



**REPUBLIC OF KENYA**

**ELEVENTH PARLIAMENT – FIFTH SESSION**

**THE SENATE**

**VOTES AND PROCEEDINGS**

**WEDNESDAY, FEBRUARY 22, 2017 AT 2.30 P.M.**

1. The Senate assembled at thirty minutes past Two O'clock.
2. The Proceedings were opened with Prayer said by the Speaker.
3. **COMMUNICATIONS FROM THE CHAIR**

The Speaker conveyed the following communications from the Chair-

**a) On the visiting students from Ikalyoni Primary School, Nunguni, Makueni County**

"Honorable Senators,

I would like to acknowledge the presence, in the Public Gallery, this afternoon, of visiting students from Ikalyoni Primary School, Nunguni, Makueni County.

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

I thank you."

**b) On the Sensitization retreat on the Kenya Devolution Support Program (KDSP)**

"**Honourable Senators**, I wish to inform you that the National Treasury has organized and invited all Senators to a sensitization retreat on proposals to include conditional allocations, in the County Allocation of Revenue Bill. The proposed conditional allocations will be financed by a loan from the World Bank to support a devolution-related capacity building and performance grant program targeting all County

Governments. The financing is under the Kenya Devolution Support Program (KDSP).

Hon. Senators may wish to note that the National Treasury has had prior engagements on this matter with the Ministry of Devolution and Planning, the World Bank, the Standing Committee of Finance, Budget and Commerce and the Sessional Committee on the County Public Accounts

**Honourable Senators**, the purpose of the retreat is to-

- i) Sensitize the Senate on the Kenya Devolution Support Program for Results;
- ii) Consider the proposed amendments to the County Allocation of Revenue Act, 2016 and agree on a way forward so as to facilitate the flow of funds and implementation of the proposed program as contemplated; and
- iii) Discuss and agree on the way forward on the proposed allocations for the Kenya Devolution Support Program for Results for the Financial Year 2017/18.

**Honourable Senators**, the Retreat is scheduled to take place on 24<sup>th</sup> and 25<sup>th</sup> February, 2017 at the Simba Lodge, Naivasha. Senators are expected to depart for Naivasha on the evening of tomorrow, Thursday, 23<sup>rd</sup> February, 2017.

This is, therefore, to invite you all to this important retreat and urge you to attend.

Kindly confirm your participation with the Office of the Clerk of Senate for planning purposes.

I thank you".

4. **MESSAGE ON THE PASSAGE OF THE PUBLIC APPOINTMENTS (COUNTY ASSEMBLIES APPROVAL) BILL (SENATE BILL NO. 20 OF 2014) AND THE COUNTY EARLY CHILDHOOD EDUCATION BILL (SENATE BILL NO. 23 OF 2014)**

**"Honourable Senators,**

I wish to report to the Senate that pursuant to Standing Order 40 (3) and (4), I have received the following Message from the Speaker of the National Assembly regarding the passage, by the Assembly, of the Public Appointments (County Assemblies Approval) Bill (Senate Bill No. 20 of 2014) and the County Early Childhood Education Bill (Senate Bill No. 23 of 2014).

**"PURSUANT** to the provisions of Standing Orders 41 and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly –

**WHEREAS**, the Public Appointments (County Assemblies Approval) Bill (Senate Bill No. 20 of 2014) and the County Early Childhood Education Bill (Senate Bill No. 23 of 2014), published as Bills originating in the Senate were passed and referred to the National Assembly for consideration;

**WHEREAS** on 14<sup>th</sup> and 15<sup>th</sup> February 2017, the National Assembly considered and **passed** the Public Appointments (County Assemblies Approval) Bill (Senate Bill No. 20 of 2014) **without amendments** and in the form passed by the Senate;

**AND WHEREAS** on 14<sup>th</sup> and 15<sup>th</sup> February 2017, the National Assembly considered and **passed** the County Early Childhood Education Bill (Senate Bill No. 23 of 2014) **with amendments** contained in a *Schedule of Amendments* attached hereto;

**NOW THEREFORE**, in accordance with the provisions of Standing Order 144 of the National Assembly Standing Orders and Articles 110(5) and 112 (1)(b) of the Constitution, I hereby refer the Public Appointments (County Assemblies Approval) Bill (Senate Bill No. 20 of 2014) and the County Early Childhood Education Bill (Senate Bill No. 23 of 2014), respectively, to the Senate".

