



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – (FIFTH SESSION)

THE SENATE

VOTES AND PROCEEDINGS

TUESDAY, SEPTEMBER 07, 2021 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 Deputy Speaker.
3. **COMMUNICATIONS FROM THE CHAIR**

The Deputy Speaker conveyed the following Communications from the Chair-

i.) **Commencement of Part V of the Fifth Session of the Senate**

“Honourable Senators,

I take this opportunity to welcome you back to the regular sittings of the House. Part Five of the Fifth Session commences today and will run until Thursday, 21st October, 2021. It is my hope that you have taken time during the recess period to rest, reconnect with your constituents, families and friends.

Honourable Senators,

Afford me a few minutes to recognize and commend you all for the tremendous dedication to duty that you each demonstrated in the preceding part of this Session. Respective committees dispensed with numerous Petitions and tabled reports. I take this opportunity to single out the Standing Committee on Land, Environment and Natural Resources, which by far, had the highest number of Petitions, for honoring the call to duty and dispensed with twelve (12) petitions and tabled reports pursuant to Standing Order 232(2). Five Bills were passed on 5th August, 2021, and referred to the National Assembly pursuant to Standing Order 156.

This notwithstanding, I hasten to point out that the term for this August House is fast coming to an end and there is still a high number of Bills, Petitions, Motions and Statements before us. As we begin the Fifth Part of this Session, I urge all Honourable Senators to take time to assess how we

have undertaken our Constitutional mandate; collectively as the Senate, as Members of Select Committees, and individually as Senators representing counties or specially elected. At the end of the term of the 12th Parliament, what will be the legacy of the Third Senate?

Honourable Senators,

The broader outlook of business in this Part, and the next, of the Senate Calendar projects a Session that will be heavy with Bills. There are twelve (12) Bills due for consideration at the Committee of the Whole Stage, twenty (20) at the Second Reading stage, four (4) due for First Reading, and another 24 undergoing concurrence pursuant to Article 110(3) of the Constitution.

I appeal to the sponsors of the said Bills and the movers of amendments to avail themselves once they are scheduled on the Order Paper, in order for the Senate to dispense with them expeditiously. Other business already before the Senate include, 13 Motions, 47 Petitions before respective Standing Committees and Statements pursuant to Standing Orders 47 and 48. In this Part of the Calendar, we will also be expecting Chairpersons of respective Standing Committees to make reports pursuant to Standing Order 51(1)(b).

With respect to financial matters, the timelines for processing of the budget for Financial Year 2022/23 have been altered in view of the upcoming general elections. Therefore, the Budget Policy Statement, Division of Revenue Bill and the County Allocation of Revenue Bill for the next financial year are now projected to be submitted to Parliament for consideration and approval, by 30th November, 2021. This will ultimately necessitate a reconfiguration of the schedule of business to accommodate approval of the Budget Policy Statement and the finance Bills within the required period.

Honourable Senators,

When the Senate proceeded on recess on 5th August, 2021, we had Bills pending consideration before respective Committees as follows –

A. One Bill before the Standing Committee on Health

- (1) The Health (Amendment) Bill (Senate Bills No. 26 of 2020).

B. One Bill before the Standing Committee on Education

- (1) The Kenyan Sign Language Bill (Senate Bills No. 5 of 2021).

C. Two Bills before the Standing Committee on Labour and Social Welfare

- (1) The County Hall of Fame Bill (Senate Bills No. 9 of 2021); and
- (2) The Heritage and Museum Bill (Senate Bills No. 22 of 2021).

D. Two Bills before the Standing Committee on National Security, Defense and Foreign Relations

- (1) The Disaster Risk Management Bill (Senate Bills No. 14 of 2021); and
- (2) The Kenya Citizenship and Immigration (Amendment) Bill (Senate Bills No. 33 of 2021).

E. Four Bills before the Standing Committee on Justice, Legal Affairs and Human Rights

- (1) The Law of Succession (Amendment) Bill (Senate Bills No. 15 of 2021);
- (2) The Preservation of Human Dignity and Protection of Economic and social Rights Bill (Senate Bills No. 21 of 2021);
- (3) The Alternative Dispute Resolution Bill (Senate Bills No. 34 of 2021); and
- (4) The Lifestyle Audit Bill (Senate Bills No. 36 of 2021).

