



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – THIRD SESSION

THE SENATE

VOTES AND PROCEEDINGS

THURSDAY, JUNE 6, 2019 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 Speaker.
3. **COMMUNICATIONS FROM THE CHAIR**

The Speaker conveyed the following Communications from the Chair.

i. Visiting Students and Teachers from Chief Mbogori Girls' High School, Tharaka Nithi County

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Chief Mbogori Girls' High School in Tharaka Nithi County.

On behalf of the Senate and on my own behalf, I welcome you to the Senate and wish you well for the remainder of your stay.

I thank you.”

ii. Visiting students and teachers from Sawagongo High School, Siaya County

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Sawagongo High School in Siaya County.

On behalf of the Senate and on my own behalf, I welcome you to the Senate and wish you well for the remainder of your stay.

I thank you.”

4. **PAPERS LAID**

The following Papers were laid on the Table of the Senate.

- i) Report of the Auditor-General on the Financial Statements of Kiambu County Youth, Women and People with Disability Fund for the Year ended 30th June 2018; and
- ii) Statement on the business of the Senate for the week commencing Tuesday, 11th June, 2019.

(Sen. (Dr.) Andrew Lang'at, MP on behalf of the Senate Majority Leader)

5. **NOTICE OF MOTION** – (The Senate Majority Leader)

THAT, aware that the Senate of Kenya as established in the Constitution plays a critical role in the linkage of the devolved governments and the national government by representing and serving the interests of the counties and their governments;

FURTHER AWARE that on 21st June 2018, the Senate resolved to hold plenary and Committee sittings in Uasin Gishu County from 24th to 28th September, 2018, and further resolved that similar sittings be held in all regions of the country during the term of the current Parliament;

NOTING that the Senate held its first plenary and Committee sittings away from Nairobi in Uasin Gishu county from 24th – 28th September, 2018 providing an opportunity for several sectors of society to directly engage with the legislative arm of government through public participation on various issues, as well as participate in oversight through inspection of various projects and programs of national and county governments;

COGNIZANT that holding the plenary and Committee sittings of the Senate away from the traditional premises at the Parliament Buildings in Nairobi has great potential to, among others –

- i) enhance the interaction between the Senate and county governments;
- ii) bring the Senate closer to the counties and the general public;
- iii) provide an opportunity to members and staff of county assemblies to learn and borrow best practices from the Senate;
- iv) promote the role and work of the Senate;
- v) highlight existing opportunities for people to get involved in the work of the Senate;
- vi) develop and strengthen capacity and partnerships at the county level; and
- vii) enhance public awareness regarding the Business of the Senate.

NOW THEREFORE, pursuant to Article 126 (1) of the Constitution and Standing Order 31 (1) of the Senate, the Senate resolves that its plenary and committee sittings be held in Kitui County from 16th to 20th September, 2019.

6. STATEMENTS**i) Statements pursuant to Standing Order 47 (1)**

- a) The Senator for Vihiga County (Sen. George Khaniri, MP) made a statement regarding the ongoing changes to the Kenya education curriculum.

The Senator described education as the cornerstone of society, providing skills necessary for production and important in poverty reduction, as it increases an individual's jobs prospects.

He averred that, while it might not be possible to enumerate all the issues facing the education sector, there was need for a structured national conversation on curriculum change to ensure balance in the education system as well as the involvement of all stakeholders.

The Senator reminded the House that, during its first term in office, the Jubilee Government promised laptops to all students joining Class One in public schools, a programme that was hurriedly implemented, with neither a framework nor an implementation strategy, resulting a disaster that has consumed billions of shillings with no value to Kenyans.

While acknowledging that the Competency Based Curriculum (CBC) might be the best option for Kenya today, the Senator stated that the roll-out process appeared to be wrong. He proposed having consensus as a country and the process explained to elected leaders and parents.

The Senator proposed that the Ministry of Education, in conjunction with the Kenya Institute of Curriculum Development (KICD), take the advice of all stakeholders and address concerns, if any, amicably, as only then will the Government be able to successfully roll out a proper education curriculum for posterity.

The Speaker, thereupon directed that the Standing Committee on Education invites all senators to its meeting when the Cabinet Secretary for Education attends to address the matter raised herein.

- b) The Senate Majority Leader made a statement regarding an attack on the Senator for Lamu County (Sen. Anuar Loitiptip, MP) in Nairobi City County on Sunday, 2nd June 2019.

Thereupon, the Majority Leader informed the House that that Sen. Loitiptip, was watching the Champions League final match at a popular joint along Thika Road and, at the end of the match, he and his fiancée were attacked by unknown persons armed with machettes, as a result of which he sustained serious cuts on his head and legs.

The Majority Leader informed the House that he and a number of Senators had visited Sen. Loitiptip in hospital and revealed that, although he was out of danger, it was unknown how long it would take for him to recover fully.

He urged the Committee on Security, Defence and Foreign Relations to investigate the matter, including the circumstances under which the suspects in the matter were released on KShs 20,000 bond, and table a report in the House.

The Senate Majority Leader, in conclusion, wished Sen. Loititip a quick recovery.

ii) Statements pursuant to Standing Order 48 (1)

- a) Nominated Senator (Sen. (Dr.) Getrude Musuruve, MP) sought a statement from the Standing Committee on National Security, Defence and Foreign Relations concerning cases of police brutality against civilians.
- b) Nominated Senator (Sen. Judith Pareno, MP) sought a statement from the Standing Committee on National Security, Defence and Foreign Relations concerning human wildlife conflict affecting communities living in counties bordering game parks and wildlife game reserves.

iii) Statement pursuant to Standing Order No. 52(1)

The Senator for Bomet County (Sen. (Dr.) Andrew Lang'at, MP) a member of the Senate Business Committee issued, on behalf of the Senate Majority Leader, a statement regarding the business of the Senate for the week commencing Tuesday, 11th June, 2019.

7. COMMITTEE OF THE WHOLE

Order for Committee read;

IN THE COMMITTEE

(The Acting Chairperson of Committees (Sen. Judith Pareno, MP) – in the Chair)

The Statutory Instruments (Amendment) Bill (Senate Bills No. 24 of 2018)

Clause 2

Motion Made and Question proposed;

THAT, Clause 2 be part of the Bill

Clause 2 - vote deferred

Clause 3 - amendment proposed

THAT, the Bill be amended by deleting clause 3 and substituting therefor the following new clause-

Amendment of section 15 of No. 23 of 2013. **3.** The principal Act is amended in section 15 by-

(a) deleting subsection (1) and substituting therefor the following new section-

(1) The Committee shall make a report to the relevant House containing a resolution either that the statutory instrument that stands referred to the Committee be approved or that the statutory instrument be annulled.

