



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – (THIRD SESSION)

THE SENATE

VOTES AND PROCEEDINGS

WEDNESDAY, JULY 03, 2019 AT 2.30 PM

1. The Senate assembled at thirty minutes past Two O'clock.
2. The proceedings were opened with prayer said by the Deputy Speaker.
3. **COMMUNICATIONS FROM THE CHAIR**

The Deputy Speaker conveyed the following Communications from the Chair: -

a) Visiting Students and teachers from Mary Leakey Girls Secondary School, Kiambu County

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting pupils and teachers from Mary Leakey Girls Secondary School, Kiambu 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) Visiting pupils and teachers from AIC Chorwo Mission School, Elgeyo Marakwet County

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting pupils and teachers from AIC Chorwo Mission School, Elgeyo Marakwet 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.”

c) Visiting pupils and teachers from Karangi Primary School, Murang'a County

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Karangi Primary School in 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 my own behalf, wish them a fruitful visit.

I thank you”

d) Visiting pupils and teachers from Paul Mbiu Primary School, Murang'a County

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Paul Mbiu Primary School in 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, wish them a fruitful visit.

I thank you”

4. PETITION

Pursuant to Standing Order 226 (1) and 230(2)(b), the Deputy Speaker reported to the Senate a Petition by residents of Wangige, Kiambu County, concerning the construction of the Western Bypass Wangige Interchange.

Pursuant to Standing Order 231, the Deputy Speaker invited Senators to comment on the Petition and, subsequently committed it to the Standing Committee on Land, Environment and Natural Resources, pursuant to Standing Order 232(1).

5. PAPERS

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

- (i) Special Report of the Auditor-General on the pending bills of the 47 County Governments as at 30th June 2018;
- (ii) Report of the Auditor-General on the Financial Statements of Laikipia County Bursary Fund for the Year ended 30th June 2015;

- (iii) Report of the Auditor-General on the Financial Statements of Laikipia County Bursary Fund for the Year ended 30th June 2016;
- (iv) Report of the Auditor-General on the Financial Statements of Laikipia County Bursary Fund for the Year ended 30th June 2017;
- (v) Report of the Auditor-General on the Financial Statements of Laikipia County Bursary Fund for the Year ended 30th June 2018;
- (vi) Report of the Auditor-General on the Financial Statements of Laikipia County Enterprise Fund for the Year ended 30th June 2018;
- (vii) Report of the Auditor-General on the Financial Statements of Laikipia County Co-operative Fund for the Year ended 30th June 2018;
- (viii) Report of the Auditor-General on the Financial Statements of Samburu County Executive Youth and Women Enterprise Development Fund for the Year ended 30th June 2018;
- (ix) Report of the Auditor-General on the Financial Statements of Samburu County Executive Bursaries Fund for the Year ended 30th June 2018;
- (x) Report of the Auditor-General on the Financial Statements of Samburu County Executive Car Loan and Mortgage Scheme Fund for the Year ended 30th June 2018; and
- (xi) Report of the Auditor-General on the financial Statements of Samburu Water and Sanitation Company Limited for the Year ended 30th June 2018.

(The Senate Majority Leader)

- (xii) Report of the Mediation Committee on the Irrigation Bill (National Assembly Bills No. 46 of 2017).

(The Chairperson, Mediation Committee)

6. STATEMENTS

(i) Pursuant to Standing Order 52(2)

The Senate Majority Leader made a Statement relating to the responsibilities of the Office of the Senate Majority Leader.

In the Statement, the Senate Majority Leader highlighted that the Senate was established pursuant to Article 96 of the Constitution, with a clearly defined mandate and that its existence and space in the organization of Government continues to be challenged by the National Assembly for political expediency. He informed the House that this state of affairs had occasioned a long-standing misunderstanding and the inability by the leadership of the majority side of the two Houses of Parliament to agree on the processing of legislation in Parliament as contemplated in the Constitution.

He stated that despite Article 109 of the Constitution on the legislative power of Parliament, the two Houses of Parliament had suffered challenges problems that had paralyzed the legislative process and which had painted the legislature in bad light in the eyes of the public. He indicated that the legislative role of the Senate continued to be hampered by hurdles that were consistently set by the

National Assembly. The Senate Majority Leader, therefore, stated that it was evident that the situation as reflected by this state of affairs was worrying and was one that required addressing and settling at the earliest.

