



REPUBLIC OF KENYA

TWELFTH PARLIAMENT - THIRD SESSION

THE SENATE

VOTES AND PROCEEDINGS

TUESDAY, MAY 14, 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) **Welcome Address to Senators**

“Honourable Senators,

It is my pleasure and privilege to welcome you back to the Senate from the recess which commenced on the 12th April, 2019. I believe that you have had opportunity to spend quality time with your families and constituents over the period and are re-energized for the up-coming business ahead of us.

Honourable Senators,

During the recess, Senators had an opportunity to attend and participate in the Fourth Annual Legislative Summit, that was held in Kisumu County. The summit afforded Senators an opportunity to interact with various actors in devolution. I hope that we, from our discussions during the event, learned something new that would help us to enhance our work as Senators to protect counties and their governments. In addition, I want to urge the House to expedite passage of Bills that the Summit resolved to be prioritized.

Honourable Senators,

During the same period, you were recalled for a special sitting to consider two important Bills - the Division of Revenue Bill and the County Allocation of Revenue Bill. It is important to note that the counties depend on the passage of these Bills for planning purposes and efficient service delivery to the people. It is my hope that the passage of these two Bills will be expedited within the next few days.

Honourable Senators,

As I conclude, I welcome you once again from the recess and urge Honourable Senators to redouble efforts in ensuring that we meet and exceed the high expectations and trust that Kenyans have placed upon us.

I thank you.”

b) **Visiting students and teachers from Mara Senior Academy, Bomet County**

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting pupils and teachers from Mara Senior Academy in Bomet County.

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, I wish them a fruitful visit.

I thank you.”

c) **Visiting students and teachers from Muindi Mbingu Boys’ Secondary School, Machakos County**

“Honourable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery this afternoon, of visiting pupils and teachers from Muindi Mbingu Boys’ Secondary school, in Machakos County.

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, I wish them a fruitful visit.

I thank you.”

4. **MESSAGES**

The Speaker conveyed the following Messages from the National Assembly: -

a) **Decision of the National Assembly on the Senate amendments to the Division of Revenue Bill (National Assembly Bills No. 11 of 2019)**

“Honourable Senators,

I wish to bring to the attention of the Senate that a Message has been received from the National Assembly, pursuant to Standing Order 41 (3), regarding the decision of the National Assembly on the Senate amendments to the Division of

Revenue Bill (National Assembly Bill No. 11 of 2019). Pursuant to the said Standing Order, I now report the Message-

“Pursuant to the provisions of Standing Orders 41 (1) and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly: -

Whereas on Tuesday 30th April, 2019, the Senate considered and passed the Division of Revenue Bill (National Assembly Bill No. 11 of 2019) with amendments to clause 5 and the Schedule;

*And whereas, on Wednesday, 8th May, 2019, the National Assembly **rejected** the Senate amendments to the Division of Revenue Bill (National Assembly Bill No. 11 of 2019);*

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 on the said Bill.”

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 on the constitution of a Mediation Committee in accordance with Articles 112 (1) (a), 112(2) (b) and 113 of the Constitution.

I would also like to inform the House that the Senate has received communication 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 version of the said Bill that both Houses will pass-

1. The Hon. Adan Duale, EGH, M.P.;
2. The Hon. John Mbadi, EGH, M.P.;
3. The Hon. Kimani Ichung’wa, MP; and
4. The Hon. Cecily Mbarire, MGH, M.P.;

Honourable Senators,

I also have, after consultations with the leaderships of the Majority and Minority, appointed the following Senators to the Mediation Committee;

1. Sen. Mohamed M. Mahamud, MP
2. Sen. Mutula Kilonzo Jnr, MP;
3. Sen. Susan Kihika; and
4. Sen. Ledama Olekina, MP

I urge the members of the Mediation Committee to deal with this important assignment expeditiously and report back within the stipulated timelines.

