



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – THIRD SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

TUESDAY, FEBRUARY 26, 2019

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the Honourable Speaker
4. **MESSAGE**

The Speaker conveyed the following Message from the Cabinet Secretary for National Treasury and Planning –

Message on Nomination of Persons for Appointment as Members of the Board of Directors of the National Government Constituencies Development Fund

Honourable Members, pursuant to the provisions of section 15 of the National Government Constituencies Development Fund Act, 2015, I wish to convey to the House that I have received a request from the Cabinet Secretary for the National Treasury, asking the House to approve the appointment of the following nominees to the Board of Directors of the National Government Constituencies Development Fund (NG-CDF):

1. Mr. Robert Nyariki Momanyi Masese;
2. Ms. Irene C. Masit;
3. Mr. Abdulaziz Bulle Yarrow;
4. Ms. Isabel Nyambura Waiyaki;
5. Ms. Maria Lekoloto (representing persons with disability);
6. Mr. Omondi Anyanga; and
7. Mr. George Kasatua Ole Meshuko.

Honourable Members, section 15(4) of the National Government Constituencies Development Fund Act, 2015 provides that members nominated by the Cabinet Secretary for appointment to the NG-CDF Board shall be approved by the House before appointment.

Section 50(5)(d) of the NG-CDF Act stipulates that, one of the functions of the National Assembly Select Committee on the National Government Constituencies Development Fund is to consider and report to the House, with recommendations, names of persons requiring approval by the National Assembly pursuant to the NG-CDF Act.

Honourable Members, in this regard, I hereby refer the names of the nominees, including their curriculum vitae, to the Select Committee on the National Government Constituencies Development Fund to undertake the necessary approval hearings. Thereafter, the House shall consider the nominees in accordance with the Public Appointments (Parliamentary Approval) Act, 2011.

Honourable Members, Section 8(1) of the said Act requires the National Assembly to either approve or reject the nominees within fourteen days from the date on which the notification of nomination was given. In view of the foregoing, I wish to guide the Committee and the House as follows:

- (i) The Committee should notify the nominees and the general public of the time and place of the approval hearings, in good time. The notification should therefore be made immediately; and,
- (ii) The Committee may thereafter commence the necessary approval hearings and submit its report to the House on or before Tuesday, March 12, 2019.

I thank you!"

5. PETITIONS

- i) The Speaker conveyed the following Petition: -

Petition Regarding Zero-Rating of Textbooks, Journals and Periodicals

Honourable Members,

Pursuant to the provisions of Standing Order 225(2)(b), I wish to convey to the House that I am in receipt of a petition, signed by a Mr. Njoroge Waweru regarding Value Added Tax levied on textbooks, journals and periodicals.

The Petitioner is concerned that the Value Added Tax Act of 2013 imposed a blanket Value Added Tax on textbooks, educational materials, journals and periodicals. He believes that this is an impediment to the realization of the free basic education initiative. The Petitioner contends that books in their inherent nature are not based on commercial model, therefore any tax charged on the value of books can only amount to distortion of taxation. In his view, this kind of taxation on textbooks is in conflict with the government's free education policy.

Honourable Members,

The Petitioner therefore prays that the National Assembly, through the Departmental Committee on Finance, Planning and Trade legislates to waive the sixteen per cent (16%) Value Added Tax levied on text books, educational materials, journals and periodicals; and makes any other order or direction that it deems fit in the circumstances of the prayers sought.

Honourable Members,

Pursuant to the provisions of Standing Order 227(1), this Petition stands committed to the Departmental Committee on Finance, Planning and Trade for consideration. I urge the Committee to engage the Petitioner and report to the House within sixty days.

I thank you!

- ii) The Member for Kisauni Constituency (Hon. Ali Mbogo Menza) presented a Petition regarding non-payment of terminal dues to employees of the African Safari Club.

6. **PAPERS LAID**

The following Papers were laid on the Table –

- a) The Reports of the Auditor-General on the Financial Statements in respect of the following Institutions for the year ended 30th June, 2018 and the certificates therein: -
 - i) Kibabii University;
 - ii) Maseno University;
 - iii) Agro-Chemical and Food Company Limited;
 - iv) Geothermal Development Company Limited;
 - v) National Government Affirmative Action Fund;
 - vi) State Department for Gender Affairs;
 - vii) State Department of Shipping and Maritime Affairs; and
 - viii) State Department for Livestock.

- b) The Reports of the Auditor-General on the Financial Statements in respect of the following Constituencies for the year ended 30th June, 2017 and the certificates therein: -
 - i) Seme;
 - ii) Nyakach;
 - iii) Nyaribari Masaba;
 - iv) Nyaribari Chache;
 - v) Kisumu Central; and
 - vi) Muhoroni.

