



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Third Session

Thursday 21st February, 2019

The House met at 2.30 p.m.

[Hon. temporary Deputy Speaker (Mr. Anthony Kimemia Gathumbi) in the chair]

PRAYERS

QUORUM

Hon. Temporary Deputy Speaker: Sergeant- at- Arms ring the bell for five minutes to get quorum.
(Quorum bell rung for 5 minutes)

We have quorum now, proceed.

PAPERS LAID

Hon. Temporary Deputy Speaker: Majority Leader.

Hon. James Kariuki: Mr. Speaker sir pursuant to Article 229 (7) of the constitution of Kenya I beg to lay the following papers on the table of the assembly today Thursday 21st February 2019:

1. Report of the Auditor General on the financial statements of Nairobi Health Management Board for the year ended 30th June 2010.
2. Report of the Auditor General on the financial statement of Nairobi Health Management Board for the year ended 30th June 2006.
3. Report of the Auditor General on the financial statement of Nairobi Health Management Board for the year ended 30th June 200.
4. Report of the Auditor General on the financial statement of Nairobi Health Management Board for the year ended 30th June 2012.
5. Report of the Auditor General on the financial statement of Nairobi Health Management Board for the year ended 30th June 2011.

6. Report of the Auditor General on the financial statement of Nairobi Health Management Board for the year ended 30th June 2008.
7. Report of the Auditor General on the financial statement of Nairobi Health Management Board for the year ended 30th June 2009.
8. Report of the Auditor General on the financial statement of Nairobi Health Management Board for the year ended 30th June 2007.
9. Report of the Auditor General on the financial statement of Nairobi Health Management Board for the year ended 30th June 2017.
10. Report of the Auditor General on the financial statement of Nairobi Health Management Board for the year ended 30th June 2016.
11. Report of the Auditor General on the financial statement of Nairobi Health Management Board for the year ended 30th June 2015.
12. Report of the Auditor General on the financial statement of Nairobi Health Management Board for the year ended 30th June 2010.
13. Report of the Auditor General on the financial statement of Nairobi Health Management Board for the year ended 30th June 2014. I beg to lay.

Hon. Jeremiah Themndu: Thank you Hon. Speaker. I stand to lay on the table of this assembly two papers: pursuant to Standing Order 191 (c) (6) I beg to lay the following papers on the table of the assembly today Thursday 2019:

1. The Report of sectoral committee on Trade, Tourism and Cooperatives on the training workshop on conceptualization and development of legislative proposals held from 29th October to 1st November at Sai Rock beach hotel, Mombasa County.
2. The Report of sectoral committee on Trade, Tourism and Cooperatives on the training workshop on financial procedures and budget making held from 15th to 18th of November 2018 at Sai Rock beach hotel, Mombasa County.

STATEMENTS

STATEMENT REQUEST REGARDING ALLOCATION OF PLOTS EARMARKED AS PLAYGROUND AND PARKING SPACE

Hon. Mark Mugambi: Thank you Mr. Speaker. Pursuant to Standing Order 45 (2)(c) I wish to request for a statement from the chairperson of the sectoral committee on Planning and Housing regarding allocation of plots Nairobi block 109/2384 and SP09 covering approximate area of 0.024 hectares which was an open space that was earmarked as playground and parking space.

Hon. Speaker an unknown developer has gone ahead and excavated the said piece of land which poses hazardous risk to the residents since the pit is filled with water after the short rains.

Hon Speaker in the statement the chairperson should inquire into ad report on:

1. Who allocated the said pieces of land which were earmarked for public use
2. Whether the county executive is aware of the unregulated constructions of the buildings within Umoja 1 ward and the county without approvals in the areas.
3. Whether the county executive is aware of the unscrupulous people aiding land owners to acquire illegal approvals without following the proper procedures.

4. Whether the land in question is a government land or a private property.
5. Measures taken by the county government to curb such incidences in the county.

Thank you.

Hon. Temporary Deputy Speaker: The chairman of Planning?

Hon. Anthony Kiragu: Hon. Speaker let us be given three weeks to report on that.

Hon. Temporary Deputy Speaker: Hon Mugambi are you comfortable with three weeks:

Hon. Mark Mugambi: Mr. Speaker due to the sensitivity of the issue as there is a pit that has water inside and poses greater risk to the children that play around, I believe three weeks is a long time to respond to this. Let's not wait for a calamity or death before we move with speed to rectify it.

Hon. Temporary Deputy Speaker: Chairman I think you understand or appreciate the magnitude of the problem. What do you say?

Hon. Anthony Kiragu: We will try in two and half weeks.

Hon. Temporary Deputy Speaker: Let us make it two weeks.

Hon. Anthony Kiragu: Much obliged.

Hon. Mark Mugambi: Mr. Speaker the two weeks will be okay for the report but chairman should indulge the executive to see what can be done to the excavated piece of land as soon as tomorrow.

Hon. Temporary Deputy Speaker: Can you take that concern please?

Hon. Anthony Kiragu: Hon Speaker I will direct my colleague to the Disaster Management so that they can avert a disaster in his ward.

Hon. Temporary Deputy Speaker: I will like you to walk with him...

Hon. Anthony Kiragu: On issues of ownership and development I will be able to deliver in two weeks.

Hon. Temporary Deputy Speaker: That one has been agreed. Only the issues of danger to the children that are playing around there if you can work with him and make sure the calamity is prevented he will be very grateful.

