



REPUBLIC OF KENYA

BOMET COUNTY ASSEMBLY

ASSEMBLY DEBATES

(OFFICIAL REPORT)

DAILY HANSARD

Tuesday, May 5, 2015

PLENARY

5 May, 2015 (Morning Sitting) (Special Sitting)

**COUNTY ASSEMBLY
OFFICIAL REPORT
Wednesday, May 5, 2015
The House met at 9.41 a.m.
[The Speaker (Hon. G. K. Kipng'etich) on the Chair]
Prayers**

Hon. Speaker: Serjeant-At-Arms to ring the bell.

The quorum bell was rang.

Hon. Speaker: Honourable Langat.

Hon. R. Lang'at: I wonder whether the House is on, we are consulting inside a House. It were better if we adjourn so that we can make consultations outside because it is very informal for us to be consulting the way we are doing now.

Hon. Speaker: Honourable Lang'at we were waiting for quorum and I have not been informed whether there is quorum. I don't know whether there is quorum not unless you inform me that there is quorum.

As we speak we don't have quorum, Serjeant-At-Arms to ring the bell for five minutes.

Quorum bell was rang.

Hon. Speaker: Do we have quorum?

There was quorum.

PAPER

- ❖ **REQUEST TO TABLE THE MEDIUM TERM EXPENDITURE FRAMEWORK (MTF BUDGET) FOR 2015/2016, TO 2017/2018 AND ANNUAL BUDGET ENDING 30 JUNE, 2016.**

Hon. Speaker: Honourable Aurelia.

Hon. A. Chepkirui: I wish to table the Medium Term Expenditure Framework (MTF budget) for 2015/2016, to 2017/2018 and Annual Budget ending 30 June, 2016.

Hon. Speaker: Why don't you table in the afternoon. In my own opinion you can table in the afternoon.

Hon. A. Chepkirui: Thank you.

MOTION

Hon. Speaker: Chair Budget and Appropriation.

Hon. A. Chepkirui: Thank you, I was about to move this motion but I would like to seek leave that you give us one hour so that we go and finalize with the committee because in the meeting that we had

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yesterday there were some issues which cropped up and members agreed that we meet today at 9 a.m. with the Controller of Budget so that we iron out those issues. We were not able to meet at 9 a.m. and I wish that you give us one hour so that we finalize on the issue and we resume and I will be in a position to move a motion, thank you.

Hon. Speaker: Honourable members based on what the Chair of Budget and Appropriation has said, we can suspend the sitting for at least one hour so that the Budget and Appropriation Committee can be able to meet and iron out and the Finance Committee. The two committees can be able to meet and iron out the issues. We can be able to suspend for one hour and then we proceed. I want to meet the members after this in a Kamukunji.

The session is suspended for one hour and we will be back at 10.40 am.

THE HOUSE RESUMED

Hon. Speaker: Honourable members I am seeing it is almost 12.30 p.m and we have few minutes and we need to move a motion. There is no quorum.

The quorum bell was rang.

Hon. Speaker: Honourable Taplelei.

Hon. T. Rotich: Thank you, considering that we have a very important motion that might require time to go beyond normal sitting time, which is 12.30 p.m, I wish to move a motion based on Standing Order 30 (3) (a) for this sitting to extend its sitting time so that we can be able to finish the business of supplementary budget that is before us.

Hon. Speaker: Who seconds?

Honourable Nancy Chepkirui seconded.

Hon. Speaker: Thank you honourable Nancy, I now propose the question that pursuant to Standing Order number 30 (3) (a) this County Assembly do resolve to extend its sitting time beyond 12.30 pm to transact the remaining business. It is now open for debate.

There was no contribution.

Hon. Speaker: If there is no contribution, I now put the question that pursuant to Standing Order number 30 (3) (a) this County Assembly do resolve to extend its sitting time beyond 12.30 pm to transact the remaining business.

Question put and agreed to.

Hon. Speaker: Honourable Chair we are going to proceed from where we left. You can now table the report.

Hon. A. Chepkirui: Thank you, allow me to table the report of the joint Committees on Budget and Appropriation and Finance, ICT and Economic Planning on the supplementary budget 2014/2015

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financial year.

Hon. Speaker: It is now a property of the House. Honourable Chair proceed from where we had left.

Hon. A. Chepkirui: I would like to move this motion that aware that Pursuant to Standing Order 218 of the County Assembly Standing Orders and Section 135 of the Public Finance Management Act, 2012 this County Assembly adopts the joint report of the Budget and Appropriations and Finance, ICT and Economic Planning Committees on the Bomet County Supplementary Budget Estimates for the Financial year 2014/2015.

I want to thank the committee for the work that they really did from the time we tabled the supplementary budget in this honourable House up to now when we are moving this motion for adoption.

When we were going through supplementary budget the committee had a number of observations and these were the key areas where there were deviations on the 2014/2015 budget. The committee has in the past quarterly expenditure reports noted the growth of recurrent expenditure relative to development expenditure.

This trend which is consistent with the supplementary budget 2013/2014 financial year by decreasing development from KES 2,700,000,940; 58.7 per cent to KES 2,142,800,662; 45.9 per cent. Whereas recurrent expenditure has increased from over KES 1.9 billion; 41.3 per cent to over KES 2.5 billion which is 54.1 per cent.

It is evident that the upward revision of the recurrent budgetary allocations resulted in a significant reduction in the resources available for development. It is therefore doubtful whether the County Government is serious in achieving development objectives. The trend must be addressed if the County Government is to meet the development goals that we are striving to achieve.

The committee noted that the supplementary budget seeks to increase the approved budget by KES 72,733,603 part of this money came from new cash inflows not in the approved budget as follows;

World Bank – CHMS, supervision and resources allocation of over KES 9 million.

Abolition of user fee compensation amounting to over KES 12 million

Free maternity reimbursement of KES 8,918,200.

These new inflows totals to KES 30,668,707.

New programmes; Bomet Integrated Development Programs introduces cash-inflows amounting to KES 100 million.

The program features across expenditures of three departments which are Health, Water and

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Agribusiness.

