



REPUBLIC OF KENYA
THIRTEENTH PARLIAMENT – (SECOND SESSION)
THE SENATE
VOTES AND PROCEEDINGS

WEDNESDAY, FEBRUARY 15, 2023 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. **QUORUM IN THE HOUSE**

The Speaker having counted the Honourable Senators present at the commencement of the Sitting and confirming that there was Quorum, invited the Clerk to call the Orders of the day.

4. **COMMUNICATION FROM THE CHAIR ON A VISITING DELEGATION FROM THE COUNTY ASSEMBLY OF BUSIA**

The Speaker issued the following communication from the Chair –

“Honourable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery this afternoon, a visiting delegation from the County Assembly of Busia. The delegation comprises staff from the Serjeant- At- Arms Department who are in the Senate on a four- day benchmarking visit with the counterpart Department in the Senate.

Honourable Senators,

I request each Member of the delegation to stand when called out so that you may be acknowledged in the Senate tradition -

- | | |
|-------------------------------------|--------------------------|
| 1) Mr. Christopher Abele Siandanyia | - Chief Serjeant at Arms |
| 2) Mr. Grison Wanyama Khayoni | - Commissionaire |
| 3) Mr. Wilberforce Wanyama | - Commissionaire |
| 4) Mr. William Nzai | - Commissionaire |
| 5) Mr. Wilberforce Obolla | - Commissionaire |
| 6) Mr. Onesmus Michael Erone | - Ward Liaison |
| 7) Mr. Shadrack Felex Okeda | - Ward Liaison |

On behalf of the Senate and on my own behalf, I extend a warm welcome and wish you a fruitful visit.

I thank you”.

5. **PETITIONS**

- i. Pursuant to Standing Order 236(2)(b), the Speaker reported to the Senate a petition by Mr. Kimutai Kirui and other residents of Uasin Gishu County concerning alleged fraud by M/s First Choice Recruitment and Consultancy Agency.

Pursuant to Standing Order 237, the Speaker invited Senators to make comments, observations or seek clarification in relation to the Petition and, subsequently, committed it to the Standing Committee on Labour and Social Welfare, pursuant to Standing Order 238(1).

- ii. Pursuant to Standing Order 236(2)(a), the Senator for Lamu County (Sen. Joseph Githuku Kamau, MP) reported to the Senate a petition by Mr. James Gakonga and other residents of Lamu, Baringo, Nairobi City and Kiambu Counties concerning Linda Soka initiative for tapping into Kshs. 302 billion football fund.

Pursuant to Standing Order 237, the Speaker invited Senators to make comments, observations or seek clarification in relation to the Petition and, subsequently committed it to the Standing Committee on Labour and Social Welfare, pursuant to Standing Order 238(1).

6. **PAPERS**

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

- i. The Budget Policy Statement for Financial Year 2023/2024.
- ii. The Draft Division of Revenue Bill, 2023.
- iii. The County Allocation of Revenue Bill, 2023.
- iv. The Medium – Term Debt Management Strategy, 2023.
- v. The East African Legislative Assembly Annual Legislative Calendar for financial year 2022/2023 (January – June, 2023).
- vi. The Budget Review and Outlook Paper for financial year 2023/2024 and Medium-Term Budget.
- vii. The Commission on Revenue Allocation (CRA) recommendation on the County Governments’ Recurrent Expenditure Budget Ceilings for County Assemblies and County Executives for financial year 2023/2024.