Hon. Anthony Kiragu: Yes like I said I will direct him to the office.

Hon. Temporary Deputy Speaker: Thank you very much. Can I hear from Hon Mugambi if he is comfortable?

Hon. Mark Mugambi: Thank you Mr. Speaker once more. If the Disaster Management team will be able to assist as the chairperson of Planning has said I will appreciate but on the other hand Mr. Speaker you ought to know as he says it is a developmental issue. The place was excavated because it ought to have been developed before the residents halted the development.

Hon. Temporary Deputy Speaker: The chairman must have taken that note.

Hon. Mark Mugambi: The chairman should take an undertaking of the same. As a committee they need to be involved. It is a plot and the plot falls under Planning. What is taking place there is an excavation. The approvals for the said development came from the planning sector. The chairman will be unjust to me and the people I represent to send us to the Disaster Management. As you are aware also our disaster management sector does not respond to issues on time. We don't have a committee representing disaster here in the assembly. That is why I decided to raise the issue on this plenary.

Hon. Temporary Deputy Speaker: Chairman I know you have taken note of the concerns. Do you have something to say?

Hon. Anthony Kiragu: I think it will be wrong for a patient to go to the doctor and prescribe medicines for himself. We have the capacity to deal with his issues he has articulated and we will deliver in two weeks.

Hon. Temporary Deputy Speaker: Very good, that is what we wanted to hear. Thank you chairman. You have given us an undertaking that you're going to take care of that matter. Can I hear from Minority Leader?

Hon. Elias Otieno: Mr. Speaker I concur with the chairman. I think two weeks is not enough because last week there are several statements which he is supposed to respond to.

Hon. Temporary Deputy Speaker: That matter has been dispensed off with, with due respect.

Hon. Elias Okumu: May be you just have time to go and negotiate with the developer. I know you are directing your anger where there is no---

Hon. Temporary Deputy Speaker: With all due respect, we have taken your advice. Thank you very much, Minority Leader.

Hon. Elias Okumu: I think---

Hon. Temporary Deputy Speaker: No, we are not going on with that matter. It was just a statement. Thank you. Next order.

Hon. Elias Okumu: Mr. Speaker, I am sitting down---

Hon. Temporary Deputy Speaker: Can I hear from Mugambi? He has an issue.

Hon. Mark Mugambi: Thank you Mr. Speaker. To answer the Minority Leader, the patient is in a hurry for medication because the pit poses greater risk because it is an open space.

Hon. Temporary Deputy Speaker: It is okay.

Hon. Mark Mugambi: I am okay with the two weeks, but let them move with speed so that we can sort out the issue.

Hon. Temporary Deputy Speaker: Thank you very much Hon. Mugambi. Next order.

MOTION

ADOPTION OF REPORT ON IRREGULAR TRANSFER OF FUNDS MEANT FOR EDUCATION BURSARY TO MARYLAND UNIVERSITY HEALTH SERVICES FUND ACCOUNT

Hon. Temporary Deputy Speaker: Chairman, Budget.

Hon. Robert Mbatia: Thank you Mr. Speaker. Hon. Speaker, I beg to move that this County Assembly adopts the report of the Select Committee on Finance, Budget and Appropriations on the irregular transfer of funds meant for education bursary to Maryland University Health Services Fund Account.

Hon. Speaker, on Tuesday 5th June 2018, the Hon. Peter Imwatok rose on the floor of the Assembly pursuant to the provisions of Standing Order No. 34 and requested the Assembly to ventilate on the delay of issuance of bursaries as a matter of definite County importance. In his submissions he urged the Assembly to thoroughly discuss and find a way of addressing the delays in disbursement of bursaries as a way of guaranteeing the right to education for the majority of City residents who cannot afford to pay

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

school fees for their kids. The Hon. Member noted that there were reports that the bursary funds had been disbursed from the Central Bank County Revenue Fund but directed to the wrong account in the name of Maryland Health Services Account.

The Hon. Member in his submissions posed the following questions to the Assembly:

- 1) When did the Controller of Budget release the money?
- 2) How did the money end up in Maryland Health Services Account?
- 3) When did the County realize that the bursary fund allocation had been transferred to the Maryland University account?
- 4) What had the County Government done about the irregular transfer?
- 5) How did the County Government transfer back the money to Nairobi City Bursary Fund Account?

Hon. Speaker, Members ventilated on the matter of the definite county importance and thereafter the Chair directed that the Chairperson of the Sectoral Committee on Early Childhood Education and Vocational Training investigate the matter further and table a report in the Assembly on the irregular transfer of funds the following day.

Hon. Speaker, on Wednesday 6th June 2018 the Chairperson of the Sectoral Committee on Early Childhood Education and Vocational Training, Hon. Millicent Mugadi submitted a report on the irregular transfer of funds from the Maryland University Health Services Account.

Hon. Speaker, in this regard the Finance, Budget and Appropriations Committee invited officers from the County Education Department, the County Treasury and the Officials of Cooperative Bank of Kenya, City Hall Branch to its meeting held on Wednesday 1st August 2018 to respond to various matters related to the irregular transfer of bursary fund to the Maryland Health Services Account.

Hon. Speaker, the observations are that the Committee observed that the assignment of account signatories none of whom originated from the Education Department was oblivious of the rationale for setting up the bursary fund in the first place which was to provide for an efficient way of disbursement of the allocations to deserving students.

