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Legislative Newsletter

Calendar

- Wolesi Jirga (Lower House) Agenda:
 - Electoral Law
 - Law on Salaries of High Ranking Government Officials
 - Law on Water
 - Income Tax Law
 - Passport Law
 - Organization and Jurisdiction of Courts Law
 - Extradition Law
 - Private Investment Law
 - Law on Rights and Privileges of the Relatives of Martyrs and Missing
 - Law on Mortgage of Immovable Assets in Banking Transactions
 - Education Law
 - First Annex of the Science Academy Law
 - Law on Medals and Badges
 - Law on Personnel Affairs of ANA Sergeants
 - Law on Health
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 - Political Parties Law
 - Law on Social Behavior
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- Meshrano Jirga (Upper House) Agenda:
 - Government Structure Law
 - Law on Stamp Duties at Courts
- Joint Committees:
 - Independent Election Commission Structure Law
 - Mining Materials Law
 - Law on Petroleum and Gas (Hydro Carbons)
 - Law on Foreign Citizen Travel, Work, and Stay
 - Law on Certified Documents Issued in Embassies and Consulates of Afghanistan
 - Law on Civil Servants
 - Law on Gatherings, Protests, and Demonstrations

Legislation

The status update and description of bills remaining inactive for several weeks have been removed. They will be reintroduced as the drafts become active. Bills on the Assembly agendas will remain in the calendar above.

Electoral Law

The Electoral Law establishes the electoral system and will regulate electoral issues, including voting centers/polling stations, observers, election campaigns, candidacy, and counting.

Update: The law's reintroduction to the Wolesi Jirga plenary is unlikely this session.

Independent Election Commission Structure Law

The law will outline the funding mechanism, structure, duties, authorities, procedures, and staffing of the body.

Update: The Wolesi Jirga has requested a joint committee to discuss the Meshrano's amendments. The meeting will likely occur following winter recess.

Mining Materials Law

The law will regulate mine ownership and control, security, management, private investment, and other mining related affairs.

Update: A date for a planned Meshrano-Wolesi joint committee meeting has not been set.

Law on Salaries of High Ranking Government Officials

The law determines the salaries of all high ranking government officials.

Update: The Assembly-approved law will likely be sent to the President early this week.

Law on Petroleum and Gas (Hydro Carbons)

The law regulates petroleum and gas ownership, production, lease agreements, contracts, research, and protection.

Update: No date has been set for a Wolesi Jirga-requested joint committee meeting with the Meshrano to discuss the Upper House amendments.

Law on Water

The law will regulate protection of water sources, their effective and sustainable use, and the rights of users according to Afghan tradition.

Update: The Wolesi Jirga draft will be sent to the Meshrano Jirga after winter recess.

Income Tax Law

The law outlines tax rates and procedures in accordance with Article 42 of the Constitution.

Update: The Meshrano Jirga refused to accept the Wolesi draft as there are insufficient days remaining in the session to complete consideration. It will be addressed in the next session.

Law on Rights and Privileges of the Disabled

The law aims to integrate and support the disabled economically.

Update: The Assembly-approved bill has been forwarded to President for review.

Passport Law

The law regulates Afghan citizens' travel abroad.

Update: The Meshrano Jirga in a special session approved the Wolesi Jirga's amendments on November 22nd and returned the draft to the Wolesi on November 23rd.

Organization and Jurisdiction of Courts Law

The law will regulate the structure, staffing, and rights and responsibilities of the courts.

Update: The Meshrano Jirga refused to accept the Wolesi draft as there are insufficient days remaining in the session to complete consideration. The law will be addressed in the next session.

Extradition Law

The proposed law regulates issues related to extradition of accused and convicted persons to and from Afghanistan. It would also regulate the handling of requests for international judicial cooperation on criminal matters.

Update: The Meshrano Jirga refused to accept the Wolesi draft as there are insufficient days remaining in the session to complete consideration. The law will be addressed in the next session.

Private Investment Law

The law regulates issues related to encouraging and protecting private investment in a free market economy.

Update: The Assembly-approved draft law is with the Wolesi Jirga and pending delivery to the President.

Law on Rights and Privileges of the Relatives of Martyrs and Missing

The law regulates the special rights and privileges of families of the martyred and missing. The draft addresses the social, economic, and political needs of the families, including housing and employment benefits.

Update: The Wolesi Jirga will send the draft to the Meshrano following winter recess.

Law on Mortgage of Immovable Assets in Banking Transactions

The law regulates business and banking transactions that use immovable property as security and specifies the rights and obligations of the parties involved. The purpose of the law is to: secure debt and contracts using immovable property; facilitate access to negotiable credits by securing immovable property; provide mutual agreement between parties to a banking transaction; and facilitate expansion of commerce, credit, investment, and economic growth.

Update: The Wolesi Jirga will send the draft to the Meshrano following winter recess.

Law on Foreign Citizens' Travel, Work and Stay

The law regulates issues related to foreign citizens' entry, work, and stay in Afghanistan.

