



REPUBLIC OF KENYA

THE SENATE

ELEVENTH PARLIAMENT – FOURTH SESSION

VOTES AND PROCEEDINGS

THURSDAY, NOVEMBER 24, 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. **COMMUNICATIONS FROM THE CHAIR**

The Speaker conveyed the following communications from the Chair-

a) On the Processing of The Budget Policy Statement, 2017

“Honourable Senators, as you may be aware, section 25 of the Public Finance Management Act requires the National Treasury to prepare and submit the Budget Policy Statement to Parliament by the 15th February each year.

Honourable Senators, you may also note that the General Elections are scheduled to be held in August, 2017 and as such, the electioneering period will have an impact on the 2017/2018 budget process. Arising from this, the National Treasury after consultation with stakeholders, including relevant committees of Parliament has now submitted the Budget Policy Statement, together with other related documents, to Parliament for consideration.

In this regard **Honourable Senators,** by a letter Ref. No. Conf.MOF83/02TY.5/(14) dated 22nd November, 2016 and received in the office of the Clerk on 23rd November, 2016, the Principal Secretary for the National Treasury submitted the following documents for consideration and approval by Parliament-

- a) The Budget Policy Statement, 2017;
- b) The Medium Term Debt Management Strategy, 2017;
- c) The Draft Division of Revenue Bill, 2017; and
- d) The Draft County Allocation of Revenue Bill, 2017.

Consequently **Honourable Senators**, at Order No. 5 in today's Order Paper, I allowed the Chairperson of the Standing Committee on Finance, Commerce and Budget to formally table these documents.

Honourable Senators, the Budget Policy Statement is an important tool as it sets out the broad strategic priorities and policy goals that will guide the national government and county governments in preparing their budgets both for the following Financial Year and over the medium term. It contains, among other things-

- i) an assessment of the current state of the economy and the financial outlook over the medium term, including macro-economic forecasts;
- ii) the financial outlook with respect to Government revenues, expenditures and borrowing for the next financial year and over the medium term;
- iii) the proposed expenditure limits for the national government, including those of Parliament and the Judiciary and indicative transfers to county governments; and
- iv) the fiscal responsibility principles and financial objectives over the medium term including limits on total annual debt.

In a nutshell it means that any proposal that Senators have regarding the Division of Revenue Bill and the County Allocation of Revenue Bill, including funds for conditional allocations to the counties, should be canvassed and forwarded to the National Treasury for possible factoring in the Budget Policy Statement, failure to which, it will be difficult for changes to be accommodated later on.

Honourable Senators, Section 25 (7) of the Public Finance Management Act provides as follows-

25 (7) Parliament shall, not later than fourteen days after the Budget Policy Statement is submitted to Parliament, table and discuss a report containing its recommendations and pass a resolution to adopt it with or without amendments.

Based on the importance of the Budget Policy Statement and the above timelines, I direct that the Budget Policy Statement be considered by all Standing Committees each concentrating on its mandate. The Standing Committees will then forward their recommendations to the Standing Committee on Finance, Commerce and Budget for consolidation and tabling of the report, not later than Wednesday, 30th November, 2016. The Senate should then debate and approve the report by Thursday, 1st December, 2016.

Please note that, pursuant to section 25 (8) of the Public Finance Management Act, the Cabinet Secretary of the National Treasury is expected to take into account resolutions passed by Parliament in finalizing the budget for the relevant Financial Year.

Honourable Senators, I therefore urge you all to prioritize the scrutiny of the Budget Policy Statement taking into consideration our most important function of safeguarding devolution.

I thank you.”

b) On the Procedure to be followed in considering Amendments by The National Assembly to The Statute Law (Miscellaneous Amendments) Bill (Senate Bill No. 6 of 2014)

“**Honourable Senators**, before we move to the next Order No. 20, which is a Motion by the Chairperson of the Standing Committee on Legal Affairs and Human Rights on the consideration of the National Assembly amendments to the Statute Law (Miscellaneous Amendments) Bill (Senate Bill No. 6 of 2014), I wish to inform the Senate that this is the first time that we are considering amendments by the National Assembly to a Senate Bill.

