



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – SECOND SESSION

THE SENATE

VOTES AND PROCEEDINGS

TUESDAY, MAY 29, 2018 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. **COMMUNICATION FROM THE CHAIR- DEMISE OF MAMA VIRGINIA CIARUNJI NJOKA**

The Speaker conveyed the following communications from the Chair: -

“Honourable Senators,

It is with a heavy heart that I have learnt about the demise of Mama Virginia Ciarunji Njoka, mother to the Hon. Justin B. Muturi, EGH, MP, Speaker of the National Assembly, which occurred on Saturday, 26th May, 2018.

The late Mama Virginia will be remembered for being a strong pillar to her family and the society, particularly for her endless generosity that touched many around her.

A requiem mass for the late Mama Virginia will be held at the All Saints Cathedral in Nairobi tomorrow, 30th May, 2018 at 6.00pm, and she will be laid to rest on Saturday, 2nd June, 2018 at her Kirimari home in Kanyuambora location, Embu County.

On behalf of the Senate and indeed on my own behalf, I wish to assure my Colleague, the Speaker of the National Assembly and Chairman to the Parliamentary Service Commission that we stand in solidarity with him and his family at this trying moment.

May the soul of Mama Virginia rest in eternal peace.

I thank you.”

4. **NOTICE OF MOTION – NOMINATION OF A SENATOR TO SERVE IN THE SENATE BUSINESS COMMITTEE**

THAT, pursuant to Standing Orders 178(1)(d) and 183 (3) of the Senate, the Senate approves the appointment of Sen. Cleophas Malalah, MP, as a Member of the Senate Business Committee.

(The Senate Majority Leader)

5. **NOTICE OF MOTION - REPORT OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS ON FINANCIAL OPERATIONS OF NAROK COUNTY EXECUTIVE FOR FY 2013/2014**

THAT, this House adopts the Report of the Sessional Committee on the County Public Accounts and Investments on the inquiry into the Financial operations of Narok County Executive for the Financial year 2013/2014 (1st July 2013 - 30th June, 2014) laid on the Table of the House on Thursday, 10th May, 2018.

(Vice-Chairperson, Sessional Committee on County Public Accounts and Investments)

6. **NOTICE OF MOTION - REPORT OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS ON FINANCIAL OPERATIONS OF TURKANA COUNTY EXECUTIVE FOR FY 2013/2014**

THAT, this House adopts the Report of the Sessional Committee on the County Public Accounts and Investments on the inquiry into the Financial operations of Turkana County Executive for the Financial year 2013/2014 (1st July 2013 - 30th June, 2014) laid on the Table of the House on Thursday, 10th May, 2018.

(Vice-Chairperson, Sessional Committee on County Public Accounts and Investments)

7. **NOTICE OF MOTION - REPORT OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS ON FINANCIAL OPERATIONS OF KAJIADO COUNTY EXECUTIVE FOR FY 2013/2014**

THAT, this House adopts the Report of the Sessional Committee on County Public Accounts and Investments on the inquiry into the Financial operations of Kajiado County Executive for the Financial year 2013/2014 (1st July 2013 - 30th June, 2014) laid on the Table of the House on Thursday, 10th May, 2018.

(Vice-Chairperson, Sessional Committee on County Public Accounts and Investments)

8. **STATEMENT PURSUANT TO STANDING ORDER 46 (2) (A)**

(a) The Senator for Uasin Gishu County (Sen. (Prof.) Margaret Kamar) made a Statement concerning the current situation of maize buying by NCPB in the North Rift region and Uasin Gishu County in particular.

Thereupon, the Senator informed the House that farmers usually delivered their produce to the National Cereals and Produce Board (NCPB) for storage but a majority of them had complained of poor management of the storage process as well as late payment for their produce, leading to frustration and financial stress to the farmers.

The Senator also informed the House of a number of unresolved concerns relating to storage capacity, when the duty-free window is supposed to close, importation of extra maize from Mexico, Uganda and Tanzania and wondered why NCPB stores in Loitoktok, Bungoma, Kisumu and Nakuru were full and yet the source of the maize was unknown.

The Senator further informed the House that farmers, and the leadership of Uasin Gishu County had held a meeting and declared support for Government investigation into the affairs of NCPB with a view to resolving issues concerning the farmers in the county.

(b) The Nominated Senator (Sen. Farhiya Haji) made a Statement regarding the state of the road network in Northern Eastern Kenya.

Thereupon, the Senator informed the House that North Eastern part of the Country had traditionally been faced with the problem of poor state of roads, especially in Wajir and Mandera, and no government had attempted to make any infrastructural development.

