



REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (FIFTH SESSION)

VOTES AND PROCEEDINGS

TUESDAY, SEPTEMBER 14, 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 Speaker.

3. **PAPER**

The following paper was laid on the Table of the Senate -

Report of the Standing Committee on Finance and Budget on the Public Private Partnership Bill (National Assembly Bills No. 6 of 2021).

(Vice Chairperson, Standing Committee on Finance and Budget)

4. **NOTICE OF MOTION – APPROVAL OF SEN. JOHN KINYUA NDERITU, MP, TO SERVE IN THE SPEAKER'S PANEL AND PRESIDE OVER THE SENATE IN THE ABSENCE OF THE SPEAKER AND DEPUTY SPEAKER**

(Senate Deputy Majority Leader)

THAT, pursuant to Standing Order 17, the Senate approves the nomination of Sen. John Kinyua Nderitu, MP, as a Member of the Speaker's Panel; and further, to be elected to preside over the Senate in the absence of the Speaker and the Deputy Speaker, pursuant to Article 107(1)(c) of the Constitution and Standing Order 15 of the Senate.

5. **NOTICE MOTION – APPROVAL OF SENATORS TO SERVE IN THE COMMITTEE OF POWERS AND PRIVILEGES**

(Senate Deputy Majority Leader)

THAT, NOTWITHSTANDING the resolutions 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. Haji, Abdul Mohammed, MP to replace Sen. Kimani Wamatangi, MP.

6. **NOTICE OF MOTION – RECONSTITUTION OF STANDING COMMITTEES**

(Senate Deputy Majority Leader)

THAT, NOTWITHSTANDING, the resolutions of the Senate made on 14th December, 2017; 14th February, 2018; 21st February, 2018; 21st November, 2018; 20th March, 2019; 19th June, 2019; 28th April, 2020; and 24th June, 2020 on the approval of Senators to serve in various Standing Committees of the Senate, and pursuant to Standing Orders 189, 218, and the Second Schedule to the Standing Orders, the Senate approves the following Senators nominated by the Senate Business Committee to serve in Standing Committees of the Senate as follows –

(i) Committee on Agriculture, Livestock and Fisheries

1. Sen. (Prof.) Margaret Kamar, EGH, MP to replace Sen. (Eng.) Ephraim Mwangi Maina, MP;
2. Sen. Haji Abdul Mohammed, MP to replace Sen. (Dr.) Mbito Michael Maling'a, MP;
3. Sen. (Dr.) Gertrude Musuruve Inimah, MP to replace Sen. Boy Issa Juma, MP; and
4. Sen. Agnes Kavindu Muthama, MP to serve as a Member.

(ii) Committee on Devolution and Intergovernmental Relations

1. Sen. Njeru Ndwiga, EGH, MP to replace Sen. Aaron Cheruiyot, MP.
2. Sen. Samson Cherarkey, MP to serve as a Member;
3. Sen. Irungu Kang'ata, MP to serve a Member; and
4. Sen. Agnes Kavindu, MP to serve as a Member.

(iii) Committee on Education

1. Sen. Naomi Shiyonga Masitsa, MP to replace Sen. (Dr.) Gertrude Musuruve Inimah, MP; and
2. Sen. Boy Issa Juma, MP to replace Sen. (Prof.) Imana Malachi Charles Ekal, MP.

(iv) Committee on Energy

1. Sen. Susan Kihika, MP to replace Sen. Abshiro Halake, MP;
2. Sen. Kipchumba Murkomen, EGH, MP to replace Sen. John Nderitu Kinyua, MP;
3. Sen. Haji Abdul Mohammed, MP, to serve as a Member; and
4. Sen. Moses Wetangula, EGH, MP to replace Sen. (Prof.) Imana Malachy Ekal, MP.

(v) Committee on Finance and Budget

Sen. (Prof.) Samson Ongeru, EGH, MP to replace Sen. (Dr.) Ochillo Ayacko, EGH, MP.

(vi) Committee on Information, Communication and Technology

1. Sen. Samuel Poghisiu, EGH, MP to replace Sen. Gideon Moi, CBS, MP;
2. Sen. (Eng.) Mahamud, Mohamed Maalim, CBS, MP to replace Sen. Susan Kihika, MP;
3. Sen. Moses Kajwang', MP to replace Sen. Petronilla Were Lokorio, MP; and
4. Sen. (Dr.) Gertrude Musuruve Inimah, MP to replace Sen. Mercy Chebeni, MP.

(vii) Committee on Justice, Legal Affairs and Human Rights

Sen. (Eng.) Ephraim Maina, EBS, MP to serve as a Member.

(viii) Committee on Labour and Social Welfare

1. Sen. Ledama Olekina, MP to replace Sen. Johnes Mwaruma, MP; and
2. Sen. Philip Salau Mpaayei, MP to replace Sen. Paul Mwangi Githiomi, MP.

