



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – THIRD SESSION

THE SENATE

VOTES AND PROCEEDINGS

THURSDAY, JULY 04, 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 Deputy Speaker.
3. **COMMUNICATIONS FROM THE CHAIR**

The Deputy Speaker conveyed the following Communications from the Chair.

a) Visiting Students and Teachers from Nyakiambi Secondary School, Nakuru County

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Nyakiambi Secondary School in Nakuru 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.”

b) Visiting Students and Teachers from Mount Kenya Academy, Nyeri County

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Mount Kenya Academy in Nyeri 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.”

c) Visiting Students and Teachers from Kiwanja Ndege Primary School, Laikipia County

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Kiwanja Ndege Primary School in Busia 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.”

d) Visiting Students and Teachers from Kabare Girls High School, Kirinyaga County

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Kabare Girls High School in Kirinyaga 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.”

e) Visiting Students and Teachers from Mary Leakey Girls School, Kiambu County

“Honourable Senators,

I would like to acknowledge the presence, in the Public Gallery this afternoon, of visiting students and teachers from Mary Leakey Girls School in Kiambu 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. **NOTICE OF MOTION - ADOPTION OF THE REPORT OF THE MEDIATION COMMITTEE ON THE IRRIGATION BILL (NATIONAL ASSEMBLY BILLS NO. 46 OF 2017)**

(Chairperson, Mediation Committee)

THAT, the Senate adopts the Report of the Mediation Committee on the Irrigation Bill (National Assembly Bills No. 46 of 2017) laid on the Table of the Senate on Wednesday, 3rd July, 2019 and pursuant to Article 113 of the

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

5. **NOTICE OF 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;

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.

6. **STATEMENTS**

i) Statement pursuant to Standing Order 47 (1)

The Senator for Nandi County (Sen. Samson Cherargei, MP) made a statement on an issue of national concerning the unending display of force with impunity by the National Police Service and Administration, as well as arbitrary arrests

and withdrawal of security details assigned to leaders perceived to be against the establishment.

In the statement, the Senator noted that although the right to protection by the state for all citizens including their leaders is firmly anchored in the Constitution, the security detail of Members of Parliament and Governors have been withdrawn, for some indefinitely, with no explanation or justification.

He regretted that the Police force is carrying out arrests for amorphous charges on the instruction of their seniors, and not on the strength of evidence collected, in contravention of Article 244 of the Constitution.

The Senator called upon the House within the next fourteen days, to summon the Cabinet Secretary for Interior and Coordination of Government, the Inspector General and the Director of Public Prosecutions to explain the government's policy on the attachment of security details to leaders, and explain the State's unpreparedness when prosecuting matters that warrants the unreasonably lengthy detaining of citizens.

ii) Statements pursuant to Standing Order 51 (1)(b)

- a) The Chairperson, Standing Committee on Agriculture, Livestock and Fisheries (Sen. Njeru Ndwiga) issued a statement relating to the activities of the Committee for the period commencing 13th May to 30th June, 2019;
- b) The Chairperson, Standing Committee on Devolution and Intergovernmental Affairs (Sen. John Nderitu) issued a statement relating to the activities of the Committee for the period commencing 12th February to 30th June, 2019;
- c) Sen. (Prof.) Samson Ongeru issued on behalf of the Chairperson, Standing Committee on Education a statement relating to the activities of the Committee for the period 1st January to 30th June, 2019;
- d) The Chairperson, Standing Committee on Energy (Sen. Ephraim Maina) issued a statement relating to the activities of the Committee for the period commencing 1st January to 30th June, 2019;
- e) The Chairperson, Standing Committee on Finance and Budget (Sen. Mohamed Mahamud) issued a statement relating to the activities of the Committee for the period commencing 1st January to 30th June, 2019; and
- f) Sen. Petronilla Were issued on behalf of the Chairperson, Standing Committee on Health a statement relating to the activities of the Committee for the period commencing 1st January to 30th June, 2019.

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

The Senate Majority Whip issued, on behalf of the Senate Majority Leader, a statement regarding the business of the Senate for the week commencing Tuesday, 9th July, 2019.

6. **MOTION - ADOPTION OF THE REPORT OF THE MEDIATION COMMITTEE ON THE IRRIGATION BILL (NATIONAL ASSEMBLY BILLS NO. 46 OF 2017)**

Order read;

Motion made and Question proposed-

THAT, the Senate adopts the Report of the Mediation Committee on the Irrigation Bill (National Assembly Bills No. 46 of 2017) laid on the Table of the Senate on Wednesday, 3rd July, 2019 and pursuant to Article 113 of the Constitution and Standing Order 161 (3) of the Senate Standing Orders approves the mediated version of the Bill.

(Chairperson, Mediation Committee)

Debate arising;

And there being no other Senator wishing to contribute;

Mover replied;

Before the Question was put, and pursuant to Standing Order No. 79 (1), the Deputy Speaker informed the House that the Motion affects counties.

