

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 18th August, 2016

Special Sitting

*(Convened via Kenya Gazette Notice
No. 6505 of 12th August, 2016)*

*The House met at the Senate Chamber,
Parliament Buildings, at 2.30 p.m.*

[The Speaker (Hon. Ethuro) in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR

CONVENING OF SPECIAL SITTING TO VOTE ON THE COUNTY GOVERNMENTS CASH DISBURSEMENT SCHEDULE FOR FY2016/2017 AND OTHER URGENT BUSINESS

The Speaker (Hon. Ethuro): Hon. Senators, let me take this opportunity, once again, to welcome you back for this second Special Sitting of the Senate during the current August recess. I am gratified that you found time to come for this sitting considering the busy schedules each one of you has at your respective counties. This is a pointer to your commitment to executing the businesses of the Senate which I note with appreciation.

As hon. Senators will recall, we concluded consideration of the County Governments Cash Disbursement Schedule during the Special Sitting of 5th August, 2016. The only matter pending now is voting on the Schedule in order to approve it. As indicated in today's Order Paper, we shall be proceeding to the Division on the Schedule in addition to other business scheduled for Division.

As communicated on 5th August, 2016, the County Governments Cash Disbursement Schedule for the Financial Year 2016/2017 was sent to the Senate by the

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National Treasury and received on Friday 29th July, 2016 at which time we were already on recess. This necessitated a Special Sitting considering the need to approve the Schedule to enable disbursement of the much needed financial resources to the county governments. In addition, there was also need to conclude consideration of Bills awaiting Divisions at various stages.

Hon. Senators, as indicated in paragraph 2 above, we did not manage to vote on the Schedule as well as the various Bills listed for consideration on the Special Sitting of 5th August, 2016. It is for this reason that the Senate Majority Leader and the Senate Minority leader, pursuant to Standing Order No.29 (1) of the Senate Standing Orders requested the Speaker once more to appoint a day for a Special Sitting of the Senate to consider the County Governments Cash Disbursement Schedule for the Financial Year 2016/2017 and other urgent business pending before the Senate. The request which was made vide letter dated 10th August, 2016 was supported by 17 Senators. I wish to note that the Speaker does not originate Special Sittings.

Hon. Senators, you may also wish to know that urgent business currently pending before the Senate includes Motions to adopt the three negated Committee reports on very crucial Bills, two of which are subject to the August 27th, 2016 Constitutional timelines. Several Bills are pending only Division; either the Second Reading Stage or they are at the Committee of the Whole. There is also a Motion to adopt a very crucial report of the Joint Parliamentary Select Committee on matters relating to the Independent Electoral and Boundaries (IEBC). It was the view of the leadership that there was no need to have pending business that is already committed.

Hon. Senators, following consideration of the request by the Senate Majority Leader, I was, therefore satisfied that it met the requirements of the Standing Order No.29(2). It is in this respect that I have convened this Special Sitting of the Senate by Gazette Notice No.6505 dated 12th August, 2016 which was carried in a Special Issue of a Gazette of the same date.

Hon. Senators, as required by Standing Order No.29(5) the Notice specified the business to be transacted at this Special 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 No.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.

Hon. Senators, I would, therefore, like to reiterate that in accordance with Article 123 of the Constitution and Standing Order No.71, for the Senate to approve the business scheduled at Order Nos.5 to 11 and 13 to 19, a majority of delegations – 24 – are required to vote. I, therefore, urge you all to remain in the Chamber for the transaction of this business as scheduled in the Order Paper.

Thank you.

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MESSAGE FROM THE NATIONAL ASSEMBLY**REJECTION OF SOME SENATE AMENDMENTS TO BILLS AND
APPOINTMENT OF A MEDIATION COMMITTEE**

The Speaker (Hon. Ethuro): Hon. Senators I have several Messages from the National Assembly. The first one is on the decision of the National Assembly on the Senate amendments to the Petroleum Exploration Development and Production Bill (National Assembly Bill No.44 of 2015) and the Energy Bill (National Assembly Bill No.50 of 2015).

