



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (SECOND SESSION)

THE SENATE

ORDER PAPER

THURSDAY, APRIL 20, 2023 AT 2.30 PM

PRAYER

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers
6. Notices of Motion (as listed in the Appendix)
7. Questions and Statements (as listed in the Appendix)
8. *****THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILLS NO. 9 OF 2023)**
(The Senate Majority Leader)

(Second Reading)

***(Resumption of debate interrupted on Wednesday, 19th April, 2023 –
Morning Sitting)
(Division)***

9. **COMMITTEE OF THE WHOLE**
*****THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILLS NO. 9 OF 2023)**
(The Senate Majority Leader)
10. ****THE EQUALIZATION FUND APPROPRIATION BILL (SENATE BILLS NO. 3 OF 2023)**
(The Chairperson, Standing Committee on Finance and Budget)

(Second Reading)

...../Bills

*(Resumption of debate interrupted on Wednesday, 19th April, 2023 –
Afternoon Sitting)*

- 11. ***THE PROMPT PAYMENT BILL (SENATE BILLS NO. 8 OF 2022)**
(Sen. Mariam Sheikh Omar, MP)

(Second Reading)

*(Resumption of debate interrupted on Wednesday, 12th April, 2023 –
Afternoon Sitting)*

- 12. ***THE MUNG BEANS BILL (SENATE BILLS NO. 13 OF 2022)**
(Sen. Enoch Wambua, MP)

(Second Reading)

- 13. ***THE COUNTY BOUNDARIES BILL (SENATE BILLS NO. 6 OF 2023)**
(Sen. Moses Kajwang’ MP)

(Second Reading)

- 14. ***THE PERSONS WITH DISABILITIES BILL (SENATE BILLS NO. 7 OF 2023)**
(Sen. Crystal Asige, MP)

(Second Reading)

- 15. ***THE HERITAGE AND MUSEUMS BILL (SENATE BILLS NO. 8 OF 2023)**
(The Chairperson, Standing Committee on Labour and Social Welfare)

(Second Reading)

- 16. ***THE KENYAN SIGN LANGUAGE BILL (SENATE BILLS NO. 9 OF 2023)**
(Sen. (Prof. Margaret Kamar, MP and Sen. Crystal Asige, MP)

(Second Reading)

- 17. **MOTION – PROVISION OF FREE SANITARY TOWELS TO END PERIOD POVERTY**
(Sen. Gloria Orwoba, MP)

THAT, AWARE THAT period poverty refers to the common challenge plaguing women globally wherein they are unable to attend schools or work as a cause of a lack of funds for sanitary products that is both a health risk and a signal of gender inequity;

FURTHER AWARE THAT in rural Kenya, 2 out of 3 pad users receive pads from sexual partners and 65 percent of women and girls can’t afford sanitary pads, forcing them to use alternative materials like grass, cotton wool and cloth which lack adequate absorbent qualities resulting in frequent leakage and hygiene issues;

...../Motion

CONCERNED THAT period poverty also referred to as the “shadow pandemic” contributes to global and regional gender inequity, as women are forced to solicit help from men in order to satisfy a basic health need with 10% of 15-year-old girls having sex to pay for sanitary products;

FURTHER CONCERNED THAT, data from the Ministry of Education indicates that a girl that is absent from school for four days a month loses 13 learning days, equivalent to two weeks of learning in every school term, translating to 39 learning days or six weeks of learning time in a term and up to 18 of 108 weeks in primary and 24 weeks of 144 weeks of learning in secondary school;

NOTING THAT, while the Government, through the State Department for Gender Affairs was charged with the responsibility of procuring and distributing sanitary towels for 3.7 million girls in public primary schools, special primary and secondary schools in the country at a cost of Kshs. 470 million during the 2017/2018 Financial year, which amount needs to be increased in order to fully address and mitigate the problem;

NOW THEREFORE, the Senate resolves that the Ministry of Public Service, Gender and Affirmative Action in partnership with the Ministry of Education and the Council of Governors to:-

1. facilitate provision of feminine hygiene products in all public schools;
2. ensure that all schools that don't have bathrooms that facilitate privacy, cleanliness or proper disposal of hygiene products are properly equipped;
3. create awareness and take advocacy measures on reproductive health issues related to period poverty;
4. include in the curriculum a dedicated lesson per week to teach girls on menstrual hygiene; and
5. ensure that sanitary products will be obtainable timely, consistently, and in a way that respects the dignity of concerned persons.

