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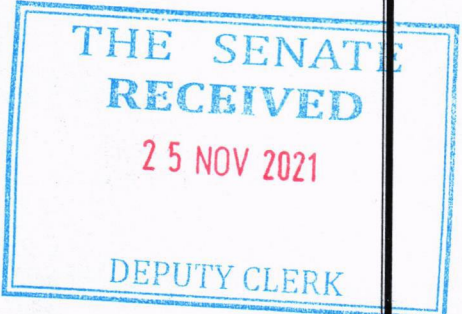


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Recommended for approval for tabling.



THE SENATE



Eg 30/11/21

TWELFTH PARLIAMENT – FIFTH SESSION

STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

REPORT ON THE PETITION REGARDING THE STATE OF 'INUA JAMII' PROGRAMME

PAPERS LAID	
DATE	01/12/2021.
TABLED BY	Chairperson.
COMMITTEE	Labour.
CLERK AT THE TABLE	Docent

Rt. Hon. Speaker
You may approve for tabling.
30/11/21

Clerk's Chambers,
The Senate,
Parliament Buildings,
NAIROBI

Approved
30/11/2021

November, 2021

Recommended & forwarded for approval
27/11/2021

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ABBREVIATIONS AND ACRONYMS

CCTP-MIS	-	Consolidated Cash Transfer Program - Management Information System
CT-OVC	-	Cash transfer for Orphans and the Vulnerable Children
IPRS	-	Integrated Population Registry Service
KCB	-	Kenya Commercial Bank
MTEF	-	Medium Terms Expenditure Framework
NHIF	-	National Hospital Insurance Fund
NICHE	-	Nutrition improvement through cash and Health Education (NICHE)
OPCT	-	Older Persons Cash Transfer
PSPs	-	Payment Service Providers
PwSD-CT	-	Persons with Severe Disability Cash transfer (PwSD-CT)

PREFACE

The Standing Committee on Labour and Social Welfare is established under standing orders 187 and 218 (3) of the Senate Standing Orders.

The Committee is mandated to consider all matters related to: *manpower and human resources planning, pension, gender, culture and social welfare, youth, National Youth Service, children's welfare; national heritage, betting, lotteries and sports, public entertainment, public amenities and recreation.*

In executing its mandate, the Committee oversees the Ministry of Labour and Social Protection; the Ministry of Public Service, Youth and Gender Affairs; and the Ministry of Sports Culture and the Arts. The membership of the Committee includes -

- | | |
|---|---------------------------|
| 1) Sen. Sakaja Johnson Arthur, CBS, MP | - Chairperson |
| 2) Sen. Mwaruma Johnes, MP | - Vice Chairperson |
| 3) Sen. Madzayo Stewart Mwachiru, CBS, MP | - Member |
| 4) Sen. Mwangi Paul Githiomi, MP | - Member |
| 5) Sen. Kihika Susan Wakarura, MP | - Member |
| 6) Sen. Makori Beatrice Kwamboka, MP | - Member |
| 7) Sen. (Dr.) Milgo Alice Chepkorir, MP | - Member |
| 8) Sen. Masitsa Naomi Shiyonga, MP | - Member |
| 9) Sen. (Dr.) Mwaura Isaac, CBS, MP | - Member |

In executing its mandate, the Committee oversees the Ministries of:

- a) Labour;
- b) Public Service, Gender Affairs, Senior Citizens Affairs and Social Protection;
and,
- c) Sports, Culture and Heritage

Mr. Speaker Sir,

The petition regarding the state of *Inua Jamii* Programme was read at a sitting of the Senate on the 8th September 2021.

Mr. Speaker Sir,

The petition raised the following issues -

- (a) Possibilities of further registrations of elderly persons who have in the past years turned 70 years and are eligible for registration in the *Inua Jamii* programme;

- (b) Registration procedure and timelines as beneficiaries for Inua Jamii Programs;
- (c) Reasons for failure to receive the cash upon eligibility and registration;
- (d) The status of implementation of NHIF program for elderly persons benefiting from the Inua Jamii Program;
- (e) The challenges experienced by beneficiaries receiving cash through KCB Bank
- (f) Accountability in the Inua Jamii program;
- (g) The discriminatory nature of Inua Jamii Program; and
- (h) The implication of inadequate resources on the implementation of Inua Jamii Programme and possible solutions

Mr. Speaker Sir,

The petitioner therefore called for an urgent audit of the *Inua Jamii* Cash Transfer Program and as such humbly prayed that the Senate-

- a) constitutes a parliamentary committee to investigate and recommend for a special audit on expenditures and management of the *Inua Jamii* Cash Transfer Program; and
- b) recommends for and or take any other legal action deemed appropriate for securing the rights and dignity of older persons as well as protect and safeguard public resources

Mr. Speaker Sir,

In processing the petition, the Committee held one sitting with both the petitioner, Mr. Taratisio Ileri Kawe and the State department of Social Protection, Senior Citizens Affairs and Special programs.

Upon consideration of the submission on the status of *Inua Jamii* Programme and specifically the thematic issues raised by the petitioner, the Committee observes that:

1. Parliament is in the process of enacting the Care and Protection of Older Members of Society Bill 2018.
2. The *Inua Jamii* program management information system enhancement exercise aimed at consolidating all the cash transfer programmes for their

- effective management, including the operations of the contracted Payment Service Providers is ongoing;
3. The completion of (2) above will address the complains of at least 93,565 registered beneficiaries not in the payroll, 29,153 beneficiaries who were not migrated due to errors in their data and any of the beneficiaries whose disbursement were stopped for one reason or the other;
 4. Registration of fresh cohort of older persons has not been undertaken since August 2017;
 5. There seems to be no immediate plans to undertake further registration of fresh cohort of older persons owing to inadequate funding;
 6. The implementation of NHIF for persons above 70 years was planned for implementation during 2020/21. However, this was hampered by inadequate resources following a Ksh. 4.9 budget requirement by the State department of Social Protection, Senior Citizens Affairs and Special programmes that failed to receive funding;
 7. The Office of the Auditor General and the Ministry's internal audit department, undertakes annual audits for Inua Jamii Program. However, the department is yet to undertake and disseminate any impact assessment on the program.

