



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – FOURTH SESSION

THE SENATE

VOTES AND PROCEEDINGS

WEDNESDAY, MARCH 30, 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. **COMMUNICATION FROM THE CHAIR ON A VISITING DELEGATION FROM BARINGO COUNTY ASSEMBLY POWERS AND PRIVILEGES COMMITTEE**

The Speaker conveyed the following Communication from the Chair-

"Honorable Senators,

I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of visiting members and staff from Baringo County Assembly Powers and Privileges Committee.

The County Assembly Members and Staff are here on a two-day visit at the Senate.

I request each member of the delegation to stand when called out so that they may be acknowledged in the Senate tradition.

They are:

- | | | |
|---------------------------|---|------------------|
| 1. Hon. William K. Kamket | - | Chairperson |
| 2. Hon. Eunice Karani | - | Vice Chairperson |
| 3. Hon. Elijah Toroitich | - | Member |
| 4. Hon. LinaSote | - | Member |
| 5. Hon. RisperKimaiyo | - | Member |
| 6. Hon. James Cheptoo | - | Member |
| 7. Hon. Jennifer Kabon | - | Member |
| 8. Hon. Richard Kitilit | - | Member |
| 9. Hon. Wesley Lekakimon | - | Member |
| 10. Hon. Solomon Makal | - | Member |
| 11. Hon. KibiwotMunge | - | Member |
| 12. Ms. Betty Toroitich | - | Committee Clerk |
| 13. Mr. David Ngeno | - | Sergeant-at-Arms |

I hope that they have a fruitful program.

On behalf of the Senate and on my own behalf, I welcome them to the Senate and I wish them well for the remainder of their stay.

I thank you."

4. **MESSAGES**

The Speaker conveyed the following Messages from the National Assembly-

a) **Message from the National Assembly on the Division of Revenue Bill (National Assembly Bill No. 4 of 2016)**

"Honourable Senators,

I wish to report to the Senate that, pursuant to Standing Order 40 (3) and (4), I have received the following message from the Speaker of the National Assembly regarding the passage by the Assembly of the Division of Revenue Bill (National Assembly Bill No. 4 of 2016).

"PURSUANT to the provisions of Standing Orders 41(1) and 142 of the National Assembly Standing Orders, I hereby convey the following message from the National Assembly-

WHEREAS, the Division of Revenue Bill (National Assembly Bill No. 4 of 2016), was published vide the Kenya Gazette Supplement No. 27 of 9th March, 2016 pursuant to Article 218 (1) (b) Of the Constitution to provide for equitable division of revenue raised by the national government among the national and county levels of Government;

AND WHEREAS, the National Assembly considered and passed the said Bill on Wednesday 30th March, 2016 without amendments in the form attached hereto;

NOW THEREFORE, in accordance with the provisions of Article 110 (4) of the Constitution and Standing Order 142 of the National Assembly Standing Orders, I hereby refer the said Bill to the Senate for consideration".

Honourable Senators, Standing Order No. 148 requires that a Bill which originates in the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading in accordance with Standing Order No. 129.

I therefore direct that the Division of Revenue Bill (National Assembly Bill No. 4 of 2016) be read a First time, today, Wednesday, 30th March, 2016.

I thank you."

b) Message from the National Assembly on the Political Parties (Amendment) Bill (National Assembly Bill No. 5 of 2015)

"Honourable Senators,

I wish to report to the Senate that, pursuant to Standing Order 40 (3) and (4), I have received the following Message from the Speaker of the National Assembly regarding the passage by the Assembly of the Political Parties (Amendment) Bill (National Assembly Bill No. 5 of 2015).

"PURSUANT to the provisions of standing orders 41(1) and 142 of the National Assembly Standing Orders, I hereby convey the following message from the National Assembly-

WHEREAS, the Political Parties (Amendment) Bill (National Assembly Bill No. 5 of 2015), was published vide the Kenya Gazette Supplement No. 16 of 12th February, 2015, as a Bill concerning county governments proposing to amend Section 25 (2) of the Political Parties Act, 2011 regarding the threshold required for political parties to receive funding from the Political Parties Fund;

AND WHEREAS, the National Assembly considered and passed the said Bill on Tuesday 10th March, 2016 with amendments in the form attached hereto;

NOW THEREFORE, in accordance with the provisions of Article 110 (4) of the Constitution and Standing Order 142 of the National Assembly Standing Orders, I hereby refer the said Bill to the Senate for consideration."

