



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (THIRD SESSION)

THE SENATE

VOTES AND PROCEEDINGS

WEDNESDAY, 26 JUNE, 2024 (MORNING SITTING)

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

3. **QUORUM OF THE SENATE**

The Speaker, having counted the Hon. Senators present at the commencement of the Sitting and confirming that there was no Quorum, directed that the Bell be rung for ten minutes, pursuant to Standing Order 40;

And there being a Quorum before the expiry of the ten minutes;

The Speaker invited the Clerk to call the Orders of the Day.

4. **COMMUNICATION – ON THE UNPRECEDENTED ATTACK ON PARLIAMENT ON TUESDAY, 25TH JULY, 2024**

The Speaker conveyed the following Communication from the Chair: -

“Honourable Senators,

I have a communication to make relating to the resumption of regular sittings of the Senate for Part III of the Third Session and the unprecedented attack on Parliament on Tuesday, 25th June, 2024.

As you may all recall, on Tuesday, 25th June, 2024, the Parliament of Kenya faced an unprecedented attack by persons allegedly protesting against the passage of the Finance Bill (National Assembly Bills No. 30 of 2024).

In this unprecedented action, the alleged protesters breached the security within Parliament Buildings, vandalized and destroyed property. In addition, prior to and after infiltrating Parliament Buildings, the protesters also vandalized other critical government installations within the Central Business District.

Honourable Senators,

As you may also recall, the Senate was scheduled to resume regular sittings from the recess yesterday. The regular sittings under Part III of the Senate Calendar were scheduled to run from 25th June until the rise of the Senate on Thursday, 8th August, 2024. However, in an equally unprecedented occurrence, the Senate was not able to hold its sitting on Tuesday, 25th June, 2024, owing to the invasion and disruption by the protestors.

While the Senate acknowledges and upholds the right of every citizen to *“peaceably and unarmed, to assemble, to demonstrate, to picket, and to present petitions to public authorities”* as enshrined in Article 37 of the Constitution, it is important to observe that this must be done within the confines of the Constitution and the law.

I take this opportunity to thank the security officers who under very difficult circumstances, conducted themselves with professionalism to protect lives and property. However, and indeed regrettably, the skirmishes resulted in the loss of life, injuries, destruction of property and desecration of institutions of governance.

I equally take this opportunity to offer my condolences and indeed that of the Senate, to the families and friends of all those who lost their lives, and wish the injured a quick recovery.

Honourable Senators,

As a consequence of this situation, the Senate Business Committee held a Special Meeting today, Wednesday, 26th June, 2024, to deliberate on the implications on the business of the Senate. The Senate Business Committee has ordered for the publication of a Supplementary Order Paper which has been circulated.

At an appropriate time, the Senate Majority Leader will be called upon to give Notice of Motion and Motion for the alteration of the Senate Calendar.

I thank you.”

Thereupon, the Speaker invited the Senators to observe a moment of silence in honour of those who lost their lives.

5. **MESSAGES**

The Speaker conveyed the following Messages from the National Assembly: -

a) Passage by the National Assembly of the mediated version of the Division of Revenue Bill (National Assembly Bills No. 14 of 2024)

“Honourable Senators,

I wish to report to the Senate that, pursuant to Standing Order 46 (3), I received the following Message from the Speaker of the National Assembly regarding the

passage, by the National Assembly, of the mediated version of the Division of Revenue Bill (National Assembly Bills No. 14 of 2024).

The Message, dated 10th June, 2024, was received in the Office of the Clerk of the Senate on Wednesday, 19th June, 2024, while the Senate was on recess.

