



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (SECOND SESSION)

THE SENATE

VOTES AND PROCEEDINGS

AFTERNOON SITTING

WEDNESDAY, AUGUST 09, 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 Deputy Speaker.

3. **QUORUM IN THE SENATE**

The Deputy 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 minute;

The Deputy Speaker invited the Clerk to call the Orders of the Day.

4. **COMMUNICATIONS FROM THE CHAIR**

The Deputy Speaker conveyed the following Communications from the Chair:

- i) **The Annual General Meeting of the Commonwealth Parliamentary Association (CPA) Kenya Branch**

“Honourable Senators,

As you may recall, on Thursday, 3rd August, 2023, I issued a Communication on the Annual General Meeting of the Commonwealth Parliamentary Association (CPA) Kenya Branch. In the Communication, I stated that an Annual General Meeting of the CPA, Kenya Branch had been convened by the Joint Presidents and was scheduled for Thursday, 10th August, 2023 at 10.00 am in the National Assembly Chamber. This is to bring to the attention of Senators that the time for this meeting has

been rescheduled to 9.00 am on the same day and that the venue remains the same. As I stated in the Communication, the agenda of the meeting will be, among other things, to conduct election of Members of the Executive Committee. The Executive Committee will have the responsibility of steering the Branch towards achieving the objectives of the Association. Kindly note that only duly subscribed Members will be eligible to participate in the election.

Honourable Senators,

I encourage Senators to join the Association, for those who have not done so. The membership forms are available at the Office of the Clerk. I also invite Senators interested to become members of the Executive Committee, to tender their applications for the election to the Executive Committee through a written notification to the Office of the Clerk by close of business today, Wednesday 9th August, 2023.

I thank you.”

ii) **Visiting Delegation from the National Assembly of The Gambia**

“Honourable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery this afternoon, Sergeant-At-Arms and Security Officers from the National Assembly of The Gambia. The officers are in the Senate for benchmarking visit with their counterpart.

I request each officer to stand when called out so that you may be acknowledged in the Senate tradition.

NAME

DESIGNATION

Bakebba Ceesay	-	Serjeant-At-Arms
Momodou Saidu	-	Serjeant-At-Arms
Buba Carr Banjika	-	Security Officer
Amadou B. Jaiteh	-	Security Officer

Honourable Senators,

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

I thank you.”

iii) **Visiting Students and Teachers from Katalel Primary School in Elgeyo Marakwet County**

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, visiting teachers and students from Katalel Primary School. The group comprises six (6) teachers and forty-one (41) students who are in the Senate for a one- day academic exposition.

Honourable Senators,

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.”

5. **PAPERS LAID**

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

- i.) Annual Report of the National Gender and Equality Commission (NGEC) for 2021/2022.
- ii.) Report of the Auditor General on financial statements of the Vihiga County Education Fund for the year ended 30th June, 2022.

(The Deputy Senate Majority Whip)

- iii.) Report of the Committee of Powers and Privileges on the Inquiry, on its own Motion into the Conduct of Senator Gloria Orwoba, MP, and to Establish if the Conduct Constituted Breach of Parliamentary Privilege

*(Sen. Shakila Mohamed, MP, on behalf of the Chairperson,
Committee of Powers and Privileges)*

6. **NOTICE OF MOTION – ADOPTION OF THE REPORT OF THE COMMITTEE OF POWERS AND PRIVILEGES ON THE INQUIRY, ON ITS OWN MOTION, INTO CONDUCT OF SENATOR GLORIA ORWOBA, MP AND TO ESTABLISH IF THE CONDUCT CONSTITUTED BREACH OF PARLIAMENTARY PRIVILEGE**

(Sen. Shakila Mohamed, MP on behalf of the Chairperson, Committee of Powers and Privileges)

THAT, the Senate adopts the Report of the Committee of Powers and Privileges on the inquiry, on its own motion, into conduct of Senator Gloria Orwoba, MP and to establish if the conduct constituted breach of Parliamentary Privilege laid on the Table of the Senate on Wednesday, 9th August, 2023.

7. QUESTIONS AND STATEMENTS

STATEMENTS

a) Pursuant to Standing Order 52(1)

- i.) Nominated Senator (Sen. Esther Okenyuri, MP) made a statement concerning the recovery of the tourism sector in Kenya, post COVID – 19 Pandemic.

In the Statement, the Senator highlighted the importance of the tourism sector in the country. She pointed out that tourism was a significant contributor to the country's Gross Domestic Product (GDP), with the sector contributing 10.4%. The Senator appreciated and congratulated the Ministry of Tourism and other relevant government agencies for their efforts towards reviving the tourism industry.

