

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY

OFFICIAL REPORT

Tuesday, 10th November, 2020

The House met at 10.09 a.m.

[The Deputy Speaker (Hon. Museku) in the Chair]

PRAYERS

Hon. Deputy Speaker: I think we do not need to let people out. Ring the bell for five minutes.

(Quorum Bell rung)

Hon. Ndawa: Point of information Mr. Chair.

Hon. Deputy Speaker: Yes.

Hon. Ndawa: I think we have quorum since no Member has stood to say there is no quorum so we maintain that we have quorum until a Member rises and raises the issue of quorum.

Hon. Deputy Speaker: When we begin Hon. Member, I just wanted to count to make sure. It is going to be rung for five minutes. The Clerks are the ones who check at the beginning. It is during the debate when that can happen but the beginning of the session the Clerk has to confirm to me and we just a bit shot so I think we are okay now. Tell him to stop ringing the bell I think we are okay now. Show me the outside chamber please?

(Camera focused to the outside chamber)

Yes, we are enough. Okay. Proceed.

STATEMENT

Hon. Deputy Speaker: Hon. Members, under this Order, we have one business to be transacted by the Majority Leader Hon. Mark Kimanthi Muendo.

Hon. Muendo: Thank you, Hon. Speaker.

BUSINESS FOR THE HOUSE FROM 10TH TO 17TH NOVEMBER, 2020

Hon. Speaker, the House Business Committee met on Monday, 2nd November 2020 and Tuesday 10th November, 2020 to ballot business for the House as forwarded by Committees and Hon. Members pursuant to the provisions of the Standing Order 151(5). The Committee reviewed business balloted for 10th November 2020 as reported on 27th November, 2020 as it had received some urgent business.

The Committee gave priority to the Report of Transport and Public Works Committee on Construction of County Government Buildings by Hon. Daniel Mbevi, Chairperson Transport and Public Works Committee which had been moved, seconded and question proposed in the House and debated postponed.

As a result, the Report of Agriculture Committee on the Performance report for the Department of Agriculture for FY 2019/2020 by Hon. Moses Mitaa, Chairperson Agriculture Committee which had been balloted for 10th November, 2020 in the afternoon was moved to 17th November, 2020 in the morning. The summary of balloted business for 10th and 17th November, 2020 is as follows:

Tuesday, 10th November, 2020

Morning at 10.00 a.m.

- a) The Machakos County Finance Bill, 2020; First Reading
- b) The Machakos County Agricultural Enterprise Fund Bill 2019; Second Reading by Hon. Moses Mitaa, Chairperson, Agriculture Committee.

Afternoon at 2.30 p.m.

- a) Report of Transport and Public Works Committee on Construction of County Government Buildings by Hon. Daniel Mbevi, Chairperson; resumption of Debate.
- b) Report of Committee on Appointments on Vetting of Mr. James Kathili as County Attorney by Hon. Mark Muendo, Majority Leader and Member of Committee on Appointments.
- c) The Machakos County Climate Change Bill 2020 – First reading

Tuesday, 17th November, 2020

Morning at 10.00 a.m.

Report of Budget and Appropriation Committee on Machakos County Supplementary 1 Budget Estimates for FY 2020/2021 by Hon. Dominic Ndambuki, Chairperson, Budget and Appropriations Committee.

Afternoon at 2.30 p.m.

- a) The Machakos County Services Bill 2019 – Second Reading by Hon. Cosmus Masesi, Chairperson, Health and Emergency Services Committee.
- b) Report of Agriculture Committee on the Performance report for the Department of Agriculture for FY 2019/2020 by Hon. Moses Mitaa, Chairperson, Agriculture Committee.

Thank you, Hon. Speaker.

Hon. Deputy Speaker: Thank you, Majority Leader for that statement.

BILL*First Reading*

THE MACHAKOS COUNTY FINANCE BILL, 2020 MACHAKOS COUNTY BILLS NO.4 OF 2020

Hon. Deputy Speaker: Hon. Members, under this Order, we have the Machakos County Finance Bill, 2020 (Machakos County Bills No. 4 of 2020); the first reading.

Hon. Deputy Speaker: Thank you, Hon. Members, that is the first reading of that specific Bill which has been done and therefore there is nothing else to proceed on that. This is now in the committee of Finance which will now be able to look at the Bill itself I think we do have the Bill with us here and they should be able to go ahead and now conduct public participation and the rest of the item before we come to the second reading and adoption of the Bill. The first reading has been done the committee on Finance to continue and now do public participation on the Bill.

(Order for First Reading read - Read the First Time and ordered to be referred to the Finance and Revenue Collection Committee)

BILL*Second Reading*

THE MACHAKOS COUNTY AGRICULTURAL ENTERPRISE FUND BILL 2019, MACHAKOS COUNTY BILLS NO. 5 OF 2019

Hon. Deputy Speaker: Hon. Members, under this Order, is the second reading of a Bill by the Chairperson, Agriculture Committee, Hon. Moses Mitaa.

Hon. Mitaa: Thank you, Hon. Speaker. Hon. Speaker, pursuant to Standing Order 121(1), I wish to move the motion that the Machakos County Agricultural Enterprise Fund Bill 2019 (Machakos County Bills No. 5 of 2019) be now read a Second time. Thank you, Hon. Speaker. I wish to call upon Hon. Constance Mbula to second.

Hon. Deputy Speaker: Hon. Constance Mbula.

Hon. (Ms.) C. Nzioki: Thank you, Hon. Speaker. I support to support the motion.

Hon. Deputy Speaker: Thank you, Hon. Constance Mbula, for seconding the motion. This being a second reading, I would like the Chairperson to give us some highlights on the Bill and take the Members through the committee report on the consideration of the Bill. Hon. Moses you may give highlights of the Bill and also take Members through the committee report on the consideration of the Bill.

