



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – THIRD SESSION

THE SENATE

VOTES AND PROCEEDINGS

TUESDAY, SEPTEMBER 10, 2019 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. **COMMUNICATION FROM THE CHAIR – WELCOMING SENATORS FROM RECESS**

The Speaker conveyed the following Communication from the Chair: -

“Honourable Senators,

It is my pleasure and privilege to welcome you back from the recess. I believe that you have had opportunity to spend quality time with your families and constituents over the period and that you are re-energized for the upcoming business.

In accordance to the Calendar of the Senate, this last cycle of the session will see the Senate transact its business until 5th December, 2019, with a one-week break from 25th October to 4th November, 2019. We have a full plate ahead of us; 7 Bills are lined up for First Reading, 9 Bills for consideration at the Committee of the Whole stage; 11 Bills at the Second Reading stage for debate and division, as well as Motions on various subjects, Petitions and Statements pending before Standing Committees.

It is my hope that respective Committees have had opportunity to consider and conclude business before them and that they will report at the appropriate time.

Honourable Senators,

Let me take this opportunity to remind the House that the Division of Revenue Bill and the County Allocation of Revenue Bill which are crucial legislations that divide nationally raised revenue between the two levels of government and among county governments respectively, have not yet been finalized. As you are well

aware, this has had adverse effects on the operations of the county governments. I direct that these two Bills be prioritized accordingly and dispensed with expeditiously.

Honourable Senators,

Pursuant to the resolution of the Senate on 13th June, 2019, the Senate is scheduled to hold its second sitting outside Nairobi, in Kitui County, from 16th to 20th September, 2019. You will recall that in 2018, the inaugural Sitting of the Senate in the Counties was held in Uasin Gishu County. Preparations are at an advanced stage to ensure that the second sitting outside Nairobi is a success. A detailed programme of events in Kitui County and a logistics note detailing the arrangements for travel and accommodation have been circulated to all Senators. Further information on the event will be availed through the Office of the Clerk.

I welcome you once again from the recess and look forward to a productive last part of the Third Session.

I thank you.”

4. **MESSAGE FROM THE NATIONAL ASSEMBLY ON THE DECISION OF THE NATIONAL ASSEMBLY ON THE SENATE AMENDMENTS TO THE DIVISION OF REVENUE (NO.2) BILL (NATIONAL ASSEMBLY BILL NO. 59 OF 2019)**

The Speaker conveyed the following Message from the National Assembly: -

“Honourable Senators,

I wish to bring to the attention of the Senate that on Tuesday, 13th August, 2019, pursuant to Standing Order No.41 (3) the Clerk delivered to me a Message from the National Assembly regarding the decision of the National Assembly on the Senate amendments to the Division of Revenue (No. 2) Bill (National Assembly Bill No. 59 of 2019). The Message which is dated 9th August, 2019, was received while the Senate was on recess and was transmitted to all Senators on 14th August, 2019 pursuant to Standing Order No.41 (5). Further, pursuant to the said Standing Order, I now report the Message-

“PURSUANT to the provisions of Standing Orders 41 and 149 of the National Assembly Standing Orders, I hereby convey the following Messages from the National Assembly-

WHEREAS, the Senate’s amendments to the Division of Revenue (No. 2) Bill (National Assembly Bill No. 59 of 2019) were forwarded to the National Assembly for consideration on August 08, 2019;

AND WHEREAS, by a resolution made on August 08, 2019, the National Assembly negative the Motion on the consideration of the said amendments from the Senate;

NOW THEREFORE, in accordance with the provisions of Article 112 of the Constitution and Standing Order 149 of the National Assembly Standing

Orders, I hereby convey the said decision of the National Assembly to the Senate and seek the appointment of nine (9) Senators to the Mediation Committee in respect of the said Bill.”

Honourable Senators,

Subsequently, the Speaker of the National Assembly and I appointed the following Members to the Mediation Committee on the Bill pursuant to Article 113 of the Constitution-

1. The Hon. Aden Duale, EGH, MP;
2. The Hon. John Mbadi, EGH, MP;
3. The Hon. Kimani Ichung’wah, CBS, MP;
4. The Hon. Junet Nuh Mohammed, MP;
5. The Hon. Cecily Mbarire, MGH, MP;
6. The Hon. Amos Kimunya, EGH, MP;
7. The Hon. (Dr.) Makali Mulu, MP;
8. The Hon. David Ole Sankok, MP;
9. The Hon. Mishi Mboko, MP;
10. Sen. (Eng.) Mohamed M. Mahamud, CBS, MP;
11. Sen. Johnson Sakaja, MP;
12. Sen. Charles Kibiru, MP;
13. Sen. (Prof.) Margaret Kamar, MP;
14. Sen. Mithika Linturi, MP;
15. Sen. Mutula Kilonzo Jnr., MP;
16. Sen. Ledama Olekina, MP;
17. Sen. Okong’o Mogeni, MP; and
18. Sen. Rose Nyamunga, MP.

