



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – SECOND SESSION

THE SENATE

VOTES AND PROCEEDINGS

THURSDAY, AUGUST 09, 2018 AT 2.30 P.M.

1. The Senate assembled at thirty minutes past Two O'clock.
2. The Proceedings were opened with prayer said by the Speaker.
3. **COMMUNICATION FROM THE CHAIR**

The Speaker conveyed the following communications from the Chair:-

a) Visiting Members and Staff from Machakos County Assembly

“Honorable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery this afternoon, of visiting Members and staff from the Machakos County Assembly Committee on Broadcasting and Library.

I request each member of the delegation to stand when called out so that they may be acknowledged in the Senate tradition. They are:-

- | | | |
|------------------------|---|----------------------|
| 1. Hon. Conslas Kieti | - | Chairperson |
| 2. Hon. Erice Musembi | - | Member |
| 3. Hon. Paul Nyanzi | - | Member |
| 4. Hon. Louisa Mamau | - | Member |
| 5. Ms. Norah Muteti | - | Clerk Assistant |
| 6. Ms. Emma Nthenya | - | Broadcasting Officer |
| 7. Ms. Kathoki Mwendwa | - | Broadcasting Officer |

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and, on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you.”

b) Amendments to the Speaker's Rules

“Honourable Senators,

As you are aware, the Speaker's Rules are made pursuant to the powers of the Speaker under section 37 of the Parliamentary Powers and Privileges Act, 2017. The Rules regulate the conduct of Senators and also govern the admission and conduct of members of the public and other visitors to Parliament. Breach of the Speaker's Rules will usually result in the matter being referred to the Committee of Privileges for consideration and action.

Honourable Senators,

I wish to notify the House that an amendment has been made to the Speaker's Rules regarding the mode of dressing by Senators while within the House.

More specifically, the Rules now allow Women Senators to dress in *kitenge* or such other African attire. This follows an appeal by lady Senators to the Speaker to that effect.

Copies of the amended Speaker's Rules will be circulated to you in due course.

I thank you.”

c) Visiting students and teachers from Merry Land Academy, Nandi County

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Merry Land Academy, Nandi County.

On behalf of the Senate and on my own behalf, I welcome you to the Senate and wish you well for the remainder of your stay.

I thank you.”

4. PAPERS LAID

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

- i) Report of the Standing Committee on Energy on a public hearing on the Local Content Bill (Senate Bills No. 10 of 2018);

(Chairperson, Standing Committee on Energy)

- ii) The 3rd Status Report of the Kenya Water Towers Agency.

- iii) Statement of the Business of the Senate for the week commencing Tuesday, 11th September, 2018.

(The Senate Majority Leader)

5. STATEMENTS**a) Statement pursuant to Standing Order 46 (2) (a)**

The Senator for Vihiga County (Sen. George Khaniri) made a statement on an issue of general topical concern, namely, the management of funds at the Kenya Power and Lighting Company Ltd and the latest unexplained increase in electricity tariffs.

Thereupon, the Senator noted that electricity was one of the most important amenities in the world today, and was a key driver to diverse economic activities. Consequently, inefficiency in management of the resource, as well as increase in the cost per unit of electricity, had a multiplier effect on the cost of production and ultimately on the price of goods and services.

The Senator also regretted that Kenya Power had in recent years been beset by a number of scandals, whereby what should have been normal operational procedures at the firm ended up being avenues for corruption and mismanagement of public funds. Among these were; the replacement of wooden electricity poles with concrete poles across the country, the purchase of transformers, the systems upgrade at Kenya Power, and the 'last mile' connectivity program. Arising from this, a significant number of present and past senior officers at the firm had recently been arraigned in court charged with various offences, thus depriving the firm of its best and most experienced engineers.

The Senator further noted that Kenya Power was a public enterprise and urged fellow Senators to complain and demand for better and affordable power supply for Kenyans by the power firm.

b) Statement pursuant to Standing Order 46 (2) (c)

The Senate Majority Leader issued a statement on the Business of the Senate for the week commencing Tuesday, 11th September, 2018.

