



REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (THIRD SESSION)

THE SENATE

VOTES AND PROCEEDINGS

WEDNESDAY, MAY 15, 2019 AT 2.30 PM

PRAYERS

1. The Senate assembled at thirty minutes past Two O'clock.
2. The proceedings were opened with prayer said by the Speaker.

3. **COMMUNICATIONS FROM THE CHAIR**

The Speaker conveyed the following Communications from the Chair: -

a) **On visiting pupils and teachers from Shadrack Kimalel Mixed Secondary School, Nairobi County**

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting pupils and teachers from Shadrack Kimalel Mixed Secondary School, Nairobi County.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and on behalf of the Senate and on my own behalf, I wish them a fruitful visit.

I thank you.”

b) **On visiting students and teachers from Our Lady of Consolata Mugoiri Girls' High School, Murang'a County**

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting pupils and teachers from Our Lady of Consolata Mugoiri Girls' High School, Murang'a County.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and on behalf of the Senate and on my own behalf, I wish them a fruitful visit.

I thank you.”

4. **PETITION**

Pursuant to Standing Order 232(2), the Chairperson, Standing Committee on Agriculture, Livestock and Fisheries laid on the table of the Senate a Report of the Standing Committee on Agriculture, Livestock and Fisheries on the consideration of the petition concerning tea, coffee and macadamia farmers.

(Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)

5. **PAPERS**

The following Papers were laid on the Table of the Senate-

- a) Report of the Standing Committee on Agriculture, Livestock and Fisheries on the consideration of the petition concerning tea, coffee and macadamia farmers.
(Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)
- b) Annual Report of the Salaries and Remuneration Commission for Financial Year 2017/2018;
- c) Annual Report of the Commission on Administrative Justice for Financial Year 2017/2018;
- d) Report of the Auditor-General on the Nairobi City County Assembly Car Loan Fund for the Year ended 30th June 2018;
- e) Report of the Auditor-General on the Kiambu County Assembly Staff Mortgage Scheme Fund for the Year ended 30th June 2018;
- f) Report of the Auditor-General on the Kwale County Assembly Members and Staff Loan Scheme Fund for the Year ended 30th June 2017;
- g) Report of the Auditor-General on the Financial Statements of Municipal Council of Machakos Water and Sewerage Company Limited for the Year ended 30th June 2017;
- h) Report of the Auditor-General on the Financial Statements of Kirinyaga County Executive Facility Improvement Fund for the Year ended 30th June 2018;
- i) Report of the Auditor-General on the Financial Statements of the Nairobi City Water and Sewerage Company Limited for the Year ended 30th June 2018;
- j) Report of the Auditor-General on the Financial Statements of Mathira Water and Sanitation Company Limited for the Year ended 30th June 2018;
- k) Report of the Auditor-General on the Financial Statements of Tetu Aberdare Water and Sanitation Company Limited for the Year ended 30th June 2018;

- l) Report of the Auditor-General on the Financial Statements of Othaya Mukurweini Water Services Company Limited for the Year ended 30th June 2018;
- m) Report of the Auditor-General on the Financial Statements of Nyahururu Water and Sanitation Company Limited for the Year ended 30th June 2018;
- n) Report of the Auditor-General on the Financial Statements of Gatundu Water and Sanitation Company Limited for the Year ended 30th June 2018; and
- o) Report of the Auditor-General on the Financial Statements of Githunguri Water and Sanitation Company Limited for the Year ended 30th June 2018;

(The Senate Deputy Majority Leader)

6. **STATEMENTS PURSUANT TO STANDING ORDER NO. 48(1)**

- a) The Senator for Taita Taveta County (Sen. Johnes Mwaruma, MP) sought a Statement from the Standing Committee on Education on the appointment of the Vice Chancellor of Taita Taveta University.
- b) The Senator for Makueni county (Sen. Mutula Kilonzo Junior, MP) sought a Statement from the Standing Committee on Energy regarding the oil spillage that occurred in Kiboko, Makueni County on 30th March 2019.
- c) The Senator for Isiolo county (Sen. Fatuma Dullo, MP) sought a Statement from the Standing Committee on Education regarding the termination of training for 3,265 teaching college trainees with D+ minimum grades by the Ministry of Education.

7. **MOTION**- (The Senate Majority Leader)

THAT pursuant to Standing Order 159, the amendments of the National Assembly to the County Governments (Amendment) (No.2) Bill (Senate Bills No. 7 of 2017) be now considered.

