



REPUBLIC OF KENYA

THE SENATE

ELEVENTH PARLIAMENT – FOURTH SESSION

VOTES AND PROCEEDINGS

WEDNESDAY, NOVEMBER 09, 2016 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. **PAPERS LAID**

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

- i) Statement by the Senate Majority Leader on the Status of Bills;
- ii) The Status of National Assembly Bills referred to the Senate;
- iii) The Status of Senate Bills referred to the National Assembly; and
- iv) A list of Bills considered by the National Assembly for which no concurrence was sought from the Senate.

(The Senate Majority Leader)

4. **STATEMENTS**

(a) Statements Pursuant to Standing Order 45(2) (b)

- i) The Senator for Samburu County (Sen. Sammy Leshore) sought a statement from the Chairperson of the Standing Committee on National Security and Foreign Relations regarding the killing of four Morans in the Samburu National Game Reserve.
- ii) The Chairperson, Standing Committee on Education issued a statement regarding leadership crisis at Moi University.

In the statement, the Chairperson stated that two Governors and some Members of Parliament stormed Moi University to protest the appointment of Prof. Laban Ayiro as the Acting Vice Chancellor of Moi University after the retirement of Prof. Richard Mibey. The Chairperson further stated that he was not aware whether criminal proceedings are going to be preferred against the Governors and the said Members of Parliament as this is the work of the Director of Public Prosecutions.

The Chairperson outlined the ethnic composition of Vice-Chancellors and senior managers in public universities in Kenya. The Chairperson further informed the Senate that the Vice Chancellors and other senior university officers are appointed through an open and competitive process and that the appointment of the Vice Chancellor for Moi University will be disclosed to the public as soon as the due process is concluded.

The Chairperson stated that the Council for University Education is currently finalizing the development of the regulations and guidelines to govern the recruitment and appointment of Vice Chancellors and other staff in universities and university constituent colleges and that once the regulations are gazetted, the ministry will advise university councils to follow due process in filling all vacant posts.

- iii) The Chairperson of the Standing Committee on Devolved Government issued a Statement on the prolonged drought disaster and looming famine in the country.

In the Statement, the Chairperson informed the Senate that the Government was aware of the drought and food situation across the country, since this is monitored on a monthly basis by the National Drought Management Authority. The Chairperson stated that in June 2016, the drought early warning system started to signal emerging stress in parts of the coast and south-east, largely because of the below average rains in 2016. Counties at alarm drought phase are Kilifi, Garissa, Kwale, Lamu and Marsabit. Counties at alert drought phase are Kajiado, Isiolo, Laikipia, Makueni, Mandera, Meru (North), Narok, Samburu, Taita Taveta, Tana River, Turkana, Wajir and West Pokot, while Baringo, Embu (Mbeere), Kitui, Nyeri (Kieni) and Tharaka Nithi Counties are at normal drought phase. The drought is worsening in all areas and if the onset of rains delays, the drought phase in each county can easily change to the next level.

The Chairperson further informed the House that the National Government has established an inter-ministerial technical committee to investigate and monitor progress of the drought and its impacts and to recommend necessary interventions. The Committee met with representatives from county governments and following consultations, estimated that an additional Kshs.5 billion will be needed between November 2016 and January, 2017 to support an estimated 1.5 million people. The Committee prepared a cabinet memo for approval for release of funds and the National Treasury had released the first month's funding for November to cater for relief food and other activities in sectors such as water, livestock, agriculture, health and nutrition, peace building and conflict management.

The Chairperson further stated that generally, in addition to the interventions by the National Government the affected County Governments were taking a variety of actions across a wide range of sectors including water tinkering, livestock vaccination, relief food distribution among other drought mitigation activities.

In conclusion, the Chairperson stated that the government is prepared for the strong possibility that significant drought mitigation and response interventions will be needed at least until mid 2017 and has a clear long term plan to address the conditions which cause drought vulnerability.

(b) Statement Pursuant to Standing Order 45(2) (a)

The Senate Majority Leader issued a Statement on the Status of Bills and stated as follows;

Since commencement of the 11th Parliament in April, 2013, the Senate has received a total of forty-four Bills from the National Assembly, out of which-

- 1) The Senate has concluded consideration of thirty-three Bills from the National Assembly which have been assented to or are pending Presidential Assent;
- 2) Five Bills are due for consideration at Committee of the Whole stage in the Senate;
- 3) Three Bills are due for Division at Second Reading in the Senate; and
- 4) Three Bills are due for Second Reading in the Senate.

