



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – (THIRD SESSION)**

**THE SENATE**

**ORDER PAPER**

**THURSDAY, AUGUST 01, 2019 AT 2.30 P.M.**

**PRAYERS**

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions (as listed in the Appendix)
5. Papers
6. Notices of Motion
7. Statements (as listed in the Appendix)
8. **\*\*\*THE DIVISION OF REVENUE (NO. 2) BILL (NATIONAL ASSEMBLY BILL NO. 59 OF 2019)**  
(The Senate Majority Leader)  
*(First Reading)*
9. **MOTION - 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;

**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;

...../*Motion*

**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.

*(Resumption of debate interrupted on Wednesday, 31<sup>st</sup> July, 2019)*

*(Balance of Time – 2 hours 20 minutes)*

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

(Sen. George Khaniri, MP)

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

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

**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.

...../Motion

11. **MOTION - DEVELOPMENT OF INFORMATION TECHNOLOGY AND TELECONFERENCING POLICY FRAMEWORK AND FACILITIES CONNECTING ALL COUNTY HEALTH FACILITIES TO THE NATIONAL REFERRAL HOSPITALS**

(Sen. Judith Pareno, MP)

**WHEREAS** Article 43 of the Constitution of Kenya provides for economic and social rights enjoyed by every person including the right to the highest attainable standard of health and the right to health care services;

**AWARE** that the Fourth Schedule to the Constitution of Kenya lists health as one of the functions to be performed by county governments, with the national Government providing health policy framework;

**NOTING** that Parliament enacted the Health Act, No. 21 of 2017, to establish a unified health system, to coordinate the inter-relationship between the national government and county government health systems, to provide for regulation of health care service and health care service providers, health products and health technologies;

**COGNIZANT** that the role of both county and national levels of government to ensure a healthy nation is complimentary;

**FURTHER AWARE** that most health facilities under the county governments are not well equipped with modern technological facilities and requisite personnel, leading to loss of lives especially from preventable and curable diseases;

**RECOGNIZING** that the government, through the National Broadband Policy has developed more advanced communications and efficient ICT systems with good fibre connection network covering a majority of the counties;

**FURTHER COGNIZANT** that the lack of structured engagement through technology between the county and national referral hospitals is impacting on quality of health service provision in the county and referral health facilities;

**NOW THEREFORE**, the Senate resolves that the national government:-

1. fully and urgently implements the Health Act, No.21 of 2017;
2. further collaborates with county governments to initiate and develop an ICT and teleconferencing policy framework; and
3. facilitates connecting all county health facilities to each other and to the national referral hospitals with a view to ensure seamless and efficient medical consultation between and among medical personnel and health facilities.

12. **MOTION - PLANTING OF TREES ALONG MAJOR INFRASTRUCTURE PROJECTS IN KENYA**

(Sen. Charles Kiburu, 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;

...../Motion

**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.

13. **MOTION - ENGAGEMENT OF COMMUNITY HEALTH WORKERS BY COUNTY GOVERNMENTS**

(Sen. Rose Nyamunga, MP)

**THAT, AWARE THAT** county health facilities, and the promotion of primary health care are devolved functions, and each county government is striving to offer the best healthcare to the people of Kenya;

**COGNIZANT THAT**, the provision of healthcare services is continuously riddled with numerous challenges ranging from understaffing of personnel to inadequate facilities and equipment resulting in congestion in hospitals further restricting effective service delivery;

...../Motion

**NOTING THAT** every Kenyan has a right to affordable and accessible healthcare, and the President has launched a pilot universal health care program called “Afya Care” that will see many Kenyans access improved healthcare;

**CONCERNED THAT**, the diverse nature of counties and wanting infrastructural development is compromising the quality and accessibility of health centres especially during emergency situations, resulting in the loss of many lives occasioned by the failure by patients to reach health facilities in time;

**FURTHER CONCERNED THAT**, in each county there are numerous unemployed community health workers who are adept at working with communities in emergency situations, and have the requisite experience to support the medical practitioners in our country where, according to the World Health Organization 2014 report, there are two (2) doctors for every ten thousand (10,000) people;

**NOW THEREFORE**, the Senate resolves that the Council of Governors in partnership with the Ministry of Health –

- (i) Develop a policy for the training, certification and employment of community health workers to enhance the emergency health service delivery in the Counties, and
- (ii) Facilitate the said community health workers with the necessary basic equipment for use during emergency cases.

