



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – FOURTH SESSION

THE SENATE

VOTES AND PROCEEDINGS

WEDNESDAY, NOVEMBER 16, 2016, AT 2.30 P.M.

1. The Senate assembled at thirty minutes past Two O'clock.
2. The Proceedings were opened with Prayer said by the Speaker.
3. **STATEMENTS PURSUANT TO STANDING ORDER 45**

a) Statement pursuant to Standing Order 45 (2) (a)

The Senator for Kakamega County (Sen. (Dr.) Boni Khalwale) issued a statement on the Bukhungu stadium in Kakamega County. In his statement, he informed the House that Bukhungu stadium was built at a cost of Kshs.1 billion and that on 5th November, 2016, a section of the stadium collapsed.

The Senator stated that all information pertaining to the procurement of all projects within the county including the Bukhungu stadium, were lost when all computers in the procurement section of the county government were stolen on 14th November, 2016, and that further, all staff in the section were reshuffled leaving only the head of procurement.

The Senator stated that the Governor of Kakamega County has not given an official communication on the matter and he has ignored invitations and summons issued by the Senate County Public Accounts and Investments Committee.

The Senator condemned the actions of the Governor and appealed to the people of Kakamega County to be vigilant to ensure prudent use of resources.

b) Statement pursuant to Standing Order 45 (2) (b)

- (i) The Senator for Marsabit County (Sen. Hargura Godana) sought a statement from the Chairperson of the Standing Committee on Finance, Commerce and Budget regarding the operationalization and use of the Equalization Fund.

- (ii) The Chairperson of the Standing Committee on National Security and Foreign Relations issued a statement regarding the status of the National Security Communication System.

The Chairperson informed the House that the overall objective of the Communication System Project is to modernize the communication infrastructure systems and capability for the police to pro-actively manage the security in the country.

The Chairperson also informed the Senate that the question of the money that was supposed to have been paid to the Consolidated Fund, can only be answered by the National Treasury because the Office of the President does not control the receipt of money.

In the absence of the Senator for Homabay County (Sen. Moses Kajwang'), who had requested the statement, the Speaker directed the Chairperson to issue the response on Thursday, 17th November, 2016.

4. **THE COUNTY STATISTICS BILL (SENATE BILL NO. 11 OF 2016)**

(Sen. Naisula Lesuuda)

(Second Reading)

(Resumption of Debate interrupted on Thursday, 10th November, 2016)

(Division)

Order deferred.

5. **THE TREATY MAKING AND RATIFICATION (AMENDMENT) BILL (SENATE BILL NO. 5 OF 2016)**

(Chairperson, Standing Committee on National Security and Foreign Relations)

(Second Reading)

(Resumption of Debate interrupted on Tuesday, 15th November, 2016)

(Division)

Order deferred.

6. **THE CONSTITUTION OF KENYA (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 26 OF 2013)**

(The Senate Majority Leader)

(Second Reading)

(Resumption of Debate interrupted on Thursday, 3rd November, 2016)

(Division)

Order deferred.

7. THE CONSTITUTION OF KENYA (AMENDMENT) (NO. 2) BILL (NATIONAL ASSEMBLY BILL NO. 2 OF 2015)

(The Senate Majority Leader)

(Second Reading)

(Resumption of Debate interrupted on Thursday, 3rd November, 2016)

(Division)

Order deferred.

8. THE CONSTITUTION OF KENYA (AMENDMENT) BILL (SENATE BILLS NO. 16 OF 2015)

(Sen. Judith Sijeny)

(Second Reading)

(Resumption of Debate interrupted on Tuesday, 26th July, 2016)

(Division)

Order deferred.

9. COMMITTEE OF THE WHOLE
THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILL NO. 8 OF 2015)

(Sen. Hassan Omar)

(Resumption of Debate interrupted on Tuesday, 15th November, 2016)

(Division)

Order deferred.

10. COMMITTEE OF THE WHOLE
THE PERSONS WITH DISABILITIES (AMENDMENT) BILL (SENATE BILL NO. 13 OF 2015)

(Sen. Godliver Omondi)

(Resumption of Debate interrupted on Tuesday, 15th November, 2016)

(Division)

Order deferred.

11. COMMITTEE OF THE WHOLE
THE BASIC EDUCATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 35 OF 2014)

(The Senate Majority Leader)

(Resumption of Debate interrupted on Tuesday, 15th November, 2016)

(Division)

Order deferred.

12. COMMITTEE OF THE WHOLE
THE PHYSICAL PLANNING BILL (NATIONAL ASSEMBLY BILL NO. 46 OF 2015)

(The Senate Majority Leader)

(Resumption of Debate interrupted on Wednesday, 9th November, 2016)

Order deferred.

