



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – (FOURTH SESSION)

THE SENATE

VOTES AND PROCEEDINGS

TUESDAY, MARCH 31, 2020 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. **COMMUNICATIONS FROM THE CHAIR**

The Speaker conveyed the following Communications from the Chair -

(i) Guidelines for Senate Plenary and Committees Sittings

“Honourable Senators,

I take this opportunity to welcome you back to the Plenary Sittings of the Senate.

As you will recall, at the sitting of the Senate held on Tuesday, 17th March, 2020, following a Motion moved by the Senate Majority Leader relating to COVID-19, the Senate resolved to adjourn its Plenary sittings from Tuesday, 17th March, 2020, for two weeks, so as to reconvene on Tuesday, 31st March, 2020 and to thereafter hold one sitting in each week, on Tuesdays for two weeks, until Tuesday, 14th April, 2020. The Senate further resolved to alter its Calendar accordingly. Additionally, following the Resolution of the Senate, the Chair directed that Committee sittings be suspended for a similar period of two weeks.

Honourable Senators,

You will further recall that on 13th March, 2020, jointly with the Speaker of the National Assembly, we issued Guidelines to all Members of Parliament and staff of Parliament consequent on the declaration of COVID-19 as a global health pandemic.

Further to this, in order to facilitate the smooth flow of legislative business in Senate Plenary and Committee sittings starting Tuesday, 31st March, 2020 and taking into account various measures that have been put in place by the Government to combat the COVID-19 pandemic, it has become necessary that I issue Guidelines to all Senators and staff of the Senate to be applied henceforth, until further notice. It is important to note that the Plenary and Committee Sittings are being held after consultations with and on the advice of the Ministry of Health who have inspected the Parliamentary precincts and provided us with a Report on the state of the Parliamentary precincts and the conditions to be met to facilitate Plenary and Committee sittings. The following Guidelines shall apply-

- a) Plenary sittings shall be held in the Senate Chamber and shall commence at 2:30 p.m. and end no later than 4:30 p.m. This is to allow Members and staff to travel and arrive at their places of residence before the 7:00 p.m. curfew;
- b) In order to ensure appropriate social distancing and necessary preventive measures-
 - i) The Chamber has been re-configured to sit a maximum of 28 Senators only. Accordingly, the Senate Majority Leader and the Senate Minority Leader have been requested to consult and designate the 28 Senators who shall attend the Senate Plenary sitting of 31st March, 2020 and shall similarly do so for subsequent sittings, until further notice. The Serjeant-at-Arms has been directed to ensure that only the 28 designated Senators attend the Plenary sitting;
 - ii) Senators who are not part of the 28 designated Senators are requested not to come for the sitting as the 28 Senators shall be the only Senators who shall be allowed into the Chamber and the 28 Senators shall not, at any time during the sitting, be replaced by other Senators;
 - iii) In accordance with the Ministry of Health's advisory, Senators and staff aged 58 years and above are encouraged to abide by the Presidential directive dated 25th March, 2020 and thus work from home;
 - iv) In accordance with the Ministry of Health's advisory, immunosuppressed Senators and staff and those with chronic illnesses such as hypertension, diabetes, cancer and HIV are encouraged to work from home as they are more at risk of contracting COVID-19;