(b) deleting subsection (3) and substituting therefor the following new subsection-

(3) Notwithstanding subsection (2) the House may, by resolution, extend the time within which the Committee shall consider a statutory instrument under subsection (2) for a period not exceeding twenty-eight days.

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

Clause 3 - vote deferred.

New Clause 4 - insertion of new clause proposed

THAT, the Bill be amended by inserting the following new clause immediately after clause 3-

Insertion of new section 15A in No. 23 of 2013. **4.** The principal Act is amended by inserting the following new section immediately after section 15-

Concurrence on a statutory instrument. **15A.** (1) The Clerk of the House to which a statutory instrument is referred shall, upon-

- (a) the resolution of the relevant House under section 15(1) for the approval or annulment of a statutory instrument; or
- (b) expiry of the period specified under section 15(2),

cause the resolution of the House to be transmitted to the Clerk of the other House within two days of the resolution.

(2) A resolution under subsection (1) shall stand referred to the relevant Committee of that House which shall consider the resolution together with the statutory instrument and report to the House within fourteen days of the referral.

(3) The House to which resolution is referred to under subsection (1) may extend the time within which the Committee shall consider the resolution for a period not exceeding seven days.

(3) If both Houses resolve to-
(a) approve the statutory instrument; or
(b) annul the statutory instrument;

the Clerk of the House to which the statutory instrument was transmitted under section 11(1) shall, within seven days of the decision, notify the regulation-making authority.

(4) Where the House resolves to revoke a statutory instrument and the other House does not, the statutory instrument shall be referred to a joint committee for mediation in accordance with Article 113 of the Constitution which shall be applied with the necessary modification.

Motion made and Question proposed;

THAT, the New Clause 4A be now read a Second Time.

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

- New Clause 4 - vote deferred.
- New Clause 5 - insertion of new clause proposed

THAT, the principal Act is amended by deleting section 18 and substituting therefor the following new section-

Amendment Annulment. **18.** (1) When Parliament passes a resolution to annul a statutory instrument the statutory instrument shall be deemed to be annulled.

(2) The regulation making authority shall publish the annulment of the statutory instrument within fourteen days of the annulment.

Motion made and Question proposed;

THAT the new clause 5A be now read a Second Time

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

New Clause 5 - vote deferred.

The Title and Clause 1

Motion made and Question proposed;

THAT, the Title and Clause 1 be part of the Bill.

The Title and Clause 1 - vote deferred

Progress report

Motion made:

THAT, pursuant to Standing Order 148, the Committee of the Whole do report to the House its consideration of the Statutory Instruments (Amendment) Bill (Senate Bills No. 24 of 2018) and seek leave to sit again tomorrow.

(Sen. Susan Kihika, MP on behalf of the Chairperson, Sessional Committee on Delegated Legislation)

Before the Question was put and pursuant to Standing Order 79, the Acting Chairperson (Sen. Judith Pareno, MP) ruled that the Question did not affect counties;

Question put and agreed to.

8. **HOUSE RESUMED** – Temporary Speaker (Sen. (Prof). Margaret Kamar, MP) – in the Chair

9. **THE STATUTORY INSTRUMENTS (AMENDMENT) BILL (SENATE BILLS NO. 24 OF 2018)**

Progress reported;

Motion made and Question proposed;

THAT, the House do agree with the Committee of the Whole in the said report.

(Sen. Susan Kihika, MP on behalf of the Chairperson, Sessional Committee on Delegated Legislation)

There being no Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 79, the Temporary Speaker (Sen. (Prof.) Margaret Kamar, MP) ruled that the Question did not affect counties;

Question put and agreed to.

10. **COMMITTEE OF THE WHOLE**

Order for Committee read;

IN THE COMMITTEE

(Acting Chairperson of Committees (Sen. Judith Pareno, MP) – in the Chair)

The Impeachment Procedure Bill (Senate Bills No. 15 of 2015)

Clause 3

Motion made and Question proposed;

THAT, Clause 3 be part of the Bill.

Clause 3 – vote deferred.

Clause 4 – amendment proposed

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.

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

Clause 4 - vote deferred.

Clauses 5 – 8

Motion made and Question proposed;

THAT, Clauses 5 – 8 be part of the Bill.

Clauses 5 – 8 - vote deferred.

Clause 9 - amendment proposed

THAT clause 9 of the Bill be amended-

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

(2) 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.

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

Clause 9 - vote deferred.

Clause 10 - amendment proposed

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”.

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

Clause 10 - vote deferred.

Clause 11 - amendment proposed

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,”.

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

Clause 11 - vote deferred.

Clauses 12 and 13

Motion made and Question proposed;

THAT, Clauses 12 and 13 be part of the Bill.

Clauses 12 and 13 - vote deferred.

Clause 14 - amendment proposed

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”.

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

Clause 14 - vote deferred.

Clauses 15 and 16

Motion made and Question proposed;

THAT, Clauses 15 and 16 be part of the Bill.

Clauses 15 and 16 - vote deferred.

Clause 17 - amendment proposed

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”.

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

Clause 17 - vote deferred.

Clauses 18 - 27

Motion made and Question proposed;

THAT, Clauses 18 – 27 be part of the Bill.

Clauses 18 – 27 - vote deferred.

Clause 28 - amendment proposed

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).

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

Clause 28 - vote deferred.

Clauses 29 - 32

Motion made and Question proposed;

THAT, Clauses 29 – 32 be part of the Bill.

Clauses 29 – 32 - vote deferred.

Clause 33 - amendment proposed

THAT clause 33 of the Bill be deleted.

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

Clause 33 - vote deferred.

Clause 34

Motion made and Question proposed;

THAT, Clause 34 be part of the Bill.

Clause 34 - vote deferred.

The Schedule, Clause 2, the Title and Clause 1

Motion made and Question proposed;

THAT, the Schedule, Clause 2, the Title and Clause 1 be part of the Bill.

The Schedule, Clause 2, the Title and Clause 1 - vote deferred.

