



REPUBLIC OF KENYA
ELEVENTH PARLIAMENT – (FOURTH SESSION)
THE SENATE
ORDER PAPER
THURSDAY, JULY 14, 2016 AT 2.30 P.M

PRAYERS

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers (As listed in the Appendix)
6. Notices of Motion
7. Statements (As listed in the Appendix)

8. COMMITTEE OF THE WHOLE

*****THE FOREST CONSERVATION AND MANAGEMENT BILL (NATIONAL ASSEMBLY BILL NO. 49 OF 2015)**

(The Senate Majority Leader)

*(Resumption of Debate interrupted on Thursday, 14th July, 2016 – Morning Sitting)
(Division)*

(Subject to Constitutional timeline of 27th August, 2016)

9. COMMITTEE OF THE WHOLE

*****THE HEALTH BILL (NATIONAL ASSEMBLY BILL NO. 14 OF 2015)**

(The Senate Majority Leader)

*(Resumption of Debate interrupted on Thursday, 14th July, 2016 – Morning Sitting)
(Division)*

(Subject to Constitutional timeline of 27th August, 2016)

10. COMMITTEE OF THE WHOLE

*****THE ENERGY BILL (NATIONAL ASSEMBLY BILL NO. 50 OF 2015)**

(The Senate Majority Leader)

*(Resumption of Debate interrupted on Thursday, 14th July, 2016 – Morning Sitting)
(Division)*

(Subject to Constitutional timeline of 27th August, 2016)

11. COMMITTEE OF THE WHOLE

*****THE PETROLEUM (EXPLORATION, DEVELOPMENT, AND PRODUCTION) BILL (NATIONAL ASSEMBLY BILL NO. 44 OF 2015)**

(The Senate Majority Leader)

(Subject to Constitutional timeline of 27th August, 2016)

12. COMMITTEE OF THE WHOLE*****THE SEEDS AND PLANT VARIETIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 43 OF 2015)**

(The Senate Majority Leader)

*(Subject to Constitutional timeline of 27th August, 2016)*13. COMMITTEE OF THE WHOLE*****THE PROTECTION OF TRADITIONAL KNOWLEDGE AND CULTURAL EXPRESSIONS BILL (NATIONAL ASSEMBLY BILL NO. 48 OF 2015)**

(The Senate Majority Leader)

*(Subject to Constitutional timeline of 27th August, 2016)*14. COMMITTEE OF THE WHOLE*****THE ACCESS TO INFORMATION BILL (NATIONAL ASSEMBLY BILL NO. 36 OF 2015)**

(The Senate Majority Leader)

*(Subject to Constitutional timeline of 27th August, 2016)*15. ***THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILL NO. 21 OF 2015)**

(Sen. (Prof.) John Lonyangapuo)

*(Second Reading)*16. ***THE SELF HELP ASSOCIATIONS BILL (SENATE BILL NO. 2 OF 2015)**

(Sen. Martha Wangari)

*(Second Reading)*17. MOTION – (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 Homa-Bay County Executive for the Financial year 2013/2014 laid on the Table of the House on Wednesday, 4th November, 2015.

*(Resumption of Debate interrupted on Thursday, 28th April, 2016)*18. MOTION–(Sen. Joy Gwendu)

THAT, the Senate notes the Report of the Commonwealth Women Parliamentarians Regional Capacity Building Workshop held in Dar Es Salaam, Tanzania on 20th – 23rd January, 2016 laid on the Table of the House on Thursday, March 17, 2016.

*(Resumption of Debate interrupted on Thursday, 30th June, 2016)*19. MOTION–(Sen. George Khaniri)

(Ministry of Education, Science and Technology)

WHEREAS Article 43(1)(f) and 53(1)(b) of the Constitution guarantees every citizen a right to education and every child a right to free and compulsory basic education, respectively;

NOTING that the Teachers Service Commission is mandated to handle employment, deployment, remuneration and discipline of teachers in public schools in Kenya;

...../Motion

CONCERNED that there are great disparities in the distribution of teachers in public schools across the country leading to oversupply in some schools and undersupply in others and ultimately leading to major teacher shortage especially in rural and marginalized areas;

APPRECIATING efforts made by the national government to improve the teacher pupil ratio to international standards in all public schools through yearly employment of teachers;

FURTHER CONCERNED that the statistics on the number and distribution of teachers in public schools is not readily available;

NOW THEREFORE, the Senate directs the Ministry of Education, Science and Technology to conduct a countrywide audit on the distribution of teachers in all public schools indicating the requisite establishment per school and the corresponding number of teachers who are in-post and further that the Ministry submits a report to the House on the matter within ninety (90) days.

