



**REPUBLIC OF KENYA**  
**TWELFTH PARLIAMENT – (THIRD SESSION)**  
**THE SENATE**  
**ORDER PAPER**  
**TUESDAY, MAY 14, 2019 AT 2.30 PM**

**PRAYERS**

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers (as listed in the Appendix)
6. Notices of Motion (as listed in the Appendix)
7. Statements (as listed in the Appendix)
8. **\*THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS NO. 31 OF 2018)**  
(Sen. (Dr.) Agnes Zani, MP)  
*(Second Reading)*  
*(Resumption of debate interrupted on Wednesday, 27<sup>th</sup> March, 2019)*  
*(Division)*
9. **\*THE COUNTY OVERSIGHT AND ACCOUNTABILITY BILL (SENATE BILLS NO. 28 OF 2018)**  
(Sen. Ledama Olekina, MP)  
*(Second Reading)*  
*(Resumption of debate interrupted on Wednesday, 3<sup>rd</sup> April, 2019)*  
*(Division)*
10. **MOTION – REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE COUNTY GOVERNMENTS’ INFRASTRUCTURE PROJECTS**  
(Chairperson, Standing Committee on Finance and Budget)

**THAT**, this House adopts the Report of the Standing Committee on Finance and Budget on the County Governments’ infrastructure projects comprising County Executive Headquarter offices, Assembly Chambers and offices and County State

...../Bill

officers' residences, laid on the Table of the Senate on Thursday, 29<sup>th</sup> November, 2018.

***(Resumption of debate interrupted on Thursday, 28<sup>th</sup> March, 2019)***  
***(Division)***

11. **\*THE DETERMINATION OF THE NATURE OF BILLS (PROCEDURE) BILL (SENATE BILLS NO. 30 OF 2018)**  
(Sen. Mutula Kilonzo Jnr., MP and Sen. Sakaja Johnson, MP)  
*(Second Reading)*  
***(Resumption of debate interrupted on Wednesday, 3<sup>rd</sup> April, 2019)***
12. **\*THE MENTAL HEALTH (AMENDMENT) BILL (SENATE BILLS NO. 32 OF 2018)**  
(Sen. (Arch.) Sylvia Kasanga, MP)  
*(Second Reading)*
13. **\*THE ELECTION LAWS (AMENDMENT) BILL (SENATE BILLS NO. 33 OF 2018)**  
(Sen. Ledama Olekina, MP)  
*(Second Reading)*
14. **\*THE NATIONAL COHESION AND PEACE BUILDING BILL (SENATE BILLS NO. 35 OF 2018)**  
(Sen. Judith Pareno, MP)  
*(Second Reading)*
15. **\*THE ELECTION LAWS (AMENDMENT) (NO. 2) BILL (SENATE BILLS NO. 37 OF 2018)**  
(Sen. (Dr.) Agnes Zani, MP)  
*(Second Reading)*
16. **\*\*\*THE GOVERNMENT CONTRACTS BILL (NATIONAL ASSEMBLY BILLS NO. 9 OF 2018)**  
(The Senate Majority Leader)  
*(Second Reading)*
17. **\*THE KENYA MEDICAL SUPPLIES AUTHORITY (AMENDMENT) BILL (SENATE BILLS NO. 38 OF 2018)**  
(Sen. Mary Seneta, MP)  
*(Second Reading)*
18. **\*\*\*\*THE COUNTY HALL OF FAME BILL (SENATE BILLS NO. 39 OF 2018)**  
(The Senate Majority Leader)  
*(Second Reading)*
19. **\*THE PERSONS WITH DISABILITIES (AMENDMENT) BILL (SENATE BILLS NO. 1 OF 2019)**  
(Sen. Aaron Cheruiyot, MP and Sen. Isaac Mwaura, MP)  
*(Second Reading)*

...../Motion

**20. MOTION - COMPLETION OF ALL STALLED PROJECTS UNDER COUNTY GOVERNMENTS THROUGH BUDGETARY MANAGEMENT**

(Sen. Charles Reubenson Kibiru, MP)

**THAT, AWARE THAT** Kenya has had a development blueprint of Vision 2030 since 2008 which has guided planning and development for the last decade, with a focus to making Kenya an industrialized middle income economy with a higher per capita income for its citizens;

