



**REPUBLIC OF KENYA**

**THE SENATE**

**ELEVENTH PARLIAMENT – FOURTH SESSION**

**VOTES AND PROCEEDINGS**

**WEDNESDAY, NOVEMBER 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. **COMMUNICATIONS FROM THE CHAIR**

The Speaker conveyed the following communications from the Chair-

**a) On the 7th Edition of the East African Community (EAC) Inter-Parliamentary games**

“Honorable Senators, I wish to inform you that the 7th Edition of the East African Community (EAC) Inter-Parliamentary games is scheduled to take place from 4 - 11 December, 2016 in Mombasa County. The Games are a key aspect of building relations between the East African Legislative Assembly (EALA) and the National Parliaments of partner states in the East African Region.

The games bring together representatives of the East African Legislative Assembly (EALA) and from the East African community partner states who include Burundi, Kenya, Uganda, Rwanda, Tanzania and South Sudan. The Games play a major role in enabling interactions and integration process among the Members of Parliament in the partner states.

Honorable Senators, the Games which started in the year 2009 are held on an annual and rotational basis. Kenya is privileged to host the 7<sup>th</sup> Edition of the East African Games and the Parliamentary Service Commission has chosen Mombasa County as the venue for this activity.

Towards this end, a Steering Committee consisting of MPs from both Houses chaired by Hon. Dan Wanyama, MP was formed and

inaugurated by the Speakers of Parliament on 16<sup>th</sup> June, 2016 to prepare and put in place the necessary logistics for the successful hosting of the games.

The following Senators have been selected to form TEAM SENATE in the games-

1. Sen. Daisy Nyongesa, M.P
2. Sen. Kembi-Gitura, M.P
3. Sen. Zipporah Kittony, M.P
4. Sen. Isaac Melly, M.P
5. Sen. Mvita Mshenga, M.P
6. Sen. Agnes Zani, M.P
7. Sen. Liza Chelule, M.P
8. Sen. Hassan Omar Hassan, M.P
9. Sen. Okong'o Mong'are, M.P
10. Sen. Moses Kajwang, M.P
11. Sen. Kimani Wamatangi, M.P
12. Sen. John Munyes, M.P
13. Sen. Stewart Madzayo, M.P

I hereby urge the selected Senators to work hard and win trophies. Senators are also requested to get in touch with the Office of the Clerk of Senate for logistical arrangements.

I thank you.”

**b) On the visiting Deputy Governor of Murang'a County**

“Honourable Senators, I would like to acknowledge the presence of Hon. Gakure Monyo, Deputy Governor of Murang'a County, seated in the Speaker's Gallery this afternoon.

On behalf of the Senate and on my own behalf, I welcome him to the Senate and wish him well.

I thank you.”

4. **MESSAGE ON THE APPROVAL OF THE PRESIDENT'S RESERVATIONS TO THE PETROLEUM (EXPLORATION, DEVELOPMENT AND PRODUCTION) BILL (NATIONAL ASSEMBLY BILL NO. 44 OF 2015) & THE ENERGY BILL (NATIONAL ASSEMBLY BILL NO. 50 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 referral of the Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No. 44 of 2015) and the Energy Bill (National Assembly Bill

No. 50 of 2015), by His Excellency the President, to Parliament for reconsideration.

**"PURSUANT** to the provisions of Standing Orders 41 and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly –

**THAT WHEREAS**, in exercise of powers conferred on him by Article 115 of the Constitution, His Excellency the President refused to assent to the Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No. 44 of 2015) and the Energy Bill (National Assembly Bill No. 50 of 2015) and referred the two Bills to Parliament for reconsideration;

**AND WHEREAS**, the National Assembly on Tuesday, November 22<sup>nd</sup> and Wednesday, 23<sup>rd</sup> November 2016 reconsidered and passed the two Bills, fully accommodating the President's reservations and without proposing any amendments to the said reservations;

**NOW, THEREFORE**, in accordance with the provisions under Article 115(4) of the Constitution, I hereby forward the memorandum of the President containing his reservations to the said Bills to the Senate for reconsideration".

Honourable Senators, Article 115 (2) (3) and (4) of the Constitution provides as follows-

*(2) If the President refers a Bill back for reconsideration, Parliament may, following the appropriate procedures under this Part—*

*(a) amend the Bill in light of the President's reservations; or*

*(b) pass the Bill a second time without amendment.*

*(3) If Parliament amends the Bill fully accommodating the President's reservations, the appropriate Speaker shall re-submit it to the President for assent.*

*(4) Parliament, after considering the President's reservations, may pass the Bill a second time, without amendment, or with amendments that do not fully accommodate the President's reservations, by a vote supported—*

*(a) by two-thirds of members of the National Assembly; and*

*(b) two-thirds of the delegations in the Senate, if it is a Bill that requires the approval of the Senate.*

Honourable Senators, as you may recall, this is not the first time that the Senate has received a Memorandum from His Excellency the President regarding refusal to assent to Bills. Indeed, last year we received and considered the President's Memoranda on the Public Audit Bill and Public Procurement and Asset Disposal Bill.