Hon. Mitaa: Thank you, Hon. Speaker. This Bill proposes that, the Machakos County Agricultural Enterprise Fund Bill 2019 (Machakos County Bills No. 5 of 2019) be now read a Second time.

Hon. Deputy Speaker: So, give us the highlights of the Bill. What does it contain? We know the Bill highlights on the provision of revolving fund which are rights of cooperatives. Just a highlight on the Bill.

Hon. Mitaa: Thank you, Hon. Speaker. I would request that you grant me permission to take Hon. Members through the Bill as it is.

Hon. Deputy Speaker: Please go ahead.

Hon. Mitaa: Thank you, Hon. Speaker.

*REPORT OF THE COMMITTEE OF AGRICULTURE ON THE MACHAKOS COUNTY
COOPERATIVE ENTERPRISE DEVELOPMENT FUND BILL 2019*

Introduction

Hon. Speaker, Article 185(1) and (2) of the Constitution provides that: the legislative authority of a County is vested in, and exercised by the County Assembly. A County Assembly may make any laws that are necessary for, or incidental to, the effective performance of the functions and exercise of the powers of the County Government under the Fourth Schedule.

The County Assembly through its legislative function is responsible for reviewing and passing legislations designed to steer effective natural resources management and reform.

Hon. Deputy Speaker: Just a minute, Hon. Member. Hon. Members, that report is in the wall. You can be able to access it in the website. It is called Cooperative Enterprise Bill report. So, just go the website and you will be able to access it there. Go ahead Hon. Chairperson.

Hon. Mitaa: Thank you, Hon. Speaker. In its functions, it has a number of ways to help shape the extractive industries sector by introducing laws that help in opening up trade, encourage or create incentives for private sector development in addition to establishing rules and regulations to oversee the operation of private corporations..

The basic function of a legislative body is to make, amend or repeal the law. The process of law making or the legislative process, in relation to Parliament or County Assembly, may be defined as the process by which a legislative proposal brought before it, is translated into the law of the land. All such legislative proposals are tabled in the form of Bills.

The core legislative, oversight and representational functions of parliaments provide an essential contribution to the quality of a country's overall governance by adding value to government policies.

Mandate of the Committee

Hon. Speaker, the committee on Agriculture is established pursuant to the Second Schedule of the Standing Orders with specific mandate to deal with all matters related to agriculture, including crop and animal husbandry, cooperatives, livestock sale yards, county abattoirs, plant and animal disease control, irrigation, fisheries, cooperative societies and veterinary services (excluding regulation of the profession).

Committee Membership

Hon. Speaker, the committee on Agriculture as currently constituted comprises of the following Hon. Members

1. Hon. Moses Mitaa	Chairperson
2. Hon. Michael Mutiso	Vice Chairperson
3. Hon. Benedette Musyoka	Member
4. Hon. Geoffrey Kamulu	“
5. Hon. Joshua Nzuki Muli	“
6. Hon. Constance Mbula	“
7. Hon. Antony Mulu	“
8. Hon. Nicholas Mutuku	“
9. Hon. Paul Nyanzi	“
10. Hon. Rozina Kanini	“
11. Hon. Tariq Mulatya	“
12. Hon. Mark Muendo	“
13. Hon. Ikusya Kaloki	“

MACHAKOS COUNTY CO-OPERATIVE ENTERPRISE DEVELOPMENT FUND BILL 2019

Objects and purpose of the Bill

Hon. Speaker, the objects and purpose of the Machakos County Cooperative Enterprise Development Fund Bill 2019 are:

- (a) Facilitate access to credit for cooperative societies within the county;
- (b) Provide a conducive environment for business development;
- (c) Enhance enterprise skills and promote local economic growth;
- (d) Provide for the procedures for—
 - (i) The applying, processing of applications and approval of loans;
 - (ii) Preparation and keeping of records of borrowers;
 - (iii) Recovery, recalling and cancellation of loans.

First reading

Hon. Speaker, on 16th October, 2019, the Machakos County Cooperative Enterprise Development Fund Bill 2019 was read for the First time pursuant to the County Assembly of Machakos Standing Orders 118 and 119.

Committal to Committee

Hon. Speaker, the Bill having been read for the First time, it was committed to the Committee on Agriculture pursuant to Standing Order 120(1) that states that: A Bill having been read a First Time shall stand committed to the relevant Sectoral Committee without question put. Upon committal of the Bill, the committee interrogated the Bill in several meetings and made recommendations.

Public Participation

Hon. Speaker, Standing Order 120(3) provides that the Sectoral Committee to which a Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the Committee makes its report to the House. In August, 2020, the Assembly advertised for this Bill and invited the public for public participation and submission of memoranda. This is in accordance with Article 174(c) of the Constitution that provides one of the objects of devolution is to give powers of self-governance to the people and enhance the participation of the people in the exercise of the powers of the State and in making decisions affecting them.

Further Article 196(1)(b) provides that ‘a County Assembly shall facilitate public participation and involvement in the legislative and other business of the Assembly and its Committees.’ Hon. Speaker, the principle of public participation holds that those who are affected by a decision have a right to be involved in the decision-making process. It seeks and facilitates for involvement of those potentially affected by or interested in a decision.

Hon. Speaker, as indicated in the advertisement, the Assembly conducted public participation as per the schedule below:

DATE	SUB-COUNTY	VENUE	TIME
31.08.2020	Masinga	MASINGA CHIEF’S CAMP	10.00 am
31.08.2020	Yatta	MATUU OUTSIDE MCA’S OFFICE	10.00 am
31.08.2020	Kangundo	KAWETHEI WARD OFFICE BOARDROOM	10.00 am
31.08.2020	Mwala	WAMUNYU TOWN BAPTIST CHURCH	10.00 am
31.08.2020	Kathiani	AIC KATHIANI	10.00 am
31.08.2020	Mavoko	NJUGUINI CHIEF’S CAMP	10.00 am
31.08.2020	Machakos	MACHAKOS SOCIAL HALL	10.00 am
31.08.2020	Matungulu	TALA SUB-COUNTY ADMINISTRATOR’S OFFICE	10.00 am

COMMITTEE OBSERVATIONS FROM PUBLIC PARTICIPATION

Hon. Speaker, as stated earlier Standing Order 120 (3) provides that the Sectoral Committee to which a Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the Committee makes its report to the House.