(The Leader of the Majority Party)

- c) Report of the Departmental Committee on Health on its consideration of the Presidential Memorandum on the Health Laws (Amendment) Bill, (National Assembly Bill No. 14 of 2018).

(Hon. James K. Murgor on behalf of the Health Committee)

- d) Report on the Status of disbursement of funds to the National Government Constituencies Development Fund.
(Chairperson, Select Committee on National Government Constituencies Development Fund)

7. **NOTICES OF MOTION**

THAT, this House adopts the Report of the Select Committee on National Government Constituencies Development Fund on the Status of Disbursement of Funds to the National

Government Constituencies Development Fund laid on the Table of the House on Tuesday, February 26, 2019.

(Chairperson, Select Committee on National Government Constituencies Development Fund)

8. **QUESTIONS**

The following Questions were asked –

- (i) Question No.037/2019 by the Member for Bomachoge Borabu Constituency (Hon. (Prof) Zadoc Abel Ogutu) regarding effects of the transport regulations enforcement on fares charged by public service vehicles; Question referred to the Departmental Committee on Transport, Public Works and Housing for response by the Cabinet Secretary;
- (ii) Question No.038/2019 by the Member for Isiolo County (Hon. Rehema Jaldesa Dida) regarding investigations into the murder of Mr. Ibrahim Mohamed Huka; Question referred to the Departmental Committee on Administration and National Security;
- (iii) Question No.039/2019 by Nominated Member (Hon. Halima Mucheke) regarding status of taxes collected since 2014; Question referred to the Departmental Committee on Finance and National Planning;
- (iv) Question No.040/2019 by the Member for Matuga Constituency (Hon. Kassim Sawa Tandaza) regarding non-constitution of the Kwale County Education Board; Question referred to the Departmental Committee on Education and Research;
- (v) Question No.041/2019 by the Member for Kibwezi East Constituency (Hon. Jessica Mbalu) regarding oil spills in Thange area of Kibwezi East Constituency; Question referred to the Departmental Committee on Environment and Natural Resources for response by the Cabinet Secretary;
- (vi) Question No.042/2019 by the Member for Teso South Constituency (Hon. Geoffrey Omuse) regarding construction status of the Busia-Malaba Road; Question referred to the Departmental Committee on Transport, Public Works and Housing for response by the Cabinet Secretary;
- (vii) Question No.043/2019 by the Member for Rarieda Constituency (Hon. (Dr.) Otiende Amollo) regarding the whereabouts of Mr. Jorim Odhiambo Abang'; Question referred to the Departmental Committee on Administration and National Security;
- (viii) Question No.044/2019 by the Member for Teso North Constituency (Hon. Oku Kaunya) regarding academic qualifications status of Kenyans who have studied abroad; Question referred to the Departmental Committee on Education and Research, and
- (ix) Question No.045/2019 by the Member for Endebess Constituency (Hon. (Dr.) Robert Pukose) regarding improper conduct of police officers stationed at Endebess Police Station; Question referred to the Departmental Committee on Administration and National Security.

9. **STATEMENTS**

The following Statements were issued –

- (i) Statement by the Leader of the Majority Party seeking for deferment of business appearing as Order Number 11 on the Order Paper (namely, Committee of the Whole House on the Kenya Accreditation Service Bill (National Assembly Bill No. 17 of 2018)) so as to allow time for harmonization of amendments forwarded by the Committee in charge of the Bill, Hon. Millie Odhiambo, and other Members. The Speaker acceded to the request, and the said business was stood down.
- (ii) Statement by the Member for Mwingi Central Constituency (Hon. Mulyungi Gideon Mutemi) regarding his Question on recruitment criteria by the Kenya Defence Forces. The Speaker directed the Committee on Defence and Foreign Relations to invite the Cabinet Secretary for Defence to reply on the specific issues raised by the Member, if necessary, in camera.
- (iii) The Hon. Dennitah Ghata (Nominated Member) sought the indulgence of the Chair to have the House debate on her Statement regarding access to Bus Rapid Transport (BRT) by Persons with Disabilities under Standing Order 43 (Zero Hour). The Honourable Speaker informed Members that moving of the said Statement had failed to materialize the previous week after the House adjourned earlier than scheduled on account of lack of quorum. The Honourable Speaker thus acceded to the request and directed that the Statement be made and debate at 6.30pm.