**FURTHER AWARE THAT**, the development planning of the country is funded from the Consolidated Fund through the annual budget whereby revenues generated by Kenyans through taxes, levies, and fees that are supplemented with support of development partners in the form of outright loans, conditional loans, grants and/or unconditional grants to support growth and development across the country;

**COGNIZANT THAT**, any diversion from the Vision 2030 blueprint as well as the President’s “Big Four” Agenda, would negatively impact the development trajectory that seeks to ensure a long term microeconomic stability resulting in a revision of targets on the goals for socio-economic, cultural, environmental, technological and political transformation;

**NOTING THAT**, whereas the National Government’s Budget is based on Vision 2030 and “Big Four” Agenda, the County Governments’ Budgets are based on their respective County Integrated Development Plans, (CIDPs) which are expected to dovetail with the overall national development blueprint;

**CONCERNED THAT**, there are glaring discrepancies in progress made in development among counties, particularly among the 14 devolved functions caused by lack of accountability, integrity, professionalism and remaining a blemish on the successes of devolution;

**ACKNOWLEDGING**, the tribulations, ridicule, pecuniary embarrassment and negative socio-economic impact that pending bills have had on the local business community who supplied or undertook a service for the county governments, and the attendant slowdown in actual project completion, the rise in stalled projects dotting counties, with County Governors prioritizing new projects instead of the completion of those which have stalled;

**FURTHER ACKNOWLEDGING THAT**, the National Treasury in its circular No. 9/2018 detailed the five hundred and forty five (545) projects which have stalled in the 47 Counties, and their status of completion, collectively amounting to an estimated project cost of three hundred and sixty six (366) Billion Kenya shillings;

**NOW THEREFORE**, the Senate recommends that the National Treasury in partnership with the Controller of Budget, Commission on Revenue Allocation, the Council of Governors and the County Assemblies Forum to-

1. Ensure that all the County Integrated Development Plans (CIDP’s) and Annual Development Plans (ADP’s) are aligned to Vision 2030 with an implementation, monitoring, and evaluation framework in place;

...../Motion

- 2. Address Pending Bills by prioritizing their payment, creating clear timeframes for payment and publishing a schedule of payment of the same; and
- 3. Prioritize the completion of stalled development projects prior to undertaking or funding new projects.

21. **MOTION - REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE ANNUAL REPORT OF THE COUNTY GOVERNMENTS BUDGET IMPLEMENTATION REVIEW FOR FINANCIAL YEAR 2017/2018**

(Chairperson, Standing Committee on Finance and Budget)

**THAT**, this House adopts the Report of the Standing Committee on Finance and Budget on the Annual Report of the County Governments Budget Implementation Review for Financial Year 2017/2018, laid on the Table of the Senate on Wednesday, 27<sup>th</sup> March, 2019.

22. **MOTION - THE REALIZATION OF GENDER EQUITY IN ELECTIVE AND APPOINTIVE POSITIONS IN KENYA**

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

**AWARE THAT**, the Constitution of Kenya recognizes dignity, economic, social and cultural rights, education, housing and the right to health including reproductive health; and that the principle of equality and non-discrimination is established as a core value of leadership and the national values and principles of governance include human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of marginalized groups, among others;

**FURTHER AWARE THAT**, the Constitution of Kenya has very progressive articles that indicate commitment to the international and regional obligations arising from treaties and conventions and other Commitments signed or ratified;

**COGNIZANT** that Kenya has ratified the Convention on Elimination of all forms of discrimination against Women and the Protocol to the African Charter on Human and People’s Rights of the Right of Women which are international instruments that are key to promoting women’s rights;

**RECALLING** that policy framework to enhance gender equality has also been developed, and include the National Gender and Development Policy 2000, the Kenya Vision 2030, Sessional paper No. 2, of 2006, the National Land Policy, the National Policy for Response to Gender Based Violence, and the National Policy for the Abandonment of Female Genital Mutilation;

**NOTING THAT**, despite there being sound constitutional provisions and elaborate policy framework to realise gender equity, both national government and county governments have not done enough to realise the achievement of gender equality;

**CONCERNED** that women in Kenya experience hardships when it comes to elective offices, and are underrated by society with most opportunities for elective and appointive offices being awarded to men;

...../Motion

**NOW THEREFORE THE SENATE RESOLVES**

1. that Parliament fast track the enactment of the law that shall give effect to the one third gender rule; and,
2. that pursuant to Article 81 of the Constitution both the National and County governments observe the principle of equality, and empowers the female gender by increasing the appointive position to at least fifty per cent.

