

COUNTY GOVERNMENT OF BUNGOMA

COUNTY ASSEMBLY OF BUNGOMA

COUNTY ASSEMBLY DEBATES

THE DAILY HANSARD

THURSDAY 14TH SEPTEMBER, 2023

Afternoon Sitting

COUNTY ASSEMBLY OF BUNGOMA

THE DAILY HANSARD

THURSDAY 14TH SEPTEMBER, 2023

The House met at 2:30 p.m.

(Mr. Speaker [Hon. Emmanuel Situma] in the Chair)

PRAYER

COMMUNICATION FROM THE CHAIR

Visit by Fund Administrator Trade Loans

In our Speaker's gallery we have a visitor Mr. Stephen Sitati, a Fund administrator from trade loans section in the department of Trade, Energy and Industrialisation. Be upstanding! Kindly you can resume your seat! His purpose of being here is to follow the proceedings of the motion by Delegated County Legislation that has been working on those regulations.

1. Visit by students from Lwandanyi Secondary School

In our Speaker's, public and media galleries, we have pupils from ACK Lwandanyi secondary school. They are from one, two, three and four students.

Kindly take your seats Honourable members before I proceed!

(Members took their seats)

Thank you, Honourable members. In our public, media and Speaker's galleries we have students and teachers from ACK Lwandanyi Secondary School, a hundred in number accompanied by their 4 teachers. Students be upstanding please! The teachers accompanying them are:

1. Emmanuel Kingo
2. Noline Masafu
3. Henry Keya
4. Samson Opid

Be upstanding!

(Teachers rose)

Kindly be seated!

(Teachers resumed their seats)

I am still looking at our registers and what I spoke about yesterday is yet to come to an end. When you are not around or you are away with my permission, don't struggle to log in. When I sit here I can tell who is present and who is absent. If the card is saying you are in and the

register which is manual is saying you are absent, I will go by the register that is saying you are absent, so don't struggle logging in for your friends. If you are away, kindly please! One day we will go for an MCA who is away and you are giving somebody else a card to login for him. We will punish him by the committee on Powers and Privileges chaired by myself, so you must stop that behaviour.

Let's proceed please!

PAPERS

REPORT BY THE COMMITTEE ON FINANCE AND ECONOMIC PLANNING ON COUNTY POLICY STATEMENT ON ENHANCEMENT OF ON SOURCE REVENUE

Mr. Speaker: Chair Committee on Finance and Economic Planning, Hon. Orize proceed and table the report. Proceed Vice Chair!

Hon. Orize Kundu: I rise to table the report by the Committee on Finance and Economic Planning on County Policy statement on enhancement of own source revenue.

(Hon. Orize laid the paper)

Mr. Speaker: Honourable members, the report by the Committee on Finance and Economic Planning on the County policy statements on enhancement of own source revenue is hereby tabled and formally becomes the property of the House accordingly.

REPORT BY THE SECTORAL COMMITTEE ON ROADS, TRANSPORT, INFRASTRUCTURE AND PUBLIC WORKS ON THE BUNGOMA COUNTY GOVERNMENT NINE MONTHS FINANCIAL STATEMENTS FOR FY 2022/2023 IN RESPECT TO THE DEPARTMENT OF ROADS, TRANSPORT, INFRASTRUCTURE AND PUBLIC WORKS

Mr. Speaker: Hon. Simotwo Franklin, Chair Roads committee!

Hon. Franklin Simotwo: Honourable Speaker, I rise to table a report by the committee on Roads, Transport, Infrastructure and Public Works on the nine months Financial Statements for the period ended 31st March 2023.

(Hon. Simotwo laid the paper)

Mr. Speaker: You have just to move yourself again by choosing to table from where you are so bring the report forward. You cannot retain it after tabling! Thank you. Honourable members. The report by the sector committee on Roads, Transport, Infrastructure and Public Works on the Bungoma County Government nine months Financial Statements for the FY 2022/2023 in respect to the department of Roads, Transport, Infrastructure and Public Works is hereby tabled and formally becomes the property of the House accordingly.

NOTICES OF MOTION

REPORT BY THE COMMITTEE ON FINANCE AND ECONOMIC PLANNING ON COUNTY POLICY STATEMENT ON ENHANCEMENT OF OWN SOURCE REVENUE

Mr. Speaker: Proceed, Hon. Orize!

Hon. Orize Kundu: Thank you, Mr. Speaker Sir. I rise to give a notice of motion that this House adopts the report by the committee on Finance and Economic Planning on County policy Statement on enhancement of own source revenue.

Mr. Speaker: Honourable members, a notice a motion having been duly issued that the House adopts the report by the sector committee on Finance and Economic Planning on the County Policy Statement on enhancement of own source revenue, I hereby direct the table clerks to share this report with Honourable members. The same will form business on our order paper in the course of next week or once scheduled by the HBC accordingly.

REPORT BY THE SECTORAL COMMITTEE ON ROADS, TRANSPORT, INFRASTRUCTURE AND PUBLIC WORKS ON THE BUNGOMA COUNTY GOVERNMENT NINE MONTHS FINANCIAL STATEMENTS FOR FY 2022/2023 IN RESPECT TO THE DEPARTMENT OF ROADS, TRANSPORT, INFRASTRUCTURE AND PUBLIC WORKS

Mr. Speaker: Hon. Simotwo, proceed!

Hon. Franklin Simotwo: Thank you, Mr. Speaker. I rise to give a notice of motion on a report by the committee on Roads, Infrastructure, Transport and Public Works on nine months Financial Statements for the period ended 31st March, 2023.

Mr. Speaker: Thank you, Hon. Simotwo. Honourable members, a notice of motion having been duly issued by the sector committee on its report of Roads, Transport, Infrastructure, Public Works on Bungoma County Governments nine months Financial Statements for the Financial Year ending 2022/23 in respect to the department of Roads, Transport, Infrastructure and Public works.

Equally the same, I ask the table clerks to share this report with Honourable members. The same is going to come up as a motion on our order paper in the course of next week or once scheduled by the HBC accordingly.

QUESTIONS AND STATEMENTS

Mr. Speaker: Honourable members, this is the period that we always allow the Honourable members to make their brief remarks about the visitors in public gallery. Basically for today we do have ACK Lwandanyi Secondary School that's form one, two, three and four who have come to learn from the Assembly. Starting is the area MCA that is Hon. Tony Khaoya. Equally, the Chair of Education you prepare and other few contributors. Hon. Tony proceed!

Hon. Tony Barasa: Thank you, Honourable Speaker. I want first to appreciate for being here. I also want to thank God for the gift of life he has given to us and your office and the Office of the Clerk for allowing students from Lwandanyi Secondary school in Lwandanyi ward to visit the premises of this County Assembly. With your permission, allow me to welcome the teachers, pupils and students from Lwandanyi secondary school to this Honourable House.

The pupils you are seeing in the gallery are hardworking students from Lwandanyi ward. As it can be demonstrated by their school uniform that's fighting climate change, they decided to wear the green sweater.

Mr. Speaker: Hon. Tony, stick to the issue at hand.

Hon. Tony Barasa: Honourable Speaker!

Mr. Speaker: Hon. Tony, guidance please, let us stick to the agenda at hand!

Hon. Tony Barasa: Thank you Honourable Speaker.

Mr. Speaker: Proceed!

Hon. Tony Barasa: I was just giving an explanation of the how the school is, the design and the choice of the school uniform; that the sky is not the limit. As you can see the shirt or blouses or whatever they wear and also going by the sky is not the limit, we want to urge the pupils and students that hard work will always pay. I also want to appreciate the teachers from Lwandanyi who have mentored these pupils to reach where they are. I know some are in form one, two, three and very important those candidates that are going to sit for their examination this particular year.

From where I sit, leaders will come and go, we are seated here occupying these seats and I know with good role models they are coming to occupy these sits. Allow me also to appreciate the citizens of Kenya through the promulgation of the Constitution 2010 whereby we got the devolved functions or Governments. Initially, if it were not for devolution, they could travel all the way to Nairobi for them to learn about Parliament. We are articulating issues today on legislation, representation, oversight and appropriating funds that are going down to our villages for them to benefit directly or indirectly in terms of bursaries, road infrastructure and other amenities that are very key to the community.

I do not want to labour much now that members are here to contribute. I want to appreciate teachers from Lwandanyi, and my future voters and urge them that discipline is key for your success. I want to leave you with a quote that once Nelson Mandela said that '*education is the only equaliser in our livelihood*'.

Mr. Speaker: Thank you. Allow me have Hon. Caleb!

Hon. Caleb Wanjala: Thank you, Mr. Speaker. I also rise to encourage the students from Lwandanyi ACK. First of all, I would like also to appreciate the teachers for having thought

of bringing these students here to learn and get to know what goes on here. I'm supporting Honourable Tony who is the Vice Chair for Public Administration. Mine is just to students; some of us when we were in school we thought once we finish school life would be easy, we would have our own time table but as you realised even here in the Assembly when you get late we have the Sergeant at Arms who will be ringing the bell just to notify you that you are late.

Make use of that time because right now your parents are supporting by ensuring that you have everything but a time will come where you will be on your own, your parents will not be there, what you are acquiring now is what will help you in the future when you face the realities of life.

Another thing is character. You realise that if you get knowledge but you do not have good virtues that can also affect you in your future, so even as much as we are studying hard, we should also be able to team up with good friends who can shape us and help us get good morals.

Lastly, I know exam is just around the corner and I wish you all the best. When you read the book of proverbs chapter 1:7, the bible says that '*the fear of the Lord is the beginning of all knowledge, wisdom and understanding*' and Lwandanyi being a school that is supported by the ACK church I know you are on a good foundation.

Mr. Speaker: Thank you, Hon. Caleb. Hon. Sheila,

Hon. Sheila Sifuma: Thank you Mr. Speaker Sir for this opportunity to just encourage the students of ACK Lwandanyi. I will want the area MCA to tell us what the socks represent.

Mr. Speaker: Honourable Sheila! If I stopped him in his tracks, equally I will stop you in that line of argument. Proceed!

Hon. Sheila Sifuma: I am guided. I was just curious. Back to what I was saying, to all the students of ACK, welcome to this House where we run daily activities here and debates. In life you will have different opportunities, some of you will want to become ministers, CSs and others will want to go to very high levels of leadership in this country in different spheres.

I want to remind you that the grade that you will have on your certificate will reflect on every vetting meeting that you will be attending. Like in this House we normally vet Chief Officers and CECs and the grade they got in form four, we always see it and some are very embarrassing as much as they are important so remember that the grade you get will be with you for life. The grade you score in Physics, Chemistry, and Mathematics among other subjects will determine the profession you will pursue in future.

(Applause)

Put more effort, don't ignore the papers that you have, you might not end up doing the career you might want but in whatever field you never know where those papers will catch up with

you, so make sure they are good papers that when you look at them, you are also proud of them. My encouragement to you and keep working hard, there is nothing that can limit you if you are determined.

Mr. Speaker: Thank you, Hon. Sheila. Equally, I give you permission to side chat Hon. Tony to find out what the socks represent. Hon. Psero,

Hon. Jacob Psero: Thank you so much Mr. Speaker for this opportunity. I want to join my colleagues in thanking the students and the teachers of ACK Lwandanyi for making a plan to come to this particular Honourable House. I want to inform you that we have your area MCA is a very aggressive man and everybody admires the way he works in this particular Assembly. so I ask you to give him another opportunity in 2027 and you will not regret because he is somebody who knows the job very well.

In addition to that, for the students, I want to say welcome to this particular House and at the same time to get to know that the person talking was a principal of a school. I was in Cheptais Secondary School which is just your neighbour and on most cases we used to share so many things including Symposium, games and sports so it's somebody that knows what it means to be in school.

We are encouraging you particularly those in form four to perform well. Make your MCA to be proud, he is a hardworking man, emulate him and do exactly what he does in this particular House.

For the teachers, my colleagues, thank you for the job you are doing, you are doing a very important work and being a teacher, we are assisting God in creation because in the first place God creates and ours is to mould the youths, so that they become very important citizens of this country. You know that a promotion by TSC these days is not based on the God father, you know but your own mean score so do your best to enable you proceed to various careers other than teaching.

Otherwise, Mr. Kingo is my personal friend and comes from my area. Thank you for leading that particular school as the Deputy Principal.

Mr. Speaker: Thank you, Hon. Jacob. Hon. Chemorion,

Hon. Martin Chemorion: Thank you Mr. Speaker Sir for giving me this chance. First of all, I want to congratulate my neighbour Hon. Tony for having taken that initiative to bring the students from Lwandanyi secondary school. I know the ward neighbours Uganda and if you have a school that neighbours a foreign country where alcohol is allowed it's actually a very big challenge. I want to congratulate the teachers and the students for having taken up in total disregard to cross border trade because that is a place where children or people cross the border to do business.

Cheptais being a catchment area for that school and being the representatives of that ward, I must say students from my ward come to that school and in most cases, I had some who had applied for bursary, so I want to inform the parents that Cheptais ward is ready to finance the

school fees of students from Cheptais. I just want to say take up that opportunity and make sure that you apply.

Finally, I just want to say excellence is not a skill but it's an attitude and I believe if the students have the right attitude, the attitude to read to be disciplined and to work hard they will excel. I encourage students to do enough revision so that you excel. It's not too late for the form fours. You can change your life now. We cannot talk about the D's, you have that potential of getting even As because you have a very intelligent member of the County Assembly representing you. I want to disagree with my neighbour Hon Psero. This Honourable member deserves to go even higher, so that they open room for others to try their luck. I wish you the very best in your endeavours.