13. **COMMITTEE OF THE WHOLE**

Order for Committee read;

IN THE COMMITTEE

(The Acting Chairperson of Committees (Sen. Machage) – in the Chair)

The County Statutory Instruments Bill (Senate Bill No. 10 of 2015)

Clauses 3 - 24 - vote deferred

The Schedule - vote deferred

Clause 2, the Title & Clause 1 - vote deferred

Progress report

Motion made;

THAT, the Committee of the Whole do report progress on its consideration of the County Statutory Instruments Bill (Senate Bill No. 10 of 2015) and seek leave to sit again tomorrow.

(Chairperson, Sessional Committee on Delegated Legislation)

Before the question was put and pursuant to Standing Order 72, the Acting Chairperson (Sen. (Dr.) Machage) ruled that the Question did not affect counties;

Question put and agreed to.

14. **HOUSE RESUMED** – (Temporary Speaker – (Sen. Mositet) – in the Chair)

Progress reported.

Motion made and Question proposed-

THAT, the House do agree with the Committee in the said report.

(Chairperson, Sessional Committee on Delegated Legislation)

There being no Senator wishing to contribute;

Before the question was put and pursuant to Standing Order 72, the Temporary Speaker (Sen. Mositet) ruled that the Question did not affect counties;

Question put and agreed to.

15. **COMMITTEE OF THE WHOLE**

Order for Committee read;

IN THE COMMITTEE

(The Acting Chairperson of Committees (Sen. Machage) – in the Chair)

The National Cereals and Produce Board (Amendment) Bill (Senate Bill No. 15 of 2015)

Clause 3 - vote deferred

Clause 4 - amendment proposed

THAT clause 4 of the Bill be amended in subclause (1) of the proposed new clause 12 C by deleting paragraph (g) (iii).

(Sen. Stewart Madzayo)

Clause 4 - vote deferred

Clause 5 - vote deferred

Clause 2, the Title & Clause 1 - vote deferred

Progress report

Motion made;

THAT, the Committee of the Whole do report progress on its consideration of the National Cereals and Produce Board (Amendment) Bill (Senate Bill No. 15 of 2015) and seek leave to sit again tomorrow.

(Sen. Zipporah Kittony)

Before the question was put and pursuant to Standing Order 72, the Acting Chairperson (Sen.(Dr.) Machage) ruled that the Question did not affect counties;

Question put and agreed to.

16. **HOUSE RESUMED** – (Temporary Speaker – (Sen. Mositet) – in the Chair)

Progress reported.

Motion made and Question proposed-

THAT, the House do agree with the Committee in the said report.

(Sen. Zipporah Kittony)

There being no Senator wishing to contribute;

Before the question was put and pursuant to Standing Order 72, the Temporary Speaker (Sen. Mositet) ruled that the Question did not affect counties;

Question put and agreed to.

17. **THE CYBER SECURITY AND PROTECTION BILL (SENATE BILL NO. 12 OF 2016)**

(Sen. Mutahi Kagwe)

(Second Reading)

Order deferred.

18. **THE IMPEACHMENT PROCEDURE BILL (SENATE BILL NO. 8 OF 2016)**

(Sen. (Eng.) Muriuki Karue)

(Second Reading)

Order deferred.

19. **THE WAREHOUSE RECEIPTS SYSTEM BILL (NATIONAL ASSEMBLY BILL NO. 12 OF 2015)**

Order for Second Reading read;

Motion made and Question proposed;

THAT, the Warehouse Receipts System Bill (National Assembly Bill No. 12 of 2015) be now read a Second time.

(The Senate Majority Leader)

Debate arising;

There being no any other Senator wishing to contribute;

Mover replied;

Raising a point of order, pursuant to Standing Order 54 (3), the Senate Majority Leader requested the Temporary Speaker (Sen. Mositet) to defer putting of the question to the following day;

And the Temporary Speaker (Sen. Mositet) acceding to the request, deferred putting of the question to Thursday, 17th November, 2016.

20. **THE LOCAL CONTENT BILL (SENATE BILL NO. 13 OF 2016)**

(Sen. Gideon Moi)

(Second Reading)

Order deferred.

21. **MOTION - TO CONDUCT A COUNTRYWIDE AUDIT ON THE DISTRIBUTION OF TEACHERS IN ALL PUBLIC SCHOOLS INDICATING THE REQUISITE ESTABLISHMENT PER SCHOOL AND THE CORRESPONDING NUMBER OF TEACHERS WHO ARE IN-POST**

(Ministry of Education, Science and Technology)

WHEREAS Article 43(1)(f) and 53(1)(b) of the Constitution guarantees every citizen a right to education and every child a right to free and compulsory basic education, respectively;

NOTING that the Teachers Service Commission is mandated to handle employment, deployment, remuneration and discipline of teachers in public schools in Kenya;

CONCERNED that there are great disparities in the distribution of teachers in public schools across the country leading to oversupply in some schools and undersupply in others and ultimately leading to major teacher shortage especially in rural and marginalized areas;

APPRECIATING efforts made by the national government to improve the teacher pupil ratio to international standards in all public schools through yearly employment of teachers;

FURTHER CONCERNED that the statistics on the number and distribution of teachers in public schools is not readily available;

NOW THEREFORE, the Senate directs the Ministry of Education, Science and Technology to conduct a countrywide audit on the distribution of teachers in all public schools indicating the requisite establishment per school and the corresponding number of teachers who are in-post and further that the Ministry submits a report to the House on the matter within ninety (90) days.

