



**REPUBLIC OF KENYA**

**ELEVENTH PARLIAMENT – FOURTH SESSION**

**THE SENATE**

**VOTES AND PROCEEDINGS**

**SPECIAL SITTING**

**FRIDAY, AUGUST 05, 2016 AT 9.30 A.M**

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

The Speaker conveyed the following Communication from the Chair-

“Honourable Senators, I wish to welcome you back a few days after the commencement of our August recess and thank you for finding time to attend this Special Sitting of the Senate. I am certain that each one of you has a loaded schedule of events at your respective counties and I am sure it is because of the value you attach to the business of the Senate, especially the consideration of key business such as the County Government’s Cash Disbursement Schedule, that you have created time to be here to dispose of today.

Honourable Senators, the County Government’s Cash Disbursement Schedule for the Financial Year 2016/2017 was sent to us by the National Treasury and received on Friday, 29th July, 2016 after we had adjourned for the August recess. Consequently Honourable Senators, considering the need to approve the Schedule to enable disbursement of the much needed financial resources to the county governments and the need to conclude consideration of Bills awaiting Divisions at various stages, the Majority Leader, pursuant to standing order 29 (1) of the Senate Standing Orders, requested the Speaker to appoint a day for a Special Sitting of the Senate to consider the County Government’s Cash Disbursement Schedule for the Financial Year 2016/2017 and other urgent business pending before the Senate. The request which was made vide letter Ref. SML/GEN./CORR/VOL.1 (204), dated 2nd August, 2016 was supported by fifteen (15) Senators.

Honourable Senators may wish to note that urgent business currently pending before the Senate, includes the three Mediation Committee reports on very crucial Bills, two of which are subject to August 27, 2016 constitutional timeline and several Bills pending Division either at the Second Reading stage or at Committee of the Whole.

Honourable Senators, following consideration of the request by the Senate Majority Leader, I was satisfied that it met the requirements of Standing Order 29 (2). It is in this respect that I convened this Special Sitting of the Senate, by Gazette Notice No. 5987 dated 2nd August, 2016, which was carried in a Special Issue of the Gazette of 3rd August, 2016.

Honourable Senators, as required by Standing Order 29 (5), the Notice specified the business to be transacted at this sitting and it is the business scheduled in today's Order Paper. Indeed, as specified in the Gazette Notice and in accordance with standing order 29(5) of the Senate Standing Orders, the business specified in the Notice shall be the only business before the Senate during this Special Sitting, following which the Senate shall stand adjourned until Tuesday, 13th September, 2016 at 2:30 p.m. in accordance with the Senate Calendar.

Honourable Senators, it is noteworthy, and I wish to emphasize that in accordance with Article 123 of the Constitution and standing order 71, for the Senate to approve business scheduled at Orders 4 to 10 and 12 to 18, a majority of delegations (that is 24 delegations) are required to vote. Further, Order 11, which relate to a constitutional amendment, requires a special majority of two thirds of all Senators to pass pursuant to Article 256(1)(d) of the Constitution. I therefore urge you all to remain in the Chamber for the transaction of this important business as scheduled in the Order Paper.

I thank you."

4. **MESSAGE FROM THE NATIONAL ASSEMBLY ON THE DECISION OF THE NATIONAL ASSEMBLY ON SENATE AMENDMENTS TO THE NATURAL RESOURCES (CLASSES OF TRANSACTIONS SUBJECT TO RATIFICATION) BILL (NATIONAL ASSEMBLY BILL NO. 54 OF 2015) AND THE FOREST CONSERVATION AND MANAGEMENT BILL (NATIONAL ASSEMBLY BILL NO. 49 OF 2015)**

The Speaker conveyed the following Message from the National Assembly-

"Honourable Senators, I wish to report to the Senate that, pursuant to Standing Order 40 (3) and (4), I have received the following message from the Speaker of the National Assembly regarding the decision of the National Assembly on Senate amendments to the Natural Resources (Classes of Transactions Subject to Ratification) Bill (National Assembly Bill No. 54 of 2015) and the Forest Conservation and Management Bill (National Assembly Bill No. 49 of 2015)-

*“PURSUANT to the provisions of standing orders 41 and 142 of the National Assembly Standing Orders, I hereby convey the following message from the National Assembly-*

*WHEREAS the Natural Resources (Classes of Transactions Subject to Ratification) Bill (National Assembly Bill No. 54 of 2015) was published vide the Kenya Gazette Supplement No. 139 of 18<sup>th</sup> August, 2015 to give effect to the provisions of Article 71 of the Constitution by providing for classes of transactions subject to ratification;*

*WHEREAS the Forest Conservation and Management Bill (National Assembly Bill No. 49 of 2015) was published vide the Kenya Gazette Supplement No. 133 of 11<sup>th</sup> August, 2015 to give effect to the provisions of Article 69 of the Constitution with regard to Conservation and Management of forest resources and to repeal the Forest Act, 2005;*

