



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – SECOND SESSION

THE SENATE

VOTES AND PROCEEDINGS

WEDNESDAY, JULY 18, 2018 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 issued the following Communications from the Chair-

(i) Visiting staffers from the Meru County Assembly-

“Honorable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery this afternoon, of visiting staff from the County Assembly of Meru. 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. Mr. Dennis Munene | - | Office Administrative Assistant |
| 2. Ms. Doreen Ngugi | - | Office Administrative Assistant |
| 3. Ms. Sarah Nkatha | - | Office Receptionist |

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and, on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you.”

(ii) Visiting students and teachers from PCEA Imani School, Makueni County.

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from PCEA Imani School in Makueni County.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and on behalf of the Senate and my own behalf, wish them a fruitful visit.

I thank you”

(iii) Visiting students and teachers from Sitoito Secondary School, Nakuru County.

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Sitoito Secondary School in Nakuru County.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and on behalf of the Senate and my own behalf, wish them a fruitful visit.

I thank you”

(iv) Visiting students and teachers from Elarai MCK Girls High School, Kajiado County.

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Elarai MCK Girls High School in Kajiado County.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and on behalf of the Senate and my own behalf, wish them a fruitful visit.

I thank you”

4. **PETITIONS**

- a) Pursuant to Standing Order 220(1) (b) and 224 (2) (a), the Nominated Senator (Sen. Mary Seneta) presented to the Senate a Petition by residents of Kaputiei-North Ward in Kajiado County, concerning non recruitment of locals by flower firms, institutions and other companies operating in the Ward.

Pursuant to Standing Order 225, the Speaker invited Senators to comment on the Petition and subsequently, committed the Petition to the Standing Committee on Labour and Social Welfare, pursuant to Standing Order 226.

- b) Pursuant to Standing Order 220(1) (b) and 224 (2) (a), the Senator for Samburu County (Sen. Steve Ltumbesi) presented to the Senate a Petition by residents of Samburu County regarding the purported conferment of municipal status upon Maralal town, by the County Government of Samburu.

Pursuant to Standing Order 225, the Deputy Speaker invited Senators to comment on the Petition and subsequently, committed the Petition to the Standing Committee on Justice, Legal Affairs and Human Rights, pursuant to Standing Order 226. And further directed that the Committee tables its report to the Senate within 30 days.

5. PAPERS

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

- a) Reports, Bills and Resolutions adopted by the East African Legislative Assembly (EALA) at the 5th Meeting of the 1st Session of the 4th Assembly as follows:-
- i. Report of the Committee on General Purpose on the Supplementary Budgetary proposals of the East African Community for the Financial Year 2017/2018;
 - ii. Report of the Committee on General Purpose on the budgetary proposals of the East African Community for the Financial Year 2017/2018;
 - iii. Report of the Committee on Accounts on the East African Community Audited Financial Statements for the Financial Year ended 30th June, 2016;
 - iv. The East African Community Annual Report of activities for the period 2015/2016;
 - v. The East African Community Supplementary Appropriation Bill, 2018;
 - vi. The East African Community Appropriation Bill, 2018;
 - vii. The East African Community Customs Management (Amendment) No. 2 Bill, 2018; and
 - viii. The Administration of the East African Legislative Assembly (Amendment) Bill, 2018.

(Sen. Mohamed M. Mahamud, MP on behalf of the Senate Majority Leader)

- b) Report of the Office of the Controller of Budget on the County Governments Budget Implementation Review for the first nine months of Financial Year 2017/18.

(Sen. Mohamed M. Mahamud, MP on behalf of the Senate Majority Leader)

- c) Report of the Standing Committee on Finance and Budget on the County Statistics Bill, (Senate Bills No. 9 of 2018).

(The Chairperson, Standing Committee on Finance and Budget)

6. **THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2018)**
(Sen. Ledama Olekina MP)

Order for Second Reading deferred.

7. **THE COUNTY STATISTICS BILL (SENATE BILLS NO. 9 OF 2018)**
(Sen. (CPA) Farhiya Ali Haji, MP)

Order for Second Reading deferred.

8. **COMMITTEE OF THE WHOLE
THE COUNTY BOUNDARIES BILL (SENATE BILLS NO. 6 OF 2017)**
(Sen. Mutula Kilonzo Jnr, MP)

Order for Committee deferred.