14. **MOTION – RETIREMENT AGE FOR PERSONS WITH DISABILITIES IN PUBLIC SERVICE AND IN ACADEMIA**

(Sen. (Dr.) Getrude Musuruve, MP)

**THAT, AWARE THAT**, Persons with Disabilities (PWDs) and their families are among the world’s poorest and are disadvantaged in terms of their late entry into the labour-force;

**FURTHER AWARE THAT** the reality of employing disabled people does not match the presumptions held by employers, the influence of how they think about disability remains a potent issue for disabled people seeking to work;

**COGNIZANT THAT** Article 19 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) affirms the equal right of all persons with disabilities to live in a community with choices equal to others, and with equal access to services and facilities that are responsive to their needs;

**NOTING THAT**, unlike current trends around the world, employers in Kenya are not incentivized to employ Persons with Disabilities and therefore most public organizations and parastatals have not yet achieved the threshold of Article 54(2) of the Kenyan Constitution that obligates 5% appointment of PWDs in elective and appointive positions;

**CONCERNED THAT**, Article 27(e) of the UNCRPD advocates for party states, of which Kenya is one, to promote employment opportunities and career advancements of PWDs in the labour market as well as assistance in finding, obtaining, maintaining and returning to employment;

...../Motion

**NOW THEREFORE;** the Senate calls upon the Ministry of Labour and Social Protection and county governments to develop a policy to ensure that:

1. PWDs in gainful employment in public service retire at the age of 65 years instead of 60 years; and,
2. PWDs in academia, such as Universities and colleges retire at the age of 75 years, instead of 70 years.

15. **MOTION -REPORTS 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 Reports of the Parliament of Kenya Delegation on the Global Open Governance Partnership Summits 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, and in Ottawa, Canada, from 29<sup>th</sup> to 30<sup>th</sup> May, 2019, laid on the Table of the House on Thursday, 11<sup>th</sup> July, 2019.

16. **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.

17. **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 Poghiso, MP)

**THAT,** this House notes the Report on the 3<sup>rd</sup> 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.

18. **REPORT OF THE SENATE DELEGATION TO THE 63<sup>RD</sup> COMMISSION ON THE STATUS OF WOMEN (CSW63)**

(Sen. Sakaja Johnson, MP)

**THAT,** the Senate notes the report of the Senate Delegation to the 63<sup>rd</sup> Commission on the Status of Women (CSW63) held in the United Nations Headquarters, New York, USA, from 11<sup>th</sup> to 22<sup>nd</sup> March, 2019, laid on the Table of the Senate on Tuesday, 9<sup>th</sup> July, 2019.

19. **MOTION- REPORTS OF THE PARLIAMENT OF KENYA DELEGATION TO THE ASSEMBLIES OF THE INTER-PARLIAMENTARY UNION (IPU) AND RELATED MEETINGS.**

(Sen. Susan Kihika, MP)

**THAT**, the Senate notes the reports of the Parliament of Kenya Delegation to the 139<sup>th</sup> Assembly of the Inter-Parliamentary Union (IPU) and related meetings held in Geneva, Switzerland from 14<sup>th</sup> to 18<sup>th</sup> October, 2018, laid on the Table of the Senate on Thursday, 6<sup>th</sup> December, 2018, and the 140<sup>th</sup> Assembly of the Inter-Parliamentary Union (IPU) and related meetings held in Doha, State of Qatar from 6<sup>th</sup> to 10<sup>th</sup> April, 2019, laid on the Table of the Senate on Tuesday, 23<sup>rd</sup> July, 2019.

20. **MOTION – REPORT OF THE PARLIAMENT OF KENYA DELEGATION TO THE UNITED NATIONS CONFERENCE ON CLIMATE CHANGE (COP 24).**

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

**THAT**, the Senate notes the Report of the Parliament of Kenya Delegation to the United Nations Conference on Climate Change (COP 24) held in Katowice, Poland, from 3<sup>rd</sup> to 14<sup>th</sup> December, 2018, laid on the Table of the Senate on Thursday, 25<sup>th</sup> July, 2019

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**NOTICE**

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

**THAT**, pursuant to Standing Order 106 (1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Committee shall be limited in the following manner:-

A maximum of three hours with not more than twenty minutes for the Mover, twenty minutes for the Majority Party Official Responder, twenty minutes for the Minority Party Official Responder and fifteen minutes for each other Senator speaking and that fifteen minutes before the time expires, the Mover shall be called upon to reply.

**KEY**

**\*\*\*\*\*** - Denotes a Majority /Minority Party Bill

**\*\*\*** - Denotes a National Assembly Bill

**\*\*** - Denotes a Committee Bill

**\*** - Denotes any other Bill

**APPENDIX**

1. **PETITION**

Petition by Citizens of Kenya from various parts of the country and abroad, and the True North Society of Kenya on the enactment of a Military Veteran Law to address the needs of military veterans and their dependents.

*(Sen. George Khaniri, MP)*

2. **STATEMENTS**

**(i) Pursuant to standing order 48(1)**

- a) Nominated Senator (Sen. Abshiro Halake, MP) to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations on the poor state of Kenyan embassies abroad;
- b) The Senator for Makueni County (Sen. Mutula Kilonzo Jnr, MP) to seek a statement from the Standing Committee on Lands, Environment and Natural Resources on the plight of project affected persons during the construction of Kibwezi-Kitui-Kabati-Migwani (B7) Road;
- c) The Senator for Wajir County (Sen. (Dr.) Abdullahi Ibrahim Ali, MP) to seek a statement from the Standing Committee on Labour and Social Welfare on the recent announcement by government on hiring of public servants on contract basis; and
- d) The Senator for Wajir County (Sen. (Dr.) Abdullahi Ibrahim Ali, MP) to seek a statement from the Standing Committee on Labour and Social Welfare regarding pension plans for county government officers seconded from the national government for devolved functions.

**(ii) 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, 6<sup>th</sup> August, 2019.

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