I thank you.”

b) Approval of the Mediated Version of the Warehouse Receipt System Bill (Senate Bills No. 10 of 2017)

“Honourable Senators,

I wish to bring to the attention of the Senate that a Message has been received from the National Assembly, pursuant to Standing Order No.41 (3), regarding the decision of the National Assembly on the mediated version of the Warehouse Receipt System Bill (Senate Bill No. 10 of 2017). Pursuant to the said Standing Order, I now report the Message-

“Pursuant to the provisions of Standing Order 150 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly: -

Whereas the Warehouse Receipt System Bill (Senate Bill No. 10 of 2017), was referred to a Mediation Committee in accordance with the provisions of Article 112(2) (b) of the Constitution;

And whereas, on Thursday, 9th May, 2019 the National Assembly considered and approved the Mediated Version of the said Bill as required under Article 113(2) of the Constitution;

Now, therefore, in fulfillment of the provisions of Standing Order 150(4) (b) of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate.”

Honourable Senators,

The tabling of the Report of the Mediation Committee is scheduled on today's Order Paper and, subject to the giving of the notice of its adoption, I direct that the same be listed on the Order Paper, for consideration, by the Senate, of the Mediated version of the Bill pursuant to Article 113 of the Constitution and Standing Order 161 (3) of the Senate Standing Orders, tomorrow, 15th May, 2019.

I thank you.”

5. PAPERS

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

- i) The National Treasury Annual Public Debt Management report for 2015/2016;
- ii) The National Treasury Annual Public Debt Management report for 2016/2017;
- iii) Report of the Auditor-General on the Financial Statements of Busia County Assembly Car Loan and Mortgage Scheme (Revolving Fund) for the Year ended 30th June, 2018;
- iv) Report of the Auditor-General on the Financial Statements of Ruiru-Juja Water and Sewerage Company Limited for the Year ended 30th June, 2018;
- v) Report of the Auditor-General on the Financial Statements of County Assembly of Taita Taveta for the Year ended 30th June, 2017;
- vi) Report of the Auditor-General on the Financial Statements of Nakuru Rural Water and Sanitation Company Ltd. for the Year ended 30th June, 2018;
- vii) Report of the Auditor General on the Financial Statements of Nakuru Water and Sanitation Services Company Limited for the Year ended 30th June, 2018;
- viii) Report of the Auditor General on the Financial Statements of Eldama Ravine Water and Sewerage Company Limited for the Year ended 30th June, 2018;
- ix) Report of the Auditor General on the Financial Statements of Mombasa County Elimu Fund for the Year ended 30th June, 2018;
- x) Report of the Auditor General on the Financial Statements of Mombasa County Alcoholic Drinks Control Fund for the Year ended 30th June, 2018;
- xi) Report of the Auditor General on the Financial Statements of Mombasa County Consolidated Revolving Fund for the Year ended 30th June, 2018;
- xii) Report of the Auditor General on the Financial Statements of Gusii Water and Sanitation Company Limited for the Year ended 30th June, 2018;

- xiii) Report of the Auditor General on the Financial Statements of Nyamira County Assembly Car and Mortgage Loan Scheme Fund for the Year ended 30th June, 2018;
- xiv) Report of the Auditor General on the Financial Statements of Murang'a South Water and Sanitation Company Limited for the Year ended 30th June, 2018;
- xv) Report of the Auditor General on the Financial Statements of Kahuti Water and Sanitation Company Limited for the Year ended 30th June, 2018; and
- xvi) Report of the Auditor General on the Financial Statements of Kirinyaga County Executive Alcoholic Drinks Control Fund for the Year ended 30th June, 2018.

(The Senate Majority Leader)

- xvii) Report of the Mediation Committee on the Warehouse Receipt System Bill (Senate Bills No. 10 of 2017).

(Chairperson, Mediation Committee)

6. STATEMENTS

(i) **Statement pursuant to Standing Order 47 (1)**

The Senator for Kisumu County (Sen. Fred Outa, MP) made a statement in concerning the 4th Annual Legislative Summit held in Kisumu County during the Month of April.