(ix) Committee on Land, Environment and Natural Resources

Sen. (Dr.) Alice Milgo, MP to replace Sen. Ndwiga Peter Njeru, MP; and further that Sen. Gideon Moi, CBS, MP ceases being a Member of the Committee.

(x) Committee on National Cohesion, Equal Opportunity and Regional Integration

1. Sen. Abshiro Halake, MP to replace Sen. (Dr.) Christopher Andrew Lang'at, MP; and
2. Sen. (Dr.) Ochillo Ayacko, EGH, MP to replace Sen. (Dr.) Gertrude Musuruve Inimah, MP.

(xi) Committee on National Security, Defence and Foreign Relations

1. Sen. Gideon Moi, CBS, MP to replace Sen. (Eng.) Mahamud, Mohamed Maalim, CBS, MP; and
2. Sen. Paul Mwangi Githiomi, MP to serve as a Member.

(xii) Committee on Tourism, Trade and Industrialization

1. Sen. Aaron Cheruiyot, MP to replace Sen. Philip Mpaayei, MP;
2. Sen. (Prof.) Imana Malachy Charles Ekal, MP to replace Sen. (Dr.) Agnes Zani, CBS MP; and
3. Sen. Petronilla Were Lokorio, MP, to replace Sen. Mercy Chebeni, MP.

7. NOTICE OF MOTION – APPROVAL OF SEN. (PROF.) SAMSON ONGERI, EGH, MP TO SERVE IN THE SESSIONAL COMMITTEE ON DELEGATED LEGISLATION

(Senate Deputy Majority Leader)

THAT, NOTWITHSTANDING, the resolution of the Senate made on 30th March, 2021 on the approval of Senators to serve in the Sessional Committee on Delegated Legislation, and pursuant to Standing Orders 189 and 219, the Senate approves the nomination of Sen. (Prof.) Samson Ongeru, EGH, MP to replace Sen. Erick Okong'o Omogeni, SC, MP as a Member of the Sessional Committee on Delegated Legislation.

8. **STATEMENTS**

a) **Pursuant to Standing Order 47(1)**

The Senator for Vihiga County (Sen. George Khaniri, MP) made a statement on an issue of general topical concern, namely, frequent road accidents at the Kaburengu junction area, along the Eldoret-Turbo-Kaburengu-Webuye highway.

Thereupon, the Senator registered his condolences to the families, relatives and friends of the six accident victims that occurred on Saturday 21st August, 2021. He stated that losing a family is very painful; but losing 5 members of a family at the same time can be excruciating, noting that he attended the burial of the four victims in Ebwali Village, Luanda Sub County in Vihiga and the sense of loss and pain was palpable.

The Senator stated that the matter of Kaburengu junction stretch on the Eldoret-Turbo-Kaburengu- Webuye highway, and accidents was a matter of great concern as there has been four major accidents since 2017, and two of the accidents have claimed the lives of Vihiga residents. In his contribution, the Senator stated that from the accidents that had occurred at the spot, the stretch of the road was not just a blackspot but a death trap to road users.

In conclusion, the Senator requested that the Standing Committee on Roads and Transportation conduct a proper interrogation of the stretch of the road and recommend corrective measures.

(b) **Pursuant to Standing Order 48 (1)**

- i) Nominated Senator (Sen. Millicent Omanga, MP) sought a statement from the Standing Committee on National Security, Defence and Foreign Relations regarding alleged increased rate of kidnapping of children.
- ii) Nominated Senator (Sen. Millicent Omanga, MP) sought a statement from the Standing Committee on Devolution and Intergovernmental Relations regarding alleged evictions of residents living in Nairobi City County staff housing units in Eastleigh and Pumwani areas.

- iii) The Senator for Murang'a County (Sen. Irungu Kang'ata, MP) sought a statement from the Standing Committee on Tourism, Trade and Industrialization concerning operations of the Murang'a County Creameries.
- iv) Nominated Senator (Sen. Beatrice Kwamboka, MP) sought a statement from the Standing Committee on National Security, Defence and Foreign Relations regarding alleged discriminative enforcement of the nationwide curfew for containment of the COVID-19 pandemic.

9. **MOTION - ADOPTION OF THE REPORT OF THE SESSIONAL COMMITTEE ON DELEGATED LEGISLATION, ON THE PUBLIC FINANCE MANAGEMENT (SINKING FUND) GUIDELINES, 2021**

Motion made and Question proposed;

THAT, the Senate adopts the Report of the Sessional Committee on Delegated Legislation on the Consideration of the Public Finance Management (Sinking Fund) Guidelines, 2021 laid on the Table of the Senate on Wednesday, 8th September, 2021, and that pursuant to Section 18 of the Statutory Instruments Act, Section 205 of the Public Finance Management Act, and Standing Order 221(4)(b), **annuls** in its entirety, the Public Finance Management (Sinking Fund) Guidelines, 2021.

(Chairperson, Sessional Committee on Delegated Legislation)

Debate arising;

And there being no other Senators wishing to contribute;

Mover replied;

Raising a point of order, the Mover requested for the deferment of the putting of the Question to a later date, pursuant to Standing Order 61 (3).

