



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (FIRST SESSION)

THE SENATE

ORDER PAPER

THURSDAY, DECEMBER 01, 2022 AT 2.30 PM

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 - ESTABLISHMENT OF A PARLIAMENTARY JOINT AD-HOC COMMITTEE ON A LEGISLATIVE PROPOSAL TO AMEND THE CONSTITUTION TO ENTRENCH CERTAIN SPECIALISED FUNDS**
(The Senate Majority Leader)

THAT, ACKNOWLEDGING the resolution of the National Assembly on the Establishment of an Ad-Hoc Committee on a Legislative Proposal to amend the Constitution to entrench certain specialised funds transmitted as a Message seeking concurrence of the Senate;

RECOGNIZING the need for a bicameral approach on the proposal prior to publication of the relevant Bill;

ACKNOWLEDGING THAT the subject matter of the Legislative Proposal is premised on the mandate of Parliament under Article 256 of the Constitution, on amendment of the Constitution by parliamentary initiative;

NOW THEREFORE the Senate resolves:-

...../Motion

1. to establish a *Joint Parliamentary Ad Hoc Committee on a Proposal to amend the Constitution to entrench certain specialized funds*, comprising eleven (11) Members from each of the Houses of Parliament to –
 - a) facilitate collation of views from Senators during debate, and inviting Senators with similar or related proposals to make submissions before the Committee;
 - b) invite, engage with and consider submissions from stakeholders and relevant constitutional and statutory bodies with a law reform mandate, including the Attorney General; and the commissions and independent offices established under Chapter Fifteen of the Constitution;
 - c) in consultation with the Sponsors, attempt to develop and recommend a harmonized version of the proposal arising from the submissions received; and
 - d) report to the Houses of Parliament within ninety (90) days to enable the Speakers to make a decision and give direction on whether or not the Legislative Proposal is to be published into a Bill or not to be proceeded with.
2. that the Offices of the Clerks of Houses of Parliament provide secretariat services to the *Joint Parliamentary Ad Hoc Committee* in accordance with the Standing Orders;
3. that the following Senators represent the Senate in the *Joint Parliamentary Ad Hoc Committee*-
 - i.) Sen. Wakili Hillary Kiprotich Sigei, MP
 - ii.) Sen. Raphael Chimera Mwinzangu, MP
 - iii.) Sen. Veronica Waheti Nduati, MP
 - iv.) Sen. Samson Kiprotich Cherarkey, MP
 - v.) Sen. William Cheptumo Kipkiror, CBS, MP
 - vi.) Sen. Danson Buya Mungatana, MGH, MP
 - vii.) Sen. Fatuma Adan Dullo, CBS, MP
 - viii.) Sen. Hamida Kibwana, MP
 - ix.) Sen. Andrew Omtatah Okoiti, MP
 - x.) Sen. Catherine Muyeka Mumma, MP
 - xi.) Sen. Erick Okongó Mogeni, SC, MP
 - xii.) Sen. Paul Karungo Thangwa, MP – (Co-opted)
 - xiii.) Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP – (Co-opted)

...../Motion

9. **MOTION - DROUGHT AND HUNGER MITIGATION IN TURKANA COUNTY**

(Sen. James Lomenen Ekomwa, MP)

THAT, AWARE THAT Turkana County continues to experience extremely dry weather conditions with the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) reporting that the aggregate rainfall for the six-month period ending September 2022 represented only 21 percent of the normal rainfall;

FURTHER AWARE THAT the prevailing weather conditions have resulted in the drying up of wells, boreholes, loss of pasture, and crops, therefore rendering any form of farming impracticable;

ACKNOWLEDGING THAT the residents of the County are predominantly pastoralists who keep cattle, donkeys, camels, and goats for food and income, and that the loss of these livestock is a loss of livelihood for them;

NOTING THAT the prevailing drought has resulted in the death of more than half of the livestock in the County thereby pushing eight hundred thousand residents to the brink of starvation and resulting in the highest ever rate of acute malnutrition in the County at 33%;

FURTHER NOTING THAT residents have been forced into migration with their livestock in search of pasture and water which has exposed them to raids by bandits and resulting in children dropping out of school;

CONCERNED THAT droughts have been recorded in the County since the 1960s and that the frequency of their occurrences has progressively increased with drought in the County becoming a yearly phenomenon;

COGNIZANT THAT Article 43 of the Constitution of Kenya, 2010, stipulates the rights of every person to be free from hunger, to have adequate food of acceptable quality, and to clean and safe water in adequate quantities, and obliges the State to provide social security to persons unable to support themselves and their dependants;

FURTHER COGNIZANT THAT Article 11 of the United Nation’s International Covenant on Economic, Social and Cultural Rights (ICESCR) places further emphasis on the fundamental right to food and obliges the State to take progressive steps towards achieving full realization of the right to adequate food;

NOW THEREFORE the Senate urges the Ministries of Agriculture and Livestock Development; Water, Sanitation, and Irrigation; Education, and the Ministry of East African Community (EAC), the ASALs and Regional Development through the National Drought Management Authority, to come up with a policy framework to address the perennial drought in the County and to come up with policy programs addressing the current needs of the County to include: -

...../Motion

- i) a roll out of a Rapid Response Initiative (RRI) programme of providing foodstuffs to the affected residents of the County to address immediate critical needs;
- ii) an introduction of feeding programme in schools across the County;
- iii) the drilling of water boreholes; and
- iv) an institution of a livestock off-take programme to buy weak livestock.