23. **MOTION - RENAMING OF MURANG’A UNIVERSITY OF TECHNOLOGY TO KENNETH MATIBA UNIVERSITY OF TECHNOLOGY.**

(Sen. Isaac Mwaura, MP)

**THAT AWARE THAT**, Murang’a University of Technology (MUT) is a Chartered University established under Section 13 of the Universities Act, 2012, and is positioning itself to develop a distinctive profile as a progressive and international Technical University, growing its enrolment strategically;

**FURTHER AWARE** that the University is located in Murang’a County, the home County of the late politician Kenneth Njndo Matiba, who died a patriotic and political hero, with numerous achievements spanning four decades;

**NOTING THAT**, the late Matiba was a prolific industrialist in the hospitality and education sector, and an accomplished public servant having served as the first indigenous African Permanent Secretary for Education in 1963; Permanent Secretary for Commerce; Chairperson of the Kenya Football Federation from 1974-78; a member of parliament for Kiharu constituency; Cabinet Minister for Health; Culture & Social Services; and Transport & Communications;

**FURTHER NOTING THAT**, the late Matiba was part of the opposition alliance that led the liberation struggle for the restoration of multi-party democracy through the Forum for the Restoration of Democracy (FORD), later founding FORD –Asili under which he ran for presidency in 1992 general election;

**COGNIZANT** that under the Heroes Act, 2014, the state is obliged to confer recognition to the late statesman for his cardinal contributions to the political and economic growth of this country;

**FURTHER COGNIZANT** that other patriotic Kenyans like Jomo Kenyatta, Daniel arap Moi, Masinde Muliro, Dedan Kimathi and Jaramogi Oginga Odinga have been accorded such recognition;

**NOW THEREFORE**, the Senate urges the National Government in remembrance of Matiba’s contribution to our Nation, to rename Murang’a University of Technology to Kenneth Matiba University of Technology.

...../Motion

24. **MOTION - ESTABLISHMENT OF THE INFRASTRUCTURE NEEDS OF SELECTED COUNTY GOVERNMENTS**

(Sen. Okong'o Mogeni, MP)

**AWARE** that the Senate, on 16<sup>th</sup> July 2015, resolved to establish an *ad hoc* Committee to inquire into the status of County Headquarters and identify the needs of each of the forty-seven counties, which would form the basis for possible assistance to the identified counties;

**RECALLING THAT** the *ad hoc* Committee on County Headquarters tabled its Report in the Senate on 3<sup>rd</sup> December 2015 in which it recommended that 11 Counties be supported, as follows:

1. Those in dire need and requiring immediate assistance ('AA category'): Isiolo, Lamu, Nyandarua, Tana River and Tharaka Nithi Counties; and
2. Those requiring assistance to help them develop their Headquarter infrastructure ('A category'): Bomet, Kitui, Marsabit, Nyamira, Siaya and Taita Taveta Counties.

**FURTHER RECALLING THAT** with regard to the five counties classified under the 'AA category', the Committee recommended that each be allocated a sum of Kshs.800 million as conditional grants, while the six counties classified under the 'A category' be each allocated a sum of Kshs.300 million as conditional grants;

**AWARE THAT** the Senate, on 1<sup>st</sup> March 2016 adopted, without amendments, the Report of the *ad hoc* Committee on County Headquarters;

**COGNIZANT THAT** following the said resolution of the Senate, conditional grants have been advanced to the five counties classified under the 'AA category', during the financial years 2017/2018, 2018/2019 and further allocations have been budgeted for the financial year 2019/2020;

**CONCERNED THAT** to date, no allocations have been made by way of conditional grants to the six counties identified as requiring assistance under category A, and that these counties continue to experience grave challenges in terms of infrastructure that have hampered their operations;

**AWARE THAT** the said counties are at various stages of putting up the infrastructure required to make them fully operational, and that some may have already been completed;

