



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (THIRD SESSION)

THE SENATE

VOTES AND PROCEEDINGS

THURSDAY, JULY 11, 2024 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 before the expiry of the ten minutes;

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

4. **COMMUNICATION FROM THE CHAIR - VISITING DELEGATION FROM THE COUNTY ASSEMBLIES OF KISUMU AND WEST POKOT**

The Speaker conveyed the following communication from the Chair-

“Honourable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery this afternoon, twelve (12) Hansard officers from the County Assemblies of Kisumu and West Pokot. The officers are undertaking a capacity-building programme on Information Technology in the production of the Parliamentary Hansard at the Centre for Parliamentary Studies (CPST) County House, Campus.

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. **MESSAGE - PRESIDENTIAL MEMORANDUM OF REFERRAL OF THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILLS NO. 25 OF 2024)**

The Speaker conveyed the following Message from His Excellency the President -

“Honourable Senators,

I wish to report to the Senate that, pursuant to Standing Order 47 (1), I have received the following Message from His Excellency the President regarding the referral of the County Allocation of Revenue Bill (Senate Bills No. 25 of 2024).

The Message, which was conveyed as a Presidential Memorandum dated 10th July, 2024, was received in my office today, Thursday, 11th July, 2024.

Pursuant to the said Standing Order, I now report the Message –

“WHEREAS a Bill titled "An Act of Parliament to provide for the equitable allocation of revenue raised nationally among the County Governments for the 2024/2025 financial year, the responsibilities of national and county governments pursuant to such allocation, and for connected purposes" was passed by the Senate on the 11th June, 2024 and then the National Assembly on the 25th June, 2024;

WHEREAS the County Allocation of Revenue Bill, 2024, was presented for Presidential Assent in accordance with Article 115 of the Constitution on the 28th June, 2024;

WHEREAS the presentation of the County Allocation of Revenue Bill for presidential assent was preceded by the referral of the Finance Bill, 2024 on 26th June, 2024 for reconsideration by the National Assembly, with a recommendation to delete all clauses of the impugned Bill;

WHEREAS the referral of the Finance Bill, 2024 was prompted by widespread public dissatisfaction, leading to my decision to decline assent to the Finance Bill, 2024;

AND WHEREAS the failure to enact the Finance Bill, 2024 has necessitated the reorganization and rationalization of the Government's financial arrangements for the Financial Year 2024/2025, including the County Allocation of Revenue Bill, 2024, to accommodate the anticipated revenue reduction that would have been collected had the Finance Bill, 2024 come into force.

NOW THEREFORE, in exercise of the powers conferred on me by Article 115(1)(b) of the Constitution, I decline to assent to the County Allocation of Revenue Bill, 2024, and refer the Bill for reconsideration by the Senate with the

recommendation that the Bill be amended by deleting the First Schedule and replacing it with a Schedule that is attached to the Memorandum.”

Honourable Senators,

Article 115 provides that the Houses of Parliament shall either, by a majority vote, amend the Bill in light of the President’s reservations or, by a vote supported by two-thirds of Members of each House, pass the Bill a Second Time without amendment or with amendments that do not fully accommodate the President’s reservations.

Pursuant to the provisions of Standing Order 170, I now refer the Memorandum to the Standing Committee on Finance and Budget for consideration. Due to the urgent need to enact the law to unlock funds for operation of county governments, I direct that the Committee tables its report on or before Thursday, 18th July, 2024.

The Senate shall, thereafter, vote to approve or reject the President’s recommendation on the Bill, or pass amendments that do not fully accommodate the President’s recommendation.

I thank you.”

6. **PAPER LAID**

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

Statement on the business of the Senate for the week commencing Tuesday, 16th July, 2024.

(The Senate Majority Leader)

7. **QUESTIONS AND STATEMENTS**

i) Requests for Statement pursuant to Standing Order 53(1)

Request for a Statement by the Senator for Taita Taveta County (Sen. Johnes Mwaruma, MP) from the Standing Committee on Education concerning development projects at Mwamunga Primary School in Voi Sub-County in Taita Taveta County was **dropped** in the absence of the Senator.

ii) Statement pursuant to Standing Order 57(1)

The Senate Majority Leader issued a Statement on the business of the Senate for the week commencing Tuesday, 16th July, 2024.

iii) Statement pursuant to Standing Order 58

The Senator for Nakuru County (Sen. Tabitha Karanja Keroche, MP) made a Personal Statement concerning inaccurate reporting in mainstream media regarding her contribution to the motion before the Senate on the current state of the nation.

