

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 30th May, 2018

*The House met at the Senate Chamber,
Parliament Buildings, at 2.30 p.m.*

[The Deputy Speaker (Sen. (Prof.) Kindiki in the Chair)]

PRAYER

PAPERS

The Deputy Speaker (Sen. (Prof.) Kindiki): Where is the Senate Majority Leader? He is not present. Where is the Chairperson of the Committee on National Security, Defence and Foreign Relations? He is also not present.

Next order.

STATEMENTS

The Deputy Speaker (Sen. (Prof.) Kindiki): There are no statements, so call out Order No. 4; I think we have one Petition.

PETITION

COMPENSATION TO UThERI WA LARI RESIDENTS FOR LAND ACQUIRED FOR CONSTRUCTION OF SGR

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, I hereby report that a petition has been submitted through the Clerk of the Senate by the residents of Utheri wa Lari in Mai Mahiu. As you are aware, Article 119(1), the Constitution says:-

“Every person has a right to petition Parliament to consider any matter within its authority, including enacting, amending or repealing any legislation.”

Hon. Senators, the salient issues raised in the said Petition are as follows:-

(1) The work on the Standard Gauge Railway (SGR) has started on Utheri wa Lari land covering six kilometers in length and is currently ongoing in earnest.

(2) That the owners of Utheri Wa Lari land support the project as development conscious citizens and deliberately chose not to place any obstacles in the way of the

ongoing works; and instead allowing early entry to the Chinese company undertaking the construction despite several issues remaining unresolved.

(3) That the residents do not have any official list or information on the specific land owners directly affected by the project despite the fact that the Government has in its possession the routes and design of the SGR portion passing through the land.

(4) That the silence on the part of the Government has denied the residents room for negotiation and settlement on the value and compensation to be offered.

The Petitioners, therefore, pray that the Senate urgently investigates the matters raised and comes up with appropriate recommendations; ensure that the rights and interests of Utheri Wa Lari land owners are safeguarded; full disclosure of information pertaining to the project provided and steps are taken to involve and allow the residents to participate in the process that will lead to fair compensation.

Hon.Senators, pursuant to Standing Order 225, I shall now allow comments, observations or clarifications in relation to the Petition for a period of not more than 30 minutes.

The Senate Majority Leader, do you have any comment to make?

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, the reason why many of us do not want to comment at this stage is because we did comment on the same question when it was raised by the same Senator in a Committee a few months ago. This time round, it is in the form of a petition. At that point in time, it was in the form of a statement. Therefore, we had extensively discussed it. Maybe we can just move on.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you for the information.

Nothing prevents citizens from presenting a petition to the House even if such matter has been raised through other avenues, including Request for Statements by a Senator. However, given the information from the Senate Majority Leader, I see no reason why we should again ventilate. This is because the observations and comments were already made at that point.

Hon. Senators, on that basis, pursuant to Standing Order No.226(1), the Petition should be committed to the Standing Committee on Lands, Environment and Natural Resources for its consideration.

In this case, I direct that the Petition be committed to the Standing Committee on Lands, Environment and Natural Resources together with the Standing Committee on Roads and Transportation, given the nature of the matter.

In terms of the Standing Order No.226(2), the two Committees are required, in not more than 60 days from the time of reading the plea to respond to the petitioners by way of a report addressed to the petitioners and laid on the Table of the Senate.

What is it, Sen. Murkomen?

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, I know you are past the Order of Papers. However, before the next Order, I would like to beg for your indulgence to lay a paper that I should have laid earlier although I came in late.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, the Senate Majority Leader! I am not sure if that is the way to go about it. Indeed, it is not the way to go about it. First and foremost, the Senate waits for no one. That “no one” includes all of us.

Secondly, in an instance like this one, it would have been better if you approached the Chair and canvassed it. This is because it is not appropriate to go live on air to announce that you have come in late as the Senate Majority Leader.

(Laughter)

I do understand, however, that sometimes exigencies of duty require you to juggle your responsibilities. In future, just approach the Chair and quietly canvass on the matter.

Nonetheless, I direct that Order on Papers be called out. There is that paper from the Senate Majority Leader and another paper from one of the Committee Chairpersons.

I can also see that the Chairperson of the Standing Committee on National Security, Defence and Foreign Relation has committed the same offence that the Senate Majority Leader has committed. According to him, he is following his leader in digression.

So, the Senate Majority Leader, I advise that you lay the paper without even reading because that is permissible.

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, indeed, I was given the same piece of advice that you have a lot of powers and you would have granted me the opportunity to lay the papers.

Be it as it may, because we are live as you have said, there is nothing wrong with admitting when you come late. That is expected of all of us who are public servants to admit when we are wrong. Although I might have come five minutes late like the British Assistant Minister--- I do not want to say the time you used to come when you were the Senate Majority Leader.

The Deputy Speaker (Sen. (Prof.) Kindiki): Which Assistant Minister?

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, I have forgotten the name of the British Assistant Minister who came five minutes late to the House of Lords and attempted to resign though the Prime Minister refused.

The Deputy Speaker (Sen. (Prof.) Kindiki): Is that something you want us to consider?

(Laughter)

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, what I was trying to say is that there is nothing wrong with public servants, just like him, to admit when they come late. However, the severity of the punishment meted on you must also be proportional to your offence.

I did not want to refer to the time in which the former Senate Majority Leader used to come to the House.

