

Approved for tabling. *Rnt*

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19/9/19



THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – THIRD SESSION

DEPARTMENTAL COMMITTEE ON EDUCATION AND RESEARCH

REPORT ON THE CONSIDERATION OF THE HIGHER EDUCATION LOANS
BOARD (AMENDMENT) BILL

(NATIONAL ASSEMBLY BILL NO. 9 OF 2019)

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TABLED BY: Hon. Julius Nelly	
CLERK OF THE TABLE: Moses Lemu	

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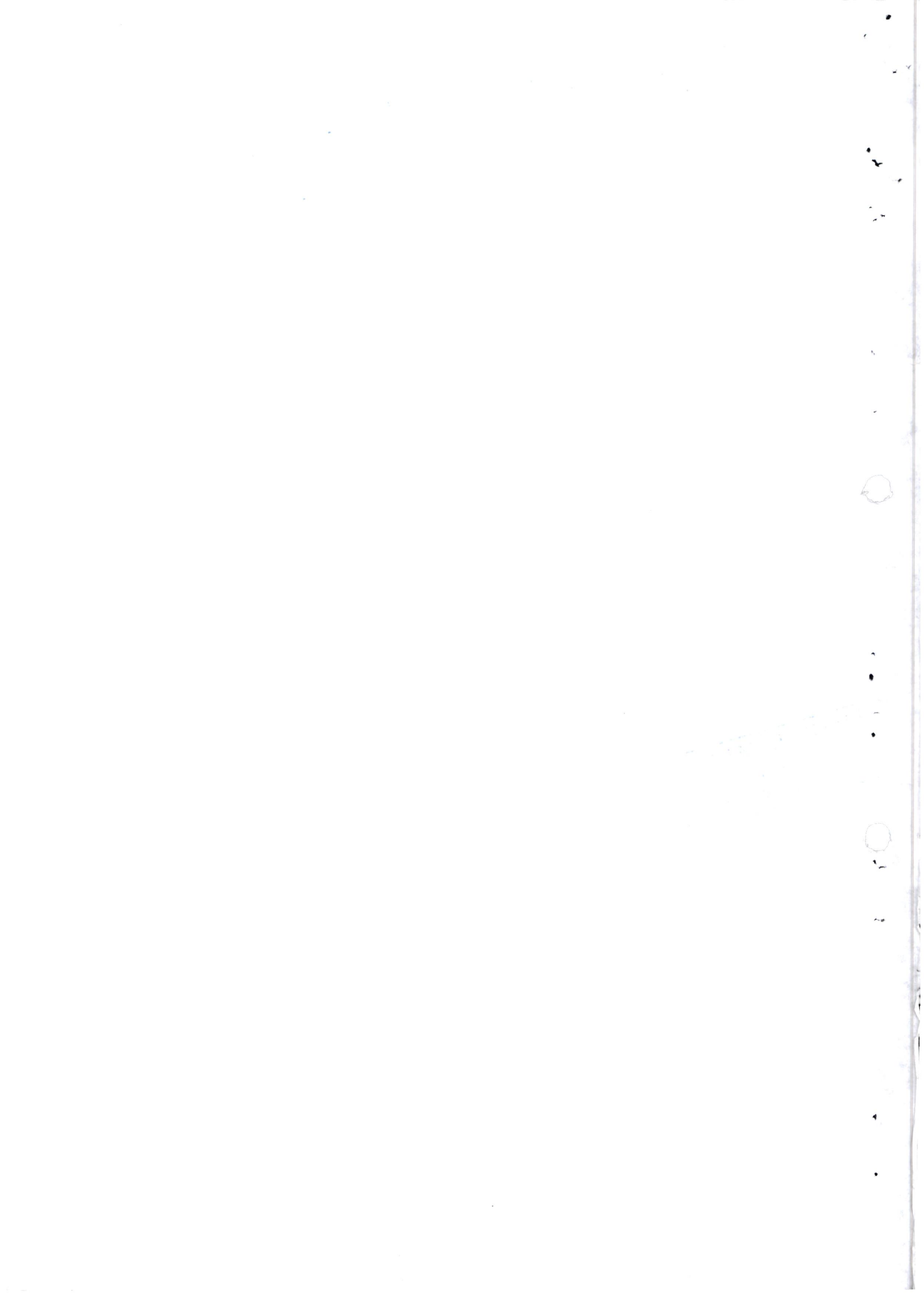


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- Annexure 1:** Adoption list of the Report
- Annexure 2:** Copy of newspaper advertisement inviting the public to present written submissions on the Bill.
- Annexure 3:** Minutes of Committee sittings on consideration of the Bill and adoption of report.

CHAIRPERSON'S FOREWORD

The Higher Education Loans Board (Amendment) Bill, 2019 (National Assembly Bill No. 9 of 2019) is sponsored by Hon. (Capt). Ruweida Mohamed Obo, MP.

The Bill was published in the Kenya Gazette on 28th February, 2019 (National Assembly Bills No. 9 of 2019). The Bill underwent First Reading 20th March 2019 and thereafter committed to the Departmental Committee on Education and Research on for review and report to the House pursuant to the provisions of Standing Order 127 (1).

Pursuant to the provisions of Article 118 of the Constitution of Kenya and Standing Order 127 (3), the Committee through an advertisement in the local daily newspapers of 29th March, 2019 invited the public to make representations on the Bill. The Ministry of Education submitted both oral and written representations.

The Committee held three (3) sittings in considering the Bill and adopting its report. The Committee deliberated on the Bill clause by clause and thereafter invited the sponsor of the Bill Hon. (Capt). Ruweida Mohamed Obo, MP to give her submissions regarding the Bill. The Committee then compiled, considered and unanimously adopted the report on the Bill.

