



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (SECOND SESSION)

THE SENATE

VOTES AND PROCEEDINGS

TUESDAY, MAY 23, 2023 AT 2.30 PM

1. The Senate assembled at thirty Minutes past Two O'clock.
2. The proceedings were opened with Prayer said by the Speaker.
3. **QUORUM OF THE SENATE**

The Speaker, having counted the Honourable Senators present at the commencement of the Sitting and confirming that there was no Quorum, caused the Bell to be rung for ten minutes, pursuant to Standing Order 40;

And there being a Quorum after the expiry of ten minutes, the Speaker invited the Clerk to call the Orders of the day.

4. **COMMUNICATIONS FROM THE CHAIR**

The Speaker conveyed the following Communications from the Chair: -

a) Resumption of sittings of the Senate in Part III of the Senate Calendar

“Honourable Senators,

I take this opportunity to welcome you back from the short recess. I hope you had time to meet with your constituents, friends and families over the past two weeks. Part III of the Senate Calendar commences today, and will run until the rise of the Senate on Thursday, 29th June, 2023.

Honourable Senators,

As we commence this part of the Senate Calendar, it is expected that the Standing Committee on Finance and Budget will table a report on the County Allocation of Revenue Bill (Senate Bills No. 16 of 2023). The passage

of this Bill will be followed by the introduction of the County Governments Additional Allocation Bill and the respective Cash Disbursement Schedules. These are crucial financial instruments that, by their nature, allocate funds to county governments. The passage of these instruments facilitate county governments to prepare their respective budgets in time for the next financial year that begins on 1st July. I therefore urge all Honourable Senators to be available in the Senate to consider and pass these legislative and financial instruments.

Other business before the Senate includes 26 Bills, of which 21 are at the Second Reading stage and 5 are at the Committee of the Whole stage. 15 Petitions are pending before Select Committees and 24 pending Motions. In addition, there are a number of Questions and Statements filed and will be scheduled in the Order Paper appropriately. I take this opportunity to urge Standing Committees to prioritize processing of legislative business and to table reports as required by the Standing Orders.

You will recall that just before we proceeded on recess, we began implementation of the procedure on Questions in the Senate. Two (2) Sittings were held, on 23rd April and on 3rd May, 2023, where Cabinet Secretaries appeared before the Senate to respond to Questions. As is expected at the beginning of most new processes, there would be a number of teething challenges, and so we have faced a number, which continue to be addressed by the Senate Business Committee to iron them out.

One of the major decisions that the Committee has made and, therefore necessitates a communication to the Senate, is the requirement to have only three Cabinet Secretaries at any one sitting. This measure will ensure that there is adequate time for the Senate to interrogate the responses from Cabinet Secretaries. This measure will be implemented from tomorrow, Wednesday, 24th May, 2023 during the Morning Sitting. As we progress, we will continue to learn and make the necessary adjustments to improve on the procedure on Questions. I also appeal to Honourable Senators to continue familiarizing themselves with the framework on Questions as well as the attendant guidelines.

Honourable Senators,

During the recess, the Senate Leadership held candid and constructive deliberations on processing of legislative business in the Senate and resolved to work harmoniously in the discharge of our constitutional mandate. Focus will therefore be given to business scheduled in the Order Paper as a number of Bills and Motions are critical to the operations of county governments. This will sustain a healthy and robust debate and the differing of opinions and perspectives, that will inform amendments to Bills and impact on government policy.

On the other hand, and in accordance with the communication issued before the Senate proceeded on recess, the Chair will not hesitate to drop any business for which the respective Mover is not available in the House.

These measures are necessary to ensure that the legislative agenda of the Senate remains on track and I implore you Honorable Senators, to work closely with the Senate Leadership in delivering on the aspirations of the people of Kenya.

Honourable Senators,

In conclusion, I take this opportunity to impress upon each of us to re-dedicate ourselves to the execution of our constitutional mandate in service to our great country. I also wish to state that my Office, Office of the Senate Leadership, and the Secretariat, are always at your disposal to facilitate you to do your work.

I wish you fruitful deliberations and wish all Honourable Senators every success.

I thank you.”

b) Visiting Delegation I from the Parliament of Zimbabwe

“Honourable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery this afternoon of a visiting delegation from the Parliament of Zimbabwe. The delegation comprises Members of the Thematic Committee on Peace and Security and its staff, who are on a bench-marking visit.