6. THE ENERGY BILL (NATIONAL ASSEMBLY BILLS NO. 50 OF 2017)

Order for Second Reading read;

Motion made and Question proposed;

THAT, the Energy Bill (National Assembly Bills No. 50 of 2017) be now read a Second Time.

(The Senate Majority Leader)

Debate arising;

And there being no other Senator wishing to contribute;

Mover replied;

Raising a point of order, pursuant to Standing Order 55 (3) the Senate Majority Leader requested the Temporary Speaker to defer the putting of the Question to a later date.

And the Temporary Speaker (Sen. (Prof.) Margaret Kamar) acceding to his request deferred the putting of the Question to a later date.

7. **MOTION – EXTENSION OF THE SITTING OF THE SENATE PURSUANT TO STANDING ORDER 31 (3) (a)**

Motion made and Question proposed;

THAT, pursuant to Standing Order 31 (3) (a), the Senate resolves to extend its sitting until the conclusion of business listed in Order Nos. 9 and 26 in today's Order Paper.

(The Senate Majority Leader)

And there being no Senator wishing to contribute;

Before the Question was put, and pursuant to Standing Order No. 73, the Temporary Speaker (Sen. (Prof.) Margaret Kamar) informed the House that the Motion did not affect Counties.

Question put and agreed to.

RESOLVED ACCORDINGLY-

THAT, pursuant to Standing Order 31 (3) (a), the Senate resolves to extend its sitting until the conclusion of business listed in Order Nos. 9 and 26 in today's Order Paper.

8. **MOTION – REPORT OF THE PROCEDURE AND RULES COMMITTEE ON AMENDMENTS TO THE SENATE STANDING ORDERS**

Motion made and Question proposed-

THAT, Pursuant to Standing Orders 246 and 247, the Report of the Procedure and Rules Committee on amendments to the Standing Orders, laid on the table of the Senate on Tuesday, 7th August, 2018, be approved.

(Sen. (Dr.) Agnes Zani, MP on behalf of Sen. (Prof.) Margaret Kamar, MP)

Debate arising;

And there being no other Senator wishing to contribute;

Before the Question was put, and pursuant to Standing Order No. 73, the Temporary Speaker (Sen. (Prof.) Margaret Kamar) informed the Senate that the Motion did not affect Counties;

Question put and agreed to.

RESOLVED ACCORDINGLY

THAT, Pursuant to Standing Orders 246 and 247, the Report of the Procedure and Rules Committee on amendments to the Standing Orders, laid on the table of the Senate on Tuesday, 7th August, 2018, be approved.

9. **MOTION - ENFORCEMENT OF THE NATIONAL TRANSPORT AND SAFETY AUTHORITY (OPERATION OF MOTORCYCLE) REGULATIONS, 2015**

THAT, AWARE that the National Transport and Safety Authority (NTSA) is mandated to plan, manage and regulate the road transport system, while ensuring the provision of safe, reliable and efficient road transport services;

FURTHER AWARE that motorcycle transport services have been rapidly embraced throughout the country leading to several challenges including: rise in road accidents involving motorcycle riders, unlawfulness, insecurity and road congestion;

COGNIZANT that the National Transport and Safety Authority (Operation of Motorcycles) Regulations that came into force on January 1, 2016 have not adequately addressed the challenges associated with the high numbers of motorcycles as a mode of transport;

NOW THEREFORE, the Senate resolves that the Ministry of Transport, Infrastructure, Housing, and Urban Development: -identify strategies to enforce the National Transport and Safety Authority (Operation of Motorcycles) Regulations; in collaboration with County Governments, develop programs to sensitize and educate members of boda-boda associations and the public on the laws regulating motorcycle operations; submits a Report to the Senate within ninety(90) days outlining the short and long term strategies, and preventative measures that are being put in place to halt the rising cases of road carnage involving motorcycle riders.

