



REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (THIRD SESSION)
THE SENATE
ORDER PAPER
TUESDAY, JULY 02, 2019 AT 2.30 PM

PRAYERS

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions (as listed in the Appendix)
5. Papers (as listed in the Appendix)
6. Notices of Motion
7. Statements

8. **COMMITTEE OF THE WHOLE**

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

(Chairperson, Sessional Committee on Delegated Legislation)

(Resumption of debate interrupted on Wednesday, 19th June, 2019)
(Recommittal)

9. **COMMITTEE OF THE WHOLE**

***THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2018)**

(Sen. Ledama Olekina, MP)

10. ***THE KENYA MEDICAL SUPPLIES AUTHORITY (AMENDMENT) BILL (SENATE BILLS NO. 38 OF 2018)**

(Sen. Mary Seneta, MP)

(Second Reading)

(Resumption of debate interrupted on Tuesday, 18th June, 2019)

11. ******THE COUNTY HALL OF FAME BILL (SENATE BILLS NO. 39 OF 2018)**

(The Senate Majority Leader)

(Second Reading)

...../Bill

- 12. ***THE PERSONS WITH DISABILITIES (AMENDMENT) BILL (SENATE BILLS NO. 1 OF 2019)**
(Sen. Aaron Cheruiyot, MP and Sen. Isaac Mwaura, MP)
(Second Reading)

- 13. ******THE CONSTITUTION OF KENYA (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2019)**
(The Senate Majority Leader)
(Second Reading)

- 14. ***THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (SENATE BILLS NO. 3 OF 2019)**
(Sen. (Dr.) Agnes Zani, MP)
(Second Reading)

- 15. ***THE CONTROL OF STRAY DOGS BILL (SENATE BILLS NO. 4 OF 2019)**
(Sen. Mary Seneta, MP)
(Second Reading)

- 16. **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;

...../**Motion**

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.

17. **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.

18. **MOTION - WAIVER OF INTEREST ON LOANS TO GRADUATES BY THE HIGHER EDUCATION LOANS BOARD (HELB)**
(Sen. (Dr.) Abdullahi Ali, MP)

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 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 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;

...../Motion

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.

19. **MOTION – ENHANCEMENT IN ALLOCATION OF RESEARCH FUNDS TOWARDS HIGHER LEARNING**

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

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.

...../Motion

- 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.

NOTICE

The Senate resolved on 13th 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

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

(Chairperson, Select Committee on Delegated Legislation)

NOTICE is given that Sen. Samson Cherarkey, Chairperson of the Standing Committee on Justice, Legal Affairs and Human Rights, intends to move the following amendments to the Statutory Instruments (Amendment) Bill, 2018, at the Committee Stage-

CLAUSE 3

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

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

(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.

NEW CLAUSES

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

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

23 of 2013. Concurrence **15A.** (1) The Clerk of the House to on a which a statutory instrument is statutory referred shall, upon-instrument.

...../Amendments

(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.

(4) 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.

...../Amendments

(5) 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.

Amendment **5.** The principal Act is amended by deleting of section section 18 and substituting therefor the following 18 of No. 23 new section- of 2013.

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.

B. *THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2018)
(Sen. Ledama Olekina, MP)

- (i) **NOTICE** is given that Sen. Johnson Sakaja, the Chairperson to the Standing Committee on Labour and Social Welfare, intends to move the following amendments to the Retirement Benefits (Deputy President and Designated State Officers) Bill, 2018, at the Committee Stage—

CLAUSE 2

Amend **THAT** the Bill be amended by deleting clause 2 and substituting
ment of the following new clause—

section Section 2 of the Retirement Benefits (Deputy President and
2 of Act Designated State Officers) Act, 2015, hereinafter referred to as the
No. 8 of “principal Act”, is amended by—
2015

- (a) inserting the following new definition immediately after the definition of the term “entitled person”—

“pensionable emoluments” means basic salary excluding housing, transport and any other allowances or fluctuating emoluments;

- (b) deleting the definition of the term “retired vice president” and substituting therefor the following new definition—

“retired Vice-President” means a person who, having held the office of the Vice President at any time after 1st January, 1993, has ceased to hold office as such in the manner specified in the Constitution;

CLAUSE 7

THAT clause 7 of the Bill be amended by—

- (a) renumbering the proposed new section 10 as subsection (1);
and
- (b) inserting the following new subsection immediately after subsection (1)—

(2) Where an entitled person has no surviving spouse or an eligible child the benefits payable shall form part of the estate of the deceased for administration.

CLAUSE 8

THAT the Bill be amended by deleting clause 8.

CLAUSE 9

THAT the Bill be amended by deleting clause 9.

CLAUSE 10

THAT the Bill be amended by deleting clause 10.

NEW CLAUSE

THAT the Bill be amended by inserting the following new clause immediately after clause 7—

Amendment **7A.** The First Schedule of the principal Act is amended in of First paragraph (h) by deleting the word “two” appearing at the Schedule of beginning of the paragraph.
Act No. 8 of
2015

- (ii) **NOTICE** is given that Sen. Farhiya Ali Haji, intends to move the following amendments to the Retirement Benefits (Deputy President and Designated State Officers) (Amendment) Act, Senate Bills No. 2 of 2018, at the Committee Stage—

CLAUSE 5

THAT clause 5 of the Bill be amended by inserting the following new paragraphs after paragraph (a)-

(aa) in subsection (1) by deleting the word“four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.

(ab) in subsection (1) by deleting the word“four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

THAT the Bill be amended by introducing the following new clauses after clause 5

CLAUSE 5A

THAT section 5A of the Act be amended by-

(a) deleting the word “four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.

(a) deleting the word “four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

CLAUSE 5B

THAT section 5B of the Act be amended by-

- (a) deleting the word “four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.
- (b) deleting the word “four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

CLAUSE 5C

THAT section 6 of the Act be amended by-

- (a) deleting the word “four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.
- (b) deleting the word “four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

CLAUSE 5D

THAT section 7 of the Act be amended by-

- (a) deleting the word “four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.
- (b) deleting the word “four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

APPENDIX

1. PETITIONS

- (i) Petition to the Senate on Mwakitau land ownership dispute between Mwakitau Residents and Isanga Iwishi Group Ranch;
- (ii) Petition to the Senate concerning lack of support for issuance of death certificates and facilitation of counselling by the Ministry of Foreign Affairs to families of the victims of the Ethiopian Air crash; and
- (iii) Petition to the Senate on the Wajir waste disposal site and the disgraceful abuse of the right to enjoy environmental rights under Article 42 of the Constitution.

(The Speaker of the Senate)

2. PAPERS

- (i) Report of the Auditor-General on Kisii County Bursary Fund for the Year ended 30th June 2018;
- (ii) Report of the Auditor-General on the Financial Statements of Bomet County Car Loan and Mortgage Scheme for the Year ended 30th June 2018;
- (iii) Report of the Auditor-General on the Financial Statements of Bomet County Bursary Fund for the Year ended 30th June 2018;
- (iv) Report of the Auditor-General on the Financial Statements of Bungoma County Community Development Fund for the Year ended 30th June 2018; and
- (v) Report of the Auditor-General on the Financial Statements of Bungoma County Women Empowerment Fund for the Year ended 30th June 2018.

(The Senate Majority Leader)