**ACKNOWLEDGING THAT** the Senate is mandated to protect the interests of counties and their governments, which includes ensuring that the county governments are fully operational;

**NOW, THEREFORE,** the Senate resolves that the Standing Committee on Devolution and Intergovernmental Relations undertakes an assessment of the current status of county government facilities in the following counties, and to report to the Senate within three months: -

...../Motion

1. **Under ‘category AA’:**

Isiolo, Lamu, Nyandarua, Tana River and Tharaka Nithi Counties; with a view to ascertaining uptake of the funds allocated so far, progress made in construction of County Headquarter facilities, and whether any additional budgetary support is still required; and

2. **Under ‘category A’:**

Bomet, Kitui, Marsabit, Nyamira, Siaya and Taita Taveta Counties; with a view to ascertaining the current status of County Headquarter facilities, which would form the basis for possible budgetary assistance to the said Counties.

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**NOTICE**

The Senate resolved on 13<sup>th</sup> February, 2019 as follows:-

**THAT**, pursuant to Standing Order 106 (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 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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**APPENDIX**

**1. PAPERS**

- a) Report of the Mediation Committee on the Warehouse Receipt System Bill (Senate Bills No. 10 of 2017).

*(Chairperson, Mediation Committee)*

- b) The National Treasury Annual Public Debt Management report for 2015/2016;
- c) The National Treasury Annual Public Debt Management report for 2016/2017;
- d) Report of the Auditor-General on the Financial Statements of Busia County Assembly Car Loan and Mortgage Scheme (Revolving Fund) for the Year ended 30<sup>th</sup> June, 2018;
- e) Report of the Auditor-General on the Financial Statements of Ruiru-Juja Water and Sewerage Company Limited for the Year ended 30<sup>th</sup> June, 2018;
- f) Report of the Auditor-General on the Financial Statements of County Assembly of Taita Taveta for the Year ended 30<sup>th</sup> June, 2017;
- g) Report of the Auditor-General on the Financial Statements of Nakuru Rural Water and Sanitation Company Ltd. for the Year ended 30<sup>th</sup> June, 2018;
- h) Report of the Auditor General on the Financial Statements of Nakuru Water and Sanitation Services Company Limited for the Year ended 30<sup>th</sup> June, 2018;
- i) Report of the Auditor General on the Financial Statements of Eldama Ravine Water and Sewerage Company Limited for the Year ended 30<sup>th</sup> June, 2018;
- j) Report of the Auditor General on the Financial Statements of Mombasa County Elimu Fund for the Year ended 30<sup>th</sup> June, 2018;
- k) Report of the Auditor General on the Financial Statements of Mombasa County Alcoholic Drinks Control Fund for the Year ended 30<sup>th</sup> June, 2018;
- l) Report of the Auditor General on the Financial Statements of Mombasa County Consolidated Revolving Fund for the Year ended 30<sup>th</sup> June, 2018;
- m) Report of the Auditor General on the Financial Statements of Gusii Water and Sanitation Company Limited for the Year ended 30<sup>th</sup> June, 2018;
- n) Report of the Auditor General on the Financial Statements of Nyamira County Assembly Car and Mortgage Loan Scheme Fund for the Year ended 30<sup>th</sup> June, 2018;
- o) Report of the Auditor General on the Financial Statements of Murang'a South Water and Sanitation Company Limited for the Year ended 30<sup>th</sup> June, 2018;
- p) Report of the Auditor General on the Financial Statements of Kahuti Water and Sanitation Company Limited for the Year ended 30<sup>th</sup> June, 2018; and



- q) Report of the Auditor General on the Financial Statements of Kirinyaga County Executive Alcoholic Drinks Control Fund for the Year ended 30<sup>th</sup> June, 2018.

*(The Senate Majority Leader)*

**2. NOTICES OF MOTION**

- (i) **ADOPTION OF THE REPORT OF THE MEDIATION COMMITTEE ON THE WAREHOUSE RECEIPT BILL (SENATE BILLS NO. 10 OF 2017)**

(Chairperson, Mediation Committee)

**THAT**, the Senate adopts the Report of the Mediation Committee on the Warehouse Receipt System Bill (Senate Bills No. 10 of 2017) laid on the Table of the Senate on Tuesday, 14<sup>th</sup> May, 2019 and pursuant to Article 113 of the Constitution and Standing Order 161 (3) of the Senate Standing Orders approves the mediated version of the Bill.