Progress report

Motion made;

THAT, pursuant to Standing Order 148, the Committee of the Whole do report to the House its consideration of the Impeachment Procedure Bill (Senate Bills No. 15 of 2018) and seek leave to sit again tomorrow.

(Sen. Susan Kihika, MP on behalf of the Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Before the Question was put and pursuant to Standing Order 79, the Acting Chairperson (Sen. Judith Pareno, MP) ruled that the Question did not affect counties.

Question put and agreed to.

11. **HOUSE RESUMED** – Temporary Speaker (Sen. Margret Kamar, MP) – in the Chair
12. **THE IMPEACHMENT PROCEDURE BILL (SENATE BILLS NO. 15 OF 2018)**

Progress reported;

Motion made and Question proposed;

THAT, the House do agree with the Committee of the Whole in the said report.

(Sen. Susan Kihika, MP on behalf of the Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

There being no Senator wishing to contribute;

Before the question was put and pursuant to Standing Order 79, the Temporary Speaker (Sen. (Prof.) Margret Kamar, MP) ruled that the Question did not affect counties;

Question put and agreed to.

13. **COMMITTEE OF THE WHOLE**

Order for Committee read;

IN THE COMMITTEE

(The Acting Chairperson of Committees (Sen. Judith Pareno, MP) – in the Chair)

The Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bills No. 27 of 2018)

Clauses 3 and 4

Motion made and Question proposed;

THAT, Clauses 3 and 4 be part of the Bill.

Clauses 3 and 4 - vote deferred

Clause 5 - amendment proposed

THAT the Bill be amended by deleting clause 5.

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

Clause 5 - vote deferred

Clause 6 - amendment proposed

THAT, clause 6 of the Bill be amended –

- (a) in subclause (1) by inserting the words “Articles 43(1) and 53(1)(c) of” immediately after the words “set out under”;
- (b) in subclause (2) by deleting the words “in such infrastructure” appearing immediately after the words “promote investment in” in paragraph (h);
- (c) in subclause (3) by inserting the words National government and” immediately after the words “minimum standards that”.

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

Clause 6 - vote deferred

Clause 7

Motion made and Question proposed;

THAT, Clause 7 be part of the Bill.

Clause 7 - vote deferred

Clause 8 - amendment proposed

THAT clause 8 of the Bill be amended –

- (a) in subclause (1) by deleting the word “periodically” appearing at the beginning of paragraph (f) and substituting therefor the word “annually”;
- (b) in subclause (3) by deleting the word “First” appearing immediately after the words “out under the”.

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

Clause 8 - vote deferred

Clause 9 - amendment proposed

THAT clause 9 of the Bill be amended –

(a) by deleting subclause (2);

(b) in subclause (4) by deleting the words “Part VII” appearing immediately after the words “in accordance with” and substituting therefor the words “section 21 of this Act and section 115 of the County Governments Act”.

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

Clause 9 - vote deferred

Clauses 10 - 12

Motion made and Question proposed;

THAT, Clauses 10 - 12 be part of the Bill.

Clauses 10 - 12 - vote deferred

Clause 13 - amendment proposed

THAT, clause 13 of the Bill be amended in –

(a) subclause (1) by deleting the words “The county executive committee member responsible for planning within the county” appearing at the beginning of the subclause and substituting therefor the words “The respective county governor”;

(b) subclause (2) by deleting the words “The county executive committee member shall” appearing at the beginning of the subclause and substituting therefor the words “The county governor”.

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

Clause 13 - vote deferred

Clause 14

Motion made and Question proposed;

THAT, Clause 14 be part of the Bill.

Clause 14 - vote deferred

Clause 15 - amendment proposed

THAT clause 15 of the Bill be amended in sub clause (2) by deleting the words “act on the recommendation” appearing immediately after the words “the Senate shall” and substituting therefor the words “take into account the recommendation in the implementation of economic and social rights in the subsequent year”

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

Clause 15 - vote deferred

Clauses 16 - 18

Motion made and Question proposed;

THAT, Clauses 16 - 18 be part of the Bill.

Clauses 16 - 18 - vote deferred

Clause 19 - amendment proposed

THAT, clause 19 of the Bill be amended in sub clause (1) by inserting the words “county executive committee members responsible for finance” immediately after the words “responsible for finance”.

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

Clause 19 - vote deferred

Clauses 20 - 24

Motion made and Question proposed;

THAT, Clauses 20 - 24 be part of the Bill.

Clauses 20 - 24 - vote deferred

New Clause 25 - insertion of new clause proposed

THAT the Bill be amended by inserting the following new clause immediately after clause 24 –

Amendment
to No. 17 of
2012

25. (1) The County Governments Act
is amended –

(a) in section 107(1) by inserting the
following new paragraph immediately
after paragraph (d) –

(e) county strategic plans for the realization of
economic and social rights under Part IV of
the Preservation of Human Dignity and

Enforcement of Economic and Social Rights Act.

(2) In the performance of its functions under this Act the Commission shall be guided by the national values and principles set out under the Constitution.

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

Motion made and Question proposed;

THAT, the new clause 25 be now read a Second Time.

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

New Clause 25 - vote deferred

The Schedule - amendment proposed

THAT the Bill be amended by deleting the Schedule and substituting therefor the following new Schedule –

SCHEDULE (s. 8(3))

CRITERIA FOR THE REALISATION OF SOCIAL AND ECONOMIC RIGHTS

The indicators for the assessment, by the Commission, of the effort of a county government in the implementation of Article 43 of the Constitution shall include—

- (a) whether or not it has allocated tasks and responsibilities to the different levels of government;
- (b) whether or not it has ensured that sufficient human and financial resources are made available for its implementation;
- (c) whether or not it is capable of facilitating the realisation of the rights in question;
- (d) whether or not its plan or programme is reasonable in its conception and implementation;

- (e) whether or not its plan or programme is balanced and flexible enough to among other things, respond to unforeseeable circumstances;
- (f) whether or not it is inclusive or excludes a significant segment of the populace, leading to unfair discrimination;
- (g) whether or not it balances short, medium, and long-term needs;
- (h) whether or not it has sufficient safety nets such as cash transfers to vulnerable groups and other social assistance; and
- (i) whether or not its plan or programme responds to the needs of the vulnerable and those in crisis situations.

