



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – THIRD SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

THURSDAY, JUNE 20, 2019

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the Hon. Speaker
4. **COMMUNICATION FROM THE CHAIR**

The Speaker issued the following Communication:-

Visiting Delegation from the Parliament of Uganda

“Honourable Members,

I wish to introduce to you a delegation of Members of Parliament of the Legal and Parliamentary Affairs Committee and Staff from the Parliament of the Republic of Uganda seated in the Speaker’s Row. The delegation comprises: -

- i. The Hon. Jacob Oboth Marksons, MP - Leader of Delegation;
- ii. The Hon. Devis Hamson Obua, MP - Member;
- iii. The Hon. Prossy Akampulira, MP - Member;
- iv. The Hon. Alex Byanugaba, MP - Member; and
- v. The Hon. Paul Mwiru, MP - Member.

The delegation is accompanied by Mr. Max Komakech, Mr. Edward Ngoby and Mr. John Tamale, staff of Parliament.

Honourable Members, the delegation is in the country on a benchmarking visit to our Centre for Parliamentary Studies and Training (CPST), to share experiences in relation to legislation the Parliament of Uganda is processing “The Institute of Parliamentary Studies Bill, 2019”.

On my own behalf and that of the House, I wish to welcome them to the National Assembly and wish them fruitful engagements during their stay in the Country. **I thank you!**”

5. **MESSAGES**

The Speaker conveyed the following Message –

Referral by H.E. the President of the Statute Law (Miscellaneous Amendments) Bill, 2019

“Honourable Members, you may recall that on June 13, 2019, this House passed the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No. 21 of 2019). Thereafter, the Bill was presented for Assent to H.E. the President in accordance with the provisions of the Constitution and our Standing Orders.

However, in exercise of the powers under Article 115(1)(b) of the Constitution, H.E. the President, by way of a Memorandum dated June 18, 2019, has referred the said Bill back to the National Assembly for reconsideration.

Honourable Members, this Bill is proposing to make various amendments to fourteen (14) statutes relating to various sectors. In his Memorandum, H.E. the President has expressed reservations on the provisions relating to the Merchant Shipping Act, 2009 as passed by the House. In his reservations, he is agreeable with the principle of the Committee and the House regarding limiting the powers of the Cabinet Secretary and specificity of the exemption. However, he has reservation with the limitation on “whole ownership”. He is of the view that this restriction will disadvantage the Kenya National Shipping Line whose majority shareholding is held by the Government, through the Kenya Ports Authority.

H.E. The President is concerned that the revival of the national shipping line will be greatly hampered and opportunities to create employment lost, especially for youth near maritime resources.

Honourable Members, H.E. the President is therefore proposing to delete the proposed new subsection 16(1A) as passed and to introduce a caveat that provisions of section 16(1) (*providing for ship ownership*) shall not apply to a shipping line owned or controlled by the Government of Kenya. He is of the view that, this in effect, will assist the Kenya National Shipping Line in collaborating with other partners, as is the international practice, to enhance its competitiveness in the regional and global shipping markets.

Honourable Members, H.E. the President having exercised his powers under Article 115(1)(b) of the Constitution now requests the National Assembly to reconsider the Bill, against his reservations and the recommendations proposed, and amend the Bill in light of his reservations.

Honourable Members, Standing Order 154 requires the National Assembly to consider the President’s reservations within 21 days. In this regard, the Memorandum of H.E. the President now stands committed to the Departmental Committee on Transport, Public Works and Housing for consideration. The Committee should prioritize the matter and table its report by next week, Thursday, June 27, 2019, to enable the House conclude with the Bill in good time, ahead of the short July recess. I encourage any Member wishing to give their views and comments to appear before the Committee during that the period of reconsideration of that specific provision.

Honourable Members, may I, at this point, remind the House of the *Speaker’s Communication* delivered on July 28, 2015 concerning the consideration of President’s reservations to a Bill and amendments thereto. I particularly draw your attention to my guidance, that the voting threshold for the passage of amendments proposed by a Committee or an individual Member that have the effect of fully accommodating the President’s reservations is a simple majority as contemplated under Article 122(1), as read together with Article 115(2)(a) of the Constitution.

On the other hand, an amendment that does not fully accommodate the President's reservations, or indeed one that has the effect of total override of the President's reservations, including negating his proposed text would require a two-thirds voting threshold to be passed, in keeping with the provisions of Article 115(4) of the Constitution.

I wish to further reiterate that only the specific section of the Bill that has reservation will be considered. I now direct the Clerk to circulate the Memorandum from H.E. the President to all Members so that you familiarize yourselves with its contents. I thank you!"