The Deputy Speaker (Sen. (Prof.) Kindiki): The former Senate Majority Leader of what House?

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, I am referring to the immediate former Senate Majority Leader of this House.

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, the Senate Majority Leader!

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, there is only one former Senate Majority Leader in this House.

The Deputy Speaker (Sen. (Prof.) Kindiki): The Senate Majority Leader, when you come in the circumstances in which you have come into, when your hands are not clean, you do not have the leeway to start venturing into dangerous frolics.

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, Sen. Sakaja said he follows his leader. Therefore, I also follow my leader. Let me now lay the paper.

PAPERS LAID

ANNUAL REPORT OF THE NIS FOR 2017

Mr. Deputy Speaker, Sir, I beg to lay the following paper on the Table of the Senate today, Wednesday, 30th May, 2018:-

Annual Report of the National Intelligence Service (NIS) for the year ending 31st December, 2017.

Thank you, Mr. Deputy Speaker, Sir.

(Sen. Murkomen laid the document on the Table)

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you, the Senate Majority Leader.

There is also another paper from the Chairperson of the Standing Committee on National Security, Defence and Foreign Relation.

Sen. Sakaja: Thank you, Mr. Deputy Speaker, Sir. I will also follow my leader in this one. In his example of House of Lords, the name of that Assistant Minister was the Rt. Hon. Lord Bates, Ministry of International Development, who chose to resign after coming five minutes late. That is a good standard to uphold, but for us----

The Deputy Speaker (Sen. (Prof.) Kindiki): Why are you not following it?

Sen. Sakaja: Mr. Deputy Speaker, Sir, an apology will suffice for now. So, we are very sorry for being a little bit off the mark in terms of time.

REPORT ON FACT-FINDING VISIT TO SOLAI FARM, NAKURU COUNTY

Mr. Deputy Speaker, Sir, I beg to lay the following paper on the Table of the Senate today, Wednesday, 30th May, 2018:-

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Report of the Standing Committee on National Security, Defence and Foreign Relations on a Fact-Finding Visit to Solai Farm, Nakuru County on 14th May, 2018.

(Sen. Sakaja laid the document of the Table)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order! The Senate Majority Leader, you seem not to be prepared for many things today. It is not just you alone, but also the entire team.

(Sen. Kihika spoke off-record)

Order, Chief Whip! You had a point of order?

Sen. Kihika: On a point of order, Mr. Speaker, Sir. I also wish to seek your indulgence. I know we have passed on the Order Paper, the notices of Motions which was Order No.6. If you would be agreeable, I wish we would go back to that order so that I bring my Notice of Motion.

The Deputy Speaker (Sen. (Prof.) Kindiki): That validates what I have just said. That, today is not a very efficient day for the Majority side. For clarity, I will repeat what I said to your boss, the leader of majority, which is; Senate waits for no man, and I amend, or woman. Nevertheless, you can proceed and give that Notice of Motion.

NOTICE OF MOTION

Sen. Kihika: Mr. Deputy Speaker, Sir, I will make sure that it does not happen again. Now that you have amended “the Senate waits for no man or woman,” I stand guided.

ESTABLISHMENT OF SELECT COMMITTEE ON THE SOLAI DAM TRAGEDY

Mr. Deputy Speaker, Sir, I beg to give Notice of Motion on the need to establish a select Committee to investigate the circumstances that led to the Solai Dam Tragedy.

AWARE that on Wednesday, 10th May, 2018, Kenyans woke up to the tragic news of the Solai Dam Tragedy following the bursting of the banks of the privately owned Solai Dam the previous night;

CONCERNED that as a result of the tragedy, almost 50 people lost their lives, most of them being small school going children in the most unfortunate circumstances and that many more who survived are now hospitalized due to the bodily and psychological injuries inflicted on them;

FURTHER concerned that hundreds of families are now homeless with orphans and destitute among them and that majority of the people who had their own habitations whether own homes, rentals or farm quarters, have not been resettled;

APPRECIATING the good work of the Red Cross Society of Kenya and the national Government for their swift responses upon receiving the information of the dam tragedy;

DEEPLY concerned that this human catastrophe occurred despite the existence of the Kenya Water Resources Management authority (WARMA), an institution that is created and mandated to ensure effective management of water resources;

FURTHER concerned that the Water Resource Management Authority does not have a framework on licensing, construction, usage, sharing of dam water resources, insurance and inspection of earth dams and that, currently, there are no standards which dam owners are required to adhere to and comply with;

ALSO concerned that the Water Resources Management Authority knew that the Solai Dam posed a great risk to Kenyans living downstream and they did little or nothing to avert the danger and that the Solai Dam Tragedy appears to have occurred as a result of their negligence;

NOTING with concern the sad revelations following the investigative report by the Kenya Human Rights Commission on the Solai Dam Tragedy that points to ignorance and a suspicious relationship between the owners of the dam, the National Environment Management (NEMA) and WARMA officials in their singular and joint omission that resulted in failure to act on early warning information given to them about the impending danger and the continued failure by NEMA to put in place standards on quality of dam walls and regulations to address the downstream effects and impact of dams whose walls burst, especially, the protection and restoration of the flora and fauna and the environment in general;

APPREHENSIVE that with the continuing heavy rainfall now and in the future, such incidents as the Solai one could happen elsewhere in Kenya;