The Senate Majority Leader further informed the Senate that from the assessment, the Senate had concluded consideration of 75% of all

National Assembly Bills forwarded to the Senate with the remaining Bills at various stages of consideration as provided in the Constitution and Senate Standing Orders.

The Senate Majority Leader also informed the Senate on the status of Senate Bills referred to the National Assembly for concurrence and stated that since inception of the Senate in April 2013, the Senate has passed and referred to the National Assembly a total of thirty-eight Bills, out of which-

- 1) Ten Bills have been passed by the National Assembly either at the first instance or following mediation and have been assented to or are pending Presidential assent;
- 2) One Bill had been negatived and is due for mediation;
- 3) Two Bills have passed Second reading stage and are due for Committee of the Whole in the Senate;
- 4) Eighteen Bills are pending at Second reading stage in the Senate;
- 5) Two Bills which were passed by the Senate in first week of November, 2016 are due for First reading before the National Assembly;
- 6) Four Bills which were passed by the Senate on 8th November, 2016 would be sent to the National Assembly; and
- 7) The National Assembly declined to consider five Bills originating from the Senate on the basis that the Bills are "Money Bills" which may only be introduced in the National Assembly.

The Senate Majority Leader informed the Senate that from these numbers, the National Assembly had concluded consideration of just about 25% of Senate Bills referred to the Assembly, as compared to the Senate which had considered and disposed of 75% of National Assembly Bills referred to the Senate.

In addition to this, the Senate Majority Leader also informed the Senate that the National Assembly had passed one hundred and eleven Bills without seeking concurrence from the Senate as required by Article 110 (3) of the Constitution of Kenya.

In conclusion, the Senate Majority Leader stated that, he was of the opinion that this matter be seized of by the Standing Committee on Implementation, after which a report be tabled for consideration by the Senate.

5. COMMITTEE OF THE WHOLE

Order for Committee read;

IN THE COMMITTEE

(The Acting Chairperson of Committees (Sen. (Mositet) – in the Chair)

The Physical Planning Bill (National Assembly Bill No. 46 of 2015)

Clause 3 - amendment proposed

THAT clause 3 of the Bill be amended –

- (a) in paragraph (b) by deleting the word “physical” appearing immediately after the words “and management of” and substituting therefor the words “land use”;
- (b) in paragraph (b) by deleting the word “physical” appearing immediately after the words “and management of” and substituting therefor the words “land use”;
- (c) in paragraph (c) by deleting the words “physical planning and” appearing immediately after the words “the regulation of”;
- (d) in paragraph (g) by deleting the words “planning authorities” appearing immediately after the words “the relationship between” authorities responsible for regulating land use in Kenya”.

(Sen. Mutula Kilonzo Junior)

Clause 3 - vote deferred

Clause 4 - amendment proposed

THAT clause 4 of the Bill be amended in the introductory clause by deleting the words “physical planning or” appearing immediately after the words “engaged in”.

(Sen. Mutula Kilonzo Junior)

Clause 4 - vote deferred

Clause 5 - amendment proposed

THAT the Bill be amended by deleting clause 5.

(Sen. Mutula Kilonzo Junior)

Clause 5 - vote deferred

Clause 6 - amendment proposed

THAT the Bill be amended by deleting clause 6.

(Sen. Mutula Kilonzo Junior)

Clause 6 - vote deferred

Clause 7 - amendment proposed

THAT the Bill be amended by deleting clause 7.

(Sen. Mutula Kilonzo Junior)

Clause 7 - vote deferred

Clause 8 - amendment proposed

THAT the Bill be amended by deleting clause 8 and substituting therefor the following new clause –

The National Land Commission shall, in relation to the matters set out in this Act –

- (a) pursuant to Article 67(2)(h) of the Constitution, monitor and have oversight responsibilities over land use planning throughout the country;
- (b) prepare and submit to Parliament, reports on the status of land use planning;
- (c) prepare general principles and guidelines on land use planning and coordinate planning by counties;
- (d) recommend a national land use policy to the cabinet secretary;
- (e) publish and publicize the status of national land use planning report pursuant to Article 35(3) of the Constitution;
- (f) encourage use of traditional dispute resolution mechanisms in land use planning; and
- (g) conduct research related to land use planning and natural resources.