NOTICE

The Senate resolved on 10th February, 2016 as follows:-

THAT, pursuant to Standing Order 100 (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 that fifteen minutes before the time expires, the Mover shall be called upon to reply.

KEY

- ****** ▪ Denotes a Majority /Minority Party Bill
- ***** ▪ Denotes a National Assembly Bill
- **** ▪ Denotes a Committee Bill
- *** ▪ Denotes any other Bill

NOTICE OF AMENDMENTS

A. *THE FOREST CONSERVATION AND MANAGEMENT BILL (NATIONAL ASSEMBLY BILL NO. 49 OF 2015)**

(The Senate Majority Leader)

NOTICE is given that Sen. Lenny Kivuti, the Chairperson to the Standing Committee on Lands and Natural Resources, intends to move the following amendments to the Forest Conservation and Management Bill, 2015, at the Committee Stage-

CLAUSE 5

THAT clause 5 be amended-

- (a) by deleting the marginal note and substituting therefor the following new marginal note-
Public Forest Policy
- (b) in sub-clause (1) by inserting the words "county government and" appearing immediately after the words "in consultation with the"; and
- (c) in sub-clause (2) by inserting the words "in consultation with the county government" immediately after the words "forest policy to be reviewed".
- (d) in sub-clause (2) by deleting the word "national" appearing immediately after the words "the Cabinet Secretary shall cause".

CLAUSE 6

THAT clause 6 be amended-

- (a) by deleting the marginal note and substituting therefor the following new marginal note-
Public Forest Strategy
- (b) in sub-clause (1) by deleting the word "national" appearing immediately after the words "formulate a" and substituting therefor the word "public".

CLAUSE 8

THAT clause 8 of the Bill be amended in paragraph (f) by deleting the word "national" appearing immediately after the words "ceremonial use of" and substituting therefor the word "public".

CLAUSE 9

THAT clause 9 (1) of the Bill be amended-

- (a) in paragraph (f) by deleting the words "Director-General" appearing at the beginning of the paragraph and substituting therefor the words "Chief Conservator of Forests";
- (b) by deleting sub-paragraph (iv) of paragraph (g) and substituting therefor the following new paragraph "one person nominated by the Council of Governors";and
- (c) by inserting the following new sub-clause immediately after sub-clause (3)-
(3A) A person shall not be appointed to the Board if the person—
 - (a) is convicted of a criminal offence and sentenced to imprisonment by a court of competent jurisdiction for a period exceeding six months without the option of a fine;

- (b) is a member of a governing body of a political party;
- (c) is disqualified under any written law to hold office of director in a public company, corporation or similar organization;
- (d) has previously been removed from public office for contravention of the provisions of the Constitution or any other written law;
- (e) is adjudged bankrupt or enters into a composition or arrangement with his creditors;
- (f) was previously involved in the management or administration of a scheme which was deregistered for any failure on the part of the management or the administration thereof;
- (g) is disqualified under any other written law, or his holding office as such is deemed by the Authority as being, in any way, detrimental to the scheme; and
- (h) is disqualified under Chapters Six and Thirteen of the Constitution or any other provisions thereof or any written law.

CLAUSE 14

THAT clause 14 of the Bill be amended in-

- (a) sub-clause (1) by deleting the words "Director-General" appearing immediately after the words "shall be a" and substituting therefor the words "Chief Conservator of Forests";
- (b) sub-clause (3) by deleting the words "Director-General" appearing at the beginning of the sub-clause and substituting therefor the words "Chief Conservator of Forests".
- (c) sub-clause (4) by deleting the words "Director-General" appearing at the beginning of the sub-clause and substituting therefor the words "Chief Conservator of Forests".
- (d) sub-clause (5) by deleting the words "Director-General" appearing at the beginning of the sub-clause and substituting therefor the words "Chief Conservator of Forests".

CLAUSE 20

THAT clause 20 of the Bill be amended in sub-clause (4) paragraph (a) by deleting the words "a chairman" and substituting therefor the words "a chairperson".

CLAUSE 25

THAT clause 25(2) of the Bill be amended in paragraph (c) by deleting the word "national" appearing immediately after the words "tourism in" and substituting therefor the word "public".

CLAUSE 26

THAT clause 26 of the Bill be amended at subsection (2) by deleting the words "controller and" appearing immediately after the words "Board shall submit to the".

CLAUSE 36

THAT clause 36 of the Bill be amended at sub-clause (2) by deleting the word "national" appearing immediately after the words "declared a" and substituting therefor the word "public".

CLAUSE 39

THAT clause 39 of the Bill be amended at sub-clause (7) by deleting the word "Director-General" appearing immediately after the words "reserve, the" and substituting therefor the words "Chief Conservator of Forests".