DESIRIOUS of the need to take steps towards ensuring that similar man-made disasters are prevented from reoccurring;

NOW THEREFORE the Senate resolves to establish a Select Committee to:-

- (a) Holistically investigate and establish the circumstances leading to the Solai Dam Tragedy.
- (b) Propose modalities for compensation of all the families of the deceased victims and the surviving families.
- (c) Ensure the dam owner makes compensation in regard to the destroyed environment as well, especially, trees and other vegetation and top fertile soils and;
- (d) Propose measures to mitigate any such eventual disasters, especially for counties that are prone to floods and landslides;

AND THAT the following Senators be Members of the Select Committee:

- (1) Sen. Fatuma Dullo
- (2) Sen. Mithika Linturi
- (3) Sen. Sakaja Johnson
- (4) Sen. (Eng.) Ephraim Maina
- (5) Sen. Mutula Kilonzo Jnr.
- (6) Sen. (Prof.) Ekal Imana Malachy
- (7) Sen. Silvia Kasanga
- (8) Sen. Ledama Olekina and
- (9) Sen. Susan Kihika

AND FURTHER that the Select Committee reports back to the Senate within 60 calendar days after its establishment.

Thank you, Mr. Deputy Speaker, Sir, I beg to move.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Chief Whip!

(An hon. Senator spoke off record)

Sen. Kihika: Mr. Deputy Speaker, Sir, sorry. I give notice.

The Deputy Speaker (Sen. (Prof.) Kindiki): You are supposed to keep quiet. Once you finish reading you are supposed to keep quiet. That is the tradition.

Okay, Chief Whip, the notice is given.

Sen. Kihika: Thank you, Mr. Deputy Speaker, Sir, if I may respond or do I continue keeping quiet.

The Deputy Speaker (Sen. (Prof.) Kindiki): No. resumes your seat Sen. Kihika. I do not know what happened today to many of us but it is interesting that this is from one side of the House.

Senate Majority Leader, in consultation with the whips, keep on checking the numbers because of the Division and advise accordingly. Do you want to say something?

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, we should proceed with the Committee, and then, we put the question at the relevant time so that by the time we are putting the question, the numbers would have been sufficient.

The Deputy Speaker (Sen. (Prof.) Kindiki): Senate Majority Leader, I thought there is a Division on Committee Stage.

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, yes, there is a Division on the Committee Stage. So, we have to do the Committee Stage first.

The Deputy Speaker (Sen. (Prof.) Kindiki): So the Committee has not been---

The Senate Majority Leader (Sen. Murkomen): Prosecuted.

The Deputy Speaker (Sen. (Prof.) Kindiki): okay, that is noted.

Hon. Senators, if you look at your Order Paper, for the convenience of the Senate, I will direct that we reorganize one or two items. I direct that we dispense with Order No.12. It is a straight forward matter. I hope there will not be a lot of debate. There is no need for much debate. It is a procedural Motion. After that, we go to the Committee of the Whole.

COMMUNICATION FROM THE CHAIR

INVITATION TO THE ANNUAL NATIONAL PRAYER BREAKFAST

Order, hon. Senators, I have a Communication to make on the annual national prayer breakfast, 2018.

Hon. Senators, the Kenya Parliamentary Prayer Fellowship Group shall host the Annual National Prayer Breakfast tomorrow Thursday, 31st May, 2018 at the Safari Park Hotel, Nairobi. It is expected that over 2,000 guests will be in attendance.

The prayer breakfast is an interdenominational prayer meeting sponsored by Members of Parliament, both Senators and Members of the National Assembly.

Senators are requested to confirm attendance through the office of the clerk before the close of business today in order to facilitate sitting and other logistical arrangements. Senators' invitation cards were placed at your respective pigeon holes. Kindly attend this important spiritual event tomorrow and remember to carry your invitation card for identification purposes.

I thank you.

Order, hon. Senators. That is about prayer. I do not think there is any controversy about prayer. Before we move to the next Order, Sen. M. Kajwang', you had provided diversity in today's unique habit of coming late from the other side. You also had a notice of Motion, proceed to give the notice.

NOTICE OF MOTION

Sen. M. Kajwang': Mr. Deputy Speaker, Sir, I do not intend to take the trophy for late coming from the other side of the House. Tomorrow, I will make sure I am here on time.

NOTING OF REPORT OF THE SENATE DELEGATION TO THE INAUGURAL COMMONWEALTH PARLIAMENTARIANS' FORUM

I beg to give notice of the following Motion:-

THAT, this House notes the Report of the Senate delegation to the Inaugural Commonwealth Parliamentarians' Forum held at the Westminster, London, United Kingdom, from 26th February, to 1st March, 2018 laid on the Table of the House on Thursday, 10th May, 2018.

The Deputy Speaker (Sen. (Prof.) Kindiki): I direct further, before we go to Order No.12, we dispense with Order No.8.

BILL*First Reading*

THE DIVISION OF REVENUE (AMENDMENT) BILL
(SENATE BILLS NO.14 OF 2018)

*(Orders for First Reading read – Read the First
Time and ordered to be referred to the relevant
Senate Committee)*

The Deputy Speaker (Sen. (Prof.) Kindiki): Next Order!

