



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – THIRD SESSION**

**THE SENATE**

**VOTES AND PROCEEDINGS**

**THURSDAY, MARCH 28, 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. **COMMUNICATION FROM THE CHAIR - STATE OF THE NATION ADDRESS TO PARLIAMENT BY H. E THE PRESIDENT**

The Speaker conveyed the following communication from the Chair: -

“Honourable Senators,

As you may be aware, Article 132(1)(b) of the Constitution and Standing Order 22(1) of the Senate Standing Orders, requires the President to address a Special Sitting of Parliament once every year and at any other time.

By a letter referenced SH/5/VOL2/09 of 7<sup>th</sup> March, 2019 and addressed to the Clerks of Parliament, the Office of the President requested to have the Presidential Address to Parliament scheduled for Thursday, 4<sup>th</sup> April, 2019. The Sitting has subsequently been gazetted vide *Gazette Notice* No. 2921 dated 26<sup>th</sup> March, 2019.

Honourable Senators,

This is therefore to inform you that a Special Sitting of Parliament will be held on Thursday, 4<sup>th</sup> April, 2019 at 2.30 pm, in the National Assembly Chamber.

Honourable Senators, this is an important occasion in the calendar of Parliament that provides an opportunity for H.E the President to deliver the State of the Nation Address and to address the Legislature and the people of Kenya on critical matters concerning the country. I therefore urge you to attend the Special Sitting.

Honourable Senators, due to limited sitting space, Senators and Members of the National Assembly will be at liberty to invite one guest each for the occasion. In

this regard, you are hereby requested to provide the names of such guests to facilitate the preparation of formal invitation cards. The names should be submitted to the Office of the Clerk by Friday, 29<sup>th</sup> March, 2019.

Honourable Senators, the Special Sitting has also necessitated a re-arrangement of parking slots. Consequently, the current Senators' parking area here at the Main Parliament Buildings will not be available for parking by Senators on Thursday, 4<sup>th</sup> April, 2019. Alternative parking arrangements within the precincts of Parliament are being made, and will be communicated to Senators before the Special Sitting.

I thank you."

4. **MESSAGE FROM THE NATIONAL ASSEMBLY ON THE PASSAGE OF THE COUNTY GOVERNMENTS (AMENDMENT) (NO.2) BILL (SENATE BILLS NO. 7 OF 2017)**

The Speaker conveyed the following Message from the National Assembly: -

"Honourable Senators, I wish to report to the Senate that, pursuant to Standing Order 41 (3) and (4), I have received the following message from the Speaker of the National Assembly regarding the passage of the County Governments (Amendment) (No.2) Bill (Senate Bills No. 7 of 2017)-

*"PURSUANT to the provisions of Standing Order 41 (1) and 144 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly-*

*WHEREAS, the County Governments (Amendment) (No.2) Bill (Senate Bills No. 7 of 2017) was passed by the Senate on Thursday, 21<sup>st</sup> June, 2018 with amendments and referred to the National Assembly for consideration;*

*AND WHEREAS, the National Assembly passed the said Bill on Tuesday, 26<sup>th</sup> March, 2019 with further amendments attached herewith;*

*NOW THEREFORE, in accordance with the provisions of Article 110 of the Constitution and Standing Order 41 (1) and 144 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate."*

Honourable Senators, Article 112 (1) (b) of the Constitution provides that *if one House passes an ordinary Bill concerning counties and the second House passes the Bill in an amended form, it shall be referred back to the originating House for reconsideration.*

Honourable Senators, in this regard, I direct the Standing Committee on Devolution and Intergovernmental Relations to deliberate on the National Assembly amendments and report to the Senate. Further, pursuant to Standing Order 159 (1) of the Senate Standing Orders, I direct that the National Assembly amendments to the County Governments (Amendment) (No.2) Bill (Senate Bills

No. 7 of 2017) be circulated to all Senators and be listed in the Order Paper for consideration on Wednesday, 3<sup>rd</sup> April, 2019.

I thank you!"