Hon. Speaker, after the termination of the contract between the County and Cooperative Bank, the County went ahead and hired interns who were able to write the remainder cheques within a short period of time and at a cheaper alternative. The Committee therefore wondered why the County did not engage the interns from the very beginning.

Additionally, the Committee therefore observed that the imposition of a charge on the Fund did not only go against the objects of the established regulations but also against rationale for the setting up of the bursary scheme itself.

Hon. Speaker, the submissions by the County Executive officials did not persuade the Committee on the rationale for the eight days' delay in refunding the amounts to the right account. The bank also failed to provide proof to the Committee on when the error was determined and when it was communicated to the County Treasury. The Finance Committee is alive to the fact that banks engage in overnight lending which

would have cost the County huge sums of money during the duration the money was left unattended to in the Maryland Health Services Account.

Hon Speaker, the Committee also observed that whereas the provisions of Section 139 of the PFM Act 2012 require the County Assembly to approve regulations on the administration, control and management of grants the same has not yet been done leaving a lot of room for guess work and ambiguity on donor engagements.

Hon. Speaker, it is further required that all proceeds from grants and donations are budgeted for, appropriated by the County Assembly, used in line with approved County plans and all receipts paid into the County Revenue Fund. The Committee observed that there has been lethargy in compliance with the provisions of the law.

Hon. Speaker, in our recommendations, the Finance, Budget and Appropriations Committee having reviewed the information submitted to it on the circumstances that led to the transfer of the amounts meant for bursaries to the Maryland University Health Services Account wishes to make the following recommendations to the County Assembly for adoption: -

- a) That, pursuant to the provisions of Section 148 of the Public Finance Management Act 2012 and Regulation 6 (1) of the Public Finance Management (Nairobi City County Bursary and Scholarship Fund) Regulations, 2016 the County Executive Committee Member for Finance immediately, and note later than 7 days after approval of this report, designates the Chief Officer for matters related to education as the administrator of the Bursary Fund;
- b) That the County shall budget for all projected bank charges and no bank fees shall be paid contrary to the provisions of the Public Finance Management Act 2012;
- c) That going forward the County shall NOT engage external entities in writing of cheques for issuance as bursaries;
- d) That all monies appropriated as bursaries shall only be used to provide a bursary scheme for the provision of financial assistance to indigent students and shall be disbursed based on the criteria approved by the County Assembly;
- e) That the County Treasury puts in place stringent measures to improve the invoicing, validation and examination processes of all payments to ensure that the acts of omission or commission that led to the erroneous payments of amounts meant for bursaries into the Maryland health services account do not reoccur;
- f) That, pursuant to the provisions of Section 139 of the PFM Act 2012 and Regulation 70 of the PFM (County Government) Regulations 2015, the County Executive Committee Member for Finance immediately submits to the County Assembly draft regulations on the administration, control and management of grants for review and approval;
- g) That, pursuant to the provisions of Section 138 of the PFM Act 2012 and Regulation 71 (2) PFM (County Government) Regulations 2015, the County Executive Committee Member for Finance shall ensure that all grants and donations received for and on behalf of the County Government shall be paid into the County Revenue Fund;

- h) That, pursuant to the provisions of Regulation 72 (1) of the PFM (County Government) Regulations 2015, the County Executive Committee Member for Finance shall ensure that all grants and donations received for and on behalf of the County Government are aligned to the programmes and projects approved in the County Integrated Development Plan as operationalized by the Annual Development Plans;
- i) That, pursuant to the provisions of Regulation 72 (5) of the PFM (County Government) Regulations 2015, the County Executive Committee Member for Finance shall ensure that all grants and donations received for and on behalf of the County Government are appropriated by the County Assembly before commencement of any disbursements;
- j) That, pursuant to the provisions of Regulation 72 (7) of the PFM (County Government) Regulations 2015, the County Executive Committee Member for Finance shall ensure that all grants and donations received for and on behalf of the County Government are factored in the budgets and counterpart funds appropriated accordingly.

Hon. Speaker. I beg to move and request Hon. Okeyo Fred to second me. Thank you.

Hon. Temporary Deputy Speaker: Okeyo Fred.

Hon. Fredrick Okeyo: Thank you Hon. Speaker. As I second the motion, there is one thing we noted as a committee. And if you look at page 15, under recommendation, part (B), it stated that the County shall budget for all projected bank charges---

(Hon. Obuya stood on a point of order)

Hon. Temporary Deputy Speaker: Hon. Obuya.

Hon. Kennedy Obuya: Mr. Speaker, I am trying to grasp what the Hon. Chair said, but we have not been served with any supporting documents so that as they speak, we also go through it. So, it is important.

Hon. Temporary Deputy Speaker: Serjeant-at-Arms, please give him a document to go through. Chairman, Budget, did you organize for enough copies? Okay.

Hon. Robert Mbatia: We have copies out there.

Hon. Temporary Deputy Speaker: Thank you very much. I understand they were circulated. Proceed, Hon. Fred.

Hon. Fredrick Okeyo: As I was saying, if you look at the recommendations, on what the committee did, on page 15 (b), it is stated there that the County shall budget for all projected bank charges and no bank fee shall be paid contrary to the provisions of Public Finance Management Act of 2012.