The Senator expressed gratitude to all Senators who attended and participated in the Summit. He also extended special thanks to the Speaker of the Senate and the staff for their support, the facilitators for running the programme smoothly and the steering committee for organizing the event and making it a success.

He informed the House that, resulting from this event, Kisumu County had experienced immense economic growth, especially in the hospitality industry.

(ii) **Statements pursuant to Standing Order 48 (1)**

- a) The Senator for Kakamega County (Sen. Cleophas Malalah, MP) sought a statement from the Standing Committee on National Security and Foreign Relations on recent attacks and killings in Matungu Constituency in Kakamega County.
- b) The Senator for Kirinyaga County (Sen. Charles Reubenson Kibiru, MP) sought a statement from the Standing Committee on Health on the state of affairs at Kerugoya County Referral Hospital.

7. THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS NO. 31 OF 2018)

Order for Second Reading read;

Motion made and Question proposed;

THAT, the Natural Resources (Benefit Sharing) Bill (Senate Bills No. 31 of 2018) be now read a Second time.

(Sen. (Dr.) Agnes Zani, MP – 26.03.2019)

Debate interrupted on Wednesday; 27th March, 2019 resumed on a Division;

The Temporary Speaker (Sen. (Prof.) Margaret Kamar) directed that electronic voting be taken, pursuant to Standing Order 81, and that the Division Bell be rung for five minutes;

After the expiry of five minutes, the Temporary Speaker directed that the doors be locked and bars drawn, and Senators were asked to log-in for electronic voting;

The Temporary Speaker put the Question and directed Senators to cast their votes by pressing either the **“Yes”**, **“No”** or **“Abstain”** button;

Before the results of the Division were announced and pursuant to Standing Order 81 (5), the Temporary Speaker allowed three Senators to record their vote verbally.

Thereupon, the following Senators recorded their votes verbally as **“Yes”**-

1. Sen. Mwangi Paul Githiomi
2. Sen. Kang’ata Irungu
3. Sen. Kamar Margaret Jepkoech

The results of the Division were as follows: -

AYES - 26

NOES - 0

ABSTENTIONS - 0

AYES

1. Sen. Zani Agnes Philomena – voted on behalf of Kwale County delegation
2. Sen. Cherarkey Samson Kiprotich
3. Sen. Cheruiyot Aaron Kipkirui
4. Sen. Iman Falhada Dekow – voted on behalf of Garissa County Delegation
5. Sen. Imana Malachy Charles Ekal
6. Sen. Kamar Margaret Jepkoech – voted verbally
7. Sen. Kang’ata Irungu – voted verbally
8. Sen. Kibiru Charles Reubenson
9. Sen. Kihika Susan Wakarura
10. Sen. Kilonzo Mutula Junior
11. Sen. Kimani Wamatangi Paul

12. Sen. Lang'at Christopher Andrew
13. Sen. Lelegwe Steve Ltumbesi
14. Sen. Mahamud Mohamed Maalim
15. Sen. Masitsa Naomi Shiyonga – voted on behalf of Kakamega County delegation
16. Sen. Mbogo George Ochilo Ayacko
17. Sen. Murkomen Onesimus Kipchumba
18. Sen. Mwangi Paul Githiomi – voted verbally
19. Sen. Mwinyihaji Mohamed Faki
20. Sen. Ndwiga Peter Njeru
21. Sen. Olekina Ledama
22. Sen. Ongeru Samson Kegengo
23. Sen. Orengo James
24. Sen. Outa Fredrick Otieno
25. Sen. Haji Farhiya Ali – voted on behalf of Nairobi County Delegation
26. Sen. Wetang'ula Moses Masika

Question agreed to.

Bill read a Second Time and Committed to the Committee of the Whole tomorrow.

8. **THE COUNTY OVERSIGHT AND ACCOUNTABILITY BILL (SENATE BILLS NO. 28 OF 2018)**

Order for Second Reading read;

Motion made and Question proposed;

THAT, the County Oversight and Accountability Bill (Senate Bills No. 28 of 2018) be now read a Second Time.