MOTION

APPOINTMENT OF SEN. CLEOPHAS
MALALAH TO THE SBC

The Senate Leader of Majority (Sen. Murkomen): Mr. Deputy Speaker, Sir, I beg to move the following Motion:-

THAT, pursuant to Standing Orders 178(1) (d) and 183 (3) of the Senate, the Senate approves the appointment of Sen. Cleophas Malalah, MP, as a Member of the Senate Business Committee.

This is a very straight forward Motion, Sen. Malalah was recently appointed by the minority side to be the Deputy Minority Leader following the promotion of the then Minority Leader.

Sen. Malalah is known to all of us. He is a former Member of County Assembly (MCA) in Kakamega County. As a young man, he qualifies to be in the bracket of the youth of this republic. He has a lot of energy and is a football player of the Bunge Team.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Senator! Is football part of the Senate business?

The Senate Leader of Majority (Sen. Murkomen): Yes, Mr. Deputy Speaker, Sir, football and sports is part of the Parliament business in terms of promotion of networks, opening and widening devolution. It is one of the mechanisms that we reach out to as many people as possible in this country, while promoting fitness and sports in the country.

For the record, we played with him last time we faced Parliament of Turkey as part of promoting friendship with the People of Turkey and the Republic of Turkey. He is a football player and is very passionate about youth issues in this county. I am glad that in his youth, he got an opportunity to serve in leadership just like some of us did.

It is important for him to join the Senate Business Committee to bring the energy, focus and commitment he has for scheduling business for this House and discussing the direction that the House takes as far as matters business are concerned. That thanks to the cordial relationship that is prevailing in this House and the country, we will work very

closely with Sen. Malalah who was my friend even before the handshake, we had many handshakes before the highly profiled one, both uniting and dividing handshakes.

Mr. Deputy Speaker, Sir, I support the Motion. I am not seeing the Minority leader or the whip from the minority side. You have a habit of admonishing either side of the House.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Senator! Did you say “habit”?

The Senate Leader of Majority (Sen. Murkomen): Mr. Deputy Speaker, Sir, I withdraw and apologise.

The Deputy Speaker (Sen. (Prof.) Kindiki): Proceed.

The Senate Leader of Majority (Sen. Murkomen): You have a good tradition of reminding us of our diligence to our duties in the House. When you get the appropriate time, remind the Minority side to avail their leadership in the House. In the absence of the leadership of the Minority side, I will use my own discretion and ask Sen. Kwamboka to second this Motion. I have never even heard her speak here.

(Laughter)

The Deputy Speaker (Sen. (Prof.) Kindiki): Order senator! Yes, Sen. Kwamboka.

Sen. Kwamboka: Mr. Deputy Speaker, Sir, I second the Motion.

The Deputy Speaker (Sen. (Prof.) Kindiki): Leader of Majority, I hope you have now heard her speak. Order, Senators!

(Question Proposed)

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen.(Dr.) Musuruve, do you insist on speaking? Say whatsoever in a minute.

Sen. (Dr.) Musuruve: Mr. Deputy Speaker, Sir, thank you for giving me the opportunity to support the appointment of Sen. Malalah to the Senate Business Committee. Sen. Malalah comes out as a vibrant Senator in this House. He is an inspiration to the youth and is all rounded, in sports and drama. He has taken a number of students to State House and this is encouraging to young leaders who are coming up. He has qualities that need to come up and be nurtured.

I beg to support.

The Deputy Speaker (Sen. (Prof.) Kindiki): Thank you.

First and foremost, this is not a matter concerning counties. Senate Majority Leader, do you want to reply?

The Senate Majority Leader (Sen. Murkomen): Yes.

The Deputy Speaker (Sen. (Prof.) Kindiki): Please do.

The Senate Majority Leader (Sen. Murkomen): Mr. Deputy Speaker, Sir, I beg to reply.

The Deputy Speaker (Sen. (Prof.) Kindiki): You should actually beg to move.

(Sen. Murkomen spoke off-record)

Order, Senators! I will now put the question. As I have directed, this is not a matter concerning counties.

(Question put and agreed to)

Next Order!

COMMITTEE OF THE WHOLE

(Order for Committee read)

[The Deputy Speaker (Sen. (Prof.) Kindiki) left the Chair]

IN THE COMMITTEE

[The Temporary Chairperson (Sen. Nyamunga) in the Chair]

THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILLS NO.11 OF 2018)

The Temporary Chairperson (Sen. Nyamunga): Order Senators, we are now in the Committee of the Whole.

Clause 3

*(Question that Clause 3
be part of the Bill proposed)*

The Temporary Chairperson (Sen. Nyamunga): Division will be at the end.

Clause 4

Sen. (Eng.) Mahamud: Madam Temporary Chairperson, I beg to move:-

THAT Clause 4 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause-

(2) Each county government's allocation under subsection (1) shall be transferred to the respective County Revenue Fund-

(a) in accordance with a payment schedule approved by the Senate and published in the gazette by the Cabinet Secretary in accordance with section 17 of the Public Finance Management Act; and No.18 of 2012

(b) without undue delay and without deduction, except when the transfer has been stopped under Article 225 of the Constitution.

This amendment is supposed to ensure that monies approved in the schedule by the Senate are sent on time without any deduction.