Order deferred.

8. **MOTION – ADOPTION OF THE REPORT OF THE MEDIATION COMMITTEE ON THE WAREHOUSE RECEIPT SYSTEM BILL (SENATE BILLS NO. 10 OF 2017)**
(Chairperson, Mediation Committee)

Motion made and Question proposed;

THAT, the Senate adopts the Report of the Mediation Committee on the Warehouse Receipt System Bill (Senate Bills No. 10 of 2017) laid on the Table of the Senate on Tuesday, 14th May, 2019 and pursuant to Article 113 of the Constitution and Standing Order 161 (3) of the Senate Standing Orders approves the mediated version of the Bill.

(Chairperson, Mediation Committee)

Debate arising;

There being no other Senator wishing to contribute;

Mover replied;

Raising a point of order pursuant to Standing Order 61 (3), the Chairperson of the Mediation Committee (Sen. Njeru Ndwiga) requested for the deferment of putting of the question to a later date;

And the Temporary Speaker (Sen. (Prof.) Margret Kamar) acceding to the request, nominated Thursday, 16th May, 2019 as the day when the Question shall be put.

9. **THE ELECTION LAWS (AMENDMENT) BILL (SENATE BILLS NO. 33 OF 2018)**
(Sen. Ledama Olekina, MP)

(Resumption of debate interrupted on Tuesday, 14th May, 2019)
(Division)

Order deferred.

10. **COMMITTEE OF THE WHOLE**
THE COUNTY EARLY CHILDHOOD EDUCATION BILL (SENATE BILLS NO. 26 OF 2018)
(Chairperson, Standing Committee on Education)

(Resumption of debate interrupted on Wednesday, 27th March, 2019)
(Division)

Order deferred.

11. **COMMITTEE OF THE WHOLE**
THE PUBLIC PARTICIPATION BILL (SENATE BILLS NO. 4 OF 2018)
(Sen. Amos Wako, MP)

(Resumption of debate interrupted on Wednesday, 27th March, 2019)
(Division)

Order deferred.

12. **COMMITTEE OF THE WHOLE**
THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE) BILL (SENATE BILLS NO. 22 OF 2018)
(Sen. Judith Pareno, MP)

(Resumption of debate interrupted on Wednesday, 27th March, 2019)
(Division)

Order deferred.

13. **COMMITTEE OF THE WHOLE**
THE TREATY MAKING AND RATIFICATION (AMENDMENT) BILL (SENATE BILLS NO. 23 OF 2018)
(Sen. FatumaDullo, MP)

(Resumption of debate interrupted on Wednesday, 27th March, 2019)
(Division)

Order deferred.

14. **COMMITTEE OF THE WHOLE**
THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILLS NO. 11 OF 2017)
(The Senate Majority Leader)

(Consideration of National Assembly Amendments)

Order deferred.

15. **COMMITTEE OF THE WHOLE**
THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2018)
(Sen. Ledama Olekina, MP)

Order deferred.

16. **COMMITTEE OF THE WHOLE**
THE CARE AND PROTECTION OF OLDER MEMBERS OF SOCIETY BILL (SENATE BILLS NO. 17 OF 2018)
(Sen. Aaron Cheruiyot, MP)

Order deferred.

17. **THE DETERMINATION OF THE NATURE OF BILLS (PROCEDURE) BILL (SENATE BILLS NO. 30 OF 2018)**
(Sen. MutulaKilonzo Jnr., MP and Sen. Sakaja Johnson, MP)

(Second Reading)

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

Order deferred.

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

Motion made and Question proposed;

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

(Sen. (Dr.) Agnes Zani, MP – 14.04.2019)

Debate interrupted on Tuesday, 14th April, 2019 resumed;

Debate arising;

There being no other Senator wishing to contribute;

And in the absence of the Mover;

The Temporary Speaker (Sen. (Prof.) Margaret Kamar) deferred the reply;

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

(Sen. Judith Pareno, MP)

(Second Reading)

Order deferred.

20. **THE KENYA MEDICAL SUPPLIES AUTHORITY (AMENDMENT) BILL (SENATE BILLS NO. 38 OF 2018)**

(Sen. Mary Seneta, MP)

(Second Reading)

Order deferred.