Mr. Speaker Sir,

Based on the foregoing, the Committee therefore recommends that:

1. The State Department for Social Protection, Senior Citizens Affairs and Special programmes, Ministry of Health to further engage with the National Treasury to actualise the NHIF program for persons above 70;
2. The State Department for Social Protection, Senior Citizens Affairs and Special programmes reviews its budgeting practices to incorporate data and research evidence while budgeting for the Inua Jamii Program. This will ensure that budget needs and gaps in the program are informed by data and evidence, they are budgeted for and ultimately funded; and
3. The State Department for Social Protection, Senior Citizens Affairs and Special Programs undertake a comprehensive impact evaluation of the Inua Jamii Program and report to the Senate within 90 days after tabling of this report.

ACKNOWLEDGEMENT

Mr. Speaker Sir,

The Committee wishes to acknowledge the time and considerable effort made by all stakeholder involved in addressing the matter in question. I also wish to express my gratitude to my colleagues for their thoughtful input and engaged contributions.

Further, the Committee is indebted to the Office of the Speaker and the Clerk of the Senate for facilitating all virtual meetings and subsequent activities that led to the production of this report. The Committee also wishes to recognize the commitment and dedication of the staff serving the Committee and that made its work and the production of this report possible.

Mr. Speaker Sir,

It is now my pleasant duty, pursuant to Standing Order 232 (2) to table the report of the Standing Committees of Labour and Social Welfare on the petition on the status of *Inua Jamii* Programme.

SIGNATURE:



.....

**CHAIRPERSON: SEN. JOHNSON SAKAJA, CBS, MP,
STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE**

DATE: Saturday, 27th November, 2021

CHAPTER ONE: INTRODUCTION

1.1 The Petition and the Petition Prayers

The petition calling for an urgent special forensic audit on the governments social security fund '*Inua Jamii* Program' under the Ministry of Labour and Social was read during the Senate sitting held on the 8th September 2021. The petitioner draws the attention of the Standing Committee Labour and Social Welfare on the following substantive issues, that-

- (a) As a human rights defender and protector, several complains have been brought to his attention from amongst the elderly, orphans and the disenfranchised as regards the *Inua Jamii* Program;
- (b) The Ministry of Labour and Social Protection runs the program that comprises of Older Persons Cash Transfer (OPCT), Cash transfer for Orphans and the Vulnerable Children (CT-OVC) and the Persons with Severe Disability Cash transfer (PwSD-CT);
- (c) The third phase of registration of older persons who have attained the age of 70 years is still pending, the second being in 2018;
- (d) There are pending payments for numerous *bona fide* beneficiaries in all the three programs;
- (e) No action has been taken following older persons' registration with National Hospital Insurance Fund (NHIF) in 2017 despite the promises that the former will be entitled to free health care through the fund;
- (f) Despite the government having released the latest disbursement of Ksh 8.76billion under the *Inua Jamii* program and a further Kshs. 26.39million towards a complementary program (the nutrition improvement through cash and Health Education (NICHE), majority of the older persons with payment accounts through KCB are yet to receive their share;
- (g) Suspicion that the funds meant for the program are being misappropriated by government officials hence the pending payments for bona fide beneficiaries across programs. Further that some recipients who seem not to be illegible are accessing the funds without explanation;

- (h) There has been allegation by the Principal Secretary, Mr. Nelson Marwa regarding existing cartels working within the Ministry and some banking partners whose goal is to siphon fund meant for the program without corresponding action on his part;
- (i) There seems to be rampant cases of identity theft in program. Further the program is seen as discriminative since not all persons eligible are benefiting from the programs; and
- (j) Despite the investigation undertaken in 2019 to rid the Ministry of persons misappropriating funds, no prosecution has happened;

With the foregoing the petitioner calls for an urgent investigation on *Inua Jamii* cash transfer program with a view to-

- (a) Audit all records of recipients and beneficiaries of the program and ascertain any illegalities by Ministry officials and banking agents;
- (b) Identify loopholes in the implementation of the program so as to deter possible misappropriation;
- (c) Expose the cartels within Ministry of Labour and Social Protection and recommend further action;
- (d) Investigate the status of the funds budgeted and allocated towards the medical insurance covers for older persons and the status of the supposed program;
- (e) Recommend for a forensic audit of the program;
- (f) Recommend for the investigation of persons suspected to have or are illegally benefiting from the program; and
- (g) Recommend for governments disengagement with the partner banks following the allegations of misappropriation of the program funds and the mistreatment of older persons.

The petitioner therefore prays that the Senate-

- (a) Constitutes a parliamentary committee to investigate and recommend for a special audit on expenditures and management of the *Inua Jamii* Cash Transfer Program; and

- (b) Recommends for and or take any other legal action deemed appropriate for securing the rights and dignity of older persons as well as protect and safeguard public resources.

1.2 The Underlying Issues in the Petition

The petition on the status of the Inua Jamii Program raises the following issues:

1. Possibilities of further registrations of elderly persons who have in the past years turned 70 years and are eligible for registration in the Inua Jamii programme;
2. Registration procedure and timelines for beneficiaries of Inua Jamii Programs;
3. Reasons for failure to receive the cash upon eligibility and registration;
4. The status of implementation of NHIF program for elderly persons benefiting from the Inua Jamii Program;
5. The challenges experienced by beneficiaries receiving cash through KCB Bank;
6. Accountability in the Inua Jamii program;
7. The discriminatory nature of Inua Jamii Program; and
8. The implication of inadequate resources on the implementation of Inua Jamii Programme and possible solutions.