9. **COMMITTEE OF THE WHOLE
THE OFFICE OF THE COUNTY ATTORNEY BILL (SENATE BILLS NO. 3 OF 2018)**
(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Order for Committee deferred.

10. **COMMITTEE OF THE WHOLE
THE FOOD SECURITY BILL (SENATE BILLS NO. 12 OF 2017)**
(The Senate Majority Leader)

Order for Committee deferred.

11. **THE IMPEACHMENT PROCEDURE BILL (SENATE BILLS NO. 15 OF 2018)**
(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Order for Second Reading deferred.

12. **THE DATA PROTECTION BILL (SENATE BILLS NO. 16 OF 2018)**
(Chairperson, Standing Committee on Information, Communication and Technology)

Order for Second Reading deferred.

13. **THE LOCAL CONTENT BILL (SENATE BILLS NO. 10 OF 2018)**
(Sen. Gideon Moi)

Order for Second Reading deferred.

14. **THE SALARIES AND REMUNERATION COMMISSION (AMENDMENT) BILL (SENATE BILLS NO. 12 OF 2018)**

Order for Second Reading read;

Motion made and Question proposed;

That, the Salaries and Remuneration Commission (Amendment) Bill (Senate Bills No. 12 of 2018) be now read a Second Time.

(Chairperson, Standing Committee on Finance and Budget)

Debate arising;

There being no other Senator wishing to contribute;

Mover replied;

Raising a point of order pursuant to Standing Order 55 (3), the Senator for Mandera County (Sen. Mohamed Mahamud) requested for the deferment of putting of the question to a later date;

And the Deputy Speaker acceding to the request, nominated Thursday, 19th July, 2018 as the day when the Question shall be put.

15. **THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILLS NO. 13 OF 2018)**

(Sen. Aaron Cheruiyot, MP)

Order for Second Reading deferred.

16. **MOTION – REGISTRATION OF PERSONS WITH DISABILITIES (PWDS)**

Motion made and Question proposed:-

THAT, AWARE that the National Council for Persons with Disabilities was established through the Persons with Disabilities Act, 2003;

FURTHER AWARE that registration of persons living with disabilities is a function of the National Council for Persons with Disabilities;

ALSO AWARE that persons living with disabilities are estimated to be about 10% of any given population;

COGNIZANT that for purposes of registration of persons living with disability, it is a mandatory requirement for one to undergo medical examination by a registered medical officer in a registered and certified health facility;

CONCERNED that of the nearly 4 million Kenyans living with disabilities who reside in Kenya, there is a very small fraction of the number which is duly registered;

AWARE that medical services are now a devolved function;

FURTHER CONCERNED that without proper registration, many persons living with disabilities are denied services because they lack the necessary proof of disability;

ALSO CONCERNED that owing to lack of accurate data on persons living with disabilities, the government at both levels cannot plan properly for this category of people;

NOW THEREFORE, the Senate calls upon the National Council for Persons with Disabilities in collaboration with Ministry of East African Community, Labour and Social Protection and county governments, to carry out a nationwide registration of all persons living with disabilities in order to determine their exact population to facilitate effective service for this marginalized group of our society.

(Sen. George Khaniri – 07.06.2018)

Debate interrupted on Thursday, 7th June, 2018 resumed;

And there being no other Senator wishing to contribute;

Sen. (Dr.) Mwaura replied on behalf of the Mover;

Before the question was put and pursuant to Article 123 of the Constitution and Standing Order 73, the Deputy Speaker informed the Senate that the Motion did not affect counties.

Question put and **agreed to.**

RESOLVED ACCORDINGLY-

THAT, AWARE that the National Council for Persons with Disabilities was established through the Persons with Disabilities Act, 2003;

FURTHER AWARE that registration of persons living with disabilities is a function of the National Council for Persons with Disabilities;

ALSO AWARE that persons living with disabilities are estimated to be about 10% of any given population;

COGNIZANT that for purposes of registration of persons living with disability, it is a mandatory requirement for one to undergo medical examination by a registered medical officer in a registered and certified health facility;

CONCERNED that of the nearly 4 million Kenyans living with disabilities who reside in Kenya, there is a very small fraction of the number which is duly registered;

AWARE that medical services are now a devolved function;

FURTHER CONCERNED that without proper registration, many persons living with disabilities are denied services because they lack the necessary proof of disability;

ALSO CONCERNED that owing to lack of accurate data on persons living with disabilities, the government at both levels cannot plan properly for this category of people;

NOW THEREFORE, the Senate calls upon the National Council for Persons with Disabilities in collaboration with Ministry of East African Community, Labour and Social Protection and county governments, to carry out a nationwide registration of all persons living with disabilities in order to determine their exact population to facilitate effective service for this marginalized group of our society.