(Sen. Mutula Kilonzo Junior)

Clause 8 - vote deferred

Clause 9 - amendment proposed

THAT clause 9 of the Bill be amended –

- (a) in paragraph (a) by deleting the word "physical" appearing immediately after the words "national policy" and substituting therefor the words "land use";
- (b) in paragraph (b) by deleting the word "physical" appearing immediately after the words "specific aspects of" and substituting therefor the words "land use";
- (c) by deleting paragraph (d).

(Sen. Mutula Kilonzo Junior)

Further amendment proposed

THAT clause 9 be amended-

- (a) by deleting paragraph (c) and substituting therefor the following new paragraph-
 - (c) approval of national physical development plans on recommendation of Parliament; and
- (b) in paragraph (e) by inserting the words "in consultation with National Land Commission and county governments." immediately after the words "levels of planning".

(Sen. Christopher Obure on behalf of Chairperson, Committee on Land and Natural Resources)

Clause 9 - vote deferred

Clauses 10 & 11 - amendment proposed

THAT the Bill be amended by deleting clauses 10 & 11.

(Sen. Mutula Kilonzo Junior)

Clauses 10 & 11 - vote deferred

Clause 12 - amendment proposed

THAT the Bill be amended by deleting clause 12.

(Sen. Mutula Kilonzo Junior)

Further amendment proposed

THAT clause 12 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph-

(b) advising the Cabinet Secretary on formulating national physical planning policies, guidelines and standards.

(Sen. Christopher Obure on behalf of Chairperson, Committee on Land and Natural Resources)

Clause 12 - vote deferred

Clause 13 - amendment proposed

THAT the Bill be amended at clause 13 by-

(a) deleting the word "physical" appearing immediately after the words "policy on" in paragraph (a);

(b) deleting paragraph (b); and

(c) deleting paragraph (c).

(Sen. Mutula Kilonzo Junior)

Further amendment proposed

THAT clause 13 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph-

(b) approving county physical development plans on recommendation of the county assembly;

(Sen. Christopher Obure on behalf of Chairperson, Committee on Land and Natural Resources)

Clause 13 - vote deferred

Clause 14 - vote deferred

Clause 15 - amendment proposed

THAT the Bill be amended by deleting clause 15.

(Sen. Mutula Kilonzo Junior)

Clause 15 - vote deferred

Clause 16 - amendment proposed

THAT the Bill be amended by deleting clause 16.

(Sen. Mutula Kilonzo Junior)

Proposed amendment withdrawn by the mover.

Clause 16 - vote deferred

Clause 17 - amendment proposed

THAT the Bill be amended by deleting clause 17.

(Sen. Mutula Kilonzo Junior)

Clause 17 - vote deferred

Clause 18 - amendment proposed

THAT clause 18 of the Bill be amended –

(a) in sub-clause (1) by deleting the words “Physical Development” appearing immediately after the word “the” in the introductory clause and substituting therefor the words “Land Use”;

(b) in sub-clause (2) by -

(i) deleting the words “Physical Development” appearing immediately after the word “the” in the introductory clause and substituting therefor the words “Land Use”;

(ii) deleting the words “physical development” appearing immediately after the words “of national” in paragraph (e) and substituting therefor the words “land use”.

(Sen. Mutula Kilonzo Junior)

Clause 18 - vote deferred

Clause 19 - amendment proposed

THAT clause 19 of the Bill be amended in sub-clause (1) by-

(a) deleting the introductory clause and substituting therefor the following new clause –

In preparing a National Land Use Plan, the Cabinet Secretary shall –

(b) deleting paragraph (c).

(Sen. Mutula Kilonzo Junior)

Clause 19 - vote deferred

Clause 20 - amendment proposed

THAT clause 20 of the Bill be amended-

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

(1) A Land Use Plan shall include –

- (a) an objective of the plan;
- (b) situation analysis including –
 - (i) an analysis of the state of land development in Kenya; and
 - (ii) the relevant studies and reports concerning land use in Kenya;
- (c) policies, strategies and measures necessary to optimize opportunities and potentials and resolve challenges relating to land use planning in Kenya;
- (d) maps and plans showing current and anticipated land use patterns;
- (e) an implementation framework;
- (f) a monitoring and evaluation strategy; and
- (g) such other information as may be necessary.