CHAPTER TWO: BACKGROUND

This section highlights the key aspects of the Inua Jamii Cash Transfer Program. The National Safety Net Program (NSNP) dubbed '*Inua Jamii*' comprises of consolidated cash transfer programs. These are Cash Transfer- Orphans and Vulnerable Children (CT-OVC), Older Persons Cash Transfer Program (OP-CT), Cash Transfer for Persons with Severe Disabilities (PwSD –CT) and the Hunger Safety Nets Programme (HSNP). The latter is implemented under the Ministry of Devolution hence nor within the purview of the petition. These three earlier programs were started as pilot programs in 2004, 2007 and 2010 respectively.

2.1 About *Inua Jamii* Cash Transfer Program

From the onset, the programs were domiciled in two different departments, with two different Management Information Systems (MIS) namely; the CT-OVC under the Department of Children Services and OPCT and PWSO under the Department for Social Development. However, in 2016, the Ministry reengineered the programs and established the Social Assistance Unit with an aim of consolidating the operations of the cash transfers programs as Inua Jamii. This subsequently led to the consolidation of the two MIS's into a single Consolidated Cash Transfer Program Management Information System (CCTPMIS) where beneficiaries' data was migrated from the legacy systems to the new CCTPMIS. The migration focused on 1,233,129 programme beneficiaries' data and was guided by a Data Migration Strategy.

Prior to the migration, all data in the legacy system was verified through Integrated Population Registry Service (IPRS) to ensure only those beneficiaries whose details matched those in IPRS were migrated. The migration was carried out in phases. Phase one comprised those who had correct data totalling 1,091,166 beneficiaries, Phase two included 112,810 beneficiaries whose minor errors in their data were correctable through case management process. Further, Phase three comprised of 29,153 beneficiaries whose IPRS data mismatched hence the need to recapture their data to enable them get into the new management information system.

The program operates an account based model system for disbursement of the cash through following banking partners Kenya Commercial Bank (KCB), Equity, Postbank and Cooperative Bank.

2.2 Vote 1185: State Department for Social Protection & Senior Citizens Affairs and Special Programmes

The *Inua Jamii* Program is a budget line under Vote 1185: State Department for Social Protection & Senior Citizens Affairs and Special Programmes. During the 2017/18-2019/20 MTEF period, that is, 2017/18, 2018/19 and 2019/20, the department was allocated Ksh. 28.08 billion, Ksh. 31.68 billion and 43.3 billion respectively. Over the same period of time, actual expenditure was Ksh. 22.19 billion, Ksh. 31.30 billion and Ksh 40.5 billion translating to absorption rates of 79%, 99% and 94% respectively.

Programmes	Allocation	No. of Targets/KPIs
Social development & children Services	4,134.2	28
National Social Safety Net	29,213.6	24
General Admin & support services	220.1	4
Total	33,568.07	56

Source: Appropriation Act 2021 and State Department of Social Protection, Senior Citizens Affairs and Special Programmes

The State department for social protection was allocated Ksh. 33.56 billion for 2021/22 comprising of Ksh. 30.4 billion for recurrent and Ksh. 3.0 billion for development expenditure. Further, Ksh 32.8 billion was allocated over the medium-term. The allocation is an increase from the Ksh.32.4 billion allocated in 2020/21 and a BPS ceiling of Ksh. 33.2 billion; Of the Ksh 33.56 billion, Ksh. 30.4 billion for recurrent and Kshs.3.0 billion for development expenditure. Further, of the Ksh 29.2

billion allocated to the National Social Safety Net programme Ksh 27.7 billion was allocated to the cash transfer project.

In terms of monitoring and evaluation, the three cash transfer projects are expected to achieve and report on the following targets; 1,183,000 households with older persons; 540,500 households with OVC and 94,000 households with PWSD supported with cash transfers.

CHAPTER THREE: COMMITTEE PROCEEDINGS AND SUBMISSIONS

This chapter provides key highlights of the proceedings of the Committee during its engagement with the petitioner and the representatives of the State Department for Social Protection, Senior Citizens Affairs and Special programmes.

3.1 Meeting with the Petitioner and State Department of Social Protection Senior Citizens Affairs and Special programmes

The meeting between the Committee, the petitioner and the State Department of Social Protection Senior Citizens Affairs and Special programmes was held on 3rd November 2021 at 10.00am. The State department was represented by the Principal Secretary, State Department for Social Protection, Senior Citizens Affairs and Special programmes, Mr. Nelson Marwa. The Principal Secretary made his submission and the Committee was informed that-

A. On Government's inability to roll out the third phase of registration of all the eligible older persons who were qualified but not included in earlier phases

1. Over the last two years, the Government intended to conduct the third phase of data migration targeting the 29,153 beneficiaries who were not migrated due to errors in their data. However, this exercise was not meant to register fresh cohort of older persons who had turned the mandatory age of 70 years as had been alleged by the petitioner;
2. The delay of the Phase 3 migration was as a result of programme management information system enhancement targeting the specific module expected to recapture the data for the affected beneficiaries. As such, the exercise to reinstate the beneficiaries back in to the payroll was expected to run between 27th September, 2021 and end of November 2021.

B. Elderly persons registered with the Inua Jamii program and issued with cards fail to receive cash

3. The last government registration for the Older Persons' Cash Transfer Programme for Senior Citizens aged 70 years and above took place across all constituencies between July and August, 2017. As such, all senior citizens

whose registration was successful were enrolled and began receiving their bi-monthly stipends in January 2018. These senior citizens continue to receive their stipends to date.

However, some older person's registration was unsuccessful and hence do not receive any payments as a result of the following reasons:

- i. Double registration flagged as duplicates hence were suspended;
- ii. shared caregivers against programme guidelines; and
- iii. Unsuccessful transfer to the Consolidated Cash Transfer Programme Management Information System by the respective PSPs.