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

1. Hon. Sen. (Dr.) Parirenyatwa David - Chairperson;
2. Hon. Sen. Chimbudzi Alice - Member;
3. Hon. Sen. Khumalo Nomalanga - Member;
4. Hon. Sen. Komichi Morgen - Member;
5. Hon. Sen. Chief Makumbe - Member;
6. Hon. Sen. Mathuthu Themba - Member;
7. Hon. Sen. Mohadi Tambudzai - Member;
8. Ms. Faith Manhivi - Committee Clerk; and
9. Ms. Tapiwa Sukuta - Researcher.

Honourable Senators,

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

I thank you!”

c) Visiting Delegation II from the Parliament of Zimbabwe

“Honourable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery this afternoon of a visiting delegation from the Parliament of Zimbabwe. The delegation is undertaking a bench-marking visit in the Centre for Parliamentary Studies (CPST) and later participate in the 3rd Annual Parliamentary Symposium to be held in Naivasha, Nakuru County from 26th – 27th May, 2023.

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

1. Mr. Kennedy Mugove Chokuda - Clerk of Parliament;
2. Mrs. Nomasonto Audrey Sunga - Deputy Clerk of Parliament;
3. Mr. Stewart Jailos - Chief Director, Human Resources and Administration;
4. Mr. Nesbert Samu - Chief Director, Parliamentary Programmes;
5. Ms. Gladys Pise - Counsel to Parliament; and
6. Mr. Asha Jenje - Director, Clerk’s Office

Honourable Senators,

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

I thank you!”

5. PETITIONS

- i.) Pursuant to Standing Order 236 (2) (b), the Speaker reported to the Senate a Petition by Ms. Ruth W. Kabui and other P1 teachers regarding payment of salary arrears owed to P1 Teachers with ‘A’ Level Academic Qualifications from the year 1996 to the year 2010.

Pursuant to Standing Order 237, the Speaker invited Senators to comment on the Petition and, subsequently, committed the Petition to the Standing Committee on Education for consideration, pursuant to Standing Order 238.

- ii.) Pursuant to Standing Order 236 (2) (a), the Senator for Kiambu County (Sen. Karungo Thang’wa, MP) presented to the Senate a Petition by Mr. Francis Wainaina Njuguna Mbogo concerning alleged forgery, perjury, and Illegal alienation of LR. No. 7153/1, 7153/2, 7153/R also known as L.R 12825.

Pursuant to Standing Order 237, the Speaker invited Senators to comment on the Petition and, subsequently, committed the Petition to the Standing Committee on Land, Environment and Natural Resources for consideration, pursuant to Standing Order 238.

6. **PAPERS LAID**

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

- i.) Report of the Auditor General on the Financial Statements of Iten Municipality for the year ended 30th June, 2020.
- ii.) Report of the Auditor General on the Financial Statements of the Makueni County Sand Conservation and Utilization Authority for the year ended 30th June, 2022.
- iii.) Report of the Auditor General on the Financial Statements of the Matungulu Kangundo Water and Sewerage Company Limited for the year ended 30th June, 2022.
- iv.) Report of the Auditor General on the Financial Statements of the Municipality of Malindi for the year ended 30th June, 2022.
- v.) Report of the Auditor General on the Financial Statements of the Mombasa County Alcoholic Drinks Control Fund for the year ended 30th June, 2022.
- vi.) Report of the Auditor General on the Financial Statements of the County Executive of Mombasa for the year ended 30th June, 2022.
- vii.) Report of the Auditor General on the Financial Statements of the County Assembly of Mombasa for the year ended 30th June, 2022.
- viii.) Report of the Auditor General on the Financial Statements of the Kirandich Water Company Limited for the year ended 30th June, 2022.
- ix.) Report of the Auditor General on the Financial Statements of the Nakuru Rural Water and Sanitation Company Limited for the year ended 30th June, 2022.
- x.) Report of the Auditor General on the Financial Statements of the Nakuru Water and Sanitation Services Company Limited for the year ended 30th June, 2022.
- xi.) Report of the Auditor General on the Financial Statements of the Nawasscoal Company Limited for the year ended 30th June, 2022.
- xii.) Report of the Auditor General on the Financial Statements of the Eldama Ravine Water and Sewerage Company Limited for the year ended 30th June, 2022.