However, the Senator pointed out that despite the growth trend over the past two years, the growth falls below the pre – COVID -19 pandemic period of 30% of GDP. She pointed out that this called for new approaches and deepening strategies by tourism sector players in order to bring the sector back to the pre COVID 19 levels.

In highlighting one of the new approaches to spurring growth in the tourism sector, the Senator urged fellow Senators to sensitize their constituents on the need protect the environment and wildlife as Kenya's treasured natural heritage. She also called upon the national and county governments to support indigenous efforts by various communities aimed at promotion of tourism, in the context of climate change.

- ii.) The Senator for Narok County (Sen. Ledama Olekina, MP) made a statement regarding the Public Service Superannuation Scheme Act, 2012 (PSSS Act), the Public Service Superannuation Guideline / Handbook published by the National Treasury and Economic Planning, and the Human Resource Policies and Procedure Manual for Public Service of May 2016.

Thereupon, the Senator informed the Senate that the Public Service Superannuation Scheme Act No. 8 of 2012, which was operationalized on 1st January 2021, is geared toward provision of retirement benefit to persons employed in the public service, while the Human Resource Policies and Procedure Manual provides guidelines in the management and development of human resource capacity.

The Senator pointed out that Section (f) of the Manual defines work environment health and safety of public servants, with the responsibility of provision of the benefits being bestowed upon the government. The Senator pointed out that teachers, who form bulk of the public service, have never been provided with the benefits as highlighted in the Manual.

The Senator highlighted that over 4,094 teachers have died since 2016 and that over 30,000 had recorded occupational illnesses and injuries. He noted that the estimated value of compensation that is legally due to teachers is in excess of Kshs. 25 billion.

In conclusion, the Senator called upon the government through the Ministry of Public Service, Gender and Affirmative Action and the National Treasury and Economic Planning, to enforce compliance with the PSSS Act No. 8 of 2012 and the Human Resource and Procedure Manual of May 2016, to address the ballooning compensation dues.

- iii.) Nominated Senator (Sen. Abdullahi Miraj, MP) made a statement concerning the indignity and challenges suffered by women and girls during menstruation.

Thereupon, the Senator underscored the existing societal taboos and shame surrounding menstruation in certain communities. She noted that lack of open dialogue on this matter among certain communities often leads to insufficient information for menstruating girls, which subjects them to teasing and stigma.

She emphasized the urgent need for better access to information, safe menstrual materials, and proper facilities for menstrual hygiene management, observing that many adolescent girls and women struggle to afford sanitary pads. The Senator expressed concern that this vulnerability leads to some engaging in risky behaviour such as sex for money, in order to afford sanitary products.

The Senator also drew the attention of the Senate to the fact that most school-going girls of menstrual age were often absent from school during menstruation due to lack of adequate sanitary materials. She pointed out that this situation disadvantages them over their male counterparts.

The Senator called upon other Senators to support initiatives that provide crucial support, empowerment, and dignity to menstruating girls. She observed that such interventions addressing the challenges that women and girls face and promote sustainable solutions for improved menstrual hygiene, which in turn reduced school dropout rates.

b) Statements pursuant to Standing Order 53(1)

- i.) The Senator for Embu County (Sen. Alexander Mundigi, MP) sought a statement from the Standing Committee on Education regarding the wellbeing of teachers' post-retirement.
- ii.) The Senator for Elgeyo Marakwet County (Sen. William Kisang', MP) sought a statement from the Standing Committee on Finance and Budget regarding payments made to Garbage Collectors and Sewerage Service providers by all counties for the financial year 2021/2022, 2022/2023 and 2023/2024.
- iii.) The Senator for Nairobi City County (Sen. Edwin Sifuna, MP) sought a statement from the Standing Committee on Land, Environment and Natural Resources concerning attempts to grab land occupied by Kimathi Primary School in Kamukunji Constituency.
- iv.) The Senator for Taita Taveta County (Sen. Johnes Mwaruma, MP) sought a statement from the Standing Committee on Land, Environment and Natural Resources regarding the transfer of land ownership under Voi Point Limited to the local community in Mkamenyi village.
- v.) The Senator for Taita Taveta County (Sen. Johnes Mwaruma, MP) sought a statement from the Standing Committee on Labour and Social Welfare concerning the rationale for instituting mandatory National Social Security Fund (NSSF) deductions on members of various superannuation schemes.
- vi.) The Senator for Nandi County (Sen. Samson Cherarkey, MP) sought a statement from the Standing Committee on Finance and Budget regarding the concerns of high interest charged on loans offered by Momentum Credit Limited.
- vii.) Nominated Senator (Sen. Raphael Chimera, MP) sought a statement from the Standing Committee on Labour and Social Welfare regarding payment of Imams in Kenya.

c) Pursuant to Standing Order 56(1) (b)

- i.) The Chairperson, Select Committee on Delegated Legislation made a statement relating to the activities of the Committee for the period April to June, 2023.
- ii.) The Chairperson, Ad-Hoc Committee on the Compensation to the Kenyan Victims of the 1998 Bombing of the United States of America Embassy in Nairobi made a statement relating to the

activities of the Committee for the period commencing 29th June, 2023 to Monday, 7th August, 2023.