Update: A joint Wolesi-Meshrano committee is scheduled to consider the law on December 1st.

Law on Certified Documents Issued in Embassies and Consulates of Afghanistan

The law regulates fees for certification of business, education related and other legal documents (power of attorney, birth certificates, etc.) issued in Afghan embassies and consulates.

Update: A joint Wolesi-Meshrano committee is scheduled to consider the law on December 1st.

Education law

The draft law would guarantee equal and balanced access to free primary education for all Afghan citizens. The law aims to eliminate illiteracy and improve the quality of education countrywide.

Update: The bill is under consideration by the Wolesi committees.

Law on Civil Servants

The law addresses the salaries and ranks of civil service employees, and outlines measures to: make administrative corrections to Government systems; clarify job descriptions for Government employees; improve education levels of Government employees; improve employee qualifications and work ethic; and provide employee housing and benefits.

Update: The Wolesi Jirga has requested a joint meeting with the Upper House to discuss the Meshrano's amendments.

First Annex of the Science Academy Law

The annex addresses the appointment, salaries, and ranks of Science Academy members and regulates the structure of the institution.

Update: The Meshrano Jirga returned the approved annex to the Wolesi Jirga on November 21st.

Law on Medals and Badges

The Law on Medals and Badges regulates affairs related to ranks, value, size, and production of official government medals and badges.

Update: The law was inactive in the Wolesi last week.

Government Structure Law

The law regulates affairs related to government structure in accordance with the Afghan Constitution.

Update: The draft law is with the Meshrano Jirga Legislative, Justice and Judiciary Committee. Last week the committee discussed the responsibilities and authorities of presidential and ministerial advisors.

Law on Personnel Affairs of ANA Sergeants

The law regulates personnel issues (appointment, transfer, vacation, discipline, rewards, and retirement) of ANA sergeants.

Update: The acting Minister of Parliamentary Affairs, Mohammad Karim Baz, introduced the law to the Wolesi Jirga plenary on November 24th. The bill is now under review by the Defense Committee.

Law on Stamp Duties of Courts

The law regulates the price of stamp duties and administrative expenses of Afghanistan courts.

Update: The law has been approved by the Wolesi Jirga and is included in this week's Meshrano Jirga agenda.

Law on Health

The law regulates private health services and health centers, implementation of health projects in different areas of the country, prevention of disease, and protection of mothers and newborns.

Update: The Wolesi Jirga plenary approved Article 2 of the draft on November 26th. The second part of the Article states, "Provision of advanced health services will be based on government opportunities for fees according to the related legislative document." Legislators believe that this violates Article 52 of the Constitution which guarantees free health services for all citizens. The Wolesi draft approves fees by private health institutions for advanced health services, but forbids them at state-owned hospitals.

News

Discussions of Mid-Year Budget Continue

The Wolesi Jirga plenary led by Budget and Finance Committee Chairman, Honorable Osmani, last week continued discussion of the Ministry of Finance mid-year budget. The MoF is proposing an 8.47 billion Afs addition to the core budget to support purchase of wheat and hay; help cover teachers', Afghan National Army, and conflict zone police salaries; and finance general security enhancements in insecure provinces.

During the discussion, Wolesi Jirga members expressed concern about delinquent government employee payments, including teachers' salaries, as allocated in the annual budget. MPs also criticized the lack of development project implementation in the provinces and the lack of detail provided on government revenue and expenditures. Speaker Qanooni criticized the MoF's rejection of the Lower House proposal to raise government pensions by 300 Afs. Honorable Abdul Majeed complained that the MoF is requesting an additional 50 million USD for the purchase of wheat without having detailed the use of 50 million approved last year for the same purpose. The MP added that, "The Aynak Copper contract has still not been processed in a legitimate way, but the government earned 80 million USD from the Chinese; the government itself is involved in looting."

Given the current security situation across the country, the legislators agreed with increases in the security institutions' budgets, but requested that the MoF reconfirm its justification for the additional expenses.

The Budget and Finance Committee will host another Wolesi Jirga Committee of Chairs meeting with MoF officials on the mid-year budget.

Election Date Debate Continues

The Wolesi Jirga Central Audit and Oversight on Implementation of the Law, and Internal Affairs, Borders and Local Administrations Committees discussed the presidential election date issue with Independent Election Commission (IEC) officials last week. Security and logistics have been highlighted as the main challenges faced by the IEC. "During winter there are remote areas which are unreachable. If we conduct the election in May, it is very possible that many residents will not be able to vote due to road closures. This will put the legitimacy of the election in question. We insist on an October election, which will provide all citizens with equal access," said IEC secretariat head, Dr. Dauod Najafi.

However, Chairman of the Wolesi Central Audit and Oversight on Implementation of the Law Committee, Honorable Ranjbar, believes that delay of the election date violates the Afghan Constitution. "We cannot change the election date included in the Constitution. Nothing but a Loya Jirga has the right to amend the Constitution. So we have two choices: respect the law or break it by delaying the election date," said the Chairman.

