



REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (FOURTH SESSION)
THE SENATE
ORDER PAPER

TUESDAY, DECEMBER 01, 2020 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
6. Notices of Motion (as listed in the Appendix)
7. Statements (as listed in the Appendix)
8. **MOTION - DEBATE ON THE PRESIDENTIAL ADDRESS TO PARLIAMENT – (THIRD AND FINAL DAY)**
(The Senate Majority Leader)

THAT, pursuant to Standing Order 24 (6), the Thanks of the Senate be recorded for the exposition of public policy contained in the Address of His Excellency the President, delivered on Thursday, 12th November, 2020 and further that the Senate notes the following Reports submitted by H.E. the President in fulfillment of Articles 132 (1) (c) and 240 (7) of the Constitution, laid on the Table of the Senate on Tuesday, 17th November, 2020 -

- i) The Seventh (7th) State of the Nation Address by His Excellency the President delivered at a Special Sitting of Parliament on Thursday, 12th November, 2020;
- ii) The 7th Annual Report on the Measures Taken and Progress Achieved in the Realization of National Values and Principles of Governance;

...../Motions

- iii) The 7th Annual Report on the Progress made in Fulfilling the International Obligations of the Republic of Kenya;
- iv) The Summary of the 7th Annual Report on the Progress made in Fulfilling the International Obligations of the Republic of Kenya;
- v) The Annual Report to Parliament on the State of National Security;
- vi) The Report on the Ease of Doing Business: Reform Milestones 2014-2020; and
- vii) The Office of the Director of Public Prosecutions Consolidated Annual Report for the financial years 2017/2018, 2018/2019 & 2019/2020.

(Resumption of debate interrupted on Tuesday, 24th November, 2020)

9. **MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS ON THE CONSTITUTIONAL AMENDMENTS PROPOSED IN THE REPORT OF THE STEERING COMMITTEE ON THE IMPLEMENTATION OF THE BUILDING BRIDGES TO A UNITED KENYA TASKFORCE**

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

THAT, the Senate **adopts** the Report of the Standing Committee on Justice, Legal Affairs and Human Rights on the Constitutional amendments proposed in the Report of the Steering Committee on the Implementation of the Building Bridges to a United Kenya Taskforce Report, laid on the Table of the Senate on Wednesday, 11th November, 2020.

10. **MOTION - ADOPTION OF THE REPORT OF THE SESSIONAL COMMITTEE ON DELEGATED LEGISLATION ON THE CROPS (TEA INDUSTRY) REGULATIONS, 2020 - LEGAL NOTICE NO. 97 OF 2020**

(Chairperson, Sessional Committee on Delegated Legislation)

THAT, the Senate **adopts** the Report of the Sessional Committee on Delegated Legislation on the Crops (Tea Industry) Regulations, 2020 – Legal Notice No. 97 of 2020, laid on the Table of the Senate on Tuesday, 10th November, 2020, and that pursuant to Section 18 of the Statutory Instruments Act and Standing Orders 221(4)(b) and 221(5)(b), **annuls** in its entirety, the Crops (Tea Industry) Regulations, 2020 - Legal Notice No. 97 of 2020.

11. ***THE MUNG BEANS BILL (SENATE BILLS NO. 9 OF 2020)**

(Sen. Enoch Wambua, MP)

(Second Reading)

...../Motions

12. **MOTION - RECOGNIZING AND APPRECIATING THE ELDERLY BY COUNTY GOVERNMENTS**
(Sen. Rose Nyamunga, MP)

THAT, AWARE that in 2006, the National Government initiated the Older Persons Cash Transfer (OPCT) Programme, popularly known as *Pesa ya Wazee*, which is an unconditional cash transfer programme to destitute elderly persons above the age of 65 years to cater for their subsistence needs;

NOTING THAT the beneficiaries receive a monthly stipend of Kshs. 2,000, delivered every two months through appointed payment agents, and also entitled to medical insurance through the National Health Insurance Fund (NHIF);

CONCERNED HOWEVER THAT the programme’s credibility is marred by issues of delayed payments to beneficiaries, difficulties in processing of payments through the stipulated agents and payments to unregistered persons;

NOW THEREFORE, the Senate recommends that the County Governments complement the efforts of the National Government and assist in resolving these challenges by:-

1. Developing legislation and policies to protect the elderly including ensuring all elderly persons in their counties are registered in the OPCT programme; and
2. Organise value addition mechanisms such as financial training to help the beneficiaries of the programme to efficiently utilise this allowance.

(Resumption of debate interrupted on Wednesday, 4th November, 2020)

13. **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 National Construction Authority (Defects Liability) Regulations, 2020, laid on the table of the Senate, on Thursday, 24th September, 2020.

