesmus Ngogoyo |
| 8. Hon. Nelson Koech | 47. Hon. George Sunkuyia |
| 9. Hon. Innocent Obiri | 48. Hon. Njuguna Chege |
| 10. Hon. Alfah Ondieki | 49. Hon. John Makali |
| 11. Hon. Linet Chepkorir | 50. Hon. Peter Kihungi |
| 12. Hon. Kilel Richard | 51. Hon. Fabian Muli |
| 13. Hon. Richard Yegon | 52. Hon. Samwel Chumel |
| 14. Hon. Gideon Ochanda | 53. Hon. Oscar Sudi |
| 15. Hon. Mugambi Rindikiri | 54. Hon. Capt. Ronald Karauri |
| 16. Hon. Victor Koech | 55. Hon. Adams Korir |
| 17. Hon. Paul Biego | 56. Hon. Gideon Kimaiyo |
| 18. Hon. Patrick Ntwiga | 57. Hon. Beatrice Kemei |
| 19. Hon. Farah Maalim | 58. Hon. Julius Rutto |
| 20. Hon. John Kiarie | 59. Hon. Njuguna Kawanjiku |
| 21. Hon. Musa Sirma | 60. Hon. John Waithaka |
| 22. Hon. Adan Keynan | 61. Hon. Ann Wamuratha |
| 23. Hon. Caroline Ng’elechei | 62. Hon. Mwengi Mutuse |
| 24. Hon. Mejjadonk Gathiru | 63. Hon. Anthony Wainaina |
| 25. Hon. James Gakuya | 64. Hon. Joseph Munyoro |
| 26. Hon. Pamela Njeru | 65. Hon. Ndindi Nyoro |
| 27. Hon. Josses Lelmengit, | 66. Hon. Kimani Ichung’wah |
| 28. Hon. Johana Kipyegon | 67. Hon. Owen Baya |
| 29. Dr Robert Pukose | 68. Hon. Didmus Barasa |
| 30. Hon. Farah Yakub | 69. Hon. Gonzi Rai |
| 31. Hon. Kenneth Tungule | 70. Hon. Kwenya Thuku |
| 32. Hon. Dekow Mohamed | 71. Hon. Joseph Cherorot |
| 33. Hon. Wakili Edward Muriu | 72. Hon. Hilary Kosgei |
| 34. Hon. Elijah Kururia | 73. Hon. Njeri Maina |
| 35. Hon. GG Kagombe | 74. Hon. Joseph Gitari |
| 36. Hon. Elisha Odhiambo | 75. Hon. Dr Rachael Nyamai |
| 37. Hon. Gichimu Githinji | 76. Hon. Japheth Nyakundi |
| 38. Hon. Martha Wangari | 77. Hon. Brighton Yegon |
| 39. Hon. Charles Gimose | 78. Hon. Alfred Mutai |

79. Hon. Joseph Tonui
80. Hon. Maisori Kemero
81. Hon. Mathias Robi
82. Hon. Ferdinand Wanyonyi
83. Hon. Abdikadir Mohamed
84. Hon. Jane Kagiri
85. Hon. Mwangi Kiunjuri
86. Hon. Wachira Karani
87. Hon. Joseph Lekuton
88. Hon. Muthoni Marubu
89. Hon. Ruweida Mohamed
90. Hon. Stanley Muthama
91. Hon. Kahangara Mburu
92. Hon. Eng. John Kiragu
93. Hon. Protus Akujah
94. Hon. Chiforomodo Mangale
95. Hon. Kareke Mbiuki
96. Hon. Caleb Mule
97. Hon. Major (Rtd.) Abdullahi Sheikh
98. Hon. Abdul Haro
99. Hon. Gitonga Mukunji
100. Hon. Mary Njoroge
101. Hon. Kangogo Bowen
102. Hon. Timothy Kipchumba
103. Hon. Naomi Waqo
104. Hon. Joshua Mwalyo
105. Hon. Edwin Gichuki
106. Hon. Eric Kahugu
107. Hon. Kassim Tandaza
108. Hon. Ruku GK
109. Hon. Eng. Nebart Muriuki
110. Hon. Elizabeth Kailemia
111. Hon. Kiborek Reuben
112. Hon. Phylis Bartoo
113. Hon. Kuria Kimani
114. Hon. Feisal Bader
115. Hon. Fred Kapondi
116. Hon. Kaguchia John
117. Hon. Betty Maina
118. Hon. Vincent Musau
119. Hon. Mary Maingi
120. Hon. Esther Passaris
121. Hon. Jayne Kihara
122. Hon. Liza Chelule
123. Hon. David Gikaria
124. Hon. Bernard Kitur
125. Hon. Rebecca Tonkei
126. Hon. Lemanken Aramat
127. Hon. Kitilai Ntutu
128. Hon. George Gachagua
129. Hon. George Kariuki
130. Hon. Charity Chepkwony
131. Hon. Rahim Dawood
132. Hon. Joash Nyamoko
133. Hon. Mohamed Ali
134. Hon. Faith Gitau
135. Hon. Daniel Manduku
136. Hon. Rahab Mukami
137. Hon. Michael Muchira
138. Hon. David Kiaraho
139. Hon. Michael Wainaina
140. Hon. Kenga Mupe
141. Hon. Paul Chebor
142. Hon. Paul Abuor
143. Hon. Kamande Mwafrika
144. Hon. Simon King'ara
145. Hon. Muchangi Karemba
146. Hon. Clement Sloya
147. Hon. Ali Rosa
148. Hon. Pauline Lenguris
149. Hon. Letipila Eli
150. Hon. Fred Ikana
151. Hon. John Koyi
152. Hon. Francis Sigei
153. Hon. Dr Shadrack Mwiti
154. Hon. Silvanus Osoro
155. Hon. David Kiplagat
156. Hon. Samuel Gachobe
157. Hon. Haika Mizighi
158. Hon. Hussein Abdi
159. Hon. Oku Kaunya
160. Hon. Geoffrey Wandeto
161. Hon. George Murugara
162. Hon. Alice Ng'ang'a
163. Hon. Kassait Kamket
164. Hon. Dr John K. Mutunga
165. Hon. Julius Melly
166. Hon. John Chikati
167. Hon. Lillian Siyoi
168. Hon. Janet Sitienei
169. Hon. Cecilia A. Ngitit
170. Hon. Joseph Emathe
171. Hon. Daniel Nanok
172. Hon. Gladys Boss
173. Hon. Ernest Kivai
174. Hon. Adagala Beatrice
175. Hon. Martin Wanyonyi
176. Hon. Daniel Wanyama
177. Hon. Stephen Mogaka