Pursuant to Standing Order 46 (5), I now report the Message –

“PURSUANT to the provisions of Standing Order 41(1) and 150(4)(b) of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly –

WHEREAS, on Monday, 13th May, 2024, the National Assembly considered and rejected the Senate amendments to the Division of Revenue Bill (National Assembly Bills No. 14 of 2024), thereby committing the Bill to a mediation committee in accordance with the provisions of Article 112(2)(b) of the Constitution;

WHEREAS, on Monday, 13th May, 2024 and Thursday, 16th May, 2024 the National Assembly and the Senate, respectively appointed Members to a Mediation Committee to develop a mediated version of the said Bill;

AND WHEREAS, on Wednesday, 29th May, 2024 the Senate considered and approved the mediated version of the Division of Revenue Bill (National Assembly Bills No. 14 of 2024) without amendments and in the form developed by the Mediation Committee;

FURTHER WHEREAS, the National Assembly considered the mediated version of the Division of Revenue Bill (National Assembly Bills No. 14 of 2024) on Wednesday, 5th June, 2024 and passed it without amendments and in the form developed by the Mediation Committee;

NOW THEREFORE, in accordance with the provisions of Article 113(3) of the Constitution and Standing Order 150(4)(b) of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate. I further notify that, pursuant to the provisions of Article 113(3) of the Constitution, I presented the Bill to H. E. the President for Assent on Monday, 10th June 2024. H. E. the President assented to the Bill on the same day.”

I thank you.”

b) Passage by the National Assembly of the Equalisation Fund Appropriation (No.2) Bill (Senate Bills No. 30 of 2023)

“Honourable Senators,

I wish to report to the Senate that, pursuant to Standing Order 46 (3), I received the following Message from the Speaker of the National Assembly regarding the passage, by the National Assembly, of the Equalisation Fund Appropriation (No.2) Bill (Senate Bills No. 30 of 2023).

The Message, dated 18th June, 2024, was received in the Office of the Clerk of the Senate on Wednesday, 19th June, 2024, while the Senate was on recess.

Pursuant to Standing Order 46 (5), 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 Equalisation Fund Appropriation (No.2) Bill (Senate Bills No. 30 of 2023) was passed by the Senate on Wednesday, 21st February, 2024 with amendments and referred to the National Assembly for consideration;

AND WHEREAS, the National Assembly considered and passed the said Bill on Thursday, 13th June, 2024 with further amendments in the form attached hereto;

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

Honourable Senators,

As you may recall, the amendments by the National Assembly to the said Bill were circulated *vide* letter Ref. SEN/CORR/L&P/MSG.2024 (002) dated 20th June, 2024, pursuant to Standing Order 165 (1).

At an appointed time, the Senate Business Committee will schedule a Motion for the consideration of the amendments by the Senate.

The House is guided accordingly.

I thank you.”

c) Passage by the National Assembly of the National Disaster Management Bill (National Assembly Bills No. 24 of 2023)

“Honourable Senators,

I wish to report to the Senate that, pursuant to Standing Order 46 (3), I received the following Message from the Speaker of the National Assembly regarding the passage, by the National Assembly, of the National Disaster Management Bill (National Assembly Bills No. 24 of 2023).

The Message, dated 19th June, 2024, was received in the Office of the Clerk of the Senate on Thursday, 20th June, 2024, while the Senate was on recess.

Pursuant to Standing Order 46 (5), I now report the Message –

“PURSUANT to the provisions of Standing Order 41(1) and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly –

WHEREAS, the National Disaster Risk Management Bill (National Assembly Bills No. 24 of 2023) was published vide Kenya Gazette Supplement No. 80 of 31st May, 2023 as a Bill to establish the National Disaster Risk Management Authority and County Disaster Risk Management Committee and provide a legal framework for the coordination of disaster risk management activities at both levels of government;

AND WHEREAS, the National Assembly considered and passed the said Bill on Tuesday, 4th June, 2024 with amendments and in the form attached hereto;

NOW THEREFORE, in accordance with the provisions of Article 110(4) of the Constitution and Standing Orders 41 and 142 of the National Assembly Standing Orders, I hereby refer the Bill to the Senate for consideration.”

Honourable Senators,

Pursuant to Standing Order 163, which provides that a Bill that 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 144, the National Disaster Management Bill (National Assembly Bills No. 24 of 2023) will be read a First Time today, as listed in the Order Paper.

I thank you.”

d) Passage by the National Assembly of the County Allocation of Revenue Bill (Senate Bills No. 25 of 2024)

“Honourable Senators,

I wish to report to the Senate that this morning, pursuant to Standing Order No. 46 (3) and (4), I received the following Message from the Speaker of the National Assembly regarding the passage, by the National Assembly, of the County Allocation of Revenue Bill (Senate Bills No. 25 of 2024).