HON. JULIUS MELLY, MP
CHAIRMAN, DEPARTMENTAL COMMITTEE ON EDUCATION
AND RESEARCH

PART I

1.0 PREFACE

1.1 Committee Mandate

The Departmental Committee on Education and Research was constituted pursuant to the provisions of Standing Order No. 216(1) of the National Assembly and executes its mandate in accordance with the provisions of Standing Order 216 (5), which mandates the Committee to, inter alia;

(c) study and review all legislation referred to it;

(h) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

1.2 Subjects

The Committee, according to the Second Schedule of the Standing Orders, examines the following subjects:

- (i) Education;
- (ii) Training; and,
- (iii) Research.

The Committee oversights:

- (a) Ministry of Education comprising the following State Departments:
 - (i) Early Learning and Basic Education
 - (ii) University Education
 - (iii) Vocational and Technical Training
 - (iv) Post Training and Skills Development

- (a) The Teachers Service Commission

1.3 Membership

The following are the Members of the Committee:

<u>Name</u>	<u>Party</u>	<u>Constituency/County</u>	
1. Hon. Julius Melly, MP - Chairperson	JP		Tinderet
2. Hon. Amos Kimunya, EGH, MP - Vice-Chairperson	JP		Kipipiri
3. Hon. Moses MaluluInjendi, MP	JP		Malava
4. Hon. Geoffrey MakokhaOdanga, MP	ODM		Matayos
5. Hon. (Dr.) Pamela Ochieng, MP	ODM		Migori
6. Hon. (Eng.) NzambiaThuddeusKithua, MP	WDM-K		Kilome

7. Hon. (Prof.) Zadoc Abel Ogutu, MP	IND	Bomachonge Borabu
8. Hon. Catherine Wambilyanga, MP	Ford-K	Bungoma
9. Hon. Eric Muchangi Njiru, MP	JP	Runyenjes
10. Hon. Eve Obara, MBS, MP	ODM	Kabondo Kasipul
11. Hon. Jackson Lekumontare, MP	KANU	Samburu East
12. Hon. Jerusha Mongina Momanyi, MP	JP	Nyamira
13. Hon. John Oroo Oyioka, MP	PDP	Bonchari
14. Hon. Joseph Kipkosgei Tonui, MP	JP	Kuresoi South
15. Hon. Lilian Cheptoo Tomitom, MP	JP	West Pokot
16. Hon. Omboko Milemba, MP	ANC	Emuhaya
17. Hon. Peter Lochakapong, MP	JP	West Pokot
18. Hon. Wilson Sossion, MP	ODM	Nominated
19. Hon. Wilson Kipngetich Kogo, MP	JP	Chesumei

1.3 Committee Secretariat

The Committee Secretariat comprises the following officers: -

- | | |
|---------------------------|-------------------------------|
| 1. Mr. Daniel Mutunga | - Principal Clerk Assistant I |
| 2. Mr. Philip Lekarkar | - Clerk Assistant II |
| 3. Mr. Eric Kanyi | - Fiscal Analyst |
| 4. Ms. Annceta Gacheri | - Research Officer |
| 5. Ms. Christine Odhiambo | - Legal Counsel |
| 6. Mr. Nimrod Ochieng | - Audio Officer |
| 7. Ms. Catherine Mukunyi | - Serjeant At Arms |
| 8. Ms. Winnie Kiziah | - Media Relations |

1.4 Acknowledgement

The Committee is thankful to the Office of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings.

On behalf of the Committee, and pursuant to Standing Order 127(4), it is my pleasant duty to table the **Report of the Departmental Committee on Educational and Research on the consideration of the Higher Education Loans Board (Amendment) Bill, 2019 (National Assembly Bill No. 9 of 2019).**

SIGNED _____



DATE _____

17/9/2019

HON. JULIUS MELLY, MP

CHAIRMAN, DEPARTMENTAL COMMITTEE ON EDUCATION AND RESEARCH

PART II

2.0 INTRODUCTION AND BACKGROUND OF THE BILL

2.1 MEMORANDUM OF OBJECTS AND REASONS OF THE BILL

The Higher Education Loans Board (Amendment) Bill, 2019 (National Assembly Bill No. 9 of 2019) was read a First Time 20th March 2019 and committed to the Departmental Committee on Education and Research for consideration pursuant to Standing Order 127.

The principal object of the Bill is to amend the Higher Education Loans Board Act to provide for the award of bursaries and scholarships to all eligible students for marginalised areas.

The importance of education has not yet been appreciated in these areas and thus few parents are willing to invest in the higher education of their children. Others may have appreciated the value of education but cannot afford the fees. The Bill is therefore meant to encourage more students from marginalised areas to pursue higher education.

Clause 1 of the Bill provides for the short title.

Clause 2 of the Bill provides for the amendment of section 6 of the Act by providing for the award of bursaries and scholarships to all eligible persons from marginalised areas.

Amendment seeks to amend Section 6 of the Higher Education Loans Board paragraph (n) by inserting the words “to all eligible persons from marginalized areas and any other eligible person”.

Statement on the delegation of legislative budget powers and limitations of fundamental rights and freedom

The Bill does not limit any fundamental rights and freedoms as provided under the Constitution.

Statement that the Bill concerns county government

The Bill does not affect the functions of the county governments and is therefore not a Bill concerning counties for purposes of the Standing Orders.

PART III

3.0 PUBLIC PARTICIPATION IN THE REVIEW OF THE BILL

1. Article 118 (1) (b) of the Constitution of Kenya provides as follows-

“Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees”

2. Standing Order 127(3) provides as follows-

“The Departmental 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 recommendations to the House”

3. In line with the Constitution and Standing Orders, the Departmental Committee on Education and Research, in the local daily newspapers of 29th March, 2019 (*annexure II*) of the report invited the public to make presentations on the Bill. The Committee also received written submission from the Ministry of Education.

PART IV

4.0 CLAUSE BY CLAUSE CONSIDERATION OF THE BILL AND RECOMMENDATIONS

4.1 AMENDMENTS

Clause 1 of the Bill provides for the short title.

Clause 2 of the Bill provides for the amendment of section 6 of the Act by providing for the award of bursaries and scholarships to all eligible persons from marginalised areas.