(b) in sub-clause (2) by deleting the words “National Director of Physical Planning” appearing at the beginning of the sub-clause and substituting therefor the words “Cabinet Secretary”;

(c) in sub-clause (3) by deleting the words “Physical Development” appearing immediately after the words “preparation of the” and substituting therefor the words “Land Use”;

(d) in sub-clause (4) by deleting the words “Physical Development” appearing immediately after the words “within which a” and substituting therefor the words “Land Use”;

(Sen. Mutula Kilonzo Junior)

Clause 20 - vote deferred

Clause 21 - amendment proposed

THAT clause 21 be amended –

(a) in sub-clause (1) by deleting the words “Physical Development” wherever they appear in the sub-clause and substituting therefor the words “Land Use”;

(b) in sub-clause (2) by deleting the words “Physical Development” appearing immediately after the words “about the National” and substituting therefor the words “Land Use”.

(Sen. Mutula Kilonzo Junior)

Clause 21 - vote deferred

Clause 22 - amendment proposed

THAT clause 22 of the Bill be amended-

(a) in sub-clause (1) by deleting the words "National Physical Planning Consultative Forum for comments" appearing immediately after the words "Plan to the" and substituting therefor the word "Cabinet for approval".

(b) by deleting sub-clause (2);

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

(d) by inserting the following new subclause immediately after subclause (3) -

(3A) The Cabinet Secretary shall, within thirty days of approval by the Cabinet, submit the land use plans to Parliament for consideration and approval.

(e) by deleting the sub-clause appearing immediately after sub-clause (3) and substituting therefor the following new sub-clause-

(4) The Cabinet Secretary shall, within fourteen days of the approval of the plan by Parliament, publish the approved plan in the *Gazette* and in at least two newspapers of national circulation.

(Sen. Mutula Kilonzo Junior)

Further amendment proposed

THAT clause 22 of the Bill be amended by deleting sub-clause (3) and substituting therefore the following new sub-clause-

(3) Upon incorporation of the proposed changes by the National Physical Planning Consultative Forum, the plan shall be submitted to the Cabinet Secretary who shall cause it to be placed before Parliament for approval.

(Sen. Christopher Obure on behalf of Chairperson, Committee on Land and Natural Resources)

Clause 22 - vote deferred

Clause 23 - amendment proposed

THAT clause 23 of the Bill be amended-

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

(1) The national government and county governments shall base the preparation of inter-county land use plans, integrated county land use plans, city land use plans, urban area land use plans and sectoral plans on the National Land Use Plan.

- (b) In sub-clause (2) by deleting the words "Physical Development" appearing immediately after the words "lack of a National" and substituting therefor the words "Land Use".

(Sen. Mutula Kilonzo Junior)

Clause 23 - vote deferred

Clause 24 - amendment proposed

THAT clause 24 of the Bill be amended –

- (a) in sub-clause (1) by deleting the words "Physical Development" appearing immediately after the words "implementation of a National" and substituting therefor the words "Land Use";
- (b) in sub-clause (2) by deleting the words "Physical Development" wherever they appear in the sub-clause and substituting therefor the words "Land Use".

(Sen. Mutula Kilonzo Junior)

Clause 24 - vote deferred

Clause 25 - amendment proposed

THAT clause 25 of the Bill be amended –

- (a) in sub-clause (1) by deleting the words "regional physical development" appearing immediately after the words "formulate a regional" and substituting therefor the words "an inter-county land use".
- (b) in sub-clause (2) by deleting the words "Regional Physical" appearing immediately after the words "shall form a" and substituting therefor the words "Inter-County Land Use".
- (c) in sub-clause (3) by-
- (i) deleting paragraph (a) and substituting therefor the following new paragraph-
 - (a) A person nominated by the Cabinet Secretary with knowledge and experience in matters relating to land use planning.;
 - (ii) deleting the word "physical" appearing immediately after the words "responsible for" and substituting therefor the words "land use".

(d) by inserting the following new paragraph immediately after clause (4)-

(4A) The members of the Inter-County Land Use Development Committee shall elect a chairperson from amongst themselves.

(e) in sub-clause (4) by deleting the words "regional joint physical" appearing immediately after the word "the" and substituting therefor the words "inter-county land use".

(f) in sub-clause (5) by deleting the words "The National Director of Physical Planning" appearing at the beginning of the sub-clause and substituting therefor the words "The Cabinet Secretary".

(Sen. Mutula Kilonzo Junior)

Clause 25 - vote deferred

Clause 26 - amendment proposed

THAT clause 26 of the Bill be amended by deleting the words "A Regional Physical Development" appearing in the introductory clause and substituting therefor the words "Inter-County Land Use".

(Sen. Mutula Kilonzo Junior)

Clause 26 - vote deferred

Clause 27 - amendment proposed

THAT clause 27 of the Bill be amended by –

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

(1) The Inter-County Land Use Planning Committee preparing an inter-county land use plan shall publish a notice of intention to prepare a plan in the gazette and in at least two newspapers of national circulation.