The Senator explained that during the Senate sitting on Wednesday, 10th July, 2024, the media misrepresented her comments on the Finance Bill, 2024, thereby making it appear as though she supported the Bill, 2024.

The Senator argued that due to the country's recent experiences with loss of lives, injuries, vandalism, and property destruction, as a result of the protests for the rejection of the Bill, she felt that the Finance Bill, 2024, should be completely withdrawn.

8. MOTION-THE CURRENT STATE OF THE NATION

Order read;

Motion made and Question proposed;

RECOGNIZING the State of the nation at this moment; the ongoing protests following the passing of the Finance Bill (National Assembly Bills No. 30 of 2024) on 25th June, 2024 by the National Assembly; the loss of lives, maiming and loss of property that has been occasioned following these protests;

COGNIZANT THAT pursuant to Article 115(1)(b) of the Constitution His Excellency the President of the Republic of Kenya declined to assent to the Bill and referred it back to the National Assembly with recommendations to delete all clauses of the Bill;

ACKNOWLEDGING THAT the conversation on the Finance Bill has triggered the broader important public conversation on the question of the high cost of living juxtaposed against the wasteful expenditure in all public institutions including Parliament;

FURTHER ACKNOWLEDGING the issues raised by the youth and other members of the public to do with corruption, impunity, incompetence within state and public appointments, opulent lifestyles of public officers, unemployment and high cost of living amongst other issues bedeviling the economy;

NOW THEREFORE, the Senate-

1. calls upon-

- i) the National Assembly to expeditiously consider the presidential memorandum pursuant to Article 115(2)(a);
- ii) all government ministries, departments and agencies, and constitutional commissions, including Parliament, to put in place austerity measures in undertaking their respective functions;
- iii) the Ethics and Anti-Corruption Commission (EACC) and other government multi sector agencies in the governance, justice, law and order sector to upscale and make concerted efforts to fight corruption;
- iv) the National Police Service to cease abductions, unlawful arrests, extra judicial killings and exercise restraint in dealing with peaceful and unarmed demonstrators;
- v) release of all persons arrested for planning and participating in peaceful demonstrations relating to the enactment of the Finance Bill;
- vi) the government to waive hospital bills for persons who have been injured and defray funeral expenses for those who lost their lives, during the demonstrations; and
- vii) the Judiciary to prioritize and expedite all court cases relating to the enactment of the Finance Bill and the resultant demonstrations.

2. considers all the challenges facing the country and makes necessary recommendations to address them.

(The Senate Majority Leader and the Senate Minority Leader – 03.07.2024)

Debate interrupted on Wednesday, 10th July, 2024 (Afternoon Sitting) resumed;

Thereupon, the Speaker interrupted debate to allow for amendments to the Motion to be filed.

9. **MOTION - APPROVAL OF SITTINGS OF THE SENATE TO BE HELD IN BUSIA COUNTY**

Order read;

Motion made and Question proposed;

THAT, AWARE that the Senate of Kenya is established under Article 93 of the Constitution and its main role, as set out at Article 96 is to represent, serve and protect the interests of the counties and their governments;

FURTHER AWARE of the critical role that the Senate plays in the interlinkage between the National and County levels of government, and the need to enhance the interaction between the Senate and county governments, as a means of bringing the Senate closer to the counties and the general public;

ACKNOWLEDGING the successes made during the sittings of the Senate outside Nairobi held in Uasin Gishu, Kitui and Turkana Counties in September, 2018, 2019 and 2023, respectively;

FURTHER ACKNOWLEDGING the recommendation of the Senate Business Committee that a sitting of the Senate be held away from the traditional premises in Parliament Buildings, Nairobi, during the term of the 13th Parliament; and the subsequent resolution of the Senate made on 8th March, 2023, to hold plenary and committee sittings in the counties for a one-week period within the month of September in every Session of the 4th Senate, except during an election year with the objective to: -

- 1) promote the role and work of the Senate and enhance public awareness regarding the Business of the Senate and Parliament in general;
- 2) highlight existing and new opportunities for engagement in the legislative process;
- 3) develop and strengthen partnerships at the county level of government; and
- 4) provide an opportunity to members and staff of county assemblies to learn and share best practices with Senators and parliamentary officers;

NOW THEREFORE, pursuant to Article 126 (1) of the Constitution, the Senate resolves to hold its Plenary and Committee sittings in Busia County, from 23rd to 27th September 2024.