CLAUSE 43

THAT clause 43 the Bill be amended by inserting the following new sub-clause immediately after sub-clause (5)-

(6) The Service shall consider the interests of the local communities in the management of public forests.

CLAUSE 45

THAT clause 45 of the Bill be amended-

(a) by deleting sub-clause (1) and substituting therefore the sub-clause-

(1) The Service may advertise, receive applications from any person, institution or organization and through a competitive process, approve and enter into an appropriate management agreement for all or part of a public forest.

(b) in sub-clause 2 by inserting the following new paragraph immediately after paragraph (e)-

(e) the benefits which the applicant shall extend to the local community.

CLAUSE 47

THAT sub-clause (6) of clause 47 of the Bill be amended by deleting the word "Director-General" where it appears and substituting therefor the word "Chief Conservator of Forests".

CLAUSE 48

THAT clause 48(3) of the Bill be amended in paragraph (f) by deleting the words "Director-General" and substituting therefor the words "Chief Conservator of Forests".

CLAUSE 49

THAT clause 49 (3) be amended in paragraph (b) by deleting the words "Director-General" and substituting therefor the words "Chief Conservator of Forests".

CLAUSE 50

THAT clause 50 (2) of the Bill be amended by deleting the words "Director-General" appearing at the beginning of the sub-clause and substituting therefor the words "Chief Conservator of Forests".

CLAUSE 51

THAT clause 51 of the Bill be amended-

(a) in sub-clause (1) by-

- (i) deleting the words "Director-General" appearing at the beginning of the sub-clause and substituting therefor the words "Chief Conservator of Forests";
- (ii) deleting the word "Director-General" appearing immediately after the words "ask the" in paragraph (c) and substituting therefor the word "Chief Conservator of Forests";
- (b) in sub-clause (2) by deleting the words "Director-General" wherever they appear and substituting therefor the words "Chief Conservator of Forests";
- (c) in sub-clause (3) by deleting the words "Director-General" wherever they appear and substituting therefor the words "Chief Conservator of Forests".

CLAUSE 53

THAT clause 53 of the Bill be amended by inserting the word "employment" immediately after the word "education".

CLAUSE 62

THAT clause 62 of the Bill be amended in-

- (a) sub-clause (1) by deleting the words "Director-General" at the beginning of the sub-clause and substituting therefor the words "Chief Conservator of Forests";
- (b) sub-clause (2) by deleting the word "Director-General" at the beginning of the sub-clause and substituting therefor the word "Chief Conservator of Forests".

CLAUSE 63

THAT clause 63 of the Bill be amended in sub-clause (2) by deleting the words "Director-General" appearing at the beginning of the sub-clause and substituting therefor the words "Chief Conservator of Forests".

CLAUSE 64

THAT clause 64 of the Bill be amended in sub-section (3) by deleting the words "section 39(2)" appearing immediately before the words "provisions of" and substituting therefor the words "section 61".

CLAUSE 72

THAT clause 72 of the Bill be amended-

- (a) in sub-clause (1) by-
 - (i) deleting the words "Director-General" appearing immediately after the word "the" and substituting therefor the words "Chief Conservator of Forests";
 - (ii) deleting paragraph (b) and substituting therefor the following new paragraph-
(b) public forests;
- (b) inserting the following new sub-clause immediately after sub-clause (1)-
 - (1A) The relevant counties will at all times be furnished with pertinent copies of all the relevant documents maintained in the Chief Conservator of Forests register.

(c) in sub-clause (2) by deleting the words "Director-General" appearing immediately after the words "office of the" and substituting therefor the word "Chief Conservator of Forests".

CLAUSE 75

THAT clause 75 be amended by deleting the words "Environmental Management and Co-ordination Act, 1999" appearing in sub-clause (1) immediately after the words "provisions of the" and substituting therefor the words "Environmental Management and Co-ordination Act, 2015".

CLAUSE 77

THAT clause 77 of the Bill be amended by inserting the following new paragraph immediately after paragraph (a)-

(aa) The land in section (a) shall not include government settlement schemes already registered before the commencement of this Act;

THIRD SCHEDULE

THAT the Third Schedule to the Bill be amended by-

- (a) deleting item 5;
- (b) deleting item 9;
- (c) deleting item 131;
- (d) deleting item 106;
- (e) deleting item 107;
- (f) deleting item 115;
- (g) deleting item 119;
- (h) deleting item 200;
- (i) deleting item 236;
- (j) deleting item 292;
- (k) deleting item 278;
- (l) deleting item 282;
- (m) deleting item 286; and
- (n) deleting item 290

CLAUSE 2

THAT clause 2 of the Bill be amended by deleting the definition of the word "forest owner" and substituting therefore the new definition-

"forest owner" means-

- (a) in the case of a public forest, the government as defined in article 62(1)(g) of the Constitution;
- (b) in the case of a community forest, the community as defined in article 63 of the Constitution; and
- (c) in the case of a private forest, the registered owner of the land as defined in article 64 of the Constitution.