Section 6 of the Act: Functions of the Board

The functions of the Board shall be—

- (a) to formulate sound policies for regulating the management of the Fund;
- (b) to solicit for funds and other assistance to promote the functions of the Board;
- (c) to set the criteria and conditions governing the granting of loans including the rate of interest and recovery of loans;
- (d) to receive any gifts, donations, grants or endowments made to the Board, and to make legitimate disbursements therefrom;
- (e) to establish and maintain links with other persons, bodies or organizations within or outside Kenya, as the Board may consider appropriate for the furtherance of the purposes for which the Board is established;
- (f) to enter into contracts with financial institutions for the purpose of loans disbursement and recovery;
- (g) to grant loans out of the Fund either with or without security, as the Board may deem fit, to any eligible person to enable him, or assist any student, to meet the cost of higher education;
- (h) to determine the maximum number of eligible persons or students to be granted loans in any one particular year;
- (i) to invest any surplus funds not currently required for the purpose of the Board in any investment authorized by law for the investment of trust funds with power from time to time to vary or realize those investments;
- (j) with the consent of the Minister, to set up and expend such other funds as may from time to time be required;
- (k) to receive and consider all loan applications from eligible persons or students wishing to be considered for the award of higher education loans, and to approve, withhold or reject such requests in accordance with the provisions of this Act;

- (l) to borrow such monies from such sources and in such amounts as may be approved by the Minister with the concurrence of the Treasury and to secure such loans in such manner as they deem fit;
- (m) to take out insurance cover for risky loans such as death, incapacity or inability to pay, as the Board deems fit;
- (n) to establish and award bursaries and scholarships which it may consider necessary for the promotion of the objectives and functions of the Board;
- (o) to perform any other functions relating to the granting of students' loans in accordance with the provisions of this Act; and
- (p) to perform and exercise all other functions and powers conferred on the Board by this Act.

Section 6 of the Higher Education Loans Board is amended in paragraph (n) by inserting the words "to all eligible persons from marginalized areas and any other eligible person" immediately after the word "scholarships".

Committee Observations

1. The amendment seeks to provide that the Board shall award bursaries and scholarships to all eligible persons from marginalized areas, as well as to any other eligible person.
2. In terms of the text of the amendment, the Board will be required to award bursaries and scholarships to every eligible person from the marginalized areas, but may award to any other eligible person.
3. In as much as this amendment may seek to give effect to Article 27(6) of the Constitution, it may result in implementation challenges. Section 11(2) of the Act provides that the object and the purpose of the Fund is to provide funds to be used for granting loans to assist Kenyan students to pursue higher education at such institutions within and outside Kenya, recognized by the Commission for Higher Education.
4. With the requirement to award bursaries and scholarships to all eligible persons from marginalized areas, the Board will not be fulfilling its main object and purpose. Further, the Funds of the Board may not allow for the award of bursaries and scholarships to all the eligible persons.

PART V

4.2 SUBMISSION BY HON. (CAPT). RUWEIDA MOHAMED OBO, MP

Hon. (Capt). Ruweida Mohamed Obo, MP submitted that:-

Section 6 of the Higher Education Loans Board be amended in paragraph (n) by inserting the words **“to all eligible persons from marginalized areas and any other eligible person”** immediately after the word “scholarships”.

The amendment seeks to provide that the Board shall award bursaries and scholarships to all eligible persons from marginalized areas, as well as to any other eligible person.

As a result of the proposed amendment the Board will be required to award bursaries and scholarships to every eligible person from the marginalized areas, but may award to any other eligible person.

4.3 PUBLIC PARTICIPATION

Pursuant to the provisions of Article 118 of the Constitution and Standing Order 127, the Committee conducted public participation on the Bill. The Committee in a newspaper advertisement dated 29th March, 2019 invited submissions on the Bill from stakeholders.

The Committee however only received submissions from the Ministry of Education.

4.3.1 Submission by the Ministry of Education

Through a written memorandum (*Annexure III*) the Cabinet Secretary for the Ministry of Education submitted that:-

The proposed amendment is intended to single out marginalized persons in awarding of loan, bursary and scholarships by the Higher Education Loans Board.

The Ministry of Education through HELB have made appropriate administrative arrangements and taken affirmative action that ensures that the marginalized areas are catered for adequately in regards to loans, bursary and scholarships. This is done through a Means Test Instrument (MTI) that assesses the applicants' disposable income.

The Means Test Instrument (MTI) is structured to evaluate a number of parameters one of which is applicants from marginalized areas that access full loan, bursary and scholarship as demonstrated in the table below:-

	Demographic data	Variable	MTI Score	Remark
1.	Family background	Orphans/sponsored/a bandoned	100	Exempted from MTI score
		Single parented	10	
		One parent deceased	10	
		Divorced/separated	10	
		Both parents	10	
2.	Special needs	PWD	100	Exempted from MTI score
3.	Geographic location	Marginalized areas	3	Affirmative action to applicants from the 14 marginalized counties as classified by CRA
4.	Course cadre (STEMAF)	Government priority programme	5	
5.	Income	100 -5,000	82	
		5,001 – 600,000	57	
		600,001 – 1,200,000	32	
		Greater than 1,200,000	0	

From the MTI score awarded above which is an administrative procedure, it guarantees all applicants from marginalized areas full award of loan, bursary and scholarship.

Moreover HELB's new Strategic Plan dubbed – HELB Agenda 2019 -2023 Vision is Universal Financing for Kenyans Pursuing Higher Education. In the financial year 2018/2019 HELB funded 98% of all loan applicants in the universities and 100% of the Technical and Vocational Education and Training.

It was the Ministry's submission that the proposed amendment may amount to discrimination because there are learners who deserve loans, bursaries and scholarships and may not necessarily be from marginalized counties.