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

(Resumption of Debate interrupted on Thursday, 2nd August, 2018)

Order deferred.

10. **MOTION - REPORT OF THE SENATE DELEGATION TO THE FIRST EXTRAORDINARY SESSION OF THE FORUM OF PARLIAMENTS OF THE INTERNATIONAL CONFERENCE ON THE GREAT LAKES REGION (FP-ICGLR) HELD IN KINSHASA, DEMOCRATIC REPUBLIC OF CONGO**

THAT, this House adopts the Report of the proceedings of the First Extraordinary Session of the Plenary Assembly of the Forum of Parliaments of Member States of the International Conference on the Great Lakes Region (FP-ICGLR) held in Kinshasa, Democratic Republic of Congo from 19th – 20th March, 2018, laid on the Table of the Senate on Tuesday, 15th May, 2018.

(Sen. Samuel Poghisio, MP)

Order deferred.

11. **MOTION - DEVELOPMENT AND IMPLEMENTATION OF A NATIONAL DISASTER RISK FINANCING STRATEGY**

THAT, WHEREAS Kenya's disaster profile is dominated by droughts, fire, floods, terrorism, diseases and epidemics that disrupt livelihoods, destroy infrastructure, divert planned use of resources, interrupt economic activities and retard development;

FURTHER WHEREAS the government, through its various agencies, is ultimately responsible for disaster reduction, preparedness and management;

COGNIZANT of the fact that government agencies involved in disaster management are usually overwhelmed when called upon to provide response services during disasters and emergencies;

AWARE that the Kenya Red Cross Society Act, Cap 256 of the Laws of Kenya establishes the Kenya Red Cross Society, a sole national Red Cross Society in Kenya, as a voluntary aid society;

RECOGNIZING, the efforts of the Kenya Red Cross Society to provide first-line disaster response services in incidences of disasters and other emergencies across the country;

OBSERVING, the huge financial resources required to finance disaster reduction, preparedness and other emergency services;

NOTING that one of the sources of the Kenya Red Cross Society in financing its operations is through accepting unrestricted contributions and assistance, in any form, from individuals, public authorities and private bodies;

APPRECIATING, the efforts made by the prudent management of funds by the Kenya Red Cross Society;

FURTHER AWARE that emergency fund is a substantial proportionate Vote Head in both the national and county government budgets;

CONCERNED, that the Kenya Red Cross Society has not been allocated a budget from the national and county governments despite the huge contribution in disaster and emergency response across the country;

NOW THEREFORE, the Senate urges the national and county governments to explore collaborative mechanisms for the Kenya Red Cross Society to support and implement a paradigm shift from post disaster response to risk reduction by developing and implementing a national disaster risk financing strategy across all sectors and incorporate it into the national and county development planning and financing processes.

(Sen. George Khaniri, MP)

Order deferred.

12. **MOTION – REPORT OF THE SENATE DELEGATION TO THE INAUGURAL COMMONWEALTH PARLIAMENTARIANS’ FORUM**

THAT, this House notes the Report of the Senate Delegation to the Inaugural Commonwealth Parliamentarians’ Forum held at the Westminster Palace, London, United Kingdom from 26th February to 1st March, 2018 laid on the Table of the House on Thursday, 10th May, 2018.

(Sen. Moses Kajwang’, MP)

Order deferred.