(The Senate Majority Leader – 10.07.2024)

Debate interrupted on Wednesday, 10th July, 2024 (Afternoon Sitting) resumed for the Question to be put;

Before the Question was put, and pursuant to Standing Order No. 84 (1), the Speaker ruled that the Motion does not affect Counties.

Question put and **agreed to**.

RESOLVED ACCORDINGLY

THAT, AWARE that the Senate of Kenya is established under Article 93 of the Constitution and its main role, as set out at Article 96 is to represent, serve and protect the interests of the counties and their governments;

FURTHER AWARE of the critical role that the Senate plays in the interlinkage between the National and County levels of government, and the need to enhance the interaction between the Senate and county governments, as a means of bringing the Senate closer to the counties and the general public;

ACKNOWLEDGING the successes made during the sittings of the Senate outside Nairobi held in Uasin Gishu, Kitui and Turkana Counties in September, 2018, 2019 and 2023, respectively;

FURTHER ACKNOWLEDGING the recommendation of the Senate Business Committee that a sitting of the Senate be held away from the traditional premises in Parliament Buildings, Nairobi, during the term of the 13th Parliament; and the subsequent resolution of the Senate made on 8th March, 2023, to hold plenary and committee sittings in the counties for a one-week period within the month of September in every Session of the 4th Senate, except during an election year with the objective to: -

- 1) promote the role and work of the Senate and enhance public awareness regarding the Business of the Senate and Parliament in general;
- 2) highlight existing and new opportunities for engagement in the legislative process;
- 3) develop and strengthen partnerships at the county level of government; and
- 4) provide an opportunity to members and staff of county assemblies to learn and share best practices with Senators and parliamentary officers;

NOW THEREFORE, pursuant to Article 126 (1) of the Constitution, the Senate resolves to hold its Plenary and Committee sittings in Busia County, from 23rd to 27th September 2024.

10. **MOTION - REPORT OF THE SELECT COMMITTEE ON DELEGATED LEGISLATION ON ITS CONSIDERATION OF THE SOCIAL HEALTH INSURANCE (GENERAL) REGULATIONS, 2024 AND THE SOCIAL HEALTH INSURANCE (TRIBUNAL PROCEDURE) RULES, 2024**

Order read;

THAT, the Senate adopts the Report of the Select Committee on Delegated Legislation on its consideration of the Social Health Insurance (General) Regulations, 2024 and the Social Health Insurance (Tribunal Procedure) Rules, 2024, laid on the Table of the Senate on Tuesday, 2nd July, 2024; and that pursuant to Section 18 of the Statutory Instruments Act, the Senate resolves to annul: -

- i. the Social Health Insurance (General) Regulations, 2024 (Legal Notice No. 49 of 2024);and
- ii. the Social Health Insurance (Tribunal Procedure) Rules, 2024, (Legal Notice No. 48 of 2024).

(The Chairperson, Select Committee on Delegated Legislation – 10.07.2024)

Order deferred.

11. **THE HOUSES OF PARLIAMENT (BICAMERAL RELATIONS) BILL (NATIONAL ASSEMBLY BILLS NO. 44 OF 2023)**
(The Senate Majority Leader)

Order read;

(Second Reading)
(Resumption of debate interrupted on Tuesday, 28th May, 2024)
(Division)

Order deferred.

12. **THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (SENATE BILLS NO. 40 OF 2023)**
(Sen. Hamida Ali Kibwana, MP)

Order read;

(Second Reading)
(Resumption of debate interrupted on Thursday, 30th May, 2024)
(Division)

Order deferred.

13. **THE CONSTITUTION OF KENYA (AMENDMENT) (NO. 2) BILL (SENATE BILLS NO. 52 OF 2023)**
(Sen. Raphael Chimera, MP)

Order read;

(Second Reading)
(Resumption of debate interrupted on Thursday, 30th May, 2024)

Order deferred.

14. **THE HERITAGE AND MUSEUMS BILL (SENATE BILLS NO. 8 OF 2023)**
(The Chairperson, Standing Committee on Labour and Social Welfare)

Order for Second Reading read;

Order deferred.

15. **THE AGRICULTURE AND FOOD AUTHORITY (AMENDMENT) BILL (SENATE BILLS NO. 13 OF 2023)**
(Sen. James Murango, MP)

Order for Second Reading read;

Order deferred.

16. **THE COUNTY HALL OF FAME BILL (SENATE BILLS NO. 18 OF 2023)**
(Sen. Miraj Abdillahi Abdulrahman, MP)

Order for Second Reading read;

Order deferred.

17. **THE RICE BILL (SENATE BILLS NO. 19 OF 2023)**
(Sen. James Murango, MP)

Order for Second Reading read;

Order deferred.

