



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – SECOND SESSION

THE SENATE

VOTES AND PROCEEDINGS

THURSDAY, OCTOBER 18, 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 Deputy Speaker.
3. **PAPERS LAID**

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

- a) Report of the Standing Committee on Labour and Social Welfare on the Retirement Benefits (Deputy President and Designated State Officers) (Amendment) Bill, 2018. (Senate Bills No. 2 of 2018).

(Chairperson, Standing Committee on Labour and Social Welfare)

- b) Report of the East African Legislative Assembly (EALA) on Reports, Bills and Resolutions adopted by the Assembly at the First Meeting of the 2nd Session of the 4th Assembly Arusha-Tanzania;
- c) Report of the Auditor-General on the Financial Statements of the County Assembly of Baringo for the year ended 30 June 2017;
- d) Report of the Auditor-General on the Financial Statements of the County Assembly of Bomet for the year ended 30 June 2017;
- e) Report of the Auditor-General on the Financial Statements of the County Assembly of Kericho for the year ended 30 June 2017;
- f) Report of the Auditor-General on the Financial Statements of the County Assembly of Kiambu for the year ended 30 June 2017;
- g) Report of the Auditor-General on the Financial Statements of the County Assembly of Kirinyaga for the year ended 30 June 2017;
- h) Report of the Auditor-General on the Financial Statements of the County Assembly of Laikipia for the year ended 30 June 2017;

- i) Report of the Auditor-General on the Financial Statements of the County Assembly of Murang'a for the year ended 30 June 2017;
- j) Report of the Auditor-General on the Financial Statements of the County Assembly of Nakuru for the year ended 30 June 2017;
- k) Report of the Auditor-General on the Financial Statements of the County Assembly of Narok for the year ended 30 June 2017;
- l) Report of the Auditor-General on the Financial Statements of the County Assembly of Nyeri for the year ended 30 June 2017;
- m) Report of the Auditor-General on the Financial Statements of the County Assembly of Nyandarua for the year ended 30 June 2017;
- n) Report of the Auditor-General on the Financial Statements of the County Assembly of Samburu for the year ended 30 June 2017; and
- o) The Statement on the Business of the Senate for the week commencing Tuesday, 23rd October, 2018

(The Senate Deputy Majority Leader)

4. **STATEMENTS**

a) Statement Pursuant to Standing Order No. 48 (1)

- (i) Nominated Senator (Sen. Judith Pareno, MP) requested for a statement from the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration on the funding of the East Africa Community by the partner states.
- (ii) The Senator for Nairobi City County (Sen. Sakaja Johnson, MP) requested for a statement from the Chairperson, Standing Committee on Land, Environment and Natural Resources, on the availability and accessibility of water in Nairobi City County.
- (iii) The Senator for Nairobi City County (Sen. Sakaja Johnson, MP) requested for a statement from the Chairperson, Standing Committee on Land, Environment and Natural Resources, on demolitions in Nairobi City County.

b) Statement Pursuant to Standing Order No. 52 (1)

The Senate Deputy Majority Leader issued a statement on the business of the Senate for the week commencing Tuesday, 23rd October, 2018.

5. **THE CARE AND PROTECTION OF OLDER MEMBERS OF SOCIETY BILL (SENATE BILLS NO. 17 OF 2018)**

(Sen. Aaron Cheruiyot, MP)

(Second Reading)
(Division)

Order Deferred.

6. **THE PREVENTION OF TERRORISM (AMENDMENT) BILL (SENATE BILLS NO. 20 OF 2018)**

(Sen. (Canon) Naomi Waqo Jilo, MP)

(Second Reading)

(Division)

Order Deferred.

7. **THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE) BILL (SENATE BILLS NO. 22 OF 2018)**

(Sen. Judith Pareno, MP)

(Second Reading)

(Division)

Order Deferred.

8. **THE COUNTY WARDS DEVELOPMENT EQUALIZATION FUND BILL (SENATE BILLS NO. 5 OF 2018)**

Order for Second Reading read-

Motion made and Question proposed:-

THAT, the County Wards Development Equalization Fund Bill (Senate Bills No. 5 of 2018) be now read a second time.

(Sen. Irungu Kangáta, MP – 10.05.2018)

Pursuant to standing order 154(1), the Mover (Sen. Kang'ata Irungu, MP) claimed to withdraw the Bill, to pave way for its republication in amended form, pursuant to standing order 154(3);

And the Temporary Speaker (Sen. (Prof.) Margaret Kamar) acceding to the request, allowed the Mover to withdraw the Bill.

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

Motion made and Question proposed:-

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: -

1. identify strategies to enforce the National Transport and Safety Authority (Operation of Motorcycles) Regulations;
2. 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;
3. 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- 2.08.2018)

Debate interrupted on Thursday, 13th September, 2018 resumed;

And there being no other Senator wishing to contribute;

Mover replied;

Before the Question was put and pursuant to Standing Order 79 (1) the Temporary Speaker (Sen. (Prof.) Margaret Kamar) informed the House that the Motion does not affect counties.

Question put and agreed to.

RESOLVED ACCORDINGLY-

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: -

1. identify strategies to enforce the National Transport and Safety Authority (Operation of Motorcycles) Regulations;

2. 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;
3. 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.

