



REPUBLIC OF KENYA

TWELFTH PARLIAMENT - THIRD SESSION

THE SENATE

VOTES AND PROCEEDINGS

WEDNESDAY, MARCH 20, 2019 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. COMMUNICATIONS FROM THE CHAIR

The Speaker conveyed the following Communications from the Chair: -

a) On a visiting delegation from the County Assembly of Vihiga

"Honourable Senators,

I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of a visiting delegation from the Vihiga County Assembly, Members of the Committee on delegated legislation.

I request each member of the delegation to stand when called out so that they may be acknowledged in the Senate tradition.

They are:

- |     |                        |   |                |
|-----|------------------------|---|----------------|
| 1.  | Hon. Elizabeth Muhonja | - | Chair          |
| 2.  | Hon. Nixon Butiya      | - | Deputy Speaker |
| 3.  | Hon. Calystus Ayodi    | - | Member         |
| 4.  | Hon. Elisha Amara      | - | Member         |
| 5.  | Hon. Jackline Mwenesi  | - | Member         |
| 6.  | Hon. Sally Inonda      | - | Member         |
| 7.  | Hon. Lucy Kemunto      | - | Member         |
| 8.  | Hon. Stanly Kasiera    | - | Member         |
| 9.  | Hon. Joseph Alukhutsa  | - | Member         |
| 10. | Hon. Violet Bagada     | - | Member         |
| 11. | Hon. Patrick Akhwale   | - | Member         |
| 12. | Hon. Stephen Mugalizi  | - | Member         |
| 13. | Hon. Edwin Kutai       | - | Member         |
| 14. | Ms. Raychell Syamba    |   |                |

15. Ms. Mary Olere
16. Mr. Joseph Binzu
17. Mr. Hilary Ano

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."

b) **On visiting students from the University of Nairobi, Institute of Diplomacy and International Studies**

"Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students from the University of Nairobi's Institute of Diplomacy and International Studies, Nairobi County.

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

I thank you."

c) **On visiting staff and resource persons from various international institutions**

"Honourable Senators,

I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, visiting staff and resource persons from various States Parliaments attending the Inaugural Africa Parliamentary Researchers Conference.

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

They are:

1. Mr. Wolfgang Hiller -Director European Parliamentary Research Service (Brussel -Germany)
2. Mr. Mark Quiner – National Conference of State Legislature, USA
3. Mr. John Power, Director Pris-Northern Ireland Assembly -UK

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. MESSAGE FROM HIS EXCELLENCY THE PRESIDENT ON THE NOMINATION OF MR. HILARY NZIOKI MUTYAMBAI FOR APPOINTMENT TO THE POSITION OF INSPECTOR-GENERAL OF THE NATIONAL POLICE SERVICE

The Speaker conveyed the following Message from the His Excellency the President of the Republic of Kenya –

“Honourable Senators,

Pursuant to the provisions of Standing Order 42(1) of the Senate, I wish to convey a Message from H.E the President requesting Parliament to approve Mr. Hilary Nzioki Mutyambai for appointment as the Inspector-General of the National Police Service. In the Message, H.E. the President conveys that, in exercise of powers vested in him under Article 245(2)(a) of the Constitution and section 12(2) of the National Police Service Act, he nominates Mr. Hilary Nzioki Mutyambai for appointment to the position of the Inspector General of Police.

Honourable Senators, Article 245(2)(a) of the Constitution states-

*“The Inspector-General is appointed by the President with the Approval of Parliament.”*

Further, section 12 of the National Police Service Act (No. 11A of 2011) as amended by section 11 of the National Police Service (Amendment) Act, 2014 and further amendment by section 86 of the Security Laws (Amendment) Act, 2014 states, and I quote:

*“12(1) Pursuant to Article 245(2)(a) of the Constitution, the Inspector-General of the Service shall be appointed by the President with the approval of Parliament.  
(2) The President shall, within fourteen days after a vacancy occurs in the office of the Inspector- General, nominate a person for appointment as an Inspector-General and submit the name of the nominee to Parliament”*

Honourable Senators,

Section 8 (1) of the Public Appointments Parliamentary Approval Act, 2011 states-

*“Unless otherwise provided in any law, a Committee shall consider a nomination and Table its Report in the relevant House for debate and decision within 14 days from the date on which the notification of the nomination was given in accordance with Section 5”.*

Section 9 of the Act further states-

*‘If after the expiry of the period for consideration specified in Section 8, Parliament has neither approved nor rejected nomination of a candidate, the candidate shall be deemed to have been approved’.*

Honourable Senators,

This not being the first time Parliament is being requested to approve a nominee to the office of the Inspector General of the National Police Service, the matter will be considered by the relevant committees in the Senate and in the National Assembly.