The Senator also informed the House that, although upon adoption of the Vision 2030 Development Programme, the Central Government had concentrated on trade, industrial expansion and infrastructural development with a view to develop a stable economy, Northern Part of Kenya has been pushed to the periphery, making it difficult and expensive to travel by road to Wajir and Mandera.

The Senator however, expressed her appreciation to the Jubilee administration for showing commitment to improve the road networks by engaging donors and lenders to help construct the Nuno- Modogashe – Wajir Road, which would have great economic effect and immense development opportunities.

The Senator urged the Kenya National Highway Authority (KENHA), the prospective contractor and their supervisors to observe and maintain quality of work and maintain the timeline.

9. **THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILLS NO. 11 OF 2018)**

Motion made and Question proposed: -

THAT, the County Allocation of Revenue Bill (Senate Bills No. 11 of 2018 be now read a Second Time.

(Chairperson, Standing Committee on Finance and Budget – 29.05.2018)

Debate interrupted on Wednesday, 16th May, 2018 resumed on a Division;

The House proceeded to a Division;

The Speaker directed that electronic voting be taken pursuant to Standing Order 75 (2) and that the Division Bell be rung for one minute;

Upon the expiry of one minute, the Speaker directed that the doors be locked and bars drawn and asked Senators to log-in for electronic voting;

The 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 the provisions of Standing Order 75 (5), the Speaker allowed four (4) Senators to record their votes verbally.

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

1. Sen. Mary Seneta
2. Sen. (Dr.) Agnes Zani
3. Sen. Lelegwe Ltumbesi
4. Sen. Irungu Kang’ata

Following the Division, Question agreed to.

The results of the Division were as follows:-

AYES – 32

NOES – 0

ABSTENTION

AYES

1. Sen. (Dr.) Ali Abdullahi Ibrahim
2. Sen. (Dr.) Zani Agnes – Voted verbally on behalf of Kilifi County Delegation
3. Sen. Cherarkey Samson Kiprotich
4. Sen. Cheruiyot Aaron Kipkirui
5. Sen. Haji Mohamed Yusuf
6. Sen. Halake Abshiro – voted verbally on behalf of Isiolo County Delegation
7. Sen. Irungu Kang’ata
8. Sen. Kabaka Boniface Mutinda
9. Sen. Kajwang’ Moses Otieno
10. Sen. Kamar Margaret Jepkoech
11. Sen. Khainiri George
12. Sen. Kibiru Charles Reubenson
13. Sen. Kihika Susan Wakarura
14. Sen. Kirinyaga Ephraim Mwangi Maina
15. Sen. Lang’at Christopher Andrew

16. Sen. Lelegwe Steve Ltumbesi
17. Sen. Linturi Franklin Mithika
18. Sen. Madzayo Stewart
19. Sen. Mahamud Mohamed Maalim
20. Sen. Malalah Cleophas Wakhungu
21. Sen. Murkomen Onesimus Kipchumba
22. Sen. Mwangi Paul Githiomi
23. Sen. Mwinyi Haji Mohamed Faki
24. Sen. Sakaja Johnson
25. Sen. Ndwiga Peter Njeru
26. Sen. Olekina Ledama
27. Sen. Orengo James
28. Sen. Fredrick Outa
29. Sen. Mary Seneta - voted verbally on behalf of Kajiado County
30. Sen. Wambua Enoch Kiio
31. Sen. (Rev.) Waqo Naomi Jilo – Voted on behalf of Marsabit County Delegation
32. Sen. Wetang'ula Moses Masika

10. **THE COUNTY GOVERNMENTS (AMENDMENT) (NO.2) BILL (SENATE BILLS NO.7 OF 2017)**

Motion made and Question proposed-

THAT, the County Governments (Amendment) Bill (Senate Bills No. 11 of 2017) be now read a Second Time.

(The Senate Majority Leader – 29.05.2018)

Debate interrupted on Tuesday, 15th May, 2018 resumed on a Division;

The House proceeded to a Division;

The Speaker directed that electronic voting be taken pursuant to Standing Order 75 (2) and that the Division Bell be rung for one minute;

Upon the expiry of one minute, the Speaker directed that the doors be locked and bars drawn and asked Senators to log-in for electronic voting;

The 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 the provisions of Standing Order 75 (5), the Speaker allowed four (4) Senators to record their vote verbally.

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

1. Sen. Mary Seneta
2. Sen. (Dr.) Agnes Zani
3. Sen. Lelgwe Ltumbesi
4. Sen. Irungu Kang'ata

Following the Division, Question agreed to.