The following were the views submitted by the public from the eight sub counties.

YATTA SUB-COUNTY

1. In Clause 6, include a condition that any person with a history of misappropriation of resources for cooperative societies or any other entity should NOT be appointed as a Board member.
2. In Part III of the Bill, include a statement on the frequency of access of funds to members so that members do not have to wait for AGMs in order to help them address common family needs.
3. The Bill should also include a clause to address common misfortunes like epidemics and low rainfall which likely can cause members to default but not out of will.
4. In part III, include a clause on details of the purpose of application of the loan. Include also a statement on monitoring on the usage of the funds applied for so that value for the money applied for is attained for the advantage of the members.
5. In Clause 17, the minutes stated there should be authenticated by at least signatures and ID cards of at least ten percentage of members. This is because Committee members have been known to forge minutes to access funds without the consent of the other members.

KATHIANI SUB-COUNTY

1. On the initial capital and other sources of the fund the public proposed that 1% of the total budget of every financial year be appropriated to the Fund.
2. On the establishment of the board the public proposed that the board should be competitively recruited. They further proposed that representatives of the youth and PWDs with focus on agricultural interests be considered in the composition.
3. On the procedure for appointment of board members, the public proposed that the board members should hold office for a three year term and shall be eligible for re-appointment based on performance.

The locals were pleased with the Bill and urged the county government to implement it so as to improve the county economy

MWALA SUB-COUNTY

Section 5(1) of the Bill states that, —the initial capital of the Fund shall consist of money appropriated by the County Assembly for the first five successive financial years after the commencement of this Actl. The public proposed that the Bill should indicate the exact amount of the fund and proposed 3 per cent of the total County Budget for each year

Section 22 of the Bill provides for the interest rates which shall be prescribed by the Board. The public proposed that the interest rate need to be captured in the Bill and recommended it to be set at 5 per cent.

The public proposed for the deletion of the words —The Governor under section 14(2) which states that 'the Governor or the County Executive Committee Member may, upon the recommendation of the Board terminate the appointment of a chairperson or member of the Board as the case may be.'

There should be a representation of the Youth category in the Board.

*MATUNGULU SUB-COUNTY**PART III – APPLICATION, GRANT, AND REPAYMENT OF LOANS**Interest rates*

- i. Participants were for the view that the rates be made known to the general public.
- ii. Participants were for the idea that the ideology and structure of forming the cooperative societies should be upgraded and avoid using the old model.
- iii. Participants urged the Government to try and do an independent investigation of the present functioning co-operatives and those that collapsed and compare how they run the cooperatives.
- iv. Participants were for the opinion that the Chairman and the Deputy to offer out a guarantee of their assets as security in case of misappropriation of society funds.
- v. Participants requested that a service charter for society be part of the requirements for eligibility of a loan.
- vi. They mentioned the necessity of forming a clause on the procedure of forming cooperatives.

MACHAKOS SUB-COUNTY

- i. Under clause 18 an inclusion should be made to provide that the borrowed loan be debited to the account of the supplier of the commodities to avoid diverting the loan.
- ii. Under Clause 19 on Security, inclusion should be done to include security as for the case of title deeds or guarantee by another person or a financial institution.
- iii. The number of persons proposed under 6(1)(d)(ii) should be increased from 2 to 4 with representation drawn from the various categories cooperatives.
- iv. Under Clause 6(4) the public proposed that an addition be made to read that;
 - a. The persons shall not be qualified for appointment as the Chairperson or member of the board if the person is a public servant.

MAVOKO SUB-COUNTY

- i. Under Section 5, the public proposed that the Bill should highlight the exact amount of the fund that will be appropriated by the Assembly each financial year.
- ii. Section 16(2) that the word may, be replaced with shall.
- iii. The Bill should have an element of group members guaranteeing one another to get a loan, like most of the Saccos in Kenya.
- iv. Specifications of the interest rate to be captured in the Bill.
- v. There should be PWDs representation in the Board.
- vi. There should be a representation of the youth category in the Board.

MASINGA SUB-COUNTY

- i. In Clause 3(a) The Bill did not cater for self-help groups; Self-help groups to be considered separated from the co-operative societies on they are under Ministry of Culture. Self helps groups need financing and sometimes the groups grow to become cooperatives. They need to be empowered.
- ii. The Bill to include a clause on training of the beneficiaries which should be done by the co-operatives and a certificate attached to loan application forms.
- iii. In Clause 6, the Bill should consider establishing sub county boards of management reporting to the County board of management.
- iv. In Clause 6, the level of education for sub county boards membership to be Form Four;
- v. Clause 6(d), to increase the membership from 6 to 9 and consider youth and PWDs.
- vi. Clause 18, Maximum loan for which a member may be given to be determined at the Co-operative level and not at board of management level.

KANGUNDO SUB-COUNTY

1. The Bill should include the Cooperative Committee which will be responsible in managing the cooperative resources.
2. The Committee should provide quarantine in case of misappropriation of funds.
3. The Bill to provide for training of management Committee on the use of funds.
4. Coffee cooperatives to be assisted by the County Government to streamline marketing constraints.
5. That clause 6(d)(ii) be amended to read — two shall be representatives of the Co-operative societies appointed by the Count Executive Committee Member in consultation with the members of the respective societies.