B. *THE HEALTH BILL (NATIONAL ASSEMBLY BILL NO. 14 OF 2015)**

(The Senate Majority Leader)

a) **NOTICE** is hereby given that Sen. Wilfred Machage, Member of the Senate Standing Committee on Health, intends to move the following amendments to the Health Bill, 2015, at the Committee Stage-

CLAUSE 5

THAT clause 5 of the Bill be amended by inserting the following new subsections immediately after subsection (2) —

(3) The national and county governments shall ensure the provision of free and compulsory —

(a) vaccination for children under five years of age; and

(b) maternity care.

(4) For the purposes of implementing subsection (3), the national government shall in consultation with the respective county government provide conditional grants to county governments

CLAUSE 7

THAT clause 7 of the Bill be amended by deleting sub-clause (3).

CLAUSE 15

THAT clause 15 of the Bill be amended in sub-clause (1) by –

(a) inserting the words “ including reproductive health care and the right to emergency treatment” at the end of paragraph (a);

(b) deleting paragraph (c);

(c) deleting the words “and implement” appearing after the word “develop” and substituting therefor the word “policy” in paragraph (f); and

(d) inserting the word “policy” immediately after the words “put in place” in paragraph (i).

CLAUSE 16

THAT clause 16 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause-

(2) The Director-General for health shall be recruited by the Public Service Commission through a competitive process and appointed by the Cabinet Secretary.

CLAUSE 18

THAT clause 18 of the Bill be deleted and substituted with the following new clause-

18. For purposes of section 15(1)(b), the Cabinet Secretary shall-

(a) form directorates to deal with the following matters -

(i) medical services;

- (ii) nursing and allied workers;
 - (iii) pharmaceutical services;
 - (iv) public health; and
 - (v) administrative services;
- (b) notwithstanding paragraph (a), form directorates based on policy priority areas in consultation with the Director-General.

CLAUSE 20

THAT clause 20 of the Bill be amended by-

- (a) deleting the introductory phrase and substituting therefor the following new phrase-

the county government in furtherance of the functions assigned to it under the Fourth Schedule of the Constitution shall be responsible for-

- (b) deleting the marginal note and inserting therefor the following new marginal note-
duties of county government.

CLAUSE 24

THAT clause 24 of the Bill be amended by deleting paragraph (a).

CLAUSE 25

THAT clause 25 of the Bill be deleted.

CLAUSE 28

THAT clause 28 of the Bill be amended by deleting sub-clause (2).

CLAUSE 30

THAT clause 30 of the Bill be deleted.

CLAUSE 31

THAT clause 31 of the Bill be deleted.

CLAUSE 32

THAT clause 32 of the Bill be deleted.

CLAUSE 33

THAT clause 33 of the Bill be deleted.

CLAUSE 34

THAT clause 34 of the Bill be deleted.

CLAUSE 35

THAT clause 35 of the Bill be deleted.

CLAUSE 36

THAT clause 36 of the Bill be deleted.

CLAUSE 37

THAT clause 37 of the Bill be deleted.

CLAUSE 38

THAT clause 38 of the Bill be deleted.

CLAUSE 39

THAT clause 39 of the Bill be deleted.

CLAUSE 40

THAT clause 40 of the Bill be deleted.

CLAUSE 41

THAT clause 41 of the Bill be deleted.

CLAUSE 42

THAT clause 42 of the Bill be deleted.

CLAUSE 43

THAT clause 43 of the Bill be deleted.

CLAUSE 44

THAT clause 44 of the Bill be deleted.

CLAUSE 46

THAT clause 46 of the Bill be amended by-

- (a) deleting sub-clause (1f); and
- (b) deleting sub-clause (4).

CLAUSE 2

THAT clause 2 of the Bill be amended by-

- (a) deleting the interpretation of the word "abortion"; and
- (b) inserting the following new definition in the proper alphabetical sequence-

"death" means the permanent loss of capacity for consciousness and the loss of all brainstem functions;

b) NOTICE is given that Sen. Mutula Kilonzo Junior, intends to move the following amendments to the Health Bill, 2015 at the Committee Stage-

CLAUSE 5

THAT clause 5 of the Bill be amended by inserting the following new subsections immediately after subsection (2) —

- (5) The national and county governments shall ensure the provision of free and compulsory —
 - (c) vaccination for children under five years of age; and
 - (d) maternity care.
- (6) A child shall not be denied access to vaccination on the basis of their culture or religion.
- (7) For the purposes of implementing subsection (3), the national government shall in consultation with the respective county government provide conditional grants to county governments

CLAUSE 12

THAT clause 12(1) of the Bill be amended in paragraph (a) by deleting the words “their health status” appearing immediately after the words “on account of” and substituting therefor the words “any of the grounds set out in Article 27(4) of the Constitution”.