Raising a point of order the Chairperson, Mediation Committee (Sen. Njeru Ndwiga) requested that the putting of the question be deferred to a later date pursuant to Standing Order 61 (3).

And the Deputy Speaker acceding to his request deferred putting of the Question to a later date.

7. **MOTION - WAIVER OF INTEREST ON LOANS TO GRADUATES BY THE HIGHER EDUCATION LOANS BOARD (HELB)**

Order read;

Motion made and Question proposed-

THAT, AWARE THAT the Higher Education Loans Board (HELB) has, for over the last two decades, become the leading financier of higher education in Kenya whose mandate is to source funds and lend them as affordable loans, bursaries and scholarship to students pursuing higher education in recognized institutions; COGNIZANT THAT, the Ministry of Education announced that the government has lost Kshs. 7.2b through people defaulting payment on loans issued by HELB translating to 74,692 graduates who have defaulted the loans payment;

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

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

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

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

1. institutes a six (6) month full waiver of all the interest and penalties accrued, including the lifting of Credit Reference Bureau blacklisting, for defaulters who are willing to repay their loans in entirety, within the six (6) month period; and
2. embarks on a forty-five (45) day sensitization exercise preceding the waiver, no later than ninety (90) days after the passage of this motion.

(Sen. (Dr.) Abdullahi Ali, MP – 3.07.2019)

Debate interrupted on Wednesday, 3rd July, 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 (1), the Deputy Speaker informed the House that the Motion did not affect counties.

Question put, agreed to.

RESOLVED ACCORDINGLY

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

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

NOTING THAT, measures were taken to enhance the HELB loan recovery process which included a six month waiver of accumulated interest and penalties, and

working with law enforcement officers to make sure the defaulters who are employed payback the loans;

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

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

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

1. institutes a six (6) month full waiver of all the interest and penalties accrued, including the lifting of Credit Reference Bureau blacklisting, for defaulters who are willing to repay their loans in entirety, within the six (6) month period; and
 2. embarks on a forty-five (45) day sensitization exercise preceding the waiver, no later than ninety (90) days after the passage of this motion.
8. **MOTION - RENAMING OF MURANG'A UNIVERSITY OF TECHNOLOGY TO KENNETH MATIBA UNIVERSITY OF TECHNOLOGY.**
(Sen. Isaac Mwaura, MP)

THAT, AWARE THAT, Murang'a University of Technology (MUT) is a Chartered University established under Section 13 of the Universities Act, 2012, and is positioning itself to develop a distinctive profile as a progressive and international Technical University, growing its enrolment strategically;

FURTHER AWARE that the University is located in Murang'a County, the home County of the late politician Kenneth Njindo Matiba, who died a patriotic and political hero, with numerous achievements spanning four decades;

NOTING THAT, the late Matiba was a prolific industrialist in the hospitality and education sector, and an accomplished public servant having served as the first indigenous African Permanent Secretary for Education in 1963; Permanent Secretary for Commerce; Chairperson of the Kenya Football Federation from 1974-78; a member of parliament for Kiharu constituency; Cabinet Minister for Health; Culture & Social Services; and Transport & Communications;

FURTHER NOTING THAT, the late Matiba was part of the opposition alliance that led the liberation struggle for the restoration of multi-party democracy through the Forum for the Restoration of Democracy (FORD), later founding FORD –Asili under which he ran for presidency in 1992 general election;

COGNIZANT that under the Heroes Act, 2014, the state is obliged to confer recognition to the late statesman for his cardinal contributions to the political and economic growth of this country;

FURTHER COGNIZANT that other patriotic Kenyans like Jomo Kenyatta, Daniel arap Moi, Masinde Muliro, Dedan Kimathi and Jaramogi Oginga Odinga have been accorded such recognition;

NOW THEREFORE, the Senate urges the National Government in remembrance of Matiba's contribution to our Nation, to rename Murang'a University of Technology to Kenneth Matiba University of Technology.

Order deferred.

9. **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.

Order deferred.

10. **MOTION -ENHANCEMENT IN ALLOCATION OF RESEARCH FUNDS TOWARDS HIGHER LEARNING**

Order read;

Motion made and Question proposed-

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

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

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

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

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

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

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

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

Debate arising;

And there being no other Senator wishing to contribute;

Mover replied;

Before the Question was put, and pursuant to Standing Order No. 79 (1), the Temporary Speaker (Sen. Judith Pareno, MP) informed the House that the Motion did not affect counties.

Question put, agreed to.

RESOLVED ACCORDINGLY

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

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

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

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

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

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

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

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 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.

Order deferred.

12. **MOTION - STAFF RATIONALIZATION IN COUNTIES.**

Order read;

Motion made-

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

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 14th 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;

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.

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

And the time being thirty Minutes past Six O'clock, the Temporary Speaker (Sen. Judith Pareno) adjourned the Senate without question put, pursuant to the Standing Orders.

13. SENATE ROSE – at Thirty Minutes past Six O'clock.

MEMORANDUM

*The Speaker will take the Chair on
Tuesday, July 09, 2019 at 2.30 p.m.*

--x--