And the Deputy Speaker acceding to the request, nominated Wednesday, 15th September, 2021 as the day when the Question shall be put.

10. **COMMITTEE OF THE WHOLE**

Order for Committee Read;

IN THE COMMITTEE

(Acting Chairperson of Committees (Sen. Rose Nyamunga, MP) – In the Chair)

The County Governments Grants Bill (Senate Bills No. 35 of 2021)

Clause 3 – amendment proposed

THAT the Bill be amended in clause 3-

(a) by deleting the phrase “187(2) and” appearing immediately after the words “to Article” in paragraph (a); and

(b) by deleting paragraph (b) and substituting therefor the following new paragraph-

(b) facilitate the transfer of conditional and unconditional allocations made to counties under this Act from the Consolidated Fund to the respective County Revenue Funds and special purpose accounts.

(Vice Chairperson, Standing Committee on Finance and Budget)

Clause 3 – Vote deferred

Clause 4 – deletion proposed

THAT the Bill be amended by deleting clause 4.

Clause 4 – Vote deferred

Clause 5 – deletion proposed

THAT the Bill be amended by deleting clause 5.

Clause 5 – Vote deferred

Clause 6 – deletion proposed

THAT the Bill be amended by deleting clause 6.

Clause 6 – Vote deferred

Clause 7 – deletion proposed

THAT the Bill be amended by deleting clause 7.

Clause 7 – Vote deferred

Clause 8 – amendment proposed

THAT clause 8 of the Bill be amended -

(a) in subclause (1) by-

(i) inserting the words “share of revenue” immediately after the words “from national government” in the introductory phrase ;

- (ii) deleting the word “Second” appearing immediately after the words “Column B of the” in paragraph (a) and substituting therefor the word “First”;
- (iii) deleting the word “Second” appearing immediately after the words “Column C of the” in paragraph (b) and substituting therefor the word “First”;

(b) in subclause (2) by -

- (i) deleting the word “Third” appearing immediately after “Column B of the” in paragraph (a) and substituting therefor the word “Second”;
- (ii) deleting the word “Third” appearing immediately after “Column C of the” in paragraph (b) and substituting therefor the word “Second”;
- (iii) deleting the word “Third” appearing immediately after “Column D of the” in paragraph (c) and substituting therefor the word “Second”;
- (iv) deleting the word “Third” appearing immediately after “Column E of the” in paragraph (d) and substituting therefor the word “Second”;
- (v) deleting the word “Third” appearing immediately after “Column F of the” in paragraph (e) and substituting therefor the word “Second”;
- (vi) deleting the word “Third” appearing immediately after “Column G of the” in paragraph (f) and substituting therefor the word “Second”;
- (vii) deleting the word “Third” appearing immediately after “Column H of the” in paragraph (g) and substituting therefor the word “Second”;
- (viii) deleting the word “Third” appearing immediately after “Column I of the” in paragraph (h) and substituting therefor the word “Second”;
- (ix) deleting the word “Third” appearing immediately after “Column J of the” in paragraph (i) and substituting therefor the word “Second”;
- (x) deleting the word “Third” appearing immediately after “Column K of the” in paragraph (j) and substituting therefor the word “Second”;
- (xi) deleting the word “Third” appearing immediately after “Column L of the” in paragraph (k) and substituting therefor the word “Second”;
- (xii) deleting the word “Third” appearing immediately after “Column M of the” in paragraph (l) and substituting therefor the word “Second”;

(c) by inserting the following new subclause immediately after subclause (3)-

(3A) A county government’s allocation under subsection (2) shall be transferred to the respective county revenue fund in accordance with a payment schedule published in the Kenya Gazette by the Cabinet Secretary in accordance with section 17 of the Public Finance Management Act.

(d) by deleting the words “subsection 1(b)” appearing immediately after the words “allocations under” and substituting therefor the words “subsections (1) and (2)”; and

(e) by deleting subclause (6).

(Vice Chairperson, Standing Committee on Finance and Budget)

Clause 8 – Vote deferred

Clause 9 – amendment proposed

THAT clause 9 of the Bill be amended by inserting the words “by the 15th day of each subsequent month” immediately after the words “Secretary shall publish”.

(Vice Chairperson, Standing Committee on Finance and Budget)

Clause 9 – Vote deferred

Clause 10

Motion made and Question proposed;

THAT, Clause 10 be part of the Bill.

Clause 10 – vote deferred.

Clause 11 – amendment proposed

THAT clause 11 of the Bill be amended -

(a) in paragraph (c) deleting the words “or framework” appearing immediately after the words “the intergovernmental agreement”; and

(b) in paragraph (d) deleting the words “of framework” appearing immediately after the words “an intergovernmental agreement”.