- viii. The Commission on Revenue Allocation (CRA) recommendation on the Basis for Equitable Sharing of Revenue between the National and County Governments for financial year 2023/2024.
- ix. Report of the Controller of Budget (CoB) on the County Government Budget Implementation Review for the first quarter of financial year 2022/2023.
- x. Report of the Controller of Budget (CoB) on the Annual County Government Budget Implementation review for Financial Year 2021/2022.
- xi. Report of the Controller of Budget (CoB) on the National Government Budget Implementation Review for the first quarter of financial year 2022/2023.
- xii. Report of the Controller of Budget (CoB) on the Annual National Government Budget Implementation Review for Financial Year 2021/2022.
- xiii. Bi-annual Report of the Commission on Administrative Justice (CAJ) for the period January to June, 2022.
- xiv. Report of the Commission on Administrative Justice (CAJ) on Elections Monitoring and Observation, 2022.
- xv. The Annual Corporate Report of the Auditor General for financial year 2021/2022.
- xvi. Report of the Public Service Commission (PSC) on the Status of Compliance with the Values and Principles in Articles 10 and 232 of the Constitution for financial year 2021/2022.
- xvii. Report of the Auditor General on the Kakamega County Small Scale Development Fund for the year ended 30th June, 2022.
- xviii. The Senate Calendar for the Second Session of the Thirteenth Parliament.
(The Senate Majority Leader)
- xix. Report of the Standing Committee on Justice, Legal Affairs and Human Rights on the consideration of the Parliamentary Powers and Privileges (Amendment) Bill, (Senate Bills No. 5 of 2022)

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

7. **COMMUNICATION FROM THE CHAIR ON THE CONSIDERATION OF THE BUDGET POLICY STATEMENT, 2023 BY THE SENATE**

The Speaker issued the following communication from the Chair –
“Honourable Senators,

As you may have noted, the Senate Majority Leader has tabled the Budget Policy Statement for the Financial Year 2023/2024, the Medium Term Debt Management Strategy, 2023, the Draft Division of Revenue Bill, 2023; and the Draft County Allocation of Revenue Bill, 2023.

Section 25 of the Public Finance Management Act and Standing Order 180 of the Senate requires the National Treasury to prepare and submit the Budget Policy Statement to Parliament by the 15th of February each year.

Honourable Senators,

The Budget Policy Statement is an important financial instrument as it sets out the broad strategic priorities and policy goals that will guide the national government and county governments in preparing their budgets both for the following Financial Year and over the medium term. It contains, among other things –

- i) an assessment of the current state of the economy and the financial outlook over the medium term, including the macro-economic forecasts;
- ii) the financial outlook with respect to Government revenues, expenditures and borrowing for the next financial year and over the medium term;
- iii) the proposed expenditure limits for the national government, including those of Parliament and the Judiciary and indicative transfers to county governments;
- iv) the fiscal responsibility principles and financial objectives over the medium term including limits on total annual debt; and
- v) the proposed division of revenue, including proposed additional allocations, if any.

In a nutshell it means that any proposal that Senators have regarding the Budget Policy Statement, Division of Revenue Bill and the County Allocation of Revenue Bill, including funds for additional allocations to the counties, the financing structure thereof among other recommendations, should be canvassed and forwarded to the Cabinet Secretary for the National Treasury for consideration, when finalizing the budget for the relevant Financial Year. This is a requirement pursuant to Section 25 (8) of the Public Finance Management Act and Standing Order 186 (9) of the Senate.

Honourable Senators,

Section 25 (7) of the Public Finance Management Act provides as follows-

25 (7) Parliament shall, not later than fourteen days after the Budget Policy Statement is submitted to Parliament, table and discuss a report containing its recommendations and pass a resolution to adopt it with or without amendments.

Further, Standing Order 186(4) states that *“upon being laid before the Senate, the Budget Policy Statement shall be committed to each Standing Committee to consider and submit its recommendations to the Standing Committee on Finance and Budget within 7 days.”* Pursuant to Standing Order 186 (5), the Standing Committee on Finance and Budget shall *“within twelve days following the tabling of the Budget Policy Statement, consider the Budget Policy Statement and the recommendations received under paragraph (4) and table a report for consideration, in accordance with Section 25(7) of the Public Finance Management Act.”*

Appreciating the importance of the Budget Policy Statement and the above timelines, I direct that, the Budget Policy Statement be considered by all Standing Committees; each concentrating on its mandate, highlighting any policy and financial recommendations thereof. These recommendations must be forwarded to the Standing Committee on Finance and Budget on or before Wednesday, 22nd February, 2023.