- v) While in the Chamber, the 28 Senators shall use only the designated sitting spaces in the Chamber and shall, while in the Chamber, remain at their seats at all times;
 - vi) The Speaker's Gallery and the Public Gallery shall not be occupied by any person except the four technical staffers facilitating the sitting, as advised by the Ministry of Health;
 - vii) There shall be no consultations at the Speaker's Chair or at the Clerk's Table and accordingly, it shall be out of order for a Senator to approach the Speaker's Chair or the Clerk's Table for any purpose; and
 - viii) Senators shall, while entering and leaving the Chamber, observe the social distancing requirements;
- c) With respect to Committee sittings, the measures in paragraph (2) above shall be applied, with necessary modifications. In addition -
- i) Committees are encouraged to transact as much business as possible remotely so as to reduce the need for physical meetings.
 - ii) Where it is absolutely necessary to hold a physical sitting of a Committee-
 - a) Committee sittings shall be held only in the Senate Chamber or in the Mini Chamber;
 - b) So as to allow time for adequate sanitary measures to be undertaken in the Chambers between Committee sittings-
 - Not more than one Committee sitting shall be held in either Chamber on any day; and
 - Committee sittings shall be held so as to end not later than 1:00 p.m.;
 - iii) The Senate Chamber shall not be available for Committee sittings on the days on which the Senate is scheduled to hold its sittings so as to ensure that the Chamber is adequately prepared for Plenary sittings;
 - iv) Each sitting of a Committee shall be staffed by one Clerk and one Serjeant-at-Arms. All other Committee staff shall continue to provide services to the respective Committees remotely;

- v) The media and the public shall not be allowed access to Committee sittings. Accordingly, Committees shall, where required, make arrangements to receive written submissions or responses from the public; and
- d) As part of the preventive measures in place, hand sanitizers and face masks shall be availed at the entrance of the Chamber and the Mini Chamber for use by all Senators and staff as they enter the Chambers;
- e) The Senate Lounge shall remain closed until further notice;
- f) There shall be no catering services provided until further notice.

Honourable Senators,

I urge all Senators and staff of the Senate to observe these Guidelines in order to ensure the smooth flow of legislative business while the COVID-19 pandemic persists. Noting that the situation continues to evolve, I shall, where necessary, provide further Guidelines.”

(ii) **Yielding of the Sum of Kshs. 200 Million from the Senate Budgetary Allocation for FY 2019/2020 Towards Efforts to Combat the Covid-19 Pandemic**

“Honourable Senators,

As you aware, a number of measures have been taken by the various levels of Government and by various State officers to contribute towards efforts to curb the COVID-19 pandemic in the country.

This is therefore to inform you, Honourable Senators, and the public at large, that at a meeting of the Senate Business Committee held on Monday, 30th March, 2020, the Committee resolved that the Senate shall yield the sum of Kshs. 200 million from our budget allocation in the current Financial Year 2019/2020 to aid in the efforts of the Government in combating the pandemic.

Honourable Senators,

The Senate therefore requests the Parliamentary Service Commission to take the necessary administrative measures to yield the stated sum from the budget of the Senate to the National Treasury to be re-allocated and utilized in efforts to combat the pandemic.

I thank you”.

4. **MESSAGE FROM THE NATIONAL ASSEMBLY ON THE PASSAGE OF THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILL NO. 3 OF 2020)**

The Speaker conveyed the following Message from the National Assembly–

“Honorable Senators,

I wish to bring to the attention of the Senate that on Friday, 20th March 2020, pursuant to Standing Order 41 (3) and (4), the Clerk delivered to me a Message from the Speaker of the National Assembly regarding the passage by the National Assembly, of the Division of Revenue Bill (National Assembly Bill No. 3 of 2020).

The Message is dated 18th March, 2020, was received while the Senate was on recess and was transmitted to all Senators on 23rd March, 2020 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 orders 41(1) and 142 of the National Assembly Standing Orders, I hereby convey the following message from the National Assembly–

WHEREAS, the Division of Revenue Bill (National Assembly Bill No. 3 of 2020) was published vide Kenya Gazette Supplement No. 17 of 9th March, 2020 as a Bill to provide for the equitable division of revenue raised nationally between the National and county governments in 2020/21 Financial Year;

AND WHEREAS, the National Assembly considered and passed the Bill on Tuesday, March 17, 2020 without amendments in the form attached hereto;

NOW THEREFORE, in accordance with the provisions of Article 110(4) of the Constitution and Standing Order 142 of the National Assembly Standing Orders, I hereby refer the two Bills to the Senate for consideration”.