Honourable Senators,

As you may be aware, the Mediation Committee is still holding deliberations on the matter.

I thank you!”

5. **PAPERS LAID**

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

- (i) Report of the Parliament of Kenya Delegation to the Second Ordinary Session of the Fifth Parliament of the Pan-African Parliament held in Midrand, South Africa from 6th to 18th May 2019.

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

- (ii) Report of the Auditor-General of County Governments for the year 2017/2018 Volume I – County Executives.
- (iii) Report of the Auditor -General of County Governments for the year 2017/2018 Volume II – County Assemblies.

- (iv) Report of the Auditor-General of summary for the County Governments for the year 2017/2018.
- (v) Report of the Auditor-General on the Financial Statements of Kisumu County Women, Youth and People with Disabilities Fund for the Year ended 30th June 2018.
- (vi) Report of the Auditor-General on the Financial Statements of Nandi County Executive Education Fund for the Year ended 30th June 2018.
- (vii) Report of the Auditor-General on the Financial Statements of Homabay County Executive Car and Mortgage Fund for the Year ended 30th June 2018.
- (viii) Report of the Auditor-General on the Financial Statements of Kisii County Executive Loans and Mortgage Fund for the Year ended 30th June 2018.
- (ix) Report of the Auditor-General on the Financial Statements of Kisii County Assembly Car Loan and Mortgage Fund for the Year ended 30th June 2016.
- (x) Report of the Auditor-General on the Financial Statements of Kisumu County Trade Fund for the Year ended 30th June 2018.
- (xi) Report of the Auditor-General on the Financial Statements of Lodwar Water and Sanitation Company Ltd for the Year ended 30th June 2018.
- (xii) Report of the Auditor-General on the Financial Statements of Nyandarua County Assembly Staff Car Loan and Mortgage for the Year ended 30th June 2018.
- (xiii) Report of the Auditor-General on the Financial Statements of Nyandarua County Assembly Members (MCAs) Car Loan and Mortgage for the year ended 30th June 2018.
- (xiv) Report of the Auditor General on the Financial Statements of Nyandarua County Government Emergency Fund for the year ended 30th June 2018.
- (xv) Report of the Auditor General on the Financial Statements of County Assembly of Tana River Car Loan and Mortgage Loan Fund for the year ended 30th June 2018.
- (xvi) Report of the Auditor General on the Financial Statements of Bomet County Assembly Car Loan and Mortgage Scheme Fund for the year ended 30th June 2018.
- (xvii) Report of the Auditor General on the Financial Statements Samburu County Assembly Car Loan and Mortgage Revolving Fund for the year ended 30th June 2018.
- (xviii) Report of the Auditor General on the Financial Statements of Migori County Assembly Car Loan and Mortgage Fund for the year ended 30th June 2018.

(The Senate Majority Leader)

6. **NOTICE OF MOTION** – (Sen. (Dr.) Abdullahi Ali, MP)

THAT, this House notes the Report of the Parliament of Kenya Delegation to the Second Ordinary Session of the Fifth Parliament of the Pan-African Parliament, held in Midrand, South Africa from 6th to 18th May, 2019 laid on the Table of the Senate on Tuesday, 10th September, 2019.

7. **STATEMENT PURSUANT TO STANDING ORDER 48(1)**

Nominated Senator (Sen. Naomi Shiyonga, MP) sought a statement from the Standing Committee on Roads and Transportation on safety of road users, specifically pedestrians and Persons Living with Disabilities (PWDs).

8. **THE CARE AND PROTECTION OF CHILD PARENTS BILL (SENATE BILLS NO. 11 OF 2019)**

(Sen. Beatrice Kwamboka, MP)

Order for First Reading read;

Bill read a First Time and committed to the Standing Committee on Labour and Social Welfare.

9. **THE STATUTE LAW MISCELLANEOUS (AMENDMENT) (NO. 2) BILL (NATIONAL ASSEMBLY BILLS NO. 13 OF 2018)**

(The Senate Majority Leader)

Order for Second Reading read;

Order deferred.

10. **THE CONSTITUTION OF KENYA (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2019)**

(The Senate Majority Leader)

Order for Second Reading read;

Motion made and Question proposed: -

THAT, the Constitution of Kenya (Amendment) Bill (Senate Bills No. 2 of 2019) be now read a Second Time.