In order to assist the Standing Committees to unpackage the contents of the Budget Policy Statement, the Standing Committee on Finance and Budget has organized a breakfast meeting for all Senators, on Tuesday, 21st February, 2023, at 7:30 a.m, in the Senate Chamber.

The Standing Committee on Finance and Budget will be required to consider the recommendations from the other Standing Committees, as well as consult the institutions referred to under Standing Order 186(6) in finalizing its report on the Budget Policy Statement. The Standing Committee will be required to table its report on or before 28th February, 2023. For the avoidance of doubt, the above processes must be carried out within the 12 days window for consideration of the Budget Policy Statement.

Honourable Senators,

In conclusion, I urge you all to prioritize the scrutiny of the Budget Policy Statement taking into consideration our most important function of safeguarding devolution.

I thank you.”

8. **NOTICE OF MOTION - APPROVAL OF THE SENATE CALENDAR FOR THE SECOND SESSION OF THE THIRTEENTH PARLIAMENT**

(The Senate Majority Leader)

THAT, pursuant to Standing Order 32 (1), the Senate approves the Calendar (Regular Sessions) for the Second Session of the Thirteenth Parliament (February to December, 2023), laid on the Table of the Senate on Wednesday, 15th February, 2023.

9. **NOTICE OF MOTION - APPROVAL OF SEN. DAVID WAFULA WAKOLI, MP TO SERVE IN THE COMMITTEE OF POWERS AND PRIVILEGES**

(The Senate Majority Leader)

THAT, NOTWITHSTANDING the resolution of the Senate made on 13th October, 2022 and 15th November, 2022, on the approval of Senators to serve in Select Committees of the Senate, pursuant to Section 15 (1) (b) (ii), of the Parliamentary Powers and Privileges Act, and Standing Orders 197 and 199, the Senate approves Sen. David Wakoli Wafula, MP to serve in the Committee of Powers and Privileges in place of Sen. Miraj Abdulahi, MP.

10. **NOTICE OF MOTION - APPROVAL OF CHANGES IN THE MEMBERSHIP OF STANDING COMMITTEES**

(The Senate Majority Leader)

THAT, NOTWITHSTANDING, the resolutions of the Senate made on 13th October, 2022 and 15th November, 2022, on the approval of Senators to serve in Select Committees of the Senate, and pursuant to Standing Orders 199, 228, and the Fourth Schedule to the Standing Orders, the Senate approves the Senators nominated by the Senate Business Committee to serve in Standing Committees of the Senate as follows –

- (i) Standing Committee on Agriculture, Livestock and Fisheries
Sen. David Wafula Wakoli, MP to replace Sen. Maureen Tabitha Mutinda, MP.
- (ii) Standing Committee on Devolution and Intergovernmental Relations
Sen. David Wafula Wakoli, MP to replace Sen. Esther Okenyuri, MP.
- (iii) Standing Committee on Energy
Sen. William Kisang' Kipkemoi, MP to replace Sen. Veronica W. Maina, MP.
- (iv) Standing Committee on Information, Communication and Technology
Sen. William Kisang' Kipkemoi, MP to replace Sen. Gloria Magoma Orwoba, MP.
- (v) Standing Committee Justice, Legal Affairs and Human Rights
Sen. Karen Njeri Nyamu, MP to replace Sen. Samson Kiprotich Cherarkey, MP.

- (vi) Standing Committee on Labour and Social Welfare
Sen. Gloria Magoma Orwoba, MP to replace Sen. Karen Njeri Nyamu, MP.
- (vii) Standing Committee on Trade, Industrialization and Tourism
Sen. (Dr.) Lelegwe Ltumbesi, MP and Sen. Esther Okenyuri, MP, to replace Sen. Danson Mungatana, MP and Sen. Tabitha Karanja Keroche, MP.

