



REPUBLIC OF KENYA  
ELEVENTH PARLIAMENT – (FOURTH SESSION)  
THE SENATE  
**ORDER PAPER**  
TUESDAY, MARCH 01, 2016 AT 2.30 P.M

**PRAYERS**

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions (As Listed in the Appendix)
5. Papers (As Listed in the Appendix)
6. Notices of Motion (As Listed in the Appendix)
7. Statements (As Listed in the Appendix)
8. **MOTION** – (Chairperson, Standing Committee on Finance, Commerce and Budget)

**THAT**, this House adopts the Report of the Standing Committee on Finance, Commerce and Budget on the Medium Term Budget Policy Statement, 2016 laid on the Table of the Senate on Thursday, 25<sup>th</sup> February, 2016.

9. **\*\* THE PUBLIC APPOINTMENTS (COUNTY ASSEMBLY APPROVAL) BILL**  
**(SENATE BILL NO. 20 OF 2014)**

(Chairperson, Standing Committee on Labour and Social Welfare)

*(Third Reading)*

***(Resumption of Debate interrupted on Wednesday, 24<sup>th</sup> February, 2016)***  
***(Division)***

10. **\* THE HIV AND AIDS PREVENTION AND CONTROL (AMENDMENT) BILL**  
**(SENATE BILL NO. 4 OF 2015)**

(Sen. (Dr.) Wilfred Machage)

*(Third Reading)*

***(Resumption of Debate interrupted on Wednesday, 24<sup>th</sup> February, 2016)***  
***(Division)***

11. **\* THE COUNTY INDUSTRIAL DEVELOPMENT BILL (SENATE BILL NO. 7**  
**OF 2014)**

(Sen. (Eng.) Muriuki Karue)

*(Third Reading)*

***(Resumption of Debate interrupted on Wednesday, 24<sup>th</sup> February, 2016)***  
***(Division)***

...../Motion

12. **MOTION** – (Vice – Chairperson, Mediation Committee)

**THAT**, the Senate adopts the Report of the Mediation Committee on the National Drought Management Authority Bill (National Assembly Bill No. 42 of 2013) laid on the table of the House on Thursday, 3<sup>rd</sup> December, 2015.

*(Resumption of Debate interrupted on Wednesday, 24<sup>th</sup> February, 2016)*  
*(Division)*

13. **MOTION** – (Chairperson, Ad-Hoc Select Committee on County Headquarters)

**THAT**, this House adopts the Report of the Ad-Hoc Select Committee on County Headquarters laid on the Table of the Senate on Thursday, 3<sup>rd</sup> December, 2015;

*(Resumption of Debate interrupted on Wednesday, 24<sup>th</sup> February, 2016)*  
*(Division)*

14. **COMMITTEE OF THE WHOLE**

**\*THE KENYA NATIONAL EXAMINATIONS COUNCIL (AMENDMENT)**  
**BILL (SENATE BILL NO. 7 OF 2015)**

(Sen. David Musila)

*(Resumption of Debate interrupted on Thursday, 18<sup>th</sup> February, 2016)*  
*(Division)*

15. **COMMITTEE OF THE WHOLE**

**\*\*THE OFFICE OF THE COUNTY ATTORNEY BILL, (SENATE BILL NO. 37 OF 2014)**

(Chairperson, Standing Committee on Legal Affairs and Human Rights)

*(Resumption of Debate interrupted on Thursday, 18<sup>th</sup> February, 2016)*  
*(Division)*

16. **COMMITTEE OF THE WHOLE**

**\*THE OFFICE OF THE COUNTY PRINTER BILL (SENATE BILL NO. 42 OF 2014)**

(Sen. Stephen Sang)

*(Resumption of Debate interrupted on Thursday, 18<sup>th</sup> February, 2016)*  
*(Division)*

17. **COMMITTEE OF THE WHOLE**

**\*\*\*THE WATER BILL (NATIONAL ASSEMBLY BILL NO. 7 OF 2014)**

(The Senate Majority Leader)

*(Resumption of Debate interrupted on Thursday, 3<sup>rd</sup> December, 2015)*

18. **\*THE NATIONAL CEREALS AND PRODUCE BOARD (AMENDMENT)**  
**BILL (SENATE BILL NO. 15 OF 2015)**

(Sen. (Dr.) Zipporah Kittony)