Mr. Speaker: Thank you, Hon. Cheseto. Hon. Nangulu,

Hon. Charles Nangulu: Thank you Honourable Speaker for catching my eye. I take this opportunity to thank the Assembly for actually allowing these students to come and see what we do here. As the area MCA mentioned, here we do legislation, oversight and we represent the school and people from our areas.

What I can tell the students today is that hard work pays. This is time to show how hardworking you are and off course you will be paid. All the members you see in this Assembly went through school. School can be tricky and in most times one will want even to quit but what I can tell you students, quitting is not an option because the current Constitution allows each and every student who has done form four to have something. If you get an A you become a doctor or an engineer, D- there is something for you, we have artisan courses where the Government has taken care of everyone, so you try and do what you can do best and be assured that every student will have a portion in their hands.

What I can also tell the students is consult. You have very able teachers who have joined you today. These teachers are just moving dictionaries; they have all what you need so the moment you try and avoid your teacher that means you want to fail. Make sure that you use the teachers because they are paid to take care of you in school. Look for them and I am sure each and every teacher if he is approached by a student at any given time, he will be able to give you an ear and that's what exams is all about.

To students, gone are the days when if you are handsome or beautiful then you have a life. These days you have to combine the two. If you are beautiful with no grades, be sure that no man will look at you and for the boys however strong and handsome you might look without grades, you end up not getting what you want in life.

Mr. Speaker: Hon. Nangulu, do we take you as a consultant on those issues?

Hon. Charles Nangulu: Mr. Speaker, I stand here as a grandfather, a father and as a guardian of many and what I have said actually passes all the times. For the teachers, you have done a good job, keep on doing it.

We pray that the students get good grades as one of *Mheshimiwa* from Chesikaki mentioned then you are able to get promotions because I am sure these days if you have a class of all E's and you want to be promoted, they will tell you that you are not meeting targets. So let's try and have good grades for our students, have a nation that's learned.

Students in your area, you see homes that people have gone to school, we have got very few cases of assault or anything that you can mention but homes that people dropped out of school, I am not mentioning about you because you are in school and I am sure you will make it. There are so many cases that come around there. You just strive very well that you go to school, finish well and I wish you the best.

For the form fours, *Mheshimiwa* MCA is here, when you get to your prayer day, kindly invite us we will come and join you as members of Sirisia.

Mr. Speaker: Thank you, Hon. Nangulu. Hon Henry please,

Hon. Hentry Nyongesa: Thank you, Mr. Speaker. I come from Bumula where we are called the *sudis* and Lwandanyi is well situated in the boundary of Kenya and Uganda. When I was just entering I saw very beautiful girls and boys seated in this prominent House.

Mr. Speaker: No, they are in public gallery. They are not part of us!

Hon. Hentry Nyongesa: Yes Speaker in the public gallery and I am impressed when Hon. Tony was almost saying that they are privileged because of the Constitution of 2010. Legislation started in the colonial times where we had LEGCO and the students must know where some of the forefathers did; even where we are seated here an Honourable member called Pascal Nabwana built this hall. This tells you that we have had very serious personalities who have been in this House and they come from Lwandanyi ward where Hon. Tony Barasa represents.

If we had the portraits put on the wall, the students could have learned that we had somebody called Wanyera who was the longest serving Chair of the County Council under the Local Government Cap 265, we also had the late Hon. Obwana and today we have Hon. Tony here that is why we are saying the students seated here.

I want to allude that this Constitution has brought in several things including devolution which has brought legislation closer to the people. We have debates in the schools about the opposing and the proposing side where in this House and Hon. Tony enjoys and the students and teachers must go knowing Hon. Tony is in the government side and a member of deep state and I am sure.

Mr. Speaker: Hon. Hentry, what is this deep state referring to?

Hon. Hentry Nyongesa: Mr. Speaker, the management of the State House, that we have serious people who manage the State House.

Mr. Speaker: But none of us here operates in State House!

Hon. Hentry Nyongesa: The State House of the County, I want to guide the members from Lwandanyi that academic papers count too much and you will only be counted if you perform well. To candidates, we are not wishing them luck but we want to tell them they do their best, so that they have best papers to propel them to a bright future. The area MCA Hon. Tony has a degree so we expect a person that's going to take over him to have a Master's Degree. I rest and wish them the best.

Mr. Speaker: Thank you, Hon. Hentry. Hon. Benjamin, Chair - Education committee proceed!

Hon. Benjamin Otsiula: Thank you Mr. Speaker for giving me this opportunity to pass a word of encouragement to the students of ACK Lwandanyi. I am also an Anglican and I am very happy to learn that in my brother's ward there are also practicing Anglicanism. I also wish to extend my touch to Hon. Tony Barasa for being very articulate and showing a lot of love to students from his ward. Indeed he is one of the best performing members in this House and he is going around with his duties very well. The people of Lwandanyi can be rest assured that you gave this County Assembly the best brain to represent you.

Secondly, whenever we see students around and their teachers, we always have to recognise the important functions that education plays in our lives and it's a basic foundation this house can bear witness that even today in this sitting, we have several teachers some who joined this House after their distinguished careers in the education fraternity, beginning with the very able Deputy Speaker of this Honourable House, he is a renowned teacher who has practised that profession for a long period of time including running school to nature brains in several academies. In front of me, Hon. Christine is here, she is called a broom, *shieywe* meaning that she is always...

Mr. Speaker: Hon. Benjamin, you know when you call Hon. Zeddy its part of his name on the ID and the record here that we call him. Equally, when you call Hon. Museveni he has undergone that issue of additional name, so that is for the campaign but here she is Christine Mukhongo. Proceed!

Hon. Benjamin Otsiula: Okay, Mr. Speaker, I was meaning that she is very good at sharpening skills of students in class. Hon. Masai Chemion, Allan and Psero are teachers. Hon. Jeremiah Kuloba is not a teacher, he wants to confuse me.

What I am saying is that this education family is the foundation of our upbringing and the cornerstone of everything that we undertake in the society, because learning as I have always repeated is a continuous process. Our students today are here because they came to learn and I can assure them that getting where they are, getting a chance to sit where they are sitting today is very easy but getting a chance where Hon. Ali Machani is seated is never easy. It means that they must take their time at this particular moment very seriously in school. They must work hard and repay the faith shown in them by their parents and they must concentrate on their studies because everything has got its time. Somebody said that one day they may find themselves in this House. I am 100 per cent sure it will not come on a silver platter.

Hon. Sheila said that when they come here for vetting that we shall be looking at their grades. I hope that when that time comes, I will be here to witness one of them saying that I scored an A in physics and I know it's not very easy; it comes with a lot of hard work and determination.

I also want to thank Hon. Charles Nangulu who has extended a leaf to Hon. Tony Barasa that as members of Sirisia I can see Hon. Mildred is also looking at me. Thank you Hon. Psero. They are going to come up with a formula of ensuring that our students who are going to sit for the KCSE exams this year are well fed, so that they can undertake those exams when the stomach is very complete.

Finally...

Mr. Speaker: What do you mean that it's complete?

Hon. Benjamin Otsiula: Very complete. You know during those formative years.

Mr. Speaker: Are you saying he is half stomach now?

Hon. Benjamin Otsiula: Yes, I presume so. During those formative days remember we used to have boiled or roasted maize and you carry water in the *kimbo* so when the teacher is busy teaching sometimes you forget and put the hand inside the pocket and throw the pieces inside your mouth.

Mr. Speaker: Hon. Otsiula, I haven't known any of my members who is aware of the sign language you are using.

(Laughter)

Hon. Benjamin Otsiula: But to get Hon. members who are willing and ready to come in to ensure that our young sisters are going to eat meat and rice when they are sitting exams is very encouraging.

In this House we legislate, represent people and oversight meaning we also put a lot of pressure on the County Government to deliver on the expectations of the people of Bungoma County. We debate the budget and approve it here, when they hear about scholarship, bursary, and these Honourable members come here examine the documents, debate the budget and approve money. That money eventually reflects in the budget and trickles down to the various wards, that is where they apply for the ward bursaries and they are considered. It's a role played by this House. So, as they go back home, they have very fast hand knowledge and information of what transpires in the County Assembly of Bungoma.

(Applause)

Mr. Speaker: Thank you, Hon. Otsiula, our Chair Committee on Education. Honourable members, on behalf of the rest of the Honourable members who haven't spoken and County Assembly administration and management jointly wish the candidates of K.C.S.E their best

of luck in the examination. Equally wish the remaining form one, two and three as they prepare to have their end of year examination all the best.

MOTION

REPORT BY THE COMMITTEE ON DELEGATED COUNTY LEGISLATION ON BUNGOMA COUNTY TRADE DEVELOPMENT LOANS FUND REGULATIONS 2023

Mr. Speaker: Proceed, Hon. Florence Juma!

Hon. Florence Juma: I am wondering whether Hon. Otsiula will be saying.

Mr. Speaker: Proceed, that she is now energetic and smiling as it was contrary yesterday.

Hon. Florence Juma: Thank you, Hon. Speaker. I am privileged to move a motion on the Bungoma County Trade Development Loans Fund regulations 2023. Allow me go straight to the preface

PREFACE

The Public Finance Management (Bungoma Trade Development Loans Fund) Regulations, 2023, Legal Notice No. 1 of 2023 was made by the County Executive Member in exercising powers conferred by section 116 of the Public Finance Management Act, 2012 in making these regulations.

The regulations were submitted to the Clerk of the County Assembly of Bungoma on 12th April, 2023 and tabled before the House on 20th June, 2023 hence within the statutory timelines contemplated under section 11(1) of the statutory Instrument Acts, 2023. Subsequently the regulations was referred to the committee on delegated County legislation as provided for in standing order 214(3) of the County Assembly of Bungoma for consideration

Establishment of the Committee on Delegated Legislation

The Committee on Delegated County Legislation is established pursuant to the County Assembly Standing Orders No. 214 which states:

- 1) There shall be a select Committee to be known as the Committee on Delegated County Legislation.
 - 2) The committee shall comprise of a Chairperson and not more than 10 other members.
- Honourable Speaker allow me speak the mandate of the committee and go straight to the committee membership.

Mr. Speaker: Proceed from there!

COMMITTEE MEMBERSHIP

The committee as currently constituted comprises of;

- | | |
|------------------------|------------------|
| 1. Hon. George Kwemoi | Chairperson |
| 2. Hon. Ndasaba Dorcas | Vice chairperson |

3. Hon. Aggrey Mulongo	Member
4. Hon. Godfrey Wanyama	Member
5. Hon. Martin Chemorion	Member
6. Hon. Angeline Rugut	Member
7. Hon. Aggrey Bosire	Member
8. Hon. Florence Juma	Member
9. Hon. Metrine Wilson	Member
10. Hon. Wafula Waiti	Member
11. Hon. Allan Nyongesa	Member

ACKNOWLEDGEMENT

The Committee is alive to the immense support accorded to it by the Members of the County Assembly through their concerns and contributions. This cannot be over looked.

On behalf of the Committee Members, I wish to extend our sincere appreciation for the invaluable support accorded to the Committee by your Office and that of the Clerk in ensuring the Committee discharge its mandate.

I would also like to sincerely thank the Hon. Members of the Committee on Delegated County Legislation for the commitment exhibited during the scrutinizing and compiling of this report.

Finally, it is now my pleasure, on behalf of the Committee to present this report to the House for adoption.

As signed by Hon. George Kwemoi Tendet Chairperson, Committee on Delegated County Legislation.

INTRODUCTION

Bungoma County Trade Development Loans Fund regulation 2023 was established on 5th April,2023 and was submitted to the County Assembly of Bungoma on 12th April 2023.having been tabled on 20th June,2023. It was referred to the committee on Delegated County legislation pursuant to Standing Order 214(3). Further, pursuant to the provisions of the statutory instrument Act, 2013, the committee had to scrutinize the regulation and compile a report.

LEGAL AUTHORITY AND OBJECTS OF PUBLIC FINANCE MANAGEMENT (BUNGOMA COUNTY TRADE DEVELOPMENT LOAN FUND) REGULATIONS, 2023

Section 116(1) of the Public Finance Management Act, 2012 provides for power of the County Executive Committee Member for Finance to establish other public funds with the approval of the County Executive Committee and the County Assembly. Under section 116(2) the law, provides that every County Public Fund established, the County Executive

Committee Member for Finance shall designate a person responsible for administering the Fund. Critically, the Public Finance Management Act, 2012 contemplates that the officer administering the Fund to administer the Bungoma County Trade Development Loan for the County Government in accordance with the framework and criteria approved by the County Assembly.

Objects of the Public Finance Management (Bungoma County Trade Development Loan Fund) Regulations 2023

The object and purpose of the Public Finance Management (Bungoma County Trade Development Loan Fund) Regulation 2023 is operationalizing the specific provisions of section 116 of the Public Finance Management Act, 2012. Further, the regulation seeks to establish a legal and institution Framework to facilitate access to affordable credit by resident micro, small and medium scale entrepreneurs.

