



REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (THIRD SESSION)

THE SENATE

ORDER PAPER

THURSDAY, MAY 23, 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
7. Statements (as listed in the Appendix)
8. **COMMITTEE OF THE WHOLE**
****THE IMPEACHMENT PROCEDURE BILL (SENATE BILLS NO. 15 OF 2018)**
(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)
9. **COMMITTEE OF THE WHOLE**
***THE PREVENTION OF TERRORISM (AMENDMENT) BILL (SEN. BILLS NO. 20 OF 2018)**
(Sen. Naomi Jilo Waqo, MP)
10. **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

11. **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.

12. **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 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

...../Motion

- 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.

13. **MOTION - ESTABLISHMENT OF NATION-WIDE CENTRES AND SATELLITE CLINICS FOR SICKLE CELL DISEASE AT COUNTY, SUB-COUNTY AND WARD LEVELS.**

(Sen. Naomi Masitsa Shiyonga, MP)

THAT, AWARE THAT Article 43(1)(a) of the Constitution provides that every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care;

NOTING THAT, Parliament enacted the Health Act (2017) whose objects encompass the need to establish a national health system at the national and county levels, as well as to facilitate, in a progressive and equitable manner, the highest attainable standards of health services;

ACKNOWLEDGING THAT Sickle Cell Disease, a severe hereditary form of anaemia in which a mutated form of haemoglobin distorts the red blood cells into a crescent shape at low oxygen levels, and is prevalent amongst those of African descent, has been acknowledged by World Health Organization (WHO) as a major public health priority which has had devastating effects on populations in many parts of Kenya;

FURTHER ACKNOWLEDGING the lack of comprehensive information and care programs for Sickle Cell Disease is occasioned by the poor public awareness, unavailability of routine health data and nationally recognised treatment guidelines;

CONCERNED by the lack of national screening programmes for Sickle Cell Disease despite the serious health problems it causes, and its contribution to childhood deaths in Kenya;

NOW, THEREFORE, the Senate urges the National and County Governments to establish nation-wide screening at existing medical centres and satellite clinics, and the provision of counselling on the management of sickle cell disease, a lifelong medical condition that has no cure, at the county, sub-county and ward levels.

14. **MOTION - CREATION OF SUPPORT SERVICES FOR THE DISCIPLINED FORCES AND THEIR FAMILIES**

(Sen. George Khaniri, MP)

THAT APPRECIATING the commitment and sacrifice by members of the disciplined forces in protecting our country from both internal and external aggression;

AWARE of the risky and stressful environment that the officers are exposed to daily in the line of duty, combined with the increased terrorism threats at home, and abroad;

...../Motion

NOTING that members of the disciplined forces, and by extension, their families are exposed to traumatic incidents both at home and abroad that manifest as living in constant fear, debilitating depression, nightmares, crippling anxiety and thoughts of suicide commonly referred to as Post Traumatic Stress Disorder (PTSD) leaving them exposed to the stigma of society and unable to care for themselves and their families the way they could before;

RECOGNIZING that there is no structured national comprehensive program for post-traumatic stress counseling either for active or returning soldiers and their families;

NOW THEREFORE the Senate calls upon the Ministry of Interior and Co-ordination of National Government, in partnership with the Ministry of Defence, to establish counseling and support centers in all premises housing disciplined forces, and provide mandatory counseling to all service personnel and the families of those currently serving, and those who may have been killed in the line of duty.

15. **MOTION - WAIVER OF INTEREST ON HELB LOANS FOR GRADUATES**

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

THAT, AWARE THAT Higher Education Loans Board (HELB) has, for over the last two decades, become the leading financier of higher education in Kenya whose mandate is to source funds and lend them as affordable loans, bursaries and scholarship to students pursuing higher education in recognized institution;

COGNIZANT THAT, the Ministry of Education announced that the government has lost Kshs. 7.2b through people defaulting payment on loans issued by HELB translating to 74,692 graduates who have defaulted the loans payment;

NOTING THAT, measures were taken to enhance the HELB loan recovery process which included a six month waiver of accumulated interest and penalties, and working with law enforcement officers to make sure the defaulters who are employed payback the loans;

CONCERNED THAT, there are graduates from institutions of higher learning who have not been gainfully employed for many years after graduation, and are therefore burdened with loans that have accumulated interest and penalties that they have no means to repay;

FURTHER CONCERNED THAT, when beneficiaries fail to remit their monthly instalments for more than three months, HELB reports them to the Credit Reference Bureaus (CRB) preventing them from accessing loan facilities with any financial institution in Kenya, accessing employment opportunities in the government and major private and publicly listed companies and the loan guarantors are pursued and forced to service the HELB loan;

NOW THEREFORE, the Senate recommends that the Ministry of Education and HELB –

1. institutes a six (6) month full waiver of all the interest and penalties accrued, including the lifting of Credit Reference Bureau blacklisting, for defaulters who are willing to repay their loans in entirety, within the six (6) month period; and

...../Motion

- 2. embarks on a forty-five (45) day sensitization exercise preceding the waiver, no later than ninety (90) days after the passage of this motion.