(Sen. George Khaniri)

Order deferred.

22. **MOTION - TO RECOMMEND TO THE CABINET SECRETARY FOR EDUCATION TO FACILITATE THE CREATION OF THE OFFICE OF AN AUDITOR TO SPECIFICALLY AUDIT THE BASIC EDUCATION INSTITUTIONS' FUNDS**

(Department of Education)

THAT, whereas Article 53 (1)(b) of the Constitution provides that every child in Kenya has the right to free and compulsory basic education;

RECOGNIZING the importance of education in the alleviation of the main challenges facing Kenya's sovereignty identified at independence, namely; poverty, illiteracy and disease;

APPRECIATING the gains made following the implementation of the free primary education program in 2003 and cognizant of the principles set out in the Basic Education Act of 2013 whose objectives include promotion

and regulation of free and compulsory basic education besides providing for accreditation, registration and management of basic education institutions;

NOTING the substantial resources invested by the national and county governments, parents, sponsors and development partners in the provision of basic education;

FURTHER NOTING that pursuant to the Basic Education Act, the County Director of Education is vested with numerous responsibilities including facilitation of auditing of all basic educational institutions in the respective county thereby leaving fundamental gaps of governance especially in the management of the available resources;

NOW THEREFORE, the House recommends to the Cabinet Secretary for Education to facilitate the creation of the office of an auditor to specifically audit the basic education institutions' funds to enhance transparency and accountability and improve governance in the management of these institutions.

(Sen. (Prof.) John Lonyangapuo)

Order deferred.

23. **MOTION – TO INSTALL CCTV CAMERAS IN ALL POLICE STATIONS AND POLICE POSTS**

(Ministry of Interior and Coordination of National Government)

THAT, CONCERNED about the numerous reports of the arbitrary arrests of innocent people by the police;

FURTHER CONCERNED that a large number of those arrested are allegedly locked up in police cells without being recorded either in the Occurrence Book or elsewhere;

DEEPLY CONCERNED that some of the arrested people disappear without a trace and that many who are subsequently traced are found dead away from where they were known to have been locked up;

ALARMED by the recent incident where three young men were locked up for hours at Syokimau Police Post without any record indicating they had been at the police post, only for them to be found days later, in another area far from the police post, having been brutally killed;

APPRECIATING that the Closed Circuit Television (CCTV) system installed by the Government in Nairobi has helped a lot in criminal investigations;

NOW THEREFORE the Senate calls upon the National Government to-

- a) install CCTV cameras in all police stations and police posts in order to record each and every person going in and out of the station;
- b) have the CCTV system designed in such a way that it is capable of capturing the Occurrence Book entries every twelve hours; and
- c) ensure the CCTV system is connected to a central depository in order to minimize chances of subsequent tampering.

(Sen. (Eng.) Muriuki Karue)

Order deferred.

24. **MOTION - TO DIRECT THE STANDING COMMITTEE ON EDUCATION TO INQUIRE INTO THE PERFORMANCE OF THE MINISTRY OF EDUCATION, SCIENCE AND TECHNOLOGY IN THE IMPLEMENTATION OF THE POLICY STATEMENTS AND STRATEGIES MADE IN THE NATIONAL SPECIAL NEEDS EDUCATION POLICY FRAMEWORK**

(Standing Committee on Education)

AWARE that Article 43 (1) (f) of the Constitution of Kenya provides that every person has the right to education and that Article 53 (1) (b) of the Constitution provides that every child has the right to free and compulsory basic education;

COGNIZANT that Article 54 (1) (b) of the Constitution provides that a person with any disability is entitled to access educational institutions and facilities for persons with disabilities that are integrated into society to the extent compatible with the interests of the person;

RECOGNIZING that education in Kenya is a shared function of both the county and national governments;

CONCERNED that while significant gains have been made under the Free Education Programme introduced in the year 2003, access and participation of children with special needs is generally low across the country and their needs have not been specifically addressed;

NOW THEREFORE the Senate directs the Standing Committee on Education to inquire into the performance of the Ministry of Education, Science and Technology in the implementation of the policy statements and strategies made in the National Special Needs Education Policy Framework, 2009 and report back to the Senate within three months.

(Sen. Peter Mositet)

Order deferred.

And there being no any other business, the Temporary Speaker (Sen. Mositet) adjourned the Senate at six minutes past Five O'clock without Question put, pursuant to the Standing Orders.

25. SENATE ROSE - at six minutes past Five O'clock.

MEMORANDUM

*The Speaker will take the Chair on
Thursday, November 17, 2016 at 2.30 p.m.*

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