



REPUBLIC OF KENYA

THE SENATE

TWELFTH PARLIAMENT – FIFTH SESSION

VOTES AND PROCEEDINGS

WEDNESDAY, JUNE 02, 2021 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 Deputy Speaker.
3. **COMMUNICATION FROM THE CHAIR ON VISITING STAFF FROM LAMU COUNTY ASSEMBLY**

The Deputy Speaker issued the following Communication –

Honorable Senators,

I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of visiting Staff from the Lamu County Assembly.

The County Assembly staff are here on a five-day benchmarking visit. The objective of the visit is to provide an opportunity for the officers to engage and learn from their respective counterparts in the Senate.

I request that the officers stand when called out so that they may be acknowledged in the Senate tradition.

They are –

1. Mr. Peter Kuria – Librarian; and,
2. Mr. Athman Elema Molmolcha – Senior Hansard Reporter.

On behalf of the Senate and on my own behalf, I welcome them to the Senate and I wish them well for the remainder of their stay.

I thank you.

4. **PETITION**

Pursuant to Standing Order 226(1) (a) and 230(2) (b), the Deputy Speaker reported to the Senate a Petition by Mr. Reuben Kibegwa Mageuzi concerning the state of corruption, recruitment, public participation, access to information and civic education in Kisii County.

Pursuant to Standing Order 231, the Deputy Speaker invited Senators to comment on the Petition and subsequently, committed it to the Standing Committee on Justice, Legal Affairs and Human Rights, pursuant to Standing Order 232(1).

5. **STATEMENTS**

a) Pursuant to Standing Order 48

The Senator for Kakamega County, (Sen. Cleophas Malalah, MP) sought a statement from the Standing Committee on Agriculture on the privatization of Mumias Sugar Company.

b) Pursuant to Standing Order 51(1)(b)

- i)** The Chairperson, Standing Committee on Agriculture, Livestock and Fisheries made a statement relating to the activities of the Committee for the period commencing 9th February to 19th March, 2021.

He informed the House that during the period under review, the Committee held a total of four (4) sittings, considered four (4) Bills, one (1) Petition and one (1) Statement. The Committee also held its Work Planning Retreat between 18th and 21st February, 2021.

In respect of Bills, the following were considered-

- a) The Coffee Bill (Senate Bills No. 22 of 2020);
- b) The draft Coconut Industry Development Bill;
- c) The draft Cotton Bill; and
- d) The draft Pyrethrum Bill.

He further informed the Senate that the Coffee Bill, sponsored by the Committee was published on 23rd October, 2020 later forwarded to

the National Assembly for concurrence. He added that the principle object of the Bill is to provide for the development and regulation of the Coffee industry in Kenya and that it proposes to reorganize the coffee industry by transitioning the regulatory and commercial roles currently undertaken by the Agriculture and Food Authority to the Coffee Board of Kenya. The Bill further seeks to transition the research of coffee currently undertaken by the Coffee Research Institute under the Kenya Agricultural and Livestock Research Organisation to the Coffee Research Institute.

The Senate was also informed that the draft Coconut Industry Development Bill, was in the final stages of consideration.

In addition, the Committee had resolved to develop the draft Cotton Bill and the draft Pyrethrum Bill which seek to provide for the regulation, development and promotion of the Cotton and Pyrethrum industries. The two Bills are currently undergoing drafting.

The Chairperson further informed the House that on the Statement sought by Sen. Anuar Loitip, MP on the Climate Smart Project in Lamu County, on 4th March, 2021 pursuant to Standing Order 48(1), the Committee was still awaiting a response from the Ministry of Agriculture.

On the Petition, on the plight of seed farmers in Trans Nzoia County which was referred to the Committee on 22nd September, 2020, the Chairperson informed the House that the Committee met the Petitioners and Kenya Seed Company in November, 2020 and was awaiting a response from the Ministry of Agriculture.

In conclusion, the Chairperson stated that the Committee intends to carry out the following key activities during the next quarter-

- a) Consideration and publication of Bills to amend the Crops Act, 2013 so as to unbundle the regulation and management of major crops that fall within the ambit of the Agriculture and Food Authority (AFA) and establish stand-alone agencies for their regulation;
- b) Thematic conferences to address challenges facing various sub sectors in the agriculture sector and reforms including the Coffee Conference, Coconut Conference, Cotton Conference and the Pyrethrum Conference; and

- c) Meeting with the Cabinet Secretary, Ministry of Agriculture to elaborate on the policy framework that is being applied to undertake the ongoing Agricultural reforms by the Ministry.
- ii) The Chairperson, Standing Committee on Devolution and Intergovernmental Relations made a statement relating to the activities of the Committee for the period commencing 1st August, 2020 to 5th March, 2021.

Thereupon, he informed the House that during the period under review, the Committee held a total of thirty (30) sittings and considered various matters.