- (ii) **AD HOC COMMITTEE TO INVESTIGATE MANAGED EQUIPMENT SERVICES (MES).**

(Sen. Moses Wetang'ula, MP)

**THAT, AWARE THAT** while Health is a devolved function, Article 4(3) of the Constitution states that 'the governments at the national and county levels are distinct and inter-dependent and shall conduct their mutual relations on the basis of consultation and cooperation';

**FURTHER AWARE THAT**, there is no existing comprehensive legal framework to guide the consultative and collaborative process between the Ministry of Health (MoH) and County Governments;

**COGNIZANT THAT**, when the Managed Equipment Services (MES) project was launched on 6<sup>th</sup> February, 2015, the Ministry of Health entered into arrangements with five foreign firms for the provision of specialized medical equipment worth Kshs. 38 Billion;

**NOTING THAT**, according to the Ministry of Health, the project is aimed at improving health infrastructure and enhancing the capacity of counties to provide specialized health care targeting non-communicable conditions such as cancer and renal conditions, as well as to promote diagnostic, radiological and critical care services;

**CONCERNED THAT**, the Council of Governors (COG) has voiced opposition to the project on the grounds that County governments were not involved in the tender-procurement process, the monies are debited annually from the accounts of the Counties directly by the Treasury, there was lack of proper consultation between the Ministry of Health and County governments, and, that leasing the medical equipment was ultimately more expensive than direct purchase;

**CONCERNED FURTHER THAT**, the extent to which county government structures or institutions were involved in the project has remained unclear, and the opposition raised by the COG reveals serious gaps in the consultative process between the MoH and county governments, including the terms of the contracts which end in 2022;

**NOW THEREFORE** in exercise of its oversight function, the Senate resolves to establish an adhoc committee to investigate and establish the facts surrounding the leasing of the Medical Equipment, in the now 119 beneficiary hospitals country wide, including-

- i) whether county governments were involved in prioritizing the medical equipment in accordance with their needs;
- ii) the details of the company from which the equipment was leased;
- iii) the viability and benefit of leasing versus outright purchase;
- iv) the availability of adequate numbers of health human resource to provide specialized health services as envisaged in this project;
- v) the operation, training and maintenance facilities in place for the equipment;
- vi) the terms and period of the lease of each piece of equipment, where the equipment was supplied, the lease amount, and who bears the cost of the residual value of the equipment at the end of the lease term;
- vii) the schedule of equipment supplied to each hospital, and the cost thereof, including proof that the monies disbursed were utilised for the intended purpose; and,
- viii) the results of the exercise, considering the terms of the contract end in 2022, when equipment has remained unused in some counties despite the county having paid annually for the installation, maintenance and utilization of the same since 2015.

and submit a report to the House within 90 days;

**AND FURTHER THAT**, the following Senators be appointed to serve in the committee –

- |                                      |                |
|--------------------------------------|----------------|
| 1. Sen. Moses Wetang’ula, EGH, MP    | - Co-Chair;    |
| 2. Sen. Mary Seneta, MP              | - Co-Chair;    |
| 3. Sen. (Prof.) Sam Ongeru, EGH, MP  | - Member;      |
| 4. Sen. (Dr.) Christopher Langat, MP | - Member;      |
| 5. Sen. Mohammed Faki, MP            | - Member;      |
| 6. Sen. Fatuma Dullo, CBS, MP        | - Member;      |
| 7. Sen. Petronilla Were Lokorio, MP  | - Member;      |
| 8. Sen. Paul Kimani Wamatangi, MP    | - Member;      |
| 9. Sen. Mutula Kilonzo Jr., MP       | - Member;      |
| 10. Sen. Fredrick Outa, MP           | - Member, and, |
| 11. Sen. Farhiya Ali, MP             | - Member.      |

**3. STATEMENT PURSUANT TO STANDING ORDER NO. 47(1)**

- a) The Senator for Kisumu (Sen. Fredrick Outa, MP) to make a statement on the 4<sup>th</sup> Annual Legislative Summit held in Kisumu city county.

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