5. **MESSAGE FROM THE NATIONAL ASSEMBLY ON THE PASSAGE OF THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILL NO. 11 OF 2019)**

The Speaker conveyed the following Message from the National Assembly: -

"Honourable Senators, I wish to report to the Senate that, pursuant to Standing Order 41 (3) and (4), I have received the following message from the Speaker of the National Assembly regarding the passage by the Assembly of the Division of Revenue Bill (National Assembly Bill No. 11 of 2019).

*"PURSUANT to the provisions of Standing Orders 41 and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly –*

*WHEREAS, the Division of Revenue Bill (National Assembly Bill No. 11 of 2019) was published vide Kenya Gazette Supplement No. 18 of 6<sup>th</sup> March 2019 to provide for the equitable division of revenue raised nationally between the national and county governments in the 2019/2020 financial year;*

*WHEREAS, on 21<sup>st</sup> and 26<sup>th</sup> March 2019, the National Assembly considered and passed the said Bill without amendments and in the form attached hereto;*

*NOW THEREFORE, in accordance with the provisions of Article 110 (4) of the Constitution and Standing Order 41 of the National Assembly Standing Orders, I hereby refer the Bill to the Senate for consideration."*

Honourable Senators, Standing Order No. 157 requires that a Bill which originates in the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading in accordance with Standing Order No. 139.

I therefore direct that the Division of Revenue Bill (National Assembly Bill No. 11 of 2019) be read a First time, on Tuesday, 2<sup>nd</sup> April, 2019.

I thank you!"

6. **PAPERS LAID**

The following Papers were laid on the Table of the Senate: -

- i) Report of the Standing Committee on Agriculture, Livestock and Fisheries on its consideration of the Tea Bill (Senate Bills No. 36 of 2018).

*(The Senate Majority Leader, on behalf of the Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)*

- ii) Statement on the Business of the Senate for the week commencing Tuesday, 2<sup>nd</sup> April, 2019.

*(The Senate Majority Leader)*

7. **NOTICE OF MOTION** - (Sen. (Dr.) Abdullahi Ali, MP)

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

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

**i) Statement pursuant to Standing Order No. 48 (1)**

The Senator for Nairobi City County (Sen. Johnson Sakaja, MP) requested for a statement from the Standing Committee on Devolution and

Intergovernmental Relations regarding the proper constitution of the Nairobi City County Government.

**ii) Statement pursuant to Standing Order No. 51 (1)**

The Chairperson of the Standing Committee on Devolution and Intergovernmental Relations issued a statement relating to a matter for which the Committee was responsible, namely the working relations between the County Executive and County Assembly of Mombasa.

Thereupon, the Chairperson informed the Senate that, following a request from the Senator for Mombasa County, the Committee held meetings with the Governor of Mombasa County and the Speaker of Mombasa County Assembly, on 18<sup>th</sup> March, 2019 and 20<sup>th</sup> March, 2019, respectively, to try and address the differences that had arisen.

The Chairperson further informed the House that the Committee was scheduled to hold further meetings with the two parties in the coming weeks, and would subsequently update the House on the progress of the said engagements.

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

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

9. **MOTION – ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE COUNTY GOVERNMENTS’ INFRASTRUCTURE PROJECTS**

Motion made and Question proposed:

THAT, this House adopts the Report of the Standing Committee on Finance and Budget on the County Governments’ infrastructure projects comprising County Executive Headquarter offices, Assembly Chambers and offices and County State officers’ residences, laid on the Table of the Senate on Thursday, 29<sup>th</sup> November, 2018.

*(Chairperson, Standing Committee on Finance and Budget – 21.03.2019)*

Debate interrupted on Thursday, 21st March, 2019 resumed;

And there being no other Senator wishing to contribute;

Mover replied;

Raising a point of order and pursuant to Standing Order 61 (3), the Mover requested for the deferment of the putting of the Question to a later date;

And the Temporary Speaker (Sen. Judith Pareno, MP) acceding to the request, deferred the putting of the Question.