Hon. Senators, I wish to report to the Senate that pursuant to Standing Order No.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 the Senate amendments to the Petroleum Exploration Development and Production Bill (National Assembly Bill No.44 of 2015) and the Energy Bill (National Assembly Bill No.50 of 2015).

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Order Sen. Wetangula. The Speaker is on his feet. If I entertain your point of order, it will mean that I have to resume my seat.

The Senate Minority Leader (Sen. Wetangula): Yes.

The Speaker (Hon. Ethuro): It is not possible.

Pursuant to the provisions of Standing Order Nos. 41 and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly.

Whereas the Petroleum Exploration Development and Production Bill (National Assembly Bill No.44 of 2015) was published vide the Kenya Gazette Supplement No.128 of 11th August, 2015 to provide a framework for contracting, exploration and development of petroleum and to give effect to the relevant provisions of the Constitution of Kenya 2010 and to repeal the Petroleum Exploration and Production Act, 1984;

Whereas the Energy Bill (National Assembly Bill No.50 of 2015) was published vide Kenya Gazette Supplement No.134 of 11th August, 2015, to *inter alia* consolidate the laws relating to energy and to repeal the Energy Act, 2006 and the Geothermal Resources Act, 1982;

Whereas the National Assembly passed the two Bills on Tuesday 3rd May, 2016 and Thursday 28th May 2016, respectively, and forwarded them to the Senate for consideration, and;

Whereas the National Assembly received Senate amendments to the two Bills on Tuesday, 19th July, 2016;

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Further, whereas in its sittings on Tuesday, 9th August, 2016 Wednesday, 10th August, 2016 and Thursday, 11th August, 2016 the National Assembly agreed with the Senate amendments to several clauses of the Petroleum Exploration Development and Production Bill (National Assembly Bill No.44 of 2015) save for the amendments to clauses 12, 17, 48 and 49 of the said Bill and Clause 57(e) (i) of the Energy Bill (National Assembly Bill No.50 of 2015);

Now, therefore, in accordance to the provisions of Article 112 of the Constitution and Standing Order No.142 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.

Hon. Senators, you will recall that Article 112(1)(b) provides that:-

- “If one House passes an ordinary Bill concerning counties, and the second House—
- (b) 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—

- (b) rejects the Bill as amended, the Bill shall be referred to a mediation committee under Article 113.

Hon. 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 Article 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. Hon. Jamleck Kamau, E.G.H, MP
2. Hon. Onesmus Muthomi Njuki, MP
3. Hon. Olago Aluoch, MP

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

1. Sen. Gideon Moi, MP
2. Sen. Kiraitu Murungi, MP
3. Sen. David Musila, MP

I thank you.

Let us move on to the next Order.

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PAPERS LAID

Sen. Khaniri: Mr. Speaker, Sir, I beg to lay the following Papers on the Table of the Senate today, Thursday, 18th August, 2016:-

REPORT OF THE MEDIATION COMMITTEE ON THE NATURAL RESOURCES
(CLASSES OF TRANSACTIONS SUBJECT TO RATIFICATION) BILL

Report of the Mediation Committee on the Natural Resources (Classes of Transactions Subject to Ratification) Bill (National Assembly Bills No. 54 of 2015).

REPORT OF THE MEDIATION COMMITTEE ON THE FOREST
CONSERVATION AND MANAGEMENT BILL

Report of the Mediation Committee on the Forest Conservation and Management Bill (National Assembly Bills No.49 of 2015).

(Sen. Khaniri laid the documents on the Table)

The Speaker (Hon. Ethuro): Proceed, Sen. Billow.

REPORT OF THE FINANCE COMMITTEE ON THE COUNTY GOVERNMENTS
CASH DISBURSEMENT SCHEDULE FOR FY 2016/2017

Sen. Billow: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Thursday, 18th August, 2016.

Report of the Standing Committee on Finance, Commerce and Budget on the County Governments Cash Disbursement Schedule for the Financial Year 2016/2017.

Mr. Speaker, Sir, this Report will allow hon. Members to have an opportunity to look at the Schedule.