Honourable Senators, you will also recall that these two Bills were subject to Constitutional timelines of 27<sup>th</sup> August, 2016, having been extended by 12 months, by the National Assembly. Considering the above, I direct that the President's reservations to the said Bills be circulated to all Senators and that the matter be listed in tomorrow's Order Paper for consideration.

I thank you.”

5. **PETITION BY THREE RESIDENTS OF NYAMIRA COUNTY, ON ALLEGED CORRUPTION AND MISAPPROPRIATION OF FUNDS AT THE NYAMIRA COUNTY GOVERNMENT.**

Pursuant to Standing Order No. 220(1) (a) and No. 225(2)(b), the Speaker presented to the Senate a Petition by three residents of Nyamira County, on alleged corruption and misappropriation of funds at the Nyamira County Government.

Pursuant to Standing Order No. 226, the Speaker allowed comments on the Petition and directed that the Petition be committed to the Standing Committee on Agriculture, Livestock and Fisheries, pursuant to Standing Order 227.

6. **PAPERS LAID**

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

- (i) Report of the Standing Committee on Roads and Transportation on the Kenya Roads Bill (National Assembly Bills No. 26 of 2016);

*(Vice Chairperson, Standing Committee on Roads and Transportation)*

- (ii) Report of the Standing Committee on Finance, Commerce and Budget on the 2017 Budget Policy Statement; and

*(Chairperson, Standing Committee on Finance Commerce and Budget)*

- (iii) Report by the Ministry of Education, Science and Technology on implementation of Senate Resolutions regarding:-

- a) The Motion by Sen. (Prof.) John Lonyangapuo calling upon the National Government to institutionalize and mainstream policies to support open and distance learning (ODL);
- b) The Motion by Sen. David Musila calling upon the National Government to take immediate measures to release certificates held by heads of secondary schools since 2007 and to ensure that no head of a School , person or institution continues to withhold KCSE certificates;

- c) The Motion by Sen. Halima Abdile calling upon the National Government to construct boarding facilities in at least three established schools in every ward in arid and semi-arid areas as a means of facilitating nomadic children to access education; and
- d) The Motion by Sen. (Prof.) John Lonyangapuo calling upon the National Government to take deliberate measures to cascade research to lower levels of education right from childhood education level.

*(Chairperson, Standing Committee on Education)*

## **7. NOTICE OF MOTION**

**THAT**, the Senate adopts the Report of the Standing Committee on Finance, Commerce and Budget on the 2017 Budget Policy Statement Laid on the Table of the Senate on Wednesday, 30<sup>th</sup> November, 2016.

*(Chairperson, Standing Committee on Finance, Commerce and Budget)*

## **8. STATEMENTS**

### **Statement Pursuant to Standing Order 45 (2) (b)**

- a) A nominated Senator (Sen. Catherine Mukiite) sought a Statement from the Chairperson of the Standing Committee on National Security and Foreign Relations regarding deplorable living conditions in various police stations, Administration Police Camps and quarters for Prison Service officers.
- b) The Chairperson of the Standing Committee on Education issued a Statement regarding fees levied by secondary schools, teacher training colleges and medical training colleges.

The Chairperson informed the Senate that the annual fees payable by students in public primary teacher training colleges and students in public secondary schools is Ksh. 64,472 and Ksh. 54,000 respectively spread across the three terms. The Chairperson further informed the House that for the very needy students, Principals of schools are requested to accept whatever amount of fees available and allow the students to continue learning as guardians look for the balance.

Concerning monies spent on bursaries, the Chairperson informed the House that the Constituency bursary fund is no longer being disbursed through the Ministry of Education. He also informed the House that the Kenya Medical Training Colleges are under the Ministry of Health which is in a better position to respond to questions related to the said colleges.

The Speaker directed the Chairperson to submit to the House a more comprehensive response on 1<sup>st</sup> December, 2016.

- c) The Chairperson of the Standing Committee on Education issued a Statement regarding elevation of some Provincial secondary schools to National School status.