(b) deleting the words "Regional Physical Planning Joint" appearing immediately after the words "constitution of the" in sub-clause (2) and substituting therefor the words "Inter-County Land Use";

(c) deleting the words "Regional Physical Development" appearing immediately after the words "complete the" in sub-clause (3) and substituting therefor the words "Inter-County Land Use";

(d) deleting the words "Regional Physical Development" appearing immediately after the words "preparation of the" in sub-clause (4) and substituting therefor the words "Inter-County Land Use".

(Sen. Mutula Kilonzo Junior)

Clause 27 - vote deferred

Clause 28 - amendment proposed

THAT Clause 28 of the Bill be amended by-

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

(1) Within thirty days of the completion of an inter-county land use plan, the inter-county land use committee shall public a notice in the gazette and in at least two newspapers of national circulation informing the public that the plan is available at the places and times designated in the notice for inspection and that any interested person may comment on the content of the plan

(b) in sub-clause (2) deleting the words “Regional Physical Planning Joint” appearing immediately after the words “constitution of the” in sub-clause (2) and substituting therefor the words “Inter-County Land Use;

(c) deleting sub-clause (3); and

(d) in sub-clause (4) by deleting the words “National Physical Planning Liaison Committee” appearing immediately after the words “decision of the” and substituting therefor the words “Inter-County Land Use Committee”.

(Sen. Mutula Kilonzo Junior)

Clause 28 - vote deferred

Clause 29 - amendment proposed

THAT clause 29 of the Bill be amended –

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

(1) The County Executive Committee members of all counties participating in the inter-county land use plan shall separately approve the plan and submit the same to the respective county assemblies.

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause-

(2) within thirty days of the approval of the Inter-County Land Use Plan by the respective county assemblies, the Governors of the relevant counties shall jointly publish the approved Inter-County Land Use Plan in the *Gazette* ;

- (c) by deleting sub-clause (3); and
- (d) by deleting sub-clause (4) and substituting therefor the following new sub-clause-

(4)The published Inter-County Land Use Plan shall be deposited with the relevant County Executive Committee Member.

(Sen. Mutula Kilonzo Junior)

Further amendment proposed

THAT clause 29 of the Bill be amended by deleting sub-clause (1) and substituting therefore the following new sub-clause-

- (1)The National Director of Physical Planning shall, with the approval of the Cabinet Secretary and in consultation with the county governments prepare regional plans and part development plans for national projects and programmes.

(Sen. Christopher Obure on behalf of Chairperson, Committee on Land and Natural Resources)

Clause 29 - vote deferred

Clause 30 - amendment proposed

THAT the Bill be amended by deleting clause 30 and substituting therefor the following new clause-

- (1) In addition to the national land use plan, the inter-county land use plan shall inform the preparation of a county land use plan or urban area plan for the county governments within the planning area covered by the inter-county land use plan.
- (2) Where the National Land Use Plan and an Inter-County Land Use plan have not been approved, county governments may prepare other land use plans which will be incorporated into the National Land Use Plan or the relevant Inter-County Land Use Plan after they have been prepared and approved.

(Sen. Mutula Kilonzo Junior)

Clause 30 - vote deferred

Clause 31 - amendment proposed

THAT the Bill be amended by deleting clause 31 and substituting therefor the following new clause –

31. At least three months before the end of a financial year, every county executive committee member responsible for land use planning in a county covered by an inter-county land use plan shall submit a report on the implementation of the inter-county land use plan to the National Land Commission and the Cabinet Secretary for their purposes.

(Sen. Mutula Kilonzo Junior)

Clause 31 - vote deferred

Clause 32 - amendment proposed

THAT clause 32 of the Bill be amended –

(a) in sub-clause (1) by deleting the words “physical development” appearing immediately after the words “prepare a county” and substituting therefor the words “land use”;

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause –

(2) Each county land use plan shall be in conformity with the National Land Use Plan and any relevant Inter-County Land Use plan.

(c) in sub-clause (3) by deleting the words “physical development” appearing immediately after the words “in charge of” and substituting therefor the words “land use”;

(d) in sub-clause (4) by deleting the words “physical development” appearing immediately after the words “the county” and substituting therefor the words “land use”

(Sen. Mutula Kilonzo Junior)

Clause 32 - vote deferred

Clauses 33 - 36 - amendment proposed

THAT the Bill be amended by deleting clauses 33 - 36.