Honorable Senators,

Pursuant to Standing Order No. 157 which 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 hereby direct that the Bill be read a First Reading today, Tuesday, 31st March, 2020.

I thank you”.

5. **PAPERS**

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

- a) Report of the Mediation Committee on the County Governments (Amendment) Bill (Senate Bills No. 11 of 2017); and
- b) Report of the Mediation Committee on the County Governments (Amendment) (No. 2) Bill (Senate Bills No. 7 of 2017)

(The Senate Majority Leader, on behalf of the Chairperson, Mediation Committee)

6. **NOTICE OF MOTION - ADOPTION OF THE REPORT OF THE MEDIATION COMMITTEE ON THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILLS NO. 11 OF 2017)**

(The Senate Majority Leader, on behalf of the Chairperson, Mediation Committee)

THAT, the Senate adopts the Report of the Mediation Committee on the County Governments (Amendment) Bill (Senate Bills No. 11 of 2017) laid on the Table of the Senate on Tuesday, 31st March, 2020 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.

7. **NOTICE OF MOTION - ADOPTION OF THE REPORT OF THE MEDIATION COMMITTEE ON THE COUNTY GOVERNMENTS (AMENDMENT) (NO. 2) BILL (SENATE BILLS NO. 7 OF 2017)**

(The Senate Majority Leader, on behalf of the Chairperson, Mediation Committee)

THAT, the Senate adopts the Report of the Mediation Committee on the County Governments (Amendment) (No. 2) Bill (Senate Bills No. 7 of 2017), laid on the Table of the Senate on Tuesday, 31st March, 2020 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.

8. **NOTICE OF MOTION - COMPREHENSIVE NATIONAL RESPONSE TO THE COVID- 19 SITUATION**

(The Senate Majority Leader)

THAT, AWARE THAT, the Coronavirus (COVID-19) has been declared a global health pandemic resulting in an unprecedented global health crisis that has now manifested internationally in over 184 Countries and Territories, with escalating numbers of new cases being reported, with over 700,000 confirmed cases and over 30,000 deaths worldwide;

COGNIZANT THAT governments and health authorities in the affected countries have taken various measures aimed at containing the spread of the pandemic, mainly through travel and behavioural restrictions;

APPRECIATING the policy measures and interventions taken by the Government, through the National Emergency Response Committee on Coronavirus (NERC), in containing the spread of the pandemic and cushioning Kenyans against economic effects of the pandemic, including upscaling of medical facilities, imposition of travel restrictions, suspension of learning in all educational institutions, changes in fiscal and monetary policies and reinforcement behavioural protocols;

COGNIZANT THAT Health Services and other service sectors key to the implementation of the pronounced policy measures and interventions are devolved functions;

FURTHER COGNIZANT THAT some of the pronounced policy measures and interventions require legislative intervention and approval;

RECOGNIZING the need for an integrated and multi-sectorial intervention by all Levels and Arms of Government and sectors in the society towards a harmonized comprehensive response to the pandemic;

NOTING the bipartisan legislative approach taken by legislatures in other jurisdictions in enacting legislation towards the containment of the Coronavirus and its attendant economic effects;

CONSCIOUS of the need to complement the efforts of the national Government in containing the spread of the pandemic and cushioning Kenyans from the shocks arising from the pandemic;

THE SENATE RESOLVES to –

- (a) laud the national Government for the measures it has so far put in place in combating the spread of the virus;
- (b) commend and appreciate all healthcare workers in the country for their selfless effort, commitment to service, care and compassion towards persons who have been infected or affected by the virus;
- (c) call upon the national Government to expand the membership of the National Emergency Response Committee on Coronavirus to include representation by Parliament, the Judiciary, the Council of Governors, the Media, and Private Sector;
- (d) establish an Ad Hoc Committee of the Senate which shall oversight actions and measures taken by the national and county governments in addressing the spread and effects of COVID-19 in Kenya and shall address the following, among other matters-