11. **NOTICE OF MOTION - APPROVAL OF SEN. WILLIAM KISANG' KIPKEMOI, MP TO SERVE IN THE SELECT COMMITTEE OF COUNTY PUBLIC INVESTMENTS & SPECIAL FUNDS**

(The Senate Majority Leader)

THAT, NOTWITHSTANDING the resolutions of the Senate made on 19th October, 2022 and 15th November, 2022, on the approval of Senators to serve in Select Committees of the Senate and pursuant to Standing Orders 194,197 and 199 of the Senate, the Senate approves Sen. William Kisang Kipkemoi, MP to serve in the County Public Investments and Special Funds Committee, in place of Sen. James Kamau Murango, MP.

12. **NOTICE OF MOTION - PROVISION OF FREE SANITARY TOWELS TO END PERIOD POVERTY**

(Sen. Gloria Orwoba, MP)

THAT, AWARE THAT period poverty refers to the common challenge plaguing women globally wherein they are unable to attend schools or work as a cause of a lack of funds for sanitary products that is both a health risk and a signal of gender inequity;

FURTHER AWARE THAT in rural Kenya, 2 out of 3 pad users receive pads from sexual partners and 65 percent of women and girls can't afford sanitary pads, forcing them to use alternative materials like grass, cotton wool and cloth which lack adequate absorbent qualities resulting in frequent leakage and hygiene issues;

CONCERNED THAT period poverty also referred to as the "shadow pandemic" contributes to global and regional gender inequity, as women are forced to solicit help from men in order to satisfy a basic health need with 10% of 15-year-old girls having sex to pay for sanitary products;

FURTHER CONCERNED THAT, data from the Ministry of Education indicates that a girl that is absent from school for four days a month loses 13 learning days, equivalent to two weeks of learning in every school term, translating to 39 learning days or six weeks of learning time in a term and up to 18 of 108 weeks in primary and 24 weeks of 144 weeks of learning in secondary school;

NOTING THAT, while the Government, through the State Department for Gender Affairs was charged with the responsibility of procuring and distributing

sanitary towels for 3.7 million girls in public primary schools, special primary and secondary schools in the country at a cost of Kshs. 470 million during the 2017/2018 Financial year, which amount needs to be increased in order to fully address and mitigate the problem;

NOW THEREFORE, the Senate resolves that the Ministry of Public Service, Gender and Affirmative Action in partnership with the Ministry of Education and the Council of Governors to:-

1. facilitate provision of feminine hygiene products in all public schools;
2. ensure that all schools that don't have bathrooms that facilitate privacy, cleanliness or proper disposal of hygiene products are properly equipped;
3. create awareness and take advocacy measures on reproductive health issues related to period poverty;
4. include in the curriculum a dedicated lesson per week to teach girls on menstrual hygiene; and
5. ensure that sanitary products will be obtainable timely, consistently, and in a way that respects the dignity of concerned persons.

13. **NOTICE OF MOTION - INSTITUTION OF MEASURES TO CURB INCESSANT HIGH ELECTRICITY COSTS IN KENYA**

(Sen. Mohamed Chute, MP)

THAT, AWARE THAT energy is an essential factor of production and its total consumption is a major determinant of performance of the economy with its cost and reliability spurring or stifling economic growth;

FURTHER AWARE THAT there has been a significant growth in the demand for electricity in Kenya driven by economic growth and increased efforts towards rural electrification while the supply has been constrained due to, among other factors, the overreliance on hydro-electric power generating plants that have been negatively impacted by perennial drought experienced in the country;

NOTING THAT the imbalance in the demand and supply of power coupled with payments by the Kenya Power and Lighting Company (KPLC) for produced power not consumed and fluctuation in the foreign exchange rates contribute to the high cost of electricity;