6. Clause 6(d)(iii) be amended to read — one person with experience and knowledge of Co-operative matters appointed by the County Executive of whom one person should be a representative of a special interest group. The powers conferred to the CECM should be amended in order to make the proposed appointments in consultation with the co-operative societies.
7. Clause 22 of the Bill provides that interest rates shall be prescribed by the board but the public suggested that the interest rate be at 5 per cent inclusive of administration cost.

RESPONSE FROM THE CHIEF OFFICER, DEPARTMENT OF AGRICULTURE AND FOOD SECURITY

Hon. Speaker, the Assembly wrote to the Chief Officer via the letter REF: MKSCA/ADM/BILL/MCCEDF/VOL. 1/20 dated 12th February, 2020 requesting for memoranda from the Department and the following were the submissions;

- i. Commencement date be incorporated in the Bill for avoidance of any doubt and the County Assembly to fully commit in appropriating funds as per section 5(1) immediately it is operationalized.
- ii. Definition of applicant 'in section 2 should remain as a Co-operative society as a legal entity and delete individual member to safeguard on individuals abusing the facility by borrowing and defaulting in payments. In addition, section 16 and 17 in eligibility criteria provides for co-operative society only and not individual members.
- iii. In section 17 (2) the co-operative society should also show that it has been in existence for at least six months to avoid societies being registered and presenting certificates for purposes of accessing loans. In addition, the society's audited accounts should form part of the documents accompanying application under Section 17(2) in order to access its financial health and ability to pay. Eventually, the success of revolving fund would largely depend on prompt payments of borrowed funds.
- iv. Section 7(1) should read section 6(1) (d) not sub-section 6(1)(d), same for 7(5).
- v. The sub-title for section 9 should be functions of the Board 'not Committee.
- vi. Section 19(b), Committee 'be substituted with board' sub-section (c) why county government and not the board?
- vii. Section 25(2) delete where the name person 'is appearing and substitute with cooperative society.
- vii. In section 2 under interpretation, the Bill defines CECM as member responsible for finance and vests powers in this office, yet the Bill is about co-operative societies and does not recognize CECM for matters relating to co-operative development.
- ix. Section 18(1), loan limits be pegged on the financial ability of individual societies. This will enable individual societies to undertake self-appraisal before submitting loan application. Section 16(2) loans to be categorized per sub-sector like Saccos, marketing cooperatives and housing co-operatives.

7.0 BILL ANALYSIS AND COSTING

Hon. Speaker, following key assessment of the key provisions of the Bill, the Committee analyzed the Bill and opines that the Bill meets the criteria of a money Bill as outlined in Article 114(3) of the Constitution 2010.

The costs as stated above will be incurred in the following areas: funds required by the Board to be established such as Board allowances, transport expenses, operations and maintenance, staff salaries as well as field allowances.

Hon. Speaker, with the consultation of the Chief Officer regarding costing for the fifth Co-operative societies in Machakos County applying for an average of Ksh. 4 million and other related costs at minimum level amounts as follows:

Minimum operations of the Board shall require the following funds to be appropriated from the budget:

Fund Initial Capital.....	200,000,000
Training.....	1,800,000
Board Allowances.....	624,000
Staff Salaries.....	2,000,000
Office rent.....	1,200,000
Electricity.....	600,000
Stationery.....	600,000
Furniture.....	500,000
Travelling expenses.....	1,000,000
Other operating expenses.....	<u>500,000</u>
Total.....	<u>208,824,000</u>

These funds shall be appropriate from the County Revenue Fund. It is therefore important for the CECM Finance to confirm whether funds will have been set aside for that purpose at the commencement date of the Bill.

RECOMMENDATIONS

Hon. Speaker, in regard to the Amendments to the Bill and putting into consideration the views of the public and the memoranda received, the Committee makes the following recommendations:

- a. Clause 2 on interpretation: Immediately after the Definition of the word —Board insert interpretation of the words:
 - Cooperative control Committee means a Committee elected by the members of a cooperative society to manage its resources
 - Cooperative resources means any asset, equipment or funds belonging to the specific cooperative society. The two words relate to the management of the fund at cooperative/user level.
- b. Clause 2 on interpretation: On the definition of the words —County Executive Committee Member insert the words both Finance and Cooperative Societies. The justification is to incorporate the CECM in charge of Cooperatives who is missing in the Bill and is a key person in the execution of the Bill.
- c. Clause 6(1)(ii) on Establishment of the Board: Delete the words appointed by the County Executive Committee Member; and-that appears at the end of the paragraph and replace therein with the words 'nominated by cooperative societies and appointed by the County Public Service Board.' The justification is to give the mandate of appointing the 2 members to the user entity (Cooperatives) and align it with the procedure of appointment.

