



REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (THIRD SESSION)

THE SENATE

ORDER PAPER

THURSDAY, MAY 16, 2019 AT 2.30 PM

PRAYERS

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions (as listed in the Appendix)
5. Papers (as listed in the Appendix)
6. Notices of Motion
7. Statements (as listed in the Appendix)
8. ***THE ELECTION LAWS (AMENDMENT) (NO. 2) BILL (SENATE BILLS NO. 37 OF 2018)**
(Sen. (Dr.) Agnes Zani, MP)
(Second Reading)
(Resumption of debate interrupted on Wednesday, 15th May, 2019)
(Mover to Reply)
9. ***THE ELECTION LAWS (AMENDMENT) BILL (SENATE BILLS NO. 33 OF 2018)**
(Sen. Ledama Olekina, MP)
(Second Reading)
(Resumption of debate interrupted on Tuesday, 14th May, 2019)
(Division)
10. **MOTION – ADOPTION OF THE REPORT OF THE MEDIATION COMMITTEE ON THE WAREHOUSE RECEIPT SYSTEM 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, 14th May, 2019 and pursuant to Article 113 of the Constitution

...../Motion

and Standing Order 161 (3) of the Senate Standing Orders approves the mediated version of the Bill.

***(Resumption of debate interrupted on Wednesday, 15th May, 2019)
(Division)***

11. 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;

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.

...../Motion

12. **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;
 2. Address Pending Bills by prioritizing their payment, creating clear timeframes for payment and publishing a schedule of payment of the same;
- and

...../Motion

3. Prioritize the completion of stalled development projects prior to undertaking or funding new projects.

13. **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 Njindo 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.

14. **MOTION** - (The Senate Majority Leader)

THAT pursuant to Standing Order 159, the amendments of the National Assembly to the County Governments (Amendment) (No.2) Bill (Senate Bills No. 7 of 2017) be now considered.

15. **MOTION - ADDRESSING THE PLIGHT OF STREET FAMILIES IN URBAN CENTRES**

(Sen. Beatrice Kwamboka, MP)

AWARE THAT the Street Families Rehabilitation Trust Fund (SFRTF) was established on 11th March, 2003 by the then Ministry of Local Government to

...../Motion

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.

16. **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, 27th March, 2019.

...../Motion

17. **MOTION –REPORT OF THE PARLIAMENT OF KENYA DELEGATION TO 50TH SESSION OF AFRICAN CARIBBEAN PARLIAMENT (ACP) AND 35TH SESSION OF THE ACP – EU JOINT PARLIAMENTARY ASSEMBLY**

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

THAT, this House notes the Report of the Parliament of Kenya delegation to the 50th Session of the ACP Parliamentary Assembly and the 35th Session of the ACP-EU Joint Parliamentary Assembly held in Brussels, Belgium from 13th to 20th June, 2018.

18. **MOTION –REPORT OF THE PARLIAMENT OF KENYA DELEGATION TO THE GLOBAL SUMMIT ON OPEN GOVERNANCE PARTNERSHIP**

(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

THAT, this House notes the Report on the Global Summit on Open Governance Partnership in Tbilisi, Georgia, 17th to 19th July, 2018 laid on the Table of the House on Wednesday, 20th February, 2019.

NOTICE

The Senate resolved on 13th 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

A. *THE COUNTY GOVERNMENT (AMENDMENT) BILL (NO. 2) (SENATE BILLS NO. 7 OF 2017)

(Sen. Mutula Kilonzo Junior, MP)

(Consideration of the National Assembly Amendments)

Schedule of amendments as passed by the National Assembly to the Bill on Tuesday, 26th March, 2019

CLAUSE 2

THAT, clause 2 be amended in the proposed amendments to section 123 —

(a) by deleting the proposed subsection (8) and substituting therefore following new subsection—

“(8) Where the Commission does not recommend the suspension of a county government, the President shall, within fourteen days of receipt of the report of the Commission under subsection (7), notify the Speaker of the Senate and the apex intergovernmental body the recommendation of the Commission.”

(b) in the proposed sub-section (9) by deleting the words “whether or not” appearing in paragraph (a) and substituting therefor the word “that”.

(c) by inserting a new subsection immediately after the proposed subsection (9)—

“(9a) Where the President is not satisfied that justifiable grounds exist for suspension of a county government the President shall, within fourteen days of receipt of the report of the Commission under subsection (7), notify the Speaker of the Senate and the apex intergovernmental body of his dissatisfaction.”