178. Hon. Abdisirat Khalif
 179. Hon. Joseph Hamisi
 180. Hon. Suleka Harun
 181. Hon. Dorothy Muthoni

182. Hon. Joseph Wainaina
 183. Hon. Jackson Kosgei
 184. Hon. Wanjiru Mwangi

NOES

1. Hon. Samuel Atandi
 2. Hon. Nolfason Barongo
 3. Hon. Charles Onchoke
 4. Hon. Raphael Wanjala
 5. Hon. Wanami Wamboka
 6. Hon. Omar Mwinyi
 7. Hon. Patrick Simiyu
 8. Hon. Beatrice Elachi
 9. Hon. Babu Owino
 10. Hon. Julius Mawathe
 11. Hon. Mark Mwenje
 12. Hon. Dr Ojiambo Oundo
 13. Hon. Said Hiribae
 14. Hon. Atieno Bensouda
 15. Hon. Peter Kaluma
 16. Hon. Bady Twalib
 17. Hon. Eve Obara
 18. Hon. Majimbo Kalasinga
 19. Hon. Joshua Kimilu
 20. Hon. Memusi Kanchory
 21. Hon. Kakuta Maimai
 22. Hon. Elsie Muhanda
 23. Hon. Paul Katana
 24. Hon. Adipo Kuome
 25. Hon. Charles Ong'ondo
 26. Hon. Robert Mbui
 27. Hon. Christopher Wangaya
 28. Hon. Gertrude Mwanyanje
 29. Hon. Thuddeus Nzambi
 30. Hon. Rashid Bedzimba
 31. Hon. Dorice Donya
 32. Hon. Ruth Odinga
 33. Hon. Joshua Oron
 34. Hon. Irene Kasalu
 35. Hon. Dr Makali Mulu
 36. Hon. David Mwalika

37. Hon. Edith Nyenze
 38. Hon. Antoney Kibagendi
 39. Hon. Fatuma Masito
 40. Hon. Mishi Mboko
 41. Hon. Dick Oyugi
 42. Hon. Nabii Nabwera
 43. Hon. Titus Khamala
 44. Hon. Joyce Kamene
 45. Hon. George Aladwa
 46. Hon. Amina Mnyazi
 47. Hon. Hussein Weytan
 48. Hon. Anthony Oluoch
 49. Hon. Kivasu Nzioka
 50. Hon. Zamzam Mohammed
 51. Hon. Prof. Jaldesa
 52. Hon. Peter Salasya
 53. Hon. Gideon Mulyungi
 54. Hon. Eng. Paul Nzengu
 55. Hon. Aduma Owuor
 56. Hon. Jared Okello
 57. Hon. Tom Odege
 58. Hon. David Pkosing
 59. Hon. Dr Otiende Amollo
 60. Hon. Naisula Lesuuda
 61. Hon. Dr James Nyikal
 62. Hon. Amos Maina
 63. Hon. Junet Mohamed
 64. Hon. Peter Masara
 65. Hon. John Bwire
 66. Hon. John Namoit
 67. Hon. Opiyo Wandayi
 68. Hon. Khamis Chome
 69. Hon. Tim Wanyonyi
 70. Hon. Danson Mwashako
 71. Hon. Robert Basil
 72. Hon. John Mbadi

Ayes – 184

Noes – 72

Abstention – 0

Total votes – 256

The Ayes have it.

(Question carried by 184 votes to 72)

The Temporary Chairman (Hon. David Ochieng’): Let us proceed. Open the door.

(Clause 77 agreed to)

Clause 78

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

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

THAT, the Bill be amended by deleting Clause 78 and substituting therefor the following new Clause —

78. The Statutory Instruments Act, 2023 is amended by deleting the heading to Part V and substituting therefor the following new heading

—
“PART V – PURPOSE FOR REVIEW OF STATUTORY INSTRUMENTS”

I also propose a further amendment to delete the figure “2023” and substitute therefore the figure “2013”.

Thank you, Hon. Chairperson.

(Question of the amendment proposed)

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

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

(Clause 78 as amended agreed to)

(Loud consultations)

The Temporary Chairman (Hon. David Ochieng’): Hon. Otiende, what is the problem? Order, Members. Just a minute. Those who are withdrawing from the House, please, do so peacefully. Those who are not withdrawing, take your seats. Go ahead, Hon. Otiende.

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Hon. Temporary Chairman, I guess the vote has already been taken but I had wanted to draw the attention of Members... If those withdrawing could leave...

(Loud consultations)

The Temporary Chairman (Hon. David Ochieng’): Order, Members! Order. Go on, Hon. Otiende.

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Hon. Sudi has an unlawful *kamukunji* with the Deputy Speaker.

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

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Hon. Temporary Chairman, I had wanted to point out, and I had conferred with the Chairperson of the Committee, that that amendment had a mistake. That is why it has been corrected. But it is an example of why we must be vigilant. The original amendment was going to take away the power of this House to review subsidiary legislation, which is very serious. Some people like Hon. Ichung'wah, who is not here, think that you can read laws like novels. If you read them keenly, you will realise the mischief. So, I just wanted to point that out, but it has now been overtaken by events.

Thank you.

The Temporary Chairman (Hon. David Ochieng'): Thank you. Order, Members. Let us proceed.

(Clause 79 agreed to)

Clause 80

The Temporary Chairman (Hon. David Ochieng'): Mover!

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

THAT, the Bill be amended by deleting clause 80 and substituting therefor the following new clause—

Repeal of section 4
of No. 8 of 2015.

80. The Retirement Benefits (Deputy President and Designated State Officers) Act, 2015 is amended by repealing section 4.

This is just a clean-up. We are just including the word “designated” as a clean-up of the Retirement Benefits (Deputy President and Designated State Officers) Act of 2015.

(Question of the amendment proposed)

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

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Temporary Chairman, can we get the practical import of that amendment?

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chair, this amendment seeks to clean up the Bill. However, I know what Hon. Nyikal is alluding to. We will debate that in Clause 82. This is the one that talks about retirement benefits of Deputy President and Designated State Officers. The amendments in Clauses 80 and 81 seek to clean up the Bill.

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

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

(Clause 80 as amended agreed to)

Clause 81

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

THAT, Clause 81 of the Bill be amended—

(a) In the opening words by deleting the words “The Retirement Benefits (Deputy President and State Officers) Act, 2016” and substituting

therefor the words “The Retirement Benefits (Deputy President and Designated State Officers) Act, 2015”;

(b) in the proposed new section 4A in subsection (3) by deleting the words “sections 5” and substituting therefor the words “sections 5(1)”.

The amendment seeks to clean up the Clause.

(Question of the amendment proposed)

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

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

(Clause 81 as amended agreed to)

Clause 82

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

THAT, Clause 82 of the Bill be amended in paragraph (a) by deleting the words “subsection (1)” and substituting therefor the words “subsection (1) (f)”.

The amendment in Clause 82 seeks to clean up the Bill.

(Question of the amendment proposed)

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

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

(Clause 82 as amended agreed to)

(Clauses 83 and 84 agreed to)

New Clause 73A

The Temporary Chairman (Hon. David Ochieng’): Chair of the Departmental Committee on Transport and Infrastructure.

Hon. George Kariuki (Ndia, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 73—

Amendment of section 7 of No. 7 of 1999.

73A. Section 7 of the Kenya Roads Board Act, 1999, is amended in subsection (1) by—

- a. deleting paragraph (g); and
- b. deleting the word “eight” appearing at the beginning of the paragraph and substituting therefor the word “five”.

(The new clause was read a First Time)

The Temporary Chairman (Hon. David Ochieng’): Order, Hon. Member. You will move new clause 73A before we go to Clause 74. Just say that you move that we read the new Clause a second time.

Hon. George Kariuki (Ndia, UDA): Hon. Temporary Chairman, I beg to move that the new Clause 73A be now read a Second Time:

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

The Temporary Chairman (Hon. David Ochieng’): Hon. Oundo, contribute for one minute.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): It will be one minute for sure. Can the Chairperson explain to us what is happening? He is just talking about paragraph (g) and deleting the word “eight” and substituting therefore the word “five”. What is the import of the amendments? We need to understand that. What is it that you are curing?