The Public Finance Management (Bungoma County Trade Development Loans Fund) Regulations, 2023

Section 116 of the Public Finance Management Act, 2012 provides for the powers of the County Executive Committee Member for finance to establish other County public Funds with the approval of the County Executive Committee and the County Assembly.

Section 116(2) of the Act provides that every County Public Fund established, the County Executive Committee Member for Finance shall designate a person responsible for administering the fund.

Section 116(3) of the Act provides that the administrator of the County Public Fund shall ensure that the earnings of, or accruals to a County Public Fund are retained in the Fund, unless the County Executive Committee Member for finance directs otherwise.

Section 116(4) of the Act, provides that the Administrator of the County Public Fund shall ensure that money held in the fund, including any earnings or accruals referred to in subsection (3) is spent only for the purpose for which the fund is established.

SCRUTINY OF THE INSTRUMENT

The Public Finance Management (Bungoma County Trade Development Loan Fund) Regulation, 2023 seeks to establish a legal and institutional framework to facilitate access to affordable credit by resident micro, small and medium scale entrepreneurs.

ANALYSIS OF THE REGULATIONS

- a) Regulation 2 provides for definitions of terms as used in the Regulations.
- b) Regulation 3 established a Fund to be known as the Bungoma County Trade Development Loan Fund.
- c) Regulation 4 provides for the object and purpose of the Fund.
- d) Regulation 5 provides the guiding principles in the administration of the Fund which includes among others public participation and inclusiveness.

- e) Regulation 6 provides the designation of the Fund Administrator to administer the Fund while regulation 7 and 8 provides for the functions vacation of office of the Fund administrator.
- f) Regulation 9 provides revenue and expenditure of the Fund, where the initial capital shall be appropriated by the County Assembly and other sources of income includes gifts or grants, contribution, sum representing repayment of capital on any loan and interest accrued on the loan. Further this regulation provides for 3% of the sum allocated for the Fund to be utilized for administrative costs.
- g) Regulation 10 establishes the Bungoma County Trade Development Loan Fund Committee and further provides the qualification of members appointed under regulation 10(1) (d) of the Regulations.
- h) Regulation 11 provides for terms and conditions of service of County Committee, while Regulation 12 and 13 provides for vacation of office and function of the Committee respectively.
- i) Regulation 14 provides the delegation by the Committee.
- j) Regulation 15 establishes the Ward Development Loans Committee, while regulation 16 and 17 outlines terms and conditions of service and vacation of office of the Ward Committees.
- k) Regulation 18 and 19 details the functions and conduct of business of the Ward Committee.
- l) Regulation 20 establishes a secretariat to the Fund, while regulation 21 and 22 lay down the composition and function of the secretariat.
- m) Regulation 23 details the criteria to be followed in accessing applicants who qualify to be given a loan, on the hand regulation 24 and 25 provides for the application forms and conditions for issuance of loans. Regulation 24(6) makes it an offence for loan applicant to provide misleading information during filling application form which imposed a fine of Kshs 50,000 or an imprisonment of not less than 6 months.
- n) Regulation 26 provides for the grace period of one month and for the repayment period of two years. Further it stipulates the interests chargeable on the loan to be 5% per annum on reducing balance. Regulation 27 provides that in-case of default, the loan shall be treated as civil debt payable with interests and in case the beneficiary is unable to pay, the guarantor shall be engaged and finally a debt recovery agent.
- o) Regulation 28 provides how documents related to fund shall be kept by the secretariat.
- p) Regulation 29 provides for the Fund Bank Account, while regulation 30 outlines the signatory to the Fund account as; Fund Administrator, Chief Officer responsible for matters trade and Chief Officers responsible for matters treasury.
- q) Regulation 31 stipulates the planning and budgetary process of the fund to be done in accordance with section 125 of the Public Finance Management Act 2012. On the

other hand, regulation 32 obligates the office of the Auditor General carry out audit in accordance with the provisions of the Public Audit Act, 2015.

- r) Regulation 33 provides an avenue for any applicant who is aggrieved by the decision of the board to appeal to the CECM responsible for matters Trade within 14 days of communication of the decision.
- s) Regulation 34 gives power to the CECM responsible for matters Finance to issue guidelines for better carrying out of the provision of these Regulations.
- t) Regulation 35 gives power the CECM responsible for matters Finance with approval of the County Assembly to wind up the Fund.
- u) Regulation 36 provides for consequential amendments (saving provisions).
- v) First schedule provides on the conduct of business and affairs of committees while second schedule provides for an application form.
- w) Third schedule details the products under the Bungoma County Trade Development Loan which includes:
 - i. Individual loan
 - ii. Asset acquisition loan
 - iii. LPO/LSO financing.

Under Section 13

The committee is required why the carrying out it is scrutiny of any statutory instrument be guided by the principles of good governance and rule of law. The committee found out that the regulation;

- A) Is in accord with the provisions of the Constitution, the ACT pursuant to which it is made or other relevant written law.
- B) Do not infringe on fundamental rights and freedoms of the public.
- C) Do not contain a matter which in the opinion of the committee should more properly be dealt with in an act of the county assembly.
- D) Do not contain imposition of taxation.
- E) Do not directly or indirectly by the restriction of the courts.
- F) Do not give restrict retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give in such power.
- G) Do involve expenditure from the county Revenue Fund appropriated through the PFM act 2012 section 116 Part One and approved through these regulations.
- H) It is not defective in their in their drafting and for any reason, in their form, or purport on or for any elucidation.
- I) Does not make some unusual or unexpected use of powers by the Constitution or the ACT pursuant to which they are made.
- J) Do not appear to have had unjustifiable delay in the publication or delaying before the assembly.

K) Do not make rights, liberties or obligations unduly dependent upon non reviewable decisions.

L) Does make rights liberties or obligations unduly dependent in sufficiently defined administrative powers.

M) Do not inappropriately delegate legislative powers.

N) It imposes a fine imprisonment or other penalty without express authority having been provided for in the enabling legislation.

O) Do not appear for any reason to infringe on the rule of law.

P) Do not inadequately subjected the exercise of legislative power to the county assembly scrutiny

Q) It accords to any other reason that the committee considers fit to examine

The Committee Observations,

The committee observed the following;

1. Cognizance of the fact that under regulation 13 II, one of the functions of the county trade loan management committee is to approve the application form. Therefore, the fund administrator shall be the final approver on the application form instead of the word administrator and thus the application form should be amended so that the fund administrator is the final approver.
2. That regulation 26 on grace period of successful applicant, and the grace period provided in the third schedule are in consistence. Whereas in regulation 26 gives one month grace period, and in third schedule provide a two month grace period, the committee urges the regulation making authority to amend this regulation and third schedule to reflect two month grace period.
3. That regulation 33 provides an avenue for any applicant who is aggrieved by the decision of the board to appeal to the CEC to the CECM responsible for matters Trade within 14 days of communication of the decision. Whereas in the regulation, no board has been established thus the word board need to be substituted with the word committee. Regulation 36 provides for the review of the draft Bungoma County Trade Development Fund regulation 2014 whereas the approved regulation cannot be used to review a draft regulation. Such provisions apply to the published and approved regulations only. Thus the committee urge the executive to delete regulation 36 part one and part two entirely, that the second schedule provides for a loan application form which bears name Ward trade loan scheme instead of county trade development loan scheme, which is the name of the scheme established under Regulation three of the regulations.
4. To this end, the regulation making authority is urged to amend the title of the application form to reflect the name of the fund so as to read bungoma County trade development loan scheme.

The committee recommendations

The committee recommended the following;

That pursuant to standing order 214.5 B of the County Assembly of Bungoma Standing Orders, the Committee recommends that this House to annul regulations 26 part 1, 33, 36 second and third schedules to the public finance management Bungoma County trade loan fund regulations 2023 gazetted on the 5th of April 2023.

Next, we have the adoption scheduled which has all the committee members that have appended their signatures.

The annexures has the minutes for the adoption of the report and the Bungoma County Trade Development Loan Fund Regulation 2023.

Mr. Speaker: You proceed and invite your super seconder.

Hon. Florence Juma: Allow me invite Hon. Martin Chemorion to Second.

(Applause)

Hon. Martin Chemorion: Thank you, Hon. Speaker for giving me this chance. First of all, I want to thank my able colleague for moving the motion articulately and being audible. It is the responsibility of the County Government to empower our people to at least to improve their livelihoods to alleviate poverty.

We know it's the responsibility of the CECM - Finance to establish this kind of funds; he has to provide the proper mechanisms and structures of controls and efficient management of the fund. So as the report was being moved, there are some errors or omissions that were identified in the regulations that has just been read.

First, we have heard the reporting and approval recommendation structure, which is not very clear. The Ward administrator and the Committee responsibilities are not very clear in the approval. You find that a form at the Ward level and yet you have a structure called Ward development is a Loan scheme at the ward and yet the chairperson cannot recommend or endorse the proposals or the applications that have been raised by the traders, so that they can they can be processed for financing.

So such kind of omissions and errors cannot go without question and allow us to pass without proposing some amendments. It is the responsibility of this House to ensure that this is done so that we can safeguard the public funds. I know these things are done at the committee level the CECM who is in charge of trade and under the guidance of the finance person who appoints the administrator is the responsibility of the committee in charge of trade in this House to ensure that everything is done accordingly and that's why we are proposing that it is proper for us to do the consultation; we know there is public participation that is done by the

executive and even the assembly but it's also proper for us to consult the delegated committee so that we avoid the risks or the risks that may occur. We want to manage the risks, identify, assess them and evaluate so that we don't lose public funds.

So, that is a suggestion that we are putting it forward because in that delegated committee, we have to see the entire statutory document, the instruments that they are followed to the latter. Therefore, I do second that these regulations are fatally defective as they do not observe the basic principles of good governance, efficiency, openness and transparency and furthermore, it is...

Mr. Speaker: Hon. Chemorion, just come out clearly here because that line of your seconding it means there is nothing we are supposed to approve here. I always give an example that if you are having a mango and one of the side is not good, you take a knife and remove that area which is not good. So you should be in that line of submissions. Proceed please.

Hon. Martin Chemorion: Thank you, Mr. Speaker for that correction. So some sections are defective and improperly drafted. So I second that this House do adopt the report that has been put forward.

Mr. Speaker: Thank you, Hon. Chemorion. Honourable Members, a motion was moved and seconded that the House adopts the report by the Committee on Delegated County Legislation on Bungoma County Trade Development Loans Funds Regulations 2023 as laid before to the table accordingly. I propose.

(Question proposed)

Hon. Chemion proceed,

Hon. Francis Chemion: Hon. Speaker, I want to contribute in question form.

Mr. Speaker: Hon. Chemion now if it is in a question form, is the speaker to respond or the mover to respond accordingly?

Hon. Francis Chemion: The mover

Mr. Speaker: It's okay, proceed

Hon. Francis Chemion: Thank you, Mr. Speaker. I listened to the gracious honourable lady whom I fought for yesterday to ensure that she doesn't collapse. Today you could see she was very energetic and read the motion in a very good way and from her reading, there are sections the committee has recommended to be annulled. There are other sections that they have given their opinions, they have also given the recommendations. Based on the seconder and the mover you see this is a document that came from the executive and it must have been interrogated by the mother department.

The mother department is a trade department but that does not mean that the Delegated Legislation Committee cannot play its role. Mother departments will always look at it but eventually everything is left with the Delegated Committee, so that if the mother department did not see other things they are helped again by the committee which is charged by our

Standing Orders to look at these laws that are brought before us. Therefore, what they have done is correct. Whatever they have said is also correct because I could call them the third eye. We are the first, the second and now it came to Delegated the owners of laws and regulations. They look at it using the third Eye .With the weak regulations we lost millions of shillings that's the word I may use. The trade loan was given to beneficiaries in our wards. If you look at reports that have come before this House, a lot of money has been lost in people's pockets because of the weak laws that we had.

So by tightening these regulations, the monies, the public funds that we are giving to our people will come back, so that others who wish to benefit from the same kitty are also getting that benefit. So we should endeavour as a House to continue looking at these regulations all the time, because there is always room for review but you know, the Government of Bungoma came in power with a very big promise that as they assume office, they will ensure that the small scale traders get money for their trade.

The Budget Committee and this House passed a budget for the same. The money is there but the only impending issue was the regulations. Now that it has come before the House, I want to thank the Chair and the committee for ensuring that it has come here today and I want to urge the Honourable Members that we dispense with that report today to allow the executive start releasing the same funds to the small scale traders who are eager to get something from this government.

For the Trade Department, I see the chair is with us here. I want to implore the chair, that the House is doing its work today. The back now would stop with that department. So the chair should help us ensure that these monies reach their destinations as early as possible. You know, this plan that we have Honourable Speaker you know the better plan. The bottom up economic transformation agenda that is there looks at the people at the low pyramid and therefore, for us to enhance their livelihood and make them dignified in society we need to advance these loans to them and I know the interest rate is very low and it is going to help most of our people in our wards speaker I support the motion.

Mr. Speaker: Thank you, Hon. Chemion. Hon. Ali Machani,

Hon. Ali Machani: Thank you, Hon. Speaker. First of all, I want to thank the mover of this report none other than Hon. Florence. I want to thank both Coalitions for having given us ladies and men of value.

Regulation is there to operationalize any event that comes within the working system. Before that, we came up with some rules and procedures in the name of Act and after that without regulation, no any government system will operationalize any activity.