18. **THE LAW OF SUCCESSION (AMENDMENT) BILL (SENATE BILLS NO. 20 OF 2023)**
(Sen. Veronica Maina, MP)

Order for Second Reading read;

Order deferred.

19. **THE PUBLIC HOLIDAYS (AMENDMENT) BILL, (SENATE BILLS NO. 31 OF 2023)**
(Sen. Karungo Thang'wa, MP)

Order for Second Reading read;

Order deferred.

20. **THE COUNTY ASSEMBLY SERVICES (AMENDMENT) BILL (SENATE BILLS NO. 34 OF 2023)**

(Sen. Mohamed Chute, MP)

Order for Second Reading read;

Order deferred.

21. **THE COUNTY PUBLIC FINANCE LAWS (AMENDMENT) BILL (SENATE BILLS NO. 39 OF 2023)**

(Sen. Kathuri Murungi, MP)

Order for Second Reading read;

Order deferred.

22. **THE STREET VENDORS (PROTECTION OF LIVELIHOOD) BILL (SENATE BILLS NO. 41 OF 2023)**

Order for Second Reading read;

Motion made and Question proposed –

THAT, The Street Vendors (Protection of Livelihood) Bill (Senate Bills No. 41 of 2023) be now read a Second Time.

(Sen. Esther Anyieni Okenyuri, MP)

Debate arising;

And there being no other Senator wishing to contribute;

Mover replied;

Pursuant to Standing Order 66 (3), the Mover requested the Temporary Speaker (Sen. Wakili Hillary Sigei, MP) to defer putting of the Question to a later date;

And the Temporary Speaker (Sen. Wakili Hillary Sigei, MP) acceding to the request, deferred the putting of Question to a later date.

23. **THE ENERGY (AMENDMENT) BILL (SENATE BILLS NO. 42 OF 2023)**

(Sen. Edwin Sifuna, MP)

(Second Reading)

Order deferred.

24. **MOTION - REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE STATUS OF IMPLEMENTATION OF PROJECTS FUNDED BY THE CONDITIONAL GRANT FOR THE CONSTRUCTION OF COUNTY HEADQUARTERS**

(The Chairperson, Standing Committee on Finance and Budget)

THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the status of implementation of projects funded by the Conditional Grant for the construction of County Headquarters laid on the Table of the Senate on Thursday, 28th March, 2024.

(Resumption of debate interrupted on Wednesday, 22nd May, 2024 – Afternoon Sitting)

Order deferred.

25. **MOTION - REPORT OF THE SELECT COMMITTEE ON COUNTY PUBLIC ACCOUNTS ON ITS CONSIDERATION OF THE REPORT OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF WEST POKOT COUNTY ASSEMBLY FOR THE FINANCIAL YEAR 2018/2019 AND REPORTS OF THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF ISIOLO, KIAMBU, KITUI, MARSABIT, NAROK, NYAMIRA, TRANS NZOIA, WEST POKOT AND MURANG'A COUNTY ASSEMBLIES FOR THE FINANCIAL YEAR 2019/2020**

(The Chairperson, County Public Accounts Committee)

THAT, the Senate adopts the Report of the Select Committee on County Public Accounts on its consideration of the Report of the Auditor General on the financial statements of West Pokot County Assembly for the financial year 2018/2019 and Reports of the Auditor General on the financial statements of Isiolo, Kiambu, Kitui, Marsabit, Narok, Nyamira, Trans Nzoia, West Pokot and Murangá County Assemblies for the financial year 2019/2020 laid on the table of the Senate on Thursday, 7th March, 2024.

(Resumption of debate interrupted on Tuesday, 30th April, 2024)

Order deferred.

26. **MOTION - REPORT OF THE SELECT COMMITTEE ON COUNTY PUBLIC INVESTMENTS AND SPECIAL FUNDS ON ITS CONSIDERATION OF THE AUDIT REPORTS OF THE WATER SERVICE PROVIDERS FOR THE YEAR ENDED 30TH JUNE, 2019, 30TH JUNE, 2020 AND 30TH JUNE, 2021**

(The Chairperson, Committee on County Public Investments and Special Funds)

THAT, the Senate adopts the Reports of the Select Committee on

County Public Investments and Special Funds on its consideration of the Audit Reports for the year ended, 30th June, 2019, 30th June, 2020 and 30th June, 2021 of the following Water Service Providers-

- i.) Amatsi Water Services Company Limited - Vihiga County;
- ii.) Bomet Water Company Limited – Bomet County;
- iii.) Gusii Water and Sanitation Company Limited – Kisii/Nyamira Counties;
- iv.) Kisumu Water and Sanitation Company Limited –Kisumu County;
- v.) Kwale Water and Sewerage Company Limited – Kwale County; and
- vi.) Nyeri Water and Sanitation Company Limited – Nyeri County.

and the Audit Report of the Wajir Water and Sewerage Company Limited for the year ended 30th June, 2021, laid on the Table of the Senate on Thursday, 23rd November, 2023.