*(Second Reading)*

*(Resumption of Debate interrupted on Thursday, 25<sup>th</sup> February, 2016)*

...../Bill

19. **\*THE MICRO AND SMALL ENTERPRISES (AMENDMENT) BILL (SENATE BILL NO. 12 OF 2015)**  
(Sen. Kimani Wamatangi)  
*(Second Reading)*
20. **\*\*THE COUNTY STATUTORY INSTRUMENTS BILL (SENATE BILL NO. 10 OF 2015)**  
(Chairperson, Sessional Committee on Delegated Legislation)  
*(Second Reading)*
21. **\*THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT) BILL (SENATE BILL NO. 9 OF 2015)**  
(Sen. Martha Wangari)  
*(Second Reading)*
22. **\*THE COUNTY LIBRARY SERVICES BILL (SENATE BILL NO. 6 OF 2015)**  
(Sen. Joy Gwendu)

*(Second Reading)*

#### **KEY**

**\*\*\*\***

■ Denotes a Majority /Minority Party Bill

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■ Denotes a National Assembly Bill

**\*\***

■ Denotes a Committee Bill

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■ Denotes any other Bill

**NOTICE OF AMENDMENTS**

**A. \*THE KENYA NATIONAL EXAMINATIONS COUNCIL (AMENDMENT) BILL,**  
**(SENATE BILL NO. 7 OF 2015)**  
 (Sen. David Musila)

**NOTICE** is hereby given that Sen. David Musila, Senator for Kitui County, intends to move the following amendments to the Kenya National Examinations Council (Amendment) Bill, (Senate Bill No. 7 of 2015) at the Committee Stage-

**CLAUSE 2**

**THAT** clause 2 of the Bill be amended by inserting the words "Section 2 of" immediately before the words "The Kenya National".

**CLAUSE 3**

**THAT** clause 3 of the Bill be amended by deleting the proposed new section 45A and substituting therefor the following new sections –

Issuance of result slip.      **45A.** (1) The Council shall, upon releasing the Kenya Certificate of Primary Education or the Kenya Certificate of Secondary Education examination results, transmit the result slips of all candidates to the respective examination centres within a period of one month from the date of release of the results.

(2) A head-teacher or principal of an examination centre shall release to the respective candidates, the result slip received under subsection (1).

Issuance of certificates.      **45AA.** (1) The Council shall, within a period of two months from the date of release of the Kenya Certificate of Primary Education or the Kenya Certificate of Secondary Education examination results, transmit to the examination centres, the certificates of the respective candidates who sat for the examinations.

(2) The head-teacher or principal of an examination centre shall not withhold the certificate awarded to a candidate under this Act.

(3) A candidate shall, in collecting his or her certificate, verify the accuracy of the particulars as set out in the certificate including –

- (a) the candidate's name and index number;
- (b) the name and code of the examination centre; and
- (c) the grades of the respective subjects and the mean score.

(4) A candidate who identifies a discrepancy in the certificate issued shall notify the Council of such discrepancy within thirty days of the receipt of the certificate.

...../Amendments

(5) The Council shall rectify any discrepancy notified by a candidate under subsection (4) within a period of thirty days from the date of such notification.

(6) The Council shall meet the costs of rectifying any discrepancy notified by a candidate under subsection (4).

(7) A person who contravenes the provisions of this section commits an offence and shall be liable, on conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

#### **NEW CLAUSE**

**THAT** the following new clause be inserted immediately after clause 2-

**2A.** The principal Act is amended in section 10 by inserting the following new subsection immediately after subsection (2)-

(3) A person who contravenes the provisions of subsection (1)(b) commits an offence and shall be liable, upon conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

#### **B. \*\*THE OFFICE OF THE COUNTY ATTORNEY BILL (SENATE BILL NO. 37 OF 2014)**

(Chairperson, Standing Committee on Legal Affairs and Human Rights)

**NOTICE** is given that Sen. Amos Wako, the Chairperson of the Committee on Legal Affairs and Human Rights, intends to move the following amendments to the Office of the County Attorney Bill, 2014 at the Committee Stage-

#### **CLAUSE 3**

**THAT** clause 3 of the Bill be amended by deleting the words "Deputy County Attorney" appearing immediately after the words 'County Attorney, the' and substituting therefor the words "County Solicitor".