The supplementary budget seeks to revise the county own revenue from KES 380,430,000 to KES 240 million. A reduction of KES 140,430,000. This is a clear indication that the County own revenue had been highly overestimated despite the advice and caution by the Budget and Appropriation Committee.

We went ahead as a joint committee and did analysis of departments. It was evident that whereas the supplementary budget seeks to increase allocation for payments of salaries, operations and maintenance were drastically reduced. This is not clear as to how development programs will be successfully implemented with the PE being increased whereas O&M were being reduced. This implies low production and low development since the funds will go to payment of salaries.

In our analysis, the second analysis of the departments was that only two departments exhausted the 2014/2015 allocations. These are Roads and Public Works and Lands, Housing and Urban Planning. The other departments had not used all the amounts allocated in the 2014/2015 and parts of the allocations were re-allocated to other votes or departments.

Three is that supplementary budget seeks to increase the allocations to the Office of the Governor and Administration from KES 588,500,000 to KES 706,929,316 an increment of KES 118,829,316.

Four is that security allowance which had been allocated KES 1 million in the approved budget was indicated they had been allocated KES 2.5 million. Supplementary budget seeks to increase the amount to KES 3 million.

The fifth point is that the allocations for operations and maintenance in seven departments of Executive have been drastically reduced except for the Office of the Governor and administrative services, Finance and Economic Planning and Roads and Transport.

County Assembly operations and maintenance was also revised upwards.

The last point under analysis of departments was that allocations for persons with disabilities in the department of Culture and Social services from KES 5 million to KES 457,000. Reduction in the supplementary budget is an indicative of low absorption rate of the KES 10 million allocations for the program in the financial year 2013/14 had also been reduced due to low absorption rate. The committee went had and looked at the supplementary budget and they noted that there were some programs which were not included in the printed estimates. Honourable Speaker this includes other infrastructure and civil works. Overhauled of infrastructure and civil works that is VTIs which had been allocated a total of KES 153 Million under the Department of Education Sports and Vocational Training. The Supplementary Budget also seeks to introduce KES 30 million of The Car Loan to members of the County Assembly. It is evident honourable, Speaker that the amount has already been spend though it had not been approved in the financial year 2013/14 budget. It is worth noting honourable Speaker that KES 70million had been budgeted in the same for the financial year 2013/14. Approved by this House an allocation had been implemented. Furthermore, it should be noted that section 135 of the PFM Act provides for expenditure of fund for a purpose which had been appropriated if a need or an emergency arise. The section arrived should be sorted within 2 months. It is therefore evident honourable Speaker that the CEC for Finance did not comply with this provision. We noticed that there were reduction of

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funds for strategic project and programs.

The Supplementary Estimates further propose to reduce funds for some programs planned and approved in 2014/15 budget as priority projects. This creates uncertainty on the commitment to adherence to the Annual appropriated Budget. The committee further noted that allocations for crucial development programs for water supply and sewerage, Health and Agriculture has been drastically reduced from the previous allocation which were allocated significant resources in the Annual Estimates but their allocations has been significantly reduced in the Supplementary estimates. Mr. Speaker sir, we also analysed the personal emoluments.

We noted with concern that allocations to P.E has significantly increase from **KES 1,302,600,000 (28.9 %)** to **KES 1,814,083,522 (38.8%)** an upward increase of **Ksh.511,483,522**. The supplementary budget seeks to increase personnel emoluments for all the departments with the most adjusted item being salaries and wages. This means allocations for personnel emoluments in the approved budget 2014/15 financial year, were either grossly underestimated or massive recruitment of personnel. The committee further noted that a number of employees had been irregularly and procedurally employed by the executive as per the report of the County Assembly committee on Labour and Public Service adopted by this House and may have been factored in the supplementary estimates 2014/15 financial year. Upward adjustments of the personnel emoluments results in reduction of the allocations to the development expenditure. We realized that there was reallocation of funds within the sectors. Honourable Speaker Sir, The committee took note that the supplementary budget proposes to make changes in the departments entities as given in the table. **(Read the table as it is)**

S/No	DEPARTMENTS/ENTITY	APPROVED ESTIMATES	SUPPLEMENTARY BUDGET seeks to	% CHANGE
	Office of the Governor, Administration and Public Service	588,100,000	706,929,316	increase by 20%
	Finance and Economic Planning	280,264,000	391,628,605	increase by 40%
	Environment and Natural resources	38,636,000	24,506,044	Reduce by -37%
	Agribusiness and Cooperatives	607,410,000	412,355,983	Reduce by -32%
	Roads and Transport	486,626,000	599,000,424	increase by 23%

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	Water and Irrigation	253,050,000	248,675,379	Reduce by -2%
	Education, Youth and Sports	712,506,000	638,196,639	Reduce by -10%
	Children and Social Services	415,460,000	299,796,882	Reduce by -28%
	Health and Sanitation	705,560,000	791,888,447	increase by 12%
	Trade, Energy , Industry and Tourism	95,176,000	73,147,663	Reduce by -23%
	Land, Housing and Urban Planning	153626000.00	182,608,221	increase by 19%
	County Assembly	265,000,000	305,000,000	increase by 15%
	Total	4,601,414,000	4,673,733,603	

Honourable Speaker those were the reallocation that were made. Honourable Speaker the committee recommendation, after going through the supplementary budget estimates and this are the committee's recommendation. In view of the above findings and observations, the committee made the following raft of recommendations;

That the relevant County Assembly Committees investigates various issues highlighted above. This includes;

- i. Establishing reasons leading to low absorption rate especially on development expenditures for a number of departments
- ii. Determine and resolve issues surrounding allocations and expenditure on Car loan

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Honourable Speaker we also looked at policy prescriptions. The committee noted several critical issues that need redress. These are either inhibiting effective service provision, restraining the socioeconomic growth of our county or are inconsistent with the current legislation. In this regard, Mr. Speaker sir, the committee therefore recommends the following policy measures:

