



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – THIRD SESSION**

**THE SENATE**

**VOTES AND PROCEEDINGS**

**TUESDAY, FEBRUARY 12, 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. **COMMUNICATION FROM THE CHAIR- WELCOME ADDRESS ON THE COMMENCEMENT OF THE THIRD SESSION**

The Speaker conveyed the following Communication from the Chair:-

“Honourable Senators,

It is my pleasure and privilege to welcome you back to the Senate for the Third Session of the Twelfth Parliament. I believe that you have had opportunity to spend quality time with your families and constituents over the long recess, and are re-energized for the Session that is ahead of us.

I wish to commend you for the tremendous amount of work you put in during the Second Session, which saw the Senate transact the highest volume of business in a single Session since its re-establishment in 2013. Just to mention a few highlights:-

1. the House and its Committees considered a total of 60 Bills, 97 Motions, 216 Statements and 43 Petitions;
2. the Senate registered its greatest participation at the annual Devolution Conference and annual Legislative Summit, in terms of planning, attendance and as facilitators in the various plenary and breakout sessions;
3. the Senate and its Committees organized a total of 67 workshops to consider critical Business for the Senate and visited a total of 41 Counties; and
4. the Senate held its first ever plenary Sittings outside Nairobi, in Uasin Gishu County, which by all standards, was a tremendous success for the Senate in the discharge of its constitutional mandate.

The Senate further continued its close collaboration and partnership with County Assemblies. The Senate hosted over 50 County Assembly delegations on various capacity-building engagements during the Session. This is a demonstration of the confidence that County Assemblies have in the Senate to build their individual and collective capacities.

However, Honourable Senators, this is not to say that the Session was without its challenges. Some of the challenges included the procedure for consideration and passage of Bills in the two Houses, as well as the implementation and reporting by the National Executive, on Resolutions passed by the Senate.

Honourable Senators,

As we commence this Third Session of the 12<sup>th</sup> Parliament, we have a full plate ahead of us, notably the consideration and disposal of 22 Bills that are pending at Committee of the Whole stage; 16 Bills at Second Reading stage; 31 Petitions, as well as Statements, pending before Committees; and follow up on implementation of various resolutions adopted by the House during the last Session.

The Senate is also expected to consider proposals for and determine the second-generation criteria for sharing of revenue among Counties. You will note that the existing formula has been in place since the onset of devolution. This is indeed one of the most important tasks that the Senate is called upon to discharge during this Session.

Honourable Senators,

The annual Devolution Conference is scheduled to be held next month, in Kirinyaga County, while the annual Legislative Summit will be held in April, in Kisumu County.

These two events accord the Senate the opportunity to interact with other key players on devolution, identify and deliberate on the critical aspects of devolution, celebrate the gains and successes accomplished, reflect on the challenges encountered, and come up with resolutions and concrete plans of action on the way forward.

Further, as resolved by the House last year, planning has also commenced for the Senate to hold sittings outside Nairobi later in the year.

Honourable Senators,

These events call upon each one of us to rededicate ourselves to execution of the assignments ahead of us. Having interacted with a majority of you, I am confident that this year we can do even better than we did during the last Session.

As the leadership, we have invested in strengthening relations with our counterparts in the National Assembly, with the Ministry of Devolution and ASAL, with the Council of Governors, the County Assemblies Forum and other

key stakeholders. We are confident that these will translate into a better working environment that will enable the Senate to robustly discharge its constitutional mandate of representation, legislation and oversight.

Honourable Senators,

As I conclude, I wish to assure you of my deep commitment and passion to see this House succeed, and to support each one of you, both individually and in the Committees that you serve in, to reach the highest and achieve the best that we can during this Session and beyond.

I thank you.”

#### 4. **MESSAGES**

The Speaker conveyed the following Messages from the National Assembly–

a) **APPROVAL BY THE NATIONAL ASSEMBLY, OF THE COUNTY ALLOCATION OF REVENUE (AMENDMENT) BILL (SENATE BILLS NO. 29 OF 2018)**

“Hon. Senators,

I wish to bring to the attention of the Senate that pursuant to Standing Order No.41 (4) the Clerk delivered to me a Message from the National Assembly regarding the County Allocation of Revenue (Amendment) Bill (Senate Bills No. 29 of 2018). The Message which is dated 10<sup>th</sup> December, 2018, was transmitted to all Senators on the same day pursuant to Standing Order No.41(5). Further, pursuant to the said Standing Order, I now report the Message–

*“PURSUANT to the provisions of Standing Order 41(1) and 144 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly –*

*WHEREAS, the County Allocation of Revenue (Amendment) Bill (Senate Bills No. 29 of 2018) was published videthe Kenya Gazette Supplement No. 128 of 12<sup>th</sup> October 2018 as a Bill concerning county governments seeking to amend the County Allocation of Revenue Act, No.8 of 2018;*

