



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

WEDNESDAY, SEPTEMBER 22, 2021 AT 2.30 P.M.

PRAYER

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
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 - CENSURE OF HON. JOHN K. MUNYES, CABINET SECRETARY FOR PETROLEUM AND MINING AND HON. CHARLES KETER, CABINET SECRETARY FOR ENERGY**
(The Senate Minority Leader)

THAT AWARE that on 15th September, 2021, a statement was requested under Standing Order 48(1) regarding the recent increase of fuel prices by the Energy and Petroleum Regulatory Authority (EPRA);

AND WHEREAS the Speaker of the Senate directed the Standing Committee on Energy to invite the Cabinet Secretaries of the Ministries of Petroleum and Mining; and Energy to appear before the Committee on Tuesday, 21st September, 2021 to apprise the Committee and the entire Senate on the unprecedented escalation of fuel prices in the country;

AND WHEREAS the Standing Committee on Energy invited the two Cabinet Secretaries, pursuant to Article 153 (3) and (4) of the Constitution, to appear before the Committee on Tuesday, 21st September, 2021 at 11.00 am;

NOTING that the said Cabinet Secretaries failed to honour the invitation to attend the meeting of the Committee;

...../**Motion**

COGNIZANT of the fact that the sharp increase in fuel prices in the country has had a ripple adverse effect on the economy leading to a rise in the cost of living and the cost of doing business on an already overburdened citizenry grappling with the effects of the COVID-19 pandemic ;

FURTHER AWARE that this increase in fuel prices has outraged a majority of Kenyans who bear the brunt of the effects of the increase such as high cost of transportation, high food prices, high cost of electricity among other adverse effects on most sectors of the economy;

NOW THEREFORE the Senate-

1. Expresses its grave concern on the unprecedented increase in fuel and electricity costs and the adverse effects that these have had on the economy and livelihoods of the people of Kenya; and
2. Expresses its dissatisfaction with the conduct of the two Cabinet Secretaries, namely- Hon. John K. Munyes, Cabinet Secretary for Petroleum and Mining and Hon. Charles Keter, Cabinet Secretary for Energy in failing to appear before the Senate to address these urgent issues thereby abdicating their responsibilities as set out in Article 153 (3) and (4) of the Constitution.

9. ***THE DISASTER RISK MANAGEMENT BILL (SENATE BILLS NO. 14 OF 2021)**

(Sen. Mutula Kilonzo Jr, MP and Sen. Sakaja Johnson, MP)

(Second Reading)

(Resumption of debate interrupted on Tuesday, 21st September, 2021)

10. ***THE LAW OF SUCCESSION (AMENDMENT) BILL (SENATE BILLS NO. 15 OF 2021)**

(Sen. Abshiro Halake, MP)

(Second Reading)

(Resumption of debate interrupted on Wednesday, 4th August, 2021)

11. *****THE PUBLIC PRIVATE PARTNERSHIPS BILL (NATIONAL ASSEMBLY BILLS NO. 6 OF 2021)**

(The Senate Majority Leader)

(Second Reading)

12. ***THE COUNTY HALL OF FAME BILL (SENATE BILLS NO. 9 OF 2021)**

(Sen. Kipchumba Murkomen, MP)

(Second Reading)

...../Bills

13. ***THE HEALTH (AMENDMENT) BILL (SENATE BILLS NO. 26 OF 2020)**
(Sen. (Dr.) Abdullahi Ali, MP)
(Second Reading)
14. ***THE COUNTY BOUNDARIES BILL, SENATE BILLS NO. 20 OF 2021**
(Sen. Mutula Kilonzo Jr, MP)
(Second Reading)
15. ****THE COCONUT INDUSTRY DEVELOPMENT BILL (SENATE BILLS NO. 24 OF 2021)**
(The Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)
(Second Reading)
16. ***THE COUNTY OVERSIGHT AND ACCOUNTABILITY BILL (SENATE BILLS NO. 17 OF 2021)**
(Sen. Ledama Olekina, MP)
(Second Reading)
17. **COMMITTEE OF THE WHOLE**
***THE OFFICE OF THE COUNTY PRINTER BILL (SENATE BILLS NO. 13 OF 2021)**
(Sen. Petronila Were Lokorio, MP)
18. **COMMITTEE OF THE WHOLE**
***THE INVESTMENT PROMOTION (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2021)**
(Sen. (Dr.) Alice Milgo, MP)
19. ***COMMITTEE OF THE WHOLE**
THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS NO. 25 OF 2020)
(Sen. (Dr.) Agnes Zani, MP)
20. **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;

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;

...../Motion

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 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 –

- a) 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; and
- b) Formulate strategies to create an enabling environment for protection and promotion of diversity of cultural expressions in all counties.