(Sen Ledama Olekina, MP – 27.03. 2019)

Debate interrupted on Wednesday, 27th March, 2019 resumed on a Division;

The Temporary Speaker (Sen. (Prof.) Margaret Kamar) directed that electronic voting be taken, pursuant to Standing Order 81, and that the Division Bell be rung for five minutes;

After the expiry of five minutes, the Temporary Speaker directed that the doors be locked and the bars drawn, and Senators asked to log-in for electronic voting;

The Temporary Speaker put the Question and directed Senators to cast their votes by pressing either the **“Yes”**, **“No”** or **“Abstain”** button;

Before the results of the Division were announced and pursuant to Standing Order 81 (5), the Temporary Speaker allowed three Senators to record their vote verbally.

Thereupon, the following Senators recorded their votes verbally as **“Yes”**-

1. Sen. Kang’ata Irungu
2. Sen. Kamar Margaret Jepkoech
3. Sen. Kibiru Charles Reubenson

The results of the Division were as follows: -

AYES - 26

NOES - 0

ABSTENTIONS - 0

AYES

1. Sen. Zani Agnes Philomena – voted on behalf of Kwale County delegation
2. Sen. Cherarkey Samson Kiprotich
3. Sen. Cheruiyot Aaron Kipkirui
4. Sen. Iman Falhada Dekow – voted on behalf of Garissa County Delegation
5. Sen. Imana Malachy Charles Ekal
6. Sen. Kamar Margaret Jepkoech – voted verbally
7. Sen. Kang’ata Irungu – voted verbally
8. Sen. Kibiru Charles Reubenson – voted verbally
9. Sen. Kihika Susan Wakarura
10. Sen. Kilonzo Mutula Junior
11. Sen. Kimani Wamatangi Paul
12. Sen. Lang’at Christopher Andrew
13. Sen. Lelegwe Steve Ltumbesi
14. Sen. Mahamud Mohamed Maalim
15. Sen. Masitsa Naomi Shiyonga – voted on behalf of Kakamega County delegation
16. Sen. Mbogo George Ochilo Ayacko
17. Sen. Murkomen Onesimus Kipchumba
18. Sen. Mwangi Paul Githiomi
19. Sen. Mwinyihaji Mohamed Faki
20. Sen. Ndwiga Peter Njeru
21. Sen. Olekina Ledama
22. Sen. Ongeru Samson Kegengo
23. Sen. Orengo James
24. Sen. Outa Fredrick Otieno
25. Sen. Haji Farhiya Ali – voted on behalf of Nairobi County Delegation
26. Sen. Wetang’ula Moses Masika

Question agreed to.

Bill read a Second Time and Committed to the Committee of the Whole tomorrow.

9. **MOTION – ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE COUNTY GOVERNMENTS’ INFRASTRUCTURE PROJECTS**

Motion made and Question proposed;

THAT, this House adopts the Report of the Standing Committee on Finance and Budget on the County Governments’ infrastructure projects comprising County Executive Headquarter offices, Assembly Chambers and offices and County State officers’ residences, laid on the Table of the Senate on Thursday, 29th November, 2018.

(Chairperson, Standing Committee on Finance and Budget - 21.03.2019)

Debate interrupted on Thursday, 28th March, 2019 resumed on a Division;

The Temporary Speaker (Sen. (Prof.) Margaret Kamar) directed that electronic voting be taken pursuant to Standing Order 81 and that the division bell be rung for five minutes;

After the expiry of five minutes, the Temporary Speaker directed that the doors be locked and bars be drawn, and Senators asked to log-in for electronic voting;

The Temporary Speaker put the Question and directed Senators to cast their votes by pressing either the **“Yes”**, **“No”** or **“Abstain”** button;

Before the results of the Division were announced and, pursuant to Standing Order 81 (5), the Temporary Speaker allowed two Senators to record their vote verbally.