(Vice Chairperson, Standing Committee on Finance and Budget)

Clause 11 – Vote deferred

Clause 12 – amendment proposed

THAT clause 12 of the Bill be amended -

(a) in paragraph (a) by deleting the marginal note in the proposed new section 42 and substituting therefor the following new marginal note -

Consideration by Parliament of Bills allocating revenue and additional allocations.

(b) by deleting paragraph (b) and substituting therefor the following new paragraph-

(b) in section 191 by-

(i) deleting the marginal note and substituting therefor the following new marginal note-

Bills allocating revenue and additional allocations.

(ii) deleting subsection (1) and substituting therefor the following new subsection-

(1) Each year when the Budget Policy Statement is introduced, the Cabinet Secretary shall submit to Parliament a Division of Revenue Bill, a County Allocation of Revenue Bill and a Bill relating to the allocation and transfer of additional allocations under Article 202(2) of the Constitution prepared by the National Treasury as provided in this Act for the financial year to which that Budget relates.

(iii) deleting subsection 3(b);

(iv) inserting the following new subsection immediately after subsection (3)

(3A) A Bill making allocations under Article 202(2) of the Constitution shall specify any other allocations to the counties from the national government's share of that revenue and any conditions to which those allocations shall be made.

(c) by inserting the following new paragraph immediately after paragraph (b) -

(c) by inserting the following new sections immediately after section 191 -

Intergovernmental agreements.

191A. (1) The National Treasury shall enter into an agreement with the respective county government for the transfer of the respective conditional allocation made to the county government pursuant to this Act.

(2) An agreement under subsection (1) shall set out any conditions that may be attached to the conditional allocations made under this Act.

(3) Where a county government intends to enter into an agreement under subsection (1), the county executive committee member shall submit the agreement to the respective County Assembly

for approval.

(4) The County Assembly shall, within fourteen days of submission of an agreement under subsection (3), approve or reject the agreement.

(5) Where a County Assembly fails to consider an agreement under subsection (3) within fourteen days, the agreement shall be deemed to be approved.

(6) An agreement under subsection (1) shall set out all conditions attached to an allocation made under this Act.

(7) The respective county government shall forward the agreement approved under this section to the Controller of Budget within seven days of approval.

Public participation.

191B.The county executive committee member shall facilitate public participation on any agreement made pursuant to section 191A.

Execution of agreement for conditional allocation.

191C. An agreement under section 191A shall be –

- (a) signed by an authorized person or officer; and
- (b) published in the *Kenya Gazette* within a period of seven days of the agreement.

Submission to Senate.

191D. (1) The National Treasury shall, within seven days of entering into an agreement under section 191A, submit to the Senate and the Controller of Budget, the agreement together with any other documents relating to the agreement.

(2) The National Treasury shall publish and publicize all agreements entered into pursuant to section 191A.

Requisition of funds

191E. Requisition of funds from the county revenue fund for the purposes of a conditional grant shall be supported by the intergovernmental agreement approved under section 191A.

(Vice Chairperson, Standing Committee on Finance and Budget)

Clause 12 - Vote deferred

New Clause 13 - insertion of New Clause Proposed

THAT the Bill be amended by inserting the following new clause immediately after clause 12-

Transition **13.** (1)The requirements under sections 191A to 191D of the Public Finance Management Act shall not apply to the 2021/2022 financial year.

(2) The conditional grants for the financial year 2021/2022 shall be disbursed in accordance with the provisions of the Public Finance Management Act.

(Vice Chairperson, Standing Committee on Finance and Budget)

Motion made and Question proposed-

THAT, the New Clause 13 be now read a Second Time.

(Vice Chairperson, Standing Committee on Finance and Budget)

New Clause 13 - Vote deferred

The First Schedule and the Second Schedule

Motion made and Question proposed;

THAT, the First Schedule and the Second Schedule be part of the Bill.

The First Schedule and the Second Schedule - vote deferred.

Clause 2 - amendment proposed

THAT the Bill be amended in clause 2 -

- (a) in the definition of the term “agreement” by deleting the word “subsection” appearing immediately after the words “into under”;
- (b) in the definition of the term “conditional allocations” by deleting the words “revenue raised nationally” appearing immediately after the words “governments from” and substituting therefor the words “the national government’s share of revenue”;
- (c) by inserting the following definitions in their proper alphabetical order-
 - “authorized person”-

(a) in relation to the national government shall be the

principal secretary responsible for matters relating to finance or a person appointed by that principal secretary in writing;

(b) in relation to a county government shall be the county executive committee member responsible for matters relating to finance or a person appointed by that county executive committee member in writing.

(Vice Chairperson, Standing Committee on Finance and Budget)

Clause 2 - Vote deferred

The Title - amendment proposed

THAT the Bill be amended by deleting long title and substituting therefor the following new title—

AN ACT of Parliament to provide for the additional allocations to county governments for the 2021/2022 financial year; the responsibilities of national government and county governments pursuant to such allocation; and for connected purposes.

The Title - Vote deferred

Clause 1

Motion made and Question proposed;

THAT, Clause 1 be part of the Bill.