APPRECIATING THAT Kenya has made strides in diversifying its power sources with geothermal plants, offering tremendous potential for zero-carbon source of power, already producing nearly one (1) Gigawatt (GW) of power;

CONCERNED THAT private power generating companies popularly referred to as Independent Power Producers (IPPs) only supply 28% of power to KPLC but account for 47% of power purchase costs calling for the need to enhance energy management in Kenya;

NOW THEREFORE the Senate resolves that the:

- a) Standing Committee on Energy to undertake an inquiry into: -
 - i. Contracts signed by IPPs, detailing the cost, capacity and duration of the contractual agreements and their implications on affordability of electricity in the country;
 - ii. Discrepancy in the cost of electricity sold to Kenya Power by KenGen, imports from Ethiopia and IPPs; and
 - iii. The diversion of the electricity generated by Lake Turkana Wind Power to the national grid, bypassing the inadequately supplied northern frontier counties of Marsabit and Samburu.
- b) Ministry of Energy to come up with a policy framework aimed at:-
 - i.) Lowering the cost of electricity as a way of addressing the high cost of living; and
 - ii.) Enhancing clean energy by switching to renewable sources of energy such as geothermal power, wind energy, among others as a way of reducing the carbon footprint.

14. **STATEMENT PURSUANT TO STANDING ORDER 52(1)**

Nominated Senator (Sen. Mariam Omar Sheikh, MP) made a statement concerning the manner in which a number of public education institutions were restricting Muslim girls from wearing the *hijab*.

Thereupon, the Senator stated that, the *hijab* is religious attire for which Muslim women were obligated to wear in order to effectively participate in society. This should not be hindered for Muslim girls. Furthermore, the Senator stated that School Uniforms create uniformity and visual equality that obscures the socioeconomic status and religious backgrounds of students.

Further, the Senator averred that, the 2019 Supreme Court ruling that every school had the right to determine its own dress code, effectively overturning a 2016 judgment by the Court of Appeal which allowed Muslim students to wear the *hijab* in non-Muslim schools, did not promote integration, peace and tolerance in schools and communities. The Senator stated that it was important that the values of diversity and cohesiveness which extended to all spheres of life including schools ought to be enriched.

The Senators stated that the Supreme Court Judgment missed a landmark opportunity to entrench women's right to privacy and the right to choose what any woman wants to wear. The Senator observed that the schools that were banning wearing of *hijab* could lead to higher drop-out rates and therefore urged educational institutions to allow Muslim girls to wear a limited form of the *hijab*

(a scarf and a trouser) as a manifestation, practice and observance of their religious faith.

Pursuant to Standing Order 52(3), the Deputy Speaker committed the Petition to the Standing Committee on Education for consideration.

15. **PROCEDURAL MOTION – LIMITATION OF DEBATE ON MOTIONS**

Order read;

Motion made and Question proposed;

THAT, pursuant to Standing Order 111 (1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Committee shall be limited in the following manner:-

A maximum of three hours with not more than twenty minutes for the Mover, twenty minutes for the Majority Party official responder, twenty minutes for the Minority Party official responder and fifteen minutes for each other Senator speaking; and further that fifteen minutes before the time expires, the Mover shall be called upon to reply.

(The Senate Majority Whip)

Debate arising;

And there being no other Senator wishing to contribute;

Mover replied;

Before the Question was put and pursuant to Standing Order 84 (1) the Deputy Speaker ruled that the Motion did not affect counties.

Question put and **agreed to.**

RESOLVED ACCORDINGLY

THAT, pursuant to Standing Order 111 (1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Committee shall be limited in the following manner:-

A maximum of three hours with not more than twenty minutes for the Mover, twenty minutes for the Majority Party official responder, twenty minutes for the Minority Party official responder and fifteen minutes for each other Senator speaking; and further that fifteen minutes before the time expires, the Mover shall be called upon to reply.