As a committee we were concerned that the House passed the bursary monies for our Wards and each Ward was allocated 3.5 million. If you look at the amount that was sent to that account, it was the exact amount. It means Mr. Speaker that, if all the Members did what was required, submitted all their bursaries and everything, then it means in terms of processing will you have said that which Ward will bear the cost of bank charges. On that note, it was also noted that the County Executive went into contractual agreement with co-operative bank to write cheques.

Half way down the line, it was terminated. These are some of the issues that as committee members we looked at. They are costs and implications when it comes to the termination of contracts. When you give someone cheques to write and then abruptly you cancel, were there costs beared? The bank fees, spoiled cheques, returned cheques, who was bearing the cost of all these? These are very

essential issues because this money was meant for needy children in our Wards. But if you want to say that if the bank wrote a wrong name on the cheque, who will be charged? We are eating into the bursary fee meant for the needy and not meant for bank charges and other stuff.

Thank you Mr. Speaker and I beg to second.

(Question proposed)

Hon. Temporary Deputy Speaker: Debate members? The floor is open for debate members.

Hon. Kennedy Oyugi: Thank you Mr. Speaker. I know the name might be confusing there; I am using the Hon. Kiragu's card because my card has been misplaced since last year. I am being corrected here that it is not just Hon. Kiragu, it is Hon. Square Kiragu.

Hon. Temporary Deputy Speaker: Proceed.

Hon. Kennedy Oyugi: Mr. Speaker I rise to support the report though with a few observations. The report is good; however, Chairman and Committee were very lenient to one who erroneously transferred our money to the Maryland account. It is stated here that the money was transferred erroneously. However, the Chairman is not telling us the action they have preferred against whoever transferred this money because may be the error was a commission or an omission. So Chair you owe us an explanation to that.

Two, the greatest issue I have in regards to the bursary, there were cheques that were returned, and there were cheques that parents changed schools. As we talking, some of us are demanding to the tune of over Kshs.700, 000/- from the Executive of the previous bursary allocation. No explanation. What we are being told is that the files have been forwarded to the EACC. I wonder whether Mr. Speaker we are together.

Hon. Temporary Deputy Speaker: Proceed, Mheshimiwa.

Hon. Kennedy Oyugi: Mr. Speaker what I am saying, from the Executive we are being told that all the files have been taken to the EACC for investigations. Now, I have been wondering aloud, why are the Executive subjecting Members to all this? If indeed there is a Member or there are Members who misused their bursaries? Or let me put it in black and white as they allege, if there is a Member or there are Members who sold the bursaries meant for the poor, they are known. Why can't they prefer action against those Members or that Member instead of subjecting the entire Members to the EACC?

My point is my allocation of last year or 3.1 million was not exhausted. If I am going for it, I am been told my file has been transferred to the EACC. Mr. Chairman, I am urging the House we need to make a conclusive decision on this. If indeed there is a Member or Members who tampered with their bursary cheques, please let them bear the responsibility and save some of us who did not commit that offense. Thank you, otherwise I support the report.

Hon. Temporary Deputy Speaker: Mheshimiwa Beatrice Waithera Gakuya? Hon. Kennedy Obuya?

Hon. Beatrice Gakuya: Thank you Mr. Speaker. Mr. Speaker, the Constitution is very clear on the right of education as a basic fundamental human right and the issue of bursary should be noted clearly. It is something that people should not joke with and I want to state clearly – I support Mr. Speaker.

Hon. Temporary Deputy Speaker: Sorry? You support? Okay.

Hon. Kennedy Obuya: Thank you Hon. Speaker. I am rising to support the motion and I also wanted to commend a man that I admire so much because of, you know, good brains and good experience, Hon. Mbatia I salute you, and the budget team. This is a good report Hon. Speaker and it is good that I am seeing a proper -- which is a sign that as a House we are ready to do proper oversight without somebody trying to compromise a committee that you know we are not friendly to the government. This is proper and there are a number of things Hon. Speaker that I was picking up in the document.

One of them is the requirement that, the Assembly Education Committee should have autonomy and direct influence over issuance of bursary. Hon. Speaker, it is also a matter of concern that bursaries, we normally do budget for every financial year and 2017 and 2018 financial years we had bursary budgeted for and allocation was done. Hon. Speaker, I want to bring to the attention of the members that is regrettable that bursaries for the elected representatives in this House, most of us had bursaries that were not issued. A difference -- that for example, as the Ward representative for Imara Daima, I had a deficit worth Kshs.700, 000/-. Up to now when I go the Education office always there is a lot of blind curtains that and we are normally given excuses.

My question and I wanted Hon. Chair to grasp this, Hon. Chair Budget and Chair Education, what happened if this money was budgeted for and allocation was done, what happened to this money? Was it returned to Treasury, can we account for it? If we cannot get it as representatives, in this case if Imara Daima did not receive Kshs. 700,000/- that money was allocated, it was budgeted for and was allocated for. It has not been disbursed, where is this money? Can it be traced? If it translates to more than one Ward, how much are we loosing here?

Hon. Speaker, without taking much time, I beg to support. Thank you.

Hon. Temporary Deputy Speaker: Thank you. Mheshimiwa Kabiro?

Hon. Mbugua Kabiro: Thank you very much Mr. Speaker. I would like to support the report with a few comments. IFMIS is a seven (7) step process like they have clearly captured in the report. It worries me that seven people participated in processing of these funds to Maryland yet nothing can be done to them and they did not see the error that they were actually paying to Maryland Health Services other than the Bursary account.