(The Senate Majority Leader)

Debate arising;

Adjournment of debate:

Motion made and Question proposed;

THAT, the debate be now adjourned pursuant to Standing Order 105.

(The Senate Minority Leader)

Debate arising;

Before the Question was put and pursuant to Standing Order 79, the Speaker ruled that the Question did not affect counties.

Question put and agreed to.

Subsequently, the debate on the Bill was adjourned.

11. **THE CONTROL OF STRAY DOGS BILL (SENATE BILLS NO. 4 OF 2019)**
(Sen. Mary Seneta, MP)

(Second Reading)

Order deferred

12. **THE ESTABLISHMENT OF CHILDREN'S HOMES BILL (SENATE BILLS NO. 12 OF 2019)**
(Sen. (Dr.) Agnes Zani, MP)

Order for Second Reading read;

Order deferred.

13. **MOTION - CREATION OF SUPPORT SERVICES FOR MEMBERS OF THE DISCIPLINED FORCES AND THEIR FAMILIES**

Order read;

Motion made and Question proposed -

THAT, APPRECIATING the commitment and sacrifice by members of the disciplined forces in protecting our country from both internal and external aggression;

AWARE of the risky and stressful environment that the officers are exposed to daily in the line of duty, combined with the increased terrorism threats at home, and abroad;

NOTING that members of the disciplined forces, and by extension, their families are exposed to traumatic incidents both at home and abroad that manifest as living in constant fear, debilitating depression, nightmares, crippling anxiety and thoughts of suicide commonly referred to as Post Traumatic Stress Disorder (PTSD) leaving them exposed to the stigma of society and unable to care for themselves and their families the way they could before;

RECOGNIZING that there is no structured national comprehensive program for post-traumatic stress counseling either for active or returning soldiers and their families;

NOW THEREFORE the Senate calls upon the Ministry of Interior and Co-ordination of National Government, in partnership with the Ministry of Defence, to establish counseling and support centers in all premises housing disciplined forces, and

provide mandatory counseling to all service personnel and the families of those currently serving, and those who may have been killed in the line of duty.

(Sen. (Arch.) Sylvia Kasanga, MP on behalf of Sen. George Khaniri, MP – 07.08.2019)

Debate interrupted on Wednesday, 7th August, 2019 resumed;

And there being no other Senator wishing to contribute;

Before the Question was put, and pursuant to Standing Order No. 79 (1), the Temporary Speaker (Sen. Rose Nyamunga, MP) informed the House that the Motion did not affect counties.

Question put and agreed to.

RESOLVED ACCORDINGLY:

THAT, APPRECIATING the commitment and sacrifice by members of the disciplined forces in protecting our country from both internal and external aggression;

AWARE of the risky and stressful environment that the officers are exposed to daily in the line of duty, combined with the increased terrorism threats at home, and abroad;

NOTING that members of the disciplined forces, and by extension, their families are exposed to traumatic incidents both at home and abroad that manifest as living in constant fear, debilitating depression, nightmares, crippling anxiety and thoughts of suicide commonly referred to as Post Traumatic Stress Disorder (PTSD) leaving them exposed to the stigma of society and unable to care for themselves and their families the way they could before;

RECOGNIZING that there is no structured national comprehensive program for post-traumatic stress counseling either for active or returning soldiers and their families;

NOW THEREFORE the Senate calls upon the Ministry of Interior and Co-ordination of National Government, in partnership with the Ministry of Defence, to establish counseling and support centers in all premises housing disciplined forces, and provide mandatory counseling to all service personnel and the families of those currently serving, and those who may have been killed in the line of duty.

14. **MOTION - PLANTING OF TREES ALONG MAJOR INFRASTRUCTURE PROJECTS IN KENYA**

(Sen. Charles Kibiru, MP)

Order read;

THAT, AWARE of the numerous benefits that trees play in environmental conservation, combating climate change, air and water purification, carbon sequestration, flood control, prevention of soil erosion, human and wildlife sustenance, urban planning, as well as other social and economic benefits;

NOTING THAT Kenya has and continues to implement various infrastructure projects across the country, among them railways, roads and highways, airports, sea

and inland ports, pipelines, dams, among others;

CONCERNED by the extent of environmental degradation that takes place when undertaking such infrastructure projects, entailing clearance of trees, foliage, soils, rocks, excavation of quarries, interference with forests, wetlands, rivers, drainage systems and other embankments, as well as human and wildlife displacement along the paths of the infrastructure projects;