C. The Status of Implementation of the National Hospital Insurance Fund (NHIF) in the context of Inua Jamii Program

4. At its inception, the NHIF cover for *Inua Jamii* Programme was a pilot complimentary programme funded by World Bank through the Ministry of Health with State Department for Social Protection providing logistical support, for instance beneficiary data. The government's intention was to commence funding at the end of the pilot, however, during the FY2020/21 the State Department for Social Protection was allocated Kshs.600 million against the required Kshs.4.9 billion for the 833,000 older persons' NHIF cover.
5. The foregoing could facilitate 100,000 elderly persons at the rate of Kshs.6000 per year. As such, through the advice of the National Treasury, the amount was reallocated to cater for budget deficit in the cash transfer programme operations. Further, given that no additional funding was made towards this initiative, the programme failed to take off.

D. The Elderly, Sick Persons above 80 years, Eligible and Registered have never been paid while others have been Discontinued

6. At least 8,192 elderly persons registered into the programme have never been paid due to IPRS mismatch, however these are being addressed on continuous basis through the case management process. Other reasons for discontinuation include:
 - a. Double registration especially for those under 65 and further registered under 70 years' cohort;
 - b. Sharing of caregiver across the programme; and

c. Mix-up following the migration to the CCT MIS.

E. The Status of government's latest disbursement of (Eight billion, seven hundred and fifty-eight Million, one hundred and twenty thousand (Ksh. 8,758,120,000) towards the Inua Jamii Program and twenty-six million, three hundred and eighty-six thousand (26,386,000) towards nutrition improvement through cash and Health Education (NICHE) complementary program

7. Indeed, Treasury released Kshs. 8,758,120,000 on 6th July 2021 for payment of Inua Jamii programme beneficiaries for the months of March to June 2021. In that regard, at least 1,091,224 beneficiary accounts were successfully credited while 1327 were failed credits. The funds were disbursed to beneficiaries through the four contracted Payment Service Providers as follows

S/No.	PSP	Beneficiaries Numbers	Amount (Ksh)
1	Coop Bank	57,853	463,874,000
2	EBL	427,135	3,424,554,000
3	Post Bank	52,384	419,698,000
4	KCB	555,179	4,449,120,000
Total :			8,758,120,000

8. Further, the Kshs.26, 386,000.00 for NICHE was paid together with the normal cash transfer stipends as a top up to 7,908 selected Inua Jamii programme beneficiaries in five implementing counties of Kitui, Kilifi, Turkana West Pokot and Marsabit.

F. Inability for KCB to disburse the latest payment of 6th July 2021

9. The Ministry is not aware that majority of Inua Jamii older person's beneficiaries who receive payments through KCB are yet to receive their latest payment released on 6th July 2021. However, at least 526 older person's beneficiaries under KCB whose accounts had failed to credit are yet to receive the money.

G. Misappropriation of Inua Jamii Program Funds by Government Officials with Pending Beneficiary Disbursements

10. The Ministry welcomes information regarding government official(s) engaging in corrupt practices. However, appropriate measures to curb such malpractices are in place following the introduction of a two-factor authentication at the point of payment. In this regard, recipient beneficiaries or caregivers are required to be verified by showing a programme payment card and further verification through biometrics.

H. The Trauma on the Elderly Persons Enlisted with the Inua Jamii programme, with Operational Bank Accounts but not Receiving Cash

11. The Ministry is aware of these cases and has therefore planned for an account opening exercise for 93,565 registered beneficiaries not in the payroll. As such, the exercise is expected to commence in November, 2021 with the expected outcome of enrolled beneficiaries being reinstated in the payroll.

I. Unregistered Persons Eligible for Enrolment in the Inua Jamii Cash Transfer Program

12. The State department acknowledged that indeed some elderly persons who have attained the age of 70 years and are not covered by the programme. The PS cited the 2019 Kenya National Population Census, where at least persons above 70 years and who qualify for the programme approximate 250,000. These cases can only be registered when the Ministry get additional funding for programme expansion.

J. Orphans and persons living with disability and eligible and registered for social assistance benefits have never been paid while some beneficiaries had their benefits mysteriously discontinued

13. It is true that 20,961 caregivers of orphans and vulnerable children's and persons with severe disabilities programme have registered into the programme and have never been paid due to total IPRS mismatch in their data. The Committee was informed that the cases are being addressed through the retargeting exercise currently underway around the country. Further, that those whose benefits were discontinued could be as a result of:

- i. Sharing of caregiver across the programme which requires updates;

- ii. Some after migration opened accounts which were never transmitted to the CCT MIS; and
- iii. Some could have been exited due to none legibility.
- iv. Bio failures during payments

K. Inua Jamii program deemed discriminatory as the eligible majority are missing out of the program

14. The Older Person's Cash Transfer Programme is a universal and voluntary programme. Consequently, all Kenyans citizens who are 70 years and above are eligible to be registered into the programme. The only requirement for registration is a valid National Identification Card to prove one is a Kenyan and above 70 years of age. The last registration for this cohort was in 2017, meaning that besides those who could have been erroneously left out during the last registration, there are many who have turned 70 years since that time.

L. State has failed to demonstrate its inability to accommodate all persons above 70 years in to the programme hence obligated to offer reasonable care and assistance to majority of old persons

15. The Ministry has not been able to undertake any targeting or registration of new beneficiaries in the cash transfer program for the last five (5) years. However, expansion of the program is hampered by insufficient allocations towards the program.

M. Investigate Inua Jamii cash transfer program with a view to audit all records of recipients and beneficiaries including ascertain the credibility of banking agents

16. The Ministry confirmed that the Inua Jamii programme is audited by the Office of the Auditor General annually and that the latter provides operational recommendations. Additionally, the implementing department receives technical advice from the internal audit department. The audits are aimed at reviewing the status of implementation of the programme, identify fiduciary risks, operational gaps and provide recommendations to strengthen the systems and operational processes of the programme. Additionally, the implementing department conducts periodic monitoring of the Inua Jamii programme to assess the areas of improvement.