17. **MOTION – REPORT OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS ON FINANCIAL OPERATIONS OF THE KAJIADO COUNTY EXECUTIVE FOR FY 2013/2014**
(Chairperson, Sessional Committee on County Public Accounts and Investments)

THAT, this House adopts the Report of the Sessional Committee on County Public Accounts and Investments on the inquiry into the financial operations of Kajiado County Executive for the Financial Year 2013/2014 (1st July 2013 - 30th June, 2014) laid on the Table of the House on Thursday, 10th May, 2018.

Order deferred.

18. **MOTION – REPORT OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS ON FINANCIAL OPERATIONS OF THE NAROK COUNTY EXECUTIVE FOR FY 2013/2014**
(Chairperson, Sessional Committee on County Public Accounts and Investments)

THAT, this House adopts the Report of the Sessional Committee on the County Public Accounts and Investments on the inquiry into the financial operations of Narok County Executive for the Financial Year 2013/2014 (1st July 2013 - 30th June, 2014) laid on the Table of the House on Thursday, 10th May, 2018.

Order deferred.

19. **MOTION – REPORT OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS ON FINANCIAL OPERATIONS OF THE TURKANA COUNTY EXECUTIVE FOR FY 2013/2014**
(Chairperson, Sessional Committee on County Public Accounts and Investments)

THAT, this House adopts the Report of the Sessional Committee on the County Public Accounts and Investments on the inquiry into the financial

operations of Turkana County Executive for the Financial Year 2013/2014 (1st July 2013 - 30th June, 2014) laid on the Table of the House on Thursday, 10th May, 2018.

Order deferred.

20. **MOTION – FLOOD SITUATION IN THE COUNTRY**

(Sen. Fatuma Dullo)

THAT, aware that several days of heavy rains recently have caused severe flooding in many parts of the country, resulting in multiple deaths and devastating damage to property and infrastructure;

NOTING with concern that, whenever Kenya experiences periods of severe drought, torrential rains usually follow;

CONCERNED that year in year out, the challenge of floods continues to recur, leading to loss of human and animal life, displacement of people and wanton destruction of property;

COGNIZANT that the number of Kenyans needing emergency food aid as a result of displacement caused by the current floods continues to rise by the day, and that the floods have also washed away many bridges and destroyed roads in many parts of Kenya;

ALSO CONCERNED that no effective measures, such as improved storm water harvesting, proper drainage infrastructure and preventing the destruction of riparian reserves and natural water courses, to mitigate and/or provide a lasting solution to the menace of flooding, have been taken;

NOW THEREFORE, the Senate calls upon the National Government to develop a lasting framework to permanently address the challenge of effects of floods by, among other things-

- i) developing and enforcing regulations for preventing the obstruction of riparian reserves and natural water courses; and
- ii) preventing and regulating the construction of informal settlements and ensuring prevention of construction on low lying areas and flood plains.

AND further that the relevant government agency to execute this task submits a report to the Senate within three months of the adoption of this Motion.

Order deferred.