The results of the Division were as follows:

AYES 28

NOES-0

ABSTENTION-0

1. Sen. Adan Dullo Fatuma
2. Sen. Ali Abdullahi Ibrahim
3. Sen. (Dr.) Agnes Zani – Voted verbally on behalf of Kilifi County Delegation
4. Sen. Cherarkey Samson Kiprotich
5. Sen. Cheruiyot Aaron Kipkirui
6. Sen. Haji Mohamed Yusuf
7. Sen. Irungu Kang'ata
8. Sen. Kajwang' Moses Otieno
9. Sen. Kamar Margaret Jepkoech
10. Sen. Kibiru Charles Reubenson
11. Sen. Kihika Susan Wakarura
12. Sen. Kirinyaga Ephraim Mwangi Maina
13. Sen. Langat Christopher Andrew
14. Sen. Lelegwe Steve Ltumbesi
15. Sen. Linturi Franklin Mithika
16. Sen. Mahamud Mohamed Maalim
17. Sen. Malalah Cleophas Wakhungu
18. Sen. Murkomen Onesimus Kipchumba
19. Sen. Mwangi Paul Githiomi
20. Sen. Mwinyi Haji Mohamed Faki
21. Sen. Ndwiga Peter Njeru
22. Sen. Omogeni Eric Okong'o
23. Sen. Olekina Ledama
24. Sen. Orengo James
25. Sen. Mary Seneta
26. Sen. Wambua Enoch Kiio
27. Sen. Waqo Naomi Jilo – Voted on behalf of Isiolo County Delegation
28. Sen. Wetang'ula Moses Masika

11. **THE COUNTY WARD EQUALIZATION FUND BILL (SENATE BILLS NO. 5 OF 2018)**

(Sen. Irungu Kang'ata)

(Second Reading)

(Resumption of Debate interrupted on Thursday, 10th May, 2018)

Order deferred.

12. **THE OFFICE OF THE COUNTY ATTORNEY BILL (SENATE BILLS NO. 3 OF 2018)**

(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

(Second Reading)

Order deferred.

13. **THE PUBLIC PARTICIPATION BILL (SENATE BILLS NO. 4 OF 2018)**

(Sen. Amos Wako)

(Second Reading)

Order deferred.

14. **MOTION- TEACHING OF KISWAHILI LANGUAGE TO LEARNERS WITH HEARING DISABILITY**

Motion made and Question proposed:-

THAT AWARE that Article 27 of the Constitution of Kenya guarantees equality of every person in enjoyment of all rights and fundamental freedoms and prohibits discrimination against any person on any ground including disability and language;

FURTHER AWARE that Article 24 (2) (a) of the United Nations Convention on the Rights of Persons with Disabilities prohibits persons with disabilities from exclusion from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;

ACKNOWLEDGING that Article 7 of the Constitution of Kenya provides for the national language of the Republic as Kiswahili and the official languages of the republic as Kiswahili and English;

APPRECIATING that the Report of the Commission of Inquiry into Education in Kenya (the Ominde Commission of 1965) proposed that Kiswahili language be taught as a compulsory subject both in primary and secondary schools in Kenya with the aim of making the language a vehicle for literacy works relevant to community work of various kinds;

COGNIZANT that Kiswahili language has been recognized as a unifying language in the East African Community, hence making it a *lingua franca* in the region;

CONCERNED that under the new curriculum of education in Kenya that is being piloted, learners with hearing disability are not offered Kiswahili language in primary schools, secondary schools and primary teachers training colleges;

NOW THEREFORE, the Senate calls upon the Ministry of Education, Science and Technology and other relevant state agencies to: -

- (i) offer Kiswahili language as a core subject to learners with hearing disability in primary schools, secondary schools and primary teacher colleges;
- (ii) come up with an elaborate syllabus for teaching Kiswahili as a core subject to deaf learners in primary, secondary and teacher training colleges; and
- (iii) come up with an elaborate syllabus for teaching Kenya Sign Language (KSL) as an optional subject for learners who have no hearing disability and for deaf learners.

(Sen. (Dr.) Getrude Musuruve)

Debate arising;

And there being no other Senator wishing to contribute;

Mover replied;

Before the Question was put and pursuant to Standing Order 73, the Temporary Speaker (Sen. (Prof.) Margaret Kamar) informed the House that the Motion did not affect Counties.

Question put and agreed to.