- d. Clause 6 (1) (iii) on Establishment of the Board: Delete the words *appointed by the County Executive Committee Member*. That appears at the end of the paragraph and replace therein with the words *nominated cooperative societies and appointed by the County Public Service Board*. The justification is to give the mandate of appointing the 2 members to the user entity (Cooperatives) and align it with the procedure of appointment.
- e. Clause 6 (3): Insert a new paragraph (d) immediately after (c) that reads: *(d) Has no record of misappropriation of public resources*. The justification is to recognize persons who have good record in management of public resources.
- f. Clause 6 (4): Insert new paragraphs (f) and (g) respectively after paragraph (e) that reads:
- (f) Is a serving public servant.
 - (g) Has a record of misappropriation of public resources.
- The justification is to eradicate conflict of interest and again keep away cases of individuals who have a bad record of misappropriation of public resources.
- g. Clause 7 (3) on Procedure of appointment of Board Members: Insert a new paragraph (c) immediately after paragraph (3) (b) that reads: *(c) Consider the marginalized groups*. The amendment seeks to recognize the marginalized groups as provided in the Constitution.
- h. Clause 7(5): Delete the word *five* that appears in the second sentence and replace therein with the word *three*, The amendment seeks to give opportunity to other qualified persons to serve in that office.
- i. Clause (9) on functions of the Board: Insert a new paragraph (f) after paragraph (g) that reads: *€ Monitor the use of funds allocated to the cooperative society*. The justification is to give the Board power on monitoring the use of funds to realize value of money allocated.
- j. Clause 15 on removal from office: Insert a new paragraph (4) after paragraph (3) that reads
- 4)(a) *There shall be a Committee to be designated as cooperative control Committee which shall consist of seven members elected from among the members of the cooperative society*
 - (b) *The Committee during its first meeting shall elect the Chairperson, vice chair, secretary and the treasurer*
 - (c) *The functions of the Committee shall be-*
 - (d) *Ensure that the funds and property of the society is properly utilized;*
 - (f) *Ensure that the various activities of the society are carried out pursuant to the by- laws and the regulations of the society.*
 - (g) *Members of this Committee shall be removed from office as per the provisions of the Cooperative Act.*
- The amendment seeks to incorporate the management of the user cooperative society in the management of the fund.
- k. Clause 16 on eligibility criteria: Insert a new paragraph (3) after paragraph (2) that reads: *(3) The distribution of the benefits stated under (2) above shall depend on the type of cooperative society, whether Marketing Cooperative, Housing Cooperative, Land cooperative or any other as stipulated in the Companies Act*. The justification is

to give a consideration on the needs of specific type of cooperative society in the issuance of the loan.

- l. Clause 17 on Processing of applications: Insert new paragraphs (d) (e) (f) (g) (h) that respectively reads: signatures and ID copies of 10% of its members, proof of the purpose of the loan, proof of the usage of funds for the previous application, proof of clearance by CRB of any pre-existing loans, Proof of existence for the last six months
- m. Clause 17(6): Insert the words to the cooperative account or to the account of the service provider immediately after the word directly. Also delete the words through a financial institution identified by the Board and contracted for that purpose. The amendment ensures that the recipient of the money and account details are specified for clarity purpose.
- n. Clause 18 on maximum loan: insert the words and financial capability of the Society at the end of the paragraph. The amendment seeks to consider financial strength of the society before awarding the loan.
- o. Clause 20 on default: Insert a new paragraph (3) that reads any person found guilty of misappropriation of any of the cooperative resources is liable to a fine of one million Kenya shillings or an imprisonment of two years or both.
- p. Clause 20 (10) (2) on power to make regulations: Insert a new paragraph (e) that reads the interest rate.

Hon. Speaker, in regard to the Bill Costing the Committee makes the following recommendations:

- a. There is need for the Department of Agriculture to first do thorough research on factors that have made many cooperative societies to collapse so that the issues can be solved before giving funds to these societies.
- b. The County should proceed to establish the fund and process the Bill as a money Bill as provided in Article 114(3) of the constitution 2010;
- c. The authority of setting up a fund is vested with the CECM Finance with the approval of the County Assembly in accordance with PFM Act Section 116 and therefore the procedure should be relooked at;
- d. At the commencement date (Financial Year), the CECM Finance should confirm whether such funds can be set aside to enable the Assembly to appropriate those funds in the Financial Year in question;
- e. The fund should be appropriated from the future budgets but not the current budget for the FY 2020/2021;
- f. The administrative cost should be adjusted to 5% for smooth operation of the fund;
- g. The County should make use of the existing labor force to minimize costs of operation;
- h. Appointment of the 4 Board members should be subjected to vetting by the County Assembly as provided in Section 8(1)(a) of the County Governments Act 2012;
- i. At the beginning, the fund should have a lean Secretariat of 2 staff members.

CONCLUSION

Hon. Speaker, Cooperative Societies have always been sensitized to modernize their business operations through ICT uptake. The slow uptake of ICT is due to cost which has had financial implications to the Societies. The Enactment of the Machakos Co-operatives Enterprise Development

Fund Bill 2019 and the provision of budgetary allocation as seed capital will go a long way to assist societies access affordable credit and use part of these funds to upscale digitization of their operations.

Hon. Speaker, it is now my privilege and pleasure to table before this Hon. House, the report of the Committee of Agriculture on the Machakos County Enterprise Development Fund Bill, 2019 for discussion and adoption. Thank you. Hon. Speaker. The report was prepared by Luke Maingi, Clerk Assistant. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Thank you very much, Hon. Moses Mitaa, for that report you have read.

(Question proposed)

I would like to invite Hon. Members to discuss on this Bill now; Hon. Fredrick Muthoka.

Hon. Muthoka: Thank you, Mr. Speaker. This is the best Bill we can have in Machakos County and let me congratulate the Chairman for this Bill because Kenya in 1970 and 1980s, we used to do very well through this cooperatives and Saccos and they were run down.

As a county, it is very important for us now to pursue this and help our youth. We have Saccos even for *bodaboda*, cooperatives for coffee, for avocado and even livestock and we will go far. So, it is the best Bill we can pass in this Assembly. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Thank you. Hon. Mark Muendo.

Hon. Muendo: Thank you, Hon. Speaker. Let me also start by congratulating the committee of Agriculture under the able Chairman Hon. Moses Mitaa. Mr. Speaker, this is one of the best Bills which have come into this House. If you look at it generally, it is going to enhance business or what we normally call *pesa mashinani* because the only way the county governments can support our people in the village is through the cooperative societies.

That is the only way you can channel funds which are going to reach our people. Let me say, the cooperative societies are the backbones of our economy in this country, coffee cooperative societies, tea cooperative societies and others, and even nowadays what is coming up as *bodaboda* cooperative societies. This Bill will enhance these funds to go to the right people and the same Bill is going to bring our people together and there will be a lot of togetherness because of the way the cooperative societies operate.