Pursuant to the said Standing Orders, 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 Bill (Senate Bill No. 25 of 2024) was passed by the Senate on Tuesday, 11th June 2024, and referred to the National Assembly for consideration pursuant to the provisions of Article 110(4) of the Constitution;

*AND WHEREAS, the National Assembly considered the said Bill on Tuesday, 25th June 2024, and passed it **without amendment** and in the form passed by the Senate;*

NOW, THEREFORE, in accordance with the provisions of Article 110 of the Constitution and Standing Orders 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,

Following the passage of the Bill by the National Assembly, I am in the process of transmitting the Bill to His Excellency the President for Assent.

I thank you.”

6. **PAPERS**

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

- i.) Report of the Commission on Administrative Justice on the Status of Administrative Justice and Access to Information in Kenya from the year 2012 to 2023.
- ii.) Annual Statutory Report of the Council of Governors for the period 2022/ 2023.
- iii.) Report of the Office of the Controller of Budget on County Governments Budget Implementation Review for the first nine months of Financial Year 2023/ 2024.
- iv.) Report of the Office of the Controller of Budget on National Government Budget Implementation Review for the first nine months of Financial Year 2023/ 2024.
- v.) The Annual Report of the Commission on Revenue Allocation and Financial Statements for the Financial Year 2022/2023.
- vi.) Report of the Commission on Revenue Allocation on Own Source Revenue Potential and Tax Gap Study of County Governments.
- vii.) The Commission on Revenue Allocation Recommendation on the Basis for Equitable Sharing of Revenue between the National and County Governments for the Financial Year 2024/ 2025.

- viii.) Report of the Auditor General on the Financial Statements of the Kakamega County Rural Water and Sanitation Company Limited for the year ended 30th June, 2022.
- ix.) Report of the Auditor General on the Financial Statements of the Kakamega County Rural Water and Sanitation Company Limited for the year ended 30th June, 2023.
- x.) Report of the Auditor General on the Financial Statements of the Cherang’any Marakwet Water and Sanitation Company Limited for the year ended 30th June, 2023.
- xi.) Report of the Auditor General on the Financial Statements of the Ruiru – Juja Water and Sewerage Company Limited for the year ended 30th June, 2023.
- xii.) Report of the Auditor General on the Financial Statements of Bungoma Municipality for the year ended 30th June, 2023.

(The Senate Majority Leader)

7. **NOTICE OF MOTION – ALTERATION OF THE SENATE CALENDAR FOR THE THIRD SESSION**

(The Senate Majority Leader)

THAT, notwithstanding the resolution of the Senate made on 15th February, 2024 regarding the approval of the Calendar of the Senate for the Third Session, and pursuant to Standing Order 32(4) the Senate resolves to alter its Calendar to proceed on recess at the rise of the Senate on Wednesday 26th June, 2024 (Morning Sitting) and resume its sittings on Tuesday 16th July, 2024.

8. **NOTICE OF MOTION – APPROVAL OF SITTINGS OF THE SENATE TO BE HELD IN BUSIA COUNTY**

(The Senate Majority Leader)

THAT, AWARE that the Senate of Kenya is established under Article 93 of the Constitution and its main role, as set out at Article 96 is to represent, serve and protect the interests of the counties and their governments;

FURTHER AWARE of the critical role that the Senate plays in the interlinkage between the National and County levels of government, and the need to enhance the interaction between the Senate and county governments, as a means of bringing the Senate closer to the counties and the general public;

ACKNOWLEDGING the successes made during the sittings of the Senate outside Nairobi held in Uasin Gishu, Kitui and Turkana Counties in September, 2018, 2019 and 2023, respectively;

FURTHER ACKNOWLEDGING the recommendation of the Senate Business Committee that a sitting of the Senate be held away from the traditional premises in Parliament Buildings, Nairobi, during the term of the 13th Parliament; and the subsequent resolution of the Senate made on 8th March, 2023, to hold plenary and committee sittings in the counties for a one-week period within the month of September in every Session of the 4th Senate, except during an election year with the objective to: -