(Sen. Billow laid the document on the Table)

Sen. (Dr.) Machage: On a point of order, Mr. Speaker, Sir. The Report that has just been laid was laid in this House during the last sitting. Is it that we do not have memory in the House? Is it in order to have a second laying of the same Report?

Sen. Billow: Mr. Speaker, Sir, let me clarify. What we laid on the Table of the House was the Cash Disbursement Schedule. What I have just laid is the Report of the Standing Committee on the Schedule, not the Schedule itself.

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The Speaker (Hon. Ethuro): Sen. (Dr.) Machage, that explanation is satisfactory. Initially I was also concerned.
Proceed, Sen. Orengo.

REPORT OF THE JOINT PARLIAMENTARY SELECT
COMMITTEE ON MATTERS RELATING TO THE IEBC

Sen. Orengo: Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Thursday, 18th August, 2016:-

Report of the Joint Parliamentary Select Committee on matters relating to the Independent Electoral and Boundaries Commission.

(Sen. Orengo laid the document on the Table)

The Speaker (Hon. Ethuro): Let us move on to the next Order.

NOTICES OF MOTIONS

Sen. Khaniri: Mr. Speaker, Sir, I beg to give notice of the following Motions:-

ADOPTION OF MEDIATION COMMITTEE REPORT ON THE
NATURAL RESOURCES (CLASSES OF TRANSACTIONS SUBJECT
TO RATIFICATION) BILL

THAT, this House adopts the Report of the Mediation Committee on the Natural Resources (Classes of Transactions Subject to Ratification) Bill (National Assembly Bills No. 54 of 2015) laid on the Table of the House today, Thursday, 18th August, 2016.

ADOPTION OF MEDIATION COMMITTEE REPORT ON
THE FOREST CONSERVATION AND MANAGEMENT BILL

THAT, this House adopts the Report of the Mediation Committee on the Forest Conservation and Management Bill (National Assembly Bills No.49 of 2015) laid on the Table of the House today, Thursday, 18th August, 2016.

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ADOPTION OF REPORT OF THE JOINT PARLIAMENTARY
SELECT COMMITTEE ON MATTERS RELATING TO THE IEBC

Sen. Orengo: Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, this House adopts the Report of the Joint Parliamentary Select Committee on matters relating to the Independent Electoral and Boundaries Commission laid on the Table of the House today, Thursday, 18th August, 2016.

COMMUNICATION FROM THE CHAIR

REORGANIZATION OF BUSINESS ON THE ORDER PAPER

The Speaker (Hon. Ethuro): Hon. Senators, for purposes of voting, we will handle business in three segments. We will start with Order Nos.5, 6, 7, 8, 9, 10, and 11. We will skip Order No.12 then move on to Orders No.13, 14 and 15. From there, depending on the numbers, we will go back to Order No.12. If not, we will proceed with the Committee of the Whole and the remaining Orders.

Hon. Senators, I, therefore, wish to put the question to Order Nos.5, 6, 7, 8, 9, 10, 11, 13, 14 and 15. Clerk-at-the-Table, let us proceed.

MOTIONS

APPROVAL OF THE COUNTY GOVERNMENTS' CASH
DISBURSEMENT SCHEDULE FOR FY 2016/2017

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, 5th August, 2016.

(Sen. (Dr.) Machage on 5.8.2016)

(Resumption of Debate interrupted on 5.8.2016)

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DIVISION

ELECTRONIC VOTING

(Question, 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, 5th August, 2016, put and the Senate proceeded to vote by county delegations)

AYES: Sen. Adan, Isiolo County; Sen. Billow, Mandera County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. Cheruiyot, Kericho County; Sen. Haji, Garissa County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kittony, Trans Nzoia County; Sen. (Prof.) Lesan, Bomet County; Sen. Leshore, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. M. Kajwang', Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Mositet, Kajiado County; Sen. Mugo, Nairobi County; Sen. Murkomen, Elgeyo-Marakwet; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Obure, Kisii County; Sen. Orengo, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County and Sen. Wetangula, Bungoma County.