(Resumption of debate interrupted on Tuesday, 14th September, 2021)

21. **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;

...../Motion

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.

22. **MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS, CONCERNING THE IMPASSE ON THE BUDGETARY ESTIMATES FOR FINANCIAL YEAR 2020/2021 FOR KIRINYAGA COUNTY BETWEEN THE COUNTY EXECUTIVE AND THE COUNTY ASSEMBLY**

(The Chairperson, Standing Committee on Devolution and Intergovernmental Relations)

THAT, the Senate adopts the Report of the Standing Committee on Devolution and Intergovernmental Relations, on the impasse on the budgetary estimates for financial year 2020/2021 for Kirinyaga County, between the County Executive and the County Assembly, laid on the Table of the Senate on Tuesday, 25th May, 2021.

23. **MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON ROADS AND TRANSPORTATION ON INQUIRY INTO THE OPERATIONALIZATION OF THE NATIONAL CONSTRUCTION AUTHORITY (DEFECTS LIABILITY) REGULATIONS**

(The 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, laid on the Table of the Senate on Thursday, 24th September, 2020.

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NOTICE

1. **THAT**, pursuant to Standing Order 251A and 251B, the sitting will be a hybrid sitting consisting of Senators who are physically present in the Senate Chamber and Senators participating virtually from a remote location through **Zoom** online meeting platform, as per guidelines issued by the Speaker pursuant to Standing Order 251A(4).

2. The Senate resolved on 10th February, 2021, as follows:-

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. –

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KEY

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

*****- Denotes a National Assembly Bill**

**** - Denotes a Committee Bill**

***- Denotes any other Bill**

NOTICE OF AMENDMENTS

A. THE INVESTMENT PROMOTION (AMENDMENT) BILL, SENATE BILLS NO. 8 OF 2020

(Sen. (Dr.) Alice Milgo, MP)

NOTICE is given that the Chairperson, Committee on Trade, Tourism and Industrialization intends to move the following amendments to the Investment Promotion (Amendment) Bill (Senate Bills No. 8 of 2020), at the Committee Stage-

CLAUSE 4

THAT clause 4 of the Bill be amended in the proposed new section 16 by deleting paragraph (g) and substituting therefor the following new paragraph-

- (g) three members, who shall include a person with disability and at least one person of the opposite gender, nominated by the Council of County Governors and appointed by the Cabinet Secretary.

CLAUSE 6

THAT clause 6 of the Bill be amended in the proposed new section 17 by deleting the word “four” appearing immediately after the words “for a term of” and substituting therefor the word “three”.

CLAUSE 16

THAT clause 16 of the Bill be amended-

- (a) in the proposed new section 26C by deleting the word “county” appearing immediately after the words “by notice in the” in subsection (1);

(b) in the proposed new section 26D by –

- (i) renumbering the existing provision as subclause (1);
- (ii) inserting the words “including identifying and addressing barriers that hinder investment” immediately after the words “in the county” in paragraph (b); and
- (iii) inserting the following new subclause immediately after subclause (1) -

(2) The Unit shall, in carrying out its functions under subsection (1), undertake public participation through the modalities and platforms set out under section 91 of the County Governments Act.

B. THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS NO. 25 OF 2020)

(Sen. (Dr.) Agnes Zani, MP)

NOTICE is given that the Chairperson, Standing Committee on Land, Environment and Natural Resources, intends to move the following amendments to the Natural Resources (Benefit Sharing) Bill (Senate Bills No. 25 of 2020), at the Committee Stage—

CLAUSE 10

THAT clause 10 of the Bill be amended—

(a) by inserting the following new sub clause immediately after sub clause (2)—

(3A) The members of the County Benefit Sharing Committee elected under subsection (2)(d) shall serve for one single term of five years.