CLAUSE 15

THAT clause 15 of the Bill be amended —

- (a) in subsection (1) by deleting paragraph (d); and
- (b) by inserting the following new subsection immediately after subsection (2) —
 - (3) In carrying out a function stipulated under subsection (1) that relates to a function assigned to a county government, under the Constitution, the national government shall consult with the respective county government.

CLAUSE 16

THAT clause 16 of the Bill be amended —

- (a) by deleting sub-clause (2) and substituting therefor the following new sub-clause-
 - (2) The Director-General for health shall be recruited by the Public Service Commission through a competitive process and appointed by the Cabinet Secretary.
- (b) in subsection (3) by deleting paragraph (a) and substituting therefor the following new paragraph —
 - (a) be a health practitioner registered by the respective regulatory body;

CLAUSE 17

THAT clause 17 of the Bill be amended by —

- (a) deleting paragraph (i); and
- (b) deleting paragraph (j).

CLAUSE 19

THAT clause 19 of the Bill be amended in sub-clause (4) by deleting paragraph (a) and substituting therefor the following new paragraph —

- (a) be a health practitioner registered by the respective regulatory body;

CLAUSE 24

THAT clause 24 of the Bill be amended by deleting paragraph (c).

CLAUSE 27

THAT clause 27(1) of the Bill be amended by inserting the following new paragraph immediately after paragraph (b) —

- (c) be a platform for mutual consultation, coordination and collaboration between the national and county governments on all matters related to health.

CLAUSE 30

THAT the Bill be amended by deleting clause 30.

CLAUSE 31

THAT the Bill be amended by deleting clause 31.

CLAUSE 32

THAT the Bill be amended by deleting clause 32.

CLAUSE 33

THAT the Bill be amended by deleting clause 33.

CLAUSE 34

THAT the Bill be amended by deleting clause 34.

CLAUSE 35

THAT the Bill be amended by deleting clause 35.

CLAUSE 36

THAT the Bill be amended by deleting clause 36.

CLAUSE 37

THAT the Bill be amended by deleting clause 37.

CLAUSE 38

THAT the Bill be amended by deleting clause 38.

CLAUSE 39

THAT the Bill be amended by deleting clause 39.

CLAUSE 40

THAT the Bill be amended by deleting clause 40.

CLAUSE 41

THAT the Bill be amended by deleting clause 41.

CLAUSE 42

THAT the Bill be amended by deleting clause 42.

CLAUSE 43

THAT the Bill be amended by deleting clause 43.

CLAUSE 44

THAT the Bill be amended by deleting clause 44.

CLAUSE 46

THAT the Bill be amended in sub-clause (1) by deleting paragraph (f).

CLAUSE 49

THAT clause 49 of the Bill be amended in subsection (2) by deleting paragraph (a) and substituting therefor the following new paragraph —

(a) is a health practitioner registered by the respective regulatory body;

CLAUSE 62

THAT the Bill be amended by deleting clause 62.

CLAUSE 63

THAT the Bill be amended by deleting clause 63.

CLAUSE 64

THAT the Bill be amended by deleting clause 64.

CLAUSE 65

THAT the Bill be amended by deleting clause 65.

CLAUSE 66

THAT the Bill be amended by deleting clause 66.

CLAUSE 67

THAT the Bill be amended by deleting clause 67.

CLAUSE 73

THAT the Bill be amended by deleting clause 73.

CLAUSE 89

THAT the Bill be amended by deleting clause 89.

CLAUSE 91

THAT the Bill be amended by deleting clause 91.

FIRST SCHEDULE

THAT the First Schedule be amended —

- (a) in the row titled Level 1: Community Health Services, by deleting the Note appearing immediately after paragraph (d) and substituting therefor the following new Note –

Note: The In-charge is a qualified health practitioner registered by the respective regulatory body.

(b) in the row titled Level 3: Health Centre, by deleting the Note appearing immediately after paragraph (f) and substituting therefor the following new Note –

Note: The In-charge is a nurse, a clinical officer or a medical officer. The In-charge shall have at least two years work experience in a management position.