16. **MOTION - IMPROVING ALLOCATION OF RESEARCH FUNDS TOWARDS HIGHER LEARNING**

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

AWARE THAT, early childhood education and village polytechnics are a function of the County Governments. Secondary schools, Universities, Tertiary institutions and other institutions of research are a function of the National Government under the Fourth Schedule of the Constitution;

FURTHER AWARE THAT, institutions of higher learning have two basic functions, teaching and conducting research;

CONCERNED THAT, such institutions largely concentrate on “teaching” rather than “research”, as a method of enhancing and imparting the practical application of skills, attitude and knowledge by learners;

NOTING THAT, funds allocated towards community and development oriented academic research are neither sustainable nor adequate;

ACKNOWLEDGING THAT, various national policies on research and innovation are available, but fragmentation in the sector has short-changed the vision of a progressive national research agenda, thereby emboldening low science culture among the population, low global competitiveness ranking, inadequate funding, and poor linkages between academic research and commercial industry;

NOW THEREFORE, the Senate urgently calls upon the Ministry of Education, Science and Technology:

- (i) To provide a comprehensive report from all institutions of higher learning on the status and performance of Research & Innovation Programs in the Country;
- (ii) Re-assess Sector Policies, and Develop new work-plans towards:
 - a. Improving allocation of funds for Academic as well as Sustainable Community Based Research to public institutions of higher learning.
 - b. Providing subsidies, and frameworks for partnerships between public & private institutions of higher learning to enable collaboration and better organization in research and innovations for community/county development Projects.

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

...../Motion

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 held in Tbilisi, Georgia, from 17th to 19th July, 2018, laid on the Table of the House on Wednesday, 20th February, 2019.

19. **MOTION - REPORT ON THE 3RD STATUTORY MEETING OF THE COMMITTEE ON ECONOMIC DEVELOPMENT, REGIONAL INTEGRATION AND NATURAL RESOURCES OF THE FORUM OF PARLIAMENTS OF THE INTERNATIONAL CONFERENCE OF THE GREAT LAKES REGION (FP-CGLR)**

(Sen. Samuel Poghio, MP)

THAT, this House notes the Report on the 3rd Statutory Meeting of the Committee on Economic Development, Regional Integration and Natural Resources of the Forum of Parliaments of the International Conference of the Great Lakes Region (FP-ICGLR) held in Bujumbura, Burundi, from 13th – 14th March, 2019, laid on the Table of the House on Tuesday, 21st May, 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

****THE IMPEACHMENT PROCEDURE BILL (SENATE BILLS NO. 15 OF 2018)**

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

NOTICE is given that Sen. Samson Kiprotich Cherarkey, Chairperson to the Standing Committee on Justice, Legal Affairs and Human Rights, intends to move the following amendments to the Impeachment Procedure Bill, Senate Bills No. 15 of 2018, at the Committee Stage—

CLAUSE 4

THAT clause 4 of the Bill be amended—

(a) by deleting subclause (1) and substituting therefor the following new subclause—

(1) A member of the National Assembly who intends to move a motion for the removal of the President by impeachment shall submit a copy of the proposed motion to the Clerk of the National Assembly together with a list of the members of the National Assembly who support the motion.

(b) by inserting the following new subclause immediately after the new subclause (1)—

(1A) The list of members under subclause (1) shall be in the form prescribed in the Schedule.

CLAUSE 9

THAT clause 9 of the Bill be amended—

(a) by deleting subclause (2) and substituting therefor the following new subclause—

(1) A member of the National Assembly who proposes a motion for the removal of a Cabinet Secretary under subsection (1) shall submit to the Clerk of the National Assembly a copy of the proposed motion for the removal of the Cabinet Secretary together with a list of the members of the National Assembly who support the motion.