**Honourable Senators,**

Article 110 (5) of the Constitution provides that *"if both Houses pass the Bill in the same form, the Speaker of the House in which the Bill originated shall, within seven days, refer the Bill to the President for assent"*.

On the other hand Article 112 (1) (b) of the Constitution provides that *if one House passes an ordinary Bill concerning counties and the second House passes the Bill in an amended form, it shall be referred back to the originating House for reconsideration*.

**Honourable Senators,**

In this regard and pursuant to Article 110 (5), I will process the Public Appointments (County Assemblies Approval) Bill (Senate Bill No. 20 of 2014) (sponsored by the Standing Committee on Labour and Social Welfare) and present it to H.E the President for assent.

**Honourable Senators,**

As for the County Early Childhood Education Bill (Senate Bill No. 23 of 2014) (sponsored by the Chairperson of the Standing Committee on Education), I direct the Standing Committee on Education to deliberate on the National Assembly amendments and report to the Senate. Further, pursuant to standing order 150 of the Senate Standing Orders, I direct that the National Assembly amendments to the County Early Childhood Education Bill (Senate Bill No. 23 of 2014) be listed in the Order Paper, for consideration, in two weeks' time.

I thank you".

5. **PAPER**

The following Paper was laid on the Table of the Senate:-

The Senate Calendar (Regular Sessions of the Senate) for the year 2017 (February to August, 2017).

*(Sen. Stephen Sang' on behalf of the Senate Majority Leader)*

6. **NOTICE OF MOTION** *(Sen. Stephen Sang' on behalf of the Senate Majority Leader)*

**THAT**, pursuant to Standing Order 28(1), this House approves the Senate Calendar (Regular Sessions of the Senate) for the year 2017 (February to August, 2017), laid on the Table of the House on Wednesday, 22<sup>nd</sup> February, 2017.

7. **NOTICE OF MOTION**- *( Vice-Chairperson, Standing Committee on National Security and Foreign Relations)*

**THAT**, the Senate notes the Report of the Standing Committee on National Security and Foreign Relations on the EALA Reports and Resolutions pursuant to standing order 235 laid on the Table of the House on Tuesday, 19<sup>th</sup> April, 2016.

8. **NOTICE OF MOTION**- *(Chairperson, Standing Committee on Education)*

**THAT**, the Senate adopts the Report of the Standing Committee on Education on the 38<sup>th</sup> Session of the UNESCO General Conference in Paris, France held at UNESCO Headquarters from 3<sup>rd</sup> to 18<sup>th</sup> November, 2015 laid on the Table of the House on 14<sup>th</sup> April, 2016.

9. **NOTICE OF MOTION**- *( Vice-Chairperson, Standing Committee on National Security and Foreign Relations)*

**THAT**, this House adopts the Report of the Standing Committee on National Security and Foreign Relations on the assessment of the security situation in Mandera County, Laikipia county and Kapedo (Border town of Turkana and Baringo Counties) conducted between 19<sup>th</sup> January and 5<sup>th</sup> February, 2015 and laid on the Table of the House on Wednesday, 29<sup>th</sup> July, 2015.

10. **STATEMENTS PURSUANT TO STANDING ORDER 45 (2) (b)**

- a) The Senator for Makueni County (Sen. Mutula Kilonzo Junior) sought a Statement from the Chairperson of the Standing Committee on Legal Affairs and Human Rights regarding the reported registration of voters using NYS Kits.