PART VI

5.0 COMMITTEE OBSERVATIONS

The Committee observed that:

1. The amendment seeks to have the Higher Educations Loans Board award loans, bursaries and scholarships to **all** eligible persons from the marginalized areas regardless of their economic status. Implementation may therefore be a challenge as it may not be practically possible to award loans, bursaries and scholarships to all students from marginalized areas as the Board may not be able to fund all applicants due to limited financial resources.
2. The Higher Educations Loans Board have made appropriate administrative arrangements and taken affirmative action that ensures that the marginalized areas are catered for adequately in regards to loans, bursary and scholarships. This is done through a Means Test Instrument (MTI) that assesses the applicants' disposable income.
3. Implementation of the amendment may be a challenge as it may not be practically possible to award loans, bursaries and scholarships to all students from marginalized areas as the Board may not be able to fund all applicants due to limited financial resources.
4. Not all students from marginalized areas are needy as some of the parents can afford to pay full fees. On the contrary there are needy students from non-marginalized areas and informal settlements in urban areas who deserve to be considered for HELB loans and bursaries.
5. With the requirement to award loans, bursaries and scholarships to all eligible persons from marginalized areas, the Board will not be fulfilling its main object and purpose of funding eligible applicants regardless of their geographical background. Further, the Funds of the Board may not allow for the award of bursaries and scholarships to all the eligible persons.
6. The amendment may set a precedent to align other laws towards marginalized areas and favour individuals from such areas at the expense of others.
7. That bursaries from National Government Constituencies Development Fund (NG-CDF), National Government Affirmative Action Fund (NG-AAF) and Equalisation Fund and other such funds disbursed to marginalized areas may be used to supplement HELB loans and bursaries of eligible students from such areas.

PART VII

6.0 COMMITTEE RECOMMENDATIONS

Having considered the Higher Education Loans Board (Amendment) Bill (National Assembly Bill No. 9 of 2019), the Committee recommends as follows: -

1. **THAT**, in the first instance-

a) the Member withdraws the Bill; or,

b) the House Business Committee stays the Bill from prioritization to allow it to lapse naturally pursuant to the provisions of Standing Order 141(2)(b) (*Lapse and Re-Introduction of Bills*);

2. **THAT**, in the second instance-

(a) should the House Business Committee schedule the Bill for Second Reading, the House does reject the Motion for Second Reading; and,

(b) should the Bill proceed to Committee of the Whole House stage, the House does pass the following amendments proposed by the Committee-

Clause 2

(a) Amendments proposed by the Committee;

That Clause 2 be deleted.

Clause 1

(b) Amendments proposed by the Committee;

That Clause 1 be deleted.

Title

(c) Amendments proposed by the Committee;

That the Title to the Bill be deleted.

**MINUTES OF THE 30TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
EDUCATION AND RESEARCH HELD ON TUESDAY, 11TH JUNE 2019 IN THE MEDIA
CENTRE PARLIAMENT BUILDINGS AT 10:00 AM**

PRESENT

1. Hon. Moses Malulu Injendi, MP - **Session Chair**
2. Hon. (Dr.) Pamela Ochieng, MP
3. Hon. Eric Muchangi, MP
4. Hon. Jerusha Momanyi, MP
5. Hon. Jackson Lekumontare, MP
6. Hon. Oroo Oyioka, MP
7. Hon. Peter Lochakapong, MP
8. Hon. Catherine Wambilyanga, MP
9. Hon. Wilson Kogo, MP

ABSENT WITH APOLOGY

1. Hon. Julius Melly, MP - Chairperson
2. Hon. Amos Kimunya EGH, MP - Vice Chairperson
3. Hon. Geoffrey Odanga, MP
4. Hon. (Prof.) Zadoc Ogutu, MP
5. Hon. Wilson Sossion, MP
6. Hon. (Eng.) Nzambia Kithua, MP
7. Hon. Eve Obara MBS, MP
8. Hon. Joseph Tonui, MP
9. Hon. Omboko Milemba, MP
10. Hon. Lilian Tomitom, MP

IN ATTENDANCE

Hon. Capt. Ruweida Obo, MP - Sponsor of the Higher Education Loans Board (Amendment)
Bill, 2019

NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Daniel Mutunga - Clerk Assistant I
2. Mr. Philip Lekarkar - Clerk Assistant III
3. Mr. Mutai Kibet - Audio Officer

MIN. NO. EDUC/2019/149: PRELIMINARIES

The Chairperson called the meeting to order at 10.20 am and a round of introductions was done.

The Agenda of the meeting was adopted having been proposed by Hon. Peter Lochakapong, MP and seconded by Hon. Jackson Lekumontare, MP.

MIN. NO. EDUC/2019/150: CONFIRMATION OF MINUTES

Minutes of the previous sittings were confirmed as follows:

Minutes of the 26th Sitting were confirmed as a true record of the deliberation having been proposed by Hon. Jerusha Momanyi, MP and seconded by Hon. Catherine Wambilianga, MP

Minutes of the 27th Sitting were confirmed as a true record of the deliberation having been proposed by Hon. Wilson Kogo, MP and seconded by Hon. Moses Injendi, MP

Minutes of the 28th Sitting were confirmed as a true record of the deliberation having been proposed by Hon. Jackson Lekumontare, MP and seconded by Hon. Wilson Kogo, MP.