21. **THE COUNTY HALL OF FAME BILL (SENATE BILLS NO. 39 OF 2018)**

(The Senate Majority Leader)

(Second Reading)

Order deferred.

22. **THE PERSONS WITH DISABILITIES (AMENDMENT) BILL (SENATE BILLS NO. 1 OF 2019)**

(Sen. Aaron Cheruiyot and Sen. Isaac Mwaura)

(Second Reading)

Order deferred.

23. **MOTION - COMPLETION OF ALL STALLED PROJECTS UNDER COUNTY GOVERNMENTS THROUGH BUDGETARY MANAGEMENT**

(Sen. Charles Reubenson Kibiru, MP)

THAT, AWARE THAT Kenya has had a development blueprint of Vision 2030 since 2008 which has guided planning and development for the last decade, with a focus to making Kenya an industrialized middle income economy with a higher per capita income for its citizens;

FURTHER AWARE THAT, the development planning of the country is funded from the Consolidated Fund through the annual budget whereby revenues generated by Kenyans through taxes, levies, and fees that are supplemented with support of development partners in the form of outright loans, conditional loans, grants

and/or unconditional grants to support growth and development across the country;

COGNIZANT THAT, any diversion from the Vision 2030 blueprint as well as the President's "Big Four" Agenda, would negatively impact the development trajectory that seeks to ensure a long term microeconomic stability resulting in a revision of targets on the goals for socio-economic, cultural, environmental, technological and political transformation;

NOTING THAT, whereas the National Government's Budget is based on Vision 2030 and "Big Four" Agenda, the County Governments' Budgets are based on their respective County Integrated Development Plans, (CIDPs) which are expected to dovetail with the overall national development blueprint;

CONCERNED THAT, there are glaring discrepancies in progress made in development among counties, particularly among the 14 devolved functions caused by lack of accountability, integrity, professionalism and remaining a blemish on the successes of devolution;

ACKNOWLEDGING, the tribulations, ridicule, pecuniary embarrassment and negative socio-economic impact that pending bills have had on the local business community who supplied or undertook a service for the county governments, and the attendant slowdown in actual project completion, the rise in stalled projects dotting counties, with County Governors prioritizing new projects instead of the completion of those which have stalled;

FURTHER ACKNOWLEDGING THAT, the National Treasury in its circular No. 9/2018 detailed the five hundred and forty five (545) projects which have stalled in the 47 Counties, and their status of completion, collectively amounting to an estimated project cost of three hundred and sixty six (366) Billion Kenya shillings;

NOW THEREFORE, the Senate recommends that the National Treasury in partnership with the Controller of Budget, Commission on Revenue Allocation, the Council of Governors and the County Assemblies Forum to-

1. Ensure that all the County Integrated Development Plans (CIDP's) and Annual Development Plans (ADP's) are aligned to Vision 2030 with an implementation, monitoring, and evaluation framework in place;
2. Address Pending Bills by prioritizing their payment, creating clear timeframes for payment and publishing a schedule of payment of the same; and
3. Prioritize the completion of stalled development projects prior to undertaking or funding new projects.

Order deferred.

24. **MOTION – THE REALIZATION OF GENDER EQUITY IN ELECTIVE AND APPOINTIVE POSITIONS IN KENYA**

(Sen. (Canon) Naomi Waqo Jilo, MP)

AWARE THAT, the Constitution of Kenya recognizes dignity, economic, social and cultural rights, education, housing and the right to health including reproductive health; and that the principle of equality and non-discrimination is established as a core value of leadership and the national values and principles of governance include human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of marginalized groups, among others;

FURTHER AWARE THAT, the Constitution of Kenya has very progressive articles that indicate commitment to the international and regional obligations arising from treaties and conventions and other Commitments signed or ratified;

COGNIZANT that Kenya has ratified the Convention on Elimination of all forms of discrimination against Women and the Protocol to the African Charter on Human and People's Rights of the Right of Women which are international instruments that are key to promoting women's rights;

RECALLING that policy framework to enhance gender equality has also been developed, and include the National Gender and Development Policy 2000, the Kenya Vision 2030, Sessional paper No. 2, of 2006, the National Land Policy, the National Policy for Response to Gender Based Violence, and the National Policy for the Abandonment of Female Genital Mutilation;

NOTING THAT, despite there being sound constitutional provisions and elaborate policy framework to realise gender equity, both national government and county governments have not done enough to realise the achievement of gender equality;

CONCERNED that women in Kenya experience hardships when it comes to elective offices, and are underrated by society with most opportunities for elective and appointive offices being awarded to men;

NOW THEREFORE THE SENATE RESOLVES

1. that Parliament fast track the enactment of the law that shall give effect to the one third gender rule; and,
2. that pursuant to Article 81 of the Constitution both the National and County governments observe the principle of equality, and empowers the female gender by increasing the appointive position to at least fifty per cent.

