



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – (FOURTH SESSION)

THE SENATE

VOTES AND PROCEEDINGS

THURSDAY, SEPTEMBER 24, 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. **PETITION**

Pursuant to Standing Order 232(2), the Chairperson, Standing Committee on Education presented the Report of the Standing Committee on Education on a Petition to the Senate by Dr. Eric Mugambi Kinyua, concerning the review of the Basic Education Curriculum Framework by the Ministry of Education.

Pursuant to Standing Order 232(2), the Speaker allowed Senators to make comments or observations in relation to the Petition.

4. **PAPERS**

The following papers were laid on the Table of the Senate-

- i) The Public Finance Management (Parliamentary Car Loan (Staff) Scheme Fund) (Amendment) Regulations, 2020, Legal Notice No. 184;
- ii) The Public Finance Management (Parliamentary Mortgage (Members) Scheme Fund) (Amendment) Regulations, 2020, Legal Notice No. 185;
- iii) The Public Finance Management (Parliamentary Car Loan (Members) Scheme Fund) (Amendment) Regulations, 2020, Legal Notice No. 186; and
- iv) The Public Finance Management (Parliamentary Mortgage (Staff) Scheme Fund) (Amendment) Regulations, 2020, Legal Notice No. 187.

(Sen. Aaron Cheruiyot, MP)

- v) Report of the Standing Committee on Roads and Transportation on its inquiry into the operationalization of the National Construction Authority (Defects Liability) Regulations, 2020.

(Chairperson, Standing Committee on Roads and Transportation)

- vi) Report of the Standing Committee on Health on its inquiry into the death of a patient at the M. P. Shah Hospital, allegedly due to negligence.

(Chairperson, Standing Committee on Health)

5. **NOTICE OF MOTION – ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON ROADS AND TRANSPORTATION ON ITS INQUIRY INTO THE OPERATIONALIZATION OF THE NATIONAL CONSTRUCTION AUTHORITY (DEFECTS LIABILITY) REGULATIONS, 2020**

(Chairperson, Standing Committee on Roads and Transportation)

THAT, the Senate adopts the report of the Standing Committee on Roads and Transportation on its inquiry into the operationalization of the National Construction Authority (Defects Liability) Regulations, 2020 laid on the table of the Senate, on Thursday, 24th September, 2020.

6. **NOTICE OF MOTION – ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON HEALTH ON ITS INQUIRY INTO THE DEATH OF A PATIENT AT THE M. P. SHAH HOSPITAL, ALLEGEDLY DUE TO NEGLIGENCE**

(Chairperson, Standing Committee on Health)

THAT, the Senate adopts the Report of the Standing Committee on Health on its inquiry into the death of a patient at the M.P. Shah Hospital allegedly due to negligence laid on the table of the Senate, on Thursday, 24th September, 2020.

7. **STATEMENTS**

a) Pursuant to Standing Order 48 (1)

- i) Nominated Senator (Sen. Petronilla Were Lokorio, MP), sought a statement on behalf of the Senator for Trans-Nzoia County (Sen. (Dr.) Michael Mbiti, MP), from the Standing Committee on Health concerning payment of allowances to Office Administrative Personnel working in the health sector in county governments.
- ii) The Senator for Lamu County (Sen. Anuar Loitiptip, MP) sought a statement from the Standing Committee on Land, Environment and Natural Resources regarding the alleged displacement of squatters from Hidabwo area in Lamu County.
- iii) Nominated Senator (Sen. (Dr.) Getrude Musuruve Inimah, MP) sought a statement from the Standing Committee on Labour and Social Welfare regarding equal opportunities for persons with disabilities.
- iv) The Senator for Nandi County (Sen. Samson Cherarkey, MP) sought a statement from the Standing Committee on National Security, Defence and Foreign Relations regarding provision of the new Kenya Police uniform to police officers.
- v) The Senator for Lamu County (Sen. Anuar Loitiptip, MP) sought a statement from the Standing Committee on Land, Environment and Natural Resources regarding alleged encroachment of Lake Kenyatta riparian land in Lamu County.
- vi) Nominated Senator (Sen. (Dr.) Getrude Musuruve Inimah, MP) sought a statement from the Standing Committee on Tourism, Trade and Industrialization regarding compliance, by the Kenya Wildlife Service (KWS), with the requirement for accessibility of the Nairobi Animal Orphanage by persons with disabilities.

- vii) The Senator for Bungoma County (Sen. Moses Wetang'ula, MP) sought a statement from the Standing Committee on Agriculture, Livestock and Fisheries concerning the state and operations of the Nzoia Sugar Company.

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

The Chairperson, Standing Committee on Roads and Transportation made a statement regarding the operationalization of the National Construction Authority (Defects Liability) Regulations, 2020 as sought by Sen. (Arch.) Sylvia Kasanga, MP.

The Chairperson informed the Senate that the National Construction Authority (Defects Liability) Regulations, 2020 were in operation despite provisions of Section 42(3) of the National Construction Authority Act, 2011 which require the Regulations to be approved by Parliament before taking effect. The Regulations were not transmitted to Parliament for consideration as required under Section 11 (1) of the Statutory Instruments Act (No. 23 of 2013), which obligates every Cabinet Secretary responsible for a regulation-making authority to transmit a copy of the statutory instrument to the responsible Clerk within seven sitting days after publication.

He further informed the House that the process of drafting and implementation of the National Construction Authority (Defects Liability) Regulations, 2020 was rushed and not subjected to meaningful public participation contrary to Article 10 of the Constitution, Section 42(3) of the National Construction Authority Act, 2011 and Sections 5, 6 and 11 (1) of the Statutory Instruments Act (No. 23 of 2013).

The Chairperson highlighted that the Committee recommended that the Cabinet Secretary for the Ministry of Transport, Infrastructure, Housing, Urban Development & Public Works suspends operationalization of the National Construction Authority (Defects Liability) Regulations, 2020 for failing to meet the legal threshold provided for at Sections 5, 6 and 11 (1) of the Statutory Instruments Act (No. 23 of 2013); and also that the National Construction Authority initiates a fresh, all inclusive public participation process for publication of new Regulations.

c) Pursuant to Standing Order 51 (1) (b)

The Chairperson, Standing Committee on Energy made a statement relating to the activities of the Committee for the period 1st January – 31st July, 2020.

d) Pursuant to Standing Order 52 (1)

The Senate Deputy Majority Leader issued a Statement on the business of the Senate for the week commencing Tuesday, 29th September, 2020.

8. **MOTION – ADOPTION OF THE REPORT OF THE AD – HOC COMMITTEE ON MEDICAL EQUIPMENT SERVICES**

Order read;

Motion made and Question proposed;

THAT, the Senate adopts the Report of the Ad-Hoc Committee on Managed Equipment Services on inquiry into the Managed Equipment Services Project by the Ministry of Health, laid on the Table of the Senate on Tuesday, 8th September, 2020.

(Chairperson, Ad-hoc Committee on Managed Equipment Services)

Debate arising;

And the time being thirty Minutes past Six O'clock, the Speaker adjourned the Senate without question put, pursuant to the Standing Orders.

9. **SENATE ROSE** – at Thirty Minutes past Six O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Tuesday, September 29, 2020 at 2.30 p.m.*

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