***(Resumption of debate interrupted on Tuesday 28th February, 2023
- Balance of time - 2hrs 41mins)***

18. **MOTION – THE DOPING MENACE THREATENING KENYA’S IMPECCABLE GLOBAL REPUTATION IN ATHLETICS**
(Sen. Samson Cherarkey, MP)

THAT, AWARE THAT in 2018 Kenya was placed under Category A by the world Anti-Doping Agency and since then forty Kenyan athletes have been banned by either the Athletics Integrity Unit (AIU) or the Anti – Doping

...../Motion

Agency of Kenya (ADAK) and has led to a situation whereby the Kenyan athletes have to undergo intense testing before participating in major events and has immensely affected the reputation of the Kenyan athletes and the standing of Kenya in the international Sports arena where it currently ranks at number five;

CONCERNED THAT, despite the high number of alleged doping cases Kenya has only one World Anti- Doping Agency (WADA) approved blood testing laboratory forcing it to send urine tests to Qatar and South Africa for analysis and that the Anti- Doping Agency of Kenya (ADAK) is taking too long to address the doping menace which is likely to affect the state of preparedness for the athletes in the upcoming 2024 Olympic games in Paris;

NOW THEREFORE the Senate resolves that the Ministry of Youth, Sports and Arts:-

- a. Come up with modalities that can help achieve increased testing, intelligence gathering on athletes and doping awareness programmes;
- b. In collaboration with Athletics Kenya (AK) and National Olympic Committee of Kenya (NOCK) to vet all training camps, coaches, trainers and other athlete handlers;
- c. Initiate investigations at Anti – Doping Agency Kenya (ADAK) to identify and sanction all responsible officers liable for the menace of doping;
- d. In collaboration with the Directorate of Criminal Investigations and the Ethics and Anti – Corruption Commission finalize pending investigations and recommend prosecution of individuals involved in giving this banned substance to athletes; and
- e. In collaboration with the Ministry of Health to identify and revoke licenses for medics, pharmacies and hospitals responsible for the prescription of the commonly abused drugs by the athletes.

(Resumption of debate interrupted on Tuesday 14th March, 2023 – Balance of time – 2hrs 42mins)

19. **MOTION - COMPENSATION TO THE KENYAN VICTIMS OF THE 1998 BOMBING OF THE UNITED STATES EMBASSY IN NAIROBI**

(Sen. Agnes Kavindu Muthama, MP)

THAT, AWARE THAT, disaster is defined as an overwhelming event and circumstance that tests the adaptation of responses of a community or individuals beyond their capability and leads momentarily to massive disruption of function for a community or individual that often exceeds their capacity to cope using existing resources;

...../Motion

FURTHER AWARE THAT, such was the case with the 1998 US Embassy Bomb disaster in Nairobi in which many of the Kenyan casualties resulted from the collapse of adjacent buildings located within a two to three block radius, and with reverberations being felt in most parts of Nairobi that resulted in 213 Kenyans and 12 Americans killed and over 5000 citizens of both countries being seriously injured;

NOTING THAT, US Allies, including Kenya, have endured the great burden of death, and long-term and in many instances permanent, physical and psychological injury;

FURTHER NOTING THAT, the United States Government has since compensated some of the victims and families of US citizens, leaving the families of Kenyan citizens and certain other victims uncompensated;

NOW, THEREFORE, the Senate resolves that the Ministry of Foreign Affairs:

- (i) Advances friendship and co-operation between the United States and Kenya by supporting the eligibility of Kenyan and American victims and their personal representatives, surviving spouses and next of kin in the Victim Compensation Fund pursuant to the Justice for United States Victims of State Sponsored Terrorism Act; and
- (ii) Partners with the Ministry of Health to explore subsidized medical treatment for the surviving victims of the bomb blast.