NOES: Nil

The Speaker (Hon. Ethuro): Hon. Senators, the result of the vote is as follows:-

AYES: 28

NOES: 0

ABSTENTIONS: 0

The "Ayes" have it.

(Question carried by 28 votes to 0)

ADOPTION OF THE MEDIATION COMMITTEE
REPORT ON THE COMMUNITY LAND BILL

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, 27th 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.

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(Sen. Kivuti on 27.7.2016)

(Resumption of Debate interrupted on 28.7.2016)

DIVISION

ELECTRONIC VOTING

(Question, 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, 27th 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, put and the Senate proceeded to vote by county delegations)

AYES: Sen. Adan, Isiolo County; Sen. Billow, Mandera County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. Cheruiyot, Kericho County; Sen. Haji, Garissa County; Sen. Kagwe, Nyeri County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kittony, Trans Nzoia County; Sen. (Prof.) Lesan, Bomet County; Sen. Leshore, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot; Sen. M. Kajwang', Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Mositet, Kajiado County; Sen. Mugo, Nairobi County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Obure, Kisii County; Sen. Orenge, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County and Sen. Wetangula, Bungoma County.

NOES: Sen. Hargura, Marsabit County.

The Speaker (Hon. Ethuro): Hon. Senators, the result of the vote is as follows:-

AYES: 27

NOES: 1

ABSTENTIONS: 0

The "Ayes" have it.

(Question carried by 27 votes to 1)

ADOPTION OF THE MEDIATION COMMITTEE REPORT ON THE LAND LAWS (AMENDMENT) BILL

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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, 27th 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.

(Sen. Kivuti on 28.7.2016)

(Resumption of Debate interrupted on 28.7.2016)

DIVISION

ELECTRONIC VOTING

(Question, 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, 27th 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 put and the Senate proceeded to vote by county delegations)

AYES: Sen. Adan, Isiolo County; Sen. Billow, Mandera County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. Cheruiyot, Kericho County; Sen. Haji, Garissa County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kittony, Trans Nzoia County; Sen. (Prof.) Lesan, Bomet County; Sen. Leshore, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. M. Kajwang', Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Mositet, Kajiado County; Sen. Mugo, Nairobi County; Sen. Murkomen, Elgeyo-Marakwet; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Obure, Kisii County; Sen. Orenge, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County and Sen. Wetangula, Bungoma County.

NOES: Nil

The Speaker (Hon. Ethuro): Hon. Senators, the result of the vote is as follows:-

AYES: 28

NOES: 0

ABSTENTIONS: 0

The "Ayes" have it.

(Question carried by 28 votes to 0)

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ADOPTION OF THE MEDIATION COMMITTEE
REPORT ON THE WATER BILL

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, 27th 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.

(Sen. Kivuti on 28.7.2016)

(Resumption of Debate interrupted on 28.7. 2016)

DIVISION

ELECTRONIC VOTING

(Question, 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, 27th 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, put and the Senate proceeded to vote by county delegations)

AYES: Sen. Adan, Isiolo County; Sen. Billow, Mandera County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. Cheruiyot, Kericho County; Sen. Haji, Garissa County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kittony, Trans Nzoia County; Sen. (Prof.) Lesan, Bomet County; Sen. Leshore, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. M. Kajwang', Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Mositet, Kajiado County; Sen. Mugo, Nairobi County; Sen. Murkomen, Elgeyo-Marakwet; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Obure, Kisii County; Sen. Orengo, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County and Sen. Wetangula, Bungoma County.

NOES: Nil

The Speaker (Hon. Ethuro): Hon. Senators, the result of the vote is as follows:-

AYES: 28

NOES: 0

ABSTENTIONS: 0

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The “Ayes” have it.