- i. provision of testing and medical equipment, including adequate ventilators in referral hospitals and in at least one public hospital in each county.
- ii. provision of adequate isolation centres and Intensive Care Unit (ICU) facilities in each county.
- iii. measures to ensure continuous supply of food and other essential commodities at affordable prices.
- iv. measures to enable learners in educational institutions to continue with their studies.
- v. measures to ensure protection, safety and well-being of healthcare and other frontline workers.
- vi. enhancement of capacity and flexible deployment of healthcare staff.
- vii. financial assistance to vulnerable persons and groups.
- viii. protection of residential and commercial tenants.
- ix. establishment of a stimulus package for the Micro, Small and Medium sized Enterprises.
- x. easing of legislative and regulatory requirements for doing business.
- xi. measures to protect employees from retrenchment and job losses.
- xii. uniform policies and procedures aimed at slowing and eventually stopping the spread of the virus.

(e) appoint the following Senators to the Ad Hoc Committee-

- i) Sen. Johnson Sakaja, CBS, MP;
- ii) Sen. Michael Maling'a Mbiti, MP;
- iii) Sen. Abshiro Soka Halake, MP;
- iv) Sen. Mithika Linturi, MP;
- v) Sen. Erick Okong'o Mogeni, SC, MP;
- vi) Sen. (Arch.) Sylvia Mueni Kasanga, MP; and
- vii) Sen. Mwinyihaji Mohamed Faki, MP.

and that the Committee tables a progress report within seven (7) days and thereafter tables a progress report on a weekly basis, and subsequently tables a final report within six (6) months.

9. **THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILL NO. 3 OF 2020)**

(The Senate Majority Leader)

Order for First Reading read;

Bill read a First Time and committed to the Standing Committee on Finance and Budget.

10. **COMMUNICATION FROM THE CHAIR ON THE COMMITMENT OF THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILL NO. 3 OF 2020)**

The Speaker conveyed the following Communication from the Chair-

“Honourable Senators,

The Division of Revenue Bill (National Assembly Bill No. 3 of 2020) has just been read a First time and pursuant to Standing Order 140, I direct that it be committed to the Standing Committee on Finance and Budget.

The Committee is required to scrutinize the Bill and facilitate public participation on the same and Table a report on Tuesday, 7th April, 2020.

Honourable Senators,

Owing to the importance and urgency of this Bill and pursuant to Standing Order 137 and 181(3) of the Senate Standing Orders, I further direct that the Bill be listed in the Order Paper for Tuesday, 7th April, 2020 for consideration at Second Reading, Committee of the Whole and Third Reading.

I wish to remind the Committee that in discharging this mandate the Guidelines that I issued regarding the conduct of Committee meetings during this time of COVID-19, shall strictly apply.

I thank you”.

11. **MOTION- COMPREHENSIVE NATIONAL RESPONSE TO THE COVID- 19 SITUATION**

Order read;

Motion made and Question proposed;

THAT, AWARE THAT, the Coronavirus (COVID-19) has been declared a global health pandemic resulting in an unprecedented global health crisis that has now manifested internationally in over 184 Countries and Territories, with escalating numbers of new cases being reported, with over 700,000 confirmed cases and over 30,000 deaths worldwide;

COGNIZANT THAT governments and health authorities in the affected countries have taken various measures aimed at containing the spread of the pandemic, mainly through travel and behavioural restrictions;

APPRECIATING the policy measures and interventions taken by the Government, through the National Emergency Response Committee on

Coronavirus (NERC), in containing the spread of the pandemic and cushioning Kenyans against economic effects of the pandemic, including upscaling of medical facilities, imposition of travel restrictions, suspension of learning in all educational institutions, changes in fiscal and monetary policies and reinforcement behavioural protocols;

COGNIZANT THAT Health Services and other service sectors key to the implementation of the pronounced policy measures and interventions are devolved functions;