The Temporary Chairman (Hon. David Ochieng’): Chairperson, contribute for one minute.

Hon. George Kariuki (Ndia, UDA): Hon. Temporary Chairman, the justification is about to come. If he gives me a few seconds, I will give the justification. The point is that we are reducing the number of directors from twelve to nine, in line with the Mwongozo Code of Governance.

The Temporary Chairman (Hon. David Ochieng’): Directors of which body?

Hon. George Kariuki (Ndia, UDA): The Kenya Roads Board (KRB).

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

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

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

New Clause 74A

Hon. George Kariuki (Ndia, UDA): Hon. Temporary Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 74—

THAT the Bill be amended by inserting the following new clause immediately after Clause 74—

Amendment of the First Schedule to No. 7 of 1999.	74A. The First Schedule to the Kenya Roads Board Act, 1999, is amended by— (a) deleting paragraph 4; (b) deleting paragraph 5 and (c) deleting paragraph 6.
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(The new clause was read a First Time)

The Temporary Chairman (Hon. David Ochieng’): The Chair of the Departmental Committee on Transport and Infrastructure.

Hon. George Kariuki (Ndia, UDA): Hon. Temporary Chairman, I beg to move that the new clause 74A be now read a Second Time.

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

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

Hon. (Dr) James Nyikal (Seme, ODM): On a point of order.

The Temporary Chairman (Hon. David Ochieng’): Hon. Nyikal, what is out of order?

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Temporary Chairman, remember Members do not have the chance of seeing new clauses whenever you have them in amendments. You cannot, therefore, assume like they were in the Bill before and then tell Members they had the Bill yet did not read it. However, if the clauses are new, the Mover has to explain to Members exactly what they are doing and the import of it. In the Order Paper, you just say replace this and replace that. One then cannot assume.

The Temporary Chairman (Hon. David Ochieng’): Thank you very much, Hon. Nyikal. You know that we already voted on this matter but I will indulge you. Chair, explain what this is about in 30 seconds or one minute at most.

Hon. George Kariuki (Ndia, UDA): Thank you, Hon. Temporary Chairman. The purpose of these amendments is to reduce the number of board members from twelve to nine. Most government agencies have not more than nine board members but KRB has 12. It is necessary we abide by the Mwongozo Code of Governance by reducing the number of directors from twelve to nine.

The Temporary Chairman (Hon. David Ochieng’): That was 73A, 74A?

Hon. George Kariuki (Ndia, UDA): It is the same.

The Temporary Chairman (Hon. David Ochieng’): It is the same? Okay.

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

We have already voted on this. We cannot go back to it. Hon. Nyikal, resume your seat. I will give you a chance.

Hon. (Dr) James Nyikal (Seme, ODM): When you are getting substantive amendments, remember that the Finance Bill is a Miscellaneous Amendment Bill in a way. It touches on very many Acts at the same time. If you are doing a substantive thing like changing a board of directors of an institution, that is not the right thing to do. More so, we would like to know who is being removed in that composition. A proper amendment would indicate clearly what is being removed in the Act. Additionally, Mwongozo is not a legal entity but a policy. As a lawyer, you should guide us on whether you can change a whole Act in a situation like this in consideration of Mwongozo which is not an institution. That is my concern.

Hon. Kimani Ichung’wah (Kikuyu, UDA): On a point of order.

The Temporary Chairman (Hon. David Ochieng’): Hon. Ichung’wah, what is out of order?

Hon. Kimani Ichung’wah (Kikuyu, UDA): Hon Temporary Chairman, I was just consulting with the Chairpersons and to an extent I want to agree with what Dr Nyikal is saying. I request the Chairperson of the Departmental Committee on Transport and Infrastructure to withdraw that particular amendment to save time.

(Loud consultations)

The Temporary Chairman (Hon. David Ochieng’): Chair, I want to make a ruling on this matter. Okay.

Hon. Junet Mohamed (Suna East, ODM): Hon. Temporary Chairman, I think the House has bolted. The first part of the amendment has been carried. Just put the second question *tumalizane nayo*.

The Temporary Chairman (Hon. David Ochieng’): Yes. Hon Makali Mulu, you have one minute.

Hon. (Dr) Makali Mulu (Kitui Central, WDM): Thank you, Hon. Temporary Chairman. I will be very brief. Where we have new Clauses, as a matter of procedure, it is important that the people who are making those proposals explain to the House the issues. In line with what the Leader of Majority has said, we have already passed 73A. If you delete 74A, you will leave it hanging. I think 74A is being informed by 73A. You can reduce some institutions to remain with nine. It is important that we either vote on ...

The Temporary Chairman (Hon. David Ochieng’): Thank you, Hon. Makali. Hon. Wandayi, you have one minute.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Temporary Chairman, I agree with Hon. Makali Mulu and Hon. Nyikal that the neatest thing is to allow us to go the full hog and take a vote on this matter. Okay. I am one of those people who have in the past advocated for the reduction of those numbers. The Kenya Roads Board has had a very high number of directors. Let us take a vote. The idea of withdrawing does not arise at this late hour in the day.

Thank you.

The Temporary Chairman (Hon. David Ochieng’): Hon Members, you know what to do on such matters. This far we have come, we cannot withdraw so you know what to do. At this point the Chair cannot withdraw.

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

The Temporary Chairman (Hon. David Ochieng’): Order Members. I am sure both sides got what they wanted.

New Clause 75A

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

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 75–

- | | |
|---|--|
| Amendment to
Section 13 of
No. 2 of 1995. | <p>75A. Section 13 of the Kenya Revenue Authority Act, 1995, is amended –</p> <p>a. in subsection (1) by inserting the words “and Deputy Commissioners” immediately after the word “Commissioners”;</p> <p>b. by deleting subsection (2).</p> |
|---|--|

(The new clause was read a First Time)

The Temporary Chairman (Hon. David Ochieng’): Chair, Committee on Finance and National Planning, move the Second Reading.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, this Clause is giving the Board of Kenya Revenue Authority power to appoint Deputy Commissioners which is something that was not included in the Act before. With that, I beg to move.

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

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Temporary Chairman, I know I might not be well informed on this but I have to get the other Act and read it. However, we run the risk of doing something that is highly questionable. Using the Finance Bill to change the structure of an authority like this is questionable. We have done that and I see mischief in this. We should sober up and do the correct thing. Mwongozo is not a legal document. We are now on New Clause 75A and we are still doing the same thing. The principle is not right.

The Temporary Chairman (Hon. David Ochieng’): Thank you, Hon. (Dr) Nyikal. Hon. (Dr) Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): I also want to be on record that this is unprocedural. This is a substantive matter that has not been subjected to public participation yet it has found its way into this Bill. Parliament is a House of procedure. I request the Chairperson to withdraw this amendment before we vote on it, so that it is subjected to proper legislative process. Introducing offices in an authority without following the law on public participation is unprocedural and unfair to the people of Kenya.

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

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

New Clause 75B

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move:
THAT, the Bill be amended by inserting the following new Clause immediately after Clause 75–

Amendment of the First Schedule to No. 2 of 1995.