6. PETITIONS

The following Petitions were presented –

(i) **By the Speaker regarding the Placement of students in private secondary schools and Government capitation**

"Honourable Members,

Pursuant to the provisions of Standing Order 225(2) (b), I wish to report to the House a Petition submitted by Ms. Mutheu Kasanga, National Chairperson of Kenya Private School Association, an umbrella organization representing private education institutions in the country, registered by the registrar of societies in accordance with the law and duly recognized by the Ministry of Education. The Association, which has membership from private education institutions pursuing a curriculum approved by the Ministry of Education, aspires to provide alternative opportunity for the realization of the right to free and compulsory basic education to all children as espoused in Article 53(1)(b) of the Constitution.

Honourable Members, the petitioner is concerned that the recent Government initiative for 100% transition from primary to secondary school in conformity with the 2018 Policy for Reforming Education and Training for sustainable Development has congested and outstretched infrastructure and facilities in public secondary schools, hence likely to compromise the quality and standards of education. Consequently, enrolment in private secondary schools has also grown and has brought on board many students from less privileged families who strain to pay full school fees charged by private schools without government capitation.

Honourable Members, in keeping with section 29(1) of the Basic Education Act and Ministerial Circular No. MOE.HQS/13/3 on guidelines on the implementation of free primary and secondary education for 2019, the Government budgeted KSHs 22,244.00 for every standard eight pupil captured in the NEMIS System as a measure to facilitate 100% transition from primary to secondary school in 2019. Whereas the Government is remitting capitation for students admitted to tertiary institutions through the Kenya Universities and Colleges Central Placement Service irrespective of whether they join public or private tertiary institutions, the same principle does not apply to basic education.

Honourable Members, in spite of the said budgetary provision, children who joined private secondary schools and were captured in the NEMIS system do not benefit from Government Capitation of KSHs 22,244.00, which would have lessened the financial burden and aid access to basic education for all children. The petitioner therefore proposes that the initiative of 100% transition could be further eased out through placement of students in

private secondary schools which have ready capacity to absorb students instead of putting up day streams in National, Extracurricular and County schools boarding schools.

The Petitioner prays that the National Assembly engages the Ministry of Education to reconsider its policy on capitation for free primary and secondary education to include capitation for pupils and students enrolled in private schools who are captured in the NEMIS System and also considers the immediate amendment of section 29 of the Basic Education Act, 2013, and review of other relevant Regulations and Government Policies on education funding to so as accord with the constitutional principle of access to free and compulsory basic education to all children, irrespective of whether they get enrolled to public or private schools.

Honourable Members, pursuant to the provisions of Standing Order 227, this Petition stands committed to the Departmental Committee on Education and Research for consideration. The Committee is required to report its findings to the House and the Petitioner in accordance with Standing Order 227(2). I thank you”.

- (ii) by the Nominated Member (Hon. Jennifer Shamalla) regarding funding of lesbians, gays, bisexual, transgender, queer, and intersex agenda by the foreign organizations in Kenya; and,
- (iii) by the Member for Nakuru Town East (Hon. David Gikaria) regarding public access and use of public utility plots in Nakuru West Ward in Nakuru County.

Petitions referred to the relevant Departmental Committees pursuant to Standing Order 227(2)

7. PAPERS LAID

The following Papers were laid on the Table –

Reports of the Committee on Implementation on: -

- (i) the Implementation status of the Departmental Committee on Agriculture, Livestock and Cooperatives’ report on the petition on and Inquiry into the Crisis Facing the Sugar Industry in Kenya;
- (ii) the implementation status of the resolution on Establishment of Sports Academies in every constituency; and,
- (iii) the implementation status of the Operationalization of the Sports Act, 2013; National Sports Fund.

(Chairperson, Committee on Implementation)

8. NOTICES OF MOTION

The following two (2) Notices of Motion were given by the Chairperson, Committee on Implementation –

- (i) **THAT**, this House **adopts** the Report of the Committee on Implementation on the status of implementation of the House Resolutions on: -

- (a) Establishment of Sports Academies in every Constituency; and
- (b) Operationalization of the Sports Act, 2013; National Sports Fund, laid on the Table of the House on Thursday, June 20, 2019.

(ii) **THAT**, this House **adopts** the Report of the Committee on Implementation on the implementation status of the Departmental Committee on Agriculture Livestock and Cooperatives' Report on the Petition on and inquiry into the crisis facing Sugar Industry in Kenya, laid on the Table of House on Thursday, June 20, 2019.