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- 14. **MOTION- REPORT OF THE PARLIAMENT OF KENYA DELEGATION TO THE 141ST ASSEMBLY OF THE INTER-PARLIAMENTARY UNION (IPU) AND RELATED MEETINGS, HELD IN BELGRADE, SERBIA FROM 13TH TO 17TH OCTOBER, 2019**
(Sen. Susan Kihika, MP)

THAT, the Senate notes the report of the Parliament of Kenya Delegation to the 141st Assembly of the Inter-Parliamentary Union (IPU) and related meetings, held in Belgrade, Serbia, from 13th to 17th October, 2019 laid on the Table of the House on Wednesday, 4th March, 2020.

- 15. **MOTION – REPORT OF THE THIRD ORDINARY SESSION OF THE 5TH PARLIAMENT OF THE PAN – AFRICAN PARLIAMENT HELD FROM 7TH TO 18TH OCTOBER, 2019, IN MIDRAND, SOUTH AFRICA.**
(Sen. (Dr.) Abdullahi Ali, MP)

THAT, the Senate notes the Report of the Third Ordinary Session of the 5th Parliament of the Pan-African Parliament held from 7th to 18th October, 2019 in Midrand, South Africa.

- 16. **MOTION – ALLOCATION BY COUNTIES OF AT LEAST 10 PERCENT OF THEIR BUDGET ON EARLY CHILDHOOD DEVELOPMENT EDUCATION (ECDE) TOWARDS VULNERABLE GROUPS IN THE COUNTIES AND DEVELOPMENT OF A POLICY TO INCORPORATE THE NEEDS OF CHILDREN WHO ARE LESS THAN THREE YEARS OF AGE**
(Sen. (Dr.) Alice Milgo, MP)

THAT, AWARE THAT, Constitution of Kenya (Article 53) affirms that children have basic rights, including the right to education, nutrition, shelter, health care and parental care, provisions that are aligned with those cited in both the Convention on the Rights of the Child and the Africa Charter on the Rights and Welfare of the Child, to which Kenya is a signatory;

CONCERNED THAT, the current status of day care facilities in the Country are not child friendly or habitable and there is need to bridge this gap to capture the play group class in the new 2-6-3-3-3 curriculum that is replacing the 32-year-old 8-4-4 system;

ACKNOWLEDGING THAT, most parents lack access to quality daycare facilities, which would provide a safe and stimulating environment to take care of their children while they are at work;

NOW THEREFORE, the Senate urges that County Governors in conjunction with the Ministry of Education to ensure that:

...../Motions

- 1. Counties allocate at least 10 percent of their budget on Early Childhood Development Education (ECDE) towards this vulnerable group; and
- 2. Policy is developed to incorporate the needs of children who are less than three years of age.

17. **MOTION – PARKING CHARGES IN PUBLIC INSTITUTIONS OFFERING ESSENTIAL SERVICES**

(Sen. (Dr.) Abdullahi Ali, MP)

AWARE THAT, many urban areas and towns in Kenya lack designated car parking areas as a result of imbalance between parking supply and demand mainly due to ineffective land use planning and miscalculations of space requirements, thereby leading to exorbitant parking fees;

NOTING that, most essential services offered in hospitals, educational institutions and other public utilities are offered in urban centers, shopping malls and other designated areas that charge parking fees to access;

ACKNOWLEDGING, that whether they are delivered by public or private providers, essential services such as health, banking, education and other utilities are considered to be public services because they are public goods that sustain the well-being of every citizen and help in the development of the society as a whole;

CONCERNED, that access to hospitals, educational institutions and other places offering essential services might be hindered due to exorbitant parking fees levied on motorists accessing these services;

FURTHER CONCERNED, that charging entry fees amount to double taxation as the motorists who would have paid the parking fees will still pay for the services they seek;

NOW THEREFORE, the Senate urges the Cabinet Secretary for Lands, Housing and Physical Planning together with the Council of Governors to come up with a policy framework to create an enabling environment for protection of motorists accessing essential services from paying exorbitant fees for parking.

18. **MOTION – FAST TRACKING CULTURAL DEVELOPMENTS IN COUNTIES**

(Sen. Arch. Sylvia Kasanga, MP)

THAT, WHEREAS Kenya is a multi-ethnic and multi-racial country with rich and diverse cultural resources such as traditional medicine and foods, arts, craft, music, dances, dress among others;

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AWARE THAT, the Constitution, in its preamble acknowledges the cultural diversity of the Kenyan people who are determined to live in peace and unity as one indivisible sovereign nation whilst, Article 11 of the Kenyan Constitution recognizes culture as the foundation of the nation and Part(2)(4) of the Fourth Schedule appoints cultural activities as a function of County Governments;

NOTING that while the Department of Culture under the Ministry of Sports, Culture and Heritage has been playing some of the key roles in promotion of cultural integration, formulation of policies and standards that will guide the development of culture, little information on existing policies has been available to the Kenyan public;