13. **MOTION – FLOOD SITUATION IN THE COUNTRY**

THAT, AWARE that several days of heavy rains recently have caused severe flooding in many parts of the country, resulting in multiple deaths and devastating damage to property and infrastructure;

NOTING with concern that, whenever Kenya experiences periods of severe drought, torrential rains usually follow;

CONCERNED that year in year out, the challenge of floods continues to recur, leading to loss of human and animal life, displacement of people and wanton destruction of property;

COGNIZANT that the number of Kenyans needing emergency food aid as a result of displacement caused by the current floods continues to rise by the day, and that the floods have also washed away many bridges and destroyed roads in many parts of Kenya;

ALSO CONCERNED that no effective measures, such as improved storm water harvesting, proper drainage infrastructure and preventing the destruction of riparian reserves and natural water courses, to mitigate and/or provide a lasting solution to the menace of flooding, have been taken;

NOW THEREFORE, the Senate calls upon the National Government to develop a lasting framework to permanently address the challenge of effects of floods by, among other things-

1. developing and enforcing regulations for preventing the obstruction of riparian reserves and natural water courses; and
2. preventing and regulating the construction of informal settlements and ensuring prevention of construction on low lying areas and flood plains.

And further that the relevant government agency to execute this task submits a report to the Senate within three months of the adoption of this Motion.

(Sen. Fatuma Dullo)

Order deferred.

14. **MOTION - REMEDIES FOR CLOSURE OF SCHOOLS DUE TO FLOODS & INSTANCES OF INSECURITY**

THAT, AWARE that Article 43(1)(f) of the Constitution of Kenya provides that every person has a right to education and Article 53(1)(b) of the Constitution states that every child has the right to free and compulsory basic education;

COGNIZANT that on 5th January, 2018 during the flagging off of national delivery of core course books for schools at Cemastea Karen, His Excellency the President Uhuru Kenyatta stated that his administration has focused on initiatives that ensure every Kenyan has access to quality education, so they can acquire appropriate skills and knowledge that make our country globally competitive;

FURTHER AWARE that recently the country has suffered floods in many parts of the country leading to deaths and people being displaced and rendered homeless;

DEEPLY CONCERNED that some schools have also remained closed even after other schools reopened while others have been closed as a result of floods and instances of insecurity;

FURTHER NOTING that closure of schools due to the said floods as well as insecurity places students and pupils in those schools at a disadvantage as they are unable to access education which is their right, while some of the students in those schools are expected to sit for their national exams at the end of the year and their performance risks being negatively affected by the lost time out of school;

NOW THEREFORE, the Senate resolves that the Committee on Education, investigates this matter with a view to: -

1. identifying strategies to ensure that the affected students are able to access education as soon as possible;
2. outlining preventative measures to ensure that more students are not affected by the floods and insecurity; and
3. Submitting a Report to the Senate within sixty (60) days outlining the short and long term strategies, that are being put in place to ensure that schools in flood and insecurity prone areas are not affected in the future.

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

Order deferred.

15. **MOTION -IMPROVEMENT OF KENYA'S POSITION IN THE WORLD ECONOMIC FORUM TRAVEL AND TOURISM COMPETITIVENESS INDEX**

THAT, AWARE that the Ministry of Tourism has developed and published the Kenya National Tourism Blueprint 2030 in May 2017;

FURTHER AWARE that Kenya Tourism Agenda 2018 – 2022, launched in April 2018, establishes the foundation for the National Tourism Blueprint 2030 and is the tool for initiating the components of the Blue Print;

ALSO AWARE that the contribution of travel and tourism to Kenyan GDP stood at 9.7 % in 2017, up from the 9.3 % previous year;

COGNIZANT that in the next 10 years every industry will be changed by technology;

ALSO AWARE that Kenya Tourism Board has partnered with Google, Safaricom, Kenya Wildlife Service and Tourism Finance Corporation to create new digital content for local tourism;

CONCERNED that Kenya tourism industry's potential is underutilized;

AWARE that Kenya's position in World Economic Forum's Travel & Tourism Competitiveness Index Ranking is 80 out of 136 in 2017, having improved by 2 points from 2015, while having currently the lowest score in cultural resources and business travel with 1.6 points out of 7;

FURTHER CONCERNED that majority of the solutions proposed by the tourism agenda are brick and mortar type and not addressing the trends; noting that in less than two years, the share of online booking globally has grown from 9% to almost 33% and the lucrative and fast-growing segment of business tourism;

ALSO CONCERNED that Kenya will continue to attract only beach and park type tourists ignoring the large number of conference and business travellers, who largely never leave Nairobi and are offered minimal exposure to Kenya;

NOW THEREFORE, the Senate calls upon the Ministry of Tourism to approach tourism sector with modern innovation and implement tangible, measurable and impactful solutions, resulting in improvement of Kenya's ranking in the World Economic Forum Travel & Tourism Competitiveness Index 2019 by 6 positions and improve the lowest score of cultural resources and business travel by 1 point.