FURTHER COGNIZANT THAT some of the pronounced policy measures and interventions require legislative intervention and approval;

RECOGNIZING the need for an integrated and multi-sectorial intervention by all Levels and Arms of Government and sectors in the society towards a harmonized comprehensive response to the pandemic;

NOTING the bipartisan legislative approach taken by legislatures in other jurisdictions in enacting legislation towards the containment of the Coronavirus and its attendant economic effects;

CONSCIOUS of the need to complement the efforts of the national Government in containing the spread of the pandemic and cushioning Kenyans from the shocks arising from the pandemic;

THE SENATE RESOLVES to –

- (a) laud the national Government for the measures it has so far put in place in combating the spread of the virus;
- (b) commend and appreciate all healthcare workers in the country for their selfless effort, commitment to service, care and compassion towards persons who have been infected or affected by the virus;
- (c) call upon the national Government to expand the membership of the National Emergency Response Committee on Coronavirus to include representation by Parliament, the Judiciary, the Council of Governors, the Media, and Private Sector;
- (d) establish an Ad Hoc Committee of the Senate which shall oversight actions and measures taken by the national and county governments in addressing the spread and effects of COVID-19 in Kenya and shall address the following, among other matters-
 - i). provision of testing and medical equipment, including adequate ventilators in referral hospitals and in at least one public hospital in each county.
 - ii). provision of adequate isolation centres and Intensive Care Unit (ICU) facilities in each county.
 - iii). measures to ensure continuous supply of food and other essential commodities at affordable prices.

- iv). measures to enable learners in educational institutions to continue with their studies.
- v). measures to ensure protection, safety and well-being of healthcare and other frontline workers.
- vi). enhancement of capacity and flexible deployment of healthcare staff.
- vii). financial assistance to vulnerable persons and groups.
- viii). protection of residential and commercial tenants.
- ix). establishment of a stimulus package for the Micro, Small and Medium sized Enterprises.
- x). easing of legislative and regulatory requirements for doing business.
- xi). measures to protect employees from retrenchment and job losses.
- xii). uniform policies and procedures aimed at slowing and eventually stopping the spread of the virus.

(e) appoint the following Senators to the Ad Hoc Committee-

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- vi). Sen. (Arch.) Sylvia Mueni Kasanga, MP; and
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and that the Committee tables a progress report within seven (7) days and thereafter tables a progress report on a weekly basis, and subsequently tables a final report within six (6) months.

(The Senate Majority Leader)

Debate arising;

Amendment proposed

THAT the Motion be amended in paragraph (d) by inserting a new paragraph (iiiA)-

(iiiA) *Measures to ensure that funds collected to combat the effects of COVID-19 be allocated to the county governments for modernizing open air-markets in their respective counties to comply with the WHO one meter social distancing.*

(Sen. Ledama Olekina, MP)

There being no Senator wishing to contribute;

Before the Question was put, and pursuant to Standing Order No. 79, the Speaker informed the House that the Motion did not affect counties.

Question put and negativated.

Debate on the original Motion resumed;

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, AWARE THAT, the Coronavirus (COVID-19) has been declared a global health pandemic resulting in an unprecedented global health crisis that has now manifested internationally in over 184 Countries and Territories, with escalating numbers of new cases being reported, with over 700,000 confirmed cases and over 30,000 deaths worldwide;

COGNIZANT THAT governments and health authorities in the affected countries have taken various measures aimed at containing the spread of the pandemic, mainly through travel and behavioural restrictions;

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- vi). Sen. (Arch.) Sylvia Mueni Kasanga, MP; and
- vii). Sen. Mwinyihaji Mohamed Faki, MP.

and that the Committee tables a progress report within seven (7) days and thereafter tables a progress report on a weekly basis, and subsequently tables a final report within six (6) months.

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

12. **SENATE ROSE** - at thirty four minutes past Four O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Tuesday, 7th April, 2020 at 2:30 p.m.*

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