(Question of the amendment proposed)

Clauses 5-10

(Question, that Clauses 5, 6, 7, 8, 9 and 10 be part of the Bill, proposed)

The First, the Second and the Third schedules

(Question, that the First, the Second and the Third schedules be part of the Bill, proposed)

The Fourth Schedule

Sen. (Eng.) Mahamud: Madam Temporary Chairperson, I beg to move:-
THAT the Bill be amended by deleting the Fourth Schedule and substituting therefor the following new Schedule-

FOURTH SCHEDULE (S.6)

County Government Budget Ceilings on Recurrent Expenditure in Financial Year 2018/2019 (Figures are in Kenya Shillings)

	County	County Executive Recurrent Expenditure Ceilings for FY 2018/19		County Assembly Recurrent Expenditure Ceilings for FY 2018/19	
		FY 2017/2018	FY 2018/2019	FY 2017/2018	FY 2018/2019
1	Baringo	552,102,186	571,077,976	597,216,746	745,949,448
2	Bomet	535,190,257	553,757,614	509,765,837	593,549,397
3	Bungoma	602,837,969	623,039,058	755,249,331	830,129,329
4	Busia	569,014,114	588,398,337	626,631,094	728,502,747
5	Elgeyo-Marakwet	518,278,330	536,437,254	472,435,996	566,844,007
6	Embu	518,278,330	536,437,254	485,937,461	568,744,226
7	Garissa	552,102,186	571,077,976	648,074,550	747,191,067
8	Homa Bay	585,926,041	605,718,697	730,589,778	837,888,910
9	Isiolo	449,417,832	466,512,829	388,553,640	415,766,822
10	Kajiado	511,832,496	530,235,145	561,789,458	656,834,585
11	Kakamega	653,573,752	675,000,140	883,457,978	1,061,364,590
12	Kericho	552,102,186	571,077,976	585,082,155	680,496,881
13	Kiambu	653,573,752	675,000,140	889,745,034	1,072,824,374

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14	Kilifi	569,014,114	588,398,337	638,942,332	753,514,171
15	Kirinyaga	506,599,449	524,676,019	490,547,175	556,734,809
16	Kisii	602,837,969	623,039,058	779,851,723	907,969,871
17	Kisumu	569,014,114	588,398,337	656,616,804	684,802,036
18	Kitui	585,926,041	605,718,697	727,297,161	811,797,246
19	Kwale	518,278,330	536,437,254	491,804,086	584,760,053
20	Laikipia	478,008,640	495,594,424	403,586,936	441,560,603
21	Lamu	449,417,832	466,512,829	357,441,657	404,937,595
22	Machakos	585,926,041	605,718,697	710,670,184	831,776,339
23	Makueni	552,102,186	571,077,976	623,097,274	746,360,207
24	Mandera	561,097,207	580,289,418	708,469,750	728,474,208
25	Marsabit	518,278,330	536,437,254	559,260,215	597,578,513
26	Meru	602,837,969	623,039,058	831,034,732	925,216,546
27	Migori	585,926,041	605,718,697	736,791,733	828,127,065
28	Mombasa	552,102,186	571,077,976	611,938,336	646,914,950
29	Murang'a	569,014,114	588,398,337	613,746,528	724,534,618
30	Nairobi City	738,133,392	761,601,944	1,293,426,918	1,386,671,700
31	Nakuru	636,661,824	657,679,779	813,963,353	969,538,825
32	Nandi	552,102,186	571,077,976	593,045,251	631,178,919
33	Narok	552,102,186	571,077,976	601,710,917	708,556,511
34	Nyamira	518,278,330	536,437,254	485,084,189	587,432,863
35	Nyandarua	535,190,257	553,757,614	555,137,541	623,474,296
36	Nyeri	552,102,186	571,077,976	586,007,599	659,447,249
37	Samburu	466,329,759	483,833,189	419,035,586	474,065,548
38	Siaya	552,102,186	571,077,976	592,664,559	648,656,207
39	Taita-Taveta	518,278,330	536,437,254	521,642,011	585,350,779
40	Tana River	489,687,521	507,355,659	454,495,177	472,819,158
41	Tharaka Nithi	478,008,640	495,594,424	384,283,351	424,689,934
42	Trans Nzoia	535,190,257	553,757,614	530,452,425	614,078,431
43	Turkana	552,102,186	571,077,976	764,435,401	743,352,347
44	Uasin Gishu	552,102,186	571,077,976	568,747,182	671,972,798
45	Vihiga	535,190,257	553,757,614	530,154,162	607,253,791
46	Wajir	543,107,164	561,866,534	643,968,360	719,759,837
47	West Pokot	518,278,330	536,437,254	483,519,537	573,674,197
	Total Ceilings	25,885,557,171	26,779,286,753	28,897,399,203	32,783,118,606

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This is necessitated by the fact that the recurrent expenditure ceilings for the county assemblies as proposed by the Commission on Revenue Allocation (CRA) and currently in the Bill did not take into account the committee sitting allowances of Members of County Assemblies (MCAs) that were in force prior to the gazette notice which is now in force and salaries for county assemblies staff considered the optimal numbers instead of actual numbers. So, this will help the county assemblies to meet their recurrent obligations.

The figure has risen from Kshs31,031,309,010. In fact, it affected each of the 47 counties. The figures have gone upwards by about Kshs1.7 billion. We hope this will eliminate the difficulties that county assemblies go through although we did not grant them all they requested for. The total figure in the new schedule is Kshs32,783,118,606.

(Question of the amendment proposed)

Clause 2, the Title and Clause 1

(Question, that Clause 2, the Title and Clause 1 be part of the Bill, proposed)

I order that the Division Bell be rung for three minutes.