(Sen. Ledama Olekina, MP)

Order deferred.

16. **MOTION – PAYMENT OF A ONE-OFF HONORARIUM AND MONTHLY PENSION TO FORMER COUNCILORS**

THAT, AWARE that National Forum of Former Councilors petitioned the Senate regarding the need for legislative interventions to address the plight and welfare of former Councilors;

FURTHER AWARE that the Senate Standing Committee on Labour and Social Welfare considered the Petition and tabled its report on Tuesday, 16th February, 2016;

ACKNOWLEDGING that the Committee's report on the Petition made five recommendations among them that-

1. one-off honorarium of Kshs1.5 Million be paid to former councilors who served a minimum of one term since independence; and
2. monthly pension of at least Kshs30,000 be paid to former councilors.

APPRECIATING that the recommendations were based on the fact that former Councilors did not receive fixed emoluments and experienced disparities with regard to access to pension services and terms and conditions of pension schemes over the years, which made it difficult to fairly and equitably determine each councilor's rightful benefits retrospectively;

CONCERNED that the State Department for Social Services and Security, State Department for Devolution and the National Treasury have to date not implemented the Committee's recommendations on the Petition;

NOW THEREFORE, the Senate calls upon the Principal Secretaries to the said State Departments and the National Treasury to take necessary steps to implement the recommendations contained in the Report.

(Sen. John Kinyua, MP)

Order deferred.

17. **MOTION - REPORT OF THE 138TH ASSEMBLY OF THE INTER - PARLIAMENTARY UNION (IPU)**

THAT, this House notes the Report of the 138th Assembly of the Inter - Parliamentary Union (IPU) and related meetings held in Geneva, Switzerland from 22nd - 28th March, 2018 laid on the Table of the Senate on Thursday, 21st June, 2018.

(Sen. Susan Kihika, MP)

Order deferred.

18. **MOTION - REPORT OF THE SENATE DELEGATION TO THE AFRICAN PARLIAMENTARIANS' NETWORK AGAINST CORRUPTION (APNAC) CONFERENCE**

THAT, this House notes the Report of the Senate Delegation to the African Parliamentarians' Network Against Corruption (APNAC) Conference held in Ghana from 17th - 18th March, 2018, laid on the Table of the House on Tuesday, 19th June, 2018.

(Sen. (Dr.) Isaac Mwaura, MP)

Order deferred.

19. **MOTION - REPORT OF THE STANDING COMMITTEE ON EDUCATION ON THE 20TH COMMONWEALTH EDUCATION MINISTERS' CONFERENCE**

THAT, this House notes the Report of the Standing Committee on Education on the 20th Conference of Commonwealth Education Ministers (20CCEM) held in

Nadi, Fiji from 19-23 February, 2018, laid on the Table of the House on Thursday, 12th July, 2018.

(Chairperson, Standing Committee on Education)

Order deferred.

20. **MOTION - REPORT OF THE GLOBAL PARLIAMENTARY CONFERENCE (GPC) HELD AT THE WORLD BANK HEADQUARTERS**

THAT, this House notes the Report of the proceedings of the Global Parliamentary Conference (GPC), held at the World Bank Headquarters, in Washington DC, United States of America from 16th to 17th April, 2018, laid on the Table of the House on Thursday, 12th July, 2018.

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

Order deferred.