F. One Bill before the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration

- (1) The National Cohesion and Peace Building Bill (Senate Bills No. 19 of 2021).

G. Four Bills before the Standing Committee on Devolution and Intergovernmental Relations

- (1) The County Boundaries Bill (Senate Bills No. 20 of 2021);
- (2) The Intergovernmental Relations (Amendment) Bill (Senate Bills No. 37 of 2021);
- (3) The County Governments (Amendment) Bill (Senate Bills No. 38 of 2021); and
- (4) The County Oversight and Accountability Bill (Senate Bills No. 17 of 2021).

H. One Bill before the Standing Committee on Agriculture, Livestock and Fisheries

- (1) The Coconut Industry Development Bill (Senate Bills No. 24 of 2021).

I. Two Bills before the Standing Committee on Finance and Budget

- (1) The County Governments Grants Bill (Senate Bills No. 35 of 2021); and
- (2) The Public Private Partnerships Bill (National Assembly Bill No. 6 of 2021).

I urge the respective Committees to process these Bills in line with the provisions of Article 118 of the Constitution and Standing Orders 140(5) and 143(1) and table reports thereon. You will all agree with me that the public participation processes enables broad consultations on a Bill, as Committees engage key stakeholders to receive their views and incorporate them in making their report to the Senate. While the importance of this process cannot be gainsaid, I urge Standing Committees to also ensure that the legislative process proceeds to the next stage in a timely manner.

Honourable Senators,

As we all know, the COVID-19 pandemic situation continues to persist globally and also here at home. As national leaders, we must prioritize the interests of the country and the safety of all citizens. Let us lead by example by observing the COVID-19 protocols at all times in both the Plenary and in Committee meetings. In this respect, I have asked the Presiding Officers in Plenary and respective Committee Chairpersons to ensure adherence to these protocols.

Honourable Senators,

I reiterate my support to facilitate you in effectively discharging your Constitutional mandate. Accordingly, I also reassure you that my office, and that of the Clerk of the Senate, are at your disposal in this respect.

I thank you”.

ii.) **Visit to the Senate by Ms. Kim C. Phan, Executive Director of the International Law Institute**

“Honourable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery, of Ms. Kim C. Phan, Executive Director of the International Law Institute.

The International Law Institute (ILI) is an independent, non-political, non-profit educational institute serving a global constituency. ILI and its global affiliates, has trained more than 39,000 participants from 186 countries in various areas including governance, trade and investment law and legislative management. The ILI Mission is to “Foster Prosperity through the Rule of Law”- helping developing countries achieve economic growth through a sound legal infrastructure.

Honourable Senators,

The Parliament of Kenya and specifically the Senate, has partnered with and participated in ILI capacity building programmes on leadership, legislative drafting and legislative management. Among participants in such programmes include, the Senate Leadership, the Liaison Committee, the Standing

Committee on Justice, Legal Affairs and Human Rights and the Senate Board of Management.

Ms. Kim Phan has served as the Executive Director of the ILI for more than 15 years and is the course advisor for the ILI programmes on Leadership & Management in International Development, Women in Leadership and Legislative Strategic Management among others. She also teaches a course on Leadership and Management at the University of California Irvine Law School. She is the immediate past President and Board Member of the Friends of the Law Library of Congress.

Honourable Senators,

Ms. Kim Phan is visiting the Senate for continued engagements and collaboration between the ILI and the Senate. We welcome Ms. Phan to the Senate and wish her a pleasant stay and fruitful engagements for the remainder of her stay in Kenya.

I thank you.”

iii.) **Demise of Senator Prengei Victor Sitienei, MP, Nominated Senator**

“Honourable Senators,

As you are aware, on Monday, 16th August, 2021, we all received the tragic news of the passing on of the late Nominated Senator Victor Prengei Sitienei, MP, which occurred through a tragic road accident at Gioto area in Nakuru County. The late Senator Prengei was among the youngest legislators in the 12th Parliament and was indeed a great leader, a principled legislator and a distinguished man who passionately served not just the special interest group, but Kenya in general.