RESOLVED ACCORDINGLY

THAT AWARE that Article 27 of the Constitution of Kenya guarantees equality of every person in enjoyment of all rights and fundamental freedoms and prohibits discrimination against any person on any ground including disability and language;

FURTHER AWARE that Article 24 (2) (a) of the United Nations Convention on the Rights of Persons with Disabilities prohibits persons with disabilities from exclusion from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;

ACKNOWLEDGING that Article 7 of the Constitution of Kenya provides for the national language of the Republic as Kiswahili and the official languages of the republic as Kiswahili and English;

APPRECIATING that the Report of the Commission of Inquiry into Education in Kenya (the Ominde Commission of 1965) proposed that Kiswahili language be taught as a compulsory subject both in primary and secondary schools in Kenya with the aim of making the language a vehicle for literacy works relevant to community work of various kinds;

COGNIZANT that Kiswahili language has been recognized as a unifying language in the East African Community, hence making it a *lingua franca* in the region;

CONCERNED that under the new curriculum of education in Kenya that is being piloted, learners with hearing disability are not offered Kiswahili language in primary schools, secondary schools and primary teachers training colleges;

NOW THEREFORE, the Senate calls upon the Ministry of Education, Science and Technology and other relevant state agencies to: -

- (i) offer Kiswahili language as a core subject to learners with hearing disability in primary schools, secondary schools and primary teacher colleges;
- (ii) come up with an elaborate syllabus for teaching Kiswahili as a core subject to deaf learners in primary, secondary and teacher training colleges; and
- (iii) come up with an elaborate syllabus for teaching Kenya Sign Language (KSL) as an optional subject for learners who have no hearing disability and for deaf learners.

15. **MOTION - NEED FOR STANDARD POLICY REGULATION FOR CONSTRUCTION AND MAINTENANCE OF RURAL ACCESS ROADS**

(Sen. (Arch.) Sylvia Kasanga)

THAT AWARE that infrastructure development and specifically, construction of roads is a key pillar of Kenya's vision 2030 whose objective is to spur movement of people and goods, promote trade and economic activities, encourage development and attract investments;

NOTING that there is a very strong correlation between a country's economic development and the quality of its road network;

CONCERNED that Government's efforts to expand the roads infrastructure are mainly focused on the urban and peri-urban areas of the country thus leaving rural areas with dilapidated or no access roads;

FURTHER CONCERNED that fifty-five years since independence and over five years after institutionalization of devolution, the Country's roads infrastructure is to a large extent still underdeveloped with only slightly above 9,000 kilometres of the about 178,000 kilometres of roads paved;

COGNISANT that, Part Two of the Fourth Schedule to the Constitution of Kenya (2010) mandates County Governments to manage county transport, including; roads, street lighting, traffic and parking, amongst other county public transport matters;

DEEPLY CONCERNED that, County Governments are continuously prioritizing routine maintenance works over sustainable and durable road quality works due to budgetary constraints;

NOW THEREFORE the Senate calls upon the Ministry of Transport, Infrastructure, Housing and Urban Development to develop and adopt standard policy regulations prescribing modern, eco-friendly and inexpensive technologies to be applied across the 47 counties for construction, upgrading and maintenance of rural access roads in order to ensure durability and sustainability of the access roads and also to reduce maintenance expenses.

Order deferred.

16. **MOTION - REGISTRATION OF PERSONS WITH DISABILITIES (PWDS)**

(Sen. George Khaniri)

THAT AWARE THAT the National Council for Persons with Disabilities was established through the Persons with Disabilities Act, 2003;

FURTHER AWARE THAT registration of persons living with disabilities is a function of the National Council for Persons with Disabilities;

ALSO AWARE THAT persons living with disabilities are estimated to be about 10% of any given population;

COGNIZANT THAT for purposes of registration of persons living with disability, it is a mandatory requirement for one to undergo medical examination by a registered medical officer in a registered and certified health facility;

AWARE THAT medical services are now a devolved function;

CONCERNED THAT of the nearly 4 million Kenyans living with disabilities who reside in Kenya, there is a very small fraction of the number which is duly registered;

FURTHER CONCERNED THAT without proper registration, many persons living with disabilities are denied services because they lack the necessary proof of disability;

ALSO CONCERNED THAT owing to lack of accurate data on persons living with disabilities, the government at both levels cannot plan properly for this category of people;

NOW THEREFORE, the Senate calls upon the National Council for Persons with Disabilities in collaboration with Ministry of East African Community, Labour and Social Protection and county governments, to carry out a nationwide registration of all persons living with disabilities in order to determine their exact population to facilitate effective service for this marginalized group of our society.

Order deferred.

And there being no other business on the Order Paper, Temporary Speaker (Sen.(Prof.) Margaret Kamar) adjourned the Senate at twenty-five minutes past Six O'clock, without Question put pursuant to the Standing Orders.

17. **SENATE ROSE** – at twenty-five minutes past six O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Wednesday, May 30, 2018 at 2.30 p.m.*

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