- i. That all future supplementary estimates be program based with specific and measurable outputs, indicators and timeline outlined for each program;
- ii. That future Supplementary Budgets include explanations on how the outputs of any program are affected by any reductions proposed to it;
- iii. That increments/reductions to any program in future Supplementary Estimates should detail the additional outputs expected from it;

There were some proposed adjustments and re-allocations in the 2014/15 under the department of department of education, youth and sports. The committee guided by the fact that there is already a proposal by the C.E.C for finance seeking County assembly approval to allow the County Treasury to source for a credit facility to gather for construction of ECD Centres and the fact that ECD is a core function of the County Government. The committee recommends reductions of KES 70,000,000 under item “Other Infrastructure and Civil Works” and KES 9,007,614 under item “Overhaul of other infrastructure and Civil works (VTIs) and be re-allocated to item “Construction of Non-residential Buildings (ECD)” to bring the total allocations to the item in the supplementary budget to KES 249,007,614. Affected votes therefore should be considered in the 2015/16 f/y budget. Honourable speaker that is the report that the two committees that is the budget and appropriation committee together with finance ICT and Economic Planning compiled on the supplementary budget estimates. honourable Speaker I sincerely want to request the members to adopt this report because we all know the challenges which are there and a number of votes which have been exhausted and we are only remaining with two months and if you don’t re allocate the money which are in the votes to some other votes which have been exhausted we are likely to end the financial year having those money in bank and at the end of the day it will be returned to county revenue fund and be utilized in another for, Yet we had time to reallocate to the project which exhausted their allocation. I sincerely urge member to adopt and support this report as it will enable various committees to do a thorough investigation into their departments. As I remember there was an issue in education department where a number of programs were brought in and we know in the PFM Act we are allowed to introduce new programs that were not factored in in the initial budget but then it was a concern to a number of members in the committee that if so many programs are removed and others brought in; the question is how the initial budget is normally done. Such issue is what the committee is recommending that every committee to look at their sectors particularly under the supplementary budget and do a thorough investigation and that will give us answers to some question members have been asking. With that I don’t want to say much. I have said what the committee did and I request honourable Christopher Ngeno who is the Chair Finance, ICT and Economic planning to second the motion. Thank you.

Hon. Speaker: Thank you honourable Aurelia and Ngeno I now propose the question. THAT Pursuant to Standing Order 218 of the County assembly Standing Orders and Section 135 of the Public Finance Management Act, 2012 this County Assembly adopts the joint report of the Budget and Appropriations

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and Finance, ICT and Economic Planning Committees on the Bomet County Supplementary Budget Estimates for the Financial year 2014/2015. It's now open for debate. What is your point of order honourable Korir.

Hon. Julius Korir: I would like to propose amendment to the vote concerning car loan for members that is vote 41104401 of car loan of Kenya shillings 30 million be moved and lumped together with vote B110202 of construction of non-residential building that is early child hood education to make it a sum of KES 200 million. Thank you.

Hon. Speaker: Who seconds? Thank you honourable Joyce. Before any debate, I would like to propose an amendment to the report that the vote 4110401 of car loan of Kenya shillings 30 million be moved and lumped together with vote B110202 of construction of non-residential building that is early childhood education to make it a sum of 200 million. It is open for debate. After the debate of the amendment and if approved I will be forced to propose the question again with amendment. Honourable Korir you were supposed to state why.

Hon. Julius Korir: I want to state it.

Hon. Speaker: But you sat down, so you will wait for your turn when you will be replying. Honourable Majority then honourable Joyce.

Hon. J. Kirui: I wish to be informed, honourable Korir rose on a point of order and he is actually bringing an amendment. And it supposed to have been written 24 hours before. Irrespective of the hours supposed to be brought he rose on a point of order. I wish to know whether that is procedural.

Hon. Speaker: Honourable Josphat we need to take cognisant that we need to know that most member don't have the report. It has just been tabled and if you look at the standing order No.55 it is not 12 hours. What is your point of order?

Hon. J. Kirui: Honourable speaker I was really rising to raise a question only to return to my seat and I found a member refusing to move.

Hon. Speaker: Honourable Joyce kindly move. Honourable Josphat it is not 12 hours. It is 2 hours that amendment can be brought but when you look at standing order No.55(2), despite paragraph (1), the Speaker may, in exceptional circumstances, allow a Senator to move an amendment to a Motion before the Senate at any time during consideration of that Motion. But senate means the Assembly. Given that the report had been given 2 hours surely, how do you expect the member not to move the amendment yet the report was tabled right now. So there is a provision which allows, he rose on appoint of order, I thought his point of order is on amendment. Because you can say there is an amendment it is still provided for in the standing orders. That is my literal interpretation. What is you take honourable Josphat.

Hon. J. Kirui: Honourable speaker I wish the member would have brought this five minutes ago for it to be approved. Before it is deliberated honourable Speaker.

Hon. Speaker: Honourable Korir what is your point of information.

Hon. Julius Korir: Honourable Speaker the member the moment I stand he gets confused and the

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amendment I brought is before the Clerk signed and the honourable Speaker approved. I don't know where he got the information that it has not been approved,

Hon. Speaker: Honourable Majority

Hon. J. Kirui: Honourable Speaker in that case it should have been a motion, and I don't know if the member is in order for the member to say I get confused when he stands. I am talking about procedures not the content.

Hon. Speaker: Honourable Majority, he moved as a motion that is why is said who seconds. It was seconded by honourable Joyce. So I thought that the right procedure. Have you read the amendment to motion that is standing order No 54; kindly consult that. So honourable Joyce,

Hon. Joyce Korir: Honourable speaker I stand to support the motion, but before that where we have reached.

Hon. Speaker: Which motion?

Hon. Joyce Korir: On amendment. Let me deal with amendment first before I came to the main report. The reason I support is because in the supplementary budget given it is talking of an introduction of KES 30 Million which is supposed to be used in the car loan.