(Resumption of debate interrupted on Thursday, 16th March, 2023 – Balance of time – 2hrs 53mins)

20. **MOTION – INSTITUTION OF MEASURES TO CURB INCESSANT HIGH ELECTRICITY COSTS IN KENYA**

(Sen. Mohamed Chute, MP)

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

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

...../Motion

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

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

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

NOW THEREFORE the Senate resolves that the:

a) Standing Committee on Energy to undertake an inquiry into: -

- i. Contracts signed by IPPs, detailing the cost, capacity and duration of the contractual agreements and their implications on affordability of electricity in the country;
- ii. Discrepancy in the cost of electricity sold to Kenya Power by KenGen, imports from Ethiopia and IPPs; and
- iii. The diversion of the electricity generated by Lake Turkana Wind Power to the national grid, bypassing the inadequately supplied northern frontier counties of Marsabit and Samburu.

b) Ministry of Energy to come up with a policy framework aimed at:-

- i. Lowering the cost of electricity as a way of addressing the high cost of living; and
- ii. Enhancing clean energy by switching to renewable sources of energy such as geothermal power, wind energy, among others as a way of reducing the carbon footprint.

21. MOTION - ENHANCING HIGHWAY SAFETY AND CONVENIENCE

(Sen. Wahome Wamatinga, MP and Sen. Mohamed Faki, MP)

THAT, AWARE THAT 67% of road crash fatalities and injuries in the country comprise of the economically productive age groups of 15 - 64 years, and that the importance of good post-crash care reduces deaths and disability and the suffering for road crash survivors creates the urgent need for effective emergency medical care system elements and processes on our highways;

...../Motion

FURTHER AWARE THAT lives and properties are lost or irreparably damaged daily on major highways in the country due to accidents and explosion of fuel tankers, and the lack of accessible roadside amenities such as medical clinics, rescue centers, fire engines and ambulances hamper efforts to mitigate the carnage caused by the accidents, rescue lives and put out fires;

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

FURTHER COGNIZANT THAT provision of amenities such as ambulances, firetrucks and satellite medical clinics to provide emergency services to road accident victims would save lives lost daily on major roads;

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

NOW THEREFORE the Senate resolves that: -

- i) The Kenya National Highway Authority, in collaboration with the Council of Governors to come up with a policy framework on the incorporation of road reserves for road-side amenities in all highway designs;
- ii) The Ministries of Health, Roads, Transport and Public Works in conjunction with the Council of Governors to undertake a survey to ascertain the specific amenities required but not available on the existing highways such as satellite medical clinics, firetrucks and ambulances, and identify the most convenient locations to develop them; and
- iii) The Ministry of Roads and Transport in conjunction with the Council of Governors to develop Public Private Partnership guideline on leasing of the road reserves to developers, financing the construction of the amenities, and the packaging of incentives to attract investors.

...../Motion

22. **MOTION - DROUGHT MITIGATION PROGRAMME IN PUBLIC SCHOOLS**

(Sen. Enoch Wambua, MP)

AWARE THAT, Kenya is experiencing the most intense, severe and alarming drought in forty (40) years, as a result of the failure of four consecutive rainy seasons, affecting more than twenty (20) counties in arid and semi-arid lands (ASAL);

FURTHER AWARE THAT, more than 4.2 million people representing 24% of the ASAL population are facing high levels of acute food insecurity, with about 2.7 million in crisis phase and 785,000 people in emergency state;

NOTING THAT, the national and county governments, both local and international development partners and philanthropists have made attempts to respond to the dire situation occasioned by the severe drought;

CONCERNED THAT, thousands of children did not attend school during the third term of the academic year 2022 and beginning of 2023 as a result of the ongoing drought;

NOW THEREFORE, the Senate urges: -

1. the Ministry of East African Community (EAC), the ASALs and Regional Development to develop immediate and long-term interventions to alleviate the ravaging effects of drought and hunger periodically affecting the country and more severely the ASAL areas;
2. the Ministry of Education, in conjunction with the Council of Governors, to establish modalities to ensure no learners are sent away from schools due to lack of school fees to ensure that children from vulnerable families have access to education; and
3. the Ministry of Education, in conjunction with the Council of Governors to implement effective school feeding programmes to ensure that children from vulnerable families in drought-hit regions have access to at least one hot meal per day and that no child misses class due to lack of food.