CHAPTER FOUR: COMMITTEE OBSERVATIONS & RECOMMENDATIONS

4.1 Committee Observations

The Committee considered the submission by State department of Social Protection, Senior Citizens Affairs and Special programmes pertaining the specific issues raised by the petitioner. For instance, the possibilities of further registrations of elderly persons who eligible for registration in the Inua Jamii programme; failure to receive the cash upon eligibility and registration; the status of implementation of NHIF program for elderly persons benefiting from the Inua Jamii Program; Accountability in the Inua Jamii program; and the implication of inadequate resources on the implementation of Inua Jamii Programme and possible solutions among others.

In that regard, the Committee observes that-

1. Parliament is in the process of enacting the Care and Protection of Older Members of Society Bill 2018.
2. The *Inua Jamii* program management information system enhancement exercise aimed at consolidating all the cash transfer programmes for their effective management, including the operations of the contracted Payment Service Providers is ongoing;
3. The completion of (2) above will address the complains of at least 93,565 registered beneficiaries not in the payroll, 29,153 beneficiaries who were not migrated due to errors in their data and any of the beneficiaries whose disbursement were stopped for one reason or the other;
4. Registration of fresh cohort of older persons has not been undertaken since August 2017;
5. There seems to be no immediate plans to undertake further registration of fresh cohort of older persons owing to inadequate funding;
6. The implementation of NHIF for persons above 70 years was planned for implementation during 2020/21. However, this was hampered by inadequate resources following a Ksh. 4.9 budget requirement by the State department of Social Protection, Senior Citizens Affairs and Special programmes that failed to receive funding;

7. The Office of the Auditor General and the Ministry's internal audit department, undertakes annual audits for Inua Jamii Program. However the department is yet to undertake and disseminate any impact assessment on the program.

4.2 Committee Recommendations

The Committee therefore recommends that-

1. The Ministry of Public Service, Gender, Social Protection, Senior Citizens Affairs and Special programmes, Ministry of Health to further engage with the National Treasury to actualise the NHIF program for persons above 70;
2. The Ministry of Public Service, Gender, Social Protection, Senior Citizens Affairs and Special programmes, reviews its budgeting practices to incorporate data and research evidence while budgeting for the Inua Jamii Program. This will address discrepancies between the expected growth in number of beneficiaries and budget projections in the medium term; and
3. The Ministry of Public Service, Gender, Social Protection, Senior Citizens Affairs and Special programmes, undertake a comprehensive impact evaluation of the Inua Jamii Program and report to the Senate within 90 days after tabling of this report.

MINUTES OF THE 92ND MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON SATURDAY, 27TH NOVEMBER 2021 AT 4.30 PM IN CONFERENCE ROOM 1B, TRADEMARK HOTEL, VILLAGE MARKET, KIAMBU COUNTY.

MEMBERS PRESENT)

- | | |
|---------------------------------------|----------------------------|
| 1. Sen. Johnson Sakaja, CBS | - Chairperson |
| 2. Sen. Johnes Mwaruma | - V. Chairperson (Virtual) |
| 3. Sen. Madzayo Stewart Mwachiru, CBS | - Member (Virtual) |
| 4. Sen. Paul Mwangi Githiomi | - Member |
| 5. Sen. Susan Kihika | - Member (Virtual) |
| 6. Sen. Makori Beatrice Kwamboka | - Member (Virtual) |
| 7. Sen. Naomi Masitsa Shiyonga | - Member |
| 8. Sen. (Dr.) Milgo Alice Chepkorir | - Member |

ABSENT WITH APOLOGIES

- | | |
|---------------------------------|----------|
| 1. Sen. (Dr.) Isaac Mwaura, CBS | - Member |
|---------------------------------|----------|

SENATE SECRETARIAT

- | | |
|-----------------------|---------------------------|
| 1. Ms. Mwanate Shaban | - Clerk Assistant |
| 2. Mr. Kevin Kibet | - Clerk Assistant/HO |
| 3. Ms. Marale Sande | - Senior Research Officer |
| 4. Mr. Jeremy Chabari | - Legal Counsel |
| 5. Mr. Frank Mutulu | - Media Relations Officer |
| 6. Ms. Fatuma Abdi | - Audio Officer |
| 7. Mr. Ruben Kimosop | - Serjeant-At-Arms |
| 8. Ms. Lydia Nyagol | - Secretary |
| 9. Mr. Hassan Adow | - Office Assistant |

MINUTE SEN/SCLSW/399/2021: PRELIMINARIES

The Chairperson called the meeting to order at 4.30 pm. followed by a word of prayer.

MINUTE SEN/SCLSW/400/2021: ADOPTION OF THE AGENDA

The agenda of the Meeting was adopted after it was proposed by Sen. Makori Beatrice Kwamboka, MP and seconded by Sen. Paul Mwangi Githiomi, MP as follows-

AGENDA

1. Preliminaries (Prayers & Introductions);
2. Adoption of the Agenda;
3. **Confirmation of Minutes 91, 90, 89, 88, 87, 86, 85, 84, 83 & 82; and,**
4. Any Other Business & Adjournment.