(Resumption of debate interrupted on Wednesday, 30th November, 2022 – Balance of time - 60 minutes)

10. **MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON NATIONAL SECURITY, DEFENCE AND FOREIGN RELATIONS ON A STATEMENT SOUGHT BY SEN. ENOCH WAMBUA, MP, ON THE HEIGHTENED INSECURITY IN MUTHA WARD, KITUI COUNTY**

(The Chairperson, Standing Committee on National Security, Defence and Foreign Relations)

THAT, the Senate adopts the report of the Standing Committee on National Security, Defence and Foreign Relations on a Statement sought by Sen. Enoch Wambua, MP, on the heightened insecurity in Mutha Ward, Kitui County, laid on the table of the Senate on Wednesday, 30th November, 2022.

11. **MOTION – ENHANCING HIGHWAY SAFETY AND CONVENIENCE**

(Sen.Wahome Wamatinga, MP)

THAT, AWARE THAT the majority of highway users, most of whom are long distance travelers and some of whom are children, elderly, and sick, face a myriad of challenges including traffic delays and breakdown of their vehicles that cause them to spend long hours on the road exposing them to starvation, insecurity threats, and to the need for sanitary and medical facilities;

FURTHER AWARE THAT setting up safe stopping points for road users at regular intervals with the necessary road-side amenities such as fuel stations, parking spaces, restaurants, telephone booths, minor repair shops, medical facilities, and toilets enhances total travel experience and the lack of these points make it impractical for drivers to stop as often as they would wish to resulting into driving-related fatigue, a significant contributor to accidents on the highways;

...../Motion

COGNIZANT THAT the current road-side amenities operated and maintained by private companies, majorly oil companies, are located in urban centers while in the countryside there are inadequate numbers offering limited variety of facilities;

ACKNOWLEDGING THAT the cost of such developments and the uncertainty of the returns on investment restrict the supply of the facilities, the risks too great for small companies and the returns too meagre for large companies, some amenities remain unviable, and insufficiently provided for by commercial companies necessitating government intervention;

FURTHER COGNIZANT THAT governments across the world such as France and Germany have taken on the task of setting up such amenities through incorporation of the basic provisions in their road transport infrastructure through different models of Public Private Partnership (PPP), lease, or ownership;

NOW THEREFORE the Senate resolves that the Ministries of Roads, Transport and Public Works, Health, the Kenya National Highways Authority, and the National Transport and Safety Authority to come up with a policy framework to include: -

- i) the incorporation of road reserves for road-side amenities in all highway designs;
- ii) undertaking a survey to ascertain the specific amenities required but not available on the existing highways and the most convenient locations to develop them; and
- iii) development of a Public Private Partnership guideline on leasing of the road reserves to developers, financing the construction of the amenities, and the packaging of incentives to attract investors.

12. **MOTION - INCESSANT HIGH ELECTRICITY COSTS IN KENYA**

(Sen. Mohamed Chute, MP)

THAT, AWARE THAT energy is an essential factor of production and its total consumption is a major determinant of performance of the economy with its cost and reliability spurring or stifling economic growth;

FURTHER AWARE THAT there has been a significant growth in the demand for electricity in Kenya driven by economic growth, increased efforts towards rural electrification, and reinforcement of the transmission and distribution grids while the supply has been constrained majorly due to the overreliance on hydro-electric power generating plants that have been negatively impacted by perennial drought experienced in the country;

...../Motion

NOTING THAT imbalance in the demand and supply of power coupled with payments by the Kenya Power and Lighting Company (KPLC) for produced power not consumed and fluctuation in the foreign exchange rates contribute to the high cost of electricity;

APPRECIATING THAT Kenya has made strides in diversifying its power sources with geothermal plants, offering tremendous potential for zero-carbon source of power, already producing nearly one (1) Gigawatt (GW) of power;

CONCERNED THAT private power generating companies popularly referred to as Independent Power Producers (IPPs) only supply 28% of power to KPLC but account for 47% of power purchase costs calling for the need to enhance energy management in Kenya;

NOW THEREFORE the Senate resolves that:

- a) the Standing Committee on Energy to undertake an inquiry into: -
- i.) Contracts signed by IPPs, detailing the cost, capacity and duration of the contractual agreements and their implications on affordability of electricity in the country;
 - ii.) Discrepancy in the cost of electricity sold to Kenya Power by KenGen, imports from Ethiopia and IPPs; and
 - iii.) The diversion of the electricity generated by Lake Turkana Wind Power to the national grid, noting that Marsabit and Samburu counties are inadequately supplied.
- b) the Ministry of Energy to come up with a policy framework aimed at:-
- i.) Lowering the cost of electricity as a way of addressing the high cost of living; and
 - ii.) Enhancing clean energy by switching to renewable sources of energy such as geothermal power, wind energy, among others as a way of reducing the carbon foot print.