Hon. Speaker: Order honourable members, order honourable Korir. The reason I am saying this is that the KES 30 million is reintroduced and bearing in mind that this is the House that passed the supplementary budget that had KES 70 million meant for car loan unless you are telling us we transfer the same to mortgage because I have seen it nowhere. The KES 70 million passed last year were supposed to be used to pay car loan for the members. The KES 30 million in paper seems lost and the KES 70 million is supposed to have been used to pay the car loan and submitted to the relevant bank by the executive. The CEC of education has written a communication through the vice chair for budget that he is requesting for KES 124 Million for the construction of ECD classes which was factored in 2013/14 budget at KES 135 million. Since the letter has come to this House requesting funds for other important things, I want to say that the KES 30 Million meant for this House in the supplementary budget be moved to the ECD. I think the person who made this budget was the new CEC who doesn't know we had already factored in the previous budget. I support that because the issue of car loan had been dealt with and if someone wants to convince me, then tell me which vote head was used to pay the 40 Million. I am saying the seventy million had already been paid to the bank. Thank you.

Hon. Speaker: Honourable Samson.

Hon. S. Towett: I rise to support the motion by honourable Korir about car loan in this supplementary budget. If you look at the budget for last year it was factored in to enhance car loan but we know the money was not used in the right place. That should be explained by concerned parties. I wonder why we allocate funds in votes that during appropriation it was not there. I believe the supplementary budget is supposed to move funds from votes that were not used to existing project that were done and the funds were not sufficient. Secondly we are reducing funds from votes that are not able to consume the appropriated amount to the end of a financial year. But now giving a vote allocation that had zero allocation initially I believe is not really acceptable. Instead of us going for an overdraft to construct

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ECD centres and we have funds which can be moved to some votes and those essential facilities in our wards and schools. I urge the honourable member that together we move to that direction and we play our role as the oversight and thing will move the right way. I urge my colleague that we support this amendment.

Hon. Speaker: Honourable Langat.

Hon. R. Langat: Many eyes can see few things that few may not have seen. Looking at these amendments that have been brought initially this vote was not in the budget so if we introduced a new vote then we are going against the law. Mr. Speaker, looking at this this is a very serious violation of the law because we are not supposed to. When dealing with supplementary we should be moving money which was there to areas that have been exhausted. And not introducing something new. We are supposed to be saying we have exhausted from point A and we want to bring from this point A to point B so that work can continue, but not introducing something completely new. So I want to support that we make this amendment and this will also save the County Assembly from passing another loan when we have money within the county. Mr. Speaker, I support this, it passed the eyes of the committee but they also recommended that there is a need to investigate the issues surrounding the car loan. On the 30 million, the committee recommended that there is a need to investigate this. This is why we are saying let us put the money in the right place so that this one can be investigated.

Hon. Speaker: Chair Budget?

Hon. A. Chepkirui (Chair, Budget and Appropriation Committee): Thank you very much honourable Speaker for giving me the chance for giving me the chance to contribute towards this motion moved by honourable Korir. I stand to oppose. I am the Chair Budget and Appropriation Committee and I know most members in the committee know what I am about to say. I know most members know what happened but I don't mind going back to what we discussed. In the last financial year there was a supplementary budget that was passed in this House. And we had budgeted KES 70 million for car loans. We have done a number of investigations as the committee on where, because we are told KES 10 million out of the KES 70 million had been deposited in Transnational Bank for the car loan but the bank needed KES 70 million. We asked where the other KES 60 million went. We were told the money lapsed. It became the county revenue fund. We entered this current financial year but nothing was budgeted for the car loans. Along the way we are told that so far, I know the loan committees know this, that KES 40 million has been deposited in the Transnational bank for the car loan. Remember I said earlier the KES 10 million had been deposited, but in this financial year, KES 30 million more had been deposited to make KES 40 million. We all know that the KES 30 million was nowhere in the budget, we don't know where it was removed from. If you look at page four of the committee report we have really addressed that issue, we said that we factored the issue of the supplementary budget. But there is this section 35 of the PFM act, which says if you do supplementary budget you can do reallocation within the votes on whatever was in that budget or introduce something that was not appropriated for. You can introduce a new thing, I wish I had it, I could have read it. In our report, it should be noted that whereas section (135) of the PFM act provides for expenditure of funds for a purpose which has not been appropriated if a need or an emergency arise. The section provides that authority for withdrawal should be sought from Assembly within two months; we had noted that

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KES 30 million was deposited to the Transnational Bank which had not been appropriated but the same KES 30 million was supposed to come to this Assembly for approval within two months. The mistake that is here is not introducing a new item, it is provided for in the PFM Act. The mistake is; depositing that money and waiting until two months has elapsed because I am sure two months have elapsed before were given this thing for approval. So it is not a mistake to introduce this thing, but it is a mistake to introduce something but it is a mistake to pass the timelines given by the PFM Act. Thank you.

Hon. Speaker: What is your question Honourable Joyce Korir?

Hon. Joyce Korir: Thank you very much honourable Speaker, my question is; the 70 million that was factored in the previous budget was in the executive side; remember the same 70 million was appropriated almost 6 months down the line and not only that, we want to know...

Hon. Speaker: What is your point of order honourable Taplelei?

Hon. T. Rotich: Is it in order for the member to contribute twice to the same motion?

Hon. Joyce Korir: There are people who might be sleeping in this House but just bear with them. I am rising on a point of asking a question and I can ask question 10 times or even 50 times. But I can contribute once or even more times based on how the Speaker can deem fit. The 30 million that has been introduced in the supplementary budget 2013/14, my question is; is it to clear the car loan that was taken by members or is it to pay. Remember the same 30 million that we are talking about though they are saying they have already paid 40 million using the vote head that we don't know, remember there is also the issue of mortgage which they have also paid another 10 million, and as we speak it is nowhere in the supplementary budget. Tell us honourable Speaker; is it to clear the loan or to start the payment of the loan?

Hon. Speaker: Honourable Chair, this is a very critical issue that we need to address once and for all, because one, they are saying if I have to correct you, the KES 70 million in the Appropriation budget lapsed but they managed to retrieve KES 10 million out of the 70 million that lapsed and paid. Now you are saying they have already paid another KES 30 million, which if I heard it correctly it is making 40 million. Where I am not getting correctly is; this KES 30 million is it going to make 10 plus 30 or already 40 has been paid and this KES 30 million is meant now to fill the KES 70 million. If is meant to fill the 70, it raises pertinent issues. Chair, I think that is a clear issue that the county needs to address. What is your point of information honourable Korir?