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

The Schedule - vote deferred

Clause 2 - amendment proposed

THAT clause 2 of the Bill be amended –

- (a) by inserting the following new definition immediately after the definition of the word “county strategic plan” –

“economic and social rights” means the rights accruing to every person specified under Articles 43(1) and 53(1)(c) of the Constitution including the right to –

- (a) the highest attainable standards of health which includes the right to health care services including reproductive health care services and emergency treatment;
- (b) accessible and adequate housing;
- (c) reasonable standards of sanitation;
- (d) be free from hunger and to have adequate food of acceptable quality;
- (e) basic nutrition for children;

- (f) clean and safe water in adequate quantities;
- (g) social security and social assistance; and
- (h) education.

(b) in the definition of the word “subsidy programme” by inserting the words “the National government or” immediately after the words “programme established by”;

(c) in the definition of the word “vulnerable persons” by deleting the words “people with disabilities, sick persons with chronic diseases such as HIV/AIDS” and substituting therefor the words “persons with disability, such persons which chronic illness”

Clause 2 - vote deferred

The Title and Clause 1

Motion made and Question proposed;

THAT, the Title and Clause 1 be part of the Bill.

The Title and Clause 1 - vote deferred

Progress Report

Motion made;

THAT, pursuant to Standing Order 148, the Committee of the Whole do report to the House its consideration of the Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bills No. 27 of 2018) and seek leave to sit again tomorrow.

(Sen. Susan Kihika, MP on behalf of Sen. Halake Abshiro, MP)

Before the question was put and pursuant to Standing Order 79, the Acting Chairperson (Sen. Judith Pareno, MP) ruled that the Question did not affect counties;

Question put and agreed to.

14. **HOUSE RESUMED** - Temporary Speaker (Sen. (Prof.) Margaret Kamar, MP) - in the Chair
15. **THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILLS NO. 27 OF 2018)**

Progress reported;

Motion made and Question proposed-

THAT, the House do agree with the Committee in the said report.

(Sen. Susan Kihika, MP on behalf of Sen. Halake Abshiro, MP)

There being no Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 79, the Temporary Speaker (Sen. (Prof.) Margaret Kamar, MP) ruled that the Question did not affect counties;

Question put and agreed to.

16. **COMMITTEE OF THE WHOLE**

Order for Committee read;

IN THE COMMITTEE

(Acting Chairperson of Committees (Sen. Judith Pareno, MP) – in the Chair)

Prevention of Terrorism (Amendment) Bill (Senate Bills No. 20 of 2018)

Clause 2 - vote deferred

Clause 3 - amendment proposed

THAT, clause 3 of the Bill be amended –

- (a) in the introductory clause by deleting the number “12D” appearing immediately after the words “after section” and substituting therefor the number “40C”;
- (b) in the proposed new section 12E by –
 - (i) renumbering it as section “40D”;
 - (ii) deleting the marginal note and substituting therefor the following new marginal note –
Responsibility of the institution regulator.
 - (iii) deleting the introductory clause and substituting therefor the following new clause –
(1) The institution regulator shall -
 - (iv) deleting paragraph (b) and substituting therefor the following new paragraph –
(b) ensure that a standardized awareness module on counter radicalization approved by the Centre is taught in all educational institutions;
 - (v) deleting the words “publicly owned venues” appearing immediately after words “ensure that” in paragraph (e) and substituting therefor the words “educational institutions”; and

- (vi) deleting paragraph (f) and substituting therefor the following new paragraph –
- (e) in collaboration with the Cabinet secretary, the Centre, the National Police Service and other relevant stakeholder, design appropriate rehabilitation and reintegration programmes to cater for students who have undertaken successful disengagement from radicalization.

- (c) in the proposed new section 12F by –
 - (i) renumbering it as section “40E”;
 - (ii) deleting paragraph (a) and substituting therefor the following new paragraph –
 - (a) implement measures approved by the Centre to detect, prevent or report radicalization of students;
 - (iii) deleting paragraph (c) and substituting therefor the following new paragraph –
 - (c) in collaboration with persons accredited by the Centre, ensure that all staff in the institution are well trained to recognize and respond appropriately to vulnerable students likely to be drawn into radicalization;
 - (iv) deleting the words “inappropriate studies and curriculum related to radicalization” appearing immediately after the words “dissemination of” in paragraph (e) and substitute therefor the words “extremist literature”.
- (d) in the proposed new section 12G by –
 - (i) renumbering it as section “40F”;
 - (ii) by deleting paragraph (a) and substituting therefor the following new paragraph –
 - (a) provide parental care, protection and guidance at all times;
 - (iii) deleting paragraph (b) and substituting therefor the following new paragraph –
 - (b) immediately report to the Centre, the institution regulator and the institution administrator a case of a missing student where there is reason to believe that such a student is likely to be involved in terrorism acts or to have been radicalized;
- (e) in the proposed new section 12H –
 - (i) renumbering it as section “40G”;
 - (ii) in sub-clause (1) by deleting paragraph (b) and substituting therefor the following new paragraph –
 - (b) notify the institution regulator and the nearest police station of the missing child within twenty-four hours;
 - (iii) in sub-clause (2) by –
 - (a) deleting paragraph (b) and substituting therefor the following new paragraph –
 - (b) immediately notify the institution regulator and the nearest police station of the missing student;
 - (b) deleting the words “Inspector General of Police” appearing immediately after the words “the parent, the” in paragraph (c) and substituting therefor the words “National Police Service and the Centre”; and

- (iv) in sub-clause (3) by deleting the words “County Education Board and the Inspector General of Police” appearing immediately after the words “in collaboration with the” in the introductory clause and substituting therefor the words “institution regulator or the institution and the Centre”

(Sen. Susan Kihika, MP on behalf of the Chairperson, Standing Committee on National Security, Defense and Foreign Relations)

Clause 3 - vote deferred.

New Clause 2A - insertion of new clause proposed

THAT, the Bill be amended by inserting the following new clause immediately after clause 2 -

2A. Section 40B of the principal Act is amended in subsection (2) by inserting the following new paragraph immediately after paragraph (e) -

- (f) in collaboration with the county governments, develop and implement county action plans to prevent violent extremism and radicalization.