75B. The First Schedule to the Kenya Revenue Act, 1995 is amended by inserting the following new item immediately after item 12–

13. The Alcoholic Drinks Act, 2010

(The new clause was read a First Time)

The Temporary Chairman (Hon. David Ochieng’): The Chairperson of the Departmental Committee on Finance and National Planning.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move that the New Clause 75B be now read a Second Time.

As you may recall, we passed another amendment that gave the KRA authority.

(Loud consultations)

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

Hon. Kuria Kimani (Molo, UDA): There is a proposal to have the KRA set the minimum required price for alcohol in this country. Any alcohol sold below the minimum cost price will be regarded as illicit. Giving this responsibility to the KRA, therefore, necessitates that we add the responsibilities of the administration of the Alcoholic Drinks Act of 2010 to KRA.

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

The Temporary Chairman (Hon. David Ochieng’): Hon. (Dr) Otiende.

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Hon. Temporary Chairman, I know that people are tired. However, Hon. (Dr) Nyikal and Hon. (Dr) Oundo have prosecuted this matter unsuccessfully but I need to be on record too. All these additional new clauses need to adhere to the title of the Finance Bill which is “An Act of Parliament to amend the laws relating to various taxes and duties and matters incidental thereto”. Anything that does not relate to this is improper. I am acutely aware that those who think they know the law more than I do, like Hon. Ichung’wah, will say we have to pass it. Let me remind Hon. Ichung’wah that there is a reason people go to law school for 10 years after leaving the Alliance High School. He keeps telling us that he went to Alliance but it was in his village.

I beg us to take note that this is unprocedural. It might be convenient but it is improper.

The Temporary Chairman (Hon. David Ochieng’): Hon. (Dr) Otiende, are you suggesting that Alliance High School is a village school?

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Alliance is a national school just like the school I attended. But for Hon. Ichung’wah, Alliance High School is in his village and he works in Nairobi. He cannot keep singing to us about this.

The Temporary Chairman (Hon. David Ochieng’): Hon. Ichung’wah, you have one minute and you should not veer off the main issue.

Hon. Kimani Ichung’wah (Kikuyu, UDA): My good friend, Hon. (Dr) Otiende Amollo, knows that even the national school he went to is in some village. Kikuyu village, just like Kamagut and Sugo, are very important villages. Kikuyu has not just produced one national school, the Alliance High School, but also has the Alliance Girls High School, and Kikuyu Campus where many Members here, including the Chairperson of Committee on the Departmental Committee on Education went to school.

Hon. Temporary Chairman, please defend...

The Temporary Chairman (Hon. David Ochieng’): Thank you. What do you want to debate about Hon. Didmus Barasa?

Hon. Didmus Barasa (Kimilili, UDA): Hon. Temporary Chairman, all the villages are important. Let us stick to the important matters that have put us here and not discussing about village schools wherever they are. We all went to serious schools. Every school is as serious as the Alliance High School.

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

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

Hon. Farah.

Hon. Farah Maalim (Dadaab, WDM): Hon. Temporary Chairman, for the benefit of the House, anything that has a financial implication regardless of what that Act is, whether it is the Kenya Roads Board Act or the KRA Act, can be raised in the financial statement.

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

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

New Clause 75C

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move: THAT, the Bill be amended by inserting the following new Clause immediately after Clause 75–

Amendment of
No. 3 of 1997

75C. Section 25B of the Retirement Benefits Act, 1997 is amended in subsection (1) by deleting the words “sixty per cent” appearing in paragraph (eb) and substituting therefor the words “thirty three percent”.

(The new clause was read a First Time)

The Temporary Chairman (Hon. David Ochieng’): Mover.

Hon. Kuria Kimani (Molo, UDA): Hon. Chairman, I beg to move that Clause 75C be read a Second Time.

This particular Clause is an amendment to the Retirement Benefits Act that removes the requirement for the share capital holding for pension schemes to reduce the requirement for a pension scheme from a shareholding of 66 per cent to 33 per cent. These are some of the issues that came from public participation.

I beg to move.

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

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

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

New Clause 76A

The Temporary Chairman (Hon. David Ochieng’): Mover.

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

THAT, the Bill be amended by inserting the following new clauses immediately after clause 76–

Amendment of
section 2 of No. 4
of 2010.

76A. Section 2 of the Alcoholic Drinks Act, 2010, is amended by inserting the following definition in its proper alphabetical sequence–
“minimum input cost” means input cost published by Kenya Revenue authority through excise regulations;

Hon. Temporary Chairperson, this Clause sets the minimum input cost price for alcoholic drinks in this country. This would mean that the Kenya Revenue Authority will have the mandate to set the minimum price that a particular drink should be sold. This is intended to ensure that we get rid of the illicit brews that are sold to our young people in this country.

(The new clause was read a First Time)

(Question, that the New Clause be read a Second Time, proposed)

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

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairman, I find this amendment seriously outrageous and it offends public policy. We have an open and market driven economy. This is in a way introducing price controls that were discontinued very many years ago. A businessman should be allowed to trade such that he produces and sells depending on demand. He knows the basic principles of the interaction between demand and supply determine pricing. How would you then set minimum pricing? Honestly speaking, we have very many....

The Temporary Chairman (Hon. David Ochieng’): This chance is for the Leader of the Minority Party.

Hon. Opiyo Wandayi (Ugunja, ODM): I also agree with Hon. (Dr) Ojiambo Oundo. We must be very careful when we start introducing amendments to the law which would imply that we are encouraging monopoly and price control. I do not find this particular clause agreeable.

Thank you.

The Temporary Chairman (Hon. David Ochieng’): The Leader of the Majority Party.

Hon. Kimani Ichung’wah (Kikuyu, UDA): Hon. Temporary Chairman, I hear what the Leader of the Minority Party and Prof. Ojiambo are saying. However, this amendment has nothing to do with control of pricing. That is why the wording is very particular that it is minimum input cost. The reason is simple. We are all aware that hundreds of thousands if not millions of our young people are dying and others are maimed by the consumption of illicit alcohol. This illicit alcohol is manufactured using all manner of shortcuts and chemicals mixed to an extent people sell a concoction of chemicals in the pretext that it is clean and fit for human consumption. They sell it as alcohol that has been manufactured using ethanol at a price below industrial alcohol. Therefore, this is in an effort to safeguard all those millions of young people who are suffering through the consumption of illicit brews. The Committee was very particular to make sure that they do not control prices but safeguard. If you are producing alcohol using legal ethanol in the right standards, there is a certain minimum cost that you would have to bear.

The Temporary Chairman (Hon. David Ochieng’): Hon. Nyikal.

Hon. (Dr) James Nyikal (Seme, ODM): I want to say something on this again and again for the record.

Let us look at the arguments we have heard, that because we want certain quality, we control the price. We cannot say that if we want ethanol and we know it is expensive, we insist on the price. That will mean that because they cannot get that, they cannot use methanol. It does not work like that. If we want to look at the chemicals, look at them in their way. This does not work.

I have been saying certain things here but one day, I will be proved right. When we were talking about the alcohol we are going to use for cooking, I had information that the real

idea was that people who were going to produce that and the cooking things... They presented to our Committee. Business people aim to get it into an Act and regulate it. The 349 of us are all elected and none of us is taking time to read things that will affect Kenyans.