Hon. Julius Korir: I also want to seek clarification from the Chair concerning section 135 of the PFM act that says the County Executive has power to introduce a new vote that was not captured in the Budget Appropriation Act. Because I have been trying to follow section 135 and I am not seeing where they got the power using the same section?

Hon. A. Chepkirui (Chair, Budget and Appropriation Committee): Honourable Speaker can I first answer the two questions?

Hon. Speaker: Honourable Chair, proceed.

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Hon. A. Chepkirui (Chair, Budget and Appropriation Committee): Honourable Speaker, I said when I was explaining that in the records that we have, the reports that we have been seeking from the executive as the budget committee, I said we approved 70 million in the Supplementary budget but they said they deposited 10 million. We asked where did the 60 million went, why didn't you pay the entire 70 million? It is true that we didn't get a satisfactory answer but they said the 60 million lapsed. Honourable Speaker, you also asked whether the 30 million is for the 30 that was paid to the bank or the 30 that has not been paid because in the bank it is already 30 million. I cannot really answer that this is for what has been paid or what has not been paid. If it is for what has been paid, it is okay. If it is for what has not have been paid, it is still okay. The problem is time. We ought to have been given before the lapse of two months. Honourable Korir asked me where in the PFM Act is appropriation of funds to a new vote. The PFM act talks provides for expenditure of funds for a purpose which had not been appropriated, so County Assembly car loan is a purpose which had not been appropriated.

Hon. Speaker: Honourable Ngeno, then honourable Samson.

Hon. B. Ngeno: Thank you very much Mr. Speaker, I also rise to talk about this issue which equally affects all of us, this issue of car loan is something that we should not be joking about. It is an issue that will affect all of us, whether you like it or not we are in the hot soup over this issue. The agreement between Transnational Bank and the County Assembly was okay and was going to put us on the safe side. But the agreement that we were denied to access between Transnational Bank and the County Executive is the one that is going to put this County Assembly in hot soup. How we accessed this money is not the way we could have accessed if we had put aside 70 million and administered from the Assembly. What we got from the Transnational Bank is loan and what is meant by loan is that you get money and you do payments on monthly basis that will be termed as instalments. The monthly deductions that we are always making is what the transnational Bank advanced to members, the 3 per cent is to be met by the Assembly but the entire percentage that amounts to 13 per cent was to be met by the executive. Based on the agreement we were not told that the money was to be deducted at the same time or budgeted for and forwarded to the Transnational Bank. Mr. Speaker, I can term this as a scam in the making, if we are not going to be careful all of us will face a serious problem when it comes to this. We need not to defend this, we need to expunge it from the supplementary budget and it be clear from the beginning that the Governor was saying we cannot set aside the money that was meant for car loan and set aside for car loans in a situation where you can access loan directly from a bank. This 30 million is not what we cannot appropriate in this overdraft unless we are given the agreement between the executive and the Transnational and proper interpretation be made. We cannot engage in hide and seek game over a serious matter that will going to affect us. Regardless of whether we can defend who this matter, based on the direction that you will give through the chair, we need to be very serious on this matter. By putting it in the Supplementary Budget, is setting a trap for the members who will face challenges in future, I am telling you, and I assure you that if we will not resolve this matter before we let it be in the supplementary budget, let us be ready for a serious disappointment.

Hon. S. Towett: Honourable Chair, I also rise on a point of clarification. Want to know from the Chair on section 135 of the PFM act, as she said she didn't have the copy of the same. But if you look at

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section 135 (1) it is talking about and I want to read it, it says the County Government may spend money that has not been appropriated if the amount for any purpose under the County Appropriation Act is insufficient or a need has arisen for expenditure for a purpose for which no amount has been appropriated by that act or the money has been withdrawn from the County Government emergency fund. If we read downwards or even look at that (1), it is talking about a need arising, I want the Chair to clarify whether the car loan is something that came in later on or is it an emergency or was it there before and has it been appropriated for? If that is the case why then, the treasury knew that they were not going to execute supplementary budget where KES 70 million had been appropriated, they knew going to the next financial year, and the loan would not have been given out. Therefore they could have provided in the current financial year the same amount. I don't know whether it is a new need that came in or it is an emergency.

Hon. Joyce Korir: Thank you very much honourable Speaker, I still want to ask the Chair whether the Supplementary Budget that had a vote head of KES 70 million was used by this County Government or not and if it was used, why is this money appearing again in this paper. If it was not used, then I still ask is 30 million the start of payment of 70 million or is it to clear?

Hon. R. Bett: Thank you very much Mr. Speaker, I also stand to contribute on this motion of amendment but I want to say that I am a bit in dilemma, when we say an appropriated amount was not spent during the last financial year, and it was returned to treasury as revenue. It was not appropriated in this financial year 2013/14; we know we have taken car loan from Transnational Bank. We know that when we were talking about mortgage which was almost covered under the same baggage there was several discussions between CASB and the bank to the effect that the money that the members requested for was released. There is only one clarification which we do not know, what is the attachment between the County Government, the CASB and the committee which was appointed by the Country Assembly to transact on the business of mortgage and car loan, what was the agreement? If he agreement was that they need to be paid that money, on monthly basis or whatever basis, then I am not seeing anything wrong if we do an Appropriation to that effect because an agreement was reached and was signed and was agreed upon by the Controller of Budget. We always say the law speak more than words and if the PFM act is what we a relying on, and we are saying such an appropriation has been appropriated on this supplementary budget to cover for a certain expense, which was not appropriated for earlier, and the law is followed then I am not seeing anything wrong. We can circumvent on an issue based on something else not on the supplementary budget which we are dealing with. People might be having other thoughts or perceived information which they had earlier before we came to this Assembly. If the law is speaking clear and we can appropriate for, then I totally oppose the amendment.