(The Division Bell was rung)

Hon. Senators, we will proceed to the Division because we have the requisite numbers. Serjeant-at-Arms, please draw the Bar and lock the doors.

(The Bar was drawn and doors closed)

We will use electronic voting. Please, get ready and log in. We will start with Clauses with amendments.

I now put the Question, that Clause 4 and the Fourth Schedule be amended as proposed. Please, vote now. The assisted voters can come and vote manually.

(The Senators proceeded to vote)

The Temporary Chairperson (Sen. Nyamunga): We are going to the next vote and we are ready. Go ahead and vote.

There is a Senator who has not voted. If you are unable to vote electronically, we can assist for there is still time.

DIVISION

ELECTRONIC VOTING

(Question, that Clause 4 and the Fourth Schedule be amended as proposed put, and the Senate proceeded to vote by County Delegations)

AYES: Sen. (Dr.) Ali, Wajir County; Sen. Boy, Kwale County; Sen. Cherargei, Nandi County; Sen. Faki, Mombasa County; Sen. Farhiya, Nairobi County; Sen. Halake, Isiolo County; Sen. (Dr.) Kabaka, Machakos County; Sen. M. Kajwang', Homa Bay County; Sen. Khaniri, Vihiga County; Sen. Kibiru, Kirinyaga County; Sen. Kihika, Nakuru County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen. (Eng.) Maina, Nyeri County; Sen. (Dr.) Langat, Bomet County; Sen. Lelegwe, Samburu County; Sen. (Eng.) Mahamud, Mandera County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mwangi, Nyandarua County; Sen. Mwaruma, Taita Taveta County; Sen. Nyamunga, Kisumu County; Sen. Olekina, Narok County; Sen. Seneta, Kajiado County; Sen. Wambua, Kitui County and Sen. Wetangula, Bungoma County.

NOES: 0

The Temporary Chairperson (Sen. Nyamunga): Hon. Senators, the results of the Division are as follows:-

AYES: 24

NOES: 0

ABSTENTIONS: NIL

The "Ayes" have it.

(Question carried by 24 votes to 0)

DIVISION

ELECTRONIC VOTING

(Question, that Clause 3, 4 (as amended), 5, 6, 7, 8, 9, 10, The First, Second and Third Schedule, The Fourth Schedule (as amended), Clause 2, The Title and Clause 1 be part of the Bill, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. (Dr.) Ali, Wajir County; Sen. Boy, Kwale County; Sen. Cherargei, Nandi County; Sen. Faki, Mombasa County; Sen. Farhiya, Nairobi County; Sen. Halake, Isiolo County; Sen. (Dr.) Kabaka, Machakos County; Sen. M. Kajwang', Homa Bay County; Sen. Khaniri, Vihiga County; Sen. Kibiru, Kirinyaga County; Sen. Kihika, Nakuru County; Sen. (Prof.) Kindiki, Tharaka Nithi County; Sen. (Eng.) Maina, Nyeri County; Sen. (Dr.) Langat, Bomet County; Sen. Lelegwe, Samburu County; Sen. (Eng.) Mahamud, Mandera County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mwangi, Nyandarua County; Sen. Mwaruma, Taita Taveta County; Sen. Nyamunga, Kisumu

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County; Sen. Olekina, Narok County; Sen. Seneta, Kajiado County; Sen. Wambua, Kitui County and Sen. Wetangula, Bungoma County.

NOES: 0

The Temporary Chairperson (Sen. Nyamunga): Hon. Senators, the results of the Division are as follows:-

AYES: 24

NOES: 0

ABSTENTIONS: NIL

The "Ayes" have it.

(Question carried by 24 votes to 0)

(Clause 3, 4 (as amended), 5, 6, 7, 8, 9, 10, The First, Second and Third Schedule, The Fourth Schedule (as amended), Clause 2, The Title and Clause 1 agreed to)

The Temporary Chairperson (Sen. Nyamunga): Hon. Senators, we will report progress back to the House on the Division.

Sen. (Eng.) Mahamud: Madam Temporary Chairperson, pursuant to Standing Order No. 142, I beg to move that the Committee do report to the Senate its consideration of the County Allocation of Revenue Bill (Senate Bills No.11 of 2018) and its approval thereof with amendments.

Sen. Mutula Kilonzo Jnr. seconded.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[The Deputy Speaker (Sen. (Prof.) Kindiki) in the Chair]

REPORT AND CONSIDERATION OF REPORT

THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILLS NO.11 OF 2018)

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, let us have the temporary Chairperson to report to the House.

Sen. Nyamunga: Madam Temporary Speaker, I beg to report that the Committee of the Whole has considered the County Allocation of Revenue Bill (Senate Bills No.11 of 2018) and its approval thereof with amendments.

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The Deputy Speaker (Sen. (Prof.) Kindiki): Can we have the Mover of the Bill?

Sen. (Eng.) Mahamud: Mr. Deputy Speaker, Sir, I beg to move that the House do agree with the Committee on the said report. I request the Senate Majority Whip to second.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Kihika, go ahead.

Sen. Kihika seconded

(Question proposed)

(Question put and agreed to)

Sen. (Eng.) Mahamud: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order! Sen. Mahamud, you are completely out of order.

Mover of the Bill, the Floor is now yours.