MIN.NO.EDUC/2019/151: SUBMISSION BY HON. CAPT. RUWEIDA MOHAMED OBO, MP ON THE HIGHER EDUCATION LOANS BOARD (AMENDMENT) BILL, 2019

Hon. Capt. Ruweida Mohamed Obo submitted to the Committee as follows:

The current Higher Education Loans Board Act provides the functions of the Board Section 6 as follows:

The functions of the Board shall be—

- (a) to formulate sound policies for regulating the management of the Fund; (b) to solicit for funds and other assistance to promote the functions of the Board;
- (c) to set the criteria and conditions governing the granting of loans including the rate of interest and recovery of loans;
- (d) to receive any gifts, donations, grants or endowments made to the Board, and to make legitimate disbursements therefrom;
- (e) to establish and maintain links with other persons, bodies or organizations within or outside Kenya, as the Board may consider appropriate for the furtherance of the purposes for which the Board is established;
- (f) to enter into contracts with financial institutions for the purpose of loans disbursement and recovery;
- (g) to grant loans out of the Fund either with or without security, as the Board may deem fit, to any eligible person to enable him, or assist any student, to meet the cost of higher education;

- (h) to determine the maximum number of eligible persons or students to be granted loans in any one particular year; (i) to invest any surplus funds not currently required for the purpose of the Board in any investment authorized by law for the investment of trust funds with power from time to time to vary or realize those investments;
- (j) with the consent of the Minister, to set up and expend such other funds as may from time to time be required;
- (k) to receive and consider all loan applications from eligible persons or students wishing to be considered for the award of higher education loans, and to approve, withhold or reject such requests in accordance with the provisions of this Act;
- (l) to borrow such monies from such sources and in such amounts as may be approved by the Minister with the concurrence of the Treasury and to secure such loans in such manner as they deem fit;
- (m) to take out insurance cover for risky loans such as death, incapacity or inability to pay, as the Board deems fit; **(n) to establish and award bursaries and scholarships which it may consider necessary for the promotion of the objectives and functions of the Board;**
- (o) to perform any other functions relating to the granting of students' loans in accordance with the provisions of this Act; and
- (p) to perform and exercise all other functions and powers conferred on the Board by this Act.

The proposer of the bill proposed to amend:

Section 6 of the Higher Education Loans Board is amended in paragraph (n) by inserting the words **“to all eligible persons from marginalized areas and any other eligible person”** immediately after the word “scholarships”.

The amendment seeks to provide that the Board shall award bursaries and scholarships to all eligible persons from marginalized areas, as well as to any other eligible person.

In terms of the text of the amendment, the Board will be required to award bursaries and scholarships to every eligible person from the marginalized areas, but may award to any other eligible person.

Committee Observations

The Committee observed that:

1. The amendment seeks to have the Higher Education Loans Board award bursaries and scholarships to all eligible persons from the marginalized areas regardless of their economic status. In as much as the amendment may seek to give effect to Article 27(6) of the Constitution, its implementation may be a challenge as may not be possible to award loans and bursaries to all students from marginalized.

2. Not all students from marginalized areas are needy as some of the parents can afford to pay full fees. On the contrary there are needy students from non-marginalized areas who deserve to be considered for HELB loans and bursaries.
3. With the requirement to award bursaries and scholarships to all eligible persons from marginalized areas, the Board will not be fulfilling its main object and purpose. Further, the Funds of the Board may not allow for the award of bursaries and scholarships to all the eligible persons.
4. The amendment may set to a precedent to align other laws to towards marginalized areas and favour individuals from such areas at the expense of others.
5. The Criteria of mapping of the marginalized areas in Kenya is not clear.
6. That bursaries from National Government Constituencies Development Fund (NG-CDF), National Government Affirmative Action Fund (NG-AAF) and Equalisation Fund disbursed to marginalized areas may be used to supplement HELB loans and bursaries of eligible students from such areas.

Committee Recommendation

Taking into account the above observations the Committee rejects the amendment to Section 6 of the Higher Education Loans Board as proposed in the bill.

MIN. NO. EDUC/2019/152: ANY OTHER BUSINESS

Members were informed of an invitation from the Ministry of Agriculture, Livestock, Fisheries and Livestock to attend a consultative meeting on Tuesday 11th June 2019 from 9.00 am to 12.30 pm at KICC. The meeting was to discuss Kenya's Agricultural Biotechnology Progress.

The Committee however noted that the invitation was received late.

No other business arose

MIN. NO. EDUC/2019/153: ADJOURNMENT

There being no other business, the meeting was adjourned at 12.26 O'clock. The next meeting will be held on notice.

Signed..........Date.....17/9/2017.....

Hon. Julius Melly, MP
(Chairman)

**MINUTES OF THE 48TH SITTING OF THE DEPARTMENTAL COMMITTEE
EDUCATION AND RESEARCH HELD ON THURSDAY, 12TH SEPTEMBER 2019, IN
CPA ROOM, PARLIAMENT BUILDINGS AT 11:00 AM**

PRESENT

1. Hon. Julius Melly, MP - Chairperson
2. Hon. Amos Kimunya EGH, MP - Vice Chairperson
3. Hon. Geoffrey Odanga, MP
4. Hon. Moses Malulu Injendi, MP
5. Hon. Oroo Oyioka, MP
6. Hon. Wilson Kogo, MP
7. Hon. Wilson Sossion, MP
8. Hon. (Prof.) Zadoc Ogutu, MP
9. Hon. (Eng.) Nzambia Kithua, MP
10. Hon. Jackson Lekumontare, MP
11. Hon. Jerusha Momanyi, MP
12. Hon. Eve Obara MBS, MP
13. Hon. Peter Lochakapong, MP

ABSENT WITH APOLOGY

1. Hon. Lilian Tomitom, MP
2. Hon. Omboko Milemba, MP
3. Hon. Catherine Wambilyanga, MP
4. Hon. Eric Muchangi, MP
5. Hon. (Dr.) Pamela Ochieng, MP
6. Hon. Joseph Tonui, MP

NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Daniel Mutunga - Clerk Assistant I
2. Mr. Philip Lekarkar - Clerk Assistant II
3. Ms. Christine Odhiambo - Legal Counsel
4. Mr. Mutai Kibet - Audio Officer
5. Mr. Manuel Leparachao - Serjeant at arms

MIN. NO. EDUC/2019/250: PRELIMINARIES

The Chairperson called the meeting to order at 11.15 am. A prayer was said.

MIN. NO. EDUC/2019/251: CONFIRMATION OF MINUTES

Confirmation of minutes of the previous Sitting was deferred to the next sitting.