23. **MOTION - ARBITRARY ARRESTS OF KENYAN FISHERMEN BY UGANDAN AUTHORITIES**

(Sen. (Dr.) Oburu Oginga, MP)

THAT AWARE THAT the communities around the lake rely on fishing as their main economic activity, their source of food and employment;

...../Motion

CONCERNED THAT the fishermen have reported harassment from the Ugandan security personnel including arbitrary arrests and imposition of unreasonable fines;

FURTHER CONCERNED THAT in November, 2021 the Kenya International Boundaries office formed a Joint Committee with the Ugandan authorities that did not effectively delineate the boundaries that would have helped avoid conflict between the two Countries;

NOW THEREFORE the Senate resolves that-

- a) the Ministry of Foreign and Diaspora Affairs in collaboration with the Ministry of East African Community (EAC), the ASALs and Regional Development engages the counterpart ministries in the Republic of Uganda to;
 - i) Fast-track the delineation of the Kenya-Uganda boundary;
 - ii) Develop measures to curb the arrests of Kenyan fishermen by Ugandan authorities;
 - iii) Institute a protocol for sustainable development of the Lake Victoria Basin on the sharing of resources between partner states; and
- b) The Ministry of Interior and National Administration to deploy the Kenya Coast Guard in the territorial waters of Lake Victoria to enforce maritime security and safety.

24. **MOTION - REPORT OF THE 61ST SESSION OF THE ORGANISATION OF AFRICAN, CARRIBEAN AND PACIFIC STATES (OACPS) PARLIAMENTARY ASSEMBLY AND THE 42ND SESSION OF THE OACPS -EU JOINT PARLIAMENTARY ASSEMBLY HELD IN MAPUTO, MOZAMBIQUE ON 23RD OCTOBER TO 2ND NOVEMBER, 2022**

(Sen. Tabitha Mutinda, MP)

THAT, the Senate notes the Report of the 61st Session of the Organisation of African, Carribean and Pacific States (OACPS) Parliamentary Assembly and the 42nd Session of the OACPS -EU Joint Parliamentary Assembly held in Maputo, Mozambique on 23rd October to 2nd November, 2022.

...../Motion

25. **MOTION - RECORD OF THE PROCEEDINGS OF THE FIRST ORDINARY SESSION OF THE SIXTH PARLIAMENT OF THE PAN-AFRICAN PARLIAMENT (PAP) HELD IN GALLAGHER CONVENTION CENTRE, MIDRAND, SOUTH AFRICA ON 23RD OCTOBER – 12TH NOVEMBER, 2022.**
(Sen. Danson Mungatana, MP)

THAT, the Senate notes the Record of the Proceedings of the First Ordinary Session of the Sixth Parliament of the Pan-African Parliament (PAP) held in Gallagher Convention Centre, Midrand, South Africa on 23rd October – 12th November, 2022 laid on the Table of the Senate on Thursday, 16th February, 2023.

NOTICE

The Senate resolved on 15th February, 2023 as follows:-

THAT, pursuant to Standing Order 111 (1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Committee shall be limited in the following manner:-

A maximum of three hours with not more than twenty minutes for the Mover, twenty minutes for the Majority Party official responder, twenty minutes for the Minority Party official responder and fifteen minutes for each other Senator speaking; and further that fifteen minutes before the time expires, the Mover shall be called upon to reply.

KEY

******- Denotes a Majority /Minority Party Bill**

*****- Denotes a National Assembly Bill**

**** - Denotes a Committee Bill**

***- Denotes any other Bill**

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NOTICE OF AMENDMENTS

*****THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILLS NO. 9 OF 2023)**

(The Senate Majority Leader)

NOTICE is given that the Vice-Chairperson, Standing Committee on Finance and Budget intends to move the following amendment to the Division of Revenue Bill, (National Assembly Bills No. 9 of 2023), at the Committee Stage-

SCHEDULE

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

SCHEDULE

(s.4)