13. **MOTION - INTEGRATING CLIMATE EDUCATION INTO NATIONAL EDUCATION CURRICULUM**

(Sen. Moses Kajwang', MP)

AWARE THAT climate change is a complex social and scientific issue which is characterized by uncertain and context specific knowledge, demanding that educators engage in inquiry and co-learning with students, while noting the lack of time and curriculum opportunities to address climate change in the classroom;

...../Motion

COGNIZANT OF THE FACT that the Constitution of Kenya in Article 42 provides for the right to a clean and healthy environment for every Kenyan, which includes the right to have the environment protected for the benefit of the present and future generations;

NOTING THAT Climate change is a global nightmare with consequences that are already quite visible and should be a priority for the national education curriculum, in accordance to Article 12 of the Paris Agreement which espouses the enhancement of climate change education, training, public awareness, public participation and public access to information;

FURTHER NOTING THAT climate change education explores mitigation and adaptation at both local and global level, critical and creative thinking and capacity building that will enable youth to engage with the information, inquire, understand, ask critical questions and take what they determine are appropriate actions to respond to climate change;

ACKNOWLEDGING THAT the Climate Change Act 2016 addresses the integration of climate change into various disciplines and subjects of the national education curriculum at all levels, as well as requiring that the National Climate Council advises public agencies responsible for regulating universities and tertiary institutions curricula on integration of climate change into their curricula;

NOW THEREFORE the Senate calls upon the Ministry of Education in liaison with the Kenya Institute for Curriculum Development to:

1. Mainstream climate change education throughout formal education systems through integrating climate education in the school curriculum to creatively prepare children and young people for a rapidly changing, uncertain, risky and possibly dangerous future; and
2. Train and equip teachers and school administrators with the necessary information and skills to teach climate education and explore new approaches to learning that can contribute to the transformation of unsustainable climate systems, values and routines.

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

(The Senate Majority Leader)

THAT, pursuant to Standing Order 31 (3), the Senate do adjourn until Tuesday, 14th February, 2023.

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...../Notice

NOTICE

The Senate resolved on 5th October, 2022 as follows:-

- i.) **THAT**, pursuant to Standing Order 111 (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.

- ii.) **THAT**, notwithstanding the provisions of Standing Order 111 (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.

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APPENDIX**1. PAPER**

The Statutory Instruments (Exemption from Expiry) Regulations, Legal Notice No. 217 of 2022.

(The Senate Majority Leader)

2. NOTICE OF MOTION - ESTABLISHMENT OF A PARLIAMENTARY JOINT AD-HOC COMMITTEE ON A LEGISLATIVE PROPOSAL TO AMEND THE CONSTITUTION TO ENTRENCH CERTAIN SPECIALISED FUNDS

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 - c) in consultation with the Sponsors, attempt to develop and recommend a harmonized version of the proposal arising from the submissions received; and

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- d) report to the Houses of Parliament within ninety (90) days to enable the Speakers to make a decision and give direction on whether or not the Legislative Proposal is to be published into a Bill or not to be proceeded with.
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 - xiii.) Sen. (Prof.) Tom Odhiambo Ojienda, SC, MP – (Co-opted)

3. STATEMENTS

a) Pursuant to Standing Order 53 (1)

- i.) Nominated Senator (Sen. Mariam Omar, MP) to seek a statement from the Standing Committee on Land, Environment and Natural Resources regarding compensation to residents of Mihang'o Ward of Embakasi East Constituency, Nairobi City County for alleged illegal demolition of houses by the Kenya Power and Lighting Company Limited (KPLC) in 2019.
- ii.) The Senator for Taita Taveta County (Sen. Johnes Mwaruma, MP) to seek a statement from the Standing Committee on Devolution and Intergovernmental Relations regarding the county boundary cutline between Taita Taveta County and the neighbouring counties.

- iii.) The Senator for Taita Taveta County (Sen. Johnes Mwaruma, MP) to seek a statement from the Standing Committee on Land, Environment and Natural Resources concerning acquisition of land belonging to residents of Ikanga area in Mbololo Ward of Voi Sub-County in Taita Taveta County, by the Kenya Airports Authority (KAA).
- iv.) Seneta wa Kaunti ya Mombasa (Sen. Mohamed Faki, MP) kuomba kauli kutoka kwa Kamati ya Kudumu ya Barabara, Uchukuzi na Makao, kuhusu ujenzi wa barabara ya Makupa eneo la Kibarani, Kaunti ya Mombasa.

b) Pursuant to Standing Order 57 (1)

The Senate Majority Leader to issue a statement on the business of the Senate for the week commencing Tuesday, 14th February, 2023.

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