(Sen. Mutula Kilonzo Junior)

Clauses 33 -36 - vote deferred

Clause 37 - amendment proposed

THAT the Bill be amended by deleting clause 37.

(Sen. Mutula Kilonzo Junior)

Further amendment proposed

THAT clause 37 of the Bill be amended by deleting sub-clause (2) and substituting therefore the following new sub-clause-

(2)The county executive committee member in charge of physical planning shall submit the completed county physical development plan to the governor who shall cause it to be laid before the county assembly for approval.

(Sen. Christopher Obure on behalf of Chairperson, Committee on Land and Natural Resources)

Clause 37 - vote deferred

Clauses 38 - 44 - amendment proposed

THAT the Bill be amended by deleting clauses 38 - 44.

(Sen. Mutula Kilonzo Junior)

Clauses 38 - 44 - vote deferred

Clause 45 - amendment proposed

THAT the Bill be amended by deleting clause 45.

(Sen. Mutula Kilonzo Junior)

Further amendment proposed

THAT the Bill be amended in clause 45 by-

- (a) numbering the existing clause as sub-clause (1); and
- (b) inserting the following new sub-clause immediately after the new sub-clause (1)-
 - (1A) The county executive committee member in charge of physical planning shall submit a copy of the approved local physical development plan to the national land commission for their record.

(Sen. Christopher Obure on behalf of Chairperson, Committee on Land and Natural Resources)

Clause 45 - vote deferred

Clause 46 - amendment proposed

THAT the Bill be amended by deleting clause 46.

(Sen. Mutula Kilonzo Junior)

Clause 46 - vote deferred

Clause 47 - amendment proposed

THAT clause 47 of the Bill be amended-

- (a) in sub-clause (1) by deleting the words "or the National Physical Planning Consultative Forum" appearing immediately after the words "National Government";
- (b) in sub-clause (2) by deleting the words "physical development" appearing immediately after the words "area until a" and substituting therefor the words "land use";
- (c) in sub-clause (3) by deleting the word "planning" wherever it appears in the sub-clause and substituting therefor the words "land use";
- (d) in sub-clause (4) by deleting the word "planning" wherever it appears in the sub-clause and substituting therefor the words "land use";
- (e) by deleting sub-clause (6) and substituting therefor the following new sub-clause –

(6) A land use plan prepared for special land use area shall undergo the process of approval in accordance with section 112 of the County Governments Act"

(Sen. Mutula Kilonzo Junior)

Clause 47 - vote deferred

Clause 48 - vote deferred

Clause 49 - amendment proposed

THAT clause 49 of the Bill be amended-

- (a) in paragraph (a) by deleting the word "physical" appearing immediately after the words "ensure orderly" and substituting therefor the words "land use";
- (b) in paragraph (e) by deleting the word "physical" appearing immediately after the words "participation in" and substituting therefor the words "land use".

(Sen. Mutula Kilonzo Junior)

Clause 49 - vote deferred

Clause 50 - amendment proposed

THAT clause 50 of the Bill be amended–

- (a) in paragraph (d) by deleting the word “physical development” appearing immediately after the words “of approved” and substituting therefor the words “land use”;
- (b) in paragraph (f) by deleting the word “physical development” appearing immediately after the words “the approved” and substituting therefor the words “land use”.

(Sen. Mutula Kilonzo Junior)

Clause 50 - vote deferred

Clause 51 - amendment proposed

THAT clause 51 of the Bill be amended–

- (a) in sub-clause (1) by deleting the word “planning” wherever it appears and substituting therefor the words “land use”;
- (b) in sub-clause (3) by deleting the word “planning” appearing immediately after the word “the” and substituting therefor the words “land use”;
- (c) in sub-clause (4) by deleting the word “planning” appearing immediately after
the words “sub-section (3) the” and substituting therefor the words “land use”;
- (d) in sub-clause (5) by deleting the word “planning” appearing immediately after the word “the” and substituting therefor the words “land use”;
- (e) in sub-clause (6) by deleting the word “planning” appearing immediately after the word “the” and substituting therefor the words “land use”;

(Sen. Mutula Kilonzo Junior)

Clause 51 - vote deferred

Clause 52 - amendment proposed

THAT clause 52 of the Bill be amended–

- (a) in sub-clause (1) by deleting the word “planning” wherever it appears and substituting therefor the words “land use”;

- (b) in sub-clause (2) by deleting the word "planning" appearing immediately after the words "required by the" and substituting therefor the words "land use";
- (c) in sub-clause (4) by deleting the word "planning" appearing immediately after the words "consent to the" and substituting therefor the words "land use";
- (d) in sub-clause (5) by deleting the word "planning" appearing immediately after the words "granted by" and substituting therefor the words "land use".