Honourable Senators, I therefore wish to guide the House as follows-

- (a) The Motion to be moved by the Chairperson is a Motion for the Senate to resolve whether it will consider or otherwise, the National Assembly amendments to the Statute Law (Miscellaneous Amendments) Bill (Senate Bill No. 6 of 2014), pursuant to standing order 151;
- (b) Debate on the Motion in plenary will be limited to the issue of **to consider now or to defer the consideration of the said amendments to a future date**. The other option is, of course, the default resolution of the Motion being negated;
- (c) In the event the Motion is negated or is amended to defer consideration, we shall not proceed to the Committee of the Whole as listed in Order No. 21;
- (d) If the Motion is approved, the Senate will proceed to the Committee of the Whole as indicated in the Order Paper to consider and vote on each of the amendments in the usual manner, pursuant to standing order 152;
- (e) If the Committee of the Whole agrees to all the amendments by the National Assembly, I will forward the Bill, as amended, to His Excellency the President for assent pursuant to Article 112 of the Constitution and standing order 153 (a). However, if the amendments are rejected, I will refer the Bill to a Mediation Committee to be established under Article 113 of the Constitution and standing order 153 (b).

Honourable Senators, it is my hope that this communication has clarified the procedure to be followed under Order Nos. 20 and 21 and that we all stand guided as such.

I thank you.”

4. PAPERS LAID

The following Papers were laid on the Table of the Senate:-

1. The Medium Term Budget Policy Statement 2017;
2. The Medium Term Debt Management Strategy for FY 2017/18 – FY 2019/20;
3. The Draft Division of Revenue Bill, 2017; and
4. The Draft County Allocation of Revenue Bill, 2017.

(Sen. (Prof.) John Lonyangapuo on behalf of the Senate Majority Leader)

5. NOTICE OF MOTION

THAT, pursuant to standing order 31 and notwithstanding the provisions of standing order 30(1), the Senate resolves to adjourn today, Thursday, 24th November, 2016 and resume sittings on Wednesday, 30th November, 2016 to allow the East African Legislative Assembly to hold its sittings in the Senate Chamber on Tuesday, 29th November, 2016.

(Sen. (Prof.) John Lonyangapuo on behalf of the Senate Majority Leader)

6. STATEMENTS**i) Statement Pursuant to Standing Order 45 (2) (b)**

- a) A nominated Senator (Sen. Martha Wangari) sought a Statement from the Chairperson of the Standing Committee on Health regarding the on-going recruitment of health personnel, by the Ministry of Health, for the deployment to the Counties.
- b) The Senator for West Pokot County (Sen. (Prof.) John Lonyangapuo) sought a Statement from the Chairperson of the Standing Committee on National Security and Foreign Relations regarding the change of medical insurance cover for the National Police and Kenya Prison Services from the National Hospital Insurance Fund (NHIF) to AAR Insurance Kenya.
- c) The Vice Chairperson of the Standing Committee on National Security and Foreign Relations issued a Statement regarding the alleged murder of Mr. Musa Koech, by a police officer, on 23rd September, 2016.

The Vice Chairperson informed the Senate that on 22nd September 2016, Mr. Hilary Serende, an Assistant Chief in the Shiviringa location, Nandi County, informed the Cheptuli Police Patrol Base that a gang of criminals, who were riding on a motor cycle, were terrorizing residents at the Shaviringa stage. Two officers responded to the distress call and at Sigongo stage, the officers came across four suspects, who were riding a motor cycle. Subsequently, the officers challenged the suspects to stop, but they defied the orders, prompting the officers to shoot in

the air. Unfortunately, one of the pillion passengers, Musa Koech, was hit by a bullet and later succumbed to the injuries.

Thereupon, the Vice Chairperson informed the House that the officers from Serem Police Station visited the scene and confirmed that, about 200 meters from the shooting incident, a Mr. Derrick Munyori and his wife, had been attacked by four men who had escaped on a motor cycle.

The Vice Chairperson further informed the House that security situation along Nandi-Vihiga border is calm and police officers have sustained patrols, besides collaborating with the local communities, through community policing.

The Speaker directed that the chairperson bring a more comprehensive statement on the matter on Wednesday of the following week.

ii) **Statement pursuant to Standing Order 45 (2) (c)**

The Senator for West Pokot County and a Member of the Senate Business Committee (Sen. (Prof.) Lonyangapuo) issued a Statement on the Business of the Senate for the week commencing Tuesday, 29th November, 2016.