(Question carried by 28 votes to 0)

BILLS

Second Readings

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

(Sen. (Prof.) Kindiki on 27.7.2016)

(Resumption of debate interrupted on 28.7.2016)

DIVISION

ELECTRONIC VOTING

(Question, that the Physical Planning Bill (National Assembly Bills No. 46 of 2015) be now read a second time put, and the Senate proceeded to vote by county delegations)

AYES: Sen. Adan, Isiolo County; Sen. Billow, Mandera County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. Cheruiyot, Kericho County; Sen. Haji, Garissa County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kittony, Trans Nzoia County; Sen. (Prof.) Lesan, Bomet County; Sen. Leshore, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. M. Kajwang’, Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Mositet, Kajiado County; Sen. Mugo, Nairobi County; Sen. Murkomen, Elgeyo-Marakwet; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Obure, Kisii County; Sen. Orengo, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County and Sen. Wetangula, Bungoma County.

NOES: Nil

The Speaker (Hon. Ethuro): Hon. Senators, the result of the vote is as follows:-

AYES: 28

NOES: 0

ABSTENTIONS: 0

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The “Ayes” have it.

(Question carried by 28 votes to 0)

(The Bill was read a Second Time and committed to a Committee of the Whole tomorrow)

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

(Sen. (Prof.) Lonyangapuo on 19.7.2016)

(Resumption of Debate interrupted on 20.7.2016)

DIVISION

ELECTRONIC VOTING

(Question, that the County Governments (Amendment) Bill (Senate Bills No. 21 of 2015) be now read a second time put, and the Senate proceeded to vote by county delegations)

AYES: Sen. Adan, Isiolo County; Sen. Billow, Mandera County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. Cheruiyot, Kericho County; Sen. Haji, Garissa County; Sen. Kagwe, Nyeri County; Sen. (Dr.) Khalwale, Kakamega County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kittony, Trans Nzoia County; Sen. (Prof.) Lesan, Bomet County; Sen. Leshore, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. Mositet, Kajiado County; Sen. Mugo, Nairobi County; Sen. Murkomen, Elgeyo-Marakwet; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Orenge, Siaya County; Sen. Sang, Nandi County; Sen. Wamatangi, Kiambu County and Sen. Wetangula, Bungoma County.

NOES: Sen. Wako, Busia County.

ABSTENTIONS: Sen. Hargura, Marsabit County; Sen. M. Kajwang', Homa Bay County; Sen. Khaniri, Vihiga County; Sen. (Dr.) Machage, Migori County; and, Sen. Obure, Kisii County.

The Speaker (Hon. Ethuro): Hon. Senators, the result of the vote is as follows:-

AYES: 22

NOE: 1

ABSTENTIONS: 5

The Bill is, therefore, lost.

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(Question negatived by 22 votes to 1)

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

(Sen. Wangari on 20.7.2016)

(Resumption of Debate interrupted on 20.7.2016)

DIVISION

ELECTRONIC VOTING

(Question that the National Hospital Insurance Fund (Amendment) Bill (Senate Bills No. 9 of 2015) be now read a second time put, and the Senate proceeded to vote by county delegations)

AYES: Sen. Adan, Isiolo County; Sen. Billow, Mandera County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. Cheruiyot, Kericho County; Sen. Haji, Garissa County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kittony, Trans Nzoia County; Sen. (Prof.) Lesan, Bomet County; Sen. Leshore, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. M. Kajwang', Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Mositet, Kajiado County; Sen. Mugo, Nairobi County; Sen. Murkomen, Elgeyo-Marakwet; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Obure, Kisii County; Sen. Orengo, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County and Sen. Wetangula, Bungoma County.

NOES: Nil

The Speaker (Hon. Ethuro): Hon. Senators, the result of the vote is as follows:-

AYES: 28

NOES: 0

ABSTENTIONS: 0

The "Ayes" have it.

(Question carried by 28 votes to 0)

(The Bill was read a Second Time and committed to a Committee of the Whole tomorrow)

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

(Sen. (Prof.) Kindiki on 15.4.2014)

(Resumption of Debate interrupted on 26.7.2016)

DIVISION

ELECTRONIC VOTING

*(Question, that the Kenya Medical Supplies Authority (Amendment) Bill
(Senate Bills No. 4 of 2014) be now read a second time put, and the Senate proceeded to
vote by county delegations)*

AYES: Sen. Adan, Isiolo County; Sen. Billow, Mandera County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. Cheruiyot, Kericho County; Sen. Haji, Garissa County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kittony, Trans Nzoia County; Sen. (Prof.) Lesan, Bomet County; Sen. Leshore, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. M. Kajwang', Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Mositet, Kajiado County; Sen. Mugo, Nairobi County; Sen. Murkomen, Elgeyo-Marakwet; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Obure, Kisii County; Sen. Orendo, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County and Sen. Wetangula, Bungoma County.