Hon. Speaker: Honourable members I think the way honourable Aurelia interpreted that section, is the way everybody should interpret because from my small understanding, which I could be wrong, because my interpretation is upon the budget which is within. Where you are allowed to spend more so long as it should be within the budget. That is my interpretation, but I don't know, we still need to find more clarification. In this one you cannot claim that you are a 100 per cent sure, neither anyone can claim. Clerk, we need, for future references, to get clear interpretation of that section. Honourable Kirui?

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Hon. L. Kirui: Thank you Mr. Speaker, I like the way honourable Kirui has brought out this issue and for sure we need to look at this issue of car loan in a sober way so that we can deal with it. Because it will affect us as members. So we need to find a long lasting solution so that we can finish up with it. What honourable Aurelia has also brought to this House you can see that it has some sense. But my big worry, that I need the budget Committee to look at is if the 10 million did not and the 60 million elapsed. What was the reason? Elapsing means it was not used and when you look at the County Government Act it is now a need. And if you look at the budget that has been submitted it shows that the 30 million has been committed here, it is total commitments and payments. It is like answering what honourable Aurelia has said that maybe the 30 million has already been paid to the Trans national bank. Adding up the 10 million that had already been paid in the previous budget meaning the 30 million has already been paid. If you look at the PFM Act section (135) it says that even things that were not appropriated we can add, as per the interpretation by honourable Chair and even from my interpretation, I could have done like the Chair. But the question is it is saying when there is need. It says ‘ the County Government may spend money that has not been appropriated if the amount appropriated under the Appropriation Act is insufficient or a need has arisen for expenditure for the purpose for which no amount has been appropriated. Meaning there is a need first of all for that money that has not been appropriated. So what we need is for the budget committee should tell us how this was a need that it has been appropriated now, but we cannot say it cannot be appropriated, it is clear in the PFM act that it can still be appropriated but we need to know how urgent was this need because the other time it elapsed. That is why I am saying everybody here can think they are right but we need to sit down and find a long lasting solution to this issue so that it cannot be erupting daily hence affecting the operations. This is something that has also affected the supplementary budget; we have even taken more time discussing this car loan before we go to the main thing which is the supplementary budget. Which means we need to take this as an emergency and we need to sit down as the County Assembly and if there is need to form another committee to investigate on this 70 million because it has become a problem in this House.

Hon. Speaker: Honourable Kirui, we are no longer going to that route of ad hoc committees every now and then, because we will become an Assembly of ad hoc committees. But I think what honourable Aurelia said if I heard her correctly is that she is not sure whether the 30 million is for the 30 which is making 40, and she said was not sure. Honourable Majority?

Hon. J. Kirui: Thank you honourable Speaker for giving me the chance so that I can contribute towards this very important amendment that has been brought by my colleague. I think we are between a rock and a hard place and the toughest will survive. This is because first of all it has been said by the members that there was KES 70 million that was supposed to be in 2013/14 budget. But looking at the expenditure report of the said financial year, I am also left to wonder because it says in that item dash. Even the 10 million that was deposited in the bank is not captured, that is why I am saying we are between the rock and a hard place. Because where does this 10 million that was deposited in the Trans-National bank emanate from? The second issue is that because this is about the Assembly, it is the clerk who is supposed to administer but you find that it is the executive which has been administering the fund. We are fully aware that there is 40 million in the account, maybe the 30 million is what they want

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to factor in but where did the 10 million come from? The reason why I am between the rock and the hard place is, if we say let us move this money, to a different vote, in fact I was initially worried because I thought it was in the vote of the Assembly but looking at it is in the vote of CEC Finance. If we say we are moving this to another vote, then in effect we will be boxing ourselves to a corner. Because the loan that was taken by the members can be turned into a commercial one. I am not opposed to the amendment but there are critical issues surrounding this that we need to look at before we support or oppose this amendment. This is a serious issue that touches on members and I pray that we defer the matter and resume after consultations.

Hon. Speaker: Honourable Majority I assure you that we cannot defer this matter, the other question is; you are saying we are putting ourselves into a box. Are we not also putting ourselves further into the box? Because you see as an Assembly I believe we did our part, and I am being informed that as per the expenditure report as by the last financial year, the remaining balance for the Assembly was 95 million. Did the same 95 million come back to be among those appropriated, are we not putting ourselves farther into the box because as far as I am concerned the County Assembly Service Board entered into some form of contract with Transnational Bank, also the executive entered into contract with Trans-National. And yet the regulation, you see where there is a serious problem? The regulation is; it is the Committee on Car loan and Mortgage, which you chair as the Majority Leader, which is supposed to be administering. And the Clerk is the one administering. And I remember Mr. Cheruiyot, in his wisdom, after he saw things going wrong, he wrote a letter to the Clerk telling him 'I am appointing you to be an Administrator'. How can you appoint somebody whom the regulations have already appointed to be an administrator? These are some of the issues that we really need to sort. I know we are in a very hard place. What is your point of information Honourable Kirui?

Hon. L. Kirui: Honourable Speaker, from your statements, I have come to realize that this Trans-National Bank was not also sincere. How come the Trans-National Bank is going into an agreement with the County Assembly, and after one day or two, it is also going for another contract with the CEC? I am now questioning this Trans-National Bank. It was supposed to have gone with one. If the County Assembly was the first one to go on contract, why was he ready? He was supposed to come to this House and say 'the Executive wants to engage us into another contract'. Because we were expected to go into one contract, they were supposed to refuse completely to the executive.

Hon. Speaker: Honourable Joyce and then honourable Ngeno

Hon. Joyce Korir: Thank you very much honourable Speaker. I want to thank honourable Kirui for the information that he has availed to the House. But, I also want to confirm to this House, that the Committee that was set by this House, headed by one Majority Leader of this House, was the ones who were suggesting on which Banks to go for the loans. It is this House which approved Trans-National Bank; it is only that the shortcut was made by the Executive. And another information again Honourable Speaker; if we are going to pass this KES 30 Million now, to be the car loan, we are saying, the Assembly of Bomet has approved 100 Million for car loan.