16. **PROCEDURAL MOTION – LIMITATION OF DEBATE ON ADJOURNMENT MOTION**

Order read;

Motion made and Question proposed;

THAT, notwithstanding the provisions of Standing Order 111(4), the debate on any Motion for the adjournment of the Senate to a day other than the next normal sitting day in accordance with the calendar of the Senate shall be limited to a maximum of two hours, with not more than fifteen minutes for each Senator speaking after which the Senate shall adjourn without question put;

Provided that when the period of recess proposed by any such Motion does not exceed nine calendar days, the debate shall be limited to a maximum of thirty (30) minutes, and shall be confined to the question of adjournment.

(The Senate Majority Whip)

And there being no Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 84 (1) the Deputy Speaker ruled that the Motion did not affect counties.

Question put and **agreed to.**

RESOLVED ACCORDINGLY

THAT, notwithstanding the provisions of Standing Order 111(4), the debate on any Motion for the adjournment of the Senate to a day other than the next normal sitting day in accordance with the calendar of the Senate shall be limited to a maximum of two hours, with not more than fifteen minutes for each Senator speaking after which the Senate shall adjourn without question put;

Provided that when the period of recess proposed by any such Motion does not exceed nine calendar days, the debate shall be limited to a maximum of thirty (30) minutes, and shall be confined to the question of adjournment.

17. **PROCEDURAL MOTION – LIMITATION OF DEBATE ON MOTION ON THE ADDRESS BY THE PRESIDENT**

Order read;

Motion made and Question proposed;

THAT, pursuant to Standing Order 27 (6), the Senate resolves that the debate on the Motion on the Presidential Address shall be limited to a maximum of three sitting days with not more than fifteen minutes for each Senator speaking, excluding the Mover in moving and replying who shall be limited to

thirty minutes in either case and that the Senate Majority Leader and the Senate Minority Leader shall be limited to thirty minutes each.

(The Senate Majority Whip)

Debate arising;

And there being no other Senator wishing to contribute;

Mover replied;

Before the Question was put and pursuant to Standing Order 84 (1) the Deputy Speaker ruled that the Motion did not affect counties.

Question put and **agreed to.**

RESOLVED ACCORDINGLY

THAT, pursuant to Standing Order 27 (6), the Senate resolves that the debate on the Motion on the Presidential Address shall be limited to a maximum of three sitting days with not more than fifteen minutes for each Senator speaking, excluding the Mover in moving and replying who shall be limited to thirty minutes in either case and that the Senate Majority Leader and the Senate Minority Leader shall be limited to thirty minutes each.

18. **THE AGRICULTURAL AND LIVESTOCK EXTENSION SERVICES BILL (SENATE BILLS NO. 12 OF 2022)**

(Sen. Maureen Tabitha Mutinda, MP)

Order for First Reading read;

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

19. **THE MUNG BEANS BILL (SENATE BILLS NO. 13 OF 2022)**

(Sen. Enoch Wambua, MP)

Order for First Reading read;

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

20. **THE START-UP BILL (SENATE BILLS NO. 14 OF 2022)**

(Sen. Crystal Kegehi Asige, MP)

Order for First Reading read;

Bill read a First time and committed to the Standing Committee on Trade, Tourism and Industrialization.

21. **THE COUNTY VOCATIONAL EDUCATION AND TRAINING BILL (SENATE BILLS NO. 3 OF 2022)**
(Sen. Moses Kajwang', MP)

Order for Second Reading read;

Order deferred.

22. **THE PARLIAMENTARY POWERS AND PRIVILEGES (AMENDMENT) BILL (SENATE BILLS NO. 5 OF 2022)**
(Sen. Danson Mungatana, MP)

Order for Second Reading read;

Order deferred.

And there being no other business, the Deputy Speaker adjourned the Senate at fifteen minutes past five O'clock, without Question put, pursuant to the Standing Orders.

23. **SENATE ROSE** – at fifteen minutes past five O'clock.

MEMORANDUM

*The Speaker will take the Chair on
Thursday, February 16, 2023 at 2.30 p.m.*

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