#### **CLAUSE 4**

**THAT** clause 4 of the Bill be amended in sub-clause (2)-

(a) by deleting paragraph (b) and substituting therefor the following new paragraph-

(b)the County Solicitor; and

(b) by inserting the word "Board" immediately after the words 'County Public Service' appearing in paragraph (c).

#### **CLAUSE 5**

**THAT** clause 5 of the Bill be deleted and substituted therefor with the following new clause-

...../Amendments

5. The County Attorney shall be appointed from among persons-
- (a) with at least ten years experience as an Advocate of the High Court of Kenya; and
  - (b) who meet the requirements of Chapter Six of the Constitution.

**CLAUSE 7**

**THAT** clause 7 of the Bill be amended-

- (a) in paragraph (b) by deleting the words "shall have no right to vote on any matter before such committee" appearing immediately after the words "committee meeting but" and substituting therefor the words "as an *ex officio* member of the executive committee";
- (b) by deleting paragraphs (g) and (h); and
- (c) in paragraph (i) by deleting the word "shall" appearing at the beginning of the paragraph and substituting therefor the word "may".

**CLAUSE 9**

**THAT** clause 9 of the Bill be amended-

- (d) in paragraph (a) of sub-clause (1) by inserting the words "within the county" immediately after the words 'involve public property'; and
- (e) in sub-clause (4) by deleting the word "shall" appearing immediately after the words 'administrative body' and substituting therefor the word "may".

**CLAUSE 10**

**THAT** clause 10 of the Bill be amended by deleting the words "the Deputy County Attorney" appearing immediately after the words 'County Attorney' and substituting therefor the words "the County Solicitor".

**CLAUSE 11**

**THAT** clause 11 of the Bill be amended by deleting the words "the Deputy County Attorney" appearing immediately after the words 'The County Attorney' and substituting therefor the words "the County Solicitor".

**CLAUSE 14**

**THAT** clause 14 of the Bill be amended-

- (a) in sub-clause (1) by deleting the words "Deputy County Attorney" appearing immediately after the words 'delegate to the' and substituting therefor the words "County Solicitor"; and
- (b) in sub-clause (2) by deleting the words "Deputy County Attorney" appearing immediately after the words 'performed by the' and substituting therefor the words "County Solicitor".

**CLAUSE 16**

**THAT** the Bill be amended by deleting clause 16 and substituting therefor the following new clause-

- 16.** (1) A department or public entity established within a county government shall not engage the services of a consultant to render any legal services relating to the functions of the County Attorney without the approval of the County Attorney.

...../Amendments

(2) A request by a department or public entity to the County Attorney to engage the services of a consultant under subsection (1) shall be made in writing.

(3) An approval by the County Attorney of a request by a department or public entity to engage the services of a consultant under subsection (1) shall be made in writing.

#### **CLAUSE 18**

**THAT** clause 18 of the Bill be deleted and substituted therefor with the following new clause-

Count **18.** (1) There shall be a County Solicitor who shall be competitively recruited and appointed by the County Public Solicitor Service Board.

or

(2) A person is qualified for appointment to the office of County Solicitor if the person-

(a) has at least ten years experience as an advocate of the High Court of Kenya; and

(b) meets the requirements of Chapter Six of the Constitution.

(3) The County Solicitor shall be the principal assistant of the County Attorney in the execution of the County Attorney's functions under this Act and any other written law.

#### **CLAUSE 19**

**THAT** Clause 19 of the Bill be amended in sub-clause (2) by deleting paragraph (b) and substituting therefor the following new paragraph-

(b) meets the requirements of Chapter Six of the Constitution.

#### **CLAUSE 21**

**THAT** clause 21 of the Bill be amended in sub-clause (2) by-

(a) by deleting the word "shall" appearing immediately before the words 'enjoy the same benefits' in paragraph (b); and

(b) by deleting the word "shall" appearing immediately before the words 'be required to comply' in paragraph (c).