*WHEREAS, the two Bills were passed by the National Assembly on Wednesday, 9<sup>th</sup> March, 2016 and Thursday, 17<sup>th</sup> March, 2016 respectively and referred to the Senate for concurrence;*

*AND WHEREAS, the Senate amendments to the said Bills were received on Tuesday, 19<sup>th</sup> July, 2016 and considered on Tuesday, 2<sup>nd</sup> and Wednesday, 3<sup>rd</sup> August, 2016;*

*FURTHER WHEREAS, the National Assembly agreed with the Senate’s amendments to several clauses of the Bills, save for the amendments to the New Clause 9A of the Natural Resources (Classes of Transactions Subject to Ratification) Bill (National Assembly Bill No. 54 of 2015) and clauses 9, 72, 75, 77 and the Third Schedule of the Forest Conservation and Management Bill (National Assembly Bill No. 49 of 2015);*

*NOW THEREFORE, in accordance with the provisions of Article 112 of the Constitution and Standing Order 149 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate and seek the appointment of Senators to the Mediation Committee in respect of the said Bills.”*

Honourable Senators,

Article 112(1) (b) of the Constitution provides that if one House passes an ordinary Bill concerning counties and the second House passes the Bill in an amended form, it shall be referred back to the originating House for reconsideration. Further, Article 112(2) (b) of the Constitution provides that if after the originating House has reconsidered a Bill referred back to it under clause (1) (b), that House rejects the Bill as amended, the Bill shall be referred to a Mediation Committee under Article 113.

Honourable Senators, in the circumstances, I concur with the Speaker of the National Assembly to form a Mediation Committee in accordance with Article 112(2) (b) and 113 of the Constitution.

In this regard, Hon. Senators, I have received communication from the National Assembly that the Speaker of the National Assembly has appointed the following Members to represent the Assembly in the Mediation Committee that will attempt to develop a version of the Bills that both Houses will pass-

1. The Hon. Halima Abdalla, MP;
2. The Hon. Joyce Emanikor, MP; and
3. The Hon. (Dr.) Wilbur Otichillo, MP.

Similarly Hon. Senators, I hereby nominate the following Senators to represent the Senate in the Mediation Committee-

- 1) Sen. Lenny Kivuti, MP;
- 2) Sen. George Khaniri, MP; and
- 3) Sen. Liza Chelule, MP.

I thank you.”

5. **PAPER LAID**

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

The County Governments’ Cash Disbursement Schedule for the Financial Year 2016/2017 for the period July, 2016 to June, 2017

*(Sen. (Dr.) Machage on behalf of the Chairperson, Standing Committee on Finance, Commerce and Budget)*

6. **MOTION – APPROVAL OF THE COUNTY GOVERNMENTS’ CASH DISBURSEMENT SCHEDULE FOR THE FINANCIAL YEAR 2016/2017 FOR THE PERIOD JULY, 2016 TO JUNE, 2017**

Motion made and Question proposed;

**THAT**, pursuant to section 17 of the Public Finance Management Act (No. 18 of 2012), the Senate approves the County Government’s Cash Disbursement Schedule for the Financial Year 2016/2017 for the period July, 2016 to June, 2017 laid on the Table of the Senate on Friday, 5<sup>th</sup> August, 2016.

*(Sen. (Dr.) Machage on behalf of the Chairperson of the Standing Committee on Finance, Commerce and Budget)*

Debate arising;

There being no other Senator wishing to contribute;

Mover replied;

Before the Question was put and pursuant to Standing Order No. 72, the Deputy Speaker informed the Senate that the Motion affected counties and voting would be by Delegations;

Raising a point of order, the Senator for Migori County (Sen. (Dr.) Machage) requested for deferment of putting of the Question to a later date, pursuant to Standing Order No. 54 (3).

And the Deputy Speaker, acceding to the request, deferred putting of the Question to a later date.

7. **MOTION – ADOPTION OF THE REPORT OF THE MEDIATION COMMITTEE ON THE COMMUNITY LAND BILL (NATIONAL ASSEMBLY BILL NO. 45 OF 2015)**

**THAT**, the Senate adopts the Report of the Mediation Committee on the Community Land Bill (National Assembly Bills No. 45 of 2015) laid on the Table of the Senate on Wednesday, 27<sup>th</sup> July, 2016 and pursuant to Article 113 of the Constitution and standing order 155 (3) of the Senate Standing Orders, approves the mediated version of the Bill.

*(The Chairperson, Mediation Committee)*

*(Resumption of Debate interrupted on Thursday, 28<sup>th</sup> July, 2016)  
(Division)*

Order deferred.

8. **MOTION – ADOPTION OF THE REPORT OF THE MEDIATION COMMITTEE ON THE LAND LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 55 OF 2015)**

**THAT**, the Senate adopts the Report of the Mediation Committee on the Land Laws (Amendment) Bill (National Assembly Bills No. 55 of 2015) laid on the Table of the Senate on Wednesday, 27<sup>th</sup> July, 2016 and pursuant to Article 113 of the Constitution and standing order 155 (3) of the Senate Standing Orders, approves the mediated version of the Bill.

