



**REPUBLIC OF KENYA**  
**TWELFTH PARLIAMENT – (THIRD SESSION)**  
**THE SENATE**  
**ORDER PAPER**  
**THURSDAY, JUNE 20, 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. **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;

...../Motion

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

***(Resumption of debate interrupted on Wednesday, 19<sup>th</sup> June, 2019)  
(Balance of Time – 2 hours 13 minutes)***

9. **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;

...../Motion

**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
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.

10. **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;

...../Motion

**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.

11. **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.

12. **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;

...../Motion

**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;

**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.

13. **MOTION -REPORT OF THE PARLIAMENT OF KENYA DELEGATION TO THE 50<sup>TH</sup> SESSION OF AFRICAN CARIBBEAN PARLIAMENTARY (ACP) ASSEMBLY AND THE 35<sup>TH</sup> 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 50<sup>th</sup> Session of the ACP Parliamentary Assembly and the 35<sup>th</sup> Session of the ACP-EU Joint Parliamentary Assembly held in Brussels, Belgium, from 13<sup>th</sup> to 20<sup>th</sup> June, 2018, laid on the table of the House on Wednesday, 20<sup>th</sup> February, 2019.

14. **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 17<sup>th</sup> to 19<sup>th</sup> July, 2018, laid on the Table of the House on Wednesday, 20<sup>th</sup> February, 2019.

15. **MOTION-REPORTS OF THE SIXTH ORDINARY SESSION OF THE FOURTH PAN- AFRICAN PARLIAMENT AND THE FIRST ORDINARY SESSION OF THE FIFTH PARLIAMENT OF THE PAN-AFRICAN PARLIAMENT**

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

**THAT**, this House notes the Reports of the Sixth Ordinary Session of the Fourth Pan- African Parliament held in Midrand, South Africa, from 7<sup>th</sup> to 18<sup>th</sup> May, 2018, laid on the Table of the House on Tuesday, 24<sup>th</sup> July, 2018; and, the First Ordinary Session of the Fifth Parliament of the Pan African Parliament held in Kigali, Rwanda, from 18<sup>th</sup> October to 3<sup>rd</sup> November, 2018, laid on the Table of the House on Tuesday, 12<sup>th</sup> March, 2019.

...../Motion

16. **MOTION - REPORT ON THE THIRD 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 13<sup>th</sup> to 14<sup>th</sup> March, 2019, laid on the Table of the House on Tuesday, 21<sup>st</sup> May, 2019.

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

**THAT**, pursuant to Standing Orders 28 and 29, the Senate do adjourn until Tuesday, 2<sup>nd</sup> July, 2019.

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NOTICE

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

- (a) **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.

- (b) **THAT**, notwithstanding the provisions of Standing Order 106 (4), the debate on any Motion for the adjournment of the Senate to a day other than the next normal sitting day in accordance with the calendar of the Senate shall be limited to a maximum of two hours with not more than fifteen minutes for each Senator speaking after which the Senate shall adjourn without question put;

Provided that when the period of recess proposed by any such Motion does not exceed nine calendar days, the debate shall be limited to a maximum of thirty (30) minutes, and shall be confined to the question of adjournment.

**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**

- (i) Report of the Auditor-General on the Financial Statements of Makueni County Executive State and Public Officers Car Loan and Mortgage Fund for the Year ended 30<sup>th</sup> June 2018;
- (ii) Report of the Auditor-General on the Financial Statements of Makueni County Emergency Fund for the Year ended 30<sup>th</sup> June 2018; and
- (iii) Report of the Auditor-General on the Financial Statements of Makueni County Youth, Men, Women, Persons with Disabilities and Table Banking Groups Empowerment Fund for the Year ended 30<sup>th</sup> June 2018.
- (iv) Report of the Auditor-General on the Financial Statements of Limuru Water and Sewerage Company Limited for the Year ended 30<sup>th</sup> June 2018;
- (v) Report of the Auditor-General on the Financial Statements of Bungoma County Youth Empowerment Fund for the Year ended 30<sup>th</sup> June 2018
- (vi) The 2017/2018 National Cohesion and Integration Commission Annual Report
- (vii) National Government Budget Implementation Review Report for the First Nine Months of Financial Year 2018/2019

*(The Senate Majority Leader)*

- (viii) Report by the Standing Committee on Health on the Kenya Medical Supplies Authority (Amendment) Bill (Senate Bills No. 38 of 2018)
- (ix) Report by the Standing Committee on Health on the Mental Health (Amendment) Bill (Senate Bills No. 32 of 2018)

*(Chairperson, Standing Committee on Health)*

**2. NOTICES OF MOTION**

**(i) STAFF RATIONALIZATION IN COUNTIES.**

(Sen. (Dr.) Agnes Zani, MP)

**THAT, AWARE THAT** the Senate represents the counties, and serves to protect the interests of the Counties and their governments;

**FURTHER AWARE THAT,** the launch of the Capacity Assessment and Rationalization of the Public Service (CARPS) Programme was launched by the Inter-Governmental Steering Committee (IGSC) on 14<sup>th</sup> July 2014 with the objective of transforming the Public Service for efficient and effective service delivery at both levels of Government;