10. **MOTION - REALIZATION OF GENDER EQUITY IN ELECTIVE AND APPOINTIVE POSITIONS IN KENYA**

(Sen. (Canon) Naomi Waqo Jilo, MP)

THAT, AWARE THAT, the Constitution of Kenya recognizes dignity, economic, social and cultural rights, education, housing and the right to health including reproductive health; and that the principle of equality and non-discrimination is established as a core value of leadership and the national values and principles of governance include human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of marginalized groups, among others;

FURTHER AWARE THAT, the Constitution of Kenya has very progressive articles that indicate commitment to the international and regional obligations arising from treaties and conventions and other Commitments signed or ratified;

COGNIZANT that Kenya has ratified the Convention on Elimination of all forms of discrimination against Women and the Protocol to the African Charter on Human and People's Rights of the Right of Women which are international instruments that are key to promoting women's rights;

RECALLING that policy framework to enhance gender equality has also been developed, and include the National Gender and Development Policy 2000, the Kenya Vision 2030, Sessional paper No. 2, of 2006, the National Land Policy, the National Policy for Response to Gender Based Violence, and the National Policy for the Abandonment of Female Genital Mutilation;

NOTING THAT, despite there being sound constitutional provisions and elaborate policy framework to realise gender equity, both national government and county governments have not done enough to realise the achievement of gender equality;

CONCERNED that women in Kenya experience hardships when it comes to elective offices, and are underrated by society with most opportunities for elective and appointive offices being awarded to men;

NOW THEREFORE THE SENATE RESOLVES

- 1) that Parliament fast track the enactment of the law that shall give effect to the one third gender rule; and,
- 2) that pursuant to Article 81 of the Constitution both the National and County governments observe the principle of equality, and empowers the female gender by increasing the appointive position to at least fifty per cent.

Order deferred.

11. **MOTION - COMPLETION OF STALLED PROJECTS UNDER COUNTY GOVERNMENTS THROUGH BUDGETARY MANAGEMENT**  
(Sen. Charles Reubenson Kibiru, MP)

THAT, AWARE THAT Kenya has had a development blueprint of Vision 2030 since 2008 which has guided planning and development for the last decade, with a focus to making Kenya an industrialized middle-income economy with a higher per capita income for its citizens;

FURTHER AWARE THAT, the development planning of the country is funded from the Consolidated Fund through the annual budget whereby revenues generated by Kenyans through taxes, levies, and fees that are supplemented with support of development partners in the form of outright loans, conditional loans, grants and/or unconditional grants to support growth and development across the country;

COGNIZANT THAT, any diversion from the Vision 2030 blueprint as well as the President's "Big Four" Agenda, would negatively impact the development trajectory that seeks to ensure a long-term microeconomic stability resulting in a revision of targets on the goals for socio-economic, cultural, environmental, technological and political transformation;

NOTING THAT, whereas the National Government's Budget is based on Vision 2030 and "Big Four" Agenda, the County Governments' Budgets are based on their respective County Integrated Development Plans, (CIDPs) which are expected to dovetail with the overall national development blueprint;

CONCERNED THAT, there are glaring discrepancies in progress made in development among counties, particularly among the 14 devolved functions caused by lack of accountability, integrity, professionalism and remaining a blemish on the successes of devolution;

ACKNOWLEDGING, the tribulations, ridicule, pecuniary embarrassment and negative socio-economic impact that pending bills have had on the local business community who supplied or undertook a service for the county governments, and the attendant slowdown in actual project completion, the rise in stalled projects dotting counties, with County Governors prioritizing new projects instead of the completion of those which have stalled;

FURTHER ACKNOWLEDGING THAT, the National Treasury in its circular No. 9/2018 detailed the five hundred and forty-five (545) projects which have stalled in the 47 Counties, and their status of completion, collectively amounting to an estimated project cost of three hundred and sixty-six (366) Billion Kenya shillings;

NOW THEREFORE, the Senate recommends that the National Treasury in partnership with the Controller of Budget, Commission on Revenue Allocation, the Council of Governors and the County Assemblies Forum to-

1. Ensure that all the County Integrated Development Plans (CIDP's) and Annual Development Plans (ADP's) are aligned to Vision 2030 with an implementation, monitoring, and evaluation framework in place;
2. Address Pending Bills by prioritizing their payment, creating clear timeframes for payment and publishing a schedule of payment of the same; and
3. Prioritize the completion of stalled development projects prior to undertaking or funding new projects.

Order deferred.