Clause 1 - vote deferred.

Progress report:

Motion made;

THAT, the Committee of the Whole do report progress on its consideration of the County Governments Grants Bill (Senate Bills No. 35 of 2021) and seek leave to sit again tomorrow.

(Vice Chairperson, Standing Committee on Finance and Budget)

Question put and **agreed to.**

11. **HOUSE RESUMED** – The Deputy Speaker in the Chair

12. **THE COUNTY GOVERNMENTS GRANTS BILL (SENATE BILLS NO. 35 OF 2021)**

Progress Reported.

Motion made and Question proposed-

THAT, the House do agree with the Committee in the said report.

(Vice Chairperson, Standing Committee on Finance and Budget)

There being no Senator wishing to contribute;
Before the question was put and pursuant to Standing Order 79, the Deputy Speaker ruled that the Question did not affect counties;

Question put and **agreed to.**

13. **COMMITTEE OF THE WHOLE**

Order for Committee Read;

IN THE COMMITTEE

(Acting Chairperson of Committees (Sen. Rose Nyamunga, MP) – In the Chair)

The Mental Health (Amendment) Bill (Senate Bills No. 28 of 2020)

Clauses 3 and 4

Motion made and Question proposed;

THAT, Clauses 3 and 4 be part of the Bill.

Clauses 3 and 4 - vote deferred.

Clause 5 - Amendment proposed

THAT clause 5 of the Bill be amended in the proposed new section 2E (5) by—
(a) deleting paragraph (e) and substituting therefore the following new paragraph—

(e) is removed by the county executive committee member for being unable to perform the functions of the office by reason of mental or physical infirmity.

(b) inserting the following new subclause immediately after subclause (5)
(5A) Before the removal of a member under subsection (5)(e), the county executive committee member shall request the Council to—

(a) investigate the circumstances giving rise to the proposed removal; and

- (c) make recommendations on whether or not the member should be removed from office.

(Chairperson, Standing Committee on Health)

Clause 5 - voted deferred

Clauses 6 and 7

Motion made and Question proposed;

THAT, Clauses 6 and 7 be part of the Bill.

Clauses 6 and 7 - vote deferred.

Clause 8 - Amendment proposed

THAT clause 8 of the Bill be amended by deleting the proposed new section 4B and substituting therefor the following new section—

Removal of member of Board from office.

- 4B.**(1) A member of the Board may be removed from office for —
 - (a) inability to perform the functions of the office arising out of physical or mental incapacity;
 - (b) gross misconduct;
 - (c) incompetence or negligence of duty; or
 - (d) any other ground that would justify removal from office under any written law.
- (2) Before the removal of a member of the Board under subsection (1)(a), the Cabinet Secretary shall request the Board to—
 - (a) investigate the circumstances giving rise to the proposed removal; and
 - (b) make recommendations on whether or not the member should be removed from office.

(Chairperson, Standing Committee on Health)

Clause 8 - voted deferred

Clauses 9 -14

Motion made and Question proposed;

THAT, Clauses 9 -14 be part of the Bill.

Clauses 9-14 - vote deferred.

Clause 15 - Amendment proposed

THAT clause 15 of the Bill be amended -

(a) in the proposed new section 9D by inserting the following new paragraph immediately after paragraph (e)—

(ea) the number of mental health patients admitted on an emergency basis that the mental health facility or unit has discharged, are still under its care or have died in the course of treatment;

(b) in the proposed new section 9F(2) by inserting the words “side effects” immediately after the words “likely duration” in paragraph (b).

(Chairperson, Standing Committee on Health)

Clauses 15 - vote deferred.

Clauses 16 - 31

Motion made and Question proposed;

THAT, Clauses 16 - 31 be part of the Bill.

Clauses 16 - 31 - vote deferred.

Clause 32 - Amendment proposed

THAT clause 32 of the Bill be amended in the proposed new section 20A (2) by inserting the following new paragraph immediately after paragraph (b) —

(ba) a supporter of the person with mental illness;

(Chairperson, Standing Committee on Health)

Clause 32 - vote deferred

Clause 33 - Amendment proposed

THAT clause 33 of the Bill be amended in the proposed new section 21 by inserting the words “A person” immediately before the word “with mental illness” in subsection (2).

(Chairperson, Standing Committee on Health)

Clause 33 - vote deferred

Clauses 34 - 37

Motion made and Question proposed;

THAT, Clauses 34 - 37 be part of the Bill.

Clauses 34 - 37 - vote deferred

Clause 38 - Amendment proposed

THAT clause 38 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph—

- (a) subsection (1) and substituting therefor the following new subsection—
 - (1) The person in charge or a mental health practitioner in charge of any patient shall enable communication by the patient through letters, telephone calls and emails to the recipients where practicable.

(Chairperson, Standing Committee on Health)

Clause 38 - vote deferred

Clauses 39 - 49

Motion made and Question proposed;

THAT, Clauses 39 - 49 be part of the Bill.