ACKNOWLEDGING THAT the Environmental Management and Coordination Act (No. 8 of 1999) and the Guidelines issued thereon require an environmental audit to be undertaken before any infrastructure projects are undertaken, with a view to identifying potential environmental impacts of the proposed projects, assessing the significance of those impacts, and proposing mitigation measures to address the negative impacts of the said projects on the environment;

CONCERNED HOWEVER THAT the implementation of these provisions has failed to comprehensively address the continued large-scale environmental degradation that takes place during construction of these infrastructure projects, and that the mitigation measures undertaken thereon have failed to compensate for the damage done to the environment as well as the negative effects to human and wildlife populations along the infrastructure project paths;

AWARE THAT the National Government has launched an ambitious plan to plant 1.8 billion trees by the year 2022, with a view to enhancing the country's tree cover from 6.2% to the globally accepted minimum of 10%, and that this entails, among others, planting at least 1 million trees annually in each of the forty-seven Counties;

UNDERSCORING the need to balance between development and sustainable environmental management, for the benefit of present and future generations, as enshrined in the preamble to the Constitution of Kenya;

NOTING that planting of tree buffers alongside and around major infrastructure projects in the country would help offset the carbon footprint of these projects, enhance the beauty and aesthetics of the projects, create safe spaces for human recreation and for wildlife to thrive, and help in meeting the target of 10% national tree cover by the year 2022;

NOW THEREFORE, the Senate resolves that the National Government, together with the County Governments, formulate a policy mandating the planting of trees alongside and around all major infrastructure projects across the country, setting out the roles of various actors at both the national and county levels, and outlining incentives and penalties to ensure that the policy is complied with, in ensuring a balance is attained between development and environmental conservation.

Order deferred.

15. **MOTION - LEGAL AND POLICY INTERVENTIONS FOR CAREGIVERS OF PERSONS WITH PERMANENT MOTOR AND NEUROLOGICAL DISORDERS**
(Sen. Millicent Omanga, MP)

Order read;

THAT, AWARE that Cerebral palsy, Down syndrome, Autism and other permanent motor and neurological disorders are birth defects characterised by, among others, disturbances of sensation, perception, cognition, hearing loss, congenital heart defects, lower than average IQ, impairment in social interaction, and rigid, repetitive behaviors.

COGNIZANT that persons born with these and other permanent motor and neurological disorders face considerable difficulties in the social and behavioral aspects of their lives, including discrimination, physical challenges, mental and emotional health issues, and problems with inclusion and social isolation.

ACKNOWLEDGING the critical role that parents and caregivers of persons with permanent motor and neurological disorders play in ensuring that they realize their potential to the fullest extent possible and that they have long, healthy, and satisfying lives.

RECOGNIZING that, in taking care of these persons, caregivers make considerable sacrifices in the pursuit of education, employment, investment, and other opportunities for their own advancement and, in some cases, spend the most productive years of their lives taking care of persons with these disorders;

NOTING that most caregivers lack the training, tools and psychosocial support required in taking care of persons with these permanent disorders, are often subjected to the same stigma as the persons they take care of, and are exposed to stresses and pressure that have an adverse impact on their mental and physical wellbeing;

CONCERNED that, while a lot of progress has been made in taking care of other vulnerable and disadvantaged members of the society, equivalent efforts have not been made to recognize the important role that caregivers play, to create, through policy and legislation, a conducive environment for the provision of adequate, safe and informed care to persons with these disorders;

NOW THEREFORE, the Senate resolves that the Ministry of Labour, Social Security and Services, together with the County Governments, formulate a policy framework for the recognition, training, empowerment and protection for caregivers of persons with permanent motor and neurological disorders, including: -

- a) provision of financial assistance and incentives to caregivers, including inclusion in the list of beneficiaries under the *Inua Jamii* Cash Transfer Programmes;
- b) provision of appropriate tax reliefs and exemptions to caregivers, equivalent to those advanced to other Persons with Disabilities (PWDs);
- c) exemption from taxes on goods and services required for the care and protection of persons with the disorders; and
- d) provision of the specialized training, psychosocial and other support necessary to engage in income-generating activities for caregivers of persons with permanent motor and neurological disorders, including accessing the

quota set aside in law for vulnerable groups for the supply of goods and services to government entities.

Order deferred.

And there being no other business on the Order Paper, the Temporary Speaker (Sen. Rose Nyamunga, MP) adjourned the Senate at thirty-eight minutes past Five O'clock without Question put, pursuant to the Standing Orders.

14. **SENATE ROSE** – at thirty-eight minutes past Five O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Wednesday, September 11, 2019 at 2:30 p.m.*

-xxx-