MINUTE SEN/SCLSW/401/2021: CONFIRMATION OF MINUTES 91, 90, 89, 88, 87, 86, 85, 84, 83 AND 82

1. The Minutes of the 91st meeting held on Saturday, 27th November, 2021 at 12.30 pm were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Paul Mwangi Githiomi, MP and seconded by Sen. (Dr.) Alice Milgo, MP;
2. The Minutes of the 90th meeting held on Saturdays, 27th November, 2021 at 11:00 a.m. were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Susan Kihika, MP and seconded by Sen. (Dr.) Alice Milgo, MP;
3. The Minutes of the 89th meeting held on Thursday, 18th November, 2021 at 10:00 a.m. were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Masitsa Naomi Shiyonga, MP and seconded by Sen. (Dr.) Alice Milgo, MP;

4. The Minutes of the 88th meeting held on Tuesday, 16th November, 2021 at 10:00 a.m. were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Susan Kihika, MP and seconded by Sen. Masitsa Naomi Shiyonga, MP;

Matters Arising

The Committee resolved to invite the Cabinet Secretary (CS) Amb. Amina Mohammed, Ministry of Sports, Culture and Heritage on 7th December, 2021 to—

- (a) Deliberate the issues raised in a Statement sought by Sen. Mutula Kilonzo Jnr. concerning the impromptu inspection of the FKF by the Sports Registrar.
 - (b) Explain the reasons for failure to honour invitations and summons of the Committee.
 - (c) During the meeting, the Committee will deliberate on actions to be taken against the CS guided by the provisions of Section 19 of the Parliamentary Powers and Privileges Act, No. 29 of 2017.
5. The Minutes of the 87th meeting held on Thursday, 11th November, 2021 at 10:00 a.m. were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Masitsa Naomi Shiyonga, MP and seconded by Sen. (Dr.) Alice Milgo, MP;
 6. The Minutes of the 86th meeting held on Wednesday, 10th November, 2021 at 10:00 a.m. were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Johnes Mwaruma, MP and seconded by Sen. Susan Kihika, MP.
 7. The Minutes of the 85th meeting held on Tuesday, 9th November, 2021 at 9:30 a.m. were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Johnes Mwaruma, MP and seconded by Sen. (Dr.) Alice Milgo, MP.
 8. The Minutes of the 84th meeting held on Thursday, 4th November, 2021 at 10:00 a.m. were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Paul Mwangi Githiomi, MP and seconded by Sen. Beatrice Kwamboka, MP.
 9. The Minutes of the 83rd meeting held on Wednesday, 3rd November, 2021 at 10:00 a.m. were confirmed as a true record of the proceedings

of the Committee having been proposed by Sen. Paul Mwangi Githiomi, MP and seconded by Sen. Stewart Madzayo, CBS, MP.

10. The Minutes of the 82nd meeting held on Saturday, 30th October, 2021 at 11:00 a.m. were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Masitsa Naomi Shiyonga, MP and seconded by Sen. (Dr.) Alice Milgo.

MINUTE SEN/SCLSW/402/2021: ANY OTHER BUSINESS AND ADJOURNMENT

There being no other business, the meeting was adjourned at 6 p.m.



SIGNATURE:

(CHAIRPERSON: SEN. JOHNSON SAKAJA, CBS)

DATE: Saturday, 27th November, 2021

MINUTES OF THE 90TH MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON SATURDAY, 27TH NOVEMBER 2021 AT 11 AM IN CONFERENCE ROOM 1B, TRADEMARK HOTEL, VILLAGE MARKET, KIAMBU COUNTY.

MEMBERS PRESENT

- | | |
|---------------------------------------|----------------------------|
| 1. Sen. Johnson Sakaja, CBS | - Chairperson |
| 2. Sen. Johnes Mwaruma | - V. Chairperson (Virtual) |
| 3. Sen. Madzayo Stewart Mwachiru, CBS | - Member (Virtual) |
| 4. Sen. Paul Mwangi Githiomi | - Member |
| 5. Sen. Susan Kihika | - Member (Virtual) |
| 6. Sen. Makori Beatrice Kwamboka | - Member (Virtual) |
| 7. Sen. Naomi Masitsa Shiyonga | - Member |
| 8. Sen. (Dr.) Milgo Alice Chepkorir | - Member |

ABSENT WITH APOLOGIES

- | | |
|---------------------------------|----------|
| 1. Sen. (Dr.) Isaac Mwaura, CBS | - Member |
|---------------------------------|----------|

SENATE SECRETARIAT

- | | |
|-----------------------|---------------------------|
| 1. Ms. Mwanate Shaban | - Clerk Assistant |
| 2. Mr. Kevin Kibet | - Clerk Assistant/HO |
| 3. Ms. Marale Sande | - Senior Research Officer |
| 4. Mr. Jeremy Chabari | - Legal Counsel |
| 5. Mr. Frank Mutulu | - Media Relations Officer |
| 6. Ms. Fatuma Abdi | - Audio Officer |
| 7. Mr. Ruben Kimosop | - Serjeant-At-Arms |
| 8. Ms. Lydia Nyagol | - Secretar |
| 9. Mr. Hassan Adow | - Office Assistant |

MINUTE SEN/SCLSW/388/2021: PRELIMINARIES

The Chairperson called the meeting to order at 11 a.m. followed by a word of prayer.

MINUTE SEN/SCLSW/389/2021: ADOPTION OF THE AGENDA

The agenda of the Meeting was adopted after it was proposed by Sen. Makori Beatrice Kwamboka, MP and seconded by Sen. Paul Mwangi Githiomi, MP as follows—

AGENDA

1. Preliminaries (Prayers);
2. Adoption of the Agenda;
3. **Consideration and adoption of Reports;**
 - (a) **Report on the Petition Regarding the Plight of Former Employees at Kenya United Steel Company (KUSCO) LTD;**
 - (b) **Report on the Petition Regarding the State of ‘Inua Jamii’ Programme; and**
4. Any Other Business & Adjournment.

MINUTE SEN/SCLSW/390/2021: ADOPTION OF THE REPORT ON THE PETITION REGARDING THE PLIGHT OF FORMER EMPLOYEES AT KENYA UNITED STEEL COMPANY (KUSCO) LTD

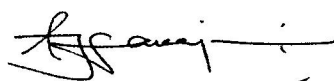
The Committee considered the report on the petition regarding the plight of former employees at Kenya United Steel Company (KUSCO) Ltd. and adopted it after being proposed by Sen. Masitsa Naomi Shiyonga, MP and seconded by Sen. (Dr.) Alice Chepkorir Milgo, MP.