Clauses 39 - 49 - vote deferred.

Clause 50 - Amendment proposed

THAT the Bill be amended by deleting clause 50 and substituting therefor the following new clause—

- | | |
|---|--|
| Amendment
of section
54 of Cap.
248. | 50. The Principal Act is amended by deleting section 54 and substituting therefor the following section—

Regulations. 54. The Cabinet Secretary shall, in consultation with the Board and the Council of County Governors, make regulations— <ul style="list-style-type: none"> (a) prescribing the form of the supportive decision making agreement; (b) generally regulating the equipping, administration, control and management of mental health units; (c) for the care, treatment and rehabilitation of persons with mental illness; (d) prescribing the procedure of admission of out-patient patients; and (e) for the better carrying out of the provisions of this Act. |
|---|--|

(Chairperson, Standing Committee on Health)

Clause 50 - vote deferred

Clauses 51 and 52

Motion made and Question proposed;

THAT, Clauses 51 and 52 be part of the Bill.

Clauses 51 and 52 - vote deferred.

The Schedule

Motion made and Question proposed;

THAT, the Schedule be part of the Bill.

The Schedule - vote deferred.

Clause 2, the Title and Clause 1

Motion made and Question proposed;

THAT, Clause 2, the Title and Clause 1 be part of the Bill.

Clause 2, the Title and Clause 1 - vote deferred.

Progress report:

Motion made;

THAT, the Committee of the Whole do report progress on its consideration of the Mental Health (Amendment) Bill (Senate Bills No. 28 of 2020) and seek leave to sit again tomorrow.

(Sen. (Arch.) Sylvia Kasanga, MP.)

Question put and **agreed to.**

14. **HOUSE RESUMED** – The Deputy Speaker in the Chair

15. **MENTAL HEALTH (AMENDMENT) BILL (SENATE BILLS NO. 28 OF 2020)**

Progress Reported.

Motion made and Question proposed-

THAT, the House do agree with the Committee in the said report.

(Sen. (Arch.) Sylvia Kasanga, MP.)

There being no Senator wishing to contribute;

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

Question put and **agreed to.**

16. **COMMITTEE OF THE WHOLE**

Order for Committee Read;

IN THE COMMITTEE

Acting Chairperson of Committees (Sen. Rose Nyamunga, MP) – in the Chair)

The Basic Education (Amendment) Bill (Senate Bills No. 4 of 2021)

Clause 3 - amendment proposed

THAT clause 3 of the Bill be amended in the new clause 38A by inserting the following new sub-clause immediately after sub-clause (3)—

(4) The Cabinet Secretary shall put in place measures to ensure that alternatives to milk are available for learners who are lactose intolerant.

(Sen. Olekina Ledama on Behalf of Sen. Beatrice Kwamboka)

Clause 3 - Vote deferred

Clause 2, the Title and Clause 1

Motion made and Question proposed;

THAT, Clause 2, the Title and Clause 1 be part of the Bill.

Clause 2, the Title and Clause 1 - vote deferred.

Progress report:

Motion made;

THAT, the Committee of the Whole do report progress on its consideration of the Basic Education (Amendment) Bill (Senate Bills No. 4 of 2021) and seek leave to sit again tomorrow.

(Sen. Olekina Ledama on Behalf of Sen. Beatrice Kwamboka)

Question put and **agreed to.**

17. **HOUSE RESUMED** – The Deputy Speaker in the Chair

18. **THE BASIC EDUCATION (AMENDMENT) BILL (SENATE BILLS NO. 4 OF 2021)**

Progress Reported.

Motion made and Question proposed-

THAT, the House do agree with the Committee in the said report.

(Sen. Olekina Ledama on Behalf of Sen. Beatrice Kwamboka)

There being no Senator wishing to contribute;

Before the question was put and pursuant to Standing Order 79, the Deputy Speaker ruled that the question did not affect counties;

Question put and **agreed to**.

19. **COMMITTEE OF THE WHOLE**

Order for Committee Read;

IN THE COMMITTEE

(Acting Chairperson of Committees (Sen. Rose Nyamunga, MP) – In the Chair)

The County Licensing (Uniform Procedures) Bill (Senate Bills No. 32 of 2020)

Clause 3 - amendment proposed

THAT clause 3 of the Bill be amended-

(a) deleting paragraph (a) and substituting therefor the following new paragraph-

(a)the need to protect consumers of goods and services, ensure public safety and promote environmental protection;

(b) in paragraph (b) by inserting the word “not” immediately after the words “manner that does”; and

(c) in paragraph (c) by inserting the words “and in accordance with the provisions of the Access to Information Act” immediately after the words “and licensing procedures”.

(Sen. Mercy Chebeni, MP, on behalf of the Chairperson, Standing Committee on Tourism, Trade and Industrialization)

Clause 3 - voted deferred

Clauses 4 - 6

Motion made and Question proposed;

THAT, Clauses 4 - 6 be part of the Bill.