NOES: Nil

The Speaker (Hon. Ethuro): Hon. Senators, the result of the vote is as follows:-

AYES: 28

NOES: 0

ABSTENTIONS: 0

The "Ayes" have it.

(Question carried by 28 votes to 0)

*(The Bill was read a Second Time and committed
to a Committee of the Whole tomorrow)*

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

(Sen. (Prof.) Kindiki on 26.7.2016)

(Resumption of Debate interrupted on 26.7.2016)

DIVISION

ELECTRONIC VOTING

(Question, that the Parliamentary Powers and Privileges Bill (National Assembly Bills No. 35 of 2014) be now read a second time put, and the Senate proceeded to vote by county delegations)

AYES: Sen. Adan, Isiolo County; Sen. Billow, Mandera County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. Cheruiyot, Kericho County; Sen. Haji, Garissa County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kittony, Trans Nzoia County; Sen. (Prof.) Lesan, Bomet County; Sen. Leshore, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. M. Kajwang', Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Mositet, Kajiado County; Sen. Mugo, Nairobi County; Sen. Murkomen, Elgeyo-Marakwet; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Obure, Kisii County; Sen. Orenge, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County and Sen. Wetangula, Bungoma County.

NOES: Nil

The Speaker (Hon. Ethuro): Hon. Senators, the result of the vote is as follows:-

AYES: 28

NOES: 0

ABSTENTIONS: 0

The "Ayes" have it.

(Question carried by 28 votes to 0)

(The Bill was read a Second Time and committed to a Committee of the Whole tomorrow)

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

(Sen. Karaba on 20.7.2016)

(Resumption of Debate interrupted on 26.7.2016)

DIVISION

ELECTRONIC VOTING

(Question, that the County Governments (Amendment) Bill (Senate Bills No.4 of 2016) be now read a second time put, and the Senate proceeded to vote by county delegations)

AYES: Sen. Adan, Isiolo County; Sen. Billow, Mandera County; Sen. Bule, Tana River County; Sen. Chelule, Nakuru County; Sen. Cheruiyot, Kericho County; Sen. Haji, Garissa County; Sen. Hargura, Marsabit County; Sen. Kagwe, Nyeri County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kittony, Trans Nzoia County; Sen. (Prof.) Lesan, Bomet County; Sen. Leshore, Samburu County; Sen. (Prof.) Lonyangapuo, West Pokot County; Sen. M. Kajwang', Homa Bay County; Sen. (Dr.) Machage, Migori County; Sen. Mositet, Kajiado County; Sen. Mugo, Nairobi County; Sen. Murkomen, Elgeyo-Marakwet; Sen. Murungi, Meru County; Sen. Musila, Kitui County; Sen. Obure, Kisii County; Sen. Orenge, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County; Sen. Wamatangi, Kiambu County and Sen. Wetangula, Bungoma County.

NOES: Nil

The Speaker (Hon. Ethuro): Hon. Senators, the result of the vote is as follows:-

AYES: 28

NOES: 0

ABSTENTIONS: 0

The "Ayes" have it.

(Question carried by 28 votes to 0)

(The Bill was read a Second Time and committed to a Committee of the Whole tomorrow)

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The Speaker (Hon. Ethuro): Order, Members. Let us have the Bar and the doors opened. I encourage the Members to remain inside the Chamber so that we complete today's business.

COMMITTEE OF THE WHOLE

(Order for Committee read)

[The Speaker (Hon. Ethuro) left the Chair]

IN THE COMMITTEE

*[The Temporary Chairperson
(Dr. Machage) took the Chair]*

THE REPRODUCTIVE HEALTH CARE BILL (SENATE BILLS NO.17 OF 2014)

The Temporary Chairperson (Sen. (Dr.) Machage): Hon. Members, the Senate is still in session. I request that we have a quorum in order to execute the remaining business. We are now on the Order No.16 – Committee of the Whole; Division. Could the Division Bell be rung for two minutes?