(Sen. Susan Kihika, MP on behalf of the Chairperson, Standing Committee on National Security, Defense and Foreign Relations)

Motion made and Question proposed;

THAT, the new clause 2A be now read a Second Time;

(Sen. Susan Kihika, MP on behalf of the Chairperson, Standing Committee on National Security, Defense and Foreign Relations)

New Clause 2A - vote deferred

Clause 2 - amendment proposed

THAT clause 2 of the Bill be amended by -

- (a) deleting the definition of the word “County Education Board”; and
- (b) inserting the following new definitions in their proper alphabetical sequence -
 - “educational institution” means a public or private institution established under law to provide education and it includes a school, college, university or training centre; and
 - “institution regulator” means an entity whose function is to regulate basic education, university education, or technical and vocational education training or any other entity mandated to regulate training or learning in the country;

(Sen. Susan Kihika, MP on behalf of the Chairperson, Standing Committee on National Security, Defense and Foreign Relations)

The Title and Clause 1

Motion made and Question proposed;

THAT, the Title and Clause 1 be part of the Bill.

The Title and Clause 1

– vote deferred

Progress Report

Motion made;

THAT, pursuant to Standing Order 148, the Committee of the Whole do report to the House its consideration of the Prevention of Terrorism (Amendment) Bill (Senate Bills No. 20 of 2018) and seek leave to sit again tomorrow.

(Sen. Susan Kihika, MP on behalf of Sen. (Canon) Naomi Waqo, MP)

Before the question was put and pursuant to Standing Order 79, the Acting Chairperson (Sen. Judith Pareno, MP) ruled that the Question did not affect counties;

Question put and agreed to.

17. **HOUSE RESUMED** – Temporary Speaker (Sen. (Prof.) Margaret Kamar, MP) – in the Chair
18. **THE PREVENTION OF TERRORISM (AMENDMENT) BILL (SENATE BILLS NO. 20 OF 2018)**

Progress reported;

Motion made and Question proposed;

THAT, the House do agree with the Committee in the said report.

(Sen. Susan Kihika, MP, on behalf of Sen. (Canon) Naomi Waqo, MP)

There being no Senator wishing to contribute;

Before the question was put and pursuant to Standing Order 79, the Temporary Speaker (Sen. (Prof.) Margaret Kamar, MP) ruled that the Question did not affect counties;

Question put and agreed to.

19. **COMMITTEE OF THE WHOLE**

Order for Committee read;

IN THE COMMITTEE

(Acting Chairperson of Committees (Sen. Judith Pareno, MP) – in the Chair)

The Tea Bill (Senate Bills No. 36 of 2018)

Clause 3 – amendment proposed

THAT, clause 3 of the Bill be deleted and substituted with the following new clause—

PART II - THE TEA BOARD OF KENYA

Establishment
of Board.

3. (1) There is established a Board, to be known as the Tea Board of Kenya.

(2) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) borrowing and lending money; and
- (d) doing or performing all other things or acts necessary for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

(Sen. (Canon) Naomi Waqo, MP on behalf of the Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)

Clause 3 – vote deferred

Clause 4 – amendment proposed

THAT, clause 4 of the Bill be deleted and substituted with the following new clause—

Headquarters. 4. (1) The headquarters of the Board shall be in Nairobi City County.

(2) The Board may establish such branches in Kenya as it may consider necessary for the efficient performance of its functions.

(Sen. (Canon) Naomi Waqo, MP on behalf of the Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)

Clause 5 - amendment proposed

THAT clause 5 of the Bill be deleted and substituted with the following new clause—

- Powers of the Board
5. (1) The Board shall have all the powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Board shall have power to-
- (a) enter into contracts;
 - (b) manage, control and administer the assets of the Board;
 - (c) receive gifts, grants, donations or endowments made to the Board and make disbursement therefrom in accordance with the provisions of this Act;
 - (d) subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any of the Board's funds not immediately required for the purposes of this Act, as it may determine; and
 - (e) operate a bank account into which all monies received by the Board shall be paid in the first instance and out of which all payments made by the Board shall be made.

(2) The Board may, if it considers it necessary, create or take part in the creation of, become a member of, or associated with a body or corporation designed to assist or promote the tea industry.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 5 - vote deferred

Clause 6 - amendment proposed

THAT, clause 6 of the Bill be deleted and substituted with the following new clause—

- Powers of the Board
6. (1) The Board shall have all the powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Board shall have power to-
- (a) enter into contracts;
 - (b) manage, control and administer the assets of the Board;
 - (c) receive gifts, grants, donations or endowments made to the Board and make disbursement therefrom in accordance with the provisions of this Act;

- (d) subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any of the Board's funds not immediately required for the purposes of this Act, as it may determine; and
 - (e) operate a bank account into which all monies received by the Board shall be paid in the first instance and out of which all payments made by the Board shall be made.
- (2) The Board may, if it considers it necessary, create or take part in the creation of, become a member of, or associated with a body or corporation designed to assist or promote the tea industry.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 6 - vote deferred

Clause 7 - amendment proposed

THAT, Clause 7 of the Bill be deleted and substituted with the following new clause-

Membership
of Board.

7. (1) The management of the Board shall vest in a Board Directors consisting of-
- (a) a chairperson appointed by the President by notice in the *Gazette*;
 - (b) the Principal Secretary responsible for agriculture or a representative nominated by the Principal Secretary in writing;
 - (c) the Principal Secretary for the time being responsible for trade or a representative nominated by the Principal Secretary in writing;
 - (d) two persons of either gender, nominated by the Council of County Governors;
 - (e) four persons, two of the opposite gender, representing small-holder tea growers tea from the east and west of the tea growing areas;
 - (f) one person representing plantation tea growers;
 - (g) one person representing tea traders;
 - (h) a chief executive officer appointed in accordance with section 13 who shall be an *ex-officio* member of the Board.

(2) The Cabinet Secretary shall appoint the members under subsection (1) (e), (f) and (g) by notice in the *Gazette*.

(3) A person shall not be appointed to be a chairperson of the Board of Directors unless that person holds at least a degree or its equivalent in any discipline from an institution recognized in Kenya and has relevant experience in the tea sector.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 7 - vote deferred

Clause 8 - amendment proposed

THAT, clause 8 of the Bill be deleted and substituted with the following new clause—

Term of appointment. 8. The persons appointed under section 7 (1) (a), (d), (e), (f), and (g) shall serve for a term of three years renewable for one further term.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 8 - vote deferred

Clause 9 - amendment proposed

THAT, clause 9 of the Bill be deleted and substituted with the following new clause—

Vacation of office. 9. A person shall cease to be a member of the Board of Directors if such person-

- (a) is absent from three consecutive meetings of the Board without the permission of the chairperson;
- (b) becomes an officer, agent or member of staff of the Board;
- (c) resigns in writing, addressed, in the case of the chairperson to the President and in the case of any other member, to the Cabinet Secretary;
- (d) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (e) is declared bankrupt;
- (f) is unable to perform the functions of his office by reason of mental or physical infirmity; or
- (g) dies.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 9 - vote deferred

Clause 10 - amendment proposed

THAT, clause 10 of the Bill be deleted and substituted with the following new clause—

Functions
of the
Board.