(c) in the row titled Level 4: Primary Hospital by—

- (i) deleting the title “Level 4: Primary Hospital” and substituting therefor the title “Level 4: County Referral Hospital”;
- (ii) deleting the Note appearing immediately after paragraph (l) and substituting therefor the following new Note –

Note: The In-charge is a qualified health practitioner registered by the respective regulatory body”;

(d) in the row titled Level 5: Secondary Hospital by—

- (iii) deleting the title “Level 5: Secondary Hospital” and substituting therefor the title “Level 5: Regional Referral Hospital”;
- (iv) deleting the Note appearing immediately after paragraph (c) and substituting therefor the following new Note –

Note: The In-charge shall be qualified for appointment if that person–

- (a) is a qualified health practitioner registered by the respective regulatory body;
- (b) holds a Masters degree in a health related field from a university recognized in Kenya;
- (c) has a post graduate qualification in management; and
- (d) has at least five years work experience in a management position.

(e) in the row titled Level 6: Tertiary Hospital by—

- (v) deleting the title “Level 6: Tertiary Hospital” and substituting therefor the title “Level 6: National Referral Hospital”;
- (vi) deleting the Note appearing immediately after paragraph (b) and substituting therefor the following new Note –

Note: The In-charge shall be qualified for appointment if that person–

- (a) is a qualified health practitioner registered by the respective regulatory body;
- (b) holds a Masters degree in a health related field from a university recognized in Kenya;
- (c) has a post graduate qualification in management; and
- (d) has knowledge and at least ten years work experience in a senior management position.

C. *THE ENERGY BILL (NATIONAL ASSEMBLY BILL NO. 50 OF 2015)**

(The Senate Majority Leader)

NOTICE is hereby given that Sen. Danson Mwazo intends to move the following amendments to the Energy Bill, National Assembly Bills No. 8 of 2014, at the Committee Stage-

CLAUSE 53

THAT clause 53 of the Bill be amended in sub-clause (1) by deleting the words “Energy and Petroleum” appearing immediately after the words “Nuclear Power” and substituting therefor the words “and Energy”.

CLAUSE 57

THAT clause 57 of the Bill be amended by deleting paragraph (e) and substituting therefor the following new paragraph –

- (e) not more than four other members nominated as follows and appointed by the Cabinet Secretary –
 - (i) two persons nominated by the organisation representing the largest number of persons carrying out operations in the energy sector;
 - (ii) one person nominated by the Kenya Private Sector Alliance; and
 - (iii) one person from an institution of higher education.

CLAUSE 249

THAT clause 249 of the Bill be amended by deleting the words “not exceeding” appearing immediately after the words “liable to a fine” and substituting therefor the words “not less than”.

CLAUSE 2

THAT clause 2 of the Bill be amended by –

- (a) deleting the definition of the term “customer”;
- (b) deleting the definition of the word “local community” and substituting therefor the following new definition –

“local community” means a people living in a sub-county within which an energy resource under this Act is situated and are affected by the exploitation of that energy resource;

D. *THE PETROLEUM (EXPLORATION, DEVELOPMENT, AND PRODUCTION) BILL (NATIONAL ASSEMBLY BILL NO. 44 OF 2015)**
 (The Senate Majority Leader)

NOTICE is hereby given that Sen. Danson Mwazo, Chairperson to the Committee on Energy, intends to move the following amendments to the Energy Bill, National Assembly Bills No. 44 of 2015, at the Committee Stage-

CLAUSE 5

THAT clause 5 of the Bill be amended in –

- (a) sub-clause (1) by inserting the words “once in” immediately after the words “at least”;
- (b) sub-clause (3) by inserting the words “on its website and in at least two newspapers of national circulation” immediately after the words “and publish”.

CLAUSE 6

THAT clause 6 of the Bill be amended in sub-clause (1) by inserting the words “a national” immediately after the words “and review”.

CLAUSE 10

THAT clause 10 of the Bill be amended in sub-clause (1) by

- (a) inserting the following new paragraph immediately after paragraph (k) –
 - (ka) may, by order in writing and upon the recommendation by the Authority, order the cessation of any upstream petroleum operations where there has been a breach of any provision of this Act;
- (b) inserting the words “on the recommendation of the Authority” immediately after the word “may” in the opening clause of paragraph (l);

CLAUSE 12

THAT clause 12 of the Bill be amended –

- (a) in sub-clause (1) by inserting the following new paragraph immediately after paragraph (i) –
 - (j) one person nominated by the Kenya Private Sector Alliance from their member organizations who has demonstrated competence and capacity in matters related to the petroleum sector.
- (b) in sub-clause (3) by inserting the words “of the Authority” immediately after the words “the Director-General”;
- (c) by inserting the following new sub-clause immediately after sub-clause (4) –
 - (5) The Advisory Committee shall, in co-opting members to sit in the Committee, ensure that the persons co-opted have the necessary knowledge and experience in the matters under consideration by the Committee.