(Sen. Mutula Kilonzo Junior)

Clause 52 - vote deferred

Clause 53 - amendment proposed

THAT clause 53 of the Bill be amended in –

- (a) in sub-clause (1) by deleting the word "planning" appearing immediately after the words "provided to the" and substituting therefor the words "land use";
- (b) in sub-clause (2) by deleting the word "planning" appearing immediately after the words "so by the" and substituting therefor the words "land use".

(Sen. Mutula Kilonzo Junior)

Clause 53 - vote deferred

Clause 54 - amendment proposed

THAT clause 54 of the Bill be amended in sub-clause (2) by deleting the word "planning" appearing immediately after the words "permission from the" and substituting therefor the words "land use"

(Sen. Mutula Kilonzo Junior)

Clause 54 - vote deferred

Clause 55 - amendment proposed

THAT clause 55 of the Bill be amended in –

- (a) in sub-clause (1) by –

- (i) deleting the word “planning” appearing immediately after the words “development permission a” appearing in the introductory clause and substituting therefor the words “land use”;
- (ii) deleting the words “physical development” appearing immediately after the words “relevant approved” in paragraph (a) and substituting therefor the words “land use”;
- (b) in sub-clause (2) by deleting the word “planning” appearing immediately after the words “development permission the” appearing in the introductory clause and substituting therefor the words “land use”;
- (c) by deleting sub-clause (3) and substituting therefor the following new sub-clause –
 - (1) An applicant or an interested party that is aggrieved by the decision of the land use authority regarding an application for development permission may appeal to the Environment and Land Court

(Sen. Mutula Kilonzo Junior)

Clause 55 - vote deferred

Clause 56 - amendment proposed

THAT clause 56 of the Bill be amended–

- (a) in sub-clause (1) by deleting the word “planning” appearing immediately after the word “a” at the beginning of the sub-clause and substituting therefor the words “land use”;
- (b) in sub-clause (2) by deleting the word “planning” appearing immediately after the “a” at the beginning of the sub-clause and substituting therefor the words “land use”;
- (c) in sub-clause (3) by deleting the word “planning” wherever it appears in the sub-clause and substituting therefor the words “land use”.

(Sen. Mutula Kilonzo Junior)

Clause 56 - vote deferred

Clauses 57-61 - vote deferred

Clause 62 - amendment proposed

THAT clause 62 of the Bill be amended in sub-clause (1) by deleting the words “physical development” appearing immediately after the words “by the relevant” and substituting therefor the words “land use”;

(Sen. Mutula Kilonzo Junior)

Clause 62 - vote deferred

Clause 63 - amendment proposed

THAT clause 63 of the Bill be amended in sub-clause (2) by deleting the words "physical development" appearing immediately after the words "any regional" and substituting therefor the words "land use";

(Sen. Mutula Kilonzo Junior)

Clause 63 - vote deferred

Clause 64 - amendment proposed

THAT clause 64 of the Bill be amended in sub-clause (2) by deleting the words "physical development" appearing immediately after the word "All" at the beginning of the sub-clause and substituting therefor the words "land use".

(Sen. Mutula Kilonzo Junior)

Clause 64 - vote deferred

Clauses 65 & 66 - vote deferred

Progress report

Motion made;

THAT, the Committee of the Whole do report progress on its consideration of the Physical Planning Bill (National Assembly Bill No. 46 of 2015) and seek leave to sit again tomorrow.

(Sen. Christopher Obure)

Before the question was put and pursuant to Standing Order 72, the Acting Chairperson (Sen. Mositot) ruled that the Question did not affect counties;

Question put and agreed to.

6. **HOUSE RESUMED** – Temporary Speaker – (Sen. Ongoro) – in the Chair

Progress reported.

Motion made and Question proposed-

THAT, the House do agree with the Committee in the said report.

(Sen. Christopher Obure)

There being no Senator wishing to contribute;

Before the question was put and pursuant to Standing Order 72, the Temporary Speaker (Sen. Ongoro) ruled that the Question did not affect counties;

Question put and agreed to.

7. **COMMITTEE OF THE WHOLE**
THE PARLIAMENTARY POWERS AND PRIVILEGES BILL, (NATIONAL ASSEMBLY BILL NO. 35 OF 2014)

(Senate Majority Leader)

Order deferred.