- 10. (1) The Board shall –
 - (a) regulate and promote the development of the tea industry;
 - (b) co-ordinate the activities of individuals and organizations within the tea industry; and
 - (c) facilitate equitable access to the resources, facilities and benefits of the tea industry by all interested parties.
- (2) Without prejudice to the generality of subsection (1), the Board shall-
 - (a) make recommendations to the Cabinet Secretary for the formulation of policies, plans and strategies for the regulation of the tea sector;
 - (b) in consultation with the relevant county governments-
 - (i) register and regulate the operations of tea growers and processors;
 - (ii) register commercial tea nurseries and green leaf transporters;
 - (iii) license tea dealers and processors;
 - (iv) license managing factories and their agents; and
 - (v) license tea brokers.
 - (c) provide advisory services on tea production and quality enhancement;
 - (d) collect and analyze statistics related to, and maintain a database for the tea industry; and
 - (e) co-ordinate the prioritization of-
 - (i) research; and
 - (ii) ensure the efficient utilization of available funds.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 10 – vote deferred

Clause 11 – amendment proposed

THAT, clause 11 of the of the Bill be deleted and substituted with the following new clause—

Committees of the Board. 11. (1) The Board of Directors may establish such committees as it may consider necessary for the efficient performance of its functions and the exercise of its powers under this Act.

(2) The Board of Directors may co-opt to sit in the committees established under subsection (1), such other persons whose knowledge and skills are necessary for the performance of the functions of the Board.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 11 - vote deferred

Clause 12 - amendment proposed

THAT, clause 12 of the Bill be deleted and substituted with the following new clause—

Delegation by the Board. 12. The Board of Directors may, by resolution, delegate to any committee of the Board or to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions of the Board under this Act or under any other written law.

(Sen.(Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 12 - vote deferred

Clause 13 - amendment proposed

THAT, clause 13 of the Bill be deleted and substituted with the following new clause—

Remuneration of members of the board. 13. The Board of Directors shall be paid such remuneration or allowance as the Cabinet Secretary shall, in consultation with the Salaries and Remuneration Commission determine.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 13 - vote deferred

Clause 14 - amendment proposed

THAT, clause 14 of the Bill be deleted and substituted with the following new clause—

Chief executive officer. 14. (1) The chief executive officer shall be competitively recruited and appointed by the Board on such terms and conditions as the Board shall determine.

(2) The chief executive officer shall be responsible for the day to day management of the affairs of the Board.

(3) A person is not qualified for appointment under subsection (1) unless the person-

(a) holds a relevant degree from a university recognized in Kenya; and

(b) has at least five years' experience in a position of management.

(4) The chief executive officer shall serve for a term of three years and is eligible for appointment for a further one term of three years upon satisfactory performance.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 14 - vote deferred

Clause 15 - amendment proposed

THAT, clause 15 of the Bill be deleted and substituted with the following new clause—

Vacancy 15. The chief executive officer shall cease to hold office if the person—

(a) resigns in writing, addressed to the Board of Directors;

(b) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;

(c) is found liable for gross misconduct or abuse of office in contravention of the Public Officers Ethics Act or any other relevant law;

(d) is declared bankrupt;

(e) is unable to perform the functions of his office by reason of mental or physical infirmity; or

(f) dies.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 15 - vote deferred

Clause 16 - amendment proposed

THAT, clause 16 of the Bill be deleted and substituted with the following new clause—

Corporation
Secretary

16. (1) There shall be a Corporation Secretary who shall be competitively recruited and appointed by the Board of Directors.

(2) The terms and conditions of service of the corporation secretary shall be determined by the Board in the instrument of appointment upon the advice of the Salaries and Remuneration Commission.

(3) A person is qualified for appointment under subsection (1) if that person—

- (a) holds a degree from a recognised university;
- (b) is registered under the Certified Public Secretaries of Kenya Act;
- (c) is a member of good standing of the Institute of Certified Public Secretaries of Kenya;
- (d) has at least seven years’ experience in a similar position; and
- (e) satisfies the requirements of chapter six of the Constitution.

(4) The Corporation Secretary shall be the secretary to the Board and shall —

- (a) provide guidance to the Board of Directors on their duties and responsibilities and on matters of governance;
- (b) ensure timely preparation and circulation of Board and Committee papers and minutes;
- (c) maintain and update the register of conflicts of interest;
- (d) facilitate effective communication between the organisation and the shareholders; and
- (e) ensure that the annual returns and any other statutory documents required to be filed are promptly filed with the relevant authorities.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 16 – vote deferred

Clause 17 – amendment proposed

THAT, clause 17 of the Bill be amended in sub-clause (2) by inserting the following new paragraph immediately after paragraph (c) –

(d) such other information as the Board may be prescribed.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 17 – vote deferred

Clause 18 – amendment proposed

THAT clause 18 of the Bill be amended—

- (a) in subclause (1) by deleting the word “Authority” appearing at the end of the sub-clause and substituting therefor the word “Board”;
- (b) inserting the following new sub-clause immediately after sub-clause (1)-
 - (1A) Subsection (1) shall not apply to the export, import or marketing of any tea consisting of a sample or parcel not exceeding ten kilograms or tea processed for consumption on ships, aeroplanes or any other international carrier.
- (c) in subclause (3) by deleting the word “Authority” appearing immediately after the word “the” and substituting therefor the word “Board”.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 18 – vote deferred

Clause 19 – amendment proposed

THAT, the Bill be amended by deleting clause 19 and substituting therefor the following new clause—

Form of **19.** A licence issued under this Act shall be in a form licence. prescribed by the Board, and shall be renewable upon the expiry of three years.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 19 – vote deferred

Clause 20 – amendment proposed

THAT the Bill be amended by deleting clause 20 and substituting therefor the following new clause—

Dissemination **20.** The Board shall carry out market research and of market analysis and disseminate information on its findings to information. all stakeholders.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 20 – vote deferred