Clauses 4 -6 - Vote deferred

Clause 7 - amendment proposed

THAT clause 7 of the Bill be amended-

(a) by deleting subclause (2) and substituting therefor the following new subclause-

(2) A licensing authority shall, within three years of the commencement of this Act, put in place mechanisms to enable the electronic application for, renewal, transfer or replacement of a licence or a variation of a condition for the issuance of a licence.

(Sen. Mercy Chebeni on behalf of the Chairperson, Standing Committee on Tourism, Trade and Industrialization)

Clause 7 - vote deferred

Clauses 8 -14

Motion made and Question proposed;

THAT, Clauses 8 – 14 be part of the Bill.

Clauses 8 -14 - Vote deferred

Clause 15 - amendment proposed

THAT clause 15 of the Bill be amended in subclause (1) by inserting the words “in writing” immediately after the words “shall inform”.

(Sen. Mercy Chebeni, MP, on behalf of the Chairperson, Standing Committee on Tourism, Trade and Industrialization)

Clause 15 - voted deferred

Clauses 16 - 18

Motion made and Question proposed;

THAT, Clauses 16 – 18 be part of the Bill.

Clauses 16 - 18 - voted deferred

Clause 19 - amendment proposed

THAT clause 19 of the Bill be amended in subclause (2) by inserting the words “and through such other media as the authority shall consider appropriate” immediately after the words “nationwide circulation”.

(Sen. Mercy Chebeni, MP, on behalf of the Chairperson, Standing Committee on Tourism, Trade and Industrialization)

Clause 19 - voted deferred

Clauses 20 -21

Motion made and Question proposed;

THAT, Clauses 20 – 21 be part of the Bill.

Clauses 20 - 21 - Vote deferred

Clause 22 - amendment proposed

THAT clause 22 of the Bill be amended by deleting paragraph (b).

(Sen. Mercy Chebeni, MP, on behalf of the Chairperson, Standing Committee on Tourism, Trade and Industrialization)

Clause 22 - voted deferred

Clauses 23 - 29

Motion made and Question proposed;

THAT, Clauses 23 – 29 be part of the Bill.

Clauses 23 - 29 - Vote deferred

Clause 2 and Title

Motion made and Question proposed;

THAT, Clause 2 and the Title be part of the Bill.

Clause 2 and Title - Vote deferred

Clause 1 - amendment proposed

THAT the Bill be amended by deleting clause 1 and substituting therefor the following new clause-

Short title and commencement. **1.** This Act may be cited as the County Licensing (Uniform Procedures) Act, 2021 and shall come into operation upon the expiry of six months from the date of assent of this Act.

(Sen. Mercy Chebeni, MP, on behalf of the Chairperson, Standing Committee on Tourism, Trade and Industrialization)

Clause 1 - vote deferred.

Progress report:

Motion made;

THAT, the Committee of the Whole do report progress on its consideration of the County Licensing (Uniform Procedures) Bill (Senate Bills No. 32 of 2020) and seek leave to sit again tomorrow.

(Sen. Mercy Chebeni, MP)

Question put and **agreed to.**

20. **HOUSE RESUMED** – The Deputy Speaker in the Chair

21. **COUNTY LICENSING (UNIFORM PROCEDURES) BILL (SENATE BILLS NO. 32 OF 2020)**

Progress Reported.

Motion made and Question proposed-

THAT, the House do agree with the Committee in the said report.

(Sen. Mercy Chebeni, MP)

There being no Senator wishing to contribute;

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

Question put and **agreed to.**

22. **COMMITTEE OF THE WHOLE**

Order for Committee Read;

IN THE COMMITTEE

(Acting Chairperson of Committees (Sen. Rose Nyamunga, MP) – In the Chair)

The Salaries and Remuneration Commission (Amendment) Bill (Senate Bills No. 31 of 2020)

Clause 2 – amendment proposed

THAT clause 3 of the Bill be amended in the new clause 38A by inserting the following new sub-clause immediately after sub-clause (3)—

- (4) The Cabinet Secretary shall put in place measures to ensure that alternatives to milk are available for learners who are lactose intolerant.

(Vice Chairperson, Standing Committee on Finance and Budget)

Clause 2 – Vote deferred

Clause 3

Motion made and Question proposed;

THAT, the Clause 3 be part of the Bill.

Clause 3 – Vote deferred

The Title and Clause 1

Motion made and Question proposed;

THAT, the Title and Clause 1 be part of the Bill.

The Title and Clause 1 – vote deferred.

Progress report:

Motion made;

THAT, the Committee of the Whole do report progress on its consideration of the Basic Salaries and Remuneration Commission (Amendment) Bill (Senate Bills No. 31 of 2020) and seek leave to sit again tomorrow.

(Vice Chairperson, Standing Committee on Finance and Budget)

Question put and **agreed to.**

23. **HOUSE RESUMED** – The Deputy Speaker in the Chair

24. **THE SALARIES AND REMUNERATION COMMISSION (AMENDMENT) BILL (SENATE BILLS NO. 31 OF 2020)**

Progress Reported.