Hon. Speaker, I think this is a Bill which should also encourage other business communities and our youth who are doing businesses in quarries, material distribution like sand and ballast and when they form those societies, they will be able to get these funds through the societies.

Hon. Speaker, we know it has been difficult to manage the cooperative societies and this was because those days, people had interests and politics was involved in these cooperative societies. It is only through the cooperative societies where we have seen our people acquire land; you can see the prime areas like Katani cooperative society, look at Katelembo Cooperative Society, Kamulu cooperative society and those are the cooperative societies which now are happy and now saying our forefathers had foresight because the land where we have already settled and which is now so prime was bought through the cooperative societies.

So, Hon. Speaker, this is to mean that if they used to have such vision those days, nowadays we have digital era where we can run these cooperative societies very well. Do not forget that these cooperative societies some are the ones which are managing our funds like the coffee farms and tea farms and we used to have cotton cooperative society which died but I think or climate still favours the growth of cotton.

When this Bill goes through Hon. Speaker, and if the county government of Machakos will put funds according to the requisitions of this Bill, I think our cooperative societies, the togetherness of the community will be enhanced. So, I support the Bill and what I would like to recommend is, let us fast track this Bill to be implemented on time. Thank you, Hon. Speaker.

Hon. Deputy Speaker: Thank you; Hon. Alex Kamitu.

Hon. Kamitu: Thank you very much, Hon. Speaker. I would commend and appreciate the committee for agriculture for a job well done in regard to the Bill that has been brought to this House. Hon. Speaker, taking into consideration historically, most of these cooperative societies at the beginning they were doing a very good job but years later, we have been having cases of mismanagement but now if this Bill goes through, it is going to guide and discipline the board members who are going to be elected so that the cooperative societies will be run according to this Bill.

In addition to that, most of our forefathers where the beginners of these cooperative societies in regards to cotton, coffee and others but the problem came in when members who were elected mismanaged the cooperative societies. Through the guidelines of this Bill, we can foresee a well-managed fund that will drive the society members into an economic enterprise. So I support that we pass this Bill so that it benefits the people of Machakos County. Thank you, Hon. Speaker.

Hon. Deputy Speaker: Thank you. Hon. Judas Ndawa.

Hon. Ndawa: Thank you, Mr. Speaker, Sir. I want to support the report which has been tabled by this committee and the most able chairperson of Agriculture. Mr. Speaker, I think this is the way to go; the proposals in this Bill will make sure that our cooperative societies remain in business. Mr. Speaker, one thing which I have seen in the committee it has said before we establish the fund, we first of all try to investigate what makes these cooperatives fail.

It is just common sense; if you get a sick person in your family maybe suffering from malaria, you take that person to a medical officer, they get treated and you take him/her home. After maybe three days, the disease recurs, you go back to the hospital and he or she is treated; the third time when the disease recurs, you are not supposed to take that person to the hospital because what you are doing is what we call in military terms mark-timing, because you are not going forward or backward. So, Mr. Speaker, the best thing to do is to find out what causes this sickness and address that problem.

The issue of cooperative societies, because we all come from Machakos; as we talk we normally travel to other counties and some of the cooperative societies in other counties are doing better than us. So why is it that other cooperative societies in other regions are surviving and ours are not surviving?

Mr. Speaker, I have interest in Kangundo and Matungulu sub-county and that is where we have many cooperative societies which have failed. We had Kyanzave Mukamukuu which was owned by our parents, we still have Kyanzave Farmers which is also owned by our parents and I am a

member. We have Kwamating'i, Kayatta and Wendano wa Matuu; all these firms are collapsing because of poor management.

One of the reasons is because, one of the qualification for one to be elected or appointed as a board member is only to be a member of that society; whether you went to school or not and you are a member, you qualify. Mr. Speaker, unless we remove this, there is no way our cooperative societies will survive. Cap 486 of the Companies Act and it is also the one which talks about cooperative societies; we need to be guided by that chapter and set academic standards for one to be appointed as a board member.

Two, I know you come from Machakos Sub county where we have coffee farmers; one of the factors which qualifies one to be appointed as a board member is to have at least 2,000 coffee trees. So, it means, the old men who own big land are the only people who qualify to be elected in those boards. The you people like me and Hon. Mitaa do not have a big land so they cannot afford to have 2,000 coffee trees.

So this is going to block people who can project for the company. Mr. Speaker, again we need to look again at what we call members by-laws. There are some laws which are made by the members during the AGMs and those by-laws are guided by those in office. They dictate what needs to be captured as by-laws and they will always make laws that favour them to remain in office.

Mr. Speaker, I want to assist the committee on getting to know the causes of our failures in the cooperative societies. Our people do not take risk and they fear taking loans. As business people, you cannot survive using your own money. Go to this big business men and you will be shocked and you will find these people have so many loans from banks but our people fear. Mr. Speaker, this is the high time we need to encourage our people to start getting these facilities from the bank.

There is one problem which came many years ago, there is a saying which says; the witness is always jailed first in Kikamba, *Ngusi niko yambaa ovwa*. That sentiment makes people not to sign for others to obtain loans . If I request you to sign for me so that I can get a loan, because of that saying, you will fail to sign and we all remain poor.

I want to clarify here, it is only one person who was jailed and it happened and he was jailed in a court in Mombasa. He saw another person assaulting his friend he was asked by the police, did you see what happened he said yes. This gentleman attacked that person and injured and he was requested to put that in writing and he recorded a statement with the police. So the matter was taken to Mombasa and during that time there was no money so when the matter came for hearing, the witness did not attend because of lack of fare from here to Mombasa.