The late Senator Prengei was born on 10th January, 1984 in Mariashoni Location, Molo sub-county in Nakuru County. His passion for academic excellence was evident at a very early stage in his life and demonstrated by the illustrious awards he received while pursuing degree programmes at the Maseno University. These include a Bachelor’s degree in Economics (2008) and a Masters in Strategic Management from the Jomo Kenyatta University of Agriculture and Technology (JKUAT).

In his short stint in public service from 2010, when he begun his career, Senator Prengei distinguished himself as a man of honour, respect and dignity. He worked as a Deputy Returning Officer in the 2013 General Elections and in 2014, joined the Nakuru County Land Management Board as its Chairperson, where he served for a year. He later joined the Betting Control and Licensing Board as a member, and served until he was nominated as a Senator representing the youth, following the 2017 General Elections.

Honourable Senators,

In the Senate, the Late Senator Prengei served as the Vice-Chairperson of the Standing Committees on Lands, Environment and Natural Resources and the Standing Committee on Energy. He was an active member of the Standing Committee on Devolution and Inter-governmental Relations and the Sessional Committee on Delegated Legislation, as well as the Committee of Powers and Privileges.

The Late Prengei, relentlessly advocated for the human and land rights of minority communities and actively participated in community projects aimed at improving the lives and livelihoods of the people. He will be fondly remembered as a steadfast leader, an ardent defender of devolution and for upholding the rule of law and constitutionalism. To his credit, the late Senator had drafted the Minority Protection Bill, which was due to be introduced in the Senate.

I am saddened at his passing, considering that he had a bright career ahead of him in public service. I take this opportunity to express my condolences to his family, friends and relatives; the people of Nakuru County, and the Senate, for the loss.

Honourable Senators,

In honour of our departed colleague and in accordance with our tradition, I request that we stand and observe a moment of silence.

May His soul Rest in Eternal Peace!"

4. **MESSAGES FROM THE NATIONAL ASSEMBLY**

The Deputy Speaker conveyed the following messages from the National Assembly-

(i) Passage of the Kenya National Library Service Bill (National Assembly Bill No.5 of 2020)

Honourable Senators,

I wish to bring to the attention of the Senate that on Monday, 9th August, 2021, pursuant to Standing Order No. 41 (3) and (4), the Clerk delivered to me a Message from the Speaker of the National Assembly regarding the passage by the National Assembly of the Kenya National Library Service Bill (National Assembly Bill No.5 of 2020).

The Message which is dated Thursday, 5th August, 2021, was received while the Senate was on recess and was transmitted to all Senators on 9th August, 2021 pursuant to Standing Order No. 41 (5).

Pursuant to the said Standing Order, I now report the Message-

“PURSUANT to the provisions of Standing Orders 41(1) and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly –

WHEREAS, the Kenya National Library Service Bill (National Assembly Bill No.5 of 2020) was published vide Kenya Gazette Supplement No.24 of 20th March 2021 as a Bill concerning county governments to provide for the establishment and functions of Kenya National Library Service, to distinguish the functions of the Kenya National Library Service from the other public libraries and to preserve national documentary heritage.

AND WHEREAS, the National Assembly considered and passed the said Bill on Wednesday, 6th July 2021 with amendments, in the form attached hereto;

NOW THEREFORE, in accordance with the provisions of Article 110(4) of the Constitution and Standing Orders 41(1) and 142 of the National Assembly Standing Orders, I hereby convey the National Assembly’s decision to the Senate.”

Honourable Senators,

You will recall that following the High Court ruling on 29th October, 2020, on Constitutional Petition No. 284 of 2019, implementation of the judgment by the Senate commenced. Notably, the High Court ordered that all Bills for which the concurrence process contemplated under Article 110(3) of the Constitution could not be demonstrated be ceased and that the said concurrence process be adhered to before introduction of such Bills in either House of Parliament.

Honourable Senators,

The Kenya National Library Service Bill (National Assembly Bill No.5 of 2020) is one such Bill, for which the concurrence process pursuant to Article 110(3) of the Constitution cannot be demonstrated. As such, the Bill ought to be aligned to Article 110(3) of the Constitution, following which the Bill will be read a First Time in the Senate.