MINUTE SEN/SCLSW/391/2021: ADOPTION OF THE REPORT ON THE PETITION REGARDING THE STATE OF 'INUA JAMII' PROGRAMME

The Committee considered the report on the petition regarding the state of 'Inua Jamii' programme and adopted it after being proposed by Sen. (Dr.) Alice Chepkorir Milgo, MP and seconded by Sen. Paul Mwangi Githiomi, MP.

MINUTE SEN/SCLSW/392/2021: ANY OTHER BUSINESS AND ADJOURNMENT

There being no other business, the meeting was adjourned at 12.30 p.m.



SIGNATURE:

(CHAIRPERSON: SEN. JOHNSON SAKAJA, CBS)

DATE: Saturday, 27th November, 2021

MINUTES OF THE 83RD (ZOOM ONLINE) MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON WEDNESDAY, 3RD NOVEMBER 2021 AT 10.00 A.M.

MEMBERS PRESENT

- | | |
|---------------------------------------|---------------------------|
| 1. Sen. Johnson Sakaja, CBS | - Chairperson |
| 2. Sen. Johnes Mwaruma | - Vice-Chairperson |
| 3. Sen. Madzayo Stewart Mwachiru, CBS | - Member |
| 4. Sen. Paul Mwangi Githiomi | - Member |
| 5. Sen. (Dr.) Milgo Alice Chepkorir | - Member |
| 6. Sen. Makori Beatrice Kwamboka | - Member |
| 7. Sen. Naomi Masitsa Shiyonga | - Member |

ABSENT WITH APOLOGIES

- | | |
|---------------------------------|----------|
| 1. Sen. Susan Kihika | - Member |
| 2. Sen. (Dr.) Isaac Mwaura, CBS | - Member |

IN-ATTENDANCE

- | | |
|------------------------|---|
| 1. Mr. Nelson Marwa | - PS, State Department of Social Protection, Senior Citizens and Special Programmes |
| 2. Mr. John Gachigi | - Director, Social Assistance |
| 3. Ms. Joyce Mugure | - PA, Mr. Nelson Marwa |
| 4. Mr. Peter Ndwiga | - Officer, State Department |
| 5. Mr. Ngei wa Mutinga | - Officer, State Department |
| 6. Mr. Sydney Achia | - Officer, State Department |
| 7. Mr. Taratisio Kawe | - Lead Petitioner |
| 8. Ms. Charity Kagendo | - Petitioner |
| 9. Media | |

SENATE SECRETARIAT

- | | |
|-----------------------|---------------------------|
| 1. Ms. Mwanate Shaban | - Clerk Assistant |
| 2. Mr. Kevin Kibet | - Clerk Assistant/ HO |
| 3. Ms. Marale Sande | - Senior Research Officer |
| 4. Mr. Jeremy Chabari | - Legal Counsel |
| 5. Mr. Frank Mutulu | - Media Relations Officer |
| 6. Ms. Fatuma Abdi | - Audio Officer |
| 7. Mr. Reuben Kimosop | - Serjeant-At-Arms |

MINUTE SEN/SCLSW/360/2021: PRELIMINARIES

The Chairperson called the meeting to order at 10.25 a.m. followed by a word of prayer. This was followed by introductions by all present.

MINUTE SEN/SCLSW/361/2021: ADOPTION OF THE AGENDA

The Agenda of the Meeting was adopted after it was proposed by Sen. Naomi Shiyonga, MP and seconded by Sen. (Dr.) Alice Milgo, MP as follows-

AGENDA

1. Preliminaries (Prayers & Introductions);
2. Adoption of the Agenda;
3. **Meeting with the State Department of Social Protection, Senior Citizens and Special Programmes to deliberate on the Petition concerning the state of the Inua Jamii Programme and the Statement by Sen. Samson Cherarkey on the Management of the Inua Jamii Programme by the Kenya Commercial Bank Ltd.; and**
4. Any Other Business & Adjournment.

**MINUTE SEN/SCLSW/362/2021: MEETING WITH THE STATE DEPARTMENT OF SOCIAL PROTECTION, SENIOR CITIZENS AND SPECIAL PROGRAMMES TO DELIBERATE ON THE PETITION CONCERNING THE STATE OF THE INUA JAMII PROGRAMME
PETITON CONCERNING THE STATE OF THE INUA JAMII PROGRAMME**

a) Welcoming Remarks by the Chair

The Chairperson welcomed all Present and requested the Principle Secretary, Mr. Nelson Marwa to respond to the issues raised in both the Petition and the Staement on the Inua Jamii Programme.

b) Presentation by PS Nelson Marwa

Mr. Marwa responded as follows –

1) On the Petition Concerning the State of the Inua Jamii Programme;

i) THAT, for the last two years, the Government has been falsely indicating that it would unveil its third phase of registering all the older people who were qualified to have been included in Inua Jamii phase 1 and 2 program but were left out and those who have since reached the mandatory age of 70 years.

- That the government had been planning the 3rd phase of data migration which was to target 29,153 beneficiaries who had not been earlier migrated due to error in their data.
- The exercise was not meant to register a new cohort of older persons.
- The delay of the Phase 3 migration was due programme management information system enhancement especially the targeting module which was to be used to recapture the data for these cases.
- The exercise started on 27th September, 2021 and is expected to end by November 2021.
- These beneficiaries will be reinstated back to the payroll once the exercise is completed in November, 2021.

ii) THAT, many elderly people who were registered for the Inua Jamii program and issued with the relevant cards have never received a single cent from the said program and the complaint to the Department of Social services has never born any fruit.