MIN.NO.EDUC/2019/252: CONSIDERATION AND ADOPTION OF COMMITTEE REPORTS ON BILLS AND SESSIONAL PAPER NO.1 OF 2019

The Committee considered reports on the following Bills and Sessional Paper No. 1 of 2019;

1. Sessional Paper No. 1 of 2019 on reforming the Education Sector;
2. The KICD (Amendment) Bill, (National Assembly Bill No. 33) of 2019;
3. The Higher Education Loans Board (Amendment) Bill, 2019.

Having considered reports on Sessional Paper No. 1 of 2019, the KICD (Amendment) Bill, 2019 and the HELB (Amendment) Bill, 2019, the Committee unanimously adopted the reports.

MIN. NO. EDUC/2019/253: ANY OTHER BUSINESS

There was no other business under this item.

MIN. NO. EDUC/2019/254: ADJOURNMENT

There being no other business, the meeting was adjourned at 1.00 pm. The next meeting will be held on Tuesday, 17th September. 2019.

Signed.....



Date.....

17/9/2019.

Hon. Julius Melly, MP

(Chairman)

**MINUTES OF THE 49TH SITTING OF THE DEPARTMENTAL COMMITTEE
EDUCATION AND RESEARCH HELD ON TUESDAY, 17TH SEPTEMBER 2019, IN
CPA ROOM, PARLIAMENT BUILDINGS AT 9:30 AM**

PRESENT

1. Hon. Julius Melly, MP - Chairperson
2. Hon. Amos Kimunya EGH, MP - Vice Chairperson
3. Hon. Moses Malulu Injendi, MP
4. Hon. (Dr.) Pamela Ochieng, MP
5. Hon. Jerusha Momanyi, MP
6. Hon. Oroo Oyioka, MP
7. Hon. Eve Obara MBS, MP
8. Hon. Joseph Tonui, MP
9. Hon. Wilson Sossion, MP
10. Hon. (Prof.) Zadoc Ogutu, MP
11. Hon. (Eng.) Nzambia Kithua, MP
12. Hon. Jackson Lekumontare, MP
13. Hon. Peter Lochakapong, MP
14. Hon. Omboko Milemba, MP
15. Hon. Wilson Kogo, MP

ABSENT WITH APOLOGY

1. Hon. Geoffrey Odanga, MP
2. Hon. Lilian Tomitom, MP
3. Hon. Catherine Wambilyanga, MP
4. Hon. Eric Muchangi, MP

NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Daniel Mutunga - Principal Clerk Assistant I
2. Mr. Philip Lekarkar - Clerk Assistant II
3. Ms. Christine Odhiambo - Legal Counsel
4. Ms. Annceta Gacheri - Research Assistant
5. Mr. Mutai Kibet - Audio Officer
6. Mr. Manuel Leparachao - Serjeant at arms

MIN. NO. EDUC/2019/255: PRELIMINARIES

The Chairperson called the meeting to order at 9.40 am. A prayer was said.

MIN. NO. EDUC/2019/256: CONFIRMATION OF MINUTES

Minutes of the 48th Sitting of the Committee were confirmed as the true record of the proceedings after being proposed by Hon. Moses Injendi, MP, and seconded by Hon. Peter Lochakapong, MP.

MIN.NO.EDUC/2019/257: MATTERS ARISING

Under MIN.NO.EDUC/2019/252

A. The Committee re-considered the report on the Higher Education Loans Board (Amendment) (National Assembly Bill No. 9 of 2019) and made further changes to the recommendations as follows: -

1. **THAT**, in the first instance-

a) the Member withdraws the Bill; or,

b) the House Business Committee stays the Bill from prioritization to allow it to lapse naturally pursuant to the provisions of Standing Order 141(2)(b) (*Lapse and Re-Introduction of Bills*);

2. **THAT**, in the second instance-

(a) should the House Business Committee schedule the Bill for Second Reading, the House does reject the Motion for Second Reading; and,

(b) should the Bill proceed to Committee of the Whole House stage, the House does pass the following amendments proposed by the Committee-

Clause 2

(a) Amendments proposed by the Committee;

That Clause 2 be deleted.

Clause 1

(b) Amendments proposed by the Committee;

That Clause 1 be deleted.

Title

(c) Amendments proposed by the Committee;

That the Title to the Bill be deleted.

B. The Committee noted that the following matters deliberated in the 48th Sitting should be captured in the Minutes of that sitting:

i. In the consideration of the Early Childhood Education Bill, (Senate Bill No. 26 of 2018);

That the Chairperson had informed the Meeting that he would seek leave of the Speaker to have debate on the Early Childhood Education Bill which was scheduled in the Order Paper of Tuesday 16th September, 2019 to be deferred to another date to allow the Committee to consider, adopt and table the Report on the Bill.

ii. In the Consideration of the Draft Report on the Sessional Paper No. 1 of 2019 on reforming the Education Sector;

1. The Committee had noted that the Report of the Taskforce for Enhancing Access, Retention, Transition, Equity and Quality for Effective Curriculum Reform had not been presented to the Committee for consideration. It was therefore not clear from the Sessional Paper on the expected outcomes of the change in Curriculum; the implementation matrix and timelines. Further, the level at which different types of examinations will be administered in the basic education under the Competency Based Curriculum (CBC) was yet to be addressed.
2. **Dissenting View:** Pursuant to Standing Order 199(5) the Hon. Wilson Sossion, MP, submitted that the Sessional Paper should have been subjected to national stakeholders' consultative forums before being presented to the National Assembly for consideration. He was of the view that the Policy Paper was being rushed through for adoption while there were pertinent issues on the implementation of the new Curriculum that needed to be addressed before adoption of the Policy Paper. He was of the view that the Sessional Paper should be withdrawn for proper consultations to be made before implementation.

MIN. NO. EDUC/2019/258: CONSIDERATION OF THE DRAFT REPORT ON EARLY CHILDHOOD EDUCATION BILL, (SENATE BILL NO. 26 OF 2018)

During consideration of the draft Report on Early Childhood Education Bill, (Senate Bill No. 26 of 2018), the Members noted that the Report contained submissions forwarded to the Committee in response to advert for call for submission of Memoranda from the public pursuant to Article 118 (1) (b). The memoranda were forwarded to the Committee on Friday 13th September 2019, way outside the prescribed date of submission of memoranda on the Bill as contained in the advert.