(b) insubclause (4) by deleting the expression “(2)(c)” appearing immediately after the words “elected under subsection” and substituting there for the expression “(2)(d)”.

CLAUSE 12

THAT clause 12 of the Bill be amended in sub clause (2) by deleting the words “county and local community” appearing immediately after the word “Each”.

CLAUSE 13

THAT clause 13 of the Bill be amended—

(a) in sub clause (1) by inserting the words “two of whom shall be of the opposite gender” immediately after the words “of five persons”; and

(b) by deleting sub clause (6) and substituting therefor the following new sub clause—

(6) The local community benefit sharing forum shall ensure that the respective local community benefits from the exploitation of natural resources and shall, for this purpose—

(a) collect and collate the views of the local community and represent the interests of the local community in the negotiations with the respective County Benefit Sharing Committee and in the implementation of a Benefit Sharing Agreement;

(b) in consultation with the local community, identify local community projects to be supported by money allocated to the local community by the County Benefit Sharing Committee under this Act; and

- (c) oversee the implementation of projects undertaken in the relevant local community using funds devolved under this Act.

CLAUSE 15

THAT clause 15 of the Bill be amended by deleting sub clause (2).

CLAUSE 2

THAT clause 2 of the Bill be amended in the definition of the word “benefit sharing agreement” by inserting the words “the exploitation of” appearing immediately after the words “revenue accruing from”.

APPENDIX**1. PAPER**

Report of the Auditor General on the financial statements of Tetu Aberdare Water and Sanitation Company Limited for the year ended 30th June, 2019.

(The Senate Majority Leader)

2. NOTICE OF MOTION - POOR OLYMPICS RESULTS AND THE MISHANDLING OF ATHLETES BY ATHLETICS KENYA, MINISTRY OF SPORTS, CULTURE AND HERITAGE AND THE NATIONAL OLYMPICS COMMITTEE OF KENYA.

(Sen. Samson Cherarkey, MP)

AWARE THAT, in the recent past, it has been witnessed that the Kenya team has participated in the Olympics games in Tokyo, Japan and congratulations are in order for the team for being great patriots and flying the Kenyan flag high;

WHEREAS, Kenya garnered four Gold medals, four Silver medals and two Bronze medals topping the African continent and placing at 19th position in the world, it was a drop from the Rio Olympics where it garnered six Gold medals, six Silver and one Bronze placing at 15th in the world;

CONCERNED THAT, this drop in the performance of the athletes may be attributed to the well documented factors where athletes were not equipped with sufficient kit, non-payment of allowances, substandard accommodation, and delayed processing of travel documentation and visas;

NOTING THAT, the World Athletics Global Conversation survey aimed at shaping the future direction of sport, better quality training facilities, greater coverage of athletics in the media, and more athletics in schools amongst others, are emerging as key drivers of growing athletics as a sport across the world;

NOW THEREFORE, the Senate calls upon the Ministry of Sports, Culture and Heritage, Athletics Kenya and National Olympics Committee of Kenya (NOC-K) to-

- i. Provide full details on the Tokyo Olympics 2020 preparation including the funds provided by the government and private sector for the games;
- ii. Establish well equipped training centres in all athletic counties;
- iii. Introduce a scheme to cushion athletes in terms of nutrition, appropriate kit, and compensation prior to and after participating in all Athletic meets;

...../Appendix

- iv. Create a reward mechanism to appreciate the athletes for good performances;
- v. Ensure that Athletics Kenya makes adequate preparation for Visa issuance for athletes to travel on time; and
- vi. Create a policy that promotes and rewards the inclusion of athletics programmes in all schools.

3. STATEMENTS

a) Pursuant to Standing Order 47 (1)

Nominated Senator (Sen. (Dr.) Getrude Musuruve Inimah, MP) to make a statement concerning the International Day of Sign Languages.

b) Pursuant to Standing Order 48 (1)

- i) Nominated Senator (Sen. Millicent Omanga, MP) to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations regarding alleged shooting and subsequent death of Mr. Alex Macharia, a trader at Kahawa by West, Nairobi County, by the police.
- ii) Nominated Senator (Sen. (Dr.) Getrude Musuruve Inimah, MP) to seek a statement from the Standing Committee on Health regarding the state of health care services to cancer patients in public health facilities.