10. **THE SPORTS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.25 OF 2018)**

Order for Second Reading read;

Motion made and Question proposed –

THAT, the Sports (Amendment) Bill (National Assembly Bill No.25 of 2018) be now read a Second Time

(The Leader of the Majority Party – 20.02.2019)

Debate on the Second Reading having been concluded on Thursday, February 21, 2019;

Question for Second Reading put and agreed to;

Bill read a Second Time and committed to the Committee of the Whole House.

11. **MOTION – RESOLUTION TO PUBLISH SPECIFIED INDIVIDUAL MEMBERS' BILLS**

Motion made and Question proposed –

AWARE that, Standing Order 114 (*Introduction of Bills*) provides for the procedure for introduction of Bills by Members or Committees;

ACKNOWLEDGING that, the said Standing Order also provides that, where a legislative proposal is submitted to the Speaker, and where the Speaker is of the opinion that the legislative proposal is not a draft money Bill in terms of Article 114 of the Constitution, the Speaker shall-

- (i) direct that the proposal be referred to the relevant Departmental Committee for pre-publication scrutiny in case of a legislative proposal not sponsored by a Committee; or
- (ii) direct that the proposal be published into a Bill, in case of a legislative proposal sponsored by a Committee.

COGNIZANT of the provisions of Standing Order 114(3)(b) which require the Speaker to refer a legislative proposal with money-bill aspects to the Budget and Appropriations Committee for consideration;

RECOGNIZING that, following the recommendation of the Budget and Appropriations Committee, the Speaker ordinarily refers legislative proposals originating from individual Members to the relevant Departmental Committees for pre-publication scrutiny, and that the Departmental Committees should consider the proposals within twenty-one (21) days and recommend whether or not the proposals should be proceeded with;

NOTING that, since the commencement of the Twelfth Parliament, more than eighty (80) legislative proposals have been drafted and submitted to the Speaker upon which, thirty-three (33) have been cleared with respect to money-bill aspects and their progress has been stifled by the inordinate delay in the relevant Departmental Committees;

NOW THEREFORE, this **House orders** that the thirty three (33) legislative proposals contained in the Schedule, whose money-bill aspects have since been cleared, and were pending before the relevant Departmental Committees by the end of the Second Session **be published into Bills** in accordance with the provisions of Standing Order 120 (*Publication of Bills*), and thereafter be referred to the relevant Departmental Committees in accordance with the provisions of Standing Order 127 (*Committal of Bills to Committees and public participation*) upon being read a First time.

(The Leader of the Majority Party, on behalf of the House Business Committee – 21.02.2019)

Debate on the Motion having been concluded on Thursday, February 21, 2019;

Mover replied;

Question put and agreed to.

12. **MOTION - REPORT ON BILLS FROM THE EAST AFRICAN LEGISLATIVE ASSEMBLY**

Motion made and Question proposed –

THAT, pursuant to the provisions of Standing Order 212A(4), this House **notes** the Report of the Committee on Regional Integration on the East African Community Customs Management (Amendment)(No. 2) Bill, 2018 & the Administration of the East African Legislative Assembly (Amendment) Bill, 2018, laid on the Table of the House on Tuesday, November 27, 2018.

(Chairperson, Committee on Regional Integration – 21.02.2019)

Debate on the Motion having been concluded on Thursday, February 21, 2019;

Question put and agreed to.

13. **COMMITTEE OF THE WHOLE HOUSE**

The Kenya Accreditation Service Bill (National Assembly Bill No. 17 of 2018)

Order deferred.

14. **MOTION - REPORT ON AUDITED FINANCIAL STATEMENTS FOR CONSTITUENCIES IN KISUMU COUNTY**

Motion made and Question proposed –

THAT, this House **adopts** the Third Report of the Special Funds Accounts Committee on Audited Financial Statements for the National Government Constituencies Development Fund for Constituencies in Kisumu County for the Financial Years 2013/14, 2014/15 and 2015/16, laid on the Table of the House on Wednesday, November 28, 2018.

(Hon. Erastus Kivasu Nzioka, on behalf of the Special Funds Account Committee)

Debate arising;

[Change of Chair from the Honourable Speaker to the Fourth Chairperson]

Debate interrupted; to resume on another sitting day.

15. **STATEMENT (ZERO HOUR) PURSUANT TO STANDING ORDER 43**

Pursuant to Standing Order No. 43, the Fourth Chairperson interrupted the House to allow Members to discuss a Statement by the Hon. Dennitah Ghati MP (Nominated Member), regarding ease of access to the upcoming Bus Rapid Transport (BRT) system by persons with disabilities.

And the time being Seven O'clock, the Fourth Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

16. **HOUSE ROSE** - at Seven O'clock

M E M O R A N D U M

The Speaker will take the Chair on
Wednesday, February 27, 2019 at 9.30 a.m.