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

Motion made and Question proposed:-

THAT, AWARE that National Forum of Former Councillors 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 Kshs. 1.5 Million be paid to former councillors who served a minimum of one term since independence; and
2. monthly pension of at least Kshs. 30,000 be paid to former councillors.

APPRECIATING that the recommendations were based on the fact that former councillors 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 councillor'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)

Debate arising;

And there being no other Senator wishing to contribute;

Mover replied;

Before the Question was put and pursuant to Standing Order 79 (1) the Temporary Speaker (Sen. Judith Pareno) informed the House that the Motion does not affect counties.

Question put and agreed to.

RESOLVED ACCORDINGLY-

THAT, AWARE that National Forum of Former Councillors 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 Kshs. 1.5 Million be paid to former councillors who served a minimum of one term since independence; and
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APPRECIATING that the recommendations were based on the fact that former councillors 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 councillor'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.

11. **MOTION - USAGE OF SIGNING EXACT ENGLISH (SEE) AS A MODE OF INSTRUCTION FOR PERSONS WITH HEARING IMPAIRMENT.**

Motion made and Question proposed:

THAT, AWARE that Article 43 (f) of the Constitution stipulates that every person has a right to education;

FURTHER AWARE that Kenya is among the State Parties that ratified the United Nations Convention on the Rights of Persons with Disabilities in which the parties undertook to ensure that persons with disabilities are not excluded from the general education system and that the education of persons, and in particular children, who are blind, deaf or deaf-blind, is delivered in the most

appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development;

ACKNOWLEDGING that hearing impaired learners have linguistic challenges and perform dismally in academics since all subjects other than Kiswahili and foreign languages are taught and examined in English;

COGNIZANT that hearing impaired learners who are educable can master the essentials of English language as they are able to sign sing the National Anthem in Signing Exact English (SEE);

NOW THEREFORE, the Senate calls upon the Ministry of Education, Science and Technology to-

1. ensure that Signing Exact English (SEE) is used as a mode of instruction for persons with hearing impairment who are educable;
2. develop SEE instructional materials for learners with hearing impairment;
3. work with linguists and researchers to develop sign language resources; and
4. ensure that sign language linguistics is offered as a discipline in universities and teacher training colleges.

(Sen. (Dr.) Getrude Musuruve, MP – 11.10.2018)

Order Deferred.

12. **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.

13. **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.

14. **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.

15. **MOTION - REPORT OF THE 62ND SESSION OF THE COMMISSION ON THE STATUS OF WOMEN**

THAT, this House notes the Report of the 62nd Session of the Commission on the Status of Women laid on the Table of the House on Tuesday, 17th July, 2018.

(Sen. Abshiro Halake, MP)

Order Deferred.

16. **MOTION - REPORT OF THE 49TH SESSION OF THE AFRICAN CARIBBEAN PACIFIC PARLIAMENTARY ASSEMBLY AND INTER - SESSIONAL MEETING**

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.

17. **MOTION - REPORT OF THE SIXTH ORDINARY SESSION OF THE FOURTH PAN - AFRICAN PARLIAMENT**

THAT, this House notes the Report of the Sixth Ordinary Session of the Fourth Pan- African Parliament held in Midrand, South Africa, from 7th to 18th May, 2018, laid on the Table of the House on Tuesday, 24th July, 2018.

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

Order Deferred.

18. **MOTION - REHABILITATION OF STREET FAMILIES.**

AWARE THAT 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.

19. **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, laid on the Table of the Senate on Wednesday, 1st August, 2018.

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

Order Deferred.

20. **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, laid on the Table of the Senate on Wednesday, 1st August, 2018.

(Sen. (Dr.) Christopher Lang’at, MP)

Order Deferred.

21. **MOTION – REPORT OF THE SENATE DELEGATION TO THE CONFERENCE ON ENHANCING THE ROLE OF PARLIAMENTARIANS IN THE INTERLINKAGE BETWEEN POPULATION ISSUES AND THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT**

THAT, this House notes the Report of the Senate Delegation to the Conference on Enhancing the Role of Parliamentarians in the Interlinkage between Population Issues and the 2030 Agenda for Sustainable Development, held in New Delhi, India from 13th – 15th September, 2017, laid on the Table of the House on Thursday, 2nd August, 2018.

(Sen. Fredrick Outa, MP)

Order Deferred.

22. **MOTION – REPORT OF THE SENATE DELEGATION TO THE 39TH ANNUAL FORUM OF PARLIAMENTARIANS FOR GLOBAL ACTION**

THAT, the Senate notes the Report of the Kenya delegation to the 39th Annual Forum of Parliamentarians for Global Action laid on the Table of the House on Thursday 11.10.2018.

(Sen. Mutula Kilonzo Jnr, MP)

Order Deferred.

And the there being no other Business in the Order Paper, and the time being thirty four minutes past Five O’ clock, the Temporary Speaker (Sen. Judith Pareno) adjourned the Senate without Question put, pursuant to the Standing Orders.

23. **SENATE ROSE** – at thirty four minutes past Five O’clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Tuesday, October 23, 2018 at 2.30 p.m.*

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