*(The Chairperson, Mediation Committee)*

*(Resumption of Debate interrupted on Thursday, 28<sup>th</sup> July, 2016)  
(Division)*

Order deferred.

9. **MOTION – ADOPTION OF THE REPORT OF THE MEDIATION COMMITTEE ON THE WATER BILL (NATIONAL ASSEMBLY BILL NO. 7 OF 2014)**

**THAT**, the Senate adopts the Report of the Mediation Committee on the Water Bill (National Assembly Bills No. 7 of 2014) laid on the Table of the Senate on Wednesday, 27<sup>th</sup> July, 2016 and pursuant to Article 113 of the Constitution and standing order 155 (3) of the Senate Standing Orders, approves the mediated version of the Bill.

*(The Chairperson, Mediation Committee)*

*(Resumption of Debate interrupted on Thursday, 28<sup>th</sup> July, 2016)*  
*(Division)*

Order deferred.

10. **THE PHYSICAL PLANNING BILL (NATIONAL ASSEMBLY BILLS NO. 46 OF 2015)**

(The Senate Majority Leader)

*(Second Reading)*

*(Resumption of Debate interrupted on Thursday, 28<sup>th</sup> July, 2016)*  
*(Division)*

Order deferred.

11. **THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILL NO. 21 OF 2015)**

(Sen. (Prof.) John Lonyangapuo)

*(Second Reading)*

*(Resumption of Debate interrupted on Wednesday, 20<sup>th</sup> July, 2016)*  
*(Division)*

Order deferred.

12. **THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT) BILL (SENATE BILL NO. 9 OF 2015)**

(Sen. Martha Wangari)

*(Second Reading)*

*(Resumption of Debate interrupted on Wednesday, 20<sup>th</sup> July, 2016)*  
*(Division)*

Order deferred.

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

(Sen. Judith Sijeny)

*(Second Reading)*

*(Resumption of Debate interrupted on Tuesday, 26<sup>th</sup> July, 2016)*  
*(Division)*

Order deferred.

14. **THE KENYA MEDICAL SUPPLIES AUTHORITY (AMENDMENT) BILL (SENATE BILL NO. 4 OF 2014)**

(The Senate Majority Leader)

*(Second Reading)*

*(Resumption of Debate interrupted on Tuesday, 26<sup>th</sup> July, 2016)*

*(Division)*

Order deferred.

15. **THE PARLIAMENTARY POWERS AND PRIVILEGES BILL (NATIONAL ASSEMBLY BILL NO. 35 OF 2014)**

(The Senate Majority Leader)

*(Second Reading)*

*(Resumption of Debate interrupted on Tuesday, 26<sup>th</sup> July, 2016)*

*(Division)*

Order deferred.

16. **THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILL NO. 4 OF 2016)**

(Sen. Daniel Karaba)

*(Second Reading)*

*(Resumption of Debate interrupted on Wednesday, 20<sup>th</sup> July, 2016)*

*(Division)*

Order deferred.

17. **COMMITTEE OF THE WHOLE THE REPRODUCTIVE HEALTH CARE BILL (SENATE BILL NO. 17 OF 2014)**

(Sen. Judith Sijeny)

*(Resumption of Debate interrupted on Tuesday, 19<sup>th</sup> July, 2016)*

*(Division)*

Order deferred.

18. **COMMITTEE OF THE WHOLE THE COUNTY OUTDOOR ADVERTISING CONTROL BILL (SENATE BILL NO. 11 OF 2015)**

(Sen. Mutula Kilonzo Jnr.)

*(Resumption of Debate interrupted on Tuesday, 19<sup>th</sup> July, 2016)*

*(Division)*

Order deferred.

19. **COMMITTEE OF THE WHOLE THE COUNTY OUTDOOR ADVERTISING CONTROL BILL (SENATE BILL NO. 11 OF 2015)**

(Sen. Martha Wangari)

*(Resumption of Debate interrupted on Thursday, 21<sup>st</sup> July, 2016)*

*(Division)*

Order deferred.

20. **COMMITTEE OF THE WHOLE**  
**THE EMPLOYMENT (AMENDMENT) BILL (SENATE BILL NO. 1 OF 2015)**  
(Sen. Martha Wangari)

*(Resumption of Debate interrupted on Thursday, 21<sup>st</sup> July, 2016)*  
*(Division)*

Order deferred.

21. **COMMITTEE OF THE WHOLE**  
**THE COUNTY LIBRARY SERVICES BILL (SENATE BILL NO. 6 OF 2015)**  
(Sen. Joy Gwendu)

*(Resumption of Debate interrupted on Thursday, 21<sup>st</sup> July, 2016)*  
*(Division)*

Order deferred.

And there being no other business on the Order Paper, the Deputy Speaker adjourned the Senate at twenty minutes past twelve O'clock without Question put, pursuant to the Standing Orders.

22. **SENATE ROSE** – at twenty minutes past Twelve O'clock.

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

*The Speaker will take the Chair on*  
*Tuesday, September 13, 2016 at 2.30 p.m.*

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