This Message therefore, together with the résumé of the nominee stands committed to the Standing Committee on National Security, Defence and Foreign Relations of the Senate, sitting jointly with the Departmental Committee on Administration and National Security of the National Assembly.

The Committees are urged to move with speed putting to perspective the given time lines. The Committees should Table the joint Report on or before Tuesday, 2<sup>nd</sup> April, 2019 to enable the Houses of Parliament to dispose of the matter.

I thank you."

## 5. PAPERS

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

- a) Report of the Auditor-General on the Financial Statements of Elgeyo Marakwet County Assembly for the Year ended 30<sup>th</sup> June 2018;
- b) Report of the Auditor-General on the Financial Statements of Vihiga County Assembly for the Year ended 30<sup>th</sup> June 2018;
- c) Report of the Auditor-General on the Financial Statements of West Pokot County Assembly for the Year ended 30<sup>th</sup> June 2018;
- d) Report of the Auditor-General on the Financial Statements of Uasin Gishu County Assembly for the Year ended 30<sup>th</sup> June 2018;
- e) Report of the Auditor-General on the Financial Statements of Nandi County Assembly for the Year ended 30<sup>th</sup> June 2018;
- f) Report of the Auditor-General on the Financial Statements of Kiambu County Assembly for the Year ended 30<sup>th</sup> June 2018;
- g) Report of the Auditor-General on the Financial Statements of Nairobi City County Assembly for the Year ended 30<sup>th</sup> June 2018;
- h) Report of the Auditor-General on the Financial Statements of County Assembly of Mandera for the Year ended 30<sup>th</sup> June 2018;
- i) Report of the Auditor-General on the Financial Statements of County Assembly of Kajiado for the Year ended 30<sup>th</sup> June 2018;
- j) Report of the Auditor-General on the Financial Statements of County Assembly of Wajir for the Year ended 30<sup>th</sup> June 2018;
- k) Report of the Auditor-General on the Financial Statements of County Assembly of Murang'a for the Year ended 30<sup>th</sup> June 2018;

- l) Report of the Auditor-General on the Financial Statements County Assembly of Samburu for the Year ended 30<sup>th</sup> June 2018;
- m) Report of the Auditor-General on the Financial Statements of County Assembly of Migori for the Year ended 30<sup>th</sup> June 2018;
- n) Report of the Auditor-General on the Financial Statements of County Assembly of Laikipia for the Year ended 30<sup>th</sup> June 2018;
- o) Report of the Auditor-General on the Financial Statements of County Assembly of Kisii for the Year ended 30<sup>th</sup> June 2018;
- p) Report of the Auditor-General on the Financial Statements of County Assembly of Nyamira for the Year ended 30<sup>th</sup> June 2018;
- q) Report of the Auditor-General on the Financial Statements of County Assembly of Lamu for the Year ended 30<sup>th</sup> June 2018; and
- r) Report of the Auditor-General on the Financial Statements of County Assembly of Garissa for the Year ended 30<sup>th</sup> June 2018;
- s) Report of the Auditor-General on the Financial Statements of County Assembly of Trans Nzoia for the Year ended 30<sup>th</sup> June 2018;
- t) Report of the Auditor-General on the Financial Statements of County Assembly of Makueni for the Year ended 30<sup>th</sup> June 2018;

*(The Senate Majority Leader)*

6. **NOTICE OF MOTION** – (Sen. Charles Reubenson Kibiru, MP)

**THAT, AWARE THAT** Kenya has had a development blueprint of Vision 2030 since 2008 which has guided planning and development for the last decade, with a focus to making Kenya an industrialized middle income economy with a higher per capita income for its citizens;

**FURTHER AWARE THAT**, the development planning of the country is funded from the Consolidated Fund through the annual budget whereby revenues generated by Kenyans through taxes, levies, and fees that are supplemented with support of development partners in the form of outright loans, conditional loans, grants and/or unconditional grants to support growth and development across the country;

**COGNIZANT THAT**, any diversion from the Vision 2030 blueprint as well as the President's "Big Four" Agenda, would negatively impact the development trajectory that seeks to ensure a long term microeconomic stability resulting in a revision of targets on the goals for socio-economic, cultural, environmental, technological and political transformation;

**NOTING THAT**, whereas the National Government's Budget is based on Vision 2030 and "Big Four" Agenda, the County Governments' Budgets are

based on their respective County Integrated Development Plans, (CIDPs) which are expected to dovetail with the overall national development blueprint;