He further reported that the Committee considered a Statement sought by Sen. Abshiro Halake, MP regarding the burning of County Executive offices in various Counties, where accounting records are held and that the Committee received responses from the various Counties that had suffered this problem, from Kisumu, Homabay, Migori, Busia and Kitui. The office of the Governors of these counties also gave a detailed account of the internal investigations that they undertook, steps taken to mitigate the recurrence of the fire incidences, and improvement of risk management policies and processes to adequately deal with such occurrences should they arise.

He further informed the House, that there were various cases which were still being investigated by the Directorate of Criminal Investigations.

In addition, the Committee considered the Statement sought by Sen. (Dr.) Ochillo Ayacko, EGH, MP, on the status of project funding and implementation for Rongo Township, Awendo Township and Migori Municipality, and that the Committee has written to the Ministry of Devolution requesting for necessary information.

Further, the Committee extensively considered the transfer of functions from the Nairobi County Government to the National Government, specifically the Nairobi Metropolitan Services (NMS). The Committee was of the view that the transfer was poorly handled, particularly with respect to the provisions contained in the transfer deed, the manner in which the transfer was effected, the overseeing of the transfer itself, the alleged duress under which the Nairobi County Government was placed to effect the transfer, and the subsequent impeachment of the Governor of Nairobi County, and appointment of the Deputy Governor.

The Committee observed that taking note of the apparent lacuna in Section 26 of the Intergovernmental Relations Act on agreements on

transfer or delegation of powers, functions or competencies between the two levels of government, the Committee had initiated the *Intergovernmental Relations (Amendment) Bill, 2021*, which seeks to cure all these issues by making comprehensive provisions on the process of transferring functions, and entrenching the Senate's pivotal oversight role in facilitating the transfer of functions between levels of government.

Further, the Committee considered an impasse that arose between the County Executive and the County Assembly of Kirinyaga County on the County budget estimates for Financial Year 2020/2021. The County Executive and County Assembly could not agree on the proposed allocations within their County budget, and this disagreement threatened to impede County operations.

Consequently, the Committee held a meeting with the Governor, Kirinyaga County and the Controller of Budget. Thereafter, the Committee met the County Assembly Majority Leader, the Chairperson of the County Budget and Appropriations Committee and the Controller of Budget.

The Committee played a mediatory role in resolving the impasse between the County Executive and County Assembly of Kirinyaga, and was able to open an avenue for dialogue, deliberation, ventilation and cooperation between the two organs.

The Committee was also assigned in November 2020, a Petition on the boundary dispute between Kisumu, Siaya and Vihiga Counties (the Maseno area) by the Abanyore Community.

The Committee heard extensively from Sen. George Khaniri, who was a friend to the Committee and the presenter of this petition; the Abanyore Community led by the Petitioner, Mr. Nashon Ogana; the Governors of Kisumu, Siaya and Vihiga Counties; the Chief Administrative Secretary (CAS) Interior and Coordination; and the Chairperson of the National Cohesion and Integration Commission.

The Committee is to receive further input from the National Land Commission, where it will consider the submissions received, and recommendations of past reports, before concluding its deliberations and tabling a report.

the Committee also considered Nakuru Municipality's application to be conferred city status. After an extensive County visit and internal deliberations that spanned over one year; and undertaking thorough inquiries to ensure that Nakuru Municipality is properly catering for the

needs and welfare of its street children and families, the Committee recommended that Nakuru Municipality be conferred City Status.

The Committee also met with the *Devolution Donor Working Group*, which is an amalgamation of representatives from all European Embassies, Consulates and High Commissions in Kenya. Their main objective is to offer aid to the Counties in the form of Conditional Grants, amongst others. From the meeting, the Committee resolved to have more conversations with the Group so as to build close working ties and identify potential areas of partnership.

In conclusion, the Committee, of its own volition, held a historic meeting with the Council of Governors on 2nd March, 2021. The meeting resolved to build synergy between the Senate and the Council.

Finally, the Committee intends to carry out the following key activities during the next quarter-

- a. A relationship enhancing meeting between the Ministry of Devolution, Arid and Semi-Arid Lands, the Intergovernmental Relations Technical Committee, and other stakeholders;
- b. Regional County Visits to ascertain the success of devolution as a whole and identify areas of improvement;
- c. The status of the transfer of assets and liabilities of the defunct local authorities;
- d. A proper resolution on the matter of disbursement and oversight of conditional grants;
- e. Policy on the regional blocs; and
- f. The implementation of the report on Capacity Assessment and Rationalization of the Public Service (CARPS).

6. **THE MENTAL HEALTH (AMENDMENT) BILL (SENATE BILLS NO. 28 OF 2020)**

(Sen. (Arch.) Sylvia Kasanga, MP)

(Division)

Order deferred.

7. THE WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) BILL (SENATE BILLS NO. 30 OF 2020)

Order read;

Motion made and Question proposed;

THAT, the Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 30 of 2020) be now read a Second time.

(Sen. Johnes Mwaruma, MP - 25/05/2021)

Debate interrupted on Tuesday, 25th May, 2021 resumed;

And there being no other Senator wishing to contribute;

Mover replied;

Raising a point of order, the Mover (Sen. Johnes Mwaruma, MP) requested that pursuant to Standing Order 61 (3), the putting of the Question be deferred to a later date.