21. **MOTION – REPORT OF THE 49TH SESSION OF THE AFRICAN CARIBBEAN PACIFIC PARLIAMENTARY ASSEMBLY**

THAT, this House notes the Report of the 49th Session of the ACP Parliamentary Assembly and Inter- Sessional meeting of the ACP-EU Joint Parliamentary Assembly held on 20th – 22nd March, 2018 in Brussels, Belgium, laid on the Table of the House on Tuesday, 31st July, 2018.

(Sen. (Prof.) Margaret Kamar, MP)

Order deferred.

22. **MOTION –REPORT OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE ON THE 2018 COMMONWEALTH GAMES**

THAT, this House notes the Report of the Standing Committee on Labour and Social Welfare on the 2018 Commonwealth Games held in Gold-Coast, Australia from 4th to 15th April, 2018.

(Sen. (Dr.) Alice Milgo, MP)

Order deferred.

23. **MOTION – REPORT OF THE STANDING COMMITTEE ON EDUCATION ON THE TVET CONFERENCE**

THAT, this House notes the Report of the Standing Committee on Education on the TVET Conference held in Victoria, Canada from 27th April – 2nd May, 2018.

(Sen. (Dr.) Christopher Lang'at, MP)

Order deferred.

24. **MOTION – NEED TO ADDRESS THE PLIGHT OF STREET FAMILIES IN URBAN CENTRES**

THAT, AWARE the Street Families Rehabilitation Trust Fund (SFRTF) was established on 11th March, 2003 by the then Ministry of Local Government to address the concerns of all homeless, destitute and vulnerable persons in urban areas, and was registered as a body Corporate in August, 2010 under the Trustees (perpetual succession) Cap 164, Laws of Kenya;

FURTHER AWARE THAT the mandate of SFRTF includes coordinating rehabilitation activities for street families; conducting public education on street families issues; mobilizing resources and fundraising as well as receiving donations and funding street families rehabilitation programmes; managing donations for the rehabilitation of street families through a trust fund; monitoring expenditure and disbursement of donations; and advising the government and other relevant agencies on matters relating to rehabilitation of street families;

NOTING THAT Article 43 (1) of the Constitution of Kenya provides for the right to every person to the highest attainable standard of health, accessible and adequate housing, adequate food of acceptable quality, clean and safe water in adequate quantities, education, and social security;

CONCERNED THAT the street family phenomenon has persisted despite the existence of the SFRTF and street families do not enjoy the rights enshrined in the Constitution due to lack of a national policy on the rehabilitation of street families, with women and children being the primary victims;

COGNIZANT THAT the Ministry of Devolution and ASAL Areas through the SFRTF supports children and youth through charitable and community based organizations which are vetted and approved for funding under the rescue, rehabilitation and reintegration of street families programme;

NOTING THAT both the National and County Governments have a role to play in addressing the plight of street families across the Country;

NOW THEREFORE the Senate resolves that Ministry of Devolution and ASAL Areas in collaboration with the Council of Governors-

1. conducts a census of street families in all urban centres in the country to determine their numbers and demographics;
2. develops a clear policy on street families rehabilitation and reintegration at county level; and
3. tables an audit report of how funds allocated to the SFRTF have been utilized since the Fund was established, indicating the impact of the rehabilitation exercise.

(Sen Beatrice Kwamboka, MP)

Order deferred.

25. **MOTION - ADJOURNMENT OF THE SENATE**

Motion made and Question proposed;

THAT, pursuant to Standing Orders 28 and 29, the Senate do adjourn until Tuesday, 11th September, 2018.

(The Senate Majority Leader)

Debate arising;

And the time being forty minutes past Seven O'clock, the Temporary Speaker (Sen. (Prof.) Margaret Kamar) adjourned the Senate without Question put, pursuant to the Standing Orders.

26. **SENATE ROSE** - at forty minutes past Seven O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Tuesday, September 11, 2018 at 2.30 p.m.*

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