



REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (FIFTH SESSION)
THE SENATE
SUPPLEMENTARY ORDER PAPER
TUESDAY, SEPTEMBER 28, 2021 AT 2.30 P.M.

PRAYER

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions (as listed in the Appendix)
5. Papers (as listed in the Appendix)
6. Notices of Motion (as listed in the Appendix)
7. Statements
8. ***THE ELECTIONS (AMENDMENT) (NO. 3) BILL (SENATE BILLS NO. 48 OF 2021)**
(Sen. (Eng.) Ephraim Maina, MP)

(First Reading)

9. **MOTION – ADOPTION OF REPORT OF THE SESSIONAL COMMITTEE ON DELEGATED LEGISLATION ON THE PUBLIC FINANCE MANAGEMENT (EQUALIZATION FUND ADMINISTRATION) REGULATIONS, 2021 AND APPROVAL OF THE PUBLIC FINANCE MANAGEMENT (EQUALIZATION FUND ADMINISTRATION) REGULATIONS, 2021**
(Chairperson, Sessional Committee on Delegated Legislation)

THAT, the Senate adopts the Report of the Sessional Committee on Delegated Legislation on the Public Finance Management (Equalization Fund Administration) Regulations, 2021, Legal Notice No. 54 of 2021, laid on the Table of the Senate on Tuesday, 28th September, 2021; and pursuant to Section 205 (4) of the Public Finance Management Act, **approves** the Public Finance Management (Equalization Fund Administration) Regulations, 2021, Legal Notice No. 54 of 2021.

...../**Motion**

10. **MOTION –RESCIND THE RESOLUTION OF THE SENATE ON APPROVAL OF SENATORS TO SERVE IN THE COMMITTEE OF POWERS AND PRIVILEGES**

(The Senate Majority Leader)

THAT, pursuant to Standing Order 58(2)(a) the Senate rescinds its resolution made on Thursday, 16th September, 2021 on the approval of Senators to serve in the Committee of Powers and Privileges.

11. ***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 Thursday, 23rdSeptember, 2021)

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

(Sen. Abshiro Halake, MP)

(Second Reading)

(Resumption of debate interrupted on Wednesday, 4thAugust, 2021)

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

(The Senate Majority Leader)

(Second Reading)

14. ***THE HEALTH (AMENDMENT) BILL (SENATE BILLS NO. 26 OF 2020)**

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

(Second Reading)

15. ***THE COUNTY BOUNDARIES BILL, SENATE BILLS NO. 20 OF 2021**

(Sen. Mutula Kilonzo Jr, MP)

(Second Reading)

16. ****THE COCONUT INDUSTRY DEVELOPMENT BILL (SENATE BILLS NO. 24 OF 2021)**

(The Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)

(Second Reading)

17. ***THE COUNTY OVERSIGHT AND ACCOUNTABILITY BILL (SENATE BILLS NO. 17 OF 2021)**

(Sen. Ledama Olekina, MP)

(Second Reading)

18. **COMMITTEE OF THE WHOLE**
***THE OFFICE OF THE COUNTY PRINTER BILL (SENATE BILLS NO. 13 OF 2021)**
 (Sen. Petronila Were Lokorio, MP)
19. **COMMITTEE OF THE WHOLE**
***THE INVESTMENT PROMOTION (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2021)**
 (Sen. (Dr.) Alice Milgo, MP)
20. ***COMMITTEE OF THE WHOLE**
THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS NO. 25 OF 2020)
 (Sen. (Dr.) Agnes Zani, MP)
21. **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.

22. **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.

23. **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;

...../Motion

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.

-----**XX**-----

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. –

----xxx--

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 sub clause (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 sub clause immediately after sub clause (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.

...../Amendments

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) in sub clause (4) by deleting the expression “(2)(c)” appearing immediately after the words “elected under subsection” and substituting therefor 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. **PETITION**

Report of the Standing Committee on National Security, Defence and Foreign Relations on a Petition to the Senate by the True North Society of Kenya, concerning enactment of a military veterans' law to address the needs of military veterans and their families.