**CONCERNED THAT**, there are glaring discrepancies in progress made in development among counties, particularly among the 14 devolved functions caused by lack of accountability, integrity, professionalism and remaining a blemish on the successes of devolution;

**ACKNOWLEDGING**, the tribulations, ridicule, pecuniary embarrassment and negative socio-economic impact that pending bills have had on the local business community who supplied or undertook a service for the county governments, and the attendant slowdown in actual project completion, the rise in stalled projects dotting counties, with County Governors prioritizing new projects instead of the completion of those which have stalled;

**FURTHER ACKNOWLEDGING THAT**, the National Treasury in its circular No. 9/2018 detailed the five hundred and forty five (545) projects which have stalled in the 47 Counties, and their status of completion, collectively amounting to an estimated project cost of three hundred and sixty six (366) Billion Kenya shillings;

**NOW, THEREFORE**, the Senate recommends that the National Treasury in partnership with the Controller of Budget, Commission on Revenue Allocation, the Council of Governors and the County Assemblies Forum to-

1. Ensure that all the County Integrated Development Plans (CIDP's) and Annual Development Plans (ADP's) are aligned to Vision 2030 with an implementation, monitoring, and evaluation framework in place;
2. Address Pending Bills by prioritizing their payment, creating clear timeframes for payment and publishing a schedule of payment of the same; and
3. Prioritize the completion of stalled development projects prior to undertaking or funding new projects.

## 7. STATEMENTS

### a) **Statements Pursuant to Standing Order No. 47 (1)**

- i) Nominated Senator (Sen. (Dr.) Agnes Zani, MP) made a statement on an issue of National concern on the 2019 Gross County Product Report.

The Senator brought to the attention of the Senate the first official county Gross Domestic Product (GDP) estimates also referred to as Gross County Product (GCP) report on the economic status of counties which was released on Wednesday February 13<sup>th</sup> 2019 by the Kenya National Bureau of Statistics (KNBS).

She stated that the report had brought to the fore glaring inequalities across the country and the consequent need for active responses and remedies. The Senator pointed out that the report demonstrated that devolution, which was intended to create equality through equitable distribution of resources, was yet to realize the desired goals.

In conclusion the Senator urged the Standing Committee on Finance and Budget to direct the Ministry of Devolution and Planning, in conjunction with the Kenya National Bureau of Statistics,

- a) to table the County Gross Product report in the Senate;
  - b) table a comprehensive report on the state of devolution in view of inequalities and contribution of the counties to the GDP; and
  - c) table an audit report of the equalization fund highlighting the contribution of the fund to eliminating inequalities in the counties.
- ii) The Senator for Bomet County (Sen. (Dr.) Christopher Langat) made a statement on a matter of National concern regarding the welfare of Kenyan doctors in Cuba.

In the Statement, the Senator highlighted that following a Memorandum of Understanding (MoU) between Kenya and Cuba in March, 2018, at least 50 Kenyan doctors were admitted to the Latin American School of Medicine (ELAM) in Havana for specialized medical training.

The Senator informed the Senate that one of the practitioners, Dr. Ali Juma, who was undertaking postgraduate diploma training in Family Medicine under the programme, had committed suicide due to alleged hardships and frustrations experienced in Cuba.

The Senator highlighted the issue that the doctors who travelled to Cuba had on several occasions aired their grievances through the Kenya Medical Practitioners and Dentists Union (KMPDU), stating that the cost of living was too high and that they would like their allowances to be enhanced and living conditions improved and expressed regrets that the doctors' pleas had not been addressed.

The Senator concluded by stating that as legislators, Senators were the voice of the people and that should not shy away from condemning that which is wrong. He urged the Standing Committee on Health to investigate the matter, and also the National Government to address the matter with the urgency with a view to bringing the remaining 49 medics back home pending the investigations and review of the unjust MOU.

The Speaker committed the Statement to the Standing Committee on Health for consideration and directed that a report be tabled in the House within two weeks' time.

**b) Statement pursuant to Standing Order No. 48 (1)**

The Senator for Narok County (Sen. Ledama Olekina, MP), sought a Statement, on behalf of the Senator for Siaya County (Sen. James Orenge,

MP) from the Standing Committee on Justice, Legal Affairs and Human Rights regarding the ongoing fight against corruption.

8. **COMMITTEE OF THE WHOLE**  
**THE ASSUMPTION OF OFFICE OF THE COUNTY GOVERNOR BILL**  
**(SENATE BILLS NO. 1 OF 2018)**

(Sen. Kimani Wamatangi, MP)

*(Consideration of the National Assembly Amendments)*  
*(Resumption of debate interrupted on Tuesday, 19<sup>th</sup> March, 2019)*  
*(Division)*

Order deferred.