- b) The Senator for Kirinyaga County (Sen. Daniel Karaba) sought a Statement from the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries regarding the waiver of loans owed by Coffee farmers in Mount Kenya region.

11. **THE CONSTITUTION OF KENYA (AMENDMENT) BILL (SENATE BILL NO. 16 OF 2015)**

Motion made and Question proposed;

**THAT**, the Constitution of Kenya (Amendment) Bill (Senate Bill No. 16. of 2015) be now read a Second Time.

*(Sen. Judith Sijeny -10.02.2016)*

Debate interrupted on Wednesday, 28<sup>th</sup> December 2016 resumed on a division.

The House proceeded to a Division;

The Speaker informed the Senate that all Senators were entitled to vote for the Bill and directed that a roll call vote be taken pursuant to Standing Order 76 (2) and that the Division Bell be rung for five minutes;

After the expiry of five minutes the Speaker directed that the doors be locked and bars drawn;

The names of the Tellers were announced and directed to take the seats at their designated place;

The Speaker put the Question and directed the Clerk to call out the names of Senators in alphabetical order;

The results of the Division were as follows-

AYES - 23

NOES - 0

ABSTENTIONS - 0

**AYES**

1. Sen. Chelule Liza
2. Sen. Cheruiyot Aaron Kipkirui
3. Sen. Elachi Beatrice
4. Sen. Gertrude Emma Mbura
5. Sen. Haji Mohammed Yusuf
6. Sen. Kanainza Nyongesa Daisy
7. Sen. Karaba Dickson Daniel
8. Sen. Kittony Zipporah
9. Sen. Lesan Wilfred Rotich
10. Sen. Leshore Sammy Prisa

11. Sen. Lesuuda Naisula
12. Sen. Lonyangapuo John Krop
13. Sen. Mositet Peter Korinko
14. Sen. Murkomen Onesimus
15. Sen. Musila David
16. Sen. Mutula Kilonzo Junior
17. Sen. Njoroge Ben
18. Sen. Nyong'o Peter Anyang'
19. Sen. Okong'o Kennedy Mong'are
20. Sen. Omondi Godliver Nanjira
21. Sen. Ong'era Janet
22. Sen. Sijeny Judith
23. Sen. Wangari Martha

Question **negatived.**

12. **THE CONSTITUTION OF KENYA (AMENDMENT) (NO. 2) BILL  
(NATIONAL ASSEMBLY BILL NO. 2 OF 2015)**

Motion made and Question proposed;

**THAT**, the Constitution of Kenya (Amendment) (No. 2) Bill  
(National Assembly Bill No. 2 of 2015) be now read a Second Time.

*(The Senate Majority Leader - 03.11.2016)*

Debate interrupted on Thursday, 3<sup>rd</sup> November, 2016 resumed on a  
Division;

The House proceeded to a Division;

The Speaker informed the Senate that all Senators were entitled to vote for  
the Bill and directed that a roll call vote be taken pursuant to Standing  
Order 76 (2) and that the Division Bell be rung for five minutes;

After the expiry of five minutes the Speaker directed that the doors be  
locked and bars drawn;

The names of the Tellers were announced and directed to take the seats at  
their designated place;

The Speaker put the Question and directed the Clerk to call out the names  
of Senators in alphabetical order;

The results of the Division were as follows-

AYES - 0

NOES - 12

ABSTENTIONS - 0

**NOES**

1. Sen. Chelule Liza
2. Sen. Cheruiyot Aaron Kipkirui
3. Sen. Elachi Beatrice
4. Sen. Gertrude Emma Mbura
5. Sen. Kanainza Nyongesa Daisy
6. Sen. Karaba Dickson Daniel
7. Sen. Mositet Peter Korinko
8. Sen. Murkomen Onesimus
9. Sen. Mutula Kilonzo Junior
10. Sen. Omondi Godliver Nanjira
11. Sen. Ong'era Janet
12. Sen. Sijeny Judith Achieng