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

(Sen. Mariam Sheikh Omar, MP)

(Second Reading)

(Resumption of debate interrupted on Tuesday, 23rd May, 2023)

(Division)

Order deferred.

9. **THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 16 OF 2023)**

(The Senate Majority Leader)

(Second Reading)

(Resumption of debate interrupted on Tuesday, 8th August, 2023)

(Division)

Order deferred.

10. **THE EQUALIZATION FUND (ADMINISTRATION) BILL (SENATE BILLS NO. 14 OF 2023)**

Order read;

Motion made and Question proposed;

THAT, the Equalization Fund (Administration) Bill (Senate Bills No. 14 of 2023) be now read a Second Time.

(The Chairperson, Standing Committee on Finance and Budget – 03.08.2023)

Debate interrupted on Thursday, 3rd August, 2023 resumed;

There being no other Senator wishing to contribute;

Mover replied;

Pursuant to Standing Order 66(3), the Mover requested for the Speaker to defer putting of the Question to a later date.

And the Temporary Speaker (Sen. Veronica Maina, MP), acceding to the request, nominated deferred putting of the Question to a later date.

Clause 27

Motion Made and Question proposed;

THAT, Clause 27 be part of the Bill.

(Sen. (Prof.) Margaret Kamar, MP)

Clauses 27

-vote deferred

Clause 28

-amendment proposed

THAT the Bill be amended by deleting clause 28 and substituting therefor the following new clause –

Traini
ng of
auxili
ary
staff.

28. Every special need education institution shall ensure that its auxiliary staff and any person providing special needs services within its premises are qualified in their special areas.

(The Vice Chairperson, Standing Committee on Education)

Clause 28

-vote deferred

Clause 29

-amendment proposed

THAT clause 29 of the Bill be amended in paragraph (a) by deleting the word “fast” appearing immediately after the words “the redress of” and substituting therefor the word “vast”.

(The Vice-Chairperson, Standing Committee on Education)

Clause 29

-vote deferred

Clause 30

-amendment proposed

THAT clause 30 of the Bill be amended in subclause (4) by deleting the words “The board of management of a special education” appearing at the beginning of the clause and substituting therefor the words “The governing body of a special needs educational institution”.

(The Vice-Chairperson, Standing Committee on Education)

Clause 30

-vote deferred

Clauses 31, 32, 33 and 34

Motion Made and Question proposed;

THAT, Clauses 31, 32, 33 and 34 be part of the Bill.

(Sen. (Prof.) Margaret Kamar, MP)

Clauses 31, 32, 33 and 34 -vote deferred

Clause 35 -amendment proposed

THAT clause 35 of the Bill be amended in subclause (1) by deleting the word “education” appearing immediately after the words “of the special” in paragraph (c) and substituting therefor the words “needs educational”.

(The Vice-Chairperson, Standing Committee on Education)

Clause 35 -vote deferred

Clauses 36, 37 and 38

Motion Made and Question proposed;

THAT, Clauses 36, 37, and 38 be part of the Bill.

(Sen. (Prof.) Margaret Kamar, MP)

Clauses 36, 37 and 38 -vote deferred

Clause 39 -amendment proposed

THAT clause 39 of the Bill be amended in subclause (1) by deleting the word “education” appearing immediately after the words “public special” and substituting therefor the words “needs educational”.

(The Vice-Chairperson, Standing Committee on Education)

Clause 39 -vote deferred

Clause 40

Motion Made and Question proposed;

THAT, Clause 40 be part of the Bill.

(Sen. (Prof.) Margaret Kamar, MP)

Clause 40 -vote deferred

Clause 41 -amendment proposed

THAT clause 41 of the Bill be amended by –

No. 29 Training Act, the Universities Act or any other
of Act of Parliament; and
2013.
No. 42
of
2012.

“Reasonable accommodation” means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure learners with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;

(The Vice-Chairperson, Standing Committee on Education)

Clause 2 -vote deferred

The Title and Clause 1

Motion Made and Question proposed;

THAT, the Title and Clause 1 be part of the Bill.