The Memoranda were received from a Mr. Dan Okoth, the Kenya National Commission on Human Rights and the Kenya Law Reform Commission.

After deliberations on the submissions, the Committee resolved:

1. That any document forwarded to the Committee should be procedurally brought to the attention of the Members, and in a timely manner.
2. Before any submission is included in a Report the Committee has to consider it and sanction its inclusion.
3. That the Minutes of meetings should capture the full deliberations of the Committee.
4. That consideration and adoption of the draft Report on Early Childhood Education Bill, (Senate Bill No. 26 of 2018), be deferred to allow the Committee to analyse and take into account views and recommendations contained in the received memoranda in regards to Bill before making a report to the House.

MIN. NO. EDUC/2019/259: ANY OTHER BUSINESS

Response on the Statement requested by Hon. Joyce Korir, MP by the Cabinet Secretary Ministry of Education and the Teachers Service Commission

The Committee received a Response from the Cabinet Secretary Ministry of Education to Statement sought by the Hon. Joyce Korir, MP on the circumstances surrounding the death by suicide of a class six pupil from Kabiangek Primary School in Bomet County allegedly after she was ridiculed and humiliated by her class teacher over her menses; and status of distribution of sanitary towels to school going girls in the country.

The Committee however found the response to be inadequate and devoid of facts and did not respond to the questions raised in the Statement over the unfortunate incident.

The Teachers Service Commission on the other hand sent a request seeking one week extension to respond to the Statement terming the incident as serious and one that required more time to carry out an in-depth investigation before supply a comprehensive response.

The Committee was not satisfied with the two responses and resolved that the Cabinet Secretary and the Teachers Service Commission should provide comprehensive responses with clarity and facts to the matters raised in the Request by Hon. Joyce Korir by Thursday 19th September, 2019 for the Committee to table a comprehensive response in the House.

Supply of Sanitary towels to public schools

It was reported that the distribution of sanitary towels to girls in primary and secondary schools has been unpredictable and erratic in the last two financial years. This is despite budgetary allocation to the Ministry of Public Service, Youth and Gender for purchase and distribution of sanitary towels to school girls.

Members expressed concern that the current administrative mechanism to execute this program in the current financial year has been slow and marred by confusion. The mandate of supply of sanitary towels to public schools is in the process of being transferred to the State Department for Early Learning and Basic Education whereas the budgetary allocation for the same is in the State Department for Gender Affairs. From the foregoing it was observed that the situation exposes school girls to humiliating conditions and hinders their access to education.

Teachers Interdicted for boycotting training of CBC

The Members expressed concern over interdiction of teachers by the Teachers Service Commission accused of boycotting and disrupting training on the new Competency-Based Curriculum (CBC). The Committee resolved to seek a response on the same from the Teachers Service Commission.

Extra Levies Charged by Schools

It was reported that some schools have continued to impose unexplained charges and levies on parents ostensibly for evaluation of the Competency Based Curriculum. The Committee

reiterated that such charges are illegal and should attract disciplinary action. The Ministry should take stern action against the concerned head-teachers.

Intake for Early Childhood Education Teacher Trainees

The Committee was informed that some training colleges have continued to admit Early Childhood Education Teacher Trainees despite a Ministry of Education putting a moratorium on the admissions for a period of time. It was observed that such colleges were in breach of the Ministry directives to suspend admission of students to such colleges.

Invitation to visit Taita Taveta County

The Member of Parliament for Wundanyi Constituency Hon. Danson Mwashako who was present in the meeting invited the Committee for a fact finding visit in Taita Taveta county to establish facts in consideration of classifying parts of Taita Taveta County as a marginalized area. This was in regards to a Petition by the Member earlier submitted to the Committee regarding non-payment of hardship allowances to teachers working in Taita Taveta County.

The Committee noted that the Petition was redirected to the Committee on National Security and Administration for consideration since the mandate falls under the Committee.

The Members deliberated on the request and resolved to make a determination on the visit in the next meeting.

There was no other business under this item.

MIN. NO. EDUC/2019/260: ADJOURNMENT

There being no other business, the meeting was adjourned at 11.40 am. The next meeting will be held on notice.

Signed..........Date.....17/09/2019.....

Hon. Julius Melly, MP
(Chairman)

REPUBLIC OF KENYA


**THE NATIONAL ASSEMBLY
TWELFTH PARLIAMENT - THIRD SESSION**

**In the Matter of the consideration by the National Assembly:-
The proposed Public Private Partnership (PPP) agreement between
Kenya Airways and the Kenya Airports Authority**

SUBMISSION OF MEMORANDA

Article 118 (1)(b) of the Constitution provides that, "Parliament shall - facilitate public participation and involvement in the legislative and other business of Parliament and its Committees" and Article 201 (a) of the Constitution provides that, "there shall be openness and accountability, including public participation in financial matters".

The Departmental Committee on Transport, Public Works and Housing is established pursuant to Standing Order 216 of the National Assembly and is mandated to, *inter alia*, "investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary and as may be referred to them by the House".

The Committee intends to conduct an inquiry into the issues of policy, human resource and legal compliance, as well as the general issues of concern to the public as contemplated under Article 95 of the Constitution, in relation to the Kenya Airways (KQ) Privately Initiated Investment Proposal (PIIP) to the Kenya Airports Authority (KAA). The Committee is in receipt of the Proposal from Kenya Airways PLC and the proposal seeks to introduce a Public Private Partnership for the operations, management and development of Jomo Kenyatta International Airport.

Pursuant to the provisions of the said articles of the Constitution, the Committee invites members of the public to submit any views they may have on the said proposal. The views, representations or written submissions may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, First Floor, Main Parliament Building, Nairobi; or emailed to clerk@parliament.go.ke; to be received on or before Thursday, 4th April, 2019 at 5:00 pm.