Speaker Qanooni supported the position from the Wolesi plenary: "If the government respects the Constitution, the election must be held in May. It would be better for the IEC to start its preparation now in order to create the conditions for the residents of the remote areas to vote. We have to keep in mind that by delaying the election, we will violate the Constitution."

"We do respect the public representatives' views. However there are problems that we cannot solve. The IEC we will try its best to have elections on time," said the IEC Chairman, Azizullah Lodin. Chairman Lodin also cited Article 52 of the electoral law mandating transparent elections, which would not be honored due to insecurity if the elections go ahead in May.

Honorable Ranjbar reported, "After intensive debates with IEC officials, we have concluded that the IEC's reasons for delaying the election are not acceptable."

Committee Hosts Discussion on Refugee Voting

The Wolesi Jirga Tribes, Nomads, Refugees and Displaced Persons Committee met on November 23rd with the acting Minister of Immigration, IEC and UNHCR representatives to discuss Afghan refugee participation in next year's presidential election. The IEC secretariat head, Dr. Dauod Najafi, confirmed that the IEC has "requested funds based on the number of Afghan refugees estimated by the National Statistic Center and other local and international organizations." The UNHCR

officials pledged to prepare a list which will confirm the number of Afghan refugees. The IEC officials expressed their concerns about the technical challenges of refugee voting but pledged to come up with a budget within two months for completing the task.

Committees Host Pre-Budget Workshop

The National Economy and Budget and Finance Committees of the Wolesi and Meshrano Jirgas, with assistance from the National Assembly Budget Office and support from USAID, hosted a two day Pre-Budget Workshop on November 22nd and 23rd. Participants included: MPs and leaders from both houses; Ministry of Finance, World Bank, Control and Audit Office representatives; advisors to the President; and a SUNY-APAP expert. The presentations covered a range of budget-related issues, including: budget development, execution, and oversight processes; the Afghanistan National Development Strategy (ANDS); provincial budgeting; government revenue collection policy; foreign budget support effectiveness; Parliament's role throughout the budget cycle; and the role of the budget in economic development. In opening remarks, Meshrano Jirga Deputy Speaker, Honorable Said Hamid Gailani, said, "Such workshops provide us with a better understanding of the budget cycle and enhance the National Assembly's role in monitoring budget expenditures and the ANDS."

Members of Parliament used the opportunity to comment and question the presenters on: control of the core and external budgets; under-spending of the development budget; transparency and corruption; government accountability and accuracy in reporting to Parliament; Afghan dependence on foreign donors and the reliability of donor commitments; budget consideration timelines; revenue collection and expenditures; legislative-executive relations; parliamentary oversight; etc.

Wolesi Jirga Deputy Speaker, Honorable Mirwaiss Yaseni, said of the workshop, "According to the Constitution, the Parliament has the unique right to approve or reject the government's proposed budget. Workshops like this help us to increase the National Assembly's role in budget approval and oversight."

MPs Protest Proposed Sale of Bank to Private Sector

Last week Wolesi Jirga MP Honorable Haji Niaz Mohammad Amiri attempted to resign to protest the government's proposed sale of state-owned Agriculture Development Bank to private interests. "I have submitted my resignation and returned my ID, my car pass, and all documents. I am strongly against the sale of government properties to the private sector," said the MP. In response, Wolesi Jirga Speaker Qanooni refused Honorable Amiri's resignation but said, "Your patriotism is highly appreciated by the house. If this sale happens I will resign first and request all Wolesi members to follow," citing a lack of observance of the Law on Government Enterprises which prohibits sale of government property to the private sector.

The National Economy Committee called MoF officials to explain the sale. Committee members emphasized that the National Assembly approved the Law on Government Enterprises (by 2/3 after its rejection by the President). The MoF officials reported that the property had not yet been sold, but that, "We have not received the Law on Government Enterprises. Obviously, as a part of the

government, the Ministry of Finance is very keen to respect the country's laws. We will act according the law if we decide to sell the property," said Deputy Ministry of Finance, Wahidullah Sharani.

Language Issue Causes Ruckus

On November 26th, a group of university students demonstrated in front of Parliament over the six month old dispute of the use of national languages (Dari or Pashtu) for academic terms including "university" (Pohentoon and Danishgah). Speaker Qanooni selected Honorable Azimi and Honorable Saira Sharif to speak with the students, and Honorable Registani was given the task of guiding the student leaders into Parliament to consult MPs. Twenty students met with Honorable Sharif, Honorable Azimi, and Honorable Aryan Yoon. During the meeting Honorable Aryan Yoon had to be escorted from the room under protection after the students reportedly tried to attack the MP.

His Excellency Qanooni talked to the students, who later left Parliament quietly.

Acronyms:

ANA – Afghan National Army
ANDS – Afghanistan National Development Strategy
ANP – Afghan National Police
DIPR – Department of Information and Public Relations
IEC – Independent Election Commission
IHRC – Independent Human Rights Commission
ISAF – International Security Assistance Force
NATO – North Atlantic Treaty Organization
NDS – National Directorate of Security
MoF – Ministry of Finance