ACKNOWLEDGING that culture performs a significant role in the life of a child, the cultural background in which a child is brought up affects the totality of his or her life’s activities;

CONCERNED that our children are losing their sense of identity due to the negative influences due to inadequate cultural identity catalyzed by globalization which has led to catastrophic consequences to the next generation as experienced in our country where a majority of young people are showing symptoms of feeling suicidal, anxious, feeling of hopelessness, anger, violence, feeling isolated, and paranoia;

NOW THEREFORE, the Senate urges the Cabinet Secretary, Ministry of Sports, Culture and Heritage to-

- 1) Formulate cultural development policies and initiatives to inculcate stronger community values, safeguard Kenya’s heritage, recognize local heroes and promote socio-cultural opportunities in the counties;
- 2) Formulate strategies to create an enabling environment for protection and promotion of diversity of cultural expressions in all counties; and
- 3) Partner with the Council of Governors on the formulation and implementation of policy in accordance with Part (2)(4) of the Fourth Schedule of the Constitution.

19. **MOTION – ADJOURNMENT OF THE SENATE**

(The Senate Majority Leader)

THAT, pursuant to Standing Orders 28 and 29, the Senate do adjourn until Tuesday, 9th February, 2021.

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NOTICE

On 18th February, 2020, the Senate resolved as follows:-

i) **THAT**, pursuant to Standing Order 106 (1), the Senate resolves that the debate on the Motion on the Presidential Address shall be limited to a maximum of three sitting days with not more than fifteen minutes for each Senator speaking, excluding the Mover in moving and replying who shall be limited to thirty minutes in either case and that the Senate Majority Leader and the Senate Minority Leader shall be limited to thirty minutes each.

ii) **THAT**, pursuant to Standing Order 106 (1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Committee shall be limited in the following manner:-

A maximum of three hours with not more than twenty minutes for the Mover, twenty minutes for the Majority Party Official Responder, twenty minutes for the Minority Party Official Responder and fifteen minutes for each other Senator speaking and that fifteen minutes before the time expires, the Mover shall be called upon to reply.

iii) **THAT**, notwithstanding the provisions of Standing Order 106 (4), the debate on any Motion for the adjournment of the Senate to a day other than the next normal sitting day in accordance with the calendar of the Senate shall be limited to a maximum of two hours with not more than fifteen minutes for each Senator speaking after which the Senate shall adjourn without question put; Provided that when the period of recess proposed by any such Motion does not exceed nine calendar days, the debate shall be limited to a maximum of thirty (30) minutes, and shall be confined to the question of adjournment.

KEY

****- Denotes a Majority /Minority Party Bill

***- Denotes a National Assembly Bill

** - Denotes a Committee Bill

*- Denotes any other Bill

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APPENDIX

1. PETITIONS

- i) Report of the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration on a Petition to the Senate by Rev. David Muganda concerning non-settlement and compensation of Kibra internally displaced persons.

(Chairperson, Standing Committee on National Cohesion, Equal Opportunity and Regional Integration)

- ii) Petition to the Senate by Mr. Calvin Luther Munayi and six (6) others concerning access to Title Deeds for properties bought at Jamii Bora Estate, Kisaju, Kajiado County.

(Sen. Mary Seneta, MP)

- iii) Petition to the Senate by Members of the National IDPs Network – Kenya concerning implementation of the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2012.

(The Speaker of the Senate)

2. NOTICE OF MOTION – PROVISION OF MONTHLY STIPEND AND OTHER SUPPORT SERVICES TO CANCER PATIENTS IN IDENTIFIED COUNTY HOSPITALS

(Sen. (Dr.) Gertrude Musuruve Inimah, MP)

THAT AWARE THAT, in Kenya, cancer is estimated to be the third leading cause of death after infectious and cardio-vascular diseases, with the annual incidence of cancer closing in on 37,000 new cases with an annual mortality of 28,000;

FURTHER AWARE THAT, the economic impact of cancer is significant, and is increasing with staggering consequences occasioned by increased medical costs, lost income, and the financial, physical and emotional burden placed on families and caregivers during treatment time;

ACKNOWLEDGING THAT, while Kenya is among the state parties that signed and ratified the Abuja Declaration that affirmed that state parties shall set aside at least 15% of their annual budget to improve the health sector, and that Article 43(1)(a) of the Constitution of Kenya states that everyone has a right to the highest attainable standards of health;

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NOTING THAT, the Mission of the Ministry of Health National Cancer Control Strategy 2016-2020 is to implement a coordinated and responsive cancer control framework that leads to the reduction in incidence, morbidity and mortality through effective partnerships for collaborations for prevention, diagnostics, treatment, palliation and financing of cancer control activities to improve wellbeing of Kenyans;