The digits might have been wrong because it is 111 and 112. But then they clearly say that the payment process reflects the name of the institution and not the account number. So, throughout the processing of that money, it is the name of Maryland Health Services that was been seen by anybody who was processing the payment. These are 14 eyes that saw, seven finance brains that we have given the mandate to handle our money. How safe is Nairobi's finances then if such people can make such a fatal error in this?

I really wish that matter be interrogated as you can see the elected colleagues are complaining about the amount of money that was given. If Kshs.357 million was in that Bursary account, can they do reconciliation then? Let us see, this is the amount of money that was paid through bursaries, and this is the amount of money that was brought back to either the Executive or the Finance department or even the Education department so that we can really settle this issue. Let's not leave this matter hanging that there is some money which was not reconciled properly yet we are talking of millions of money. One million can probably buy someone a flat, well 10 million can buy someone a flat, you know. Probably an audit should be done of that account. Thank you very much Mr. Speaker.

Hon. Temporary Deputy Speaker: Thank you. Mheshimiwa Alvin.

Hon. Alvin Palapala: I have just heard Hon. Oyugi saying that there are Hon. Members who were selling the cheques and I wanted if at all he knows the members, he can mention them here because I believe we are Hon. Members. Thank you.

Hon. Herman Azangu: Thank you Hon. Speaker. I stand to support the motion. When you look at the recommendations of this document, you can see 23 (c) whereby they have written their recommendation which captures the gaps that we had in giving the cheques. -When you read (c), it says that; going forward the County shall not engage external entities in writing cheques----

Hon. Temporary Deputy Speaker: Order! Mheshimiwa Obuya and Hon. Shirlene, please---

Hon. Herman Azangu: The bursaries were duplicated when they were using external entities. I agree with the report because they have given recommendations on duplication of cheques. I support the report, thank you.

Hon. Temporary Deputy Speaker: Thank you. Mheshimiwa Elias Otieno.

Hon. Elias Otieno: Mr. Speaker, I think this is the most useless report because there is no way you can bring a report and you don't put measures on how to deal with the culprits.

(Point of order)

Hon. Temporary Deputy Speaker: Mheshimiwa Mbatia. Have a seat, Minority Leader.

Hon. Elias Otieno: You have not given him a chance to speak.

Hon. Temporary Deputy Speaker: I have given him a chance.

Hon. Robert Mbatia: Thank you, Mr. Speaker. I just want clarity on this because Minority Leader is a member of this Committee and sat in several of our Committee meetings, now he is saying that this is one of a very--- I want some guidance, why is he thrashing his own report?

Hon. Temporary Deputy Speaker: Very serious, thank you very much.

Hon. Elias Otieno: Mr. Speaker, if you can see the document, I didn't sign. *(Laughter)* May be I participated in discussing the all thing but I think the recommendations were omitted somewhere by the Chairman because I was not in Mombasa. He went to Mombasa with his cronies. I don't know the reason why you don't want to tell us the truth. I think Mr. Chairman should tell us the measures put in place to deal with the culprits.

Hon. Temporary Deputy Speaker: He has a chance to reply.

Hon. Elias Otieno: Yes.

Hon. Temporary Deputy Speaker: Thank you very much. Hon. Jeremiah Karani.

Hon. Jeremiah Karani: Thank you, Mr. Speaker. I rise to support the Motion. Issue concerning bursary is very serious matter in this House because the money that were given to us last year, even today we have not exhausted. Chairman with your group, you have done a good job, but you should go back and see whether our money is still there or they have been diverted. Though the cheques had errors, nothing has been done. I don't know what the problem with the Finance and Education departments is. Just go and check for us and come with another report whether the money is still there or it has been diverted. Thank you, Hon. Speaker.

Hon. Temporary Deputy Speaker: Mheshimiwa Patrick Musili.

Hon. Patrick Musili: Thank you, Mr. Speaker. I think the mater that we are discussing now is very important. The bursary goes to the very vulnerable section of the society and the issue needs to be taken as a serious matter by this House. I find this report not to be complete because it is only taking about the money taken to different account but there are no recommendations. It is not also taking about any other money that we hear as alleged it went to individuals' accounts. We need to take this matter seriously and take it to the next level. If we have to support this report, then we need to do it with amendments. It is partially capturing part of the problem we have with the disbursement of the bursaries.

The Chairman of this Committee has to go back and tell us if every ward was entitled to get Kshs.3.5 million and some wards got Kshs.2.5 million, where did the rest of the money go? We must not keep silent when we see some of these things are taking place in our midst. We need a report tabled again to this House telling us where is the balance that we did not take it to the wards went to. If it was taken to someone's account, we have to know. If the money is there, then it should be issued to us so that we take the money back to Wanjiku.

Thank you, Mr. Speaker, I am not supporting this report as it is.

Hon. Temporary Deputy Speaker: Hon. Anthony Kiragu.

Hon. Anthony Karanja: Thank you, Mr. Speaker---

Hon. Temporary Deputy Speaker: Before you proceed, I want to say that I am not going to allow any more movements. We are about to finish, please.

Hon. Anthony Karanja: I have no issues with this report but I would have been happier if I saw a recommendation of punishment of people who were involved, whether by omission or commission. I think this is colossal amount of money and it would have meant a big loss to this County. I also have an issue with recommendation that would direct the Executive not to engage external entities in writing of cheques for issuance of bursaries. From experience I think it is dangerous and I believe the only reason that that route was taken was because of our internal inefficiencies. It may be expensive but it is efficient. It is common knowledge that we issued and filled out forms last year and nobody in this room or in this Assembly can even guess the earliest that we will get the bursaries for the children who some are at home waiting. I support this report but I would have wished it was deeper and more detailed and precise to deal with the issues affecting bursaries in this Country. Thank you.