Sen. (Eng.) Mahamud: Mr. Deputy Speaker, Sir, I beg to move that the County Allocation of Revenue Bill (Senate Bills No.11 of 2018) be now read a Third Time. I request the Senate Majority Leader to second.

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Murkomen, please, go ahead.

The Senate Majority Leader (Sen. Murkomen) seconded.

(Question proposed)

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, we will go to Division. I direct that the division bell be rung.

The Deputy Speaker (Sen. (Prof.) Kindiki): Whips, do we have the requisite number? We do?

The Senate Majority Leader (Sen. Murkomen): Yes.

(The Bars were drawn and the door closed)

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, get ready to vote. This is the final vote on this Bill.

Hon. Senators, you have 30 minutes left to vote. Let the assisted voters come forward and vote.

THIRD READING

THE COUNTY ALLOCATION OF REVENUE BILL
(SENATE BILLS NO.11 OF 2018)

DIVISION**ELECTRONIC VOTING**

(Question, that the County Allocation of Revenue Bill (Senate Bills No.11 of 2018) be now read a Third Time, put and the senate proceeded to vote by County Delegations)

AYES: Sen. (Dr.) Ali, Wajir County; Sen. Boy, Kwale County; Sen. Faki, Mombasa County; Sen. Farhiya, Nairobi County; Sen. Halake, Isiolo County; Sen. (Eng.) Hargura, Marsabit County; Sen. (Dr.) Kabaka, Machakos County; Sen. Khaniri, Vihiga County; Sen. Kibiru, Kirinyaga County; Sen. Kihika, Nakuru County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. (Dr.) Langat, Bomet County; Sen. Lelegwe, Samburu County; Sen. M. Kajwang', Homa Bay County; Sen. Madzayo, Kilifi County; Sen. (Eng.) Mahamud, Mandera County; Sen. Maina, Nyeri County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mwangi, Nyandarua County; Sen. Mwaruma, Taita Taveta County; Sen. Nyamunga, Kisumu County; Sen. Olekina, Narok County; Sen. (Prof.) Ongeru, Kisii County; Sen. Seneta, Kajiado County; Sen. Wambua, Kitui County; and, Sen. Wetangula, Bungoma County.

NOES: 0

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, the results of the Division are as follows:-

Ayes: 26

Noes: 0

Abstentions: 0

The "Ayes" have it.

(Question carried by 26 votes to nil)

(The Bill was accordingly read the Third Time and passed)

Serjeant-at-arms, open the door and withdraw the Bars.

(The doors were opened and the bars withdrawn)

The Deputy Speaker (Sen. (Prof.) Kindiki): Hon. Senators, before the next Order is called, again looking at the Order Paper, I direct that Order No.13, upon consultation

with the Mover, be deferred to such a time as might be determined by the Senate Business Committee.

MOTION

STANDARD POLICY REGULATION FOR CONSTRUCTION AND MAINTENANCE OF RURAL ACCESS ROADS

THAT AWARE that infrastructure development and specifically, construction of roads is a key pillar of Kenya's vision 2030 whose objective is to spur movement of people and goods, promote trade and economic activities, encourage development and attract investments;

NOTING that there is a very strong correlation between a country's economic development and the quality of its road network;

CONCERNED that Government's efforts to expand the roads infrastructure are mainly focused on the urban and peri-urban areas of the country thus leaving rural areas with dilapidated or no access roads;

FURTHER CONCERNED that fifty five years since independence and over five years after institutionalization of devolution, the Country's roads infrastructure is to a large extent still underdeveloped with only slightly above 9,000 kilometres of the about 178,000 kilometres of roads paved;

COGNISANT that, Part Two of the Fourth Schedule to the Constitution of Kenya (2010) mandates County Governments to manage county transport, including; roads, street lighting, traffic and parking, amongst other county public transport matters;

DEEPLY CONCERNED that, County Governments are continuously prioritizing routine maintenance works over sustainable and durable road quality works due to budgetary constraints;

NOW THEREFORE the Senate calls upon the Ministry of Transport, Infrastructure, Housing and Urban Development to develop and adopt standard policy regulations prescribing modern, eco-friendly and inexpensive technologies to be applied across the 47 counties for construction, upgrading and maintenance of rural access roads in order to ensure durability and sustainability of the access roads and also to reduce maintenance expenses.

(Motion deferred)

BILL**COMMITTEE OF THE WHOLE**

THE ASSUMPTION OF OFFICE OF THE COUNTY
GOVERNOR BILL (SENATE BILLS NO.1 OF 2018)

The Deputy Speaker (Sen. (Prof.) Kindiki): Sen. Wamatangi is not here. I also direct that this Bill be deferred to such a time as may be determined by the Senate Business Committee.

(Committee of the Whole deferred)

Next Order.

BILL

Second Reading

THE OFFICE OF THE COUNTY ATTORNEY
BILL (SENATE BILLS NO.3 OF 2018)

The Deputy Speaker (Sen. (Prof.) Kindiki): The report of the Committee is not ready. Therefore, I direct that this item be deferred to Tuesday next week.

(Bill deferred)

An hon. Senator: Which one?

The Deputy Speaker (Sen. (Prof.) Kindiki): Next Order.