The second time the matter was called and the witness was also not there so the third time the matter was called, the prosecutor feared that the matter would be withdrawn or thrown out of the court. So the prosecutor stood before the judge and said, you donor, I bonded the witness and I have been bonding the witness and he is not showing up so I humbly apply for a warrant of arrest. So the judge issued warrant and that gentleman had borrowed fare from somewhere and entered the court when the warrant was in place and the moment he was seen, he was taken and locked in the cell.

So those who saw him being put in that small cell are the people who speculated that the witness is the one who gets jailed first. So Mr. Speaker, let us encourage our people to go and obtain these loans. We have witnessed many time His Excellency the President starting from *Mheshimiwa* Moi, *Mheshimiwa* Kibaki and even the current President; they have been waiving loans for many cooperative societies in other regions.

Go to Mumias; one day it was cleared over Ksh. 300 million loan and other many cooperative societies. What time shall we have one cooperative society in Machakos County being cleared from

that debt, Mr. Speaker. Let us encourage our people not to fear and let us encourage our people to elect the right people who have knowledge on the management of these cooperative societies.

Mr. Speaker, lastly, the other thing which is killing our cooperative societies most of them do not manage themselves; they just go and get a managing agent who runs the affairs of the firm and this is what is called debenture where you allow somebody to use his own resources to manage your business then recover whatever he has used plus interest from the proceeds of the business.

So, Mr. Speaker, if this particular managing agent spent about Ksh. 100 million in the firm and you remember the board members are these old *wazees* who are just told sign here, somebody will sign without scrutinizing the document that he or she is signing. So at the end of the day you will find that the expenditure was Ksh. 100 million but whatever he has signed it is over Ksh. 300 million. So, that is theft and I am encouraging our people, our farmers, I am encouraging our business people who are having these societies to ensure that we put people who are knowledgeable in office. Thank you, very much, Mr. Speaker, Sir.

Hon. Deputy Speaker: Thank you. Hon. Constance.

Hon. (Ms.) C. Nzioki: Thank you, Hon. Speaker. Yes, Hon. Speaker we have gone, I belong to that committee of Agriculture and I want to say we have travelled, we have looked around, we have seen and we came up with this report which I can say is the best since we started these agriculture things. Mr. Speaker, most has been said but I want to say all said and done, this is a reality now we have to wake up as a county in fact as the country because these cooperatives are there, they are in everywhere and somehow when they started coming down, they came down one after the other.

Mr. Speaker, you have heard almost everybody say cooperatives have gone down, cooperatives have become weak because of poor management poor learning but I want to say even with that lack of learning, during my time rather when I was born and schooling, my father used cooperatives money to pay for my school fees and we didn't have people with degrees that time. People used to use their own initiatives to know how to go about things and that is how cooperatives helped people to do a lot of things.

It is now time to come up with the truth that we need these cooperatives to come back to assist our people getting loans; however, I hear somebody say we must get loans because our community fears; it is good to understand wherever, whoever, however you get a loan remember that money has to be paid so we cannot wake up one day and say because we have a cooperative we are getting loans to buy vehicles, we are getting loans to take our children abroad.

Before you do that come to think of it, you must pay and if you don't pay I see women groups this days there are people who give them *mabatis* to put up houses and if they don't pay, you see a group of people coming to take out all the *mabatis* because it is something you took from somewhere some department and it has to be returned. So, we must be aware of that and I want to say chairman with his committee they tried; it was not that easy, we took that long time and here we are I want to ask this Hon. House to pass this Bill so that this can go clear and we start getting those loans with a knowledge that we must pay, it is not for free. Thank you, Hon. Speaker.

Hon. Deputy Speaker: Thank you. Hon. Cosmas Kieti.

Hon. Kieti: Thank you, Mr. Speaker. Mr. Speaker, I want to support the Bill so that members may pass this Bill because when we look at the objectives of the Bill, they are addressing the

concerns of our farmers and some of the issues that have made cooperatives to close down or to be affected is because of finance. Farmers need money to acquire the resources that they need like fertilizer, they need money for taking care of the farms, they also need money for better management and because of that, if we pass this Bill and our farmers will be able to access credit facilities, then it will go a long way in assisting them to improve production of coffee and at the same time be able to acquire people who can assist them in skills that they may need in management and also in coming up with better yields.

The other thing Hon. Speaker that I would like to add is that, as we go a long way in passing the Bill it will be very important that the farmers be trained and be made aware about the importance of the loans just as *Mheshimiwa* Ndawa has just cited. Many people fear credit facility but when farmers are well-trained and taken through credit financing techniques then they will be able to appreciate the same and they will be able to go into the relevant credit facilities that we are going to identify so that they get the loans to improve production and at the same time it will go a long way in assisting the cooperatives.

So Hon. Speaker I support that we pass the Bill so that it may assist the economy in our cooperatives and also in our localities. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Thank you, Hon. Cosmus Masesi.

Hon. Masesi: Thank you, Mr. Speaker. Mr. Speaker, I stand to support the Bill brought to this House by the committee on Agriculture led by the able chair, Hon. Moses Mitaa. Mr. Speaker, I want to support fully the Bill bearing in mind that I come from a ward whereby most of my people rely on coffee. Mr. Speaker, I also want to echo the sentiments of Hon. Constance that we have been brought up by the proceeds from coffee and I am always worried when one kilo is going for Ksh. 17 or 20, whereby one farmer has to wait for a full year to get that Ksh. 20 per kilo. Mr. Speaker, the Bill is coming up on how to empower and assure farmers that at the end of it they will be happy and they will have to celebrate for their sweat.

Mr. Speaker, more so, it talks about loans where currently Mr. Speaker our cooperatives have been grounded by these loans. Mr. Speaker most of us cannot tell the purpose of the loans and how the monies were used. Even, Mr. Speaker the management boards have gone and increased the amount a cooperative can borrow whereby at the end of it you will find that cooperatives are making loans which they cannot even pay, even the farmers are not aware of how much they are owed by the lenders and we end up by monies being channeled to personal accounts just to enable payment to the farmers.