Hon. Speaker: Honourable Ngeno

Hon. B. Ngeno: Mr. Speaker, it is unfortunate that sometimes we can pretend not to have been part of

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those who were pushing for this. Mr. Speaker, I want to confirm to this House that the loan Committee of which every sub-county gave the representatives sat down and drafted a contract with Trans-National Bank. From there, the team that was led by Majority Leader went ahead and had the Executive draft another agreement with Trans-National Bank. Mr. Speaker, for some time we have been asking for the agreement letter between the Trans-National Bank and the Executive and we have never received it up to date. So we are asking Mr. Speaker, before we factor in this money in the supplementary budget let us know the contents of the agreement between the Trans-National Bank and the Executive. Mr. Speaker, if that is to be secretive, we can read mischief out of the same. Mr. Speaker, regardless of the threats that we have been given by the Majority Leader, that we are likely to pay at commercial rates, Mr. Speaker, that is just but a mere threat to have this to pass, the same way a threat was given in the morning that CRA officials have been sent to the County, so that we pass this without scrutinizing. Mr. Speaker, let us leave threats aside and we face the reality. I still insist that this KES 30 million is not clear. The intention is not clear until we see the agreement between the Trans-National Bank and the Executive.

Hon. Speaker: Let me give the last...honourable Serbai and honourable Siele, I think honourable Kirui you had stood. So honourable Serbai, 30 seconds, honourable Siele 30 seconds. Remember we are still in the amendments.

Hon. R. Serbai: Thank you honourable Speaker. I was out a bit but I have caught up with the motion in the floor. Honourable Speaker, when you talk about the KES 30 million and also the mortgage, personally I don't want to blame anybody, but, I am blaming the entire House including me. As we are discussing the KES 30 million, we have to bear in mind that we had a Supplementary Budget which never materialized that put aside KES 70 million. Also, when you talk about the KES 30 million, we were told by the CEC that they have actually deposited KES 40 million with Trans-National Bank. If you quote the same agreement, they are saying, as a Member of County Assembly, we are only paying this at a rate of 3% interest and 13% should be paid by the County Government. Yet when you look at that particular Budget, there is no vote of that 13%. You wonder where they will get that 13%. And if at all we have deposited the 40% and they need another 30% to make 70%, honourable Speaker, I request anybody to really inform me about this. If you are talking about the KES 40 million, and the KES 30 million now, how many Members in the House, who applied for this mortgage and they went to an extent of getting the KES 2 million, to have that figure of KES 70 million? Some of us we are under KES 1 million. Why should they need KES 70 million? What for? Did we apply for the KES 2 million each of us to arrive at that figure of KES 70 million? KES 40 is already there and they require KES 30 to make KES 70. Did we all apply for this KES 2 million?

Two; the agreement that I have been hearing here, the Majority Leader is actually mentioning the agreement with Trans-National Bank, my colleagues here are mentioning the agreement, and that we have formed a Committee to look into those matters. I believe the agreement was made between the County Assembly and the Trans-National Bank. Then same Trans-National went ahead and made another agreement with the County Executive. But, the subject of the two agreements is the same; the County Assembly Members. So, which agreement is binding? Is it the agreement made by the County Executive or the County Assembly? Let us be sincere. Let us be honest. The rain started beating us

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long ago. The time we started being compromised by the other side that is when the rain started beating us. Because, we are talking here and some people will talk to the Executive, they will be advised and they just come here with that advice. Honourable Speaker, we are not blaming the Executive. Personally I am not blaming them for messing. What I am saying is; this House is being run by two Speakers - the Speaker of the County Assembly and the shadow Speaker who has his Members outside the Assembly. So by the time those Members are coming to this Assembly, they are coming to implement what they were told by the shadow Speaker. That is why we are in a mess. Had this House been left to be independent, in as much as the law is telling us that this House is an independent entity, but, we have not been independent since the inception of this Assembly. Somebody somewhere is running this Assembly, and some of the Members are worshipping the small god to an extent that we are facing problems. If this House was left to run their own affairs, and the accounting officer be the Clerk, then these problems should not have been there. It is because of our own fault. Let us not blame anybody. Even if the Governor is actually playing anything there, I don't blame him, but he has squared us into the box just because of our incapability of understanding what the man is telling us. Honourable Speaker, this Assembly has really failed, including me. We are not doing what is required of us because of the Members who have been compromised, and there is nothing we can do. Only God will save this Assembly. Otherwise, honourable Speaker, I don't see anything that I can say is good when we come to this discussion of mortgages. Everything is evil.

Hon. Speaker: Honourable Members you need to bear with us because time is running. It is almost 2 and we are supposed to be through by 2:30. I had given honourable Siele 30 seconds, and then honourable Kirui 30 seconds.

Hon. P. Siele: Honourable Speaker, I also stand to support the amendment that has been brought by honourable Korir. Honourable Speaker, the minds of honourable Members have been played every now and then. When we want to say the reality, that is KES 70 million which has been a song, and now KES 30 million is now being brought and the KES 70 million was not even reflected. Honourable Speaker, this KES 70 million was actually taken to Trans-National Bank and all Members were not able to access the KES 2 million shillings. Honourable Speaker, Members were supposed to access KES 2 million shillings and now we are saying KES 30 million needs to be added yet there is no vote. Honourable Speaker, this amendment is to be stopped immediately.

Hon. Speaker: Honourable, you are saying you are supporting then the amendment needs to be stopped...

Hon. P. Siele: I am supporting the amendment. It cannot be stopped...

Hon. Speaker: Honourable Kirui, 30 seconds.

Hon. L. Kirui: Honourable Speaker, I just want to make a small clarification. We are sure that the first agreement made was between the County Assembly and the Trans-National Bank. I wish, honourable Speaker, that this House avoids 'getting some other ears' to hear any other thing so that we cannot lose direction. I am one of those who have not received the mortgage, because of such issues. I wish that, once we have passed anything in this House, everybody should respect. I am seeing the Banks are not respecting any approval from the County Assembly, and this is not the first time. Honourable Speaker,

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whatever we pass in this House, it should be followed to the latter. It has reached an extent that, even honourable Serbai has said, we should only know of one Speaker, who is honourable Kipng'etich, who is the only legal Speaker in this County Assembly. We cannot hear any other Speaker. If any arises, we close the ears and we hear the legal side so that we avoid these Members. Thank you.