Order deferred.

27. **MOTION - REPORT OF THE STANDING COMMITTEE ON HEALTH ON THE INQUIRY INTO THE ALLEGED IRREGULARITIES IN THE PROCUREMENT OF LONG-LASTING INSECTICIDE TREATED NETS AT THE KENYA MEDICAL SUPPLIES AUTHORITY**
(Chairperson, Standing Committee on Health)

THAT, the Senate adopts the report of the Standing on Health on the inquiry into alleged irregularities in the procurement of long-lasting insecticide treated nets at the Kenya Medical Supplies Authority (KEMSA), laid on the Table of the Senate on Wednesday, 8th May, 2024.

Order deferred.

28. **MOTION - STOPPAGE OF FUNDS TO ISIOLO COUNTY DUE TO THE FAILURE BY THE GOVERNOR TO HONOUR SENATE SUMMONSES**
(Sen. Fatuma Dullo, MP)

THAT AWARE THAT, pursuant to Article 96 of the Constitution, the Senate represents the counties and serves to protect the interests of the counties and their governments, and that the Senate exercises oversight over national revenue allocated to the county governments;

FURTHER AWARE THAT, Article 124 of the Constitution establishes Committees to carry out specific mandates and that Article 125 of the Constitution gives any Committee the power to summon any person to appear before it for the purpose of giving evidence or providing information;

WHEREAS, the Senate Standing Committee on Health invited and later summoned the Governor of Isiolo County, Hon. Abdi Ibrahim Hassan, to respond to questions relating to, among others, the ongoing crisis at Isiolo Morgue, NHIF deductions and remittance status and total amount of pending bill owed to the county hospital, which invitation he failed to honour on 21st May, 2024 and similarly failed to honour the summonses on 28th May, 2024 and 10th June, 2024;

AND WHEREAS the Governor of Isiolo County failed to honour an invitation by the County Public Investments and Special Funds Committee to respond to issues raised in the Auditor-General's Reports on Isiolo County Bursary Fund, the Isiolo County Emergency Fund and the Isiolo County Youth, Women and People with Disability Fund for the Financial Years 2019/2020, 2020/2021 and 2021/2022 on 28th May, 2024;

AND FURTHER WHEREAS the Governor of Isiolo County failed to honour five (5) invitations on diverse dates between 28th March, 2023 and 8th March, 2024 by the County Public Accounts Committee to respond to queries raised by the Auditor General in the Financial Statement of the County Executive of Isiolo for the Financial Years 2019/2020 and 2020/2021;

CONCERNED THAT following the numerous incidents of failure and or refusal by the Governor of Isiolo County to honour invitations and summonses, the County Public Accounts Committee scheduled for a meeting at Isiolo County offices on 8th March, 2024 which the Governor failed to attend;

FURTHER CONCERNED THAT the committees of the Senate, pursuant to Article 179 (4) of the Constitution, invited Governor Abdi Ibrahim Hassan in his capacity as the Chief Executive Officer of the County, and he failed and/or refused to appear before the committees to answer the respective audit queries raised by the Auditor-General with respect to whether or not public monies have been applied lawfully and in an effective manner by the county government;

NOW THEREFORE, THE SENATE RESOLVES THAT –

- 1) pursuant to Article 228 (4) and (5) of the Constitution, the Controller of Budget should not authorize any withdrawal of public funds by the County Government of Isiolo until the Governor has responded to the issues raised in the summonses to the satisfaction of the Senate; and
- 2) the National Treasury, pursuant to Article 225 of the Constitution and Section 96 of the Public Finance Management Act, stops forthwith the transfer of funds to the County Government of Isiolo.

Order deferred.

And there being no other business in the Order Paper, the Temporary Speaker (Sen. Wakili Hillary Sigei, MP) adjourned the Senate at twenty-eight minutes past six O'clock without Question put, pursuant to the Standing Orders.

29. SENATE ROSE - at twenty-eight minutes past Six O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Tuesday, July 16, 2024 at 2.30 p.m.*

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