MOTIONS

REGISTRATION OF PERSONS WITH DISABILITIES

THAT AWARE THAT the National Council for Persons with Disabilities was established through the Persons with Disabilities Act, 2003;

FURTHER AWARE THAT registration of persons living with disabilities is a function of the National Council for Persons with Disabilities;

ALSO AWARE THAT persons living with disabilities are estimated to be about 10% of any given population;

COGNIZANT THAT for purposes of registration of persons living with disability, it is a mandatory requirement for one to undergo medical

examination by a registered medical officer in a registered and certified health facility;

CONCERNED THAT of the nearly four million Kenyans living with disabilities who reside in Kenya, there is a very small fraction of the number which is duly registered;

AWARE THAT medical services are now a devolved function;

FURTHER CONCERNED THAT without proper registration, many persons living with disabilities are denied services because they lack the necessary proof of disability;

ALSO CONCERNED THAT owing to lack of accurate data on persons living with disabilities, the government at both levels cannot plan properly for this category of people;

NOW THEREFORE, the Senate calls upon the National Council for Persons with Disabilities in collaboration with Ministry of East African Community, Labour and Social Protection and county governments, to carry out a nationwide registration of all persons living with disabilities in order to determine their exact population to facilitate effective service for this marginalized group of our society.

The Deputy Speaker (Sen. (Prof.) Kindiki): I saw Sen. Khaniri here. Where has he disappeared to?

Sen. Wetangula: He is not here. He did not carry his materials.

The Deputy Speaker (Sen. (Prof.) Kindiki): Whips, any information on Sen. Khaniri? He was here two minutes ago.

(Sen. M. Kajwang' spoke off record)

Order! Sen. Khaniri has to speak for himself. Anybody who has information on the whereabouts and position of Sen. Khaniri should say so on record.

Yes, Sen. Nyamunga.

Sen. Nyamunga: Mr. Deputy Speaker, Sir, Sen. Khaniri has just whispered to me that he is not ready.

The Deputy Speaker (Sen. (Prof.) Kindiki): He whispered? Why did he whisper to you and not the Chair?

(Loud consultations)

Order! We proceed to the next Order.

(Sen. (Dr.) Kabaka crossed the Floor repeatedly)

Order, Sen. (Dr.) Kabaka! You are interfering with the proceedings of the House. You are behaving as you would do in a courtroom. You must distinguish your duality as a lawyer and as a legislator. If you were in the courtroom, you would be in order. You

cannot crisscross around the Mace and bow left, right and centre. You can do that in court because there is no Mace.

I do not see Sen. Khaniri and the information that Sen. Nyamunga is giving me is not verified. He was here and said that he had gone to look for his notes. Then somewhere between here and where Sen. Nyamunga is sitting, the story has changed. According to the Chair, he has disappeared.

Sen. Wetangula: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. (Prof.) Kindiki): What is it, Sen. Wetangula?

Sen. Wetangula: Mr. Deputy Speaker, Sir, to be fair to the distinguished Senator for Vihiga County, who is my kid brother, he did not disappear. He said to those of us sitting next to him that since he did not anticipate that his Order would be reached, he had left his files and notes in his office. So, he has gone to fetch them. That is different from a disappearance. At least, the record of the Senate should be straight. You remember the famous case of the British inquiry into the disappearance and reappearance of Lord Darling.

The Deputy Speaker (Sen. (Prof.) Kindiki): Senator, the consequences are the same, which is, that he has allegedly disappeared to fetch his notes. Disappearance is an act of sudden unexplained absence.

That Order is deferred. We move on to the next Order.

(Motion deferred)

FRAMEWORK TO PERMANENTLY ADDRESS
EFFECTS OF FLOODS

THAT, aware that several days of heavy rains recently have caused severe flooding in many parts of the country, resulting in multiple deaths and devastating damage to property and infrastructure;

NOTING with concern that, whenever Kenya experiences periods of severe drought, torrential rains usually follow;

CONCERNED that year in year out, the challenge of floods continues to recur, leading to loss of human and animal life, displacement of people and wanton destruction of property;

COGNIZANT that the number of Kenyans needing emergency food aid as a result of displacement caused by the current floods continues to rise by the day, and that the floods have also washed away many bridges and destroyed roads in many parts of Kenya;

ALSO CONCERNED that no effective measures, such as improved storm water harvesting, proper drainage infrastructure and preventing the destruction of riparian reserves and natural water courses, to mitigate and/or provide a lasting solution to the menace of flooding, have been taken;

NOW THEREFORE, the Senate calls upon the National Government to develop a lasting framework to permanently address the challenge of effects of floods by, among other things-

1. developing and enforcing regulations for preventing the obstruction of riparian reserves and natural water courses; and
2. preventing and regulating the construction of informal settlements and ensuring prevention of construction on low lying areas and flood plains.

And further that the relevant government agency to execute this task submits a report to the Senate within three months of the adoption of this Motion.

The Deputy Speaker (Sen. (Prof.) Kindiki): Is Sen. Fatuma Dullo here?

Hon. Senators: She has also disappeared.

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Senators! For someone to disappear, they must have appeared in the first place. Disappearance is a consequence of-

--

Is Sen. Dullo not here?

(Motion deferred)

ADJOURNMENT

The Deputy Speaker (Sen. (Prof.) Kindiki): Order, Senators. That brings us to the end of today's business.

Hon. Senators, having concluded the business of the day, it is now time to adjourn the House. The Senate, therefore, stands adjourned until tomorrow, Thursday, 31st May, 2018, at 2.30 p.m.

The Senate rose at 4.05 p.m.