From what they have put before us is that we had some loopholes, so what they have done is to make sure that they concretize how these funds are going to be given to our people to run

small business. When proposals come from the executive, when it lands to the mother committee, it is their duty to clear off those grey areas they see.

For example, we cannot again give the executive powers to do some amendments. It is the role of the committee to amend and give us proposal where the Speaker can assist us to give more flesh on it.

The mother committee have proposed these amendments, so as a House we approve those amendments, which has not come out very clear. Maybe I was resting my eyes, but it has not come out clearly that they proposing approval by the House.

We should not again refer to the executive because they have already given to us the document and the mother committee was facilitated properly by this House to go and work on it, and Hon. Florence coming to reply, I know she will add more flesh on it.

They have done a very fantastic and noble work, which require more appreciation that as a County Government, the Executive side, the Governor who is now currently out of the country, during his swearing in he promised to boost small businesses through trade loans. During his inauguration, he promised tax holiday to businessmen that have been implemented. I have not seen, but now that now you are going to give them this document which is going to assist to operationalize business to improve our revenue.

In the First Assembly we came up with a document, which from where I sit, it was not really productive that when a society grows to some level that's where the amendments will always come in because once the need is of demands always amendments will arise.

The useless part of it is that our community we give them money and when elections time is approaching, they will always come and say we were given as a gift. Now we are not going to pay it. Even my people came up and said Yes, *Mheshimiwa* Ali gave us this money, but now, when he loses, then we will not pay again and that was a campaign tool by some opponents.

So we need to train our people to stay like people from Central. Central you give someone 20,000 tomorrow, you will see him driving a Nissan. So the minus serious regulations and that are going to bind them because when we give them money they will always receive with the two holy hands but tomorrow when you go and demand for that, because it is a revolving fund, they will not pay back. Now we want to tighten these regulations and with your guidance being a lawyer of high standards that we make sure that this document, when given money, you will not run away and say yes, today I'm shifting from Maraka I want to go to South Bukusu now that will not pay this money. If national government gives you money if it is a revolving fund you pay back but when the County government gives you money, you run away and go to Lubunda town in Bumula you marry another wife, then you disappear hiding there...

Mr. Speaker: Now Hon. Ali Machani just clarify if it's the man running to Bumula and marrying a second wife, what of the woman now?

(Laughter)

Hon. Ali Machani: Hon. Speaker that is the dilemma now of being given money minus a plan.

(Loud consultations)

Mr. Speaker: Hon. Sudi you are out of order.

(Laughter)

Hon. Ali Machani proceed.

Hon. Ali Machani: Hon. Speaker, thank you for protecting me because the Whip Hon. Sudi of South Bukusu came up and I think he was going to destroy me.

Mr. Speaker: But you are aware in that area nearly everybody is a polygamist?

Hon. Ali Machani: You know it is honoured even in the Holy Books, when you marry more than one procedurally it is accepted but if you practice monogamy it is not allowed so this is another discussion of a different platform.

Mr. Speaker: When you say that, Bishop Caleb and George Makari are wondering because to them they know polygamy is wrong.

Hon. Ali Machani: Hon. Speaker, I think with your guidance you go to the old testament even Abraham himself he is given a name as a father of faith but he had two wives. David, Solomon all these we pray and refer to them they had more than one and being very open not hiding within the corridors. So whether bishops will come up with verses but we pray the prayers of Abraham, *Musa* and everything, so we want to say this. We want when you apply for this money, we want these regulations to bind you, you can't run away.

You should also give proposals that will ignite if money comes to you, you cannot change it from the intention of requesting for the same money you change to something else and also such regulations will assist us. Today if Governor A is not in the office, you can't use that because you are loyal to him change tomorrow if we have another Governor B you want to shift and run away even in our own respective wards.

You know where we come from, our community, they are not very vast in business. So we want these regulations and whatever we are approving in this House to assist us so that money can be recovered. I saw recently when my Member of Parliament Hon. Martin Pepela when he was giving money to the constituency team. I saw a group which was given 500,000. A group of women very organised, seriously, strategically positioned receiving 500,000. Today you visit that group they doing very well.

So such a money if this regulation will be approved today in this House then the executive they work and be committed so that when we give such a money because we budgeted for this money we approved in this House, we were only waiting for this document so that we can operationalize and funds be given to our people so that they can do business and it is only business whether we talk bottom up or top bottom, whatever side we go even horizontally,

the economy is not within our control the economy is just badly off .You can see even in our payrolls there is another addition of 2.7% those who are going to receive salary whether you are celebrating put them up or down, you are going to be in troubles. So it's only business that is going to save this country. I rest my case. Thank you.

Mr. Speaker: Hon. Ali Machanim you know I didn't not want to interrupt you but now when you say... Hon. Sheila proceed

Hon. Sheila Sifuma: Thank you, Mr. Speaker, Sir, for the opportunity to share thoughts on the motion and maybe I will just start by notifying my colleague Ali Machani that the direction of the economy is bottom up and nothing else. So he should be informed. Maybe as I start, I want to thank the committee for the recommendations they have made. However, some are not very clear. Maybe with your guidance Mr. Speaker, we will know what exactly the committee meant with some of the recommendations because they didn't come out with a lot of clarity.

The trade fund in itself came in to be able to assist the traders of Bungoma County to be able to do business and just as even what the national government is doing where it's supporting hustlers with different financing that are affordable. We want to see this trade fund for Bungoma actually working and helping the people of Bungoma County and just to note, we know previously we didn't have regulations that guided these funds and that's why we saw there's a lot of money lost because the money that was loaned out was never recovered because there was no regulation on how it can be recovered and right now we have lost a lot of money to traders who do not want to pay whether for political reasons or any other reasons best known to them.

So I am of the opinion that, we can pass the regulations. However, with a few amendments because even some of the proposals that the committee has given for example, where they are saying the final approval shall be done by the fund manager and not the ward admin. I think that is a very fair regulation because then it brings a level playing field for every trader in Bungoma to be able to apply and get an equal chance because at the ward level, you might find that the ward admin does not like you or maybe for any personal reasons they might limit you but at the fund management level at the county level, you will be judged on whether you qualify or not because in high chances the fund manager will not know you personally so I commend so much that recommendation by the committee. I think it's a step in the right direction and as part of the Mother committee or in trade committee, we are ready to also support in any amendments moving forward thank you.

Mr. Speaker: Thank you, Hon. Sheila. I will have Hon. Tony

Hon. Tony Khaoya: Thank you, Hon. Speaker. First, I want to thank The Committee on Delegated Legislation, the leadership of the same committee and also to applaud our sister Hon. Florence for ably reading out this motion. The key issue here is that we had issues with the regulation 2014 and the leadership of Delegated Committee with the guidance of Trade Committee; they have come up with this regulation for this House to pass so that we can remove the bottle necks that has delayed the disbursement of funds.

On the observation under chapter four; The committee has observed that the regulation 26 on grace period of successful applicants and the grace period provided in the third schedule are inconsistent whereas regulation 26 gives one month grace period and the third Schedule provides for two months grace period. So the regulation 2014 is inconsistent with what we are applying. Like for example, if somebody has applied, you are talking of one month and the other one is talking of two months, that's why this able committee has gone out, remove the inconsistency. And in the wisdom of the committee, they have said we do away with the Standing Order. The Committee recommends that the House to annul regulation 26 that is giving an inconsistency of one month then as a House we settle for the two months.

The same committee in their wisdom which they have done it very well under observation number three they are saying that regulation 33 provides an avenue of an applicant who is aggrieved by the decision of the board to appeal to CECM responsible for the matters 'the trade' within 14 days for the communication of that decision. Whereas the regulation no board has been established thus the word board in the wisdom of this able committee come up and aid lets substitute the word board and instead give the word committee that is recognized by this regulation, so I want to applaud them and they are coming out and saying under the recommendation they are saying also that this House to annul regulation 33 which is providing the word board that does not exist anywhere and we replace with the word committee, so that we have that consistency.

If you allow me to read through observation number four, they saying regulation 36 provide for the review of the draft Bungoma County Trade Development Fund regulation 2014 whereas the approved regulation cannot be used to review a draft regulation. Such a provision applies to published and approved regulations only, thus the committee urges the executive the word regulation 36(i) and (ii), we want to do away with inconsistencies and in the wisdom of this committee, they have recommended, that this House to annul section 36 and the second schedule to the Public Finance Management Act.

We are also having some inconsistencies in the naming of the fund and have observed it under observation numbers five. They are saying the second schedule provide for a loan application form which bears the name Ward Trade Loan Scheme instead of County Trade Development Loan scheme, which in the name of the scheme established under section three of the regulation. To this end the regulation making authority is urged to amend the title of the application form to reflect the name of the fund as to read Bungoma County Trade Development Loan.

I was a Chair of PAC and there is no day we will summon a ward administrator to appear here to take responsibilities of misappropriation of funds, anybody who will be called in this House is Fund administrator

(Applause)

I want to agree with the committee for the fund administrator to have a final say on the approval of this, because he will bear the final responsibility and the back stops with the funds administrator. I support.

Mr. Speaker: Thank you, Hon. Tony. Hon. Members for guidance purposes, the work of the Committee of the Assembly is either to annul or affirm. Now you cannot amend what has come here. If it has a defect here, you recommend for its nullification. Nothing else. You cannot be able to propose. So as you are debating, be aware of that position. Hon. Waiti, please proceed.

Hon. Wafula Waiti: Thank you, Mr. Speaker, for allowing me also to send my views on this motion. I want to draw your attention that I am a member of both the Trade and Delegated County Legislation committees. Since I sit on both committees, I know how the Committee on Trade has suffered in the past. This is the committee that funded our traders and in the past, they lost a lot of money due to lack of regulation. The people who issued out loans were unable to collect the money back and that is why we have come up with this regulation.

We have Ward Administrators who were previously this privilege of selecting the applicants of the very fund and at the same time these are the same people who will approve the successful applicants to be awarded the loan. So in the long run, these people can be having their interest. The Ward Administrators are transferable, they can do some bad things in a particular ward due to their interests and when they are transferred that fund cannot be easily taken back. As a committee we are avoiding that conflict of interest and that is why we are recommending that the fund administrator be the final approver for this fund. So that going forward, this County cannot go again in the books of losing money every other time. Otherwise, if that one is done, as a committee, we shall move forward in a smart manner.

Mr. Speaker: Thank you, Hon. Waiti. Hon. Deputy Speaker,

Hon. Stephen Wafula: Thank you, Hon. Speaker. I stand to also give my input to this. First of all, I want to commend the Hon. Florence. You realise that yesterday she was very disoriented but today, she's actually herself.

Mr. Speaker: Hon. Deputy Speaker. Which instrument were you using to measure the level of disorientation?

Hon. Stephen Wafula: Hon. Speaker, when someone yawns, stretches and looks, I mean dull then that's an indicator of this disorientation, which actually happened last evening, yesterday, and today we see we saw a different character in the very member, and we appreciate the energy that she's exhibited today. Even the neighbour the Hon. Machani Mutoka, I am very sure you looking at his smile, is actually in confirmation of what I am saying.

Fast forward to the issue at hand, we appreciate the committee for the work done and maybe for the purpose of the entire membership to understand that the work of this committee actually when they work, they either help us annul, accede, if they accede then actually communication is made to the relevant department and if they do not accede to the same, then we have no option but to accept and the instrument is annulled.

The mandate of this committee as enshrined in the Standing Order No. 214(5) which says if the committee resolves, that the statutory instrument be acceded to it shall issue a statement informing the House and the Clerk shall convey that resolution to the relevant county department or the authority that published the statutory instrument and in this respect, the statutory instrument we are talking about is actually the regulations or B if the committee does not accede to the statutory instrument, the committee may recommend to the House that the County Assembly resolves that all or any part of the instrument be annulled and if the instrument if a resolution is passed by the House within 20 days, on which it next sits after the instrument laid before it under paragraph three, that all or part of the statutory instrument be annulled the instrument or part thereof shall henceforth stand annulled.

The work of this committee is like marking either wrong or right and there is no way we can correct a wrong. In this respect, I want to commend the committee. Looking at this fund that the regulations that have come before the House tells you that the success of this fund should take cognizant of the factors that led to the failure of the same fund when it was brought forward in 2014. We can't do things in the same way and expect to get different results. When we do something and realise that we did it in a wrong way then the drafters should actually try to come up to do things in a different way by learning from failures of 2014. The failure of the fund was attributed to bad politics, as mentioned by the Hon. Machani Mutoka when the politicians like ourselves told the electorates that this money is a gift and do not pay back.

I want to believe that drafting of regulations in 2014 is another factor that led to the failure of implementation of this fund among other issues, but now today, again, we are staring at another disorganization. Why am I saying that? Because the drafters are at it again? They are like teachers, if I may use the examples of teachers, and it's very unfortunate when a teacher is given an opportunity to set an exam and you set an exam with glaring mistakes, and you expect results out of the same exam.

The drafters are not keen to detail and that's why we are looking at gaps like the issue of committees without mentioning committees they are mentioning boards. It will mean that our electorate who will be the beneficiaries of this, there will be a lot of push and pull on such small things. Again, what makes this look very wanting is the issue of the drafters trying to run away from addressing the issues in a very open and simple way because the consumers of this, we understand some of them have not gotten maybe access to education, you know, some of them have not gotten exposure and therefore, the drafters should use a language that is so simple and adhere to issues that will make it easier.