CONCERNED THAT gaps in the existing legislative framework such as discriminatory practices in the form of coverage limits and bureaucracies by the National Health Insurance Fund (NHIF) and private insurance firms that result in delayed diagnosis, incomplete cancer treatments and inadequate follow-ups that contribute to poor outcomes for cancer patients;

NOW THEREFORE, the Senate calls upon the Ministry of Health in partnership with the Council of Governors to:

- 1) Incorporate county cancer support services in their annual development plan;
- 2) Partner with stakeholders to create support including counseling services; and
- 3) Provide cancer patients with free prescriptions, wigs for those who have lost their hair, improvised breasts where applicable, and a subsidy for prostheses.

3. STATEMENTS

a) Pursuant to Standing Order 47 (1)

- i) Nominated Senator (Sen. Halake Abshiro, MP) to make a statement regarding alleged refusal by insurance companies to cover patients affected by COVID-19 in hospitals other than designated government facilities.
- ii) Nominated Senator (Sen. (Dr.) Gertrude Musuruve Inimah, MP) to make a statement regarding alleged practice of trafficking of children by hospital officials.
- iii) The Senator for Trans Nzoia County (Sen. (Dr.) Michael Mbito, MP) to make a statement concerning global efforts to eradicate cervical cancer.

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b) Pursuant to Standing Order 48 (1)

- i) The Senator for Trans Nzoia County (Sen. (Dr.) Michael Mbiti, MP), to seek a statement from the Standing Committee on Tourism, Trade and Industrialization concerning alleged failure by M/S Trident Insurance Company Limited to settle claims.
- ii) Nominated Senator (Sen. Petronilla Were Lokorio, MP), to seek a statement from the Standing Committee on Labour and Social Welfare concerning the protection of local investors in multi-national companies in Kenya.
- iii) The Senator for Lamu County (Sen. Anuar Loitiptip, MP), to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations concerning alleged harassment of cyber and movie shop owners in Lamu County.
- iv) Nominated Senator (Sen. Beatrice Kwamboka, MP) to seek a statement from the Standing Committee on Roads and Transportation concerning road safety.
- v) Nominated Senator (Sen. Beatrice Kwamboka, MP), to seek a statement from the Standing Committee on Health on the status of funds allocated to county governments, as donations by the international community, to aid in the fight against COVID-19 pandemic.
- vi) Nominated Senator (Sen. (Dr.) Isaac Mwaura, MP), to seek a statement from the Standing Committee on Labour and Social Welfare regarding the implementation of the guidelines on retirement age for public servants with disabilities.
- vii) Nominated Senator (Sen. (Dr.) Isaac Mwaura, MP), to seek a statement from the Standing Committee on Labour and Social Welfare regarding state interventions to cushion Persons with Developmental Disabilities.
- viii) The Senator for Wajir County (Sen. (Dr.) Abdullahi Ali, MP), to seek a statement from the Standing Committee National Security, Defence and Foreign Relations regarding increased incidents of abduction and disappearance of members of the public in Wajir County.
- ix) The Senator for Vihiga County (Sen. George Khaniri, MP), to seek a statement from the Standing Committee on Finance and Budget regarding the quality of the new generation currency notes.

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- x) Nominated Senator (Sen. Petronilla Were Lokorio, MP), to seek a statement from the Standing Committee on Roads and Transportation on alleged procurement irregularities, and governance malpractices at the Kenya National Highways Authority (KeNHA).
- xi) Nominated Senator (Sen. Beatrice Kwamboka, MP) to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations concerning the arrest of underage children engaging in alcohol and narcotics abuse in different estates in Nairobi County.
- xii) Nominated Senator (Sen. Falhada Iman, MP) to seek a statement from the Standing Committee on Health regarding alleged rise in cases of medical negligence and malpractice.
- xiii) Nominated Senator (Sen. Petronilla Were Lokorio, MP) to seek a statement from the Standing Committee on Tourism, Trade and Industrialization concerning the status of Pan African Paper Mills (E. A.) Ltd.
- xiv) The Senator for Turkana County (Sen. (Prof.) Charles Malachy Ekal, MP) to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations concerning alleged attacks against herders from the Turkana community in Isiolo and Meru Counties.
- xv) Nominate Senator (Sen. Beatrice Kwamboka, MP) to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations concerning security along the Kenyan borders.

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

- i) The Chairperson, Standing Committee on National Security, Defence and Foreign Relations to make a statement relating to the activities of the Committee.
- ii) The Chairperson, Standing Committee on Roads and Transportation to make a statement relating to the activities of the Committee.

d) Pursuant to Standing Order 52(1)

The Senate Majority Leader to issue a statement on the Business of the Senate for Tuesday, 9th February, 2021.