(d) in the proposed subsection (13) by—

- i) deleting the word “authorization” immediately after the word “upon” and substituting therefor the word “approval”; and
- ii) inserting the words “within fourteen days or receipt of the Senate resolution” immediately after the words “the President shall”.

(e) by deleting the in the proposed subsection (14).

CLAUSE 3

THAT, clause 3 of the Bill to be amended by renumbering the last provision under the proposed New Section 129 as subsection (8).

APPENDIX

1. PETITIONS

- (a) Petition by Residents of Barwaqo Area concerning unlawful encroachment and forceful occupation of Barwaqo plots within Bulla Mpya Ward, Mandera East Constituency-Mandera County.
- (b) Petition by Benard Wachira Waheire and Jacqueline Namuye Mutere concerning the implementation of the Truth, Justice and Reconciliation Commission Report.

(Speaker of the Senate)

2. PAPERS

- (a) Report of the Auditor-General on the Financial Statements of Kirinyaga County Executive Car Loan and Mortgage Fund for the Year ended 30th June 2018;
- (b) Report of the Auditor-General on the Financial Statements of Kirinyaga County Health Sector Service Fund for the Year ended 30th June 2018;
- (c) Report of the Auditor-General on the Financial Statements of the Kirinyaga County Executive Emergency Fund for the Year ended 30th June 2018;
- (d) Report of the Auditor-General on the Financial Statements of Kirinyaga County Executive Bursary Fund for the Year ended 30th June 2018;
- (e) Report of the Auditor-General on the Financial Statements of Nyeri Water and Sewerage Company Limited for the Year ended 30th June 2018;
- (f) Report of the Auditor-General on the Financial Statements of Elgeyo Marakwet County Assembly Car and Mortgage Revolving Fund for the Year ended 30th June 2018;
- (g) Report of the Auditor-General on the Financial Statements of Gatanga Community Water Scheme for the Year ended 30th June 2018;
- (h) Report of the Auditor-General on the Financial Statements of Karuri Water and Sanitation Company Limited for the Year ended 30th June 2018; and
- (i) Report of the Auditor-General on the Financial Statements of Kilifi County Ward Scholarship Fund for the Year ended 30th June 2018;
- (j) Report of the Auditor-General on the Financial Statements of Mombasa Water Supply and Sanitation Company Limited for the Year ended 30th June 2018; and
- (k) Report of the Auditor-General on the Financial Statements of Tavevo Water and Sewerage Company Limited for the Year ended 30th June 2018;

(The Senate Majority Leader)

3. STATEMENTS**(i) Pursuant to Standing Order No. 47(1)**

Nominated Senator (Sen. Abshiro Halake, MP) to make a statement on operationalization of the Menstrual Hygiene Management Policy.

(ii) Pursuant to Standing Order No. 48(1)

- (a) Nominated Senator (Sen. Abshiro Halake, MP) to seek a statement from the Standing Committee on National Security, Defence and Foreign Affairs regarding the preparedness for the cyclic drought and floods in the country;
- (b) Nominated Senator (Sen. Abshiro Halake, MP) to seek a statement from the Standing Committee on Trade, Tourism and Industrialization regarding fraudulent Sacco societies in Kenya; and
- (c) Nominated Senator (Sen. Judith Pareno, MP) to seek a statement from the Standing Committee on Education regarding the interdiction of 58 teachers for alleged opposition to the Competency Based Curriculum (CBC).

(iii) Pursuant to Standing Order No. 51 (1)(b)

- (a) The Chairperson, Standing Committee on Agriculture, Livestock and Fisheries to issue a statement relating to the activities of the Committee;
- (b) The Chairperson, Standing Committee on Devolution and Intergovernmental Affairs to issue a statement relating to the activities of the Committee;
- (c) The Chairperson, Standing Committee on Education to issue a statement relating to the activities of the Committee;
- (d) The Chairperson, Standing Committee on Energy to issue a statement relating to the activities of the Committee;
- (e) The Chairperson, Standing Committee on Finance and Budget to issue a statement relating to the activities of the Committee; and
- (f) The Chairperson, Standing Committee on Health to issue a statement relating to the activities of the Committee.

(ii) Pursuant to Standing Order No. 52 (1)

The Senate Majority Leader to issue a statement on the business of the Senate for the week commencing Tuesday, 21st May, 2019.