Last time they used the Ward administrators who were the conduit that made the fund fail because they give maybe to those people they know. This is Kenya sometimes even someone can demand to get some *TKK* I mean those people who like getting something before they help. And if you don't give maybe what he/she demands, you may not get the approval. So giving this fund to be approved by the Ward Administrator is a setback.

I want to agree with the committee that the final approval should be done at the County Headquarters by someone who is not in contact with those people; so that everybody can get fairness and access to this fund that is geared to change the lives of our people back home. I support that we annul this same thing.

Mr. Speaker: Hon. Stephen, from your submissions, you are supporting the entire annulment but reading Standing Order NO.214 (5) (b) it is basically allowing annulment of any part of the regulations not the entire one, and their proposal is in line with 5(b) that not the entire regulations but some specific portions.

Hon. Stephen Wamalwa: Honourable Speaker, I support the committee on annulling entirely what they have proposed.

Mr. Speaker: Those relevant regulations we annul?

Hon. Stephen Wamalwa: Yes, that is what I am agreeing with, that we support the committee on annulling the proposed sections entirely.

Mr. Speaker: Thank you, Hon. Stephen Wamalwa. Hon. Ipara,

Hon. Johnston Ipara: Hon. Speaker, I also want to thank you for allowing me to contribute towards the report by the Delegated Committee. First of all, Hon. Ali was talking about several wives and if you read 1st Corinthians, Paul the apostle states that a man is to have his own wife and a wife her own husband.

Mr. Speaker: Hon. Ipara, where I don't agree with you is when you say all his quotes none came from the New Testament. He spoke from the Old Testament alone, so when you do so, in essence you are injuring the feelings of Hon. Everton Nganga and others here including my Deputy Speaker, so that line is not friendly. Proceed,

Hon. Johnston Ipara: Hon. Speaker, I was provoked by the previous speakers, if you heard what they spoke they were giving advice to our students from Lwandanyi, it is like they were issuing threats and the second word I was waiting from you is to pronounce that you are appointing a committee to investigate the threats that were issued to the students.

The matter that we are discussing is very important to this County. You remember in the year 2014 this particular purported Act was used to disperse over 115 Million and it has been a major challenge for the County Government to recover that money because members who were there told people the money was a reward for work well done. Mr. Speaker, even when a good law is made and it does not have honest and responsible women and men of integrity it cannot work.

We wanted this particular law to provide for the mode of repayment of that loan that we are giving to an applicant who is a local trader within Bungoma County.

We also want this law to cushion us from the risk mitigations particularly you remember up to today, as I stand here without any fear of contradiction, we have not been able to recover

over 100 Million that was disbursed during that time. This particular regulation will give out the way an applicant will apply and the procedure that will be followed until when the loan is awarded. These regulations will provide procedures of holding applicants accountable until when they repay the whole amount that was taken.

I have listened to our able speaker who presented the Delegation report, the areas that they have mentioned that are defective one of them is replacement of words, to replace the word 'board' with 'a committee' and also to make sure that one month and two years don't contradict each other, we go for a grace period of 2 months. If you looked into those proposals, they are not major parts of this regulation and they will hinder our County Government from losing any money. I want to agree that we can apply that section and particularly sub-section 5, so that we approve these particular regulations and make sure that we immediately move to the ground and the traders within Bungoma County apply for this particular loan.

As elected members, every time you go home the first question people ask you is about when the Trade Loans are going to be operationalized and if again we dilly dally and say that we want to run away because of the fear that those minor amendments and defects pin pointed out by the able Delegated Committee will hinder us from approving this Act then it means that actually we are doing a disservice to the people of this County.

I want to plead with the Hon. Members in their own wisdom if we can approve these regulations with what has been proposed and with time we can come back and amend them because they will not hinder anything on the recovery.

If I can talk about the history of the previous one, the major mistake that was done is it was never gazetted, and all lawyers say anything that is not gazetted you cannot refer to it and you cannot term it as a law, and the committee has also concurred with it. It was a serious and major issue of discussion during our meetings where the respected lawyer Hon. Linda Kharakha was one member who was actively assisting and dealing with it.

Lastly, I want to plead that kindly in your own wisdom, let's approve this Act as it is to operationalize the fund then amendments will follow.

Mr. Speaker: Thank you, Hon. Ipara. Hon. Florence Juma,

Hon. Florence Juma (The mover): Thank you, Hon. Speaker. First and foremost, on amendments, the Statutory Instruments Act only gives the regulation making authority and powers to amend the regulation. As a House, we can only accede or annul. We do not have the powers to amend and even as a committee we are guided by Statutory Instruments Act 23 of 2013 and as a committee we were able to scrutinize one by one that is why we were able to make the recommendations.

We didn't say that the entire document was wrong but we were able to point out just a few areas that we thought needed some amendments and if we don't do that, remember that this is a document that will eventually get out to the public, and Somebody somewhere will go to

court and say even as we were using this report to operate with those grey areas that we are pointing out, if we do not put them in proper order right now then they will eventually still come back to us.

Maybe going forward, we need to have those consultations especially with the mother committees and the executive because once we do that we will be able to address those grey areas at early stage. When it is at draft stage, we can be able to even make those amendments but once it is published the story actually changes.

Also the aspect that came out was that of using draft regulations to operate because once it is a draft and it has not been published, it has a period and once that period lapses then it becomes null and void. We cannot also purport to review a regulation which is still in draft form as we are doing because when you look at 36 on our recommendations where it provides for the review of the draft of Bungoma County Trade Development Fund regulations. They were purporting to review a regulation which was not even in place, and that is why we recommended that the whole regulation 36 is deleted entirely.

Finally, I would suggest or recommend that the Executive also moves with speed; they are a bit slow when it comes to drafting of regulations and also maybe bringing them forward. In future, I hope that when there are regulations in other committees they can move with speed and give it priority.

Mr. Speaker: Hon. Florence, before you finish, you know you have just said you go and sit quietly so as a House do we look at you and keep quiet or.

Hon. Florence Juma: Sorry, I humbly urge this House pursuant to Standing Order 214(5) (b) which recommends this House to annul, I humbly ask this House that we annul these regulations.

Mr. Speaker: No, you seek for the approval of the report, it ends there, because you have read 214(5)(b), if you annul that means you are taking the same to the Executive and that means we are going back to square zero. When we adopt the report, it has some areas which are okay and some which are defective; which you are seeking to be nullified. We are talking of section 26(3) (3) those of specific areas.

Hon. Florence Juma: Sorry Mr. Speaker, I humbly request the House to adopt the report.

Mr. Speaker: Thank you, Hon. Members. Allow me now to proceed and put out a question to the motion beforehand. Hon. Members, a motion was moved and seconded and debate having ensued that this House adopts the report by the Committee on Delegated County Legislation on Bungoma County Trade Development Loans Fund Regulations 2023 laid on the table of the House on 12th September 2023`

(Question put and agreed to)

The report of the committee, the observations and recommendations are hereby adopted by this House accordingly.

Next item,

THE REPORT BY THE PUBLIC ACCOUNTS AND INVESTMENTS COMMITTEE ON THE AUDITOR GENERAL'S REPORT ON FINANCIAL STATEMENTS OF BUNGOMA COUNTY ASSEMBLY CAR LOAN AND MORTGAGE FUND FOR THE YEAR END 30TH JUNE 2019

Mr. Speaker: Chairperson before you proceed, you have a copy of your report. Look at its membership, because I am seeing a situation where you will move the report and lack a seconder. The seconder has not signed it, how can he second it? The membership which is here in that committee, those ones that I have seen they have not signed that report. This is why I insist on signing a report in the same venue. You cannot have 5 reports three signed by 5 people and the rest signed by all the members of the committee, that means there was no meeting.

Members, why we insist that when you are adopting the report, let it be in the same meeting. Let all the eleven members or five like mine but here the members who are here and in that committee none of them has signed. Of course they know themselves led by Hon. Wanyama, and Hon. Nangalama was here then you told her to take off so even if we are to proceed in its present state, you cannot second what you did not adopt at the committee level. My humble request to you, when you go for adoption, let every member sign that report in that single meeting. Suppose they take this copy of mine to confirm if you attended then you will be surcharged.

Having confirmed that Hon. Job and Hon. Wanyama signed, proceed and move the motion. Yes Hon. Job, what is the issue before we proceed

Hon. Job Mukoyandali: Hon. Speaker, I am the only Job in this Assembly. I have not heard of any other, you mentioned my name and it got me by shock. Maybe you clarify why.

Mr. Speaker: You are not a member in this committee, I was very specific that Hon. Kennedy if you say Hon. Mukhanya, you know where he is. The report is only signed by 5 members out of eleven and for those who are here, it is only the chairperson. Hon. Job, you are not in this committee, Kennedy is in this committee but he has not signed it, let's face it. Hon. Luseneka and Hon. Jerusa have not signed it. Hon. Chikati is signed but is nowhere to be seen.

Hon. Job Mukoyandali: Thank you Mr. Speaker, I was just wondering because I am not a member of that committee.

Mr. Speaker: I used an example.

Hon. Job Mukoyandali: Thank you, obliged Speaker

Mr. Speaker: Yes, so let's allow the chairperson to move, the other side shows members at the committee level, you know when you do a report for your information there is supposed to be at least 4 copies. This one is written Hon. Speaker's office which was brought and

received in my office. The one he is having is signed by all the members, let's proceed. I know where you are heading Hon. Sudi.

(Laughter)

Hon. Everton Nganga (Chairperson, PAIC): Thank you, Hon. Speaker

Mr. Speaker: Members, let me make a humble request, the Committee on Public Accounts and Investments is supposed to undertake a joint report with Trans Nzoia County and they may be out in some days when there will be a sitting, allow them clear this report today please.

Hon. Everton Nganga: Thank you, Hon. Speaker, if you can protect me from Hon. Sudi

Mr. Speaker: I have said they are going and I have approved there memo, but Hon. Nangalama, Mutiambu and Ken are there, let them proceed. I know where you are heading to, let's proceed.

Hon. Everton Nganga: Thank you, Mr. Speaker. This is a report of Public Accounts and Investments Committee on the Auditor General's report on financial statement on Bungoma County Assembly Car Loan and Mortgage Fund for the year ended 30th June 2019.

With due respect and with your guidance, if you can allow me begin reading from membership and skip preliminaries that is on page 8 if you can allow me.

Mr. Speaker: Yes, please proceed from 1.5

Hon. Everton Nganga: Thank you, Mr. Speaker, currently the membership of Public Accounts and Investments Committee we have:

- | | |
|---------------------------|------------------|
| 1) Hon. Everton Nganga | Chairperson |
| 2) Hon. Timothy Chikati | Vice Chairperson |
| 3) Hon. Everlyne Mutiambu | Member |
| 4) Hon. Metrine Nangalama | Member |
| 5) Hon. Stephen Kaiser | Member |
| 6) Hon. Jerusa Aleu | Member |
| 7) Hon. Anthony Lusenaka | Member |
| 8) Hon. Violet Makhanu | Member |
| 9) Hon. Benard Kikechi | Member |
| 10) Hon. Alfred Mukhanya | Member |
| 11) Hon. John K. Wanyama | Member |

ACKNOWLEDGMENT

In conclusion, the Committee wishes to express its gratitude to the Offices of the Speaker and the Clerk for the support rendered to it during the consideration of the report of the Auditor General's Report on the Financial Statements of the Bungoma County Assembly Members' Car Loan and Mortgage Scheme Fund for the period 1st July, 2018 to 30th June, 2019.

The Committee further wishes to thank the Clerk and his officers who appeared before it for their cooperation.

Finally, the Committee acknowledges the valuable input and services rendered by the Office of the Auditor-General and members of the secretariat in considering submissions from the County Assembly.

On behalf of the Public Accounts and Investments Committee, I now wish to table this report and urge the Honorable House to adopt it and the recommendations therein.

The report is by the Chairperson committee on Public Accounts and Investment.

INTRODUCTION

This special audit report covers the financial year 2018/2019 and is issued in accordance with the requirements of Article 229 of the Constitution of Kenya, 2010.

Cash and cash Equivalents

The statement of financial position and Note 4 to the financial statements reflects cash and cash equivalents balance of Kshs 4,973,973 which was the bank balance as at 30th June, 2019. However, a review of the bank reconciliation statements revealed that the management used the bank certificate balances for the three bank accounts instead of the reconciled cash book balances totaling Kshs 10,598,566; resulting into a un-reconciled variance of Kshs 5,624,893 as tabulated below.

Bank name	Account No	Reported Balance (Kshs)	Reconciled Balance (Kshs)	Variance (Kshs)
Kenya Commercial Bank	1220563730	4,958,866	4,958,866	-
Bank of Africa	262490004	6,260	250,000	243,740
Bank of Africa	2624950017	8,847	5,390,000	5,381,153
		4,973,973	10,598,566	5,624,893

In the circumstances, it was not possible to confirm that the cash and cash equivalents balance of Kshs 4,973,973 as at 30 June, 2019 was fairly stated

Management response

The figures have been rectified to reflect the cash book balances. Attached find an extract of the financial statement of FY 2019/2020; reflecting the amended cash and cash equivalents.

Oral submissions

The Accounting Officer of County Assembly of Bungoma submitted the supporting documents to the Committee.

You can check from this report page 31 in the annexure

Committee's Observation

The accounting officer has rectified the financial statements of financial year 2019/2020 to reflect the reconciled cashbook balances.