And the Temporary Speaker (Sen. (Dr.) Lelegwe Ltumbesi) acceding to his request, deferred putting of the Question to Thursday, 3rd June, 2021.

8. THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILLS NO. 30 OF 2021)

Order read;

Motion made and Question proposed;

THAT, the County Allocation of Revenue Bill (Senate Bills No. 30 of 2021) be now read a Second time.

(Chairperson, Standing Committee on Finance and Budget)

Debate arising;

9. PROCEDURAL MOTION – EXTENSION OF SITTING TIME

Motion made and Question proposed;

THAT, pursuant to Standing Order 31(3)(a), the Senate resolves to extend its sitting time today, Wednesday, 2nd June, 2021 until conclusion of business listed in today's Order Paper.

(Sen. Moses Kajwang', MP)

There being no Senator wishing to contribute;

Before putting the Question, pursuant to Standing Order 79(1), the Temporary Speaker (Sen. (Dr.) Lelegwe Ltumbesi, MP) ruled that the Motion did not affect counties;

Question put and agreed to.

RESOLVED ACCORDINGLY

THAT, pursuant to Standing Order 31 (3) (a), the Senate resolves to extend its sitting until the conclusion of business listed in today's Order Paper.

10. **THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILLS NO. 30 OF 2021)**

Debate interrupted resumed;

And there being no other Senator wishing to contribute;

Mover replied;

Raising a point of order, the Mover (Chairperson, Standing Committee on Finance and Budget) requested that pursuant to Standing Order 61 (3), the putting of the Question be deferred to a later date.

And the Temporary Speaker (Sen. (Dr.) Lelegwe Ltumbesi) acceding to his request, deferred putting of the Question to Thursday, 3rd June, 2021.

11. **THE COMMUNITY HEALTH SERVICES BILL (SENATE BILLS NO. 34 OF 2020)**

(Sen. (Dr.) Agnes Zani, MP)

(Second Reading)

Order deferred.

12. **THE INVESTMENT PROMOTION (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2021)**

(Sen. (Dr.) Alice Milgo, MP)

(Second Reading)

Order deferred.

13. **THE PARLIAMENTARY POWERS AND PRIVILEGES (AMENDMENT) BILL (SENATE BILLS NO. 33 OF 2020)**

(Sen. (Dr.) Agnes Zani, MP)

(Second Reading)

Order deferred.

14. **MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON HEALTH ON INQUIRY INTO ALLEGATIONS OF IRREGULARITIES BY THE KENYA MEDICAL SUPPLIES AUTHORITY IN PROCUREMENT OF PHARMACEUTICAL EQUIPMENT**

(Chairperson, Standing Committee on Health)

THAT, the Senate adopts the Report of the Standing Committee on Health on inquiry into allegations regarding irregularities in the procurement of various pharmaceutical equipment and products by the Kenya Medical Supplies Authority (KEMSA), laid on the Table of the Senate on Tuesday, 30th March, 2021.

Order deferred.

15. **MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON HEALTH ON THE COVID-19 PANDEMIC SITUATION IN KENYA**

(Chairperson, Standing Committee on Health)

THAT, the Senate adopts the First Progress Report of the Standing Committee on Health on the Covid-19 pandemic situation in Kenya, laid on the Table of the Senate on Tuesday, 30th March, 2021.

Order deferred.

16. **MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS ON THE CONFERMENT OF CITY STATUS TO NAKURU MUNICIPALITY**

(Chairperson, Standing Committee on Devolution and Intergovernmental Relations)

THAT, the Senate adopts the Report of the Standing Committee on Devolution and Intergovernmental Relations on the conferment of City status to Nakuru Municipality, laid on the Table of the Senate on Tuesday, 25th May, 2021, and pursuant to Section 8 (6) of the Urban Areas and Cities Act, approves the conferment of City status to Nakuru Municipality.

Order deferred.

17. **MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS, CONCERNING THE IMPASSE ON THE BUDGETARY ESTIMATES FOR FINANCIAL YEAR 2020/2021 FOR KIRINYAGA COUNTY BETWEEN THE COUNTY EXECUTIVE AND THE COUNTY ASSEMBLY**

(Chairperson, Standing Committee on Devolution and Intergovernmental Relations)

THAT, the Senate adopts the Report of the Standing Committee on Devolution and Intergovernmental Relations, on the impasse on the budgetary estimates for financial year 2020/2021 for Kirinyaga County, between the County Executive and the County Assembly, laid on the Table of the Senate on Tuesday, 25th May, 2021.

Order deferred.

And there being no other business on the Order Paper, the Temporary Speaker (Sen. (Dr.) Lelegwe Ltumbesi, MP) adjourned the Senate without Question put, pursuant to the Standing Orders.

18. **SENATE ROSE** - at eighteen minutes past eight O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Thursday, June 03, 2021 at 2:30 p.m.*

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