ALLOCATION OF REVENUE RAISED NATIONALLY AMONG THE NATIONAL AND COUNTY GOVERNMENTS FOR THE FINANCIAL YEAR 2023/24		
Type/level of allocation	Amount in Kshs.	Percentage (%) of 2019/20 audited and approved revenue*
A. Total Sharable Revenue	2,571,159,000,000	
B. National Government	2,155,504,036,531	
C. Equalization Fund	8,654,963,469	0.5%
D. County equitable share	407,000,000,000	24.3%

* The Equalisation Fund Allocation is based on all Revenue Received in FY 2019/20 of Kshs 1,730,992,693,864 while the County Equitable share is based on Ordinary revenue as defined under Section 2 of the Commission on Revenue Allocation Act, 2011 which amounts to Ksh 1,673,714,909,446 in FY 2019/20.

APPENDIX

1. NOTICE OF MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON DEVOLUTION AND INTERGOVERNMENTAL RELATIONS ON A STATEMENT SOUGHT ON THE RELOCATION OF NATIONAL GOVERNMENT ADMINISTRATIVE SERVICES FROM CHUKA TOWN TO KATHWANA COUNTY HEADQUARTERS, THARAKA NITHI COUNTY.

(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 a Statement sought on the relocation of National Government administrative services from Chuka town to Kathwana County Headquarters, Tharaka Nithi County laid on the Table of the Senate, on Wednesday 19th April, 2023.

2. QUESTIONS AND STATEMENTS

STATEMENTS

a) Pursuant to Standing Order 52(1)

- i.) Nominated Senator (Sen. Hamida Kibwana, MP) to make a statement concerning the state of health and safety in schools, following the tragedy at Mukumu Girls’ High School in Kakamega County.
- ii.) Nominated Senator (Sen. Hamida Kibwana, MP) to make a statement concerning the election of officials to the Women’s Caucus – Kenya Women Senators Association (KEWOSA).

b) Pursuant to Standing Order 53(1)

- i.) Nominated Senator (Sen. Hamida Kibwana, MP) to seek a statement from the Standing Committee on Health concerning dental and optical healthcare treatment for Kenyans through the National Hospital Insurance Cover (NHIF).
- ii.) The Senator for Nairobi City County (Sen. Edwin Sifuna, MP) to seek a statement from the Standing Committee on Labour and Social Welfare regarding the status of employment of Inspectorate officers recruited during the tenure of Nairobi Metropolitan Service (NMS).

c) Pursuant to Standing Order 57(1)

The Senate Majority Leader to issue a statement on the business of the Senate for the week commencing Tuesday, 25th April, 2023.

...../Notice Paper

NOTICE PAPER

Tentative Business for

Tuesday, April 25, 2023

(Published pursuant to Standing Order 43 (1))

It is notified that the Senate Business Committee has approved the following **tentative** business to appear in the Order Paper for Tuesday, April 25, 2023.

A. BILLS AT SECOND READING STAGE

- i.) *THE COUNTY LICENSING (UNIFORM PROCEDURE) BILL (SENATE BILLS NO. 9 OF 2022)
(Sen. Mariam Sheikh Omar, MP)
- ii.) *THE OFFICE OF THE COUNTY PRINTER BILL (SENATE BILLS NO. 10 OF 2022)
(Sen. Edwin Sifuna, MP)

B. MOTIONS

- i.) ADOPTION OF THE REPORT OF THE SELECT COMMITTEE ON DELEGATED LEGISLATION ON ITS CONSIDERATION OF THE STATUTORY INSTRUMENTS (EXEMPTION FROM EXPIRY) REGULATIONS, 2022
(The Chairperson, Select Committee on Delegated Legislation)
 - ii.) DESIGNATION OF A MONTHLY CAR FREE DAY AND COUNTY CAR FREE ZONES
(Sen. Crystal Asige, MP)
 - iii.) STATE OF MENTAL HEALTH OF POLICE OFFICERS
(Sen. Hamida Kibwana, MP)
 - iv.) DEVELOPMENT OF A POLICY AND LAW FOR SOCIAL RISK MANAGEMENT IN INFRASTRUCTURE DEVELOPMENT PROJECTS IN KENYA
(Sen. Catherine Mumma, MP)
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