Order deferred.

25. **MOTION – REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE ANNUAL REPORT OF THE COUNTY GOVERNMENTS BUDGET IMPLEMENTATION REVIEW FOR FINANCIAL YEAR 2017/2018**

(Chairperson, Standing Committee on Finance and Budget)

THAT, this House adopts the Report of the Standing Committee on Finance and Budget on the Annual Report of the County Governments Budget Implementation Review for Financial Year 2017/2018, laid on the Table of the Senate on Wednesday, 27th March, 2019.

Order deferred.

26. **MOTION – RENAMING OF MURANG'A UNIVERSITY OF TECHNOLOGY TO KENNETH MATIBA UNIVERSITY OF TECHNOLOGY**

(Sen. Isaac Mwaura, MP)

THAT AWARE THAT, Murang'a University of Technology (MUT) is a Chartered University established under Section 13 of the Universities Act, 2012, and is positioning itself to develop a distinctive profile as a progressive and international Technical University, growing its enrolment strategically;

FURTHER AWARE that the University is located in Murang'a County, the home County of the late politician Kenneth Njindo Matiba, who died a patriotic and political hero, with numerous achievements spanning four decades?

NOTING THAT, the late Matiba was a prolific industrialist in the hospitality and education sector, and an accomplished public servant having served as the first indigenous African Permanent Secretary for Education in 1963; Permanent Secretary for Commerce; Chairperson of the Kenya Football Federation from 1974- 78; a member of parliament for Kiharu constituency; Cabinet Minister for Health; Culture & Social Services; and Transport & Communications;

FURTHER NOTING THAT, the late Matiba was part of the opposition alliance that led the liberation struggle for the restoration of multi-party democracy through the Forum for the Restoration of Democracy (FORD), later founding FORD –Asili under which he ran for presidency in 1992 general election;

COGNIZANT that under the Heroes Act, 2014, the state is obliged to confer recognition to the late statesman for his cardinal contributions to the political and economic growth of this country;

FURTHER COGNIZANT that other patriotic Kenyans like Jomo Kenyatta, Daniel arap Moi, Masinde Muliro, Dedan Kimathi and Jaramogi Oginga Odinga have been accorded such recognition;

NOW THEREFORE, the Senate urges the National Government in remembrance of Matiba's contribution to our Nation, to rename Murang'a University of Technology to Kenneth Matiba University of Technology.

Order deferred.

27. **MOTION – ESTABLISHMENT OF THE INFRASTRUCTURE NEEDS OF SELECTED COUNTY GOVERNMENTS**

Motion made and Question proposed: -

AWARE that the Senate, on 16th July 2015, resolved to establish an *ad hoc* Committee to inquire into the status of County Headquarters and identify the needs of each of the forty-seven counties, which would form the basis for possible assistance to the identified counties;

RECALLING THAT the *ad hoc* Committee on County Headquarters tabled its Report in the Senate on 3rd December 2015 in which it recommended that 11 Counties be supported, as follows:

1. Those in dire need and requiring immediate assistance ('AA category'): Isiolo, Lamu, Nyandarua, Tana River and Tharaka Nithi Counties; and
2. Those requiring assistance to help them develop their Headquarter infrastructure ('A category'): Bomet, Kitui, Marsabit, Nyamira, Siaya and Taita Taveta Counties.