Clause 21 – amendment proposed

THAT the Bill be amended by deleting clause 21 and substituting therefor the following new clause—

- Funds of the Board.
- 21.** The funds and assets of the Board shall consist of-
- (a) such monies or assets as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act;
 - (b) such monies as may be payable to the Board pursuant to this Act or any other written law;
 - (c) such gifts as may be donated to the Board; and
 - (d) monies from any other source granted, donated or lent to the Board

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 21 - vote deferred

Clause 22 - amendment proposed

THAT clause 22 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “expenditure of the” and substituting therefor the word “Board”; and
- (b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “expenditure of the” and substituting therefor the word “Board”;

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 22 - vote deferred

Clause 23 - amendment proposed

THAT clause 23 of the Bill be amended -

- (a) in sub-clause (1) by-
 - (i) deleting the word “Authority” appearing immediately after the word “The” in the introductory clause and substituting therefor the word “Board”;
 - (ii) deleting the word “Authority” appearing immediately after the words “liabilities of the” in paragraph (a) and substituting therefor the word “Board”;
- (b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “accounts of the” and substituting therefor the word “Board”;
- (c) by deleting sub-clause (3) and substituting therefor the following new sub-clause-

(3) The Board shall submit to the Auditor-General all books and accounts of the Board, together with all vouchers in support thereof, and all books, papers and writings in its possession or control relating

thereto, and the Auditor-General shall be entitled to require from any member, officer, employee or agent of the Board such information and explanation as he may consider necessary for the performance of his duties.

(d) by deleting sub-clause (4)

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 23 - vote deferred

Clause 24 - amendment proposed

THAT, the Bill be amended by deleting clause 24 and substituting therefor the following new clause—

Annual Report and publication. **24.** (1) The Board shall, within a period of three months after the end of each financial year or within such longer period as the Cabinet Secretary may approve, submit to the Cabinet Secretary a report of the operations of the Board during such year, and the yearly balance sheet and such other statements of account as the Cabinet Secretary shall require, together with the Auditor-General’s report .

(2) The Board shall, if the Cabinet Secretary so requires, publish the report, balance sheet and statements submitted to him under subsection (1) in such manner as the Cabinet Secretary may specify.

(3) The Cabinet Secretary shall submit to Parliament the reports, balance sheet and statements submitted under subsection (1), within a period of fourteen days of the receipt of the reports and statements or, if Parliament is not sitting, within fourteen days of the commencement of its next sitting.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 24 - vote deferred

Clause 25 - amendment proposed

THAT, clause 25 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “year of the” and substituting therefor the word “Board”.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 25 - vote deferred

Clause 26 - amendment proposed

THAT, clause 26 of the Bill be amended-

- (a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Board”; and
- (b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “decision of the” and substituting therefor the word “Board”.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 26 - vote deferred

Clause 27 - amendment proposed

THAT, clause 27 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “attach to the” and substituting therefor the word “Board”.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 27 - vote deferred

Clause 28

Motion made and Question proposed;

THAT, Clause 28 be part of the Bill.

Clause 28 - vote deferred

Clause 29 - amendment proposed

THAT, clause 29 of the Bill be amended in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “consultation with the” in the introductory clause and substituting therefor the word “Board”.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 29 - amendment proposed

Clause 30

Motion made and Question proposed;

THAT, Clause 30 be part of the Bill.

Clauses 30 - vote deferred

Clause 31 - amendment proposed

THAT, clause 31 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “contracts of the” and substituting therefor the word “Board”.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 31 - vote deferred

Clause 32 - amendment proposed

THAT, clause 32 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “or against the” and substituting therefor the word “Board”.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 32 - vote deferred

Clause 33 - amendment proposed

THAT, clause 33 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “reference to the” and substituting therefor the word “Board”.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 33 - vote deferred

Clauses 34 & 35

Motion made and Question proposed;

THAT, Clause 34 & 35 be part of the Bill.

Clauses 34 & 35 - vote deferred

New Clause 16A - insertion of new clause proposed

THAT, the Bill is amended by inserting the following new clauses immediately after clause 16—

Staff of the Board.

16A. The Board may employ such officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Board under this Act and upon such terms and conditions of service as the Board may determine.

Motion made and Question proposed;

THAT, the new clause 16A be now read a Second Time.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

New Clause 16A - vote deferred

New Clause 16B - insertion of new clause proposed

THAT, the Bill is amended by inserting the following new clauses immediately after clause 16—

Common seal of the Board.

16B. The affixing of the common seal of the Board shall be authenticated by the signature of the chairperson and the chief executive officer or a person designated by the board.

Motion made and Question proposed;

THAT, the new clause 16B be now read a Second Time.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

New Clause 16B - vote deferred

New Clause 16C - insertion of new clause proposed

THAT, the Bill is amended by inserting the following new clauses immediately after clause 16—

Signing Authority.

16C. All letters and instruments written or made by or on behalf of the Board of Directors, other than those required by law to be under seal, and all decisions of the Board of Directors, shall be signed under the hand of the chief executive officer or in the absence of the chief executive officer, a person authorized by the Board.

Motion made and Question proposed;

THAT, the new clause 16C be now read a Second Time.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

New Clause 16C - vote deferred

New Clause 16D - insertion of new clause proposed

THAT, the Bill is amended by inserting the following new clauses immediately after clause 16—

Conduct of business of the Board. **16D.** The business and affairs of the Board of Directors shall be conducted in accordance with the Schedule.

Motion made and Question proposed;

THAT, the new clause 16D be now read a Second Time.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

New Clauses 16D - vote deferred

New Clause 16E - insertion of new clause proposed

THAT, the Bill is amended by inserting the following new clauses immediately after clause 16—

Role of national and county governments **16E.** (1) Each county government shall implement the national government policies to the extent that the policies relate to the county and in particular shall be responsible for—

- (a) the development of tea grown within the county;
- (b) disease control;
- (c) markets;
- (d) cooperative societies within the county;
- (e) soil and water conservation.

(2) In order to achieve the objects and purposes of this Act, the national and county governments shall provide an enabling environment for the development of the tea sector.