...../Appendix



**NOTING THAT**, the implementation timelines for the CARPS programme of two years specifically with regard to the capacity assessment, workload analysis and staff redeployment and transfers, are of paramount importance in the Counties as the terms of all second term County Governors come to a close in 2022;

**CONCERNED THAT**, County governments are still engaged in uncontrolled hiring of staff in total violation of applicable laws, exposing a glaring imbalance between money spent on recurrent expenditure, versus budgets for development projects which are the essence of devolution;

**CONCERNED FURTHER THAT**, contrary to Section 15(2)(b) of the Public Finance Management (PFM) Act, in counties such as Nairobi, Machakos, Garissa, Kisumu, Wajir, Baringo, Narok, Nakuru and Nyamira, staff salaries consumed in excess of 75% of total expenditure, over and above the set limit of 35% as provided in Regulation 25 (1) of the Public Finance Management (County Governments) Regulations, 2015 during the FY 2018/2019;

**DEEPLY CONCERNED THAT**, although Section 65 of the County Governments Act requires that more than 30% of the vacancies at entry level be given to members of ethnic groups that are not dominant in their precincts, the 2016 Ethnic and Diversity audit launched by the National Cohesion and Integration Commission revealed that 68% of Counties have hired more than 70% of their staff from one ethnic group;

**NOW THEREFORE** in exercise of its oversight function, the Senate resolves that the Public Service Commission (PSC), Intergovernmental Relations Technical Committee (IGTRC) and the Council of Governors provide a comprehensive report on:

1. the progress and implementation status of the Capacity Assessment and Rationalization of the Public Service (CARPS) Programme indicating the County Governments that are compliant; and
2. the number of employees in each County Government showing the amount spent as wage bill vis a vis recurrent expenditure budgeted for FY 2018/2019.

and submit these reports to the Senate within 60 days of this resolution.

**(ii) PLANTING OF TREES ALONG MAJOR INFRASTRUCTURE PROJECTS IN KENYA**

(Sen. Charles Kibiru, MP)

**THAT, AWARE** of the numerous benefits that trees play in environmental conservation, combating climate change, air and water purification, carbon sequestration, flood control, prevention of soil erosion, human and wildlife sustenance, urban planning, as well as other social and economic benefits;

**NOTING THAT** Kenya has and continues to implement various infrastructure projects across the country, among them railways, roads and highways, airports, sea and inland ports, pipelines, dams, among others;

**CONCERNED** by the extent of environmental degradation that takes place when undertaking such infrastructure projects, entailing clearance of trees, foliage, soils, rocks, excavation of quarries, interference with forests, wetlands, rivers, drainage systems and other embankments, as well as human and wildlife displacement along the paths of the infrastructure projects;

**ACKNOWLEDGING THAT** the Environmental Management and Coordination Act (No. 8 of 1999) and the Guidelines issued thereon require an environmental audit to be undertaken before any infrastructure projects are undertaken, with a view to identifying potential environmental impacts of the proposed projects, assessing the significance of those impacts, and proposing mitigation measures to address the negative impacts of the said projects on the environment;

**CONCERNED HOWEVER THAT** the implementation of these provisions has failed to comprehensively address the continued large-scale environmental degradation that takes place during construction of these infrastructure projects, and that the mitigation measures undertaken thereon have failed to compensate for the damage done to the environment as well as the negative effects to human and wildlife populations along the infrastructure project paths;

**AWARE THAT** the National Government has launched an ambitious plan to plant 1.8 billion trees by the year 2022, with a view to enhancing the country’s tree cover from 6.2% to the globally accepted minimum of 10%, and that this entails, among others, planting at least 1 million trees annually in each of the forty-seven Counties;

**UNDERSCORING** the need to balance between development and sustainable environmental management, for the benefit of present and future generations, as enshrined in the preamble to the Constitution of Kenya;

**NOTING** that planting of tree buffers alongside and around major infrastructure projects in the country would help offset the carbon footprint of these projects, enhance the beauty and aesthetics of the projects, create safe spaces for human recreation and for wildlife to thrive, and help in meeting the target of 10% national tree cover by the year 2022;

**NOW THEREFORE**, the Senate resolves that the National Government, together with the County Governments, formulate a policy mandating the planting of trees alongside and around all major infrastructure projects across the country, setting out the roles of various actors at both the national and county levels, and outlining incentives and penalties to ensure that the policy is complied with, in ensuring a balance is attained between development and environmental conservation.

**3. STATEMENTS**

**(i) Pursuant to Standing Order 47(1)**

Nominated Senator (Sen. (Dr.) Alice Milgo, MP) to make a statement on the rising cases of medical negligence and malpractices in private health facilities.

**(ii) Pursuant to Standing Order 48(1)**

Nominated Senator (Sen. Abshiro Halake, MP) to seek a statement from the Standing Committee on Finance and Budget regarding the issue of zero-rating of duty and VAT on locally manufactured menstrual hygiene products.

**(iii) Pursuant to Standing Order 52(1)**

The Senate Majority Leader to issue a statement on the business of the Senate for the week commencing Tuesday, 2<sup>nd</sup> July, 2019.

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