#### **CLAUSE 25**

**THAT** clause 25 of the Bill be amended by deleting the word "local" appearing immediately after the words "County laws and" and substituting therefor the word "legal".

#### **CLAUSE 26**

**THAT** Clause 26 of the Bill be amended by deleting the word "public seal" appearing immediately after the words 'custody of the' and substituting therefor the words "county seal".

#### **CLAUSE 30**

**THAT** Clause 30 of the Bill be amended in paragraph (b) of sub-clause (3) by deleting the words "National Assembly" appearing immediately after the words 'provided by the' and substituting therefor the words "County Assembly".

...../Amendments

**NEW CLAUSE**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 10-

Status of the **10A.** For the avoidance of doubt, the County Attorney shall office of County have the status and rank of a member of the County Attorney. Executive Committee.

**CLAUSE 2**

**THAT** clause 2 of the Bill be amended by-

- (a) inserting the following new definition immediately after the definition of the word "County Legal Counsel"-

"County Solicitor" means a person appointed as such under section 18. ; and

- (b) deleting the definition of the word "Deputy County Attorney".

**C. \*THE OFFICE OF THE COUNTY PRINTER BILL (SENATE BILL NO. 42 OF 2014)**

(Sen. Stephen Sang)

**NOTICE** is given that Senator Mutula Kilonzo Junior, the vice-chairperson of the Committee on Information, Communication and Technology, intends to move the following amendments to the Office of the County Printer Bill, 2014, at the Committee Stage-

**Clause 4**

**That** clause 4 of the Bill be amended in subclause (2) by deleting the words "county Secretary" appearing immediately after the words "office of the" and substituting therefor the words "county executive committee member".

**Clause 5**

**That** clause 5 of the Bill be amended-

- (a) in paragraph (a) by inserting the words "within seven days of such authorization" immediately after the words "an authorized officer"; and
- (b) in paragraph (b) by deleting the word "government" appearing immediately after the words "the county" and substituting therefor the words "executive and the county assembly".

**Clause 8**

**That** clause 8 of the Bill be amended-

- (a) in subclause (2) by deleting the word "may" appearing immediately after the words "county printer" and substituting therefor the word "shall"; and



(b) by inserting the following new subclauses after subclause (2)-

(3) For purposes of subsection (1), the county printer may publish an electronic version of the gazette and such version shall have the same effect as a physical version of the gazette.

(4) The county printer shall make available issues of the gazette to the National Council for Law Reporting.

#### **Clause 9**

**That** clause 9 of the Bill be amended in subclause (4) by deleting the words "the county executive committee member" appearing immediately after the words "may be assigned" and substituting therefor the words "any other written law" appearing in paragraph (f).

#### **Clause 12**

**That** clause 12 of the Bill be amended by deleting the words "county secretary" appearing immediately after the words "subject to the provisions of this Act" and substituting therefor the words "county executive committee member".

#### **Clause 2**

**That** clause 2 of the Bill be amended by-

(a) deleting paragraph (c) appearing in the definition of the term "authorized officer";

(b) inserting the following new definition immediately after the definition of the term "authorized officer" -

"county executive committee member" means the county executive committee member responsible for matters relating to information;

(c) deleting the definition of the term "county secretary".

#### **Clause 1**

**That** clause 1 of the Bill be amended by deleting the words "and shall come into operation on such day as the cabinet secretary may, by notice in the Gazette appoint, which date shall not exceed ninety days from the date of publication of the Act" appearing immediately after the words "County Printer Act, 2014".

### **D. \*\*\* THE WATER BILL (NATIONAL ASSEMBLY BILL NO. 7 OF 2014)**

(The Senate Majority Leader)

**NOTICE** is given that Senator Lenny Kivuti, Chairperson to the Committee on Land and Natural Resources, intends to move the following amendments to the Water Bill, 2014, at the Committee Stage-

#### **Clause 8**

**THAT** clause 8 be amended in sub clause (3) by inserting the words 'for domestic use' before the word "shall" appearing on the first line.

...../Amendments

**Clause 8B**

**THAT** clause 8B be amended in sub clause (5) by deleting the word "three" immediately after the word "every" and substituting therewith the word "five".