7. **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.

8. **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.

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

(Senate Majority Leader)

(Second Reading)

(Resumption of Debate interrupted on Wednesday, 16th November, 2016)

(Division)

Order deferred.

10. **THE IMPEACHMENT PROCEDURE BILL (SENATE BILL NO. 8 OF 2016)**
(Sen. (Eng.) Muriuki Karue)
(Second Reading)
(Resumption of Debate interrupted on Wednesday, 17th November, 2016)
(Division)
Order deferred.
11. **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.
12. **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.
13. **THE CONSTITUTION OF KENYA (AMENDMENT) BILL (SENATE BILL NO. 16 OF 2015)**
(Sen. Judith Sijeny)
(Second Reading)
(Resumption of Debate interrupted on Tuesday, 26th July, 2016)
(Division)
Order deferred.
14. **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.
15. **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.

16. **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.

17. **COMMITTEE OF THE WHOLE**
THE NATIONAL CEREALS AND PRODUCE BOARD (AMENDMENT) BILL
(SENATE BILL NO. 15 OF 2015)

(Sen. (Dr.) Zipporah Kittony)

(Resumption of Debate interrupted on Wednesday, 16th November, 2016)
(Division)

Order deferred.

18. **COMMITTEE OF THE WHOLE**
THE COUNTY STATUTORY INSTRUMENTS BILL (SENATE BILL NO. 10
OF 2015)

(Chairperson, Sessional Committee on Delegated Legislation)

(Resumption of Debate interrupted on Wednesday, 16th November, 2016)

Order deferred

19. **MOTION - TO CONSIDER AMENDMENTS BY THE NATIONAL**
ASSEMBLY TO THE STATUTE LAW (MISCELLANEOUS AMENDMENTS)
BILL (SENATE BILL NO. 6 OF 2014)

Motion made and Question proposed;

THAT, the amendments by the National Assembly to the Statute Law (Miscellaneous Amendments) Bill (Senate Bill No. 6 of 2014) be now considered.

(Vice Chairperson, Standing Committee on Legal Affairs and Human Rights)

Debate Arising;

And there being no other Senator wishing to contribute;

The Mover replied;

Before the Question was put and pursuant to Standing Order 72, the Deputy Speaker informed the House that the Motion does not affect Counties.

Question put and **negatived.**

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

(Sen. Mutahi Kagwe)

(Second Reading)

Order deferred.

21. **MOTION - INSTALLATION OF CCTV CAMERAS IN POLICE STATIONS**

Motion made and question proposed-

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- 17.11.2016)

Order deferred.

22. **MOTION - COUNTRYWIDE AUDIT ON THE DISTRIBUTION OF TEACHERS IN ALL PUBLIC SCHOOLS**

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.

23. **MOTION –IMPLEMENTATION OF POLICY STATEMENTS AND STRATEGIES MADE IN THE NATIONAL SPECIAL NEEDS EDUCATION POLICY FRAMEWORK, 2009**

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.

24. **MOTION – ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON NATIONAL SECURITY AND FOREIGN RELATIONS ON THE EALA REPORTS AND RESOLUTIONS.**

THAT, the Senate notes the Report of the Standing Committee on National Security and Foreign Relations on the EALA Reports and Resolutions pursuant to standing order 235 laid on the Table of the House on Tuesday, 19th April, 2016.

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

Order deferred.

25. **MOTION – ADJOURNMENT OF THE SENATE TO ALLOW THE EAST AFRICAN LEGISLATIVE ASSEMBLY TO HOLD ITS SITTINGS IN THE SENATE CHAMBERS**

THAT, pursuant to standing order 31 and notwithstanding the provisions of standing order 30(1), the Senate resolves to adjourn today, Thursday, 24th November, 2016 and resume sittings on Wednesday, 30th November, 2016 to allow the East African Legislative Assembly to hold its sittings in the Senate Chamber on Tuesday, 29th November, 2016.

(The Senate Majority Leader)

Motion dropped in the absence of the mover.

There being no other business, the Deputy Speaker adjourned the Senate at thirty minutes past Four O'clock, without question put, pursuant to the Standing Orders.

26. **SENATE ROSE** - at thirty minutes past Four O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Tuesday, November 29, 2016 at 2.30 p.m.*

--X--