21. **MOTION – NEED TO REVIEW AND EVALUATE THE STATE OF EDUCATION IN NORTHERN KENYA**

(Sen. (Dr.) Abdullahi Ali)

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

ALSO AWARE that education is a basic need and a tool for intellectual empowerment and social-political development;

FURTHER AWARE that education is a shared function between the National and the County levels of Government with the National Government being responsible for Primary, secondary and Higher education while the County Government is responsible for preprimary education, village polytechnics and home craft centers;

COGNISANT that both levels of Government complement each other in promoting sustainable education;

CONCERNED that the intake, uptake and quality of education in the Northern Kenya have adversely been affected owing to discrepancies in public resources allocation, insecurity, skewed staffing and teacher training in the region;

FURTHER CONCERNED that both the school completion rate and the national examination outcomes in region are poor and that the number of students from Northern Kenya who qualify for core courses in universities, colleges, technical schools and village polytechnics is minimal compared to other parts of the country;

NOTING WITH CONCERN that due to insecurity and other related concerns, the Teachers Service Commission (TSC) which is the body responsible for the employment and deployment of teachers, has in the recent past, taken steps to transfer non-local teachers from the northern region of Kenya to other parts of the country;

CONCERNED THAT, the transfers have led to shortage of skilled teachers which has been a major cause of the dismal performance in examinations in schools in the region;

NOW THEREFORE, the Senate resolves to task the Standing Committee on Education to conduct an inquiry into the challenges facing the education sector in Northern Kenya with a view to-

1. evaluating the effect of the teacher transfers from the region and recommending to the Ministry of Education, policy measures to address the challenge;
2. evaluating the status of the education infrastructure in the region and proposing solutions to mitigate the current and looming challenges;
3. proposing mechanisms for enhanced resource allocation at both levels of government to facilitate improved education facilities; and

4. assessing school intake compared completion levels in the region in order to ascertain the impact of the challenges facing the schools and how these disadvantages the region compared to other parts of Kenya and proposing ways of addressing the challenges.

And that the Committee submits a report to the Senate within three months of adoption of this Motion by the Senate.

Order deferred.

22. **MOTION - NEED FOR STANDARD POLICY REGULATION FOR CONSTRUCTION AND MAINTANANCE OF RURAL ACCESS ROADS**

(Sen. (Arch.) Sylvia Kasanga)

THAT, AWARE that infrastructure development and specifically, construction of roads is a key pillar of Kenya's vision 2030 whose objective is to spur movement of people and goods, promote trade and economic activities, encourage development and attract investments;

NOTING that there is a very strong correlation between a country's economic development and the quality of its road network;

CONCERNED that Government's efforts to expand the roads infrastructure are mainly focused on the urban and peri-urban areas of the country thus leaving rural areas with dilapidated or no access roads;

FURTHER CONCERNED that fifty-five years since independence and over five years after institutionalization of devolution, the Country's roads infrastructure is to a large extent still underdeveloped with only slightly above 9,000 kilometres of the about 178,000 kilometres of roads paved;

COGNISANT that, Part Two of the Fourth Schedule to the Constitution of Kenya (2010) mandates County Governments to manage county transport, including; roads, street lighting, traffic and parking, amongst other county public transport matters;

DEEPLY CONCERNED that, County Governments are continuously prioritizing routine maintenance works over sustainable and durable road quality works due to budgetary constraints;

NOW THEREFORE the Senate calls upon the Ministry of Transport, Infrastructure, Housing and Urban Development to develop and adopt standard policy regulations prescribing modern, eco-friendly and inexpensive technologies to be applied across the 47 counties for construction, upgrading and maintenance of rural access roads in order to ensure durability and sustainability of the access roads and also to reduce maintenance expenses.

Order deferred.

23. **MOTION - REPORT OF THE SENATE DELEGATION TO THE FIRST EXTRAORDINARY SESSION OF THE FORUM OF PARLIAMENTS OF THE INTERNATIONAL CONFERENCE ON THE GREAT LAKES REGION (FP-**

ICGLR) HELD IN KINSHASA, THE DEMOCRATIC REPUBLIC OF CONGO (DRC)

(Sen. Samuel Poghisio)

THAT, this House adopts the Report of the proceedings of the First Extraordinary Session of the Plenary Assembly of the Forum of Parliaments of Member States of the International Conference on the Great Lakes Region (FP-ICGLR) held in Kinshasa, Democratic Republic of Congo from 19th – 20th March, 2018, laid on the Table of the Senate on Tuesday, 15th May, 2018.

Order deferred.

And the time being ten minutes past Six O'clock, the Deputy Speaker (Sen. Kithure Kindiki), interrupted the proceedings and adjourned the Senate without Question put, pursuant to the Standing Orders.

24. **SENATE ROSE** – at ten minutes past Six O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Thursday, July 19, 2018 at 2.30 p.m.*

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