Hon. Temporary Deputy Speaker: Thank you very much. Hon. Ndonji.

Hon. Joseph Ndonji: Thank you, Mr. Speaker. The report is good but we should not pass a report that is covering the wrongs that have been done. If a mistake has been committed, there has to be a remedy. Some of the wards including mine, I issued bursary less Kshs.450, 000 and we were told that they will be carried forward to the next bursary allocation. In this report, we should even be having timelines because we know when the children open and when they should get the bursaries. We are not being told where the money that was not spend is and what can be done so that it is put in the next bursary allocation. As much as the report is good, but remedies must be put in place. So, I would request that we don't pass the report.

Hon. Temporary Deputy Speaker: Thank you Mheshimiwa. May I remind members what we are discussing here is about irregular transfer of funds meant for Education bursary to Maryland. I think we are going outside the issue that is being discussed here. Please, let us stick to the issue and the recommendations.

Hon. Kennedy Obuya: Hon. Speaker, I want to be on record for the first time in this Assembly that I want to reverse my earlier statement. It is my right as a representative of the citizens of Imara with guidance and after going through properly screenshot of this. After listening to my party leader here---

Hon. Temporary Deputy Speaker: That one is not allowed. You cannot speak twice on the same issue. You are a member of Speaker's Panel and you know that is not allowed.

(Hon. Obuya spoke off the record)

You, you cannot correct, it is not allowed to speak twice on the same matter. Hon. Mark Mugambi.

Hon. Mark Mugambi: Thank you, Mr. Speaker. You have just advised us that the issue is the money being channeled into the wrong account. As I support this, I also have few reservations. One, we cannot deviate from what our fellow colleagues are saying about the bursary issues because the problem started from when they channeled the money into the wrong account. Also I believe the Budget Committee together with the Education Committee, I am not sure if they held a joint sitting, but they ought to have told us exactly what transpired because as my fellow Hon. Member, *Mheshimiwa* Kabiro said

IFMIS is a seven step process, it is just like an MPESA transaction. At first it shows you where the money is going and if it is going to the wrong person you cancel it. Now, this is a seven stage process whereby the first or second or third officer ought to have seen the error and where it occurred.

Mr. Speaker, the committee needs to tell us if we are getting the balance of what we did not get because it is a fight that we are getting within the wards because the people applied and they never got the cheques. I think it is important that the committee needs to give us clear guidelines...I am addressing the House under the leadership of the Speaker so after I have finished the Speaker is supposed to give me his indulgence... *(Loud consultations)*

Hon. Temporary Deputy Speaker: Continue,

Hon. Mark Mugambi: As I was saying Mr. Speaker, the committee that did this report needs to confirm to us that they have indeed confirmed that the account indicated here belongs to Maryland Fund account or it is just an account that was created to get closer to our bursary account. We also need to confirm that indeed it is a Maryland account because we can see that it is one number that is deferring from the other.

Also Mr. Speaker, as I finish, let the bursary committee - when they are issuing us with the forms - they let us know the timelines; when the members should return their forms and when our constituents should expect the cheques issued on the same.

Hon. Temporary Deputy Speaker: Searjent- at- Arms, you are not following the orders. Please do not allow members to leave.

Hon. Mark Mugambi: Mr. Speaker, as we speak I am foreseeing the same case happening again during this financial year. Members do not know the timelines and when they should expect their cheques. We need to have a proper framework. Let us say by the end of March members should have their cheques. However as it is right now we have no clear guidelines on the cheques and the bursary issues. Thank you.

Hon. Temporary Deputy Speaker: Hon. Mellab.

Hon. Melab Atema: Thank you Mr. Speaker. I am rising here very confused. I don't know whether I should say I am supporting or not because first of all this is a very pertinent issue. Education is a key and I thought Nairobi County should fly with it as one of the biggest agendas. We need to streamline on the issue of how we handle the money that goes to education. Coming back to the transfer of money into wrong accounts, it was weird and it came out in that test in regards to the people of Nairobi and they looked at the MCAs plus the county as a whole in a funny manner: that how can this have happened and nobody has noticed until it went wrong. Also when I go back to the bursary issue which is still coming to the same I would think this is part of the reasons where the bursary comes late because nobody has come out to tell us this.

I am not really supporting this document because first of all it has been given to us late and it is so hard for me to go through and understand what recommendation has been done. It is always good to get this document as a member of this House so that we can discuss it. Standing here as a mother I am crying for all the children in Nairobi to be in school on time and to get the funds to facilitate them on time.

However, when you step out of there and tell them that the money was sent to a wrong account and nothing has been done on a serious note! We will be ashamed even when we go back home and our children are asking us what really happened.

As a county we also need to agree that education should be our big agenda and when we add other agendas let education come first and then we will know how we are going to be issuing the bursaries. The bursary is a hitch and we cannot pretend now that it is going to come out smoothly. It will be problem to elected MCAs as they will lose their fame because people will think they were part of the problem of money going to the wrong accounts.