Honourable Senators, Article 110 (3) of the Constitution provides as follows-

(3) Before either House considers a Bill, the Speakers of the National Assembly and Senate shall jointly resolve any question as to whether it is a Bill concerning counties and, if it is, whether it is a special or an ordinary Bill.

I, however, wish to report to you that concurrence of the Senate as contemplated in Article 110 (3) of the Constitution was not sought by the Speaker of the National Assembly in respect to the Political Parties (Amendment) Bill (National Assembly Bill No. 5 of 2015). However, in his Message, the Speaker of the National Assembly has indicated that the Political Parties (Amendment) Bill (National Assembly Bill No. 5 of 2015) as passed by the National Assembly was published as a Bill concerning County Governments.

Honourable Senators, the lack of concurrence notwithstanding and pursuant to Standing Order No. 148 which requires that a Bill which originates in the

National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading in accordance with Standing Order No. 129, I therefore direct that the Bill be listed for First Reading in the Order Paper for Tuesday, 12th April, 2016.

I thank you."

5. **PETITION**

Pursuant to the provisions of Standing Order 220(1) (b) and 225(2) (a), the Senator for Turkana County (Sen. John Munyes) presented to the Senate a Petition by residents of Turkana County regarding the alleged embezzlement of funds, financial impropriety and skewed employment in Turkana County.

Pursuant to Standing Order 226, the Speaker invited Senators to comment on the Petition. Subsequently, the petition was committed to the Standing Committee on Finance, Commerce and Budget, pursuant to Standing Order 227(1).

6. **PAPERS**

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

- a) Report of the Mediation Committee on the Statute Law (Miscellaneous Amendment) (No.2) Bill (National Assembly Bill No.33 of 2014).

(Sen. Mutula Kilonzo Jr., on behalf of the Chairperson of the Mediation Committee)

- b) Report of the Standing Committee on Legal Affairs and Human Rights on the County Assemblies Services Bill, 2014.

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

- c) Report of the Standing Committee on Finance, Commerce and Budget on the second basis for equitable sharing of Revenue among the County Governments.

(Sen. Mutula Kilonzo Jr., on behalf of the Chairperson of the Standing Committee on Finance, Commerce and Budget)

- d) Statement regarding the Business of the Senate for the coming week.

(The Senate Minority Leader)

7. **NOTICE OF MOTION**– (Sen. Mutula Kilonzo Jr., on behalf of the Chairperson, Standing Committee on Finance, Commerce and Budget)

THAT, the Senate adopts Report of the Senate Standing Committee on Finance, Commerce and Budget on the second basis for equitable sharing of Revenue among the County Governments laid on the Table of the Senate on Wednesday, 30th March, 2016.

8. **NOTICE OF MOTION**—(Sen. Mutula Kilonzo Jr., on behalf of the Chairperson, Mediation Committee)

THAT, the Senate adopts the Report of the Mediation Committee on the Statute Law (Miscellaneous Amendment) (No.2) Bill (National Assembly Bill No.33 of 2014) laid on the Table of the Senate on Wednesday, 30th March, 2016.

9. **NOTICE OF MOTION**—(Sen. (Prof.) John Lonyangapuo, on behalf of the Senate Majority Leader)

THAT, pursuant to Standing Order Nos. 177(3) & 179(1), the Senate approves the following Senators nominated by the Rules and Business Committee, to be members of the following committees:-

- i) Standing Committee on Land and Natural Resources-
Sen. George Khaniri
- ii) Standing Committee on Roads and Transportation-
Sen. Aaron Kipkirui Cheruiyot to replace former Sen. Charles Keter
- iii) Standing Committee on Information and Technology-
Sen. Aaron Kipkirui Cheruiyot to replace Sen. (Prof.) Wilfred Lesan
- iv) Standing Committee on Finance, Commerce and Budget-
Sen. Aaron Kipkirui Cheruiyot to replace Sen. James Mungai
- v) Joint Committee on Parliamentary Broadcasting and Library
Sen. George Khaniri
- vi) Joint Committee on National Cohesion and Equal Opportunity
Sen. James Mungai Kiarie to replace Sen. Stephen Sang’.