**Clause 19**

**THAT** clause 19 of the Bill be amended in sub clause (1) by inserting the words "geo referenced information" immediately after the words "monitoring and".

**Clause 24**

**THAT** clause 24 of the Bill be amended in sub clause (1)(b) by inserting the words "appointed by the appointing authority after approval by the county assembly" immediately after the words "the basin".

**Clause 25**

**THAT** clause 25 of the Bill be amended by inserting the words "and county governments" immediately after the word "Authority" appearing on the second line.

**Clause 30**

**THAT** clause 30 of the Bill be amended in sub clause (1)(d) by inserting the words "rules and regulations" immediately after the words "harvesting policy".

**Clause 63**

**THAT** the headnote appearing immediately before clause 63 be amended by deleting the word "Board" and substituting therefor the word "Agency".

**Clause 72**

**THAT** clause 72 of the Bill be amended by deleting the word "accreditation" wherever it appears and substituting therefor the word "licensing".

**Clause 73**

**THAT** clause 73 of the Bill be amended—

- (1) In sub clause (1) by deleting the word "accredited" and substituting therefor the word "licensed";
- (2) In the marginal note by deleting the word "accredited" and substituting therefor the word " licensed";
- (3) In sub clause (1) (c) by deleting the word "accredited" and substituting therefor the word "licensed";

- (4) In sub clause (1)(d) by deleting the word "accreditation" and substituting therefor the word "licence";
- (5) In sub clause (2) by deleting the word "accredited" and substituting therefor the word "licensed";
- (6) In sub clause (4) by deleting the word "accredited" and substituting therefore the word "licensed".

#### **Clause 74**

**THAT** clause 74 of the Bill be amended—

- (1) In the marginal note by deleting the word "accreditation" and substituting therefor the words " a license";
- (2) In sub clause (1) by deleting the word "accreditation" and substituting therefor the word "license";
- (3) In sub clause (1) (a) by deleting the word "accredited" and substituting therefor the word "licensed";
- (4) In sub clause (1)(b) by deleting the word "accreditation" and substituting therefor the word "licence";
- (5) In sub clause (1) (c) by deleting the word "accredited" and substituting therefor the word "licensed";
- (6) In sub clause (1) (e) by deleting the word "accreditation" and substituting therefore the word "license".;
- (7) In sub clause (2) by deleting the word "accreditation" and substituting therefor the word "license";
- (8) In sub clause (3) by deleting the word "accreditation" and substituting therefor the word "license".

#### **Clause 102**

**THAT** clause 102 of the Bill be amended by deleting the word "licensee" and substituting therefor the words "water user".

#### **Clause 107**

**THAT** clause 107 of the Bill be deleted.

**Clause 109**

**THAT** clause 109 of the Bill be amended in sub clause (1) by inserting the words "georeferenced" immediately after the words "monitoring and".

**Clause 114**

**THAT** clause 114 of the Bill be amended in sub clause (1) (g)—

(a) by deleting the word "grants" appearing at the beginning of the sub clause; and

(b) Inserting the deleting the word "communities" and substituting therefor the words "community schemes".

**Clause 115**

**THAT** clause 115 be amended in sub clause (1) by deleting paragraphs (b) and (c).

**Clause 117**

**THAT** clause 117 of the Bill be amended by deleting the words "which shall be a Subordinate court as provided under Article 169(1)(d) of the Constitution".

**Clause 130**

**THAT** clause 130 of the Bill be amended by inserting the words "conservation and" immediately after the words "for the".

**Clause 139**

**THAT** clause 139 of the Bill be amended by inserting the words "a county government" immediately after the word "or" appearing on the third line.

**Clause 140**

**THAT** clause 140 of the Bill be amended in—

(a) sub clause (2) (a) by deleting the word "commission" and substituting therefor the word "Board"; and

(b) Sub clause (2)(h) by inserting the words "or the Board" immediately after the word "Authority".

**Clause 154**

**THAT** clause 154 of the Bill be amended in sub clause 5 by deleting the word "Board" and substituting therefor the word "Authority".

**Clause 2**

**THAT** clause 2 of the Bill be amended by inserting the following new definition in its proper alphabetical order –

“wetland” means an area where plants and animals have become adapted to temporary or permanent flooding by saline, brackish or fresh water”.