Thereupon, the following Senators recorded their votes verbally as **“Yes”**-

1. Sen. Kang’ata Irungu
2. Sen. Mwinyihaji Mohamed Faki

The results of the Division were as follows: -

AYES - 25

NOES - 1

ABSTENTIONS - 0

AYES

1. Sen. Zani Agnes Philomena – voted on behalf of Kwale County Delegation
2. Sen. Cherarkey Samson Kiprotich
3. Sen. Cheruiyot Aaron Kipkirui

4. Sen. Iman Falhada Dekow – voted on behalf of Garissa County Delegation
5. Sen. Imana Malachy Charles Ekal
6. Sen. Kamar Margaret Jepkoech
7. Sen. Kang’ata Irungu – voted verbally
8. Sen. Kibiru Charles Reubenson
9. Sen. Kihika Susan Wakarura
10. Sen. Kilonzo Mutula Junior
11. Sen. Kimani Wamatangi Paul
12. Sen. Lelegwe Steve Ltumbesi
13. Sen. Mahamud Mohamed Maalim
14. Sen. Masitsa Naomi Shiyonga – voted on behalf of Kakamega County Delegation
15. Sen. Mbogo George Ochilo Ayacko
16. Sen. Murkomen Onesimus Kipchumba
17. Sen. Mwangi Paul Githiomi
18. Sen. Mwinyihaji Mohamed Faki – voted verbally
19. Sen. Ndwiga Peter Njeru
20. Sen. Olekina Ledama
21. Sen. Ongeru Samson Kegengo
22. Sen. Outa Fredrick Otieno
23. Sen. Orengo James
24. Sen. Haji Farhiya Ali – voted on behalf of Nairobi County Delegation
25. Sen. Wetang’ula Moses Masika

NOES

Sen. Langat Christopher Andrew

Question agreed to.

RESOLVED ACCORDINGLY

THAT, this House adopts the Report of the Standing Committee on Finance and Budget on the County Governments’ infrastructure projects comprising County Executive Headquarter offices, Assembly Chambers and offices and County State officers’ residences, laid on the Table of the Senate on Thursday, 29th November, 2018.

10. **THE DETERMINATION OF THE NATURE OF BILLS (PROCEDURE) BILL (SENATE BILLS NO. 30 OF 2018)**

(Sen. Mutula Kilonzo Jnr., MP and Sen. Sakaja Johnson, MP)

(Second Reading)

(Resumption of debate interrupted on Wednesday, 3rd April, 2019)

Order deferred.

11. **THE ELECTION LAWS (AMENDMENT) BILL (SENATE BILLS NO. 33 OF 2018)**

Order for Second Reading read;

Motion made and Question proposed;

THAT, the Election Laws Amendment Bill (Senate Bills No. 33 of 2018) be now read a Second Time.

(Sen. Ledama Olekina, MP)

Debate arising;

There being no other Senator wishing to contribute;

Mover replied;

Raising a point of order, the Mover requested for the deferment of the putting of the Question to a later date, pursuant to Standing Order 61 (3);

And the Temporary Speaker (Sen. (Dr.) Ltumbesi Lelegwe) acceding to the request, nominated Wednesday, 15th May, 2019 as the day when the Question shall be put.

12. **THE NATIONAL COHESION AND PEACE BUILDING BILL (SENATE BILLS NO. 35 OF 2018)**

(Sen. Judith Pareno, MP)

(Second Reading)

Order deferred.

13. **THE ELECTION LAWS (AMENDMENT) (NO. 2) BILL (SENATE BILLS NO. 37 OF 2018)**

Order for Second Reading read;

Motion made and Question proposed;

THAT, the Election Laws (Amendment) (No. 2) Bill (Senate Bills No. 37 of 2018) be now read a Second Time.

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

Debate arising;

And the time being thirty minutes past Six O'clock, the Temporary Speaker (Dr.) Ltumbesi Lelegwe) interrupted the proceedings and adjourned the Senate without Question put, pursuant to the Standing Orders.

14. **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
Wednesday, May 15, 2019 at 2.30 p.m.*