CLAUSE 15

THAT clause 15 of the Bill be amended in paragraph (o) by inserting the words “in consultation with the Competition Authority established under the Competition Act” immediately after the word “monitor”.

CLAUSE 16

THAT clause 16 of the Bill be amended in sub-clause (1) by inserting the words “the environment and” immediately after the words “and the public” appearing in paragraph (g).

CLAUSE 17

THAT clause 17 of the Bill be amended in sub-clause (1) by deleting paragraph (e) and substituting therefor the following new paragraphs –

- (e) five other members appointed by the Cabinet Secretary out of whom -
 - (i) one person shall be nominated by the Kenya Private Sector Alliance;
 - (ii) one person with knowledge and experience in matters relating to the petroleum from an institution of higher education.

CLAUSE 45

THAT clause 45 of the Bill be amended –

(a) in sub-clause (4) by inserting the words "on the website of the Ministry," immediately after the words "of thirty days";

(b) by inserting the following new sub-clause immediately after sub-clause (4) –

(4A) The Cabinet Secretary shall, in the notice published under subsection (4) –

(a) set out a statement of the details of the contractor with whom the Cabinet Secretary intends to enter into direct negotiations;

(b) invite any objections that a person may have with respect to the intended negotiations; and

(c) invite any interested party who may have an interest in the block to submit a bid with respect to that block.

(c) by inserting the following new sub-clauses immediately after sub-clause (5) –

(5A) The Cabinet Secretary shall inform all the bidders of the bidder to whom a block has been awarded.

(5B) The Cabinet Secretary shall, upon concluding negotiations under this section, publish a notice on the website of the Ministry, in the *Gazette* and in at least two newspapers of national circulation, information with respect to the contractor to whom the Cabinet Secretary has awarded a block and the outcome of such negotiations.

CLAUSE 48

THAT clause 48 of the Bill be amended –

(a) in sub-clause (1) by deleting the words "with the approval of the cabinet Secretary" immediately after the words "contractor shall appoint";

(b) in sub-clause (2) by deleting the words "with the approval of the Cabinet Secretary" immediately after the words "another operator";

(c) by deleting sub-clause (3).

CLAUSE 49

THAT clause 49 of the Bill be amended in sub-clause (6) by deleting the word "ten" appearing immediately after the words "not less than" and substituting therefor the word "two".

CLAUSE 50

THAT clause 50 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause –

(2) The Authority shall give access to information relating to non-exclusive exploration permits that have been issued under this Act to an applicant for such information and shall, for this purpose, avail such information-

(a) for inspection by a person applying to inspect such information free of charge;

by supplying a copy to an applicant or, where such information is held by the Authority in electronic form, by submitting such information through electronic means upon payment of a reasonable fee to cover the costs of supplying the information; and

by publishing the information on its website and in such other manner as it may consider appropriate.

CLAUSE 51

THAT clause 51 of the Bill be amended -

(a) by inserting the following new sub-clause immediately after sub-clause (1) -

(1A) The provisions of section 50(2) shall apply with respect to operational permits under subsection (1).

(b) by inserting the following new sub-clause immediately after sub-clause (7) -

(7A) The Authority shall, in carrying out public participation under subsection (7)-

(a) be guided by the principles of citizen participation in counties set out under section 87 of the County Governments Act; and

(b) conduct the public participation through such means as may be necessary to ensure that the citizens within the respective county and the relevant stakeholders -

(i) are informed of any decision to be undertaken under this Act which affects them;

(ii) have sufficient notice of any decisions to be made or permits to be issued which may affect them; and

(ii) have an opportunity to obtain information with respect to any permit issued or decision made under sub-paragraph (i) or to submit their concerns or any information that they may have with respect to the issue under consideration;

(c) conduct the public participation through such for a as may be necessary for effective public participation under paragraph (b) including the structures for citizen participation established by a county government pursuant to section 91 of the County Governments Act;

- (d) publish any notices required for the purpose of informing the public through such forums including at least one newspaper of local circulation within the local community which is to be affected by the issue under consideration.

CLAUSE 53

THAT clause 53 of the Bill be amended –

- (a) in sub-clause (2) by inserting the following new paragraph immediately after paragraph (c) –

- (d) the taxes payable with respect to the transaction have been assessed.

- (b) in sub-clause (9) by deleting the words “an exploration” appearing immediately after the words “or control of” and substituting therefor the word “a”;

- (c) by inserting the following new sub-clause immediately after sub-clause (11) –

- (12) A person who contravenes the provisions of this section commits an offence and on conviction, shall be liable to a fine of not less than ten million shillings or to imprisonment for a term of two years or to both.

CLAUSE 58

THAT clause 58 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2)–

- (2A) Parliament shall, in carrying out its obligation under sub-section (2), undertake public participation.