Committee's Recommendation

The Accounting Officers should always use the reconciled cash book balances in the preparation of accurate financial statements of the Fund.

Lack of Security on Loan Disbursed to Members

Examination of records provided for audit review revealed that the long term loan repayments due totaling to Kshs 276,955,516 under Note 5(b) to the financial statements include a balance of Kshs 255,155,516 for both car loan and mortgages; which were not secured with registration of logbooks and title deeds on joint ownership of the acquired assets contrary to Regulation 8(2) of the Public Finance (County Assembly Car Loan (Members) Scheme Fund) Regulations, 2018. The Regulation requires the logbook of a vehicle subject to a loan from the Fund to be issued jointly registered between the County Assembly and the member of the Scheme and be kept in the custody of the officer administering the Fund until the loan is repaid in full.

Further, the Fund failed to adhere to Regulation 15(1) of the Public Finance Management (County Assembly Mortgage (Members) Scheme Fund) Regulations 2018, which require the Fund to have a charge registered on the property financed through a loan granted and its name entered in all documents of title for such property

Management responses

The Management agrees with the Audit findings. At the time of audit, the management had logbooks and title deeds for Honorable Members but had not been jointly owned due to long process of registration. However most members repaid their loans in full and the logbooks were released to them.

Oral Submission

The Management agreed that they were in possession of logbooks and title deeds for Honorable Members but they were unable to charge them due long process and the requirements needed by their lawyers and they had gone to court and the court stopped the process but at the end they paid their loans in full and the logbooks were returned to them.

At the moment the Clerk assured the committee that he has put a regulation in place to control the situations for clearing loans before being given clearance.

Committee's Observations

1. The Accounting Officer did not adhere to joint ownership provisions through registration of the logbooks and title deeds to reflect the details of beneficiaries and of the Fund.
2. The loan due to members was fully recovered at the end of the second Assembly and title deeds were returned to the beneficiaries.

3. The Accounting officer has reviewed the regulations which will assist in the processing of joint registration of the title deeds and charging of properties given by beneficiaries.

Committee's Recommendation

The Committee recommends that the Accounting officer to always comply with Regulation 15(1) of the Public Finance Management (County Assembly Mortgage (Members) Scheme Fund) Regulations 2022 which states that the board shall have a charge registered on the property financed through a loan granted under these regulations and should be entitled to have its name entered in all documents of title for such property

Un-recovered Loan Arrears

It was noted that in the long term loan repayments due of Kshs 276,955,516 under Note 5(b) in the financial statements was a non-recovered amount of Kshs 33,900,825 relating to loans advanced to members of the first County Assembly who did not make it to the current parliament. It was noted that no progress had been made to initiate recovery of the outstanding loans held by former members in absence of formal security documentation.

Consequently, the Fund was not in compliance with Regulation 12 of the Public Finance (County Assembly Car Loan (Members) Scheme Fund) Regulations, 2018 which states that a loan advanced shall be repaid in full over a maximum period of sixty months and Regulation 13(1) of the Public Finance Management (County Assembly Mortgage (Members) Scheme Fund) Regulations, 2018 which states that a loan granted shall be fully repaid at the end of the term of that Assembly

In the circumstances, it was not possible to ascertain the recoverability of the loan balance of Kshs 33,900,825 reported as at 30th June 2019

Management responses

The Management agrees with audit findings. At the time of the audit, Honourable Members had not serviced their loans and the management took the initiative to write demand notices. Unfortunately the Members went to court protesting on not serving their first Assembly full term thus waiting for the finalization of the decision on the said case before the Apex Court as per the attached documents.

Oral Submission

The Management agreed that they were unable to recover the loan arrears at that time due to the Honourable Members going to court protesting that they had not served their first term in full. That management waits for the finalization of the case by the Apex Court and submitted documents to support their oral submission.

Committee's Observation

1. The Committee notes that the Accounting officer initiated a legal process by writing demand notices to the defaulters. However, the County Assembly was issued a demand notice from the defaulters' lawyer requesting the assembly to stop any legal proceeding until a petition challenging their term period is heard and determined by the Apex court

2. The committee further notes that the County Assembly cleared the defaulted members of the scheme when they exited the County Assembly to contest for the August 2017 election.
3. The County Assembly Service Board did not insure the said loans making it impossible to recover the outstanding loan incase its declared bad and doubtful debts

Committee's Recommendation

1. The committee recommends that the Accounting Officer should asses the recoverability of the debts with a view of making provision for bad and doubtful debts and where the debts could be recovered, the fund Administrator is directed to scale up recovery efforts for the amount due to the fund from the defaulters.
2. The committee recommends that the Accounting Officer should asses the recoverability of the debts with a view of making provision for bad and doubtful debts and where the debts could be recovered, the fund Administrator is directed to scale up recovery efforts for the amount due to the fund from the defaulters.
3. Further the committee directs that in future any amount advanced to members in respect to Car Loan and Mortgage should be fully recovered within the term of the Assembly and no member should be cleared until the amount owed to the fund is fully recovered. This is to comply with the regulation 13 of the Public Finance Management, Bungoma County Assembly Car Loan Scheme Fund Regulations 2022 which states that a loan granted under this regulation should be fully repaid at the end of the term of the third Assembly.
4. The committee directs the Accounting Officer to always insure the loans with a reputable insurance company to secure the money of the fund in case of any eventuality that may lead to the loan being defaulted

Lack of an approved budget

Review of the Fund's Loan Management Committee minutes and financial statements for the year under review revealed that operations of the Fund were not guided by an approved budget. Therefore, administration of the Fund was not conducted in compliance with section 149(2) (h) of the Public Finance Management Act, 2012 which requires the Accounting Officer to prepare estimates of expenditure of the entity in conformity with the Strategic Plan.

In the circumstances, the Fund conducted its business during the year under review in breach of law

Management Response

The Management agrees with the audit findings. At the time of Audit, the Fund Management Committee had not prepared and approved the budget; but moving forward the Management promises to prepare the budget and it will be provided in the subsequent audits.

Oral submission

The Management agreed with the audit findings but by that time, the Fund Administrator had not prepared the budgets. Currently the Fund Administrator is using a template prepared by Treasury for use during preparation of annual budgets.

Committee's Observation

The Committee notes that a template on the preparation of budgets in respects to County Funds has been developed by the Treasury which will guide the budget making process of all County funds.

Committee's Recommendation

The Accounting Officer, pursuant to the provisions section 149(2) (h) of Public Finance Management Act, 2012 should always prepare budgets as guided by the National Treasury and County Treasury.

Outstanding Borrowings by County Assembly Service Board

The statement of financial position of the Fund reported a figure of Kshs 37,331,966 under current portion of long term receivables from exchange transactions, included in this balance is Kshs 36,722,914 in respect of un-refunded borrowings by the County Assembly Service Board as under Note 5(a). This is in contravention of Regulation 4 of both the Public Finance Management (County Assembly Members Car Loan Scheme Fund) Regulations 2018 and the Public Finance Management (County Assembly Members Mortgage Fund) Regulations 2018 which states that the object and purpose of the fund is to provide a loan scheme for the purchase of vehicles by members of the scheme and for the purchase, development, renovation or repair of residential property by members of the scheme respectively

Management response

Management agrees with the audit findings. However, the County Assembly Service Board has tried to reduce and minimise borrowings as from the FY 2021/2022. The borrowings amounted to Kshs 100,005,321 of which Kshs 23, 108,175 has been refunded and another Kshs 15,000,000 is already at the Internet Banking stage waiting for an exchequer disbursement. It will also ensure that outstanding borrowings shall be repaid in time.

Oral Response

There are outstanding borrowings and the Management is trying to make refunds. The challenge they were having was the regulation was not in place by the time. They provided documents on the outstanding balance to the committee.

Committee's Observation

That the current outstanding borrowing stands at 16 Million which is related to members who did not make it into the Second Assembly, however, all member who were re-elected in the Second Assembly had cleared the loan.

Committee's Recommendation

1. The County Assembly Service Board should strive to clear all outstanding trade receivable due to the Fund. Further, the Committee forbids further borrowings from the Fund until the outstanding balance is paid in full. Further the committee forbids further borrowings from the fund until the outstanding balance due to the fund is paid in full.
2. The committee recommends that when the amount owed to the fund is fully recovered and the County Assembly service board wishes to borrow again, the borrowed money should be recovered in the next exchequer release to avert similar scenarios.

Non-Recovery and Remittance of Fringe Benefit Tax

It was noted that the Fund did not remit to the Kenya Revenue Authority (KRA) fringe benefit tax accrued from the low interest loans extended to its members during the year amounting to Kshs 2,947,592 as tabulated below:

Interest @3% P.A (Kshs)	Interest at KRA Prescribed Rate @7% P.A (Kshs)	Taxable Fringe Benefit (Kshs)	FBT @30% (kshs)
7,368,980	17,194,287	9,825,307	2,947,592

Thus, the Management of the Fund did not comply with section 12(b)(1) of the Income Tax Act, 2010 that requires an employer to pay fringe benefit tax in respect of a loan provided to an employee or director at an interest rate lower than the market interest rate. Further, the Administrator was in contravention of section 12(3) of the Act which requires fringe benefit tax to be charged on the total taxable value of a fringe benefit provided by an employer in a month and remitted on or before the tenth day of the following month to KRA

Consequently, the Fund is exposed to penalties and interest due to penalties and interest due to non-compliance with provisions of the Income Tax Act

Management Response

The Management agrees with audit findings. However, through examination of payment by Kenya Revenue Authority, a demand notice was issued and the Funds were remitted by the County Assembly of Bungoma Service Board.

Oral Submission

The Management agrees with audit finding on the demand from KRA on payment and the County Assembly of Bungoma Service Board remitted the tax benefit.

Committee's Observation

The Accounting Officer has since paid Kshs 2,947,592 owed to the KRA in respect to fringe benefits tax.

Committee's Recommendation

The Committee recommends that the Accounting Officer to always comply with Section 12(B1) of the Income Tax Act 2010 to forestall such Audit queries.

On page 19 we have mentioned the annexures, we have the Auditor General's report on Members Car Loan then we also have minutes of the committee like that. We have also the adoption schedule where all Honourable members signed.

Thank you for protecting me to move this report; I therefore request Hon. CPA Wanyama Kennedy to second the report.

Mr. Speaker: Thank you, Hon. Nganga. But the only thing we don't want to engage in is the scaring CPA title, proceed Hon. Ken.

Hon. Kennedy Wanyama: Thank you, Mr. Speaker. I rise to second the report of the Public Accounts and Investments Committee on the Auditor General's report on Financial Statements of Bungoma County Assembly's Car Loan and Mortgage fund for the year ended 30th June, 2019.

I want to touch on a few areas covered under the audit in terms of advisory; the first section is on cash and cash equivalent. You note that there was a variance of Kshs. 5, 624,893 between the bank balance and cash book balances. As much as this has subsequently been reconciled and cleared, our recommendation to the accounting officer is that he needs to put in place monthly cash and bank reconciliations to ensure that any variances are cleared within the financial period so that we can have cleaner audit reports.

The second area is on lack of security on loan disbursed to members. As at the close of the financial period, we had a balance of Kshs.255, 155,516 for both car loan and mortgages which were not secured with registration of logbooks and titles. This is in contravention to regulation 8(2) of the Public Finance County Assembly Car Loan Members Scheme and Regulation 15(1) of the Public Finance Management County Assembly Mortgage Scheme fund regulation 2018. The accounting officer should always ensure that within the time period upon disbursement of loans, he should ensure that the same are secured so that the County Assembly is secured from any loss that may arise.

Third is the issue of unrecovered loans. This relates to members that never made it back to the subsequent Assembly. It is quite difficult and unfair to follow on members who did not make it back to the County Assembly because these people are frustrated having spent a lot of money on campaigns. To avoid such incidences recurring, the accounting officer needs to re-look at our insurance portfolio, review it to ensure that loans given to members are insured by reputable insurance firms so that we don't incur such losses.

Fourth is the issue of lack of approved budget. As you are all aware, where there is no budget there is always room for mischief. The accounting officer must ensure that at the beginning of every financial period budget estimates are prepared, so that any expenditure is done within the budgets. Preparation of budget estimates ensures financial probity while expensing our finances.

Last but not least is the issue of outstanding borrowings by the County Assembly Service Board. These two funds are supposed to be revolving funds and the issue of borrowing it is okay but it requires discipline. Any borrowings done must be repaid from the next exchequer release if not at a worst case scenario any monies borrowed must be paid within the same financial period. That allows any member that is supposed to get a loan be able to get the funds. We have an outstanding of Kshs. 36 million by close of the financial period then you can realize that some members will be disadvantaged, because they will not be able to get their loans. I second the report.

(Question proposed)

Hon. Ali Machani: Thank you, Hon. Speaker. First of all, I want to thank the Committee on Public Accounts and Investments for coming up with a report and advisory. The funds set aside for car and mortgage was started way back in 2014/15 financial year. As a new product, we managed to get several circulars from different agencies advising on how it should be managed. Car and Mortgage guidelines were clear that you surrender logbook and a title deed. This product came up so that a member of the County Assembly can enjoy a privilege of being hosted in the County just like the members of the National Assembly who are hosted in Nairobi. It is only that the government has never addressed issues surrounding honourable members especially us serving in County Assemblies.