*WHEREAS, the said Bill was passed by the Senate on Wednesday, 21<sup>st</sup> November, 2018 and referred to the National Assembly for consideration;*

*AND WHEREAS, the National Assembly passed the said Bill on Thursday, 6<sup>th</sup> December, 2018 without amendments and in the form passed by the Senate;*

*NOW THEREFORE, in accordance with the provisions of Article 110 of the Constitution and Standing Order 41(1) and 144 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate.”*

Honourable Senators,

Article 110 (5) of the Constitution states as follows-

*"If both Houses pass the Bill in the same form, the Speaker of the House in which the Bill originated shall, within seven days, refer the Bill to the President for assent".*

In the circumstances, I wish to inform the House that I presented the said Bill to His Excellency the President for assent, who thereafter, assented to the Bill on 31st December, 2018.

I thank you."

b) **APPROVAL BY THE NATIONAL ASSEMBLY, OF THE WAREHOUSE RECEIPT SYSTEM BILL (SENATE BILL NO. 10 OF 2017)**

"Hon. Senators,

I wish to bring to the attention of the Senate that, pursuant to Standing Order No.41 (3), the Clerk delivered to me a Message from the National Assembly regarding the Warehouse Receipt System Bill (Senate Bill No.10 of 2017). The Message which is dated 19<sup>th</sup> December, 2018, was transmitted to all Senators on 21<sup>st</sup> December, 2018, pursuant to Standing Order No.41 (5). Further, pursuant to the said Standing Order, I now report the Message-

*"Pursuant to the provisions of Standing Order 41 (1) and 144 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 passed by the Senate on Thursday, 29<sup>th</sup> March 2018 with amendments and referred to the National Assembly for consideration;*

*And whereas, the National Assembly also passed the said Bill on Tuesday, 27<sup>th</sup> November 2018 with further amendments attached herewith;*

*Now, therefore, in accordance with the provisions of Article 110 of the Constitution and Standing Order 41 (1) and 144 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate and seek concurrence of the Senate to the National Assembly amendments."*

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.*

Honourable Senators,

In this regard, I direct the Standing Committee on Agriculture, Livestock and Fisheries to deliberate on the National Assembly amendments and report to the Senate. Further, pursuant to Standing Order 159 (1) of the Senate Standing Orders, I direct that the National Assembly amendments to the Warehouse Receipt System Bill (Senate Bill No.10 of 2017) be circulated to all Senators and be listed in the Order Paper for consideration on Thursday, 21<sup>st</sup> February, 2018.

I thank you.”

c) **APPROVAL BY THE NATIONAL ASSEMBLY, OF THE ASSUMPTION OF THE OFFICE OF COUNTY GOVERNOR BILL (SENATE BILL NO. 1 OF 2018)**

“Hon. Senators,

I wish to bring to the attention of the Senate that pursuant to Standing Order No.41 (3), the Clerk delivered to me a Message from the National Assembly regarding the Assumption of the Office of County Governor Bill (Senate Bill No.1 of 2018). The Message which is dated 19<sup>th</sup> December, 2018, was transmitted to all Senators on 21<sup>st</sup> December, 2018, pursuant to Standing Order No.41 (5). Further, pursuant to the said Standing Order, I now report the Message-

*“Pursuant to the provisions of Standing Order 41 (1) and 144 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly: -*

*Whereas, the Assumption of the Office of County Governor Bill (Senate Bill No.1 of 2018) was published vide Kenya Gazette Supplement No.1 of 12<sup>th</sup> January, 2018 as a Bill concerning county governments seeking to provide for the procedure and ceremony for the assumption of the Office of the County Governor by the Governor-elect and for connected purposes, and was thereafter passed by the Senate on Thursday, 21<sup>st</sup> June 2018 and referred to the National Assembly for consideration;*

*And whereas, the National Assembly also passed the said Bill on Thursday, 6<sup>th</sup> December 2018 with amendments to Clause 2,5,6,16,21 & 23 in the form attached herewith;*

*Now, therefore, in accordance with the provisions of Article 110 of the Constitution and Standing Order 41 (1) and 144 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate and seek concurrence of the Senate to the National Assembly amendments.”*

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.*

Honourable Senators,

In this regard, I direct the Standing Committee on Devolution and Intergovernmental Relations to deliberate on the National Assembly amendments and report to the Senate. Further, pursuant to Standing Order 159 (1) of the Senate Standing Orders, I direct that the National Assembly amendments to the Assumption of the Office of County Governor Bill (Senate Bill No.1 of 2018) be circulated to all Senators and be listed in the Order Paper for consideration on Thursday, 21<sup>st</sup> February, 2018.