APPENDIX**1. PETITION**

Petition by Gideon Kariuki a resident of Kiambu, County, concerning frequent road accidents occasioned by heavy commercial trucks using the Sigona-Gitaru slip road near Kikuyu Town.

*(Sen. Kimani Wamatangi)*

**2. PAPERS**

- (i) Annual Report and Financial statements for Moi University for the Year ended 30<sup>th</sup> June, 2012;
- (ii) Report of the Auditor General on the Financial Statements of Kenya Marine and Fisheries Research Institute for the Year ended 30<sup>th</sup> June, 2014;
- (iii) Report of the Auditor General on the Financial Statements of Kenya Ferry Services Limited for the Year ended 30<sup>th</sup> June, 2014;
- (iv) Report of the Auditor General on the Financial Statements of Rivatex East Africa Limited for the Year ended 30<sup>th</sup> June, 2014.
- (v) Report of the Auditor General on the Financial Statements of Postal Corporation of Kenya for the Year ended 30<sup>th</sup> June, 2014;

*(Chairperson, Sessional Committee on County Public Accounts and Investments)*

- (vi) The Report of the Joint Parliamentary Committee on Broadcasting and Library on the proposed amendments to the Standing Orders of Parliament to regulate media related activities within the precincts of Parliament.

*(Chairperson, Joint Parliamentary Committee on Broadcasting and Library)*

**3. NOTICES OF MOTION****a) Notice of Motion** (Sen. Peter Mositet)

(Department of Education)

**AWARE** that Article 43 (1) (f) of the Constitution of Kenya provides that every person has the right to education and that Article 53 (1) (b) of the Constitution provides that every child has the right to free and compulsory basic education;

**COGNIZANT** that Article 54 (1) (b) of the Constitution provides that a person with any disability is entitled to access educational institutions and facilities for persons with disabilities that are integrated into society to the extent compatible with the interests of the person;

**RECOGNIZING** that education in Kenya is a shared function of both the county and national governments;

**CONCERNED** that while significant gains have been made under the Free Education Programme introduced in the year 2003, access and participation of children with special needs is generally low across the country and their needs have not been specifically addressed;

...../Appendix

**NOW THEREFORE** the Senate directs the Standing Committee on Education to inquire into the performance of the Ministry of Education, Science and Technology in the implementation of the policy statements and strategies made in the National Special Needs Education Policy Framework, 2009 and report back to the Senate within three months.

- b) Notice of Motion** – (Chairperson, Sessional Committee on County Public Accounts and Investments)

**THAT**, this House adopts the Report of the Sessional Committee on County Public Accounts and Investments on the Inquiry into the Financial Operations of Homa-Bay County Executive for the Financial year 2013/2014 laid on the Table of the House on Wednesday, 4<sup>th</sup> November, 2015.

#### **4. STATEMENTS**

##### **i) Requests**

- a) The Senator for Machakos County (Sen. Johnson Muthama) to seek a statement from the Chairperson of the Standing Committee on National Security and Foreign relations regarding the harassment of residents of Machakos County by the Police;
- b) The Senator for Machakos County (Sen. Johnson Muthama) to seek a statement from the Chairperson of the Standing Committee on Land and Natural Resources regarding the management of community and public land in Machakos County;

##### **ii) Responses**

- a) The Chairperson, Standing Committee on National security and Foreign Relations to issue a statement on the alleged assault of a police officer by Captain Allister Brown in Kinangop, Nyandarua County (Sen. (Dr.) Zipporah Kittony)
- b) The Chairperson, Standing Committee on Roads and Transportation to issue a statement on the upgrading of the Kenol-Makutano-Marua road (Sen. Daniel Karaba).
- c) The Chairperson, Standing Committee on National Security and Foreign Relations to issue a Statement regarding the shooting by police of 'bodaboda' operators who were on a peaceful demonstration in Kilingili, Vihiga County (Sen. George Khaniri);
- d) The Chairperson, Standing Committee on Health to issue a statement on the status of medical equipment lease project for County hospitals (Sen. George Khaniri);
- e) The Chairperson, Standing Committee on Education to issue a Statement regarding Higher Education Loans Board loans advanced to University students (Sen. Martha Wangari).

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