In view of the foregoing, the Kenya National Library Service Bill (National Assembly Bill No.5 of 2020), as received from the National Assembly vide the Message dated Thursday, 5th August, 2021, will not be proceeded with in the Senate.

I thank you!

(ii) Passage of the Parliamentary Pensions (Amendment) (No.3) Bill (National Assembly Bill No. 57 of 2019)

Honourable Senators,

I wish to bring to the attention of the Senate that on Monday, 23rd August, 2021, pursuant to Standing Order No. 41 (3) and (4), the Clerk delivered to me a Message from the Speaker of the National Assembly regarding the passage

by the National Assembly of the Parliamentary Pensions (Amendment) (No.3) Bill (National Assembly Bill No. 57 of 2019).

The Message which is dated 17th August, 2021, was received on 19th August, 2021 while the Senate was on recess and was transmitted to all Senators on 23rd August, 2021 pursuant to Standing Order No. 41 (5).

Pursuant to the said Standing Order, I now report the Message-

“PURSUANT to the provisions of Standing Orders 41(1) and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly –

WHEREAS, the Parliamentary Pensions (Amendment) (No.3) Bill (National Assembly Bill No. 57 of 2019) was published vide Kenya Gazette Supplement No. 115 of 9th July 2019 as a Bill that seeks to amend the Parliamentary Pensions Act, CAP 196, Laws of Kenya so as to, inter alia, provide for the option for a Member of Parliament to elect to be paid either a pension or gratuity, provide for the payment of gratuities to former Members, and to reconstitute the Parliamentary Pensions Management Committee to align with the bicameral nature of Parliament by including Senators as members of the Committee;

AND WHEREAS, the National Assembly considered the Bill and passed it on Thursday, 5th August 2021 with amendments and in the form attached hereto;

NOW THEREFORE, in accordance with the provisions of Article 110 of the Constitution and Standing Orders 41(1) and 142 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate.”

Honourable Senators,

You will recall that following the High Court ruling on 29th October, 2020, on Constitutional Petition No. 284 of 2019, implementation of the judgment by the Senate commenced. Notably, the High Court ordered that all Bills for which the concurrence process contemplated under Article 110(3) of the Constitution could not be demonstrated be ceased and that the said concurrence process be adhered to before introduction of such Bills in either House of Parliament.

Honourable Senators,

The Parliamentary Pensions (Amendment) (No.3) Bill (National Assembly Bill No. 57 of 2019) is one such Bill, for which the concurrence process pursuant to Article 110(3) of the Constitution had not been demonstrated by the time the High Court gave its judgment. As such, the Bill ought to be aligned to Article 110(3) of the Constitution, following which the Bill will be read a First Time in the Senate.

In view of the foregoing, the Parliamentary Pensions (Amendment) (No.3) Bill (National Assembly Bill No. 57 of 2019), as received from the National Assembly vide the Message dated Tuesday, 17th August, 2021, will not be proceeded with in the Senate.

I thank you.

5. **PETITION**

Pursuant to Standing Order 230(2) (a), the Senator for Vihiga County (Sen. George Khaniri, MP), reported to the Senate a petition by former Kimondi Forest evictees concerning their resettlement.

Pursuant to Standing Order 231, the Temporary Speaker (Sen. (Dr) Lelegwe Ltumbesi, MP) invited Senators to make comments, observations or seek clarification in relation to the Petition and, subsequently, committed it to the Standing Committee on Land, Environment and Natural Resources, pursuant to Standing Order 232(1).

6. **PAPERS LAID**

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

- i) Report of the Auditor-General on the financial statements of Mathira Water and Sanitation Company Limited for the year ended 30th June, 2019.
- ii) Report of the Auditor-General on the financial statements of Karuri Water and Sanitation Company Limited for the year ended 30th June, 2019.
- iii) Report of the Auditor-General on the financial statements of Ruiru-Juja Water and Sewerage Company Limited for the year ended 30th June, 2019.
- iv) Report of the Auditor-General on the financial statements of Murang'a South Water and Sanitation Company Limited for the year ended 30th June, 2019.
- v) Report of the Auditor-General on the financial statements of Othaya Mukurweini Water Services Company Limited for the year ended 30th June, 2019.
- vi) The Public Finance Management (Equalization Fund Administration) Regulations, 2021.