(The Division Bell was rung)

The Temporary Chairperson (Sen. (Dr.) Machage): Order! After the Division Bell, we still do not have the numbers for a Division. Could the Division Bell be rung for one more minute?

(The Division Bell was rung)

The Division Bell will continue to ring for another five minutes.

(The Division Bell was rung)

Stop the Division Bell. After the Division Bell rung for over seven minutes, we still do not have the quorum to execute this Business.

Sen. Murkomen: On a point of order, Mr. Temporary Speaker, Sir. Is this not a serious matter that may call into question the Members' commitment? We signed for a Special Sitting and after agreeing to come to the House, the Members walked out before

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our eyes. I suggest that the Chair should convene a *Kamukunji* in future so that the Senators can make a decision whether we should go for a permanent recess up to the next General Elections or we have the commitment to come and do the business we are supposed to do.

I am unhappy because we are on recess, but we made a decision to come for an afternoon; and then Senators just walk out before our eyes. We have many responsibilities to do but when we call for a Special Sitting, we must respect the Kenyans who gave us the responsibility to serve this nation.

Mr. Temporary Speaker, Sir, it is upon us to do soul-searching and create time next week to discuss this matter. I know that I am part of the political leadership of this House, but it really requires a full commitment from both sides of the political divide.

Sen. Orengo: On a point of order, Mr. Temporary Chairman, Sir. Just in short agreement with the Senator for Elgeyo-Marakwet and the Senate Deputy Majority Leader. The signal being sent is that we can only do business when the Bar is drawn and the doors are locked. We can only transact business when we are like prisoners, but when the door is opened we all vanish. The point that the Senator for Elgeyo-Marakwet has brought out is very important, especially when it is a Special Sitting.

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Chairman, Sir. I share the views of the Senator for Elgeyo-Marakwet. Whereas it is unfortunate that we have been unable to raise the numbers that we need for this particular business, let it also be known to the rest of the public that this afternoon the Senators have done a sterling job. They have passed not one, not two, but 15 Motions that have gone through division. Let it not look like they have done nothing; let us encourage them. Sen. Murkomen, you do not have to appeal to the Chair. You are absconding your responsibility; you are a leader of your side. The leader on our side is here and she has done her best to whip us. On your side the whip is not even--- Okay, she is there.

Sen. Ong'era: On a point of order, Mr. Temporary Chairman, Sir. I also want to support what my colleagues have said. First, some good work has been done this afternoon despite the fact that some Members took off. Maybe in future we should close the Bar completely, so that we finish the work whether or not we are in the Committee of the Whole. I know it may require amending our Standing Orders, but that is what we may need to do in future for us to transact business.

The Temporary Chairperson (Sen. (Dr.) Machage): I want to call upon you to look at Standing Order No. 29 (5). It reads:-

“Whenever the Senate meets for a special sitting under paragraph (1), the Speaker shall specify the business to be transacted on the day or days appointed and the business so specified shall be the only business before the Senate during the special sitting, following which the Senate shall stand adjourned until the day appointed in the Senate calendar”

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It is talking of “business” and it depends on your interpretation of ‘business’ or ‘businesses’; whether we have been carrying out ‘businesses’ today or ‘business’ is subject to your own interpretation. Some Members thought that ‘business’ means only one item, but we have been able to transact 15 items.

Whereas the concern of Sen. Murkomen is legitimate, it is a little bit misplaced today in view of the amount of work that has been done, which has never been done before. However, the blame has to stand and the first area of blame will be on the leadership. The Member who raised this point of order is none other than the Deputy Majority Leader. I can also see the Deputy Minority Whip. Was the whipping properly done that there would be businesses today? If that was not done, then Members cannot be blamed. If it was announced that way, then Sen. Murkomen’s assertion holds some water. May I leave it at that.