(b) by inserting the following new subclause immediately after the new subclause (2)—

(2A) The list of members under subclause (1) shall be in the form prescribed in the Schedule.

CLAUSE 10

THAT clause 10 of the Bill be amended in subclause (1) by deleting the word “afford” appearing at the beginning of paragraph (b)(i) and substituting therefor the word “accord”.

...../Amendments

CLAUSE 11

THAT clause 11 of the Bill be amended in paragraph (a) by deleting the word “promptly” appearing immediately after the words “the speaker shall” and substituting therefor the words “within three days,”.

CLAUSE 14

THAT clause 14 of the Bill be amended—

(a) by deleting subclause (1) and substituting therefor the following new subclause—

(1) A member of a county assembly who intends to move a motion under section 13 shall submit to the Clerk of the county assembly the motion together with a list of the members of the county assembly who support the motion.

(b) by inserting the following new subclauses immediately after the new subclause (1)—

(1A) The list of members under subclause (1) shall be in the form prescribed in the Schedule.

(1B) The Clerk of the county assembly shall confirm that the proposed motion—

(a) specifies the grounds and particulars upon which the proposed motion is made;

(b) is signed by the member; and

(c) is signed in support by at least a third of all the members of the county assembly.

(1C) The Clerk of the county assembly shall, within three days of receipt of the proposed motion, submit the motion to the Speaker advising the Speaker of the determination made under subclause (1B).

(c) in subclause (2) by inserting the words “in writing” immediately after the words “for the refusal” appearing in paragraph (b); and

(d) in subclause (6) by deleting the word “five” appearing immediately after the words “the governor within” in paragraph (b) and substituting therefor the word “seven”.

CLAUSE 17

THAT clause 17 of the Bill be amended in subclause (2) by deleting the words “appointment of a special committee” appearing immediately after the words “days of the” and substituting therefor the words “determination of the special committee under section 16 (2) that section 14 was complied with”.

CLAUSE 28

THAT clause 28 of the Bill be amended—

(a) by deleting subclause (1) and substituting therefor the following new subclause—

(1) A member of a county assembly who intends to move a motion under section 27 shall submit to the Clerk of the county assembly the motion together with a list of the members of the county assembly who support the motion.

(b) by inserting the following new subclauses immediately after the new subclause (1)—

(1A) The list of members under subclause (1) shall be in the form prescribed in the Schedule

(1B) The Clerk of the county assembly shall confirm that the proposed motion—

- (a) specifies the grounds and particulars upon which the proposed motion is made;
- (b) is signed by the member; and
- (c) is signed in support by at least a third of all the members of the county assembly.

(1C) The Clerk of the county assembly shall, within three days of receipt of the proposed motion, submit the motion to the Speaker advising the Speaker of the determination made under subclause (1B).

CLAUSE 33

THAT the Bill be amended by deleting clause 33.

APPENDIX

1. PAPERS

- a) Report of the Auditor-General on the Financial Statements of Kirinyaga Water and Sanitation Company Limited for the Year ended 30 June 2018;
- b) Report of the Auditor-General on the Financial Statements of the County Government of Kiambu Emergency Fund for the Year ended 30 June 2018;
- c) Report of the Auditor-General on the Financial Statements of the Kiambu Alcoholic Drinks Control Fund for the Year ended 30 June 2018; and
- d) Report of the Auditor-General on the Financial Statements of Kiambu County Education Bursary Fund for the Year ended 30 June 2018.

2. STATEMENTS

(i) 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 Relations 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 Tourism, Trade and Industrialization regarding fraudulent Sacco societies in Kenya;
- c) Nominated Senator (Sen. Dr. Alice Milgo, MP) to seek a statement from the Standing Committee on Agriculture, Livestock and Fisheries regarding the new army worm attack in parts of the North Rift; and
- d) The Senator for Vihiga County (Sen. George Khaniri, MP) to seek a statement from the Standing Committee on Finance and Budget concerning additional charges levied on residents of Nairobi County seeking rate clearance Certificates by the Nairobi City County Government.

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

- a) The Chairperson, Standing Committee on Devolution and Intergovernmental Relations to issue a statement relating to the activities of the Committee;
- b) The Chairperson, Standing Committee on Education to issue a statement relating to the activities of the Committee;
- c) The Chairperson, Standing Committee on Energy to issue a statement relating to the activities of the Committee;
- d) The Chairperson, Standing Committee on Finance and Budget to issue a statement relating to the activities of the Committee; and
- e) 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, 28th May, 2019.