8. **THE TREATY MAKING AND RATIFICATION (AMENDMENT) BILL (SENATE BILL NO. 5 OF 2016)**

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

(Second Reading)

Order deferred.

9. **THE IMPEACHMENT PROCEDURE BILL (SENATE BILL NO. 8 OF 2016)**

(Sen. (Eng.)Muriuki Karue)

(Second Reading)

Order deferred.

10. **THE IMPEACHMENT PROCEDURE BILL (SENATE BILL NO. 8 OF 2016)**

(Sen. (Eng.)Muriuki Karue)

(Second Reading)

Order deferred.

11. **THE COUNTY STATISTICS BILL (SENATE BILL NO 11 OF 2016)**

(Sen. Naisula Lesuuda)

(Second Reading)

Order deferred.

12. **THE CYBER SECURITY AND PROTECTION BILL (SENATE BILL NO. 12 OF 2016)**

(Sen. Mutahi Kagwe)

(Second Reading)

Order deferred.

13. **THE WAREHOUSE RECEIPTS SYSTEM BILL (NATIONAL ASSEMBLY BILL NO. 12 OF 2015)**

(The Senate Majority Leader)

(Second Reading)

Order deferred.

14. **MOTION - COUNTRYWIDE AUDIT ON THE DISTRIBUTION OF TEACHERS IN ALL PUBLIC SCHOOLS BY THE 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;

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.

(Sen. George Khaniri)

Order deferred.

15. **MOTION - CREATION OF THE OFFICE OF AN AUDITOR TO SPECIFICALLY AUDIT THE BASIC EDUCATION INSTITUTIONS' FUNDS TO ENHANCE TRANSPARENCY AND ACCOUNTABILITY**

THAT, whereas Article 53 (1)(b) of the Constitution provides that every child in Kenya has the right to free and compulsory basic education;

RECOGNIZING the importance of education in the alleviation of the main challenges facing Kenya's sovereignty identified at independence, namely; poverty, illiteracy and disease;

APPRECIATING the gains made following the implementation of the free primary education program in 2003 and cognizant of the principles set out in

the Basic Education Act of 2013 whose objectives include promotion and regulation of free and compulsory basic education besides providing for accreditation, registration and management of basic education institutions;

NOTING the substantial resources invested by the national and county governments, parents, sponsors and development partners in the provision of basic education;

FURTHER NOTING that pursuant to the Basic Education Act, the County Director of Education is vested with numerous responsibilities including facilitation of auditing of all basic educational institutions in the respective county thereby leaving fundamental gaps of governance especially in the management of the available resources;

NOW THEREFORE, the House recommends to the Cabinet Secretary for Education to facilitate the creation of the office of an auditor to specifically audit the basic education institutions' funds to enhance transparency and accountability and improve governance in the management of these institutions.

(Sen. (Prof.) John Lonyangapuo)

Order deferred.

16. **MOTION – INSTALLATION OF CCTV CAMERAS IN POLICE STATIONS.**

THAT,

CONCERNED about the numerous reports of the arbitrary arrests of innocent people by the police;

FURTHER CONCERNED that a large number of those arrested are allegedly locked up in police cells without being recorded either in the Occurrence Book or elsewhere;

DEEPLY CONCERNED that some of the arrested people disappear without a trace and that many who are subsequently traced are found dead away from where they were known to have been locked up;

ALARMED by the recent incident where three young men were locked up for hours at Syokimau Police Post without any record indicating they had been at the police post, only for them to be found days later, in another area far from the police post, having been brutally killed;

APPRECIATING that the Closed Circuit Television (CCTV) system installed by the Government in Nairobi has helped a lot in criminal investigations;

NOW THEREFORE the Senate calls upon the National Government to-

- a) install CCTV cameras in all police stations and police posts in order to record each and every person going in and out of the station;
- b) have the CCTV system designed in such a way that it is capable of capturing the Occurrence Book entries every twelve hours; and
- c) ensure the CCTV system is connected to a central depository in order to minimize chances of subsequent tampering.

(Sen. (Eng.) Muriuki Karue)

Order deferred.

And there being no other business, the Temporary Speaker (Sen. Elizabeth Ongoro) interrupted the proceedings at eighteen minutes past Six O'clock and adjourned the Senate without Question put, pursuant to the Standing Orders.

17. **SENATE ROSE** - at eighteen minutes past Six O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Thursday, November 10, 2016 at 2.30 p.m.*

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