CLAUSE 60

THAT clause 60 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2) –

- (3) A person who contravenes the provisions of this section commits an offence and on conviction, shall be liable to a penalty of not less than ten million shillings or to imprisonment for a term of two years or to both.

CLAUSE 77

THAT clause 77 of the Bill be amended in sub-clause (1) by deleting the words “not be higher than at any other place” appearing immediately after the words “local content shall” in the proviso and substituting therefor the words “be at the prevailing market rate”.

CLAUSE 86

THAT clause 86 of the Bill be amended in sub-clause (2) by inserting the words "sea, forest, wildlife and marine" immediately after the words "salt water" appearing in paragraph (h).

CLAUSE 89

THAT clause 89 of the Bill be amended –

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clauses–

(1) A contractor shall not vent or flare natural gas in the course of the conduct of upstream petroleum operations except with the prior authorization of the Authority in consultation with the National Government agency responsible for environment and safety and any other National Government entity.

(1A) A contractor under sub-section (1) shall carry out the venting or flaring in accordance with the terms and conditions of the consent, existing laws and best petroleum industry practices.

(1B) Notwithstanding sub-section (1), the prior consent of the Authority shall not be required in the case of an emergency and where such venting or flaring is necessary to avert a disaster.

(1C) Where a contractor vents or flares under this section, such contractor shall –

- (a) ensure that the gas venting or flaring is kept at the lowest possible level;
- (b) inform the Authority of the carrying out of such venting or flaring and the circumstances requiring such action; and
- (c) submit to the Authority such information as the Authority may require with respect to such venting or flaring.

(b) in sub-clause (4) by deleting the word "five" appearing immediately after the words "not less than" and substituting therefor the word "ten";

CLAUSE 100

THAT clause 100 of the Bill be amended in the proviso appearing immediately after sub-clause (2)(b) by –

(a) deleting the word "fifteen" appearing immediately after the words "applicant shall give" in the proviso and substituting therefor the word "thirty";

- (b) inserting the words “and through such other appropriate forum as to ensure that the information is widely publicized within the local community in which the land exists” immediately after the words “nationwide circulation”.

CLAUSE 102

THAT clause 102 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word “may” appearing immediately after the words “under section 100” and substituting therefor the word “shall”;
- (b) in sub-clause (2) by inserting the following new paragraph immediately after paragraph (b)–
 - (c) that any compensation payable under paragraph (a) or (b) shall be paid within a period of four months from the date of issuance of the consent and in full to the person entitled to such compensation.

CLAUSE 107

THAT clause 107 of the Bill be amended in sub-clause (2) by deleting the words “forests, national parks, reserves and heritage sites” appearing immediately after the words “National Government Property”.

SECOND SCHEDULE

THAT the Model Production Sharing Contract set out in the Second Schedule to the Bill be amended in –

- (a) clause 2 in the definition of the term “best petroleum industry practices” by deleting the word “maximizing” appearing immediately after the words “environment by” in paragraph (c) and substituting therefor the word “minimizing”;
- (b) clause 16 by –
 - (i) deleting the word “material” appearing immediately after the words “any adverse” in paragraph (6);
 - (ii) deleting the words “forty eight (48)” appearing immediately after the words “Authority within” in paragraph (8) and substituting therefor the words “twenty four”;
- (c) clause 20 by inserting the following new paragraph immediately after paragraph (3) –
 - (4) The contractor shall, in employing and providing training for Kenyans under this clause take into account the need to employ and train marginalized groups.

(d) clause 26 by –

(i) deleting paragraph (3);

(ii) in paragraph (4) by inserting the words “in accordance with the Land Act” immediately after the words “the Government shall”;

CLAUSE 2

THAT clause 2 of the Bill be amended by deleting the definition of the word “local community” and substituting therefor the following new definition –

“local community” means a people living in a sub-county within which a petroleum resource under this Act is situated and are affected by the exploitation of that petroleum resource;

APPENDIX

1. PAPER

The Business of the Senate for the coming week;
(The Senate Majority Leader)

2. STATEMENTS TO BE ISSUED

- a) The Chairperson, Standing Committee on Finance, Commerce and Budget to issue a statement on financing of the Jaramogi Oginga Odinga hospital in Kisumu County (Sen. (Prof.) Anyang' Nyong'o);
- b) The Chairperson, Standing Committee on National Security and Foreign Relations to issue a statement on harassment of *bodaboda* operators by police in Kakamega County (Sen. (Dr.) Boni Khalwale);
- c) The Chairperson, Standing Committee on Education to issue a statement on recent burning of Secondary Schools in Kisii County (Sen. Janet Ong'era);
- d) The Senate Majority Leader on Business of the Senate for the coming week.