I thank you.”

d) **APPROVAL BY THE NATIONAL ASSEMBLY, OF THE GOVERNMENT CONTRACTS BILL (NATIONAL ASSEMBLY BILL NO. 9 OF 2018)**

“Hon. Senators,

I wish to bring to the attention of the Senate that pursuant to Standing Order No.41 (3) the Clerk delivered to me a Message from the National Assembly regarding the Government Contracts Bill (National Assembly Bill No.9 of 2018). The Message which is dated 19<sup>th</sup> December, 2018, was transmitted to all Senators on 21<sup>st</sup> December, 2018, pursuant to Standing Order No.41 (5). Further, pursuant to the said Standing Order, I now report the Message-

*“Pursuant to the provisions of Standing Order 41 (1) and 144 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly:-*

*Whereas the Government Contracts Bill (National Assembly Bill No.9 of 2018) was published vide Kenya Gazette Supplement No.32 of 10<sup>th</sup> April, 2018 as a Bill concerning county governments seeking to repeal and re-enact the Government Contracts Act and to provide for the powers for the Government to enter into contracts;*

*And whereas, the National Assembly passed the said Bill on Wednesday, 5<sup>th</sup> December 2018 with amendments in the form attached herewith;*

*Now, therefore, in accordance with the provision of Article 110 of the Constitution and Standing Order 41 (1) and 144 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate.”*

Honourable Senators,

Standing Order No.157 requires that a Bill which originates in the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading in accordance with Standing Order No.139. I therefore, direct that the Bill be listed for First Reading in the Order Paper for tomorrow, Wednesday, 13<sup>th</sup> February, 2019.

I thank you.”

5. **NOTICE OF MOTION** - (The Senate Majority Leader)

THAT, pursuant to Standing Orders 184 and 189(3), the Senate approves the following Senators nominated to serve in the Senate Business Committee, in addition to the Speaker of the Senate, who, pursuant to Standing Order 184(1), shall be the Chairperson of the Committee, the Senate Majority Leader, the Senate Minority Leader, the Senate Majority Whip and the Senate Minority Whip:

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1. Sen. Fatuma Dullo, CBS, MP;
2. Sen. Cleophas Malalah, MP;
3. Sen. Beatrice Kwamboka, MP;
4. Sen. Paul Githiomi Mwangi, MP;
5. Sen. (Eng.) Mohamed M. Mahamud, CBS, MP;
6. Sen. (Dr.) Christopher Andrew Langat, MP; and
7. Sen. Ledama Olekina, MP.

6. **MOTION – APPROVAL OF MEMBERS TO THE SENATE BUSINESS COMMITTEE**

Motion made and Question proposed;

THAT, pursuant to Standing Orders 184 and 189(3), the Senate approves the following Senators nominated to serve in the Senate Business Committee, in addition to the Speaker of the Senate, who, pursuant to Standing Order 184(1),

shall be the Chairperson of the Committee, the Senate Majority Leader, the Senate Minority Leader, the Senate Majority Whip and the Senate Minority Whip:

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1. Sen. Fatuma Dullo, CBS, MP;
2. Sen. Cleophas Malalah, MP;
3. Sen. Beatrice Kwamboka, MP;
4. Sen. Paul Githiomi Mwangi, MP;
5. Sen. (Eng.) Mohamed M. Mahamud, CBS, MP;
6. Sen. (Dr.) Christopher Andrew Langat, MP; and
7. Sen. Ledama Olekina, MP.

*(The Senate Majority Leader)*

Debate arising;

And there being no other Senator wishing to contribute;

Mover replied;

Before the Question was put and pursuant to Standing Order 79 (1), the Speaker informed the Senate that the Motion did not affect counties.

Question put and agreed to.

**RESOLVED ACCORDINGLY**

THAT, pursuant to Standing Orders 184 and 189(3), the Senate approves the following Senators nominated to serve in the Senate Business Committee, in addition to the Speaker of the Senate, who, pursuant to Standing Order 184(1), shall be the Chairperson of the Committee, the Senate Majority Leader, the Senate Minority Leader, the Senate Majority Whip and the Senate Minority Whip:-

1. Sen. Fatuma Dullo, CBS, MP;
2. Sen. Cleophas Malalah, MP;
3. Sen. Beatrice Kwamboka, MP;
4. Sen. Paul Githiomi Mwangi, MP;
5. Sen. (Eng.) Mohamed M. Mahamud, CBS, MP;
6. Sen. (Dr.) Christopher Andrew Langat, MP; and
7. Sen. Ledama Olekina, MP.

And there being no other business on the Order Paper, the Speaker adjourned the Senate at forty three minutes past Four O'clock without Question put, pursuant to the Standing Orders.

7. **SENATE ROSE** - at forty three minutes past Four O'clock.

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

*The Speaker will take the Chair on  
Wednesday, February 13, 2019 at 2.30 p.m.*