10. **STATEMENTS**

i) Statements pursuant to Standing Order 45 (2) (b)

- a) The Senator for Bungoma County (Sen. Moses Wetang’ula) sought a Statement from the Chairperson of the Standing Committee on Finance, Commerce and Budget regarding the misappropriation of public funds by the National Bank of Kenya.
- b) A Nominated Senator (Sen. Beatrice Elachi) sought a Statement from the Chairperson of the Standing Committee on Education regarding the management of the Masinde Muliro University of Science and Technology.
- c) The Chairperson of the Standing Committee on Education issued a statement on the development and review of curricula and curriculum support materials for early childhood, pre-primary, primary and secondary education.

In the statement, the Chairperson informed the House that the Ministry of Education, Science and Technology had, in 2015, held extensive

consultations with stakeholders in order to develop consensus on the direction that curriculum reform in Kenya should take. This, the Chairperson stated, would be informed by the need to align the education and training sector to the Constitution of Kenya and other international conventions; the need to make education and training relevant to Kenya's Vision 2030; and the demands of East African Protocol and other global trends in education and training.

The Chairperson further informed the Senate of progress that had been made in reviewing the national curriculum for education and training, and that the development of curriculum support materials would follow once review of the curriculum was completed.

- d) A Member of the Standing Committee on Finance, Commerce and Budget (Sen. Mutula Kilonzo Jr.) issued a statement on behalf of the Chairperson of the Committee, on the delay by the National Treasury in disbursing funds to County governments.

In the statement, the Senator informed the House that disbursements to Counties are based on the annual County Allocation of Revenue Act and the County Government Disbursement Schedules, as approved by the Senate and *Gazetted* by the Cabinet Secretary responsible for the National Treasury.

The Senator further informed the House that the National Treasury has been prioritizing disbursement of funds to counties with the least balances at the Central Bank of Kenya (CBK), in line with the constitutional requirement that public funds be managed prudently and responsibly.

The Senator also informed the House that the Government funds the budget primarily from ordinary domestic revenue and domestic borrowing. Accordingly, when there was a shortfall in revenue performance, the Government would bridge the gap through short-term borrowing for cash management purposes, as authorized by Parliament. In the event the short term borrowing is not able to bridge any deficits, then there are delays in the disbursement of the funds to county governments, as well as ministries, departments and agencies of the National Government. The National Treasury had, however, put in place measures to ensure prompt disbursement of funds to County Governments.

The Senator assured the House that the Committee would be inviting the Cabinet Secretary for Treasury, for a meeting to deliberate on the issues raised and that all Senators would be invited to the meeting.

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

The Senate Minority Leader issued a Statement on the Business of the Senate for the coming week.

11. **THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILL NO.4 OF 2016)**

(The Senate Majority Leader)

Order for First Reading read;

Bill read a First Time and committed to the Standing Committee on Finance, Commerce and Budget.

12. **THE BASIC EDUCATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 35 OF 2014)**

(The Senate Majority Leader)

Order for First Reading read;

Bill read a First Time and committed to the Standing Committee on Education.

13. **THE AGRICULTURE, FISHERIES AND FOOD AUTHORITY (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 17 OF 2015)**

(The Senate Majority Leader)

Order for First Reading read;

Bill read a First Time and committed to the Standing Committee on Agriculture, Livestock and Fisheries.

14. **MOTION- ADOPTION OF THE REPORT OF THE MEDIATION COMMITTEE ON THE MINING BILL (NATIONAL ASSEMBLY BILL NO. 9 OF 2014)**

THAT, the Senate adopts the Report of the Mediation Committee on the Mining Bill (National Assembly Bill No. 9 of 2014) laid on the Table of the House on Tuesday, 15th March, 2016.

(Chairperson, Mediation Committee)

(Resumption of Debate interrupted on Tuesday, 29th March, 2016)

(Division)

Order deferred.