9. **QUESTIONS**

(a) The following Questions were asked –

- (i) **Question No.283/2019** by the Member for Kaiti (Hon. Joshua Kimilu) regarding the stalling of the construction of Katuaa-Kee-Nunguni road;

(To be replied for by the Cabinet Secretary Transport, Infrastructure, Housing, Urban Development and Public Works before the Departmental Committee on Transport, Public Works and Housing)

- (ii) **Question No.284/2019** by the Member for Vihiga (Hon. Ernest Kivai) regarding delay in appointment of Members of the Retirement Benefits Authority Appeals Tribunal;

(To be replied by the Cabinet Secretary for the National Treasury before the Departmental Committee on Finance and Planning)

(b) The following Questions were deferred –

- (i) **Question No.285/2019** by the Member for Turkana North (Hon. Christopher **Nakuleu**) regarding the whereabouts of one Mr. Peter Makale who allegedly crossed over to Ethiopia in September, 2017;
- (ii) **Question No.286/2019** by the Member for Voi (Hon. Jones Mlolwa) regarding the replacement of the Passenger Express Train with a Regular Train Service;

10. **MOTION – AGREEMENT WITH THE REPORT OF THE COMMITTEE OF SUPPLY ON THE ESTIMATES OF RECURRENT AND DEVELOPMENT EXPENDITURE FOR THE FINANCIAL YEAR 2019/2020**

Motion made and Question proposed –

THAT, this House do agree with the Report of the Committee of Supply on its consideration of the **Estimates of Recurrent and Development Expenditure for the year ending 30th June, 2020** and pursuant to the provisions of Article 221 of the Constitution of Kenya, section 39 of the Public Finance Management Act, 2012 and Standing Order 240, **approves** the issuance of a sum of **Kshs.1,928,270,282,319** from the Consolidated Fund to meet the expenditure for the National Government, Parliament and the Judiciary during the year ending 30th June 2020 in respect of the Votes as approved in the Schedule and that necessary adjustments be made to programme(s) amended in the Committee of Supply.

(Chairperson, Budget & Appropriations Committee)

Debate on the motion having been concluded on Wednesday, June 19, 2019;

Question put and agreed to.

11. **STATEMENTS**

The following Statements were issued:-

- (i) By the Chairperson, Departmental Committee on Environment and Natural Resources on Human-Wildlife Conflicts in Kajiado East Constituency in response to a request for Statement by the Member for Kajiado East (Hon. Peris Tobiko) (*pursuant to SO. 44(2)(c)*);
- (ii) By the Nominated Member (Hon. David Ole Sankok) regarding the 12th Session of the Assembly of State Parties on the United Nations Convention on the Rights of Persons with Disabilities (*pursuant to SO. 43(1)*);
- (iii) By the Member for Kilifi North (Hon. Owen Yaa Baya) on the cushioning of coastal fishermen restricted from fishing (*pursuant to 44(2)(c)*);
- (iv) By the Member for Laikipia County (Hon. Catherine Waruguru) on issuance of work permits to foreign nationals (*pursuant to SO. 44(2) (c)*); and
- (v) By the Leader of the Majority Party on the Business of the House for the week commencing Tuesday, June 25, 2019 (*Pursuant to Standing Order 44(2)*).

12. **MOTION - REPORT OF THE MEDIATION COMMITTEE ON THE PHYSICAL PLANNING BILL (NATIONAL ASSEMBLY BILL NO. 34 OF 2017)**

Motion made and Question proposed –

THAT, pursuant to the provisions of Article 113 (2) of the Constitution and Standing Order 150, this House adopts the Report of the Mediation Committee on the Physical Planning Bill (National Assembly Bill No. 34 of 2017) *laid on the Table of the House on Wednesday, June 12, 2019*, and **approves** the Mediated Version of the Physical Planning Bill (National Assembly Bill No, 34 of 2017).

(The Leader of the Majority Party)

Debate arising;

(Change of Chair from the Speaker to the 1st Chairperson)

There being no other Member wishing to contribute;

Mover replied;

Putting of the Question deferred

13. **THE NUCLEAR REGULATORY BILL (NATIONAL ASSEMBLY BILL NO.27 OF 2018)**

Order for Second Reading read;

Motion made and Question proposed –

THAT, the Nuclear Regulatory Bill (National Assembly Bill No.27 of 2918) be now read a Second Time

(Leader of the Majority Party)

Debate arising;

(Change of Chair from the 1st Chairperson to the 4th Chairperson)

The Third Chairperson interrupted proceedings to permit the tabling of the following Paper:
Report of the Departmental Committee on Finance and National Planning on the Consideration of the President’s Reservations on the Insurance (amendment) Bill (National Assembly Bill No. 21 of 2018).

(Vice Chairperson, Departmental Committee on Finance and National Planning)

Debate interrupted resumed;

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

14. **HOUSE ROSE** - at Seven O’clock

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M E M O R A N D U M

The Speaker will take the Chair on Tuesday, June 25, 2019 at 2.30 p.m.

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