The Temporary Chairman (Hon. David Ochieng'): Thank you. You have been heard. Finally, Hon. Farah.

Hon. Farah Maalim (Daadab, WDM): Hon. Temporary Chairman, I have not consumed any alcohol all my life but frankly my little exposure to this problem tells me that there is no difference between Johny Walker and the one they make out there. This country needs a policy on the abuse of alcohol. Leader of the Majority Party, can you listen? This country needs a policy on abuse of alcoholic drinks, drugs, miraa and other substances. We are destroying a whole nation. The political class has also converted itself into an economic class that benefits from this...

The Temporary Chairman (Hon. David Ochieng'): Thank you. I want to put the Question.

(Loud consultations)

Order, Members! At this point we are not debating. Hon. Farah you will have 30 seconds to finish your contribution.

Hon. Farah Maalim (Dadaab, WDM): Thank you Temporary Chairman. Even Members of Parliament from *miraa* and *muguka* growing areas will tell you their own children are not going to school. This is devastating communities all over.

Hon. Mugambi Rindikiri (Buuri, UDA): On a point of order, Hon. Temporary Chairman.

The Temporary Chairman (Hon. David Ochieng'): Thank you, Hon. Farah. Hon. Rindikiri what is out of order?

Hon. Mugambi Rindikiri (Buuri, UDA): Is it in order for a dignified Member and senior in the Speaker's Panel, to insinuate without any scientific evidence or otherwise that *miraa* is a drug? That is abuse of his position as a Member of Parliament.

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

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

The Temporary Chairman (Hon. David Ochieng'): Hon. Junet, what is out of order?

Hon. Junet Mohamed (Suna East, ODM): Hon. Temporary Chairman, there are serious clauses in this Bill, and for some public participation was not done. This is the case and yet they have serious effects. I want to go on record that the clause we have just passed did not have public participation yet it will affect businesses in a big way. Somebody with an alcohol production business will be branded as illicit because we have said so. Such a clause requires serious public participation.

The Temporary Chairman (Hon. David Ochieng'): Thank you. Order Members! You know what Parliament does and what to do if you disagree with a decision. So, let us go to the next new clause. Mover, I want you to go back to New Clause 75D.

New Clause 75D

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

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 75–

Amendment of section 38 of No.3 of 1997 of 75D. Section 38 of the Retirement Benefits Act, 1997 is amended by inserting the following new subsection immediately after subsection (1)-

(1A) Subject to subsection (1) (b), where a fund is set up exclusively for the purpose of investing sharia complaint funds, the fund shall be exempted from the guidelines.

(The new clause was read a First Time)

The Temporary Chairman (Hon. David Ochieng’): We had skipped it.

Hon. Kimani Kuria (Molo, UDA): I propose that Clause 75D be read a Second Time. Here, we are changing the ownership or directorship of pension schemes which was requiring, at least 66 per cent ownership by Kenyans. From public participation, we realised this was disadvantaging very many pension scheme enterprises. So, this is a clean-up to ensure it becomes the practice. New Clause 75C which I moved earlier on was to ensure our pension schemes are Sharia compliant because we have this requirement in the banking and insurance sectors but it was missing in the pension schemes sector. I beg to move.

The issue of New Clause 75B not being subjected to public participation is a very unfair comment because we spent many hours listening to very many stakeholders. For us to introduce this new clause in this Bill was from members of the public because the concern of illicit brews in this country is of interest to Kenyans. This issue is in our Report because it was raised by members of the public.

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

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

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

New Clause 76B

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

THAT, the Bill be amended by inserting the following new clause immediately after Clause 76 –

Amendment of section 31 of No. 4 of 2010 of **76B.** Section 31 of the Alcoholic Drinks Control Act, 2010, is amended in subsection (2) by inserting the following new paragraph immediately after paragraph (b)-

(c) a person shall not sell, manufacture, pack or distribute alcoholic drinks at a price below the minimum input cost.

This is in line with Clause 76A that is setting the minimum cost price. This is where we are saying a person shall not sell, manufacture, park or distribute alcoholic drinks at a price below the minimum cost price.

I beg to move.

Hon. Opiyo Wandayi (Ugunja, ODM): On a point of order.

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The Temporary Chairman (Hon. David Ochieng’): Let me propose then you can prosecute your point of order.

(The new clause was read a First Time)

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

What is out of order, Hon. Wandayi.

Hon. Opiyo Wandayi (Ugunja, ODM): Hon. Temporary Chairman, there is a problem here. Even though we seem to be in a hurry to go home, some of these new clauses were not in yesterday’s Order Paper. They have found their way into today’s Order Paper yet they are establishing fundamental changes, for example, the issue of alcoholism. I know there has been a campaign in Central Kenya of late to deal with alcoholism. However, the way to deal with alcoholism is not to bring these kinds of amendments. It is to provide jobs to those youths. You promised those youths jobs.

The Temporary Chairman (Hon. David Ochieng’): Hon. Wandayi. You have raised a very important issue.

(Loud consultations)

Order, Members! I want this to be responded to. Hon. Chairman, the point raised by Hon. Wandayi that the Amendments that you are now prosecuting were not in the Order Paper yesterday. Is that the case?

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I would like to confirm with the Table Office that these Amendments were in the Order Paper.

(Loud consultations)

Hon. Farah Maalim (Daadab, WDM): On a point of order.

The Temporary Chairman (Hon. David Ochieng’): As I confirm that, let me hear from Hon. Farah.

(Loud consultations)

Order, Members! Hon. Farah is on a point of order.

Hon. Farah Maalim (Daadab, WDM): Hon. Temporary Chairman, I salute the Chairman of the Departmental Committee on Finance and National Planning for saying that Pension has to become Sharia compliant. But how does it become Sharia compliant without introducing most Sharia compliant products into the capital markets? This is because you cannot invest interests in places where they have interest because Muslims do not want to earn interest.

Order! *Wewe nyamaza!*

Hon. (Dr) Otiende Amollo (Rarieda, ODM): On a point of order.

The Temporary Chairman (Hon. David Ochieng’): Thank you. Hon. Otiende Amollo, what is out of order?

(Hon. Farah Maalim spoke off the record)

I thought you had finished, Hon. Farah.

(Hon. Junet rose in his place)

Hon. Junet, take your seat! Hon. Farah, finish your point.

Hon. Farah Maalim (Daadab, WDM): Hon. Temporary Chairman, thank you very much. You have solved almost 25 per cent of the population of this country who were earning pensions and do not know whether they are getting halal or haram. However, let us also go and introduce the products into the Capital Markets Authority.

Thank you.

The Temporary Chairman (Hon. David Ochieng’): Hon. Otiende.

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Thank you, Hon. Temporary Chairman. I wanted to tell Hon. Farah that what he is speaking to already passed. He seemed to support it. Therefore, he is too late, just as you have said, he knows what to do. However, pending confirmation, I wanted to speak to this.

(Hon. Farah spoke off the record)

The Temporary Chairman (Hon. David Ochieng’): Hon. Farah, allow others to also contribute. You are a senior Member! Order, Hon. Farah!

Hon. (Dr) Otiende Amollo (Rarieda, ODM): Hon. Temporary Chairman, I want to say that in addition to the irregular introduction of these new clauses, it is standard practice that just like with the Bill, where there is any amendment, you do not just introduce what you are amending in the Bill itself. You must contain the objects of the amendment and the original provisions. So, when you are introducing it in this Order Paper, where does the Member crosscheck, because these are fundamental matters? One day we will be asked what we were doing in the Chamber.