There is this thing in the cloud that some MCAs squandered the money because they deposited cheques to their personal accounts. Can we right things now as a House in 2019 to make sure that this doesn't happen and if they have reasons, can we be told when the money was brought back and how was it used and the whereabouts of remaining cheques which were not issued? Where did the money go? Thank you very much.

Hon. Temporary Deputy Speaker: .Hon. Evans Otiso.

Hon. Evans Otiso: Thank you Mr. Speaker. I also rise to oppose this document because if our money was returned back to a personal account how sure are we that the money was returned back to our bursaries account and yet we are unable to receive our balances. In my ward I have a balance of Kshs.500, 000. The same for Hon. Obuya and all MCAs are crying.

So Chairman I think you are misleading us and there is something that you are hiding. If our friends are being taken to Ethics and Anti-corruption commission, what about this person who transferred our money to Maryland? Has he been taken to Anti-corruption commission? Also, what if there was somebody who was selling the bursaries?

Hon. Members we are supposed to oppose this document so that the Budget Committee through the Chairman goes back and delivers the recommendations and go further and enquire whether that person has been taken to Anti-corruption commission and furthermore and also to find out the owner of the Maryland account. Thank you Hon. Speaker.

Hon. Temporary Deputy Speaker: Hon. Obuya. Please read the Standing Order.

Hon. Kennedy Obuya: Okay. Hon. Speaker, I am rising on Standing Order 233(2). Hon. Speaker, 233(2) says "every member will have the opportunity to correct the draft verbatim report of his or her contribution". Hon. Speaker has the wisdom and we have confidence in him. Hon. Speaker, I wanted to put it on record to still say that I have confidence in the leadership of the Budget Committee.

Hon. Speaker, after listening to my party leader Hon. Elias Otieno I want to withdraw my earlier support. I went again and realized that without proper measures put this report is not proper. I withdraw my support for purposes of Hansard and on behalf of Imara Daima. I beg that this report fails unless there is an amendment. Thank you.

Hon. Temporary Deputy Speaker: Thank you very much Hon. Obuya, the Chairperson has noted and you will get back your report on the same. Hon Doris Kanano.

Hon. Doris Kanano: Thank you Mr. Speaker. Mr. Speaker, I think this is a pertinent issue which needs more consideration and as much as I respect the Budget Committee, I have gone through this report and personally I am not satisfied. It should be re-visited and brought back to this House for debate. Again

Mr. Speaker, education money going to a foreign account is not a matter that we will take kindly and it is unheard of and for this I am not boarding, I stand to oppose this motion.

Hon. Temporary Deputy Speaker: Thank you. Hon. Waithera, you have some amendments to make? You want to make some amendments?

Hon. Waithera Chege: Yes. Thank you Mr. Speaker, I rise to support this report and congratulate the Chair for the job he has done although it is fairly done because there are a few gaps in the report and therefore I wish to request that you allow me to invoke Standing Order 56a) and that you will allow me to push for an amendment on the same: that the report be amended to include the following text “as recommendation K after J, that the office of the Auditor General conduct a special audit of the transaction involving the transfer of funds meant for Education Bursary and report within the next 60 days” and also using Standing Order 58(3) you allow me to call the Minority Leader to second me on the same.

Hon. Temporary Deputy Speaker: Hon. Minority Leader.

Hon. Elias Otieno: Thank you Mr. Speaker. I think after we had consulted, even the Chairman agreed with us that there are some loopholes and you know that to err is human so I think that all of us agree that there were some errors and those measures are very important and since we are going to give this document to the Auditor to deal with then it comes to the PAC, Mr. Speaker, I think we should now just support the document because the money is always for bursary.

Like now you know that our children start school from January up to November but we get the bursaries mid second term. I think it is useless because some of them are dropping out of school because of funds and yet somebody somewhere is keeping the money somewhere for his or her interest. Mr. Speaker, let us have this report, we pass it with those amendments. Thank you.

Hon. Temporary Deputy Speaker: Thank you Minority Leader. It is a requirement that I propose a question on the amendments.

(Question proposed)

Hon. Temporary Deputy Speaker: Members, we are now debating the amendments that have been made.

Hon. Kennedy Oyugi: Hon. Speaker, what is the procedure of moving an amendment? Can you clarify before we proceed with the debate?

Hon. Temporary Deputy Speaker: Mheshimiwa has asked a question and I want to guide him through. Standing orders 56 (a) reads that the following motion may be moved without notice- Motion by way of amendment to a question already proposed by the chair. This is in order

Hon. Kennedy Oyugi: Hon. Speaker, I want to be on Hansard.

Hon. Temporary Deputy Speaker: I can't see your name here Mheshimiwa. Continue

Hon. Kennedy Oyugi: Mr. Speaker, as you correctly read it, you were talking of a motion and not a report.

Hon. Temporary Deputy Speaker: Member, you are out of order.

Hon. Kennedy Oyugi: The procedure of moving an amendment---

Hon. Temporary Deputy Speaker: Go back to your Standing Order.

Hon. Kennedy Oyugi: Procedure of moving an amendment---

Hon. Temporary Deputy Speaker: I have already read the procedure and I am not going to take you through school. Listen. We have a Standing Order here and you have to agree when you are wrong.

Hon. Kennedy Oyugi: Can the amendment be circulated?

Hon. Temporary Deputy Speaker: It is on the floor of the House and has been read. Mheshimiwa, don't be problematic. You are out of order. Mr. Jeremiah Karani

Hon. Jeremiah Themendu: Thank you Hon. Speaker. I rise to support the motion because it has been amended. That is what we wanted because the matter on bursaries is a weighty and serious one. I understand that if it goes through then there will be serious warnings to the other side.