Sen. (Prof.) Anyang'-Nyong'o: On a point of order, Mr. Temporary Chairman, Sir. I join my colleagues in the concern, but under the circumstances, I propose that we be practical and do what we can. I propose that rather than go to the Committee of the Whole on Order Nos.16 to 20, we should just concentrate on the Motion by the Co-Chairs of the Joint Parliamentary Select Committee, which will not require the mandatory number of 24 Members. That would be more practical. I understand that Members may have been anxious to leave after voting, but there are still enough of us and quite a few in the lounge to deal with Order No.21.

The Temporary Chairperson (Sen. (Dr.) Machage): Very well. That is a legitimate concern and advice.

What is it, Sen. (Prof.) Lesan?

Sen. (Prof.) Lesan: Mr. Temporary Chairman, Sir, whereas I agree with Sen. (Prof.) Anyang'-Nyong'o that we could move to the Motion, it is also important that we read the Report and understand it, so that we can contribute significantly. Since we have not read the report, I do not think that it is advisable to go directly to the Motion.

The Temporary Chairperson (Sen. (Dr.) Machage): That is an important concern. Actually, the report was tabled today. Although the Motion is listed on the Order Paper, there was a request from the Movers - two Members would have moved this Motion today – to the Chair that it is deferred to another day, so that Members may have enough time to scrutinize it for better debate. It is a debate that will make a big change on the electoral system in this country. Therefore, I agree with Sen. (Prof.) Lesan, although, in a way, I also support the sentiments of Sen. (Prof.) Anyang'-Nyong'o.

For that reason, I call upon the Mover, Sen. Sijeny.

Sen. Sijeny: Mr. Temporary Chairman, Sir, pursuant to Standing Order No.139, I beg to move that the Committee do report progress on its consideration of The Reproductive Health Care Bill (Senate Bill No17 of 2014) and seek leave to sit again tomorrow.

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(Question proposed)

(Question put and agreed to)

(The House Resumed)

[The Temporary Speaker (Sen. Mositet) in the Chair]

(Sen. Murkomen consulted loudly as he left the Chamber)

The Temporary Speaker (Sen. Mositet): Order, Sen. Murkomen. Sen. Murkomen, please leave in an orderly manner.
Proceed, Chairperson.

PROGRESS REPORTED

THE REPRODUCTIVE HEALTH CARE BILL (SENATE BILLS NO.17 OF 2014)

Sen. (Dr.) Machage: Mr. Temporary Speaker, Sir, I beg to report progress that the Committee of the Whole has considered The Reproductive Health Care Bill (Senate Bill No.17 of 2014) and seeks leave to sit again tomorrow.

Sen. Sijeny: Mr. Temporary Speaker, Sir, I beg to move that the House do agree with the Committee on the said Report.

Sen. Khalwale seconded.

(Question proposed)

(Question put and agreed to)

The Temporary Speaker (Sen. Mositet): Hon. Senators, I am deferring all other orders to the next sitting which will be on 13th September, 2016.

BILL

Second Reading

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

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(Bill Deferred)

COMMITTEE OF THE WHOLE

THE COUNTY OUTDOOR ADVERTISING CONTROL BILL
(SENATE BILLS NO. 11 OF 2015)

THE EMPLOYMENT (AMENDMENT) BILL
(SENATES BILLS NO. 1 OF 2015)

THE COUNTY LIBRARY SERVICES BILL
(SENATE BILLS NO. 6 OF 2015)

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

(Committee of the whole deferred)

MOTION

ADOPTION OF REPORT OF THE
JOINT PARLIAMENTARY SELECT COMMITTEE ON IEBC

THAT, the Senate adopts the Report of the Joint Parliamentary Select Committee on Matters Relating to the Independent Electoral and Boundaries Commission laid on the Table of the Senate on Thursday, 18th August, 2016.

(Motion deferred)

ADJOURNMENT

The Temporary Speaker (Sen. Mositet): Hon. Senators, there being no other business, the Senate stands adjourned until Tuesday, 13th September, 2016 at 2.30 p.m.

The Senate rose at 4.35 p.m.

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