Hon. Temporary Chairman, we must take this matter seriously. It is not about which side you are in but about good law.

The Temporary Chairman (Hon. David Ochieng’): Thank you. Hon. Chairperson of the Committee.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, we are coming to the tail-end of these amendments. Our Committee worked on these documents for hours. I am very disturbed when Members and senior Members in leadership say that I sneaked in an amendment. I have borrowed Tuesday’s Supplementary Order Paper so that I do not read from my notes. Page 607 has that particular proposal. If you are not reading from the Order Paper, do not come and accuse me of sneaking things into the Supplementary Order Paper. This is the Supplementary Order Paper of Tuesday, 20th June 2023. It is what we had yesterday. I will not take it kindly when you tell me that I sneaked in an amendment, especially after the hours of work I have put into this task.

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

(A Member spoke off the record)

I will give an opportunity to the person that I should give it to; Hon. Bowen.

(Hon. Robert Mbui stood up on his feet)

Hon. Mbui, take your seat.

Hon. Kangogo Bowen (Marakwet East, UDA): Hon. Temporary Chairman, the Chairperson has really substantiated the issue. I was disappointed to learn that we sat here up

to around 1.00 a.m. and a new clause was introduced. Now that the Chairperson has clarified that that amendment was always there, I support it.

The Temporary Chairman (Hon. David Ochieng’): Thank you. Hon. Mbui. After that, I will rule on this.

Hon. Robert Mbui (Kathiani, WDM): Thank you, Hon. Temporary Chairman. The beautiful thing with Parliament is that the pages of the Order Paper are continuous: pages 553 and 554 of Tuesday’s Order Paper have New Clause 75A, 75B and 75C. After that, it is Clause 76. In today’s Order Paper, New Clauses 75C and 75D are on page 689. It is here and we have the evidence. Any Kenyan can access it. It is on the website.

The fact is that the Order Paper did not have New Clause 75D.

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

(Loud consultations)

Order, Members.

(Hon. Opiyo Wandayi stood up in his place)

Leader of the Minority Party, you are out of order. Take your seat.

I am holding the Supplementary Order Paper of Tuesday, 20th June 2023, at 2.30 p.m. If you have it, go to page 606. Hon. Mbui, go to page 606 of the Order Paper. There we have New Clauses 75A and 75B. If you turn to page 607, you will find New Clause 75C and 75D.

(Loud consultations)

Oder, Hon. Members. Page 608 has New Clauses 76A and 76B. This is the Order Paper for yesterday, 20th June 2023 at 2.30 p.m. All the amendments being discussed this evening were in yesterday’s Order Paper. I want to repeat it so that it is very clear that all the clauses we are discussing today were in yesterday’s Order Paper. I have confirmed that.

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

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

Leader of the Majority Party.

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon Temporary Chairman, let me begin by thanking you for your guidance. Hon. Temporary Chairman, Hon. Robert Mbui has said untruths with a straight face and he is misleading the country. We have been here before. We can tell when people are speaking to the Gallery and courts. Hon. Mbui, I encourage you. If you want to speak to the court, I know you are a teacher. The Senior Counsel said that he took 10 years at law school. You will take another 10 years to speak to the courts from the courts instead of attempting to speak to them from this Floor of the House.

It is unfortunate that I have to repeat what I said during the Second Reading. This is the most vilified Bill in the history of law making in this country. Hon. Mbui cannot lie to the people of Kathiani and continue lying here using propaganda, lies or misinformation.

The Temporary Chairman (Hon. David Ochieng’): Leader of the Majority Party, I made a ruling on this matter and it shall not be discussed further. Let us move forward, Hon. Members.

(Loud consultations)

Order Members.

New Clause 82A

The Temporary Chairman (Hon. David Ochieng’): Mover.

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

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 82—

Amendment of
section 5A of No. of
2015.

82A. Section 5A of the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015 is amended in paragraph (f) by deleting the words “and the entitled person’s spouse” and substituting therefor the words “, the entitled person’s spouse and the entitled person’s child who is below eighteen years or is under twenty-five years of age and is undergoing a course of full time education, and in the case of a female child is not married or is not cohabiting with any person;”

This Clause is extending the benefits that are given to the Deputy President and designated State Officers, including Hon. Speaker and Hon. Deputy Speaker.

(The new clause was read a First Time)

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

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

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

New Clause 82B

The Temporary Chairman (Hon. David Ochieng’): Hon. Kimani Kuria, move your amendment.

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

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 82—

Amendment of
section 5B of No.
of 2015.

82B. Section 5B of the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015 is amended in paragraph (f) by deleting the words “and the entitled person’s spouse” and substituting therefor the words “, the entitled person’s spouse and the entitled person’s child

who is below eighteen years or is under twenty-five years of age and is undergoing a course of full time education, and in the case of a female child is not married or is not cohabiting with any person;”

New Clauses 82B, 82C, 82D and Clause 82E are similar to new Clause 81A.

(The new clause was read a First Time)

Hon. Kuria Kimani (UDA, Molo): Hon. Temporary Chairman, I beg to move that Clause 82B be read a Second Time.

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

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

The Temporary Chairperson (Hon. David Ochieng’): Hon. Oundo.

Hon. (Dr) Ojiambo Oundo (Funyula, ODM): Hon. Temporary Chairman, I find the drafting very curious and discriminatory in the last sentence that says: “If it is a female child who is not married or is not cohabiting with any person.” Why do we have to discriminate between the boy child and girl child?

(Loud consultations)

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

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

New Clause 82C

The Temporary Chairman (Hon. David Ochieng’): Mover.

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

THAT, the Bill be amended by inserting the following new Clauses immediately after Clause 82—

Amendment of
section 6 of No. of
2015.

82C. Section 6 of the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015 is amended in paragraph (f) by deleting the words “and the entitled person’s spouse” and substituting therefor the words “, the entitled person’s spouse and the entitled person’s child who is below eighteen years or is under twenty-five years of age and is undergoing a course of full time education, and in the case of a female child is not married or is not cohabiting with any person;”

Hon. Temporary Chairman, this Clause is similar to new clauses 82A and 82B.

(The new clause was read a First Time)

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

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

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

New Clause 82D

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

THAT, the Bill be amended by inserting the following new clause immediately after Clause 82—

Amendment of
section 7 of
No. of 2015.

82D. Section 7 of the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015 is amended in paragraph (f) by deleting the words “and the entitled person’s spouse” and substituting therefor the words “, the entitled person’s spouse and the entitled person’s child who is below eighteen years or is under twenty-five years of age and is undergoing a course of full time education, and in the case of a female child is not married or is not cohabiting with any person;”

(The new clause was read a First Time)

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move that the new clause 82D be now read a Second Time.

This is similar to the rest of the clauses.

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

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

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

New Clause 82E

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

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 82—

Amendment of
the First
Schedule to
No.8 of 2015.

82E. The First Schedule to the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015 is amended

- (a) in paragraph (b) by inserting the words “or one chief liaison officer” immediately after the words “one personal assistant”; and
- (b) in paragraph (c) by inserting the words “or one assistant liaison officer” immediately after the words “one secretary.”