Motion made and Question proposed;

THAT, the new clause 16E be now read a Second Time.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

New Clauses 16E – vote deferred

New Clause 34A – insertion of new clause proposed

THAT, the Bill be amended by inserting the following new clause immediately after clause 34-

Staff. **34A.** Any person who, at the commencement of this Act, is a member of staff of the Agriculture and Food Authority dealing with the tea sector shall, on the appointed day, become a member of staff of the Board on the same or improved terms and conditions of service as may be specified by the Cabinet Secretary.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Motion made and Question proposed

THAT, new clause 34A be now read a Second Time;

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

New Clause 34A – vote deferred

The Schedule – amendment proposed

THAT the Bill be amended by deleting the Schedule and substituting therefor the following new Schedule-

SCHEDULE s.16D
CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

- | | |
|------------------------|---|
| Meetings of the Board. | <p>1. (i) The Board of Directors shall meet at least once in every three months to conduct the business of the Board</p> <p>(ii) The Chairperson shall convene the ordinary meetings of the Board of Directors at the premises of the Board.</p> <p>(iii) Despite the provisions of sub-paragraph (1), the Chairperson shall, upon a written request by at least five members of the Board, convene a special meeting of the Board of Directors at any</p> |
|------------------------|---|

time where he considers it expedient for the transaction of the business of the Board.

- (iv) Unless three quarters of the total number of the members of the Board otherwise agree, at least fourteen days written notice of every meeting of the Board of Directors shall be given to every member of the Board by the Secretary.
- (v) The quorum for the conduct of the business of the Board shall be five members.
- (vi) The Chairperson shall preside at every meeting of the Board at which he is present and, in his absence, the members of the Board present shall elect one person from their number to preside over the meeting of the Board of Directors and he shall have all the powers of the Chairperson.
- (vii) Unless a unanimous decision is reached, a decision on any matter before the Board of Directors shall be by a majority of the votes of the members present and voting and in the case of an equality of votes, the Chairperson or person presiding over the meeting shall have a casting vote.
- (viii) The proceedings of the Board of Directors shall not be invalidated by reason of a vacancy within its membership.
- (ix) Subject to provisions of this Schedule, the Board of Directors may determine its own procedure and the procedure for any committee of the Board and for the attendance of other persons at its meetings thereof.

Disclosure of interest.

2. (1) If a member of the Board of Directors is directly or indirectly interested in any contract, proposed contract or other matter before the Board of Directors and is present at a meeting of the Board of Directors at which the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose his interest in the matter and shall not take part in the deliberations over, or vote on, the matter.

(ii) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

(iii) Any contract or instrument which if entered into or executed by a person not being a body corporate, would not be required to be under seal may be entered into or executed on behalf of Board of Directors by any person generally or specially authorized by the Board of Directors for that purpose.

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

The Schedule – vote deferred

Clause 2 – amendment proposed

THAT, Clause 2 of the Bill be amended by –

- (a) deleting the definition of the word “Authority”;
- (b) deleting the definition of the word “Board” and substituting therefore the following new definition-

“Board” means the Tea Board of Kenya established by section 3;

- (c) inserting the definitions of the following words in their proper alphabetical order-

“broker” means a person who negotiates the purchase or sale of tea between tea growers and buyers;

“managing factory” means a factory appointed to process green leaf into made tea;

(Sen. (Canon) Naomi Waqo on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Clause 2 – vote deferred

The Title and Clause 1

Motion made and Question proposed;

THAT the Title and Clause 1 be part of the Bill.

The Title and Clause 1 – vote deferred.

Progress Report

Motion made;

THAT, pursuant to Standing Order 148, the Committee of the Whole do report to the House its consideration of the Tea Bill (Senate Bills No. 36 of 2018) and seek leave to sit again tomorrow.

(Sen. Susan Kihika, MP on behalf of Sen. Aaron Cheruiyot, MP)

Before the Question was put and pursuant to Standing Order 79, the Acting Chairperson (Sen. Judith Pareno, MP) ruled that the Question did not affect counties;

Question put and agreed to.

20. **HOUSE RESUMED** – Temporary Speaker (Sen. (Prof.) Margaret Kamar, MP) – in the Chair.

21. **THE TEA BILL (SENATE BILLS NO. 36 OF 2018)**

Progress reported;

Motion made and Question proposed;

THAT, the House do agree with the Committee in the said report.

(Sen. Susan Kihika, MP, on behalf of Sen. Aaron Cheruiyot, MP)

Debate arising,

Amendment proposed

Motion made and Question proposed;

THAT, the Motion be amended by deleting the “full stop” at the end thereof and inserting the following words thereof “subject to the recommittal of clause 4 of the Bill to a Committee of the Whole tomorrow.”

(Sen. (Canon) Naomi Waqo, MP on behalf of the Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)

There being no Senator wishing to contribute on the amendment;

Before the Question was put and pursuant to Standing Order 79, the Temporary Speaker (Sen. (Prof.) Margaret Kamar, MP) ruled that the Question on the amendment did not affect counties;

Question on the amendment put and agreed to.

Debate arising;

There being no Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 79, the Temporary Speaker (Sen. (Prof.) Margaret Kamar, MP) ruled that the Question did not affect counties;

Question (as amended) put and agreed to.

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

Motion made and Question proposed;

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;

FURTHER NOTING THAT the Health Act (2017) further has the object to protect, respect, promote and fulfil the health rights of all persons in Kenya to the progressive realization of their right to the highest attainable standard of health, including reproductive health care and the right to emergency medical treatment;

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 need for 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 Kenya Government through 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.

(Sen. Naomi Masitsa Shiyonga, MP - 30.05.19)

Debate interrupted on Thursday; 30th May, 2019 resumed;

And there being no other Senator wishing to contribute;

Mover replied;

Before the Question was put, and pursuant to Standing Order No. 79, the Temporary Speaker (Sen. (Prof.) Margaret Kamar, MP) informed the House that the Motion did not affect counties.

Question put and agreed to.

RESOLVED ACCORDINGLY

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;

FURTHER NOTING THAT the Health Act (2017) further has the object to protect, respect, promote and fulfil the health rights of all persons in Kenya to the progressive realization of their right to the highest attainable standard of health, including reproductive health care and the right to emergency medical treatment;

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 need for 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 Kenya Government through 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.

And the time being thirty minutes past Six O'clock, the Temporary Speaker (Sen. (Prof.) Margaret Kamar, MP) interrupted the proceedings and adjourned the Senate without Question put, pursuant to the Standing Orders.

23. **SENATE ROSE** – at thirty minutes past Six O'clock.

MEMORANDUM

*The Speaker will take the Chair on
Tuesday, June 11, 2019 at 2.30 p.m.*