MICHAEL R. SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA


**THE NATIONAL ASSEMBLY
TWELFTH PARLIAMENT - THIRD SESSION**

In the matters of consideration by the National Assembly:-
1. The Livestock and Livestock Products Marketing Board Bill, 2019
2. The Higher Education Loans Board (Amendment) Bill (National Assembly Bill No.9 of 2019)

SUBMISSION OF MEMORANDA

Article 118(1)(b) of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees". The National Assembly Standing Order 127(3) provides that, "the Departmental Committee to which a Bill is committed shall facilitate public participation and take into account the views and recommendations of the public when the Committee makes its report to the House".

The Livestock and Livestock Products Marketing Board Bill, 2019 seeks to streamline the marketing of livestock and livestock products in Kenya. The streamlining of the industry is to be achieved through the establishment of the Livestock and Livestock Products Marketing Promotion Board which is to be the main body dealing with the marketing of livestock and livestock products in the country. It is expected that this will result in an efficient livestock products marketing industry in Kenya.

The Higher Education Loans Board (Amendment) Bill (National Assembly Bill No. 9 of 2019) seeks to amend the Higher Education Loans Board Act, 1995, to provide for the award of bursaries and scholarships to all eligible students from marginalized areas. The amendment is guided by the fact that education is not appreciated in these areas and parents are unwilling to invest in it. Other parents find funding higher education unaffordable despite knowing its value. The Bill will therefore act as a motivating factor for more students to pursue higher education through provision of bursaries to cater for part of their college fees.

The Livestock & Livestock Products Marketing Board Bill, 2019 and the Higher Education Loans Board (Amendment) Bill (National Assembly Bill No. 9 of 2019) have undergone First Reading pursuant to Standing Order 127(3) and stands committed to the Departmental Committee on Agriculture & Livestock and the Departmental Committee on Education & Research respectively for consideration and thereafter report to the House.

Pursuant to Article 118(1)(b) of the Constitution and Standing Order 127(3), the respective Committees invites interested members of the Public to submit any representations they may have on the said Bills. The Bills can be accessed from the parliamentary website at www.parliament.go.ke. The representations or written submissions may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to clerk@parliament.go.ke; to be received on or before Thursday, 4th April, 2019 at 5.00 pm.

MICHAEL R. SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA


**THE NATIONAL ASSEMBLY
TWELFTH PARLIAMENT - THIRD SESSION**

In the matters of consideration by the National Assembly:-
1. The Anti-Corruption and Economics Crimes (Amendment) Bill, 2019
2. The Institute of Directors of Kenya Bill, 2019

SUBMISSION OF MEMORANDA

Article 118(1)(b) of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees". The National Assembly Standing Order 127(3) provides that, "the Departmental Committee to which a Bill is committed shall facilitate public participation and take into account the views and recommendations of the public when the Committee makes its report to the House".

The Anti-Corruption and Economics Crimes (Amendment) Bill, 2019 seeks to amend the Anti-Corruption and Economics Crimes Act No. 3 of 2003 in order to prescribe a minimum penalty to act as deterrence mechanisms for persons who engage in corrupt conduct as defined in the Act.

The Institute of Directors of Kenya Bill, 2019 seeks to establish the Institute of Directors of Kenya and provides for the registration and regulation of their conduct.

The above mentioned Bills have undergone First Reading pursuant to Standing Order 127(3) and stands committed to the Departmental Committee on Justice and Legal Affairs for consideration and thereafter report to the House.

Pursuant to the provisions of Article 118(1)(b) of the Constitution and Standing Order 127(3), the Committee invites members of the Public to submit representations they may have on the said Bills. The Bills may be accessed on the Parliamentary website - www.parliament.go.ke. The representations may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to clerk@parliament.go.ke; to be received on or before Thursday, 4th April, 2019 at 5.00 pm.

MICHAEL R. SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA


**THE NATIONAL ASSEMBLY
TWELFTH PARLIAMENT - THIRD SESSION**

In the Matters of consideration by the National Assembly:-
1. Ratification of the Agreement for the Setting up of a Maritime Information Exchange and Sharing Mechanism in the Western Indian Ocean Region
2. Ratification of the Regional Agreement on the Co-ordination of Operations at Sea in the Western Indian Ocean

SUBMISSION OF MEMORANDA

Article 118(1)(b) of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees". Further, Section 8 of the Treaty Making and Ratification Act, 2012 provides for the consideration and Ratification of Treaties by Parliament and subsection(3) states that, "the relevant Parliamentary Committee shall, during its consideration of the Treaty, ensure Public Participation in the ratification process in accordance with laid down parliamentary procedures".

The National Assembly is in receipt of the above mentioned Agreements for approval for ratification by the Government of the Republic of Kenya. The Agreements seeks to establish a framework for regional cooperation amongst State Parties to enhance maritime safety and security in accordance with the national sovereignty, territorial integrity and non-interference in the internal affairs of States in accordance with international law. The Agreements further seeks to establish a Regional Maritime Information Fusion Centre to facilitate the sharing of maritime information and a Joint Operational Co-ordination Centre to co-ordinate joint interventions in the maritime zones of State Parties and the high seas.

The above mentioned Agreements have been committed to the Departmental Committee on Defence and Foreign Relations pursuant to Standing Order 216(5)(fa) for consideration and thereafter report to the House.

Pursuant to Article 118(1)(b) of the Constitution and section 8 of the Treaty Making and Ratification Act, 2012, the Committee invites members of the public to submit any representations they may have on the said Agreements. The Agreements can be accessed from the parliamentary website at www.parliament.go.ke. The representations or written submissions may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, First Floor, Main Parliament Building, Nairobi; or emailed to clerk@parliament.go.ke; to be received on or before Thursday 4th April, 2019 at 5.00 pm.

MICHAEL R. SIALAI, EBS
CLERK OF THE NATIONAL ASSEMBLY

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