



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – THIRD SESSION**

**THE SENATE**

**VOTES AND PROCEEDINGS**

**THURSDAY, AUGUST 01, 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 ON VISITING STUDENTS AND TEACHERS FROM VARIOUS SCHOOLS**
  - a) The Speaker acknowledged the presence, in the Public Gallery that afternoon, of visiting students and teachers from the following schools: -
    - i) Matondoni Primary School in Makueni County;
    - ii) Barekeiwo Primary School in Uasin Gishu County;
    - iii) Ndungulu Primary School in Uasin Gishu County;
    - iv) Ng'abolo Primary School in Laikipia County;
    - v) J. K. Moi Kaburwo Primary School in Baringo County; and
    - vi) Mithuluni Primary School in Machakos County.

On behalf of the Senate and on his own behalf, the Speaker welcomed them to the Senate and wished them well for the remainder of their stay.
  - b) The Temporary Speaker (Sen. Judith Pareno, MP) acknowledged the presence, in the Public Gallery that afternoon, of visiting students and teachers from the following schools: -
    - i) Ngunyumu Primary School in Machakos County;
    - ii) Phim Primary School in Bungoma County;
    - iii) Sony Sugar Primary School in Migori County;
    - iv) Kabarbesi Primary School in Baringo County;
    - v) Simat Primary School in Uasin Gishu County;
    - vi) St. Paul Lugari High School in Kakamega County;
    - vii) St. Thomas Kapkoros Primary School in Nandi County;
    - viii) Jeptulu Primary School in Vihiga County;
    - ix) Tecla Lorupe Primary School in West Pokot County; and
    - x) Mercy Girls Secondary School in Kericho County.

On behalf of the Senate and on her own behalf, the Temporary Speaker (Sen. Judith Pareno, MP) welcomed them to the Senate and wished them well for the remainder of their stay.

4. **PETITION**

Pursuant to Standing Order 226(1)(b) and 230(2)(a), the Senator for Vihiga County (Sen. George Khaniri, MP) presented to the Senate a 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.

Pursuant to Standing Order 231, the Speaker invited Senators to comment thereon and, subsequently, committed the Petition to the Standing Committee on Labour and Social Welfare, pursuant to Standing Order 232 (1).

5. **PAPER LAID**

The following Paper was laid on the Table of the Senate: -

Statement on the business of the Senate for the week commencing Tuesday, 6<sup>th</sup> August, 2019.

*(The Senate Majority Whip, on behalf of the Senate Majority Leader)*

6. **STATEMENTS**

**a) Statements pursuant to Standing Order 48 (1)**

- i) The Senator for Makueni County (Sen. Mutula Kilonzo Jnr, MP) sought a statement from the Standing Committee on Land, Environment and Natural Resources on the plight of project affected persons during the construction of Kibwezi-Kitui-Kabati-Migwani (B7) Road;
- ii) The Senator for Wajir County (Sen. (Dr.) Abdullahi Ali, MP) sought 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;
- iii) The Senator for Wajir County (Sen. (Dr.) Abdullahi Ali, MP) sought 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.

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

7. **THE DIVISION OF REVENUE (NO. 2) BILL (NATIONAL ASSEMBLY BILL NO. 59 OF 2019)**

Order for First Reading read;

Bill read a First Time and committed to the Standing Committee on Finance and Budget.

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

Order read;

Motion made and Question proposed: -

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;

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 – 4.7.2019)*

Debate interrupted on Wednesday, 31<sup>st</sup> July, 2019 resumed;

And there being no other Senator wishing to contribute;

Nominated Senator (Sen. Farhiya Haji, MP) replied on behalf of the Mover, pursuant to Standing Order 59(2)(b);

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 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;

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.

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

Order read;

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.

*(Sen. George Khaniri, MP)*

Order deferred.

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

Order read;

Motion made and Question proposed: -

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.

*(Sen. Judith Pareno, 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. (Prof.) Margaret Kamar, MP) informed the House that the Motion did not affect counties.

Question put, agreed to.

**RESOLVED ACCORDINGLY**

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.

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

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

**M E M O R A N D U M**

*The Speaker will take the Chair on  
Tuesday, August 06, 2019 at 2.30 p.m.*

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