- xiii.) Report of the Auditor General on the Financial Statements of the Central Rift Valley Water Works Development Agency for the year ended 30th June, 2022.
- xiv.) Report of the Auditor General on the Financial Statements of the Receiver of Revenue – County Government of Homabay for the year ended 30th June, 2022.
- xv.) Report of the Auditor General on the Financial Statements of the County Executive of Homabay for the year ended 30th June, 2022.
- xvi.) Report of the Auditor General on the Financial Statements of the County Assembly of Homabay for the year ended 30th June, 2022.
- xvii.) Report of the Auditor-General on the Financial Statements of the County Government of Meru Receiver of Revenue- Revenue Statements for the year ended 30th June, 2022.
- xviii.) Report of the Auditor General on the Financial Statements of the Meru County Investment and Development Corporation for the year ended 30th June, 2022.
- xix.) Report of the Auditor General on the Financial Statements of the Meru Youth Service Board for the year ended 30th June, 2022.
- xx.) Report of the Auditor General on the Financial Statements of the Meru County Assembly Members Car loan and Housing Scheme Fund for the year ended 30th June, 2022.
- xxi.) Report of the Auditor General on the Financial Statements of the Meru Water and Sewerage Services Registered Trustees for the year ended 30th June, 2022.
- xxii.) Report of the Auditor General on the Financial Statements of the County Assembly of Meru Staff Car Loan and Housing Scheme Fund for the year ended 30th June, 2022.
- xxiii.) Report of the Auditor General on the Financial Statements of Kisii County Bursaries Fund for the year ended 30th June, 2022.

(Nominated Senator (Sen. Joyce Korir, MP) on behalf of the Senate Majority Leader)

7. **NOTICE OF MOTION – REGULATION OF ELECTRONIC CIGARETTES IN KENYA**

(Sen. Catherine Mumma, MP)

THAT, AWARE THAT Section 68 (1) (b) of the Health Act, 2017 provides for interventions by the national government to reduce the use of tobacco and

other addictive substances and to counter exposure of children and others to tobacco smoke, and Section 32 of the Tobacco Control Act, 2007 provides for the right of every person to a smoke free environment including the protection from exposure to second-hand smoke;

CONCERNED THAT, while the Tobacco Control Act, defines key terms and covers topics including, but not limited to, restrictions on public smoking, tobacco advertising, promotion and sponsorship, and packaging and labelling of tobacco products, Section 2 of the Act does not contemplate non tobacco products and therefore lacks restrictions on the use, advertising, promotion and sponsorship, or packaging and labelling of synthetic nicotine in the form of e-cigarettes resulting in the increase in popularity and consumption of e-cigarettes among the youth including minor children;

NOW THEREFORE, the Senate resolves that the Ministry of Health should urgently convene an all-inclusive stakeholder forum to:

1. Develop a national policy regulating e-cigarettes and all related elements, including vape pens, e-liquids, flavors and their marketing and advertising in mainstream media as well as social media; and
2. Establish rules to govern the production, sale, advertising, and consumption of synthetic nicotine, and control the illicit trade of counterfeit products.

8. QUESTIONS AND STATEMENTS

Statements pursuant to Standing Order 53(1)

- i.) Nominated Senator (Sen. Raphael Chimera, MP) sought a Statement from the Standing Committee on Land, Environment and Natural Resources concerning the compensation of residents displaced for purposes of expansion of Ukunda Airstrip.
- ii.) Nominated Senator (Sen. Raphael Chimera, MP) sought a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding the ban of “Disco Matanga” in Kwale County.
- iii.) Nominated Senator (Sen. Hamida Kibwana, MP) sought a Statement from the Standing Committee on Finance and Budget regarding withdrawal of Value Added Tax (VAT) obligations on petroleum products and its impact on businesses.

9. THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILLS NO. 16 OF 2023)

(The Chairperson, Standing Committee on Finance and Budget)

(Second Reading)

Order for Second Reading read;

Order deferred.

10. **COMMITTEE OF THE WHOLE**
THE EQUALIZATION FUND APPROPRIATION BILL (SENATE BILLS NO. 3 OF 2023)

(The Chairperson, Standing Committee on Finance and Budget)

Order deferred.

11. **THE PROMPT PAYMENT BILL (SENATE BILLS NO. 8 OF 2022)**

Order read;

Motion made and Question proposed;

THAT, the Prompt Payment Bill (Senate Bills No. 8 of 2022) be now read a Second Time.

(Sen. Mariam Sheikh Omar, MP - 12.04.2023)

Debate interrupted on Wednesday, 12th April, 2023 resumed;

There being no other Senator wishing to contribute;

The Mover replied;

Pursuant to Standing Order 66(3), the Mover (Sen. Mariam Sheikh Omar, MP) requested for the deferment of the putting of the Question to a later date.