In real sense the car loan could be a grant but here we are talking about the loan and mortgage. It is a loan that money should revolve where if given money you are supposed to pay back so that when other new members come or if re-elected such monies can be used to be given to new members as they are sworn in to take up offices.

In the First Assembly, I want to agree with the chairperson that during this time we had a lot of messes and it is nice to pronounce it, so that it is not repeated tomorrow. In the First Assembly where I served, being a new product, the membership of the committee was drawn from Finance, Budget and others. If you give a chairperson of Budget Committee who is allocating money to chair or be a member and a member from Finance Committee who is chairperson of the same product; I remember that time it was Hon. Nanyakha and Hon. Nyongesa can agree with me that he was the chairperson of loans for car and mortgage. This gives confusion whereby this is a leader and if he has taken money and he is not repaying, it becomes a challenge. With the correction that was done recently, I think it will assist us to improve this facility.

As it stands today, you go to any financial institution have high interest rates and I cannot advice any member to borrow from them. If this product is managed properly with a lot of wisdom and commitment as you have advised this thing will not only benefit us, it will also benefit those who will come after us. I want to thank the Speaker because we have made improvements because we are not represented by our Whips on the committee but majority of the membership is our staff whereby if any mess is done, a member of staff will face the consequences.

Chairperson indicated that the administrator of these funds was unable even to recover money from the first members of the County Assembly; it was tough for us to clear. Under the Constitution, we were supposed to serve for years but you remember the elections in 2023 were done in March, therefore, members were not able to service their loans within the given period. They were less by 8 months. Before we were given this facility, we had commercial loans and this facility was created by the members with the guidance of other agencies which had lesser percentage in terms of interest. Majority of the members went for this facility without knowing that they had loans from commercial banks and their term came to an end when they had not cleared repaying. I think they have a valid case but as an institution we are supposed to recover money.

When you recover and Hon. Kennedy has said, you go to someone at home who has contested twice unsuccessfully and you demand money from him, honestly he can turn against you and may be attack you.

The membership of the committee was also a challenge. Now that the membership has been corrected by the current Assembly with the guidance of the legal team and other agencies, we equally had a challenge on borrowings. This is a political institution. When we want to go for any activity or a challenge has arisen and members want to go for CASA games such borrowings were not properly guided. He has mentioned properly and when auditors are pointing out such anomalies and the committee has given guidance, we must take it severally that the fund administrator should be cautious. We as members also when money is not there and the activity is supposed to be in Kisumu or Mombasa; the issue of welfare; the pressure used to be there necessitating borrowings that were not repaid. That is why the Hon. Kennedy who is the seconder of the motion said that any borrowing must be within that requisition because you borrowed on the minutes.

I appeared before the EACC to explain how the money was borrowed and they did not pay. We had that lapse reason they are insisting that the administrator of the funds and the committee need to be cautious. Borrowings is allowed in any institution but they must be honoured and repaid within the requisition or within that financial year than going to another financial year.

It is high time that the Clerk who is an administrator of the fund and his team to assist us to ensure that there are no variances in recoveries that are being done. If you are given money

late, paying becomes a problem because up to now somebody has not been given money in terms of car and mortgage loan. You can end up not paying the entire amount.

When we agreed as Hon. Members that recoveries can start earlier before even you get your full amount, take an example that up to now you have not been given the money and you are given a year down the line, automatically you will be gotten up by time such that you can't repay the entire amount.

The committee has done its part and we also need timely reporting in terms of quarterly financial reporting on the funds. Previously other members like Hon. Sudi can agree with me we did not have a substantive Committee on Labour and other activities touching on the Assembly. The Service Board could do its work under Public Administration but today we have a substantive committee where the Service Boards hands over its reports to the Labour and Social Welfare Committee their quarterly reports which are presented before the House. There are some improvement but still there is need to tighten because where finances are, there is no trust. The Speaker cannot trust the administrator and the administrator can't trust the staff on the committee, hence, need for checks and balances.

Lastly, the administrator also needs to highlight on the recovery case and how can we go about it as an Assembly. If we are not recovering the money yet the individuals are there and some still want to contest for elections which mean they are still able financially. They also need to explain if they are able to pay or if they have made some efforts of paying. If you go to a court of law, you should also show some interest of paying but if you aren't doing anything and you want to run for elections, it simply means you have money to contest for elections but you don't have money to pay back the loan that you took.

It is good for us to work as an Assembly, that if I am today given money and I pass away like last time we lost Hon. Makhandia, is the money insured? As a board we cannot just walk in corridors of insurance brokers or agency and source for some one. It must have an approval of this House that these are our funds and to secure, we allow the board to competitively source for an insurance copy to insure our money. So that in case of eventualities, we can be able to continue. That is why in financial institutions, we have risk department, that if you are given a loan and tomorrow you pass away, the money will not disappear. As much as I am a member of the board, I encourage the committee to continue with its oversight role so that we can nurture these funds for continuity. That once you are sworn in, you are given forms to fill and you get your money. I support the report.

Hon. Metrine Nangalama: Thank you, Mr. Speaker. I had requested but later cancelled and the reason for cancellation is that Hon. Balala mentioned almost all the points that I wanted to put across. Just to stress on borrowings is that the County Assembly normally borrows money from this fund and they don't repay because they don't follow the regulations. I will urge the County Assembly that whenever they want to borrow, they need to follow the right procedure. Borrowings sometimes are done because of the pressure from us honourable

members. In this regard, I urge my fellow members to reduce the pressure because it forces the Assembly to borrow. Otherwise, I thank the Committee on PAC where I am a member and our chairperson Hon. CPA Nganga.

Hon. Isaiah Sudi: Thank you Mr. Speaker for allowing me to add my voice on this good report for us as members and for future generations. I remember during our last session most members repaid both car loan and mortgage. It is disturbing that when we were re-elected to this House, the money for the mortgage was almost not there. I am told that we have about 7 members who are yet to get the mortgage yet all us may be from Makhandia who died because the Clerk by then Hon. Musongo could make sure that you don't go home with anything. He was surcharging us in all quarters. I want to urge the leadership that now the administration systems have changed, let me hope there will be transparency and accountability in running of the mortgage fund so that it benefits those who will be elected. When coming from an election, you need a soft landing somewhere.

I also have an observation on the issue of the rules that apply to these honourable members; if you look at other financial institutions at the moment as much as their interests are high but look at their rules; with a pay slip like the one I have unless this pay slip is just a paper. With pay slip that either a teacher, a nurse or doctor has; just goes to the bank and they process a loan for her without asking for anything else because they know that the pay slip is enough security. I wonder why member's every time you are forced to bring a log book for the car and a title deed for the mortgage yet you have a contract with the Assembly for 5 years.

(Applause)

Your money comes through here and the same employer is the one who processes the money...

Mr. Speaker: Hon. Sudi, were you part of the team that approved the Assembly regulations?

Hon. Isaiah Sudi: What I am saying Mr. Speaker is that we need to amend the regulations because why should we harm ourselves? That you make porridge and then you put your finger inside the same porridge...

Mr. Speaker: Hon. Sudi, I don't expect that to come from you because the current regulations that you have here were taken to the CoB and were rejected because 90 per cent of the members were Hon. Members. Just like it was indicated, Chairperson Budget Committee as the chairperson of the committee, Chairperson Finance Committee as the Vice Chairperson and other members...

Hon. Isaiah Sudi: I am not against the membership, my issue is on the applicable rules. Even the CoB should be told that we have a pay slip. My wife has a pay slip as a teacher she just goes to the bank and she is given a loan within 24 hours so that we do farming, we buy cows. But here Sudi must bring a title deed, a log book yet I am an employee of the County

Assembly of Bungoma and I get a pay slip every month. That means that my pay slip has no value? That is why our salaries were reviewed while we had gone for campaigns because the pay slip does not mean anything. If it was meaningful why were our salaries adjusted downwards during campaigns. Like my uncle here Benjamin saw that it was Kshs. 144,000 and when he was elected he was shocked. May be our pay slip does not mean anything.

Mr. Speaker, you are our leader here. We do things for posterity so that those who will come should find it easy to get the money and use it by allowing the pay slip to take charge. With a pay slip you are guaranteed of getting money.

Mr. Speaker: Hon. Sudi, I seek for your guidance. How do you handle a pay slip that is Kshs. -20 as security?

Hon. Isaiah Sudi: When we are allowed to use the pay slip, look at how the Civil Service is done; it is clear that you cannot commit your pay slip beyond a certain level. We can borrow this practice that if I have been given this, I cannot go below such amount on my pay slip. It is possible Hon. Speaker because we are in the country managed by the same systems. Otherwise, I support the report.

Hon. Johnston Ipara: Asante Ndugu Spika. Kuongea baada ya huyu Mheshimiwa Sudi inakuwa vigumu kidogo kwa sababu amesema wakilishi wako na shida nyingi haswa baada ya uchaguzi ambapo atakuwa ametumia karibu kila kitu alichokuwa nacho kwenye kampeni. Nakubaliana na Mheshimiwa Sudi. Ndugu Spika kwa sababu wewe ndiye kiongozi ambaye anahakikisha ya kwamba mambo yote yanaangaliwa, tunakuomba pia uangalie hapo kuwa iwapo *pay slip* yetu inaweza tumika kusimamia kwa sababu unajua kila mmoja wetu. Hata kama stakabadhi hiyo inaonesha haina kitu chochote, wewe unajua gharama ya Mheshimiwa Sudi.

Naipongeza kamati na walio ongea mbele yangu kwa mfano rafiki yangu Mheshimiwa Wanyama aliposema ya kwamba wakati umetupea hizi pesa na pengine Mungu anichukue au nishindwe kulipa hizo pesa ni nini itasimamia hizi pesa ili Bunge letu liweze kupa hizo pesa ndiposa wale wengine pia wapate. Nasema haya nikijua ya kwamba huu mkopo ni mkopo unaozunguka ambapo pesa ambazo nimepewa atakaechaguliwa baadaye mwaka wa 2027 pia anafaa kupata hizo pesa zikiwa ziko. Ikiwa zitakuwa zimepelekwa kwingine unaona inakuwa ni hatari. Kwa hivyo tukiweza kupata bima wakati mimi Okasida napewa hizo pesa niwekewe na bima ya kusimamia. Kwamba nikishindwa kulipa bima itagharamia pesa ambazo nilipewa na nimeshindwa kulipa. Au ikiwa Mwenyezi Mungu amenichukua badala ya pesa hizo kupotea bima itaweza kulipa ili kuimarisha mkopo huu ili kuwasaidia wengine.

Mheshimiwa Spika nataka kukuomba viongozi wanajulikana na uongozi mzuri waopeana. Nakuomba ikifika kwenye hizi pesa ziko hapo usicheke na mtu. Na kama mtu amekosea ruhusu mkono wa sheria uchukue mkondo wake ili kusaidia sisi kulinda hizo pesa kwa

viongozi wa leo na watakaokuja hapa kama viongozi wa Bunge. Kwa hayo naunga mkono hii ripoti.

Hon. Everton Nganga (Chairperson PAC): Thank you, Hon. Speaker. First, I would like to thank Hon. Members who remained behind and those that have contributed to this motion. This is a report of the Public Accounts Committee and there are other reports that are supposed to be tabled in this House.

Reacting on what Hon. Okasida has just said when you look at our recommendation in case a member fails by first circumstance may be he has died or a bad dead that cannot be recovered, we recommended that the County Assembly should look for a reputable insurance company to assist the Assembly to recover the funds that person owes this Assembly.

Hon. Sudi mentioned that every organization be it a bank or a school they have their own regulations; banks have their regulations that were developed and customized to suit their operations. This is a fund in the County Assembly under the rules that were generated by the County Assembly Service and approved by the County Assembly. I know when you want to borrow money from the bank you can produce a pay slip that has some balance that is recommendable but you must also look for a guarantor. With banks there is specific money that they will give you. This is a fund and it has its own regulations which must go hand in hand with Public Finance Management Act just as we have stated in the report.

He also mentioned that members that were re-elected were cleared having completed paying our loans. Some honourable are yet to be given their money. Currently honourable members the Auditors reports that are being brought to County Assembly concerning our service. Currently we have unqualified reports which means they are clean reports. Because we have our Clerk who is also an accountant, therefore what happened in another regime because I was not part of the management but currently we have competent leaders in the County Assembly? I have said that we are getting unqualified reports and I am also worried because as members of this committee feel that we have work to do to get qualified reports. With the current management, I don't think if we are going to have anybody that will be unable to repay back. Once given the loan, you will discover on your pay slip that they have already initiated the process of deducting.

I request and urge Hon. Members to adopt this report with the recommendations as it is.

(Question for adoption of the PAC report put and agreed to)

The report and its recommendations is adopted.

Next item,

**REPORT BY JOINT COMMITTEE ON TRADE, ENERGY AND INDUSTRIALIZATION
AND FINANCE AND ECONOMIC PLANNING ON THE BUNGOMA COUNTY PUBLIC
MARKETS AMENDMENT BILL, 2023**

Hon. Johnston Okasida (Chairperson, Trade): Mr. Speaker Sir, I stand to move a motion that this House adopts a report of the Joint committees on Trade, Energy and Industrialization; Finance and Economic Planning on the Bungoma County Public Markets Amendment Bill, 2023...

Mr. Speaker: Members this report is only 10 pages.