9. **COMMITTEE OF THE WHOLE**  
**THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILLS NO. 13**  
**OF 2018)**

(Sen. Aaron Cheruiyot, MP)

*(Resumption of debate interrupted on Wednesday, 21st November, 2018)*  
*(Division)*

Order deferred.

10. **COMMITTEE OF THE WHOLE**  
**THE COUNTY GOVERNMENT RETIREMENT SCHEME BILL (NATIONAL**  
**ASSEMBLY BILLS NO. 10 OF 2018)**

(The Senate Majority Leader)

Order deferred.

11. **COMMITTEE OF THE WHOLE**  
**THE COUNTY EARLY CHILDHOOD EDUCATION BILL (SENATE BILLS NO.**  
**26 OF 2018)**

(Chairperson, Standing Committee on Education)

Order deferred.

12. **COMMITTEE OF THE WHOLE**  
**THE PUBLIC PARTICIPATION BILL (SENATE BILLS NO. 4 OF 2018)**

(Sen. Amos Wako, MP)

Order deferred.

13. **COMMITTEE OF THE WHOLE**  
**THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED**  
**STATE OFFICERS) (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2018)**

(Sen. Ledama Olekina, MP)

Order deferred.

14. **COMMITTEE OF THE WHOLE**  
**THE DATA PROTECTION BILL (SENATE BILLS NO. 16 OF 2018)**

(Chairperson, Standing Committee on Information and Technology)



Order deferred.

15. **COMMITTEE OF THE WHOLE**  
**THE CARE AND PROTECTION OF OLDER MEMBERS OF SOCIETY BILL**  
**(SENATE BILLS NO. 17 OF 2018)**  
(Sen. Aaron Cheruiyot, MP)

Order deferred.

16. **COMMITTEE OF THE WHOLE**  
**THE COUNTY PLANNING (ROADS, PAVEMENTS AND PARKING BAYS) BILL**  
**(SENATE BILLS NO. 18 OF 2018)**  
(Sen. Ledama Olekina, MP)

Order deferred.

17. **COMMITTEE OF THE WHOLE**  
**THE COUNTY OUTDOOR ADVERTISING CONTROL BILL (SENATE BILLS**  
**NO. 19 OF 2018)**  
(Sen. Samuel Poghio, MP)

Order deferred.

18. **MOTION – APPROVAL OF SENATORS TO SERVE IN SELECT COMMITTEES**

Motion made and Question proposed;

**THAT**, pursuant to Standing Orders 187 and 189, the House approves the nomination of Senators to serve in Select Committees of the Senate as follows –

- a) Standing Committee on Energy

Sen. George Ochilo Ayacko Mbogo, EGH, MP to replace Sen. Mercy Chebeni, MP

- b) Standing Committee on National Cohesion, Equal Opportunity and Regional Integration.

Sen. Mercy Chebeni, MP to replace Sen. George Ochilo Ayacko Mbogo, EGH, MP.

*(Sen. (Eng.) Mahamud Ali, on behalf of the Senate Majority Leader)*

Debate arising;

And there being no other Senator wishing to contribute;

Before the Question was put, and pursuant to Standing Order No. 79, the Temporary Speaker (Sen. Rose Nyamunga) informed the House that the Motion did not affect counties.

Question put and **agreed to.**

**RESOLVED ACCORDINGLY**

**THAT**, pursuant to Standing Orders 187 and 189, the House approves the nomination of Senators to serve in Select Committees of the Senate as follows –

a) Standing Committee on Energy

Sen. George Ochilo Ayacko Mbogo, EGH, MP to replace Sen. Mercy Chebeni, MP

b) Standing Committee on National Cohesion, Equal Opportunity and Regional Integration.

Sen. Mercy Chebeni, MP to replace Sen. George Ochilo Ayacko Mbogo, EGH, MP.

19. **THE COUNTY WARDS (EQUITABLE DEVELOPMENT) BILL (SENATE BILLS NO. 34 OF 2018)**

Order for Second Reading read;

Motion made and Question Proposed;

THAT, the County Wards (Equitable Development) Bill (Senate Bills No. 34 of 2018) be now read a Second Time.

*(Chairperson, Standing Committee on Finance and Budget)*

Debate arising;

And the time being thirty minutes past Six O'clock, the Temporary Speaker (Sen. Rose Nyamunga) interrupted the proceedings and adjourned the Senate without question put, pursuant to the Standing Orders.

20. **SENATE ROSE** – at Thirty Minutes past Six O'clock.

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

*The Speaker will take the Chair on  
Thursday, March 21, 2019 at 2.30 p.m.*

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