(The Senate Majority Leader)

- vii) Report of the Standing Committee on Finance and Budget on the County Governments Grants Bill (Senate Bills No. 35 of 2021).
- viii) Report of the Standing Committee on Finance and Budget on the County Governments Cash Disbursement Schedule for the Financial Year 2021/2022.

(Chairperson, Standing Committee on Finance and Budget)

7. **NOTICE OF MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE COUNTY GOVERNMENTS CASH DISBURSEMENT SCHEDULE FOR THE FINANCIAL YEAR 2021/2022 AND APPROVAL OF THE COUNTY GOVERNMENTS CASH DISBURSEMENT SCHEDULE FOR THE FINANCIAL YEAR 2021/2022**

(Chairperson, Standing Committee on Finance and Budget)

THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the Cash Disbursement Schedule for Financial year 2021/2022, laid on the Table of the Senate on Tuesday, 7th September, 2021, and that pursuant to Section 17 (7) of the Public Finance Management Act and Standing Order 183 (3), the Senate approves the County Governments Cash Disbursement Schedule for Financial Year 2021/2022.

8. **STATEMENTS PURSUANT TO STANDING ORDER 48 (1)**

- i) Nominated Senator (Sen. (Arch.) Sylvia Kasanga, MP) sought a statement from the Standing Committee on Labour and Social Welfare regarding the alleged abusive treatment of Persons Living with Disability (PWDs) by human traffickers.
- ii) The Senator for Murang'a County (Sen. Irungu Kang'ata, MP) sought a statement from the Standing Committee on National Security, Defence and Foreign Relations regarding the ongoing free trade agreement negotiations between Kenya and the United States of America (USA).
- iii) The Senator for Nandi County (Sen. Samson Cherarkey, MP) sought a statement from the Standing Committee on Energy regarding malpractices by players in the energy sector including suppliers of Liquefied Petroleum Gas (LPG).

9. **THE SPORTS (AMENDMENT) BILL (SENATE BILLS NO. 40 OF 2021)**

(Sen. Aaron Cheruiyot, MP)

Order for First Reading read;

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

10. **THE ELECTIONS (AMENDMENT) BILL (SENATE BILLS NO. 42 OF 2021)**

(Sen. Kipchumba Murkomen, MP)

Order for First Reading read;

Bill read a First Time and committed to the Standing Committee on Justice, Legal Affairs and Human Rights.

11. **THE ELECTIONS (AMENDMENT) (NO. 2) BILL (SENATE BILLS NO. 43 OF 2021)**

(Sen. Ledama Olekina, MP)

Order for First Reading read;

Bill read a First Time and committed to the Standing Committee on Justice, Legal Affairs and Human Rights.

12. **MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE COUNTY GOVERNMENTS CASH DISBURSEMENT SCHEDULE FOR THE FINANCIAL YEAR 2021/2022 AND APPROVAL OF THE COUNTY GOVERNMENTS CASH DISBURSEMENT SCHEDULE FOR THE FINANCIAL YEAR 2021/2022**

Order read;

Motion made and Question proposed;

THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the Cash Disbursement Schedule for Financial year 2021/2022, laid on the Table of the Senate on Tuesday, 7th September, 2021, and that pursuant to Section 17 (7) of the Public Finance Management Act and Standing Order 183 (3), the Senate approves the County Governments Cash Disbursement Schedule for Financial Year 2021/2022.

(Chairperson, Standing Committee on Finance and Budget)

Debate arising;

And the time being thirty minutes past six O'clock, the Temporary Speaker (Sen. (Dr.) Lelegwe Ltumbesi, MP) adjourned the Senate without question put, pursuant to the Standing Orders.

13. **SENATE ROSE** – at Thirty Minutes past Six O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Wednesday, September 08, 2021 at 2.30 p.m.*