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

2. **PAPERS**

i) Report of the Sessional Committee on Delegated Legislation on the Consideration of the Public Finance Management (Equalization Fund Administration) Regulations, 2021, Legal Notice No. 54 of 2021.

(The Chairperson, Sessional Committee on Delegated Legislation)

ii) Report (Interim) of the Standing Committee on National Security, Defence and Foreign Relations on a fact finding mission to Laikipia County, concerning the incessant banditry attacks in the County.

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

iii) Report of the Auditor General on the Financial Statements of Nyeri County Government Executive Car Loan and Mortgage Fund for the year ended 30th June, 2019.

iv) Report of the Auditor General on the Financial Statements of Thika Water and Sewerage Company Limited for the year ended 30th June, 2019.

v) Report of the Auditor General on the Financial Statements of Kiambu County Assembly Car Loan and Mortgage Scheme Fund for the year ended 30th June, 2019.

(The Senate Majority Leader)

...../Appendix

3. NOTICES OF MOTION

- i) ADOPTION OF REPORT OF THE SESSIONAL COMMITTEE ON DELEGATED LEGISLATION ON THE PUBLIC FINANCE MANAGEMENT (EQUALIZATION FUND ADMINISTRATION) REGULATIONS, 2021 AND APPROVAL OF THE PUBLIC FINANCE MANAGEMENT (EQUALIZATION FUND ADMINISTRATION) REGULATIONS, 2021

(Chairperson, Sessional Committee on Delegated Legislation)

THAT, the Senate adopts the Report of the Sessional Committee on Delegated Legislation on the Public Finance Management (Equalization Fund Administration) Regulations, 2021, Legal Notice No. 54 of 2021, laid on the Table of the Senate on Tuesday, 28th September, 2021; and pursuant to Section 205 (4) of the Public Finance Management Act, **approves** the Public Finance Management (Equalization Fund Administration) Regulations, 2021, Legal Notice No. 54 of 2021.

- ii) 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;
- 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.

iii) **RESCIND THE RESOLUTION OF THE SENATE ON APPROVAL OF SENATORS TO SERVE IN THE COMMITTEE OF POWERS AND PRIVILEGES**

(The Senate Majority Leader)

THAT, pursuant to Standing Order 58(2)(a) the Senate rescinds its resolution made on Thursday, 16th September, 2021 on the approval of Senators to serve in the Committee of Powers and Privileges.

iv) **APPROVAL OF SENATORS TO SERVE IN THE COMMITTEE OF POWERS AND PRIVILEGES**

(The Senate Majority Leader)

THAT, NOTWITHSTANDING the resolution of the Senate made on 14th February, 2018, and 24th June, 2020, on the approval of Senators to serve in the Committee of Powers and Privileges, and pursuant to Section 15 (1) (b) (ii), of the Parliamentary Powers and Privileges Act, and Standing Order 189, the Senate approves the following Senators nominated to serve in the Committee of Powers and Privileges –

- 1. Sen. (Canon) Naomi Waqo, MP to replace Sen. (Dr.) Alice Milgo, MP;
- 2. Sen. Christine Zawadi Gona, MP to replace Sen. Kipchumba Murkomen, EGH, MP; and
- 3. Sen. Abdulkadir Mohamed Haji, MP to replace Sen. Kimani Wamatangi, MP.

- v) **ADOPTION OF THE SECOND PROGRESS REPORT OF THE STANDING COMMITTEE ON HEALTH ON THE COVID-19 SITUATION IN KENYA AND PRELIMINARY FINDINGS ON THE SPECIAL AUDIT REPORT ON THE UTILIZATION OF COVID -19 FUNDS BY COUNTY GOVERNMENTS.**

(The Chairperson, Standing Committee on Health)

THAT, the Senate adopts the Second Progress Report of the Standing Committee on Health on the COVID-19 situation in Kenya and preliminary findings of the Committee, on the Special Audit Report on the Utilization of COVID-19 funds by County Governments, laid on the table of the Senate on Tuesday, 30th March, 2021.

---xxx---