15. **THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO. 18 OF 2014)**

(The Senate Majority Leader)

(Resumption of Debate interrupted on Wednesday, 23rd March, 2016)

(Division)

Order deferred.

16. MOTION- APPROVAL OF SENATORS TO SERVE IN VARIOUS COMMITTEES OF THE SENATE

Motion made and Question Proposed;

THAT, pursuant to Standing Order Nos. 177(3) & 179(1), the Senate approves the following Senators nominated by the Rules and Business Committee, to be members of the following committees:-

- i) Standing Committee on Land and Natural Resources-
Sen. George Khaniri
- ii) Standing Committee on Roads and Transportation-
Sen. Aaron KipkiruiCheruiyot to replace former Sen. Charles Keter
- iii) Standing Committee on Information and Technology-
Sen. Aaron KipkiruiCheruiyot to replace Sen. (Prof.) Wilfred Lesan
- iv) Standing Committee on Finance, Commerce and Budget-
Sen. Aaron KipkiruiCheruiyot to replace Sen. James Mungai
- v) Joint Committee on Parliamentary Broadcasting and Library
Sen. George Khaniri
- vi) Joint Committee on National Cohesion and Equal Opportunity
Sen. James MungaiKiarie to replace Sen. Stephen Sang'.
(The Senate Deputy Majority Leader)

Debate Arising;

And there being no other Senator wishing to contribute;

The Mover replied;

Before the Question was put, and pursuant to Standing Order No. 72, a Temporary Speaker (Sen. Peter Mositet) informed the House that the Motion did not affect Counties.

Question put and agreed to.

RESOLVED ACCORDINGLY

THAT, pursuant to Standing Order Nos. 177(3) & 179(1), the Senate approves the following Senators nominated by the Rules and Business Committee, to be members of the following committees:-

- i) Standing Committee on Land and Natural Resources-
Sen. George Khaniri
- ii) Standing Committee on Roads and Transportation-
Sen. Aaron KipkiruiCheruiyot to replace former Sen. Charles Keter
- iii) Standing Committee on Information and Technology-
Sen. Aaron KipkiruiCheruiyot to replace Sen. (Prof.) Wilfred Lesan

- iv) Standing Committee on Finance, Commerce and Budget-
Sen. Aaron Kipkirui Cheruiyot to replace Sen. James Mungai
- v) Joint Committee on Parliamentary Broadcasting and Library
Sen. George Khaniri
- vi) Joint Committee on National Cohesion and Equal Opportunity
Sen. James Mungai Kiarie to replace Sen. Stephen Sang'.

17. **COMMITTEE OF THE WHOLE**
THE UNIVERSITIES (AMENDMENT) BILL (SENATE BILL NO. 31 OF 2014)
(Sen. Halima Abdille)

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

Order deferred.

18. **COMMITTEE OF THE WHOLE**
THE COUNTY ASSEMBLIES SERVICES BILL (SENATE BILL NO. 27 OF 2014)

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

Order deferred.

19. **COMMITTEE OF THE WHOLE**
THE COUNTY HALL OF FAME BILL (SENATE BILL NO. 33 OF 2014)
(Chairperson, Standing Committee on Legal Affairs and Human Rights)

Order deferred.

20. **COMMITTEE OF THE WHOLE**
THE COUNTY GOVERNMENTS DISASTER MANAGEMENT BILL (SENATE BILL NO. 40 OF 2014)

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

Order deferred.

21. **COMMITTEE OF THE WHOLE**
THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE) BILL (SENATE BILL NO. 35 OF 2014)

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

Order deferred.

22. **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)

Order deferred.

23. THE COUNTY GOVERNMENTS (AMENDMENT) (NO. 4) BILL (SENATE BILL NO. 18 OF 2014)

(Sen. Kipchumba Murkomen)

(Second Reading)

(Resumption of Debate interrupted on Tuesday, 29th March, 2016)

Order deferred.

24. MOTION- TO APPROVE THE APPOINTMENT OF SENATORS TO THE SELECT COMMITTEE ON CONSTITUTIONAL AND LEGAL REVIEW

(The Senate Majority Leader)

AWARE that pursuant to Article 124(1) of the Constitution and the Standing Orders of the Senate, at a Special Sitting of the Senate held on Monday, 15th June, 2015, the Senate resolved, to establish a Select Committee on Constitutional and Legal Review to inquire into legal issues arising following the re-allocation by the National Assembly of monies intended for key constitutional organs and institutions, including, the Judiciary, the Salaries and Remuneration Commission and the Senate.