12. **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.



13. **MOTION - CREATION OF SUPPORT SERVICES FOR MEMBERS OF THE DISCIPLINED FORCES & 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.

14. **MOTION - ADDRESSING THE PLIGHT OF STREET FAMILIES IN URBAN CENTRES**  
(Sen. Beatrice Kwamboka, MP)

THAT, AWARE THAT the Street Families Rehabilitation Trust Fund (SFRTF) was established on 11<sup>th</sup> March, 2003 by the then Ministry of Local Government to address the concerns of all homeless, destitute and vulnerable persons in urban areas, and was registered as a body Corporate in August, 2010 under the Trustees (perpetual succession) Cap 164, Laws of Kenya;

FURTHER AWARE THAT the mandate of SFRTF includes coordinating rehabilitation activities for street families; conducting public education on street families issues; mobilizing resources and fundraising as well as receiving donations and funding street families rehabilitation programmes; managing donations for the rehabilitation of street families through a trust fund; monitoring expenditure and disbursement of donations; and advising the government and other relevant agencies on matters relating to rehabilitation of street families;

NOTING THAT Article 43 (1) of the Constitution of Kenya provides for the right to every person to the highest attainable standard of health, accessible and adequate housing, adequate food of acceptable quality, clean and safe water in adequate quantities, education, and social security;

CONCERNED THAT the street family phenomenon has persisted despite the existence of the SFRTF and street families do not enjoy the rights enshrined in the Constitution due to lack of a national policy on the rehabilitation of street families, with women and children being the primary victims;

COGNIZANT THAT the Ministry of Devolution and ASAL Areas through the SFRTF supports children and youth through charitable and community-based organizations which are vetted and approved for funding under the rescue, rehabilitation and reintegration of street families programme;

NOTING THAT both the National and County Governments have a role to play in addressing the plight of street families across the Country;

NOW THEREFORE the Senate resolves that the Ministry of Devolution and ASAL Areas in collaboration with the Council of Governors-

- 1) conducts a census of street families in all urban centres in the country to determine their numbers and demographics;
- 2) develops a clear policy on street families rehabilitation and reintegration at county level; and
- 3) tables an audit report of how funds allocated to the SFRTF have been utilized since the Fund was established, indicating the impact of the rehabilitation exercise.

Order deferred.

15. **MOTION-REPORTS OF THE SIXTH ORDINARY SESSION OF THE FOURTH PAN-AFRICAN PARLIAMENT AND THE FIRST ORDINARY SESSION OF THE FIFTH PARLIAMENT OF THE PAN-AFRICAN PARLIAMENT**  
(Sen. (Dr.) Abdullahi Ali, MP)

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

Order deferred.

16. **MOTION – REPORT OF THE PARLIAMENT OF KENYA DELEGATION TO THE GLOBAL SUMMIT ON OPEN GOVERNANCE PARTNERSHIP**  
(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

THAT, this House notes the Report on the Global Summit on Open Governance Partnership in Tbilisi, Georgia, 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.

Order deferred.

17. **MOTION –REPORT OF THE PARLIAMENT OF KENYA DELEGATION TO 50<sup>TH</sup> SESSION OF AFRICAN CARIBBEAN PARLIAMENT (ACP) AND 35<sup>TH</sup> SESSION OF THE ACP – EU JOINT PARLIAMENTARY ASSEMBLY**  
(Sen. (Prof.) Margaret Kamar, MP)

THAT, this House notes the Report of the Parliament of Kenya delegation to the 50<sup>th</sup> Session of the ACP Parliamentary Assembly and the 35<sup>th</sup> Session of the ACP-EU Joint Parliamentary Assembly held in Brussels, Belgium from 13<sup>th</sup> to 20<sup>th</sup> June, 2018.

Order deferred.

And there being no other business on the Order Paper, the Temporary Speaker (Sen. Judith Pareno, MP) adjourned the Senate at forty-five minutes past Four O'clock without question put, pursuant to the Standing Orders.

18. **SENATE ROSE** – at forty-five minutes past Four O'clock.

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

*The Speaker will take the Chair on  
Tuesday, April 2, 2019 at 2.30 p.m.*

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