(The new clause was read a First Time)

The Temporary Chairman (Hon. David Ochieng’): Mover.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move that the New Clause 82E be now read a Second Time.

This is the last part of Clause 82. So, it is similar to the others.

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

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

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Temporary Chairman, once again I could see those who are deputy... This is totally different. I plead that even with the majority and the ease of voting, let us explain new clauses.

The Temporary Chairman (Hon. David Ochieng’): Thank you. Hon. Chairman, explain New Clause 82E. Hon. Nyikal, be attentive this time around.

Go ahead.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, if you look at what we are doing on Clause 82, that is why it is 82A, B and C, we are amending the Retirement Benefits Act to take care of the retired Speakers, Deputy Speakers and others. It is also to allow, for example, if a Speaker retires and moves to another state office, say, a Cabinet Secretary or any other and there were benefits that they would have enjoyed, this particular clause tightens that up so that it does not deny them the benefits that they were supposed to enjoy from the first position that they held.

The Temporary Chairman (Hon. David Ochieng’): I hope you get it.

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

(Loud consultations)

Hon. Nyikal, go ahead.

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Temporary Chairman, I am following on the explanation. You will agree with me that what is expected is... You are saying in paragraph (b) by inserting the words “one chief liaison officer” immediately after the words ‘one personal assistant’. If you do not go into the details, at least, you are including another person. All we want to know is what the status was before, and what is the status of the one you are doing now.

Honestly, it is just a simple explanation.

The Temporary Chairman (Hon. David Ochieng’): Hon. Nyikal, these Order Papers are published in advance and we are supposed to interact with them before debate. So, I find the Chairman’s explanation sufficient and move to put the Question.

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

New Clause 85

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

THAT, the Bill be amended by inserting the following new clause immediately after Clause 84—

Amendment to
Section 4 of No.
16 of 2015.

85. Section 4 of the Special Economic Zones Act, 2015, is amended by deleting subsection 4 and substituting therefor the following new subsection –

(4) A special economic zone shall be a designated geographical area which may include both customs controlled area and non-customs controlled area where business enabling policies, integrated land uses and sector-appropriate on-site and off-site infrastructure and utilities shall be provided, or which has the potential to be developed, whether on a public, private or public-private partnership basis, where development of zone infrastructure and goods introduced in customs-controlled area are exempted from customs duties in accordance with customs laws.

(The new clause was read a First Time)

The Temporary Chairman (Hon. David Ochieng’): Mover.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move that the new clause 85 be now read a Second Time.

I would like to give a brief explanation to clauses 86 and 87 so that when we get to them, I do not need to explain again. I want to give an example. This amendment is on the Special Economic Zones Act. If we have a special economic zone in Molo, that is doing value addition of potatoes, with the current law as it is, those Special Economic Zones cannot buy those potatoes from that neighbouring place. Why? Because if they buy from that particular market, when they sell back to the market, they will have to pay import duty. Special Economic Zones are seen in the minds of the law as being an outside country. However, if the same processor of that project at that Special Economic Zone imports potatoes from Uganda, those potatoes are going to come without the import duty of 35 per cent. These proposals are supposed to incentivise our Special Economic Zones to buy raw materials from local areas and not necessarily import from Common Market for Eastern and Southern Africa (COMESA) countries. If they imported from there, they will not pay import duty.

With that, I beg to move.

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

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

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

The Temporary Speaker (Hon. David Ochieng): Mover.

New Clause 86

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

THAT, the Bill be amended by inserting the following new clause immediately after Clause 85—

Amendment of
section 6 of No.
16 of 2015.

86. Section 6 of the Special Economic Zones Act, 2015, is amended in paragraph (b) by —

- (a) deleting the word “Kenya” and substituting therefor the words “the customs territory”;
- (b) inserting the following proviso—

Provided that —

- (i) Goods whose content originates from the customs territory shall be exempt from payment of import duties;
- (ii) Goods whose content partially originates from the customs territory shall pay import duties on the non-originating component subject to the customs procedures.

(The new clause was read a First Time)

Hon. Kuria Kimani (Molo, UDA): I beg to move that the New Clause 86 be now read a Second Time as explained in New Clause 85.

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

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

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

New Clause 87

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

THAT, the Bill be amended by inserting the following new Clause immediately after Clause 86—

Amendment
of section 24
of Cap. 517.

87. Section 24 of the Export Processing Zones Act, 1990, is amended by inserting the following proviso at the end of paragraph (b) –

Provided that –

- (i) goods whose content originates from the customs territory shall be exempt from payment of import duties; and
- (ii) goods whose content partially originate from the customs territory shall pay import duties on the non-originating component subject to customs procedures.

(The new clause was read a First Time)

Hon. Kuria Kimani (Molo, UDA): I beg to move that the New Clause 87 be now read a Second Time as explained in New Clause 85.

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

The Temporary Speaker (Hon. David Ochieng): Hon. (Dr) James Nyikal.

Hon. (Dr) James Nyikal (Seme, ODM): Hon. Temporary Chair, I stand to support. With this explanation one, at least, now knows that the concept equates with a foreign economic zone when you have a local one. At least, it is now known. This is good. We support. That is how it should be.

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

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

The Temporary Speaker (Hon. David Ochieng): Order, Hon. Members.

(Title agreed to)

(Clause 1 agreed to)

Hon. Chairperson, move reporting.

Hon. Kuria Kimani (Molo, UDA): Hon. Temporary Chairman, I beg to move that the House reports its consideration of the Finance Bill (National Assembly Bill No.14 of 2023) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

IN THE HOUSE

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

MOTION

CONSIDERATION OF REPORT ON THE FINANCE BILL

Hon. Speaker: The Temporary Chairperson, Hon. Ochieng'.

Hon. David Ochieng' (Ugenya, MDG): Hon. Speaker, I beg to report that the Committee of the whole House has considered the Finance Bill (National Assembly Bill No.14 of 2023) and approved the same with amendments.

Hon. Speaker: Mover.

Hon. Kuria Kimani (Molo, UDA): Hon. Speaker, I beg to move that the House do agree with the Committee in the said report. I ask the Leader of the Majority Party, Hon. Kimani Ichung'wah, to second.

I would like to thank Members for supporting the amendments. We benefitted from all of you, even those who opposed particular clauses. This being the first Finance Bill that this administration is processing, we look forward to an even more improved process, improved judgement, improved debate, and improved provisions, so that we can take this country forward.

With those remarks, I ask the Leader of the Majority Party to second.

(Applause)

Hon. Kimani Ichung'wah (Kikuyu, UDA): Hon. Speaker, I beg to second.

I thank all Members from both coalitions who have sat through these two days up to the wee hours of the morning and late at night debating issues of concern to Kenyans. As the Chairperson of the Departmental Committee on Finance and National Planning said, it has enriched debate in the Assembly and the value that we give back to the people who elected us to this House.

In echoing the words of the Chairperson of the Committee, let me also take this opportunity to thank our colleagues on the Minority Side who had their say, as the Majority had their way. That is what pertains a democracy. It is a testament to the world, not just Kenya, that we are a true democracy where we can come into this debating Chamber and debate without acrimony and chaos. We have conducted ourselves with commendable decorum over the two days under strenuous circumstances such as the lateness of time and tiredness of Members. Many Members across the board have really behaved well. I do not want to say anything about those who were not here.