(Loud consultations)

Hon. Temporary Deputy Speaker: Order Members! Let him finish

Hon. Jeremiah Themendu: They shall not do the same in the future. Let me repeat what I said earlier that the sectoral committee on Budget finds out whether the money that we left is there or has been diverted. Thank you Hon. Speaker.

Hon. Temporary Deputy Speaker: Very much. Mheshimiwa Geoffrey Odhiambo

Hon. Geoffrey Majiwa: Thank you Mr. Speaker. I rise to support the amendment and concur with Hon. Jeremiah that the biggest concern would be the balance of the monies remaining in the account after we gave out bursaries and brought back some cheques for correction because on average every member is claiming about Ksh. 300,000. That is a lot of money and as the Auditor General follows what happened between our account and the foreign one, it is important to know the money that is left. Some of us are waiting for the cheques and have schools which have sent away children because of non-payment yet the money is lying somewhere. We are not sure whether it is in people's pockets or is lying in that account yet it is supposed to be in school accounts for children to go to school. My humble request is if the Auditors can actually expound on their duty to ensure they cover monies left in the account after we returned cheques for correction. Thank you Mr. Speaker

Hon. Temporary Deputy Speaker: Hon. Joseph Ouma Ndonji

Hon. Joseph Ndonji: Thank you Mr. Speaker. I think that we are jumping the gun. If there is an amendment then it should be done procedurally so that we do not jump the gun. The fact that that a mistake was made yesterday doesn't make two wrongs right.

Hon. Temporary Deputy Speaker: Mheshimiwa---

Hon. Joseph Ndonji: The procedure yesterday was wrong.

Hon. Temporary Deputy Speaker: Read out what you are saying is wrong

Hon. Joseph Ndonji: They have to make the amendment ---

Hon. Temporary Deputy Speaker: This has already been done and was on the floor.

Hon. Joseph Ndonji: We have to be supplied with it.

Hon. Temporary Deputy Speaker: No. Amendments are made on the floor of the House and I have read it through Standing Order 56 (a). Thank you.

Hon. Joseph Ndonji: It should be in writing Mr. Speaker and not verbal.

Hon. Temporary Deputy Speaker: You are out of order. Let me call the mover to reply.

Hon. Chege Waithera: Thank you Mr. Speaker sir. I wish to thank Members for the support. I beg to reply

(Question put and agreed to)

Hon. Temporary Deputy Speaker: Ladies and gentlemen, we now go back to the motion; that the Assembly adopts the 9th report of the select committee on County Finance Budget and Appropriation on the irregular transfer of funds meant for education bursary to Maryland University health services funds account as amended. Thank you. Any debate? Mheshimiwa Kabiru

Hon. Mbugua Kabiro: Thank you very much Mr. Speaker. I would like to contribute to the amended motion.

Hon. Temporary Deputy Speaker: If it is on the amended motion then I am sorry.

Hon. Mbugua Kabiro: No! No!

Hon. Temporary Deputy Speaker: We have already dispensed off with that matter

Hon. Mbugua Kabiro: We have amended it and that is why I am speaking of the amended motion.

Hon. Temporary Deputy Speaker: Yes.

Hon. Mbugua Kabiro: I am right Mr. Speaker. I don't think that there is any hurry in passing this report. If the committee has not done a good job then let us shoot it down so that they present it tomorrow with all the recommendations. There is no need for us to pass a motion that will disturb us in the future. Of what use is it? This is the second time that an amendment has been done without a written document circulated to members and I hope that you rule that that be adopted as parliamentary practice so that in the future we do it as and when is necessary.

Hon. Temporary Deputy Speaker: Thank you very much. Mover to reply

Hon. Robert Mbatia: Thank you Mr. Speaker. I want to thank the Assembly for the healthy and sincere contributions towards this report and also to my committee who sat and made enquiries to this. I also would like to thank your office for facilitating us to get to this point led by your budget office. As I respond to the concerns of a few members, I wish to raise this issue and notify members that we were only required to check if there was irregular transfer of funds. We confirmed that indeed there was irregular transfer of funds and our mandate ended at that point. The sectoral committee on Education is enquiring more on how the monies were utilized and whether any monies remained in the said account. However, I wish to confirm that there was some Ksh. 3m that was used in the processing of the cheques when cooperative bank was contracted to do that and as such we believe as a budget committee that is the only money that was used during the process.

On our recommendations Mr. Speaker, we recommended that there be distinct steps on how validation approvals should be done because we realized the blame was going to the small accountants. Now that we have given the Auditor General the role to undertake the enquiry and submit the same to this Assembly, we know that we will have a conclusion and the main culprits will face the law. Mr. Speaker, we are not hiding anything because our capacity is limited. We don't have the powers to punish those culpable and institutions like EACC and the Auditor General are the ones who can give a report that can be used by the Assembly to propose stringent measures and punishments to the culprits who undertook the anomaly. I therefore want to thank the Assembly and beg to reply.

Hon. Temporary Deputy Speaker: Thank you Chairman. I believe that you did a good job. I wish to put the question

(Question put and agreed to)

ADJOURNMENT

Hon. Temporary Deputy Speaker: Ladies and gentlemen, we now adjourn to Tuesday 26th. Thank you very much

The House rose at 4.15 p.m.