FURTHER RECALLING THAT with regard to the five counties classified under the 'AA category', the Committee recommended that each be allocated a sum of Kshs.800 million as conditional grants, while the six counties classified under the 'A category' be each allocated a sum of Kshs.300 million as conditional grants;

AWARE THAT the Senate, on 1st March 2016 adopted, without amendments, the Report of the *ad hoc* Committee on County Headquarters;

COGNIZANT THAT following the said resolution of the Senate, conditional grants have been advanced to the five counties classified under the 'AA category', during the financial years 2017/2018, 2018/2019 and further allocations have been budgeted for the financial year 2019/2020;

CONCERNED THAT to date, no allocations have been made by way of conditional grants to the six counties identified as requiring assistance under category A, and that these counties continue to experience grave challenges in terms of infrastructure that have hampered their operations;

AWARE THAT the said counties are at various stages of putting up the infrastructure required to make them fully operational, and that some may have already been completed;

ACKNOWLEDGING THAT the Senate is mandated to protect the interests of counties and their governments, which includes ensuring that the county governments are fully operational;

NOW, THEREFORE, the Senate resolves that the Standing Committee on Devolution and Intergovernmental Relations undertakes an assessment of the current status of county government facilities in the following counties, and to report to the Senate within threemonths: -

1. **Under ‘category AA’:**

Isiolo, Lamu, Nyandarua, Tana River and Tharaka Nithi Counties; with a view to ascertaining uptake of the funds allocated so far, progress made in construction of County Headquarter facilities, and whether any additional budgetary support is still required; and

2. **Under ‘category A’:**

Bomet, Kitui, Marsabit, Nyamira, Siaya and TaitaTaveta Counties; with a view to ascertaining the current status of County Headquarter facilities, which would form the basis for possible budgetary assistance to the said Counties.

(Sen. Okong’o Mogeni, MP)

Debate arising;

And there being no other Senator wishing to contribute;

The Mover replied;

Before the Question was put and pursuant to Standing Order 79, the Temporary Speaker (Sen. Judith Pareno) informed the House that the Motion did not affect Counties.

Question put and agreed to.

RESOLVED ACCORDINGLY-

AWARE that the Senate, on 16th July 2015, resolved to establish an *ad hoc* Committee to inquire into the status of County Headquarters and identify the needs of each of the forty-seven counties, which would form the basis for possible assistance to the identified counties;

RECALLING THAT the *ad hoc* Committee on County Headquarters tabled its Report in the Senate on 3rd December 2015 in which it recommended that 11 Counties be supported, as follows:

1. Those in dire need and requiring immediate assistance ('AA category'): Isiolo, Lamu, Nyandarua, Tana River and Tharaka Nithi Counties; and
2. Those requiring assistance to help them develop their Headquarter infrastructure ('A category'): Bomet, Kitui, Marsabit, Nyamira, Siaya and Taita Taveta Counties.

FURTHER RECALLING THAT with regard to the five counties classified under the 'AA category', the Committee recommended that each be allocated a sum of Kshs.800 million as conditional grants, while the six counties classified under the 'A category' be each allocated a sum of Kshs.300 million as conditional grants;

AWARE THAT the Senate, on 1st March 2016 adopted, without amendments, the Report of the *ad hoc* Committee on County Headquarters;

COGNIZANT THAT following the said resolution of the Senate, conditional grants have been advanced to the five counties classified under the 'AA category', during the financial years 2017/2018, 2018/2019 and further allocations have been budgeted for the financial year 2019/2020;

CONCERNED THAT to date, no allocations have been made by way of conditional grants to the six counties identified as requiring assistance under category A, and that these counties continue to experience grave challenges in terms of infrastructure that have hampered their operations;

AWARE THAT the said counties are at various stages of putting up the infrastructure required to make them fully operational, and that some may have already been completed;

ACKNOWLEDGING THAT the Senate is mandated to protect the interests of counties and their governments, which includes ensuring that the county governments are fully operational;

NOW, THEREFORE, the Senate resolves that the Standing Committee on Devolution and Intergovernmental Relations undertakes an assessment of the current status of county government facilities in the following counties, and to report to the Senate within three months: -

1. **Under ‘category AA’:**

Isiolo, Lamu, Nyandarua, Tana River and TharakaNithi Counties; with a view to ascertaining uptake of the funds allocated so far, progress made in construction of County Headquarter facilities, and whether any additional budgetary support is still required; and

2. **Under ‘category A’:**

Bomet, Kitui, Marsabit, Nyamira, Siaya and TaitaTaveta Counties; with a view toascertaining the current status of County Headquarter facilities, which would form the basis for possible budgetary assistance to the said Counties.

And there being no other business the Temporary Speaker (Sen. Judith Pareno) adjourned the Senate at twenty seven minutes past Six O’clock, without Question put, pursuant to the Standing Orders.

28. **SENATE ROSE** – at twenty seven minutes past Six O’clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Thursday, May 16, 2019 at 2.30 p.m.*

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