(Sen. (Prof.) Margaret Kamar, MP)

The Title and Clause 1 -vote deferred

Progress Report

Motion made: -

THAT, the Committee of the Whole House do report to the Senate, its consideration of the Learners with Disabilities Bill (Senate Bills No. 4 of 2023) and seek leave to sit again tomorrow;

(Sen. (Prof.) Margaret Kamar, MP)

Before the Question was put and pursuant to Standing Order 84 (1), the Acting Chairperson (Sen. Catherine Mumma, MP) ruled that the Question does not affect counties;

Question put and agreed to.

12. **THE HOUSE RESUMED** – (The Temporary Speaker - (Sen. Veronica Maina, MP) - in the Chair

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

Progress reported;

Motion made and Question proposed: -

THAT, the Senate do agree with the Committee of the Whole in the said report.

(Sen. (Prof.) Margaret Kamar, MP)

There being no Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 84 (1), the Temporary Speaker (Sen. Veronica Maina, MP) ruled that the Motion does not affect counties.

Question put and agreed to.

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

(Sen. Maureen Tabitha Mutinda, MP)

Order deferred.

15. **COMMITTEE OF THE WHOLE**
THE START-UP BILL (SENATE BILLS NO. 14 OF 2022)

(Sen. Crystal Asige, MP)

Order deferred.

16. **COMMITTEE OF THE WHOLE**
THE MUNG BEANS BILL (SENATE BILLS NO. 13 OF 2022)

(Sen. Enoch Wambua, MP)

Order deferred.

17. **COMMITTEE OF THE WHOLE**
THE PERSONS WITH DISABILITIES BILL (SENATE BILLS NO. 7 OF 2023)

(Sen. Crystal Asige, MP)

Order deferred.

18. **COMMITTEE OF THE WHOLE**
THE COUNTY LICENSING (UNIFORM PROCEDURE) BILL (SENATE BILLS
NO. 9 OF 2022)

(Sen. Mariam Sheikh Omar, MP)

Order deferred.

19. **THE COFFEE BILL (SENATE BILLS NO. 10 OF 2023)**

(The Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)

(Second Reading)

Order deferred.

20. **THE PREVENTION OF LIVESTOCK AND PRODUCE THEFT BILL (SENATE BILLS NO.12 OF 2023)**

(Sen. Samson Cherarkey, MP)

(Second Reading)

Order deferred.

21. **MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON HEALTH ON THE DEATH OF THE LATE EDWARD OTIENO ONYANGO DUE TO ALLEGED MEDICAL NEGLIGENCE**

(The Chairperson, Standing Committee on Health)

THAT, the Senate adopts the Report of the Standing Committee on Health on inquiry into the death of Late Edward Otieno Onyango, due to alleged medical negligence, laid on the table of the Senate on Wednesday, 31st May, 2023.

Order deferred.

22. **MOTION- ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON HEALTH ON THE DEATH OF THE LATE MAUREEN ANYANGO AT MAMA LUCY KIBAKI HOSPITAL DUE TO ALLEGED MEDICAL NEGLIGENCE**

(The Chairperson, Standing Committee on Health)

THAT, the Senate adopts the Report of the Standing Committee on Health on inquiry into the death of the late Maureen Anyango at Mama Lucy Kibaki Hospital due to alleged medical negligence, laid on the table of the Senate on Wednesday, 31st May, 2023.

Order deferred.

23. **MOTION- ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON HEALTH ON THE CIRCUMSTANCES THAT LED TO THE DEATH OF THE LATE MASTER TRAVIS MAINA AT KENYATTA NATIONAL HOSPITAL**

(The Chairperson, Standing Committee on Health)

THAT, the Senate adopts the Report of the Standing Committee on Health on inquiry into the circumstances that led to the death of the late Master Travis Maina at Kenyatta National Hospital, laid on the table of the Senate on Wednesday, 31st May, 2023.

Order deferred.

24. **MOTION - REPORT OF THE 146TH ASSEMBLY OF THE INTER - PARLIAMENTARY UNION (IPU) AND RELATED MEETINGS HELD IN MANAMA, KINGDOM OF BAHRAIN FROM 11TH TO 15TH MARCH, 2023**
(Sen. Kathuri Murungi, MP)

THAT, the Senate notes the Report of the 146th Assembly of the Inter-Parliamentary Union (IPU) and Related Meetings, held in Manama, Kingdom of Bahrain, from 11th to 15th March, 2023, laid on the Table of the Senate on Tuesday 2nd May, 2023.

Order deferred.

And there being no other business on the Order Paper, the Temporary Speaker (Sen. Veronica Maina, MP) adjourned the Senate at forty-two minutes past Five O'clock without Question put, pursuant to the Standing Orders.

25. **SENATE ROSE** - at forty-two minutes past Five O'clock.

MEMORANDUM

*The Speaker will take the Chair on
Thursday, August 10, 2023, at 2:30 p.m.*