Question **negatived.**

13. **THE CONSTITUTION OF KENYA (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 26 OF 2013)**

Motion made and Question proposed;

**THAT**, the Constitution of Kenya (Amendment) Bill (National Assembly Bill No. 26 of 2013) be now read a Second Time.

*(The Senate Majority Leader -03.11.2016)*

Debate interrupted on Thursday, 3<sup>rd</sup> November, 2016 resumed on a division;

The House proceeded to a Division;

The Speaker informed the Senate that all Senators were entitled to vote for the Bill and directed that a roll call vote be taken pursuant to Standing Order 76 (2) and that the Division Bell be rung for five minutes;

After the expiry of five minutes the Speaker directed that the doors be locked and bars drawn;

The names of the Tellers were announced and directed to take the seats at their designated place;

The Speaker put the Question and directed the Clerk to call out the names of Senators in alphabetical order;

The results of the Division were as follows-

AYES - 0

NOES - 8

ABSTENTIONS - 0

**NOES**

1. Sen. Cheruiyot Aaron Kipkirui
2. Sen. Kanainza Nyongesa Daisy
3. Sen. Karaba Dickson Daniel
4. Sen. Khalwale Boni
5. Sen. Mositet Peter Korinko
6. Sen. Mutula Kilonzo Junior
7. Sen. Omondi Godliver Nanjira
8. Sen. Ong'era Janet

Question **negatived.**

14. **THE KENYA ROADS BILL (NATIONAL ASSEMBLY BILL NO. 26 OF 2015)**  
(The Senate Majority Leader)

*(Second Reading)*

***(Resumption of Debate interrupted on Wednesday, 15<sup>th</sup> February, 2017)***

***(Division)***

Order deferred.

15. **COMMITTEE OF THE WHOLE**  
**THE COUNTY ASSEMBLY SERVICES BILL (SENATE BILLS NO. 27 OF 2014)**

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

*(Consideration of National Assembly Amendments)*

***(Resumption of Debate interrupted on Thursday, 16<sup>th</sup> February, 2017)***

***(Division)***

Order deferred.

16. **COMMITTEE OF THE WHOLE**  
**THE NATIONAL CEREALS AND PRODUCE BOARD (AMENDMENT) BILL (SENATE BILL NO. 15 OF 2015)**

(Sen. Zipporah Kittony)

***(Resumption of Debate interrupted on Wednesday, 16<sup>th</sup> November, 2016)***

***(Division)***

Order deferred.

17. **COMMITTEE OF THE WHOLE**  
**THE COUNTY STATUTORY INSTRUMENTS BILL (SENATE BILL NO. 10 OF 2015)**

(Sen. Stephen Sang)

***(Resumption of Debate interrupted on Thursday, 16<sup>th</sup> February, 2017)***

***(Division)***

Order deferred.

18. **COMMITTEE OF THE WHOLE**  
**THE BASIC EDUCATION (AMENDMENT) BILL (NATIONAL ASSEMBLY**  
**BILL NO. 35 OF 2014)**

(The Senate Majority Leader)

*(Resumption of Debate interrupted on Tuesday, 15th November,  
2016)*

*(Division)*

Order deferred.

19. **COMMITTEE OF THE WHOLE**  
**THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF**  
**THE ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILL NO. 8 OF**  
**2015)**

(Sen. Omar Hassan)

*(Resumption of Debate interrupted on Tuesday, 15th November,  
2016)*

*(Division)*

Order deferred.

20. **MOTION – APPROVAL OF THE SENATE CALENDAR (REGULAR**  
**SESSIONS OF THE SENATE) FOR THE YEAR 2017 (FEBRUARY TO**  
**AUGUST, 2017)**

Motion made and Question proposed-

**THAT**, pursuant to Standing Order 28(1), this House approves the Senate Calendar (Regular Sessions of the Senate) for the year 2017 (*February to August, 2017*), laid on the Table of the House on Wednesday, 22<sup>nd</sup> February, 2017.