Hon. Speaker: Honourable Kirui and honourable Serbai, perhaps, you need to inform me who the other Speaker is...we can be consulting so that things will not go wrong. 30 seconds honourable Josphat then I give the mover.

Hon. J. Kirui: Honourable Speaker, the agreement between the County Assembly and Trans-National Bank was done in your presence. To protect the Speaker and the integrity of this House, because the other side did a back-door agreement with the Trans-National Bank, which we are not aware of, honourable Speaker, because it is touches on the welfare of the Members, honourable Speaker, it is part of the reason why there is one man called Cheruiyot, who has taken this House in cycles. This man has put us in this mess. Honourable Speaker, the rain is beating us, we don't even know when it started but, right now, we are in the midst. To avoid this rain, we don't want to be part of what we don't know. I support the amendment honourable Speaker.

(Cheers and laughter from the Members)

Hon. Speaker: Honourable Korir

Hon. Julius Korir: Thank you honourable Speaker. I want to thank the honourable Members for their contributions to this amendment. It is only that I was a bit confused. I was to argue my mind out on the issue on this amendment that I brought. The only blunder I made is that I only read and handed the amendment to the Clerk and sat down. I want to thank honourable Joyce for seconding and supporting me because I didn't argue on the motion of amendment. I want to thank the Members for contributing and seeing some sense in my amendment. Honourable Speaker, even if we try to force it out, it is a big abnormality that will put this honourable House in a very awkward situation. Honourable Speaker, on 16th June, 2013 this County Government passed a bill by the name Bomet County Supplementary Appropriation Bill. In that Act, honourable Speaker, we had captured the car loan. Its only I am confused honourable Speaker, I had something to prove that this County Assembly approved 70 million for car loans. I don't know who took it, I had it here. The same KES 70 million was captured in the supplementary budget. If we now argue that the same is recurring on the second supplementary budget, and when you look at it, honourable Speaker, it shows we had already committed the money. What does that mean? It means the money has been spent contrary, again, to the same section. I want to thank some honourable Members, honourable Speaker. I would say I don't know if we are capitalizing and making use of the departments that we have in this County Assembly such as Research, Legal, and Budget that we hardly make use of and it seems we are members of the Assembly but deeply and religiously we seem to be members of the executive. If we had already committed the 30 million then as per the PFM Act and two months later we are doubting if it is with the Transnational Bank, then we should make use of them and I want to support and say that we are heading to a wrong direction if we simply appropriate funds day in day out and we want to appropriate again without question...

Hon. Speaker: Your time is up honourable Korir. Let me now put the question to the amendment that

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says that the vote 4110401 of car loan of Kenya shillings 30 million be moved and lumped together with vote B110202 of construction of non-residential building that is early childhood education to make it a sum of 200 million

Question put and agreed.

Hon. Speaker: The 30 million will now be moved to the vote of ECDE. So pursuant to our Standing Orders, I will now again propose the question that pursuant to standing orders number 218 of the County Assembly standing orders and section 135 of the PFM Act 2012 this County Assembly adopts the report of The Budget and Appropriation Committee and the Finance, ICT and Economic Planning Committees on the Bomet County Supplementary Budget Estimates for the Financial year 2014/2015. Honourable Joyce

Hon. Joyce Korir: Thank you. I stand to support the motion by the chairperson Budget and Appropriation Committee and Finance, ICT and Economic Planning on the financial year 2014/2015. The reason is because of the issue of the Assembly that has lately troubled us. The Assembly cannot now carry out oversight, report writing and benchmarking to an extent that the Assembly was almost closing and the supplementary budget in this Assembly paves way for the Assembly to carry out some activities for at least two months of this financial year and furthermore, for us also, the salaries of the honourable members always increase in April and so I want to support this motion on the above issues. Finally too on two more issues, one as raised by the Chair Budget and Appropriation on the issue of construction of ECDE Centres, and his excellency the Governor, honourable Isaac Ruto has gone round the county distributing AIEs to be able to construct 154 ECDE centres which is only on paper and which has made the CEC to ask for a loan or overdraft and of which the Chair and the committee have all gone round to look for money and even the members have seen the sense to construct them and have sacrificed the KES 30 million that was meant for car loan to construct ECDE Centres, and which we hope the Governor will be happy in future to show them off and in the last budget of 2014/2015 they were budgeted for to a tune of KES 135 for ECDE classes and KES 115 for infrastructure and this was used in a manner we cannot explain and that is why the money is nowhere and we have struggled to avail KES 79 million and now the Assembly has sacrificed 30 million to make a total of KES 109 million and I support the Chair Budget and Appropriation to ensure that the Governor is not let down but it is now unfortunate as development is moving from 58% to 45% and it is only good because our able Governor has passed the 30% development and 60% recurrent and we are working hard day in day out to ensure he is on the lead. Thank you.

Hon. Speaker: Honourable Chair since no more contributions; it is now your turn.

Hon. A. Chepkirui: Thank you. I don't have much to say but to thank the honourable members, in the right of reply for their contributions and amendments. It has been a nice discussion and this is a document done very well by the joint committees. Let me urge those who are not convinced to support this document and solve the problems we have and we will continue with operations of the County Assembly and the County Executive. Thank you.

Hon. Speaker: Let me now put the question that pursuant to standing orders number 218 of the County Assembly standing orders and section 135 of the PFM Act 2012 this County Assembly adopts the

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report of The Budget and Appropriation Committee and the Finance, ICT and Economic Planning Committees on the Bomet County Supplementary Budget Estimates for the Financial year 2014/2015.

Question put and agreed to.

Hon. Speaker: The Clerk will move to the next level after the passage of this. Next!

ADJOURNMENT

Hon. Speaker: The House stands adjourned until 2.30 p.m. today.

The House adjourned 3.48 p.m.