And the Temporary Speaker (Sen. Catherine Mumma, MP), acceding to the request, nominated Wednesday, 24th May, 2023, as the day when the Question shall be put.

12. **THE LEARNERS WITH DISABILITIES BILL (SENATE BILLS NO. 4 OF 2023)**

(Sen. (Prof.) Margaret Kamar, MP and Sen. Crystal Asige, MP)

(Second Reading)

Order for Second Reading read;

Order deferred.

13. **THE EMPLOYMENT (AMENDMENT) BILL (SENATE BILLS NO. 11 OF 2022)**

(Sen. Samson Cherarkey, MP)

(Second Reading)

Order for Second Reading read;

Order deferred.

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

(Sen. Maureen Tabitha Mutinda, MP)

(Second Reading)

Order for Second Reading read;

Order deferred.

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

(Sen. Enoch Wambua, MP)

(Second Reading)

Order for Second Reading read;

Order deferred.

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

(Sen. Crystal Asige, MP)

(Second Reading)

Order for Second Reading read;

Order deferred.

17. **THE TEA (AMENDMENT) BILL (SENATE BILLS NO. 1 OF 2023)**

(Sen. Wakili Hillary Sigei, MP)

(Second Reading)

Order for Second Reading read;

Order deferred.

18. **THE KONZA TECHNOPOLIS BILL (SENATE BILLS NO. 2 OF 2023)**

(Sen. Gloria Orwoba, MP)

(Second Reading)

Order for Second Reading read;

Order deferred.

19. **MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS ON A STATEMENT SOUGHT ON THE RELOCATION OF NATIONAL GOVERNMENT ADMINISTRATIVE SERVICES FROM CHUKA TOWN TO KATHWANA COUNTY HEADQUARTERS, THARAKA NITHI COUNTY.**

(The Chairperson, Standing Committee on Devolution and Intergovernmental Relations)

Order read;

THAT, the Senate adopts the Report of the Standing Committee on Devolution and Intergovernmental Relations on a Statement sought on the relocation of National Government administrative services from Chuka town to Kathwana County Headquarters, Tharaka Nithi County laid on the Table of the Senate, on Wednesday 19th April, 2023.

(Resumption of debate interrupted on Wednesday, 3rd May, 2023 - Afternoon Sitting)

Order deferred.

20. **MOTION - COMPENSATION TO THE KENYAN VICTIMS OF THE 1998 BOMBING OF THE UNITED STATES EMBASSY IN NAIROBI**

(Sen. Agnes Kavindu Muthama, MP)

Order read;

THAT, AWARE THAT, disaster is defined as an overwhelming event and circumstance that tests the adaptation of responses of a community or individuals beyond their capability and leads momentarily to massive disruption of function for a community or individual that often exceeds their capacity to cope using existing resources;

FURTHER AWARE THAT, such was the case with the 1998 US Embassy Bomb disaster in Nairobi in which many of the Kenyan casualties resulted from the collapse of adjacent buildings located within a two to three block radius, and with reverberations being felt in most parts of Nairobi that resulted in 213 Kenyans and 12 Americans killed and over 5000 citizens of both countries being seriously injured;

NOTING THAT, US Allies, including Kenya, have endured the great burden of death, and long-term and in many instances permanent, physical and psychological injury;

FURTHER NOTING THAT, the United States Government has since compensated some of the victims and families of US citizens, leaving the families of Kenyan citizens and certain other victims uncompensated;

NOW, THEREFORE, the Senate resolves that the Ministry of Foreign Affairs:

- (i) Advances friendship and co-operation between the United States

and Kenya by supporting the eligibility of Kenyan and American victims and their personal representatives, surviving spouses and next of kin in the Victim Compensation Fund pursuant to the Justice for United States Victims of State Sponsored Terrorism Act; and

- (ii) Partners with the Ministry of Health to explore subsidized medical treatment for the surviving victims of the bomb blast.

(Resumption of debate interrupted on Tuesday, 2nd May, 2023 – Balance of time – 1hr 46mins)

Order deferred.

And there being no other business on the Order Paper, the Temporary Speaker (Sen. Catherine Mumma, MP) adjourned the Senate at twenty-four Minutes past six O'clock without Question put, pursuant to the Standing Orders.

- 21. **SENATE ROSE** – at twenty-four minutes past six O'clock.

MEMORANDUM

*The Speaker will take the Chair on
Wednesday, May 24, 2023 at 9:30 a.m.*