The Chairperson informed the Senate that the 88 former Provincial secondary schools were elevated to National School status in addition to the 18 pre-existing National schools. He informed the House that the need to establish more National Schools was informed by Sessional Paper No. 1 of 2005, continuous demand for national schools' places by the public and a presidential directive in January, 2011 for the Ministry of Education to establish more national schools. The chairperson further informed the House that the criteria used to elevate the former Provincial secondary schools to National School status was informed by equity, adequate land, community support for ownership and reliable and quality infrastructure.

The Chairperson further informed the House that each of the elevated Provincial Schools received Ksh. 25 Million to finance transformation to National School status while each of the 18 pre-existing National schools received Ksh. 48 Million. The Chairperson stated that subsequent allocations were to be based on each school's individual needs after assessment.

- d) The Chairperson of the Standing Committee on Finance, Commerce and Budget issued a Statement concerning the Equalization Fund.

In his statement, the Chairperson stated that the National Government had allocated Ksh. 12.4 billion to the Equalization Fund since the promulgation of the Constitution. He further informed the Senate that the arrears of the Fund up to Financial Year 2016/2017 were Ksh. 7,680,759,850 and that these would be provided for by the Government in subsequent financial years. The Chairperson then proceeded to give a summary of the Fund entitlements since the promulgation of the Constitution in 2010.

The Chairperson informed the House that the Fund had not been utilized to date due to delay in the approval of the Fund Policy, delay in approval of the Fund's Regulations by Parliament as well as delay in approval, by the National Assembly, of the Fund's estimates of revenue and expenditure for Financial Year 2016/2017. He further stated that Ksh. 6 billion had been allocated this Financial Year 2016/2017 and that fourteen (14) counties were proposed to benefit from the Fund. He indicated that the projects identified for implementation by the Fund were roads, water, energy and health and stated that the projects had been identified through National Government structures and the MTEF budget process which entails public consultations.

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

(Sen. Naisula Lesuuda)

*(Second Reading)*

*(Resumption of Debate interrupted on Thursday, 10<sup>th</sup> November, 2016)*

*(Division)*

Order deferred.

10. **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, 15<sup>th</sup> November, 2016)*

*(Division)*

Order deferred.

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

(Senate Majority Leader)

*(Second Reading)*

*(Resumption of Debate interrupted on Wednesday, 16<sup>th</sup> November, 2016)*

*(Division)*

Order deferred.

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

(Sen. (Eng.) Muriuki Karue)

*(Second Reading)*

*(Resumption of Debate interrupted on Wednesday, 17<sup>th</sup> November, 2016)*

*(Division)*

Order deferred.

13. **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, 3<sup>rd</sup> November, 2016)*

*(Division)*

Order deferred.

14. **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, 3<sup>rd</sup> November, 2016)*

*(Division)*

Order deferred.

15. **THE CONSTITUTION OF KENYA (AMENDMENT) BILL (SENATE BILL NO. 16 OF 2015)**

(Sen. Judith Sijeny)

*(Second Reading)*

*(Resumption of Debate interrupted on Tuesday, 26<sup>th</sup> July, 2016)*

*(Division)*

Order deferred.

16. **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, 15<sup>th</sup> November, 2016)*

*(Division)*

Order deferred.

17. **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, 15<sup>th</sup> November, 2016)*

*(Division)*

Order deferred.

18. **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, 15<sup>th</sup> November, 2016)*

*(Division)*

Order deferred.

19. **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, 16<sup>th</sup> November, 2016)*

*(Division)*

Order deferred.

20. **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, 16<sup>th</sup> November, 2016)*

Order deferred.



21. **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, 9<sup>th</sup> November, 2016)*

Order deferred.

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

Order for Second Reading read;

Motion made and Question proposed-

**THAT**, the Employment (Amendment) Bill (Senate Bill No. 1 of 2015) be now read a Second Time.

*(Sen. Gideon Moi – 22.11.2016)*

Debate interrupted on Tuesday, 22<sup>nd</sup> November, 2016 resumed;

And there being no other Senator wishing to contribute;

Raising a point of order, pursuant to Standing Order 54 (3), the Senator for Marsabit County (Sen. Hargura) requested the Temporary Speaker (Sen. Mositet) to defer putting of the Question to another day;

And the Temporary Speaker (Sen. Mositet) acceding to the request, deferred putting of the Question to a later date.

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

(Sen. Mutahi Kagwe)

*(Second Reading)*

Order deferred.

And the time being thirty minutes past Six O'clock, the Temporary Speaker (Sen. Mositet), interrupted the proceedings and adjourned the Senate without question put, pursuant to the Standing Orders.

24. **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  
Thursday, December 01, 2016 at 2.30 p.m.*

--X--