- 1) promote the role and work of the Senate and enhance public awareness regarding the Business of the Senate and Parliament in general;
- 2) highlight existing and new opportunities for engagement in the legislative process;
- 3) develop and strengthen partnerships at the county level of government; and
- 4) provide an opportunity to members and staff of county assemblies to learn and share best practices with Senators and parliamentary officers;

NOW, THEREFORE, pursuant to Article 126 (1) of the Constitution, the Senate resolves to hold its Plenary and Committee sittings in Busia County, from 23rd to 27th September 2024.

9. **MOTION – ALTERATION OF THE SENATE CALENDAR FOR THE THIRD SESSION**

Order read;

Motion made and Question proposed;

THAT, notwithstanding the resolution of the Senate made on 15th February, 2024 regarding the approval of the Calendar of the Senate for the Third Session, and pursuant to Standing Order 32(4) the Senate resolves to alter its Calendar to proceed on recess at the rise of the Senate on Wednesday 26th June, 2024 (Morning Sitting) and resume its sittings on Tuesday 16th July, 2024.

(The Senate Majority Leader)

Debate arising;

And there being no more Senators wishing to contribute;

The Deputy Senate Majority Whip replied on behalf of the Senate Majority Leader;

Before the Question was put, and pursuant to Standing Order No. 84(1), the Speaker ruled that the Motion did not affect counties.

The Speaker directed that roll call voting be taken, pursuant to Standing Order 88(1), to enable Senators who were online to record their votes, and that the division bell be rung for ten minutes;

After the expiry of ten minutes, the Speaker directed that the doors be locked and the bars be drawn;

The names of the Tellers were announced as follows;

1. Sen. Raphael Chimera, MP – Ayes
2. Sen. Beth Syengo, MP – Noes

The Speaker put the Question and directed the Clerk to call out the names of the Senators in alphabetical order;

The results of the Division were as follows: -

AYES – 9

NOES – 19

ABSTENTION – 0

AYES

1. Sen. Abdulrahman Miraj Abdullahi, MP
2. Sen. Cheruiyot Aaron Kipkirui, MP – voted virtually
3. Sen. Lelegwe Steve Ltumbesi, MP
4. Sen. Maina Veronica Waheti, MP
5. Sen. Mutinda Maureen Tabitha, MP – voted virtually
6. Sen. Mwinzagu Raphael Chimera, MP
7. Sen. Nyutu Joe, MP – voted virtually
8. Sen. Okenyuri Esther Anyieni, MP – voted virtually
9. Sen. Wamatinga Wahome, MP – voted virtually

NOES

1. Sen. Asige Crystal Kegehi, MP
2. Sen. Chute Mohamed Said, MP
3. Sen. Kajwang' Moses Otieno, MP
4. Sen. Kamau Joseph Githuku, MP
5. Sen. Kibwana Hamida Ali, MP
6. Sen. Lemaletian Hezena, MP – voted virtually
7. Sen. Madzayo Stewart Mwachiru, MP
8. Sen. Methu John Muhia, MP – voted virtually
9. Sen. Mogeni Erick Okong'o, MP
10. Sen. Montent Betty Batuli, MP
11. Sen. Mumma Catherine Muyeka, MP
12. Sen. Muthama Agnes Kavindu, MP – voted virtually
13. Sen. Mwaruma Johnes Mwashushe, MP
14. Sen Mwinyihaji Mohamed Faki, MP – voted virtually
15. Sen. Osostsi Godfrey Atieno, MP
16. Sen. Syengo Beth Kalunda, MP

17. Sen. Tobiko Peris Pesi, MP
18. Sen. Wafula David Wakoli, MP
19. Sen. Wambua Enoch Kiio, MP

Question negatived.

Pursuant to Standing Order 34(6), the Speaker adjourned the Senate at thirty-two Minutes past One O'clock without Question put.

10. **SENATE ROSE** - at thirty-two Minutes past One O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Wednesday, June 26, 2024 at 2.30 p.m.*

--x--