*(Sen. (Dr.) Agnes Zani on behalf of the Senate Majority Leader)*

Debate arising;

And there being no other Senator wishing to contribute;

Before the Question was put, and pursuant to Standing Order No. 72, the Temporary Speaker (Sen. Peter Mositet) informed the House that the Motion did not affect counties.

Question put and **agreed to.**

**RESOLVED ACCORDINGLY**

**THAT**, pursuant to Standing Order 28(1), this House approves the Senate Calendar (Regular Sessions of the Senate) for the year 2017 (*February to August, 2017*), laid on the Table of the House on Wednesday, 22<sup>nd</sup> February, 2017.

21. **MOTION – ADOPTION OF THE REPORT OF THE STANDING**  
**COMMITTEE ON NATIONAL SECURITY AND FOREIGN RELATIONS ON**

**THE EALA REPORTS AND RESOLUTIONS PURSUANT TO STANDING ORDER 235**

**THAT**, the Senate notes the Report of the Standing Committee on National Security and Foreign Relations on the EALA Reports and Resolutions pursuant to standing order 235 laid on the Table of the House on Tuesday, 19<sup>th</sup> April, 2016.

*(Chairperson, Standing Committee on National Security and Foreign Relations)*

Order deferred.

22. **MOTION – ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON EDUCATION AT THE 38<sup>TH</sup> SESSION OF THE UNESCO GENERAL CONFERENCE IN PARIS, FRANCE**

Motion made and Question proposed-

**THAT**, the Senate adopts the Report of the Standing Committee on Education on the 38<sup>th</sup> Session of the UNESCO General Conference in Paris, France held at UNESCO Headquarters from 3<sup>rd</sup> to 18<sup>th</sup> November, 2015 laid on the Table of the House on 14<sup>th</sup> April, 2016.

*(Chairperson, Standing Committee on Education)*

Debate arising;

And there being no other Senator wishing to contribute;

Before the Question was put, and pursuant to Standing Order No. 72, the Temporary Speaker (Sen. Peter Mositet) informed the House that the Motion did not affect counties.

Question put and **agreed to.**

**RESOLVED ACCORDINGLY**

**THAT**, the Senate adopts the Report of the Standing Committee on Education on the 38<sup>th</sup> Session of the UNESCO General Conference in Paris, France held at UNESCO Headquarters from 3<sup>rd</sup> to 18<sup>th</sup> November, 2015 laid on the Table of the House on 14<sup>th</sup> April, 2016.

23. **MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON NATIONAL SECURITY AND FOREIGN RELATIONS ON THE ASSESSMENT OF THE SECURITY SITUATION IN MANDERA COUNTY, LAIKIPIA COUNTY AND KAPEDO CONDUCTED BETWEEN 19<sup>TH</sup> JANUARY AND 5<sup>TH</sup> FEBRUARY, 2015**

Motion made and Question proposed-

**THAT**, this House adopts the Report of the Standing Committee on National Security and Foreign Relations on the assessment of the security situation in Mandera County, Laikipia county and Kapedo (Border town of Turkana and Baringo Counties) conducted between 19<sup>th</sup> January and 5<sup>th</sup> February, 2015 and laid on the Table of the House on Wednesday, 29<sup>th</sup> July, 2015.

*(Sen. Elizabeth Ongoro on behalf of the Chairperson, Standing Committee on National Security and Foreign Relations)*

Debate arising;

And the time being thirty minutes past Six O'clock, the Temporary Speaker (Sen. Elizabeth Ongoro) adjourned the Senate without question put, pursuant to the Standing Orders.

24. **SENATE ROSE** – at Thirty Minutes past Six O'clock.

### **M E M O R A N D U M**

*The Speaker will take the Chair on  
Thursday, February 23, 2017 at 2.30 p.m.*

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