Motion made and Question proposed-

THAT, the House do agree with the Committee in the said report.

(Vice Chairperson, Standing Committee on Finance and Budget)

There being no Senator wishing to contribute;

Before the question was put and pursuant to Standing Order 79, the Deputy Speaker ruled that the question did not affect counties;

Question put and **agreed to**.

25. **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)

Order deferred.

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

(The Senate Majority Leader)

(Second Reading)

Order deferred.

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

(Sen. Kipchumba Murkomen, MP)

(Second Reading)

Order deferred.

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

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

(Second Reading)

Order deferred.

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

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

(Second Reading)

Order deferred.

30. **MOTION – PROVISION OF COLOSTOMY BAGS TO COLON CANCER PATIENTS AND SURVIVORS IN COUNTY HOSPITALS**

Order read;

Motion made and Question proposed;

THAT, AWARE THAT the colon is part of the digestive system with a major role in the absorption of water, minerals and elimination of waste;

FURTHER AWARE THAT colon cancer can cause serious blockage of the colon that may necessitate removal of parts of the colon, the entire colon or the entire colon and the rectum;

COGNIZANT THAT persons who have gone through ileostomy, colostomy and urostomy need to use a bag to empty their wastes for the rest of their lives post-surgery;

CONCERNED THAT urine bags, adult diapers, artificial breasts, colostomy or ileostomy bags are not listed as goods exempt from tax or zero rated in the First and Second Schedules of the VAT Act 2013, and therefore attract 16 per cent value added tax and customs duty;

ACKNOWLEDGING THAT Article 43(1a) of Constitution of Kenya states that everyone has a right to the highest attainable standards of health, and health is a devolved function and therefore under the mandate of the county governments;

NOW THEREFORE, the Senate calls upon the Ministry of Health and) in partnership with the Council of Governors to:

1. create and maintain a register of all the colon cancer patients and survivors in county hospitals, including the biodata of the histology of the patients;
2. provision of colostomy bags for those who are permanent users;
3. include the purchase of palliative care products in the health budgets of all county governments;
4. ensure all county hospitals stock these palliative care products to enable increased access and lower commercial prices; and
5. engage the Treasury and Kenya Revenue Authority (KRA) to waive taxes on long-term health consumables such as colostomy bags, prosthesis and others in the upcoming budgetary cycle to ease the burden on Kenyans.

(Sen. (Dr.) Gertrude Musuruve Inimah, MP – 08.09.2021)

Debate interrupted on Wednesday, 8th September, 2021 resumed;

And there being no other Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 79 (1) the Temporary Speaker (Sen. Rose Nyamunga, MP) ruled the Motion did not affect counties.

Question put and agreed to.

RESOLVED ACCORDINGLY THAT

THAT, AWARE THAT the colon is part of the digestive system with a major role in the absorption of water, minerals and elimination of waste;

FURTHER AWARE THAT colon cancer can cause serious blockage of the colon that may necessitate removal of parts of the colon, the entire colon or the entire colon and the rectum;

COGNIZANT THAT persons who have gone through ileostomy, colostomy and urostomy need to use a bag to empty their wastes for the rest of their lives post-surgery;

CONCERNED THAT urine bags, adult diapers, artificial breasts, colostomy or ileostomy bags are not listed as goods exempt from tax or zero rated in the First and Second Schedules of the VAT Act 2013, and therefore attract 16 per cent value added tax and customs duty;

ACKNOWLEDGING THAT Article 43(1a) of Constitution of Kenya states that everyone has a right to the highest attainable standards of health, and health is a devolved function and therefore under the mandate of the county governments;

NOW THEREFORE, the Senate calls upon the Ministry of Health and) in partnership with the Council of Governors to:

1. create and maintain a register of all the colon cancer patients and survivors in county hospitals, including the biodata of the histology of the patients;
2. provision of colostomy bags for those who are permanent users;
3. include the purchase of palliative care products in the health budgets of all county governments;
4. ensure all county hospitals stock these palliative care products to enable increased access and lower commercial prices; and
5. engage the Treasury and Kenya Revenue Authority (KRA) to waive taxes on long-term health consumables such as colostomy bags, prosthesis and others in the upcoming budgetary cycle to ease the burden on Kenyans.

31. **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.

Order deferred.

32. **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.

Order deferred.

33. **MOTION - FAST TRACKING CULTURAL DEVELOPMENTS IN COUNTIES**

Order read;

Motion made;

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;

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.

(Sen. (Arch.) Sylvia Kasanga, MP)

And the time being thirty minutes past six O’clock, the Temporary Speaker (Sen. Rose Nyamunga, MP) interrupted the proceedings and adjourned the Senate without Question put, pursuant to the Standing Orders.

34. **SENATE ROSE** – at thirty minutes past Six O’clock.

MEMORANDUM

*The Speaker will take the Chair on
Wednesday, September 15, 2021 at 2.30 p.m.*

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