So, Mr. Speaker I want to believe at the end of it the committee will dig deeper and give us the details of our cooperatives within the county of Machakos and Mr. Speaker that will give us the grounds of how much a cooperative can be granted as a loan and also ways of how the county as a whole can support and have these cooperatives up and running. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Thank you. Can I see outside the chamber? Is there anybody who would like to participate in the outside chamber. Yes Hon. Musyimi.

Hon. Musyimi: Thank you, Mr. Speaker, for the opportunity to contribute on the Bill. Mr. Speaker, I stand to support the report on the committee on agriculture remembering that I was the sponsor of the Bill which I brought in the House and the Bill went through the due process and now the committee has brought the report back. So, Mr. Speaker I stand to support the report and say that

my idea was to support the cooperatives because as many of the members have said, we were brought up by the products of the cooperatives most people like me being brought up in Kangundo, which is a coffee-growing zone. Mr. Speaker, we benefited a lot from cooperatives and that is why we are today.

Mr. Speaker, the Bill talks of cooperatives being agricultural or any other cooperative of either trade or any kind of business. So, Mr. Speaker, I request the executive to move with speed to implement this Bill because I can see the members have a good idea in supporting the Bill as I brought it in the House. So Mr. Speaker, the duty now lies on the shoulders of the executive to see that they implement so that the members of the cooperatives benefit and it is my humble request to the executive, through the Governor, to actually request them to move with speed so that it may be implemented.

Otherwise, Mr. Speaker the idea was to support the members of the cooperatives of any kind and we will make our economy in the county to grow and the living standards of the people will improve. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Thank you. May the mover of the motion respond please.

Hon. Mitaa: Thank you, Hon. Speaker. I want to take this opportunity to thank my colleagues for the great input they have put towards the enactment or else passage of this Bill. Hon. Speaker, as the sponsor of the Bill has stated, every member in this Hon. House is a product of a cooperative society somewhere, either agricultural or related to land or related to.....we have the sides of Wamunyu, they have cooperatives to do with carvings, there is also cooperatives to do with livestock and Hon. Speaker this Bill cuts across all the departments.

It is not specific and I think that is one thing we were making clear to public when we went for public participation so that those from agricultural areas might not think it is purely on coffee farming and those from other areas could not think it is purely for what economic functions they do in their areas.

So, Hon. Speaker, our county government is able of creating a revolving fund which can enable these societies to be up and running and it is also calling for streamlining of the management and as *Mheshimiwa* Ndawa stated, that has been the hindrance in the success in the cooperative societies Hon. Speaker, it is looking at that. Hon. Speaker, in the department of agriculture and to be specific coffee, we are doing auditing and of all cooperative societies, they are supposed to fill some forms indicating their current status both in liabilities and assets so that Hon. Speaker we might be able to see the viability of resuscitating some and other which maybe are beyond control seeing on how we can bring them back to life.

Hon. Speaker, through this Bill which will provide funds and funds which are not interest-free because the main purpose is for the county government of Machakos to empower the residents so that the economy can grow, Hon. Speaker. So, I thank Hon. Members and I wish to request them Hon. Speaker to ensure that the Bill is passed and again as the sponsor of the Bill has stated, we call upon the executive side once the Bill is passed by this Hon. House, we again work together both as the Assembly and the executive to see its full implementation Hon. Speaker, so that soonest possible our people can enjoy the sweat of this House. Thank you, Hon. Speaker.

Hon. Deputy Speaker: Thank you very much, Hon. Moses.

(Question put and agreed to)

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

Thank you, Hon. Members. This Bill has now been read a second time and it is now going to be committed to the committee of the whole House which is going to look at the Bill, at the amendments as they have been proposed in the report by the committee and this report once the committee of the whole House finishes with it, it will now become a passed Bill by the House and this shall be done at a later time.

I therefore request the House Business Committee to ballot when the committee of the whole House will sit down and finalize on this Bill, to facilitate the third reading of the Bill.

Hon. Members, just one or two things I would like to point out now that we have finalized with this. When I look at the costings which have been provided there for the Bill, it is important for it to be clear that, first and foremost, the principle amount of Ksh. 200,000 is a once-off, it is an initial one-off amount which will be paid there. It is not going to be an every year Ksh. 200 million, because it is a revolving fund, so it is Ksh. 200,000 and then from there we will not be able to put money there again.

What needs to be noted by the committee is that there might be a need for review of the funding every five years to take into consideration inflation and any other emerging issues after five years the fund there needs to be made a provision for review of the funding every five years.

Also there is need to look at the operating or recurrent expenditure for management of the fund and it be included as a recurrent expenditure amount in every year's budget so that the interest paid by the various cooperative societies comes in as revenue but the recurrent expenditure needs to be budgeted for as a recurrent expenditure so that the fund is not depended on the interest being paid on the loans because it is a going concern therefore the interest becomes revenue and the operating cost are put in every year's budget, they are budgeted for as operating cost in the budget so that now we can be looking at what the revenue as is and what the overheads are and see whether we are breaking even in as far as the management of this fund is concerned.

As most Members have noted, yes we have all been brought up by cooperative money; personally I went to school through coffee factory cooperative money that is what used to pay my fees throughout my secondary school and therefore it is only important that we revive this very important aspects of our society so that they are functioning well and they can be able to provide the kind of economic support which we saw them providing in the 70s and early 80s when our economies were in this area were doing very well as a result of cooperative movement.

ADJOURNMENT

Hon. Deputy Speaker: The House is adjourned to Tuesday the 10th day of November, 2020 at 2.30 p.m. Thank you Hon. Members enjoy your lunch.

The House rose at 12.12 p.m.