Hon. Johnston Okasida (Chairperson, Trade): Mr. Speaker Sir, on behalf of the members of the Committee on Trade, Energy and Industrialization and Committee on Finance and Economic Planning, it is my pleasure and duty to present to this House the report of the Committee on Bungoma County Public Markets Amendment Bill, 2023.

Acknowledgements

On behalf of the Joint Committee on Trade, Energy and Industrialization and Committee on Finance and Economic Planning I wish to extend immense gratitude to the Office of the Speaker and the Clerk for the steadfast support towards success of this report. I also take this opportunity to acknowledge all the members of the committee for their utmost commitment and dedication during the processing of the report. Much appreciation also goes to the committee secretariat for their technical and professional input that guided the committee in all aspects of the bill processing.

It is my pleasure and duty to present to this House the report of the Committee on the Bungoma Public Markets Amendment Bill, 2023. The report is signed by myself the chairperson Trade Committee and the Chairperson Finance and Economic Planning Hon. James Mukhongo.

The County Assembly of Bungoma Standing Order 140 (1) provides that a Bill having been read a First Time shall stand committed to the relevant committee without question put. The Bungoma County Public Markets Amendment Bill, 2023 No.2 having been sponsored by Hon. James Mukhongo, Chairperson Committee on Finance and Economic Planning was read a First Time on 26th April 2023 and committed to the Committee on Finance and Economic Planning and Committee on Trade, Energy and Industrialization for consideration. The objects of the Bill are to amend the Public Markets Act, 2017.

Overview of the Bill

The Bill has the long title as well as the short title. It does give the key areas where it is to be amended notably the schedule and Clause 21.

Statement on delegation of legislation powers and limitations of fundamental rights and freedom

The Bill neither delegates legislative power or does it contain provisions limiting fundamental rights and freedoms. This is a Bill concerning County Government in terms of Section 110 (1) (a) of the Constitution.

Statement on financial implications of the Bill

The enactment of the Bill is an allocation of additional expenditure of public funds to be provided for the estimates.

Legal parameters

Article 185 of the Constitution provides that the legislative authority of a county which is vested in and exercised by its County Assembly. The Article further states 185 (2) (a) that County Assembly may make any laws that are necessary for or incidental to the effective performance of the functions and exercise of this powers of the County Government under the Fourth Schedule. The Constitution Part II paragraph (7) of the Fourth Schedule states the functions and powers of the County Government are; trade development and regulation including markets, trade licenses, fair trading practices, local tourism and cooperative societies among others.

The amendment allows laws and policies to be refined overtime rather than replaced out rightly. Legislative bodies' operate on the premise that laws and policies may be refined overtime. The Bungoma County Public Markets Amendment Bill, 2023 is geared towards operationalization of the Finance Bill and it was prudent to that other amendments are made to the parent Act enacted in 2017 by the County Assembly of Bungoma. The Act is currently operational.

Public participation is considered as a crucial pillar in the Kenyan constitution. It promotes democracy by providing public an opportunity in decision making in government hence promoting national values and principles of governance. Article 196 (1) (b) of the Constitution of Kenya and Section 87 of the County Governments Act provides for public participation and involvement in the legislative and other business of the Assembly and its committees.

Further Article 74 (c) provides that the object of devolution of governance is to give powers of self-governance to the people and enhance participation of the people in their exercise of powers of the state and in making decisions affecting them. The Bungoma County Assembly Standing Orders 140 (1) provides that Sectoral Committee to which a bill is committed shall facilitate public participation on the bill through appropriate mechanism including inviting submissions of memoranda, holding public hearings, consulting relevant stakeholders in the sector and consulting experts on technical subjects. The Sectoral Committee shall take into account the views and recommendations of the public under paragraph (3) in its report to the House.

It is on this basis that when this Bill was introduced to the House by Hon. James Mukhongo it was committed by the Hon. Speaker to the Committee on Finance and Economic Planning and the Committee on Trade, Energy and Industrialization on 26th April 2023 for processing and reporting back to the County Assembly.

Further, the Office of the Clerk on 9th April through an advert in the Daily Nation invited the public to submit written memoranda concerning the Bill to the Office of the Clerk via email or hand delivered on or before 17th February of April 2023. Further, the Bill was published in the Bungoma County Assembly website and copies of the same availed a Member of the County Assembly Offices in various wards for ease public access.

Public views

By closure of business on 17th April 2023 no submissions had been forwarded to the Office of the Clerk concerning the Bill. By the closure of business on 17th April 2023 only the Bungoma County Hoteliers Association had forwarded their views to the Office of the Clerk concerning the Bill.

Summary of public views

The committee received submission dully signed memoranda from Bungoma Hoteliers Association with the following proposals;

- a) All markets must be WASH compliant
- b) All markets must have street lights
- c) The county should have proper drainage and well designated dumpsite to control spillage of garbage on the markets
- d) Charges should be only be paid on markets well build by the committee
- e) Stop charging business men and women who display their wares on the road reserves e.g. Lugulu Market in Mihuu Ward, Webuye East Constituency
- f) Charges should be fair and reasonable
- g) Stop total display of goods and wares on road reserves to avoid accidents on such markets e.g. Chwele, Mayanja, Kamukuywa, Kimilili, Misikhu, Lugulu and Dina Junction in Matulo Ward in Webuye West Constituency.

Having scrutinized the Bungoma County Public Markets Amendment Bill, 2023 propose the following;

The title reading amendment of Section 21 of the principle Act be amended by deleting (21) and substituting with (20) so as to read; amendment of Section 20 of the principle Act. Justification is to remove typographical error.

Clause 2 (2) (a) to be deleted. Justification is that tax holiday needs a lot of backing from the constitution and other enabling laws.

Schedule be amended by deleting the fourth column entirely. In the fifth column the words 'proposed charges 2022-2023" be deleted so as to read; " cashless payments". Justification is that charges are subject to revision.

Committees Observations

The committee observed that;

1. The Bill was drafted as per the standards of Bill drafting
2. The Bill actualized the future Finance Bill and legalizes the fees and charges on public markets

Committees Recommendations

The Bill needs to move to the next level with amendments

The adoption schedule is signed by 27 honourable members, 3 honourable members did not sign as they were away on official duties. On page 14 we have attachments and that is the end of the report and I want to passionately appeal to honourable members to adopt this report in totality. I request the financial expert Hon. Sheila Sifuma to second the report.

(Applause)

Hon. Sheila Sifuma: Thank you, Mr. Speaker. I am standing to second a report that has been moved by the Chairperson.

(Applause)

(Question for proposed)

Hon. Hentry Nyongesa: Thank you, Mr. Speaker. I am on my feet to support this motion. What is catching my attention is when the committees conducted public participation on the same Bill. One of the experts was clear that our markets should be improved. We are urging the concerned entities to improve sanitation, security and all issues mentioned about the markets.

As a County we need to implement this bill so that we can improve on revenue collection in our county. We need a county that is sustainable and therefore we must ensure that the business community has an enabling environment to operate, so that they can pay their obligations in return to the County. I support the motion.

Hon. Isaiah Sudi: Mr. Speaker, this is an important motion if passed will improve our revenue collection. The County Government of Bungoma has done a memorandum of understanding on the issue of lighting our markets. This will allow the area MCA's and County Government to appropriately allocate money to light our markets so that our people do business and at the same time we collect revenue as a county. I support the report.

Hon. Ali Machani: Thank you, Mr. Speaker. I am happy because yesterday you demonstrated that we should be working in this Assembly. I want to thank the members sited here waiting to debate and give their opinions over businesses before the House. Here we have both elected and specially elected members and if there could be anything in terms of reward from your office, these are serious members who are aware of their being here.

(Applause)

I had a proposal that Hon. Sheila should go and use the dispatch box in front of you. Hon. Speaker, it is a privilege for any member to be in this House and you cannot take it for granted, whether elected or specially elected. It will be on record that one day you were in this House and this is what you said and I am happy for the members who are here that it is nice to take time and familiarize with how the Assembly is working by debating.

In the First Assembly, we had some 2 or 3 members who finished 5 years without debating and I don't want to mention their names because you have the record. So for me, I am happy when I see such a serious Assembly and that's why Mr. Speaker you will always be rated as doing something very important. This is a very serious report where I expected serious members to be here and serious players in the name of political elective posts to be also sited.

I have been listening keenly on the report and I want to thank the chair who is my close brother as much as Sheila said she has never seen someone here who is a brother or a sister. But when you sit together you are brother to each other and a sister to each other. Not that I hate her but I just want to quote her because when we are sited here you are the father, we are family and more so they have mentioned so many areas that we need to address as a legislative House. That any budget we approve in this House has some basis that is guided on the strength of the national funding, Appropriation in Aid, and also local generated revenue, money taxed from the traders. And for us to tax members of the public you must create that enabling environment for them to stay put and also provide more security in terms of security lights and anything that will assist them to roll up their programs in terms of their business until late hours.

Now that we are going to have money under trade, which has laws has just been approved and amendment's now you are going to give people money. It's a way of also looking in some other areas that if that environment is improved, this County can collect enough money. Areas like Chepkube in Kanduyi, Miyanga, Chwele, Cheptais, Kamukuywa and Tongaren and not forgetting Webuye, if this county can follow what we approve in this House and direct their funds to those areas, we can still generate enough money. This idea of us relying much on national government funding, it really belittle us and we can make so many delegations seeing so and so, so that we can be supported.

There is a time I remember in this Assembly under the leadership of His Excellency Ken Makelo Lusaka, we visited Machakos and Hon. Nyongesa is here, you can agree with me that

Machakos generate their own money. There was a time also as the Chair Budget, I took a team to Kiambu where money is collected electronically, and they were the first County Government to collect money through the new digital system.

If you go to many centres, you will find street lights on the main road. But around 6 p.m. shops are closed and even Mama Mboga is not there. But if you go to Kamukuywa or Chepkube there are no lights but the government is paying but no person is doing business. So as much as we can have serious budgets approved here but the implementers are not doing their work then we will continue with the same trend.

I know there are good things the last regime also did but on market and energy, when you look at it we were not really organized, we just went out tried to install street lights everywhere. If you go to Misikhu, I wish Hon. Milliah could be here and Hon. Martin. They used to quarrel who should own what, now we cannot realize the importance of improving our shopping centres and markets to realize and actualize what we approved in the budgets. I support this report wholesomely.

Hon. Speaker: Thank you, Hon. Ali Machani. Hon. Nganga reply to the motion. Sorry, I think Hon. Metrine is confusing me. Hon. Ipara, kindly proceed.

Hon. Johnstone Ipara: Hon. Speaker, I saw it coming when Metrine moved closer to where Nganga was. I saw she was going to mess your memory. First of all, allow me to thank the Honorable members who have sat here the whole afternoon. On behalf of the two committees we don't take this for granted. We say thank you so much.

On what Hon Nyongesa didn't say is sanitation. I want to assure you that it is going to be a priority in the County. And you having an oversight role you must make sure that at least you move around the County make sure you see what you think what is wrong and bring it to the table to be corrected on time for the benefit of the people of Bungoma County.

Street lighting, that is a major project that even in the confession of the Governor he has accepted and committed that this is going to be one major item that we shall undertake in the County to ensure the business community. And when I talk about the business community, this is where the source of own revenue comes from. 75% of our own revenue comes from business. When you want to eat anything, meet other buyers and sellers you must go to the market.

On Sudi, if we improve our markets we should also improve on our collections. And when we talk about revenue improvement, we must also seal other loopholes where people steal our funds and I want to say this, we must as the oversight players, make sure that when we find that our money has been appropriated or money has been defrauded, we must recommend for punitive measures for such persons who involve in diversion of county funds. Lighting of markets as I said is a priority. On Hon. Ali, I want to believe that what Hon. Ali said was directed to you.

For this few dedicated Hon. Members who have chosen to remain behind to transact business, as a father, if you just say that you award them even a day for them it will be a good thing. I hope the Hon. Speaker is listening and that's why he is referring to the book to see which regulation he will apply.

I want to assure Hon. Ali that, our priority is business. You remember very well that we are major farm products producers around western region. We produce almost 80% of what is taken to the market within western region. So as a County this is where we are going to invest so rest assured we are going to persuade the Committee on Budget and Finance to make sure the Trade Department which creates space for our people to do business is given relevant and equivalent and equitable fund to provide shelter for the business community of Bungoma. With that, I want to appeal to honourable members to approve the adoption of this report so that it can be put in use immediately so that it can assist the county to improve on own revenue collection. I submit.

Hon. Speaker: Thank you, Hon Ipara. Honourable members, the report that has been moved is a report arising out of a motion that was taken after first reading. When you look at Standing Order 144, when the report comes back to the House for presentation to the Whole House, there is no vote which is taken because from here you are going to go to the committee and second reading to the House. So when you go to the Committee of the Whole House because it's a Bill, so you will be doing amendments that you have proposed to the Committee of the Whole House, so you don't vote over the same at this juncture. So you have read it for us for consumption and it will be ready for the second time and taken to the Committee for the Whole House for panel beating and amendment accordingly.

ADJOURNMENT

So that was the last item on our Order Paper, we will have to adjourn. As we are adjourning Hon. Ipara, I have heard your humble request; I refer you to Standing Order No 33(i) and (ii) on the sitting hours of the House. We adjourn accordingly and resume our sitting next week on Tuesday 19th September, 2023.

(House Adjourns)