He concluded by reiterating that the Senate would not be cowed by attempts to muzzle its role of legislating and protecting the interests of the counties and their governments and that the Senate shall take its rightful place in the organization of government and take all possible measures to ensure that it plays its role as provided for in the Constitution.

(ii) Pursuant to Standing Order 51(1)(a)

The Chairperson, Standing Committee on Finance and Budget made a Statement on the status of the consideration of the Division of Revenue Bill, 2019.

In the Statement, the Chairperson stated that the Division of Revenue Bill (National Assembly Bills No. 11 of 2019) was published on 6th March, 2019 and passed by the National Assembly without amendments on 26th March, 2019. The Bill was then transmitted to the Senate and passed with amendments on 30th April, 2019. Following the rejection of the Senate amendments by the National Assembly, the Bill was referred to a Mediation Committee pursuant to Article 112(2)(b) of the Constitution.

The Chairperson informed the Senate that the Mediation Committee was however unable to agree on a version of the Bill within the timelines set by the Constitution under Article 113(4) and the Bill was therefore defeated.

The Chairperson further highlighted that despite the defeat of the Division of Revenue Bill, 2019, the National Assembly proceeded to introduce, consider and pass the Appropriation Bill, 2019 without the concurrence of the Senate and that the Bill was assented to by the President on Friday 28th June, 2019.

He stated that the Division of Revenue Bill was the foundation upon which the budgeting process including the determination of expenditure of public funds both levels of government was premised. Both levels of government were therefore precluded from considering and approving any legislation dependent upon the division of national revenue between the national government and the county government including the County Allocation of Revenue Bill, the Appropriation Bill and the respective County Appropriation Bills. The passage and assent to the Appropriation Bill in the absence of a Division of Revenue Act, was a flagrant contravention of the provisions of the law.

He stated that by passing the Appropriation Bill, 2019, the national government continues to operate while counties were unable to deliver services to the people and that this was a direct attack on counties and a clawing back on the will of the people of Kenya for greater participation in public affairs and the efficient delivery of public services.

The Chairperson pointed out that notwithstanding the illegality of the actions taken by the National Assembly or the Executive, the two Houses of Parliament must now prioritize the re-introduction, consideration and passage of the

Division of Revenue Bill, 2019, in order to enable counties to prepare their annual budgets in accordance with Article 224 of the Constitution.

7. **MOTION – WAIVER OF INTEREST ON LOANS TO GRADUATES BY THE HIGHER EDUCATION LOANS BOARD (HELB)**

Order read;

Motion made and Question proposed-

THAT, AWARE THAT the Higher Education Loans Board (HELB) has, for over the last two decades, become the leading financier of higher education in Kenya whose mandate is to source funds and lend them as affordable loans, bursaries and scholarship to students pursuing higher education in recognized institution;

COGNIZANT THAT, the Ministry of Education announced that the government has lost Kshs. 7.2b through people defaulting payment on loans issued by HELB translating to 74,692 graduates who have defaulted the loans payment;

NOTING THAT, measures were taken to enhance the HELB loan recovery process which included a six month waiver of accumulated interest and penalties, and working with law enforcement officers to make sure the defaulters who are employed payback the loans;

CONCERNED THAT, there are graduates from institutions of higher learning who have not been gainfully employed for many years after graduation, and are therefore burdened with loans that have accumulated interest and penalties that they have no means to repay;

FURTHER CONCERNED THAT, when beneficiaries fail to remit their monthly instalments for more than three months, HELB reports them to the Credit Reference Bureaus (CRB) preventing them from accessing loan facilities with any financial institution in Kenya, accessing employment opportunities in the government and major private and publicly listed companies and the loan guarantors are pursued and forced to service the HELB loan;

NOW THEREFORE, the Senate recommends that the Ministry of Education and HELB –

1. institutes a six (6) month full waiver of all the interest and penalties accrued, including the lifting of Credit Reference Bureau blacklisting, for defaulters who are willing to repay their loans in entirety, within the six (6) month period; and
2. embarks on a forty-five (45) day sensitization exercise preceding the waiver, no later than ninety (90) days after the passage of this motion.

(Sen. (Dr.) Abdullahi Ali, MP)

Debate arising;

And the time being thirty minutes past Six O'clock, the Temporary Speaker (Sen. Rose Nyamung'a, MP) interrupted the proceedings and adjourned the Senate without Question put, pursuant to the Standing Orders.

8. **SENATE ROSE** – at thirty minutes past Six O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Thursday, July 4, 2019 at 2.30 p.m.*

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