Members, let me take this opportunity to request you, just as you allowed each other to be heard and put points across, always during debate allow each Member to speak and be heard. If you have a different opinion from mine, it does not add any value if you shout at me from your seat or I shout at you from my seat. It only adds value if I listen to you or any other Member who gets an opportunity to answer you.

Overall, for the first time, we tried our best to articulate issues of concern to Kenyans. In conclusion, like I said during the Second Reading, we had robust public participation on this Bill. This is one of the Bills where Kenyans from all walks of life had something to say. A lot of information that was being peddled by the media was untrue. They will now bear us witness when this Bill is assented to by His Excellency the President whenever he assents to it. The fear Kenyans got from media houses was not true and with time they will prove us right. This

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is a huge sacrifice not just for Members of Parliament but even for Kenyans. We will take a painful walk but for a short time so as to get our economy back where it ought to be.

We are in this situation together as Kenyans, and we will get out of it to a path of renewal, economic recovery and unmatched prosperity because of the sacrifices Kenyans will make.

Hon. Speaker, with those very many remarks, I beg to second.

Hon. Speaker: Thank you Leader of the Majority Party.

(Question proposed)

(Question put and agreed to)

BILL

Third Reading

THE FINANCE BILL

(National Assembly Bill No.14 of 2023)

Hon. Speaker: Mover.

Hon. Kimani Kuria (Molo, UDA): Hon Speaker, I beg to move that the Finance Bill (National Assembly Bill No.14 of 2023) be now read the Third Time. I would like in a very special way to thank our secretariat. These dedicated parliamentary staff spent hours doing the Report and had to trans-night to ensure everything was done. Perhaps, we do not appreciate the work done by staff of Parliament. This is proof of the thousands of documents they process.

(Applause)

Some of them are still seated with us here and after this they will go back to work. Tomorrow morning, we will start vetting of the Chairperson of the Commission for Revenue Allocation (CRA) and they are expected to prepare before we start. I really want to thank the dedicated parliamentary staff who made this a success.

(Applause)

Lastly, I want to thank members of the public who sent us more than 1,500 memoranda and the more than 200 stakeholders who took their time to share their views with us. We tried as much as we could to carry their views. This debate has demystified the fact that there were no major amendments and public participation was not an exercise in futility. We have all seen the proposals by the members of the public and I want to thank them. They should not tire and next time when there is such a Bill, let them give their views because they have seen their views count.

Hon. Speaker, I beg to move that the Finance Bill be now read a Third Time. Lastly, it will be very wrong if I do not appreciate the Members of the Committee; we never struggled to get quorum. In fact, most of the time we were full House. Out of 15 Members, we were always 13, 14 or 15, and yet our Members are from across the political divide. They sat with us and gave us ideas. They are still with us here to make sure that this exercise is worth. This was a demonstration of what teamwork can possibly achieve.

With those remarks, I thank them and ask Hon. Makilap to second.

(Applause)

Hon. Joseph Makilap (Baringo North, UDA) seconded.

(Question proposed)

Hon. Speaker: I will give one minute to Hon. Junet.

Hon. Junet Mohammed (Suna East, ODM): Thank you very much, Hon. Speaker. I take this opportunity to thank Members for the way we have aggressively participated in the debate and passage of this Bill. I also thank our Members on this side who stood firm against all odds to make sure they oppose all draconian and offensive clauses in the Bill.

I am happy that we were allowed to debate freely in the House. We gave our opinion as much as it was controversial. One factor that has remained constant in this Chamber in history is that all controversial Bills— for strange reasons and surprisingly— are passed at night. We had the Political Parties Bill, the Building Bridges Initiative Bill and now this controversial one. All of them are passed at night for strange reasons. I do not know why they are not passed during the day.

(Laughter)

I think they like darkness. We will try as much as possible, next time, to pass serious controversial Bills during the day. We will try our best.

As we said in the Second Reading, this Bill was very controversial. I pray and hope that it will unite rather than divide the country. Some of the clauses that are inside this Bill are very emotive. I pray for the Government side. The Opposition side will have a watchful eye out there to make sure that you do not transgress in any way.

Thank you, Hon. Speaker.

(Applause)

Hon. Speaker: Thank you, Hon. Junet. It is important to know that many great things happen at night.

(Laughter)

(Question put and agreed to)

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

Hon. Speaker: Hon. Members, allow me, as your Speaker, to also commend the House for the tremendous industry that you have put in this debate and passage of this Bill. Since I came to this House in 1993, I have never witnessed a more contested Finance Bill than this one. It has been contested with sense, decorum and great debate. I salute even those ones who provided comic relief in the course of the debate. They did it to enlighten the House.

(Laughter)

In William Shakespeare's *The Tempest*, there is a character called Desdemona whose duty was to cause light moments when people were low. I could see some Desdemonas in this House.

(Laughter)

For the new Members, you now appreciate that the power of the wallet of the State lies in this House. It is in your hands. That is why we have taken this long time— yesterday until this morning and today until now— to scrutinise this Bill with a toothcomb. I am sure very many Kenyans out there who do not participate in legislation now know what the Finance Bill is all about because of what we have done here.

For young Kimani Kuria, you have done beyond anybody's imagination.

(Applause)

You are probably the youngest Member in this House to chair a Committee of this great importance and significance. You have discharged your onus sensibly, reasonably and admirably. We laud you.

(Applause)

Members on my left, I thank you for putting the Members on my right on their tenterhooks, pointing out what you have pointed out while never losing your cool, and never boycotting the sittings. It is only by speaking we arrive at reasoned judgements. In the community I come from, a hyena told a stone, "even if you do not answer me, you have heard me."

(Laughter)

That can be applicable in many situations. Therefore, we want to leave today very proud that you have passed a Bill that is going to deal with many things. Play your oversight role. Play your responsible spending of public resources. That is what is expected of all of us. We leave here tonight very happy, on my part. What looked like the most divisive piece of legislation has in fact united you even more. Sitting in my chamber, I saw your leadership and many of you crossing over to whisper to each other across the Dispatch Table many times and generally having a lot of camaraderie. That has been very encouraging.

Hon. Members, this brings us to the end of the proceedings of today. Tomorrow morning, we shall sit from 9.30 a.m. We shall deal with the following Bills: The Supplementary Appropriation Bill, the County Allocation of Revenue Bill, the Equalisation Fund Appropriation Bill, and the Appropriations Bill itself. There will also be the Public Finance Management (Amendment Bill) and any other business that may be there. Remember that all these finance-related Bills must be concluded by the 30th of this month.

For Members of the Speaker's Panel and my able Deputy, Hon. Gladys Boss, I want to salute you for your patience, tenacity, and the great performance at the Table in the Committee Stage. I thank the whole House for giving the Chairs who sat in Committee the ability to discharge their responsibility without any missiles flying around as has happened before; without any water being splashed around as has happened before. This is the maturity of our democracy. As we finish this evening, I can tell you Members of this House that I can see and feel a better tomorrow for this country.

(Applause)

ADJOURNMENT

Hon. Speaker: Hon. Members, we can now be upstanding. The House will stand adjourned to tomorrow, Thursday, 22nd June 2023, at 9:30 a.m. for the Morning Sitting.

The House rose at 11.29 p.m.

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