FURTHER AWARE that on 23rd June, 2015, the Senate approved the names of Senators to serve in the said Select Committee whose terms of reference were as follows-

- (a) inquire into the design of the Legislature and in particular, the institutions set out in the Constitution with a view to protecting the interests of the counties and their governments and securing and safeguarding the system of devolved government established in the Constitution;*
- (b) inquire into the role of the Senate as set out under the Constitution and make recommendations on the appropriate role to be played by the Senate in-*
 - (i) the budget making process and revenue allocation;*
 - (ii) the legislative process;*
 - (iii) oversight over the National Government; and*
 - (iv) oversight over the County Governments;*
- (c) examine and make recommendations on the appropriate role to be played by the Senate in the approval of nominees for appointment to State office;*
- (d) examine and make recommendations on the appropriate inter linkage and interplay between-*
 - (i) the Senate and the National Government;*
 - (ii) the Senate and the National Assembly;*
 - (iii) the Senate and the County Governments; and*
 - (iv) the Senate and other constitutional offices and Commissions.*

- (e) *recommend to the Senate such constitutional and legislative interventions as may be necessary to secure and safeguard the system of devolved government in the Constitution, including measures necessary to ensure the effective discharge by the Senate, of its legislative and oversight role under the Constitution; and*
- (f) *examine and make recommendations on any other matter connected with or incidental to the foregoing.*

COGNIZANT OF THE FACT that the Committee tabled its report on 23rd September, 2015 which report was adopted by the Senate on 21st October, 2015;

NOTING that one of the recommendations in the report was that-

The Senate approves the appointment of a Select Committee to spearhead the processing of the General Suggestion for the Draft Constitution of Kenya (Amendment) Bill, 2015 through popular initiative in terms of Article 257 of the Constitution.

NOW THEREFORE, pursuant to the resolution of the Senate during the Sitting held on 21st October, 2015, the Senate approves the appointment of the following Senators to the Select Committee to spearhead the processing of the General Suggestion for the Draft Constitution of Kenya (Amendment) Bill, 2015 through popular initiative in terms of Article 257 of the Constitution-

1. Sen. Murkomen Kipchumba
2. Sen. (Prof.) Lonyangapuo John
3. Sen. Chiaba Abu Mohamed
4. Sen. Wangari Martha
5. Sen. Kiraitu Murungi
6. Sen. James Orengo
7. Sen. (Dr.) Boni Khalwale
8. Sen. Hassan Omar
9. Sen. Halima Abdille

And that the committee reports back to the Senate within six months.

Order deferred.

25. **THE ORDER OF PRECEDENCE AND TITLES BILL (NATIONAL ASSEMBLY BILL NO. 11 OF 2014)**

(The Senate Majority Leader)

Order deferred.

26. **THE MICRO AND SMALL ENTERPRISES (AMENDMENT) BILL (SENATE BILL NO. 12 OF 2015)**

(Sen. Kimani Wamatangi)

Order deferred.

27. THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT) BILL
(SENATE BILL NO. 9 OF 2015)

(Sen. Martha Wangari)

Order deferred.

28. THE PERSONS WITH DISABILITIES (AMENDMENT) BILL (NATIONAL
ASSEMBLY BILL NO.43 OF 2013)

(The Senate Majority Leader)

Order deferred.

29. MOTION-ADJOURNMENT OF THE SENATE PURSUANT TO STANDING
ORDER 28 (3)

Motion made and question proposed;

THAT, pursuant to Standing Order 28 (3), the Senate do adjourn until
Tuesday, 12th April, 2016.

(The Deputy Senate Majority Leader)

Debate arising;

And the time being thirty minutes past six O'clock, the Temporary Speaker
(Sen. Peter Mositet) adjourned the Senate without Question put, pursuant to
the Standing Orders.

30. SENATE ROSE - at thirty minutes past six O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Tuesday, April 12, 2016 at 2.30 p.m.*

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