- The last Government registration for the Older Persons' Cash Transfer Programme for Senior Citizens aged 70 years and above took place countrywide in all constituencies in July and August, 2017.
- All Senior Citizens whose registration was successful were enrolled into the programme, and began receiving their bi-monthly stipends

in January 2018. These Senior Citizens continue to receive their stipends to date.

- Some registration was not successful and therefore have never received any payments because;
 - i) double registration
 - (i) share caregivers
 - (ii) Account- opening complications
- These beneficiaries are the targets for the 3rd phase data migration exercise.

iii) THAT, about three years ago, old people who were enlisted in the Inua Jamii program were advised by the Government to register with the National Hospital Insurance Fund so that the Government could start its monthly contribution health cover -support to those individuals but to date, the said promised contribution is yet to start regardless of the old people registering as advised.

- At its inception, the NHIF cover for Inua Jamii Programme was a pilot complimentary programme which was being funded by World Bank through the Ministry of Health. The role of the State Department for Social Protection was to provide beneficiaries' data to NHIF for the sub counties where the pilot was being carried out. The government was to take over the programme at the end of the pilot in terms of funding.
- The State department has no budgetary allocations to roll out the program.

iv) THAT, many sick elderly people who are over 80 years and who are eligible and registered for receiving the social assistance benefits have never been paid while some received their benefits for a short period before it was mysteriously discontinued

- There are 8,192 elderly persons who were registered into the programme and have never been paid due to total IPRS mismatch in their data.
- These cases are the ones being addressed currently through the retargeting exercise.
- Benefits for others were discontinued due to the reasons mentioned above.
- These cases are being addressed on a continuous basis through case management process.

v) **THAT, on around 6th July 2021, the government released its latest disbursement of Ksh.8,758,120,000 to the beneficiaries enrolled in Inua Jamii program and a further total of sum Kshs.26,386,000 towards nutrition improvement through cash and Health Education (NICHE) complementary program.**

- It is true that the government released Kshs.8, 758,120,000 on 6th July 2021 for payment of Inua Jamii programme beneficiaries for the months of March to June 2021. The funds were disbursed to beneficiaries through the four contracted Payment Service Providers as follows;

S/No.	PSP	Beneficiaries Numbers	Amount (Kshs)
1	Coop Bank	57,853	463,874,000
2	EBL	427,135	3,424,554,000
3	Post Bank	52,384	419,698,000
4	KCB	555,179	4,449,120,000
Total :			8,758,120,000

- The amount was credit to individual beneficiaries' accounts out of which 1,091, 224 beneficiaries accounts were successfully credited while 1327 were failed credits. The amount was refunded to the ministry's holding accounts in the respective bank.
- The Kshs.26,386,000.00 for NICHE was paid together with the normal cash transfer stipends as a top up to 7,908 selected Inua Jamii programme beneficiaries in five counties (Kitui, Kilifi, Turkana West Pokot and Marsabit) where the programme is being implemented.

vi) **THAT, majority of the old people who are beneficiaries of the Inua Jamii cash transfer program and who get their payment through Kenya Commercial Bank are yet to receive their latest payment which was released on 6th July 2021.**

- The Ministry is not aware that majority of Inua Jamii older person's beneficiaries who get their payment through Kenya Commercial Bank are yet to receive their latest payment released on 6th July 2021.
- 526 older person's beneficiaries under Kenya Commercial Bank whose accounts had failed credit did not receive their money.

vii) **THAT, there is high suspicion that some people in the Government have been receiving money meant for all those old people, orphans and persons living with disability who were enlisted with the Inua Jamii program. Issued with the official Inua Jamii card and had their Bank account opened, but have never received their share of the cash of money.**

- The Ministry will be glad to receive the details of the Government official(s) who may be engaging in such a corrupt practice.
- The Programme has put appropriate measures to cap likelihood of such malpractices by introducing a two-factor authentication at the point of payment. That means through the two-factor authentication, recipient beneficiaries or caregivers are required to produce a programme payment card and verify him/her biometrically using finger prints. This ensures only the correct account holder access the funds in the account.

viii) **THAT, the Government has caused trauma to all those old people who were enlisted with the Inua Jamii programme and were given the official Inua Jamii card and had their Bank account opened but have never received their share, as they witness their age mates as well as some people who are younger than them benefitting.**

- The Ministry is fully aware of this cases. To address this, the Ministry has planned for an account opening exercise for 93,565 registered beneficiaries who for one reason or another, are not in the payroll. The account opening exercise will commence in November, 2021 and the enrolled beneficiaries will be reinstated in the payroll thereafter.

ix) **THAT, all over this Country, those old people who have attained the age of 70 years and above and who have been left out by the Inua Jamii cash transfer program have been crying out loudly for assistance from their leaders.**

- According to the 2019 Kenya National Population Census, there are over 250,000 persons who are 70 years and above and who qualify to be in the programme. These cases can only be registered when the Ministry get additional funding for programme expansion.

x) **That, many orphans and persons living with disability who are eligible and registered for receiving the social assistance benefits**

have never been paid while some received the benefits for a short period before it was mysteriously discontinued.

- There are 20,961 caregivers of orphans and vulnerable children's and persons with severe disabilities programme who were registered into the programme and have never been paid due to total IPRS mismatch in their data. These cases are the ones being addressed through the retargeting exercise currently being conducted in the country.
- The others who were receiving their benefits for a short period before it was discontinued could have either been due to:
 - i. Sharing of caregiver across the programme which requires updates;
 - ii. Some after migration opened accounts which were never transmitted to the CCT MIS; and
 - iii. Some could have been exited due to none legibility.
 - iv. Bio failures during payments

These cases are being addressed on a continuous basis through case management process.

xi) THAT, the Inua Jamii program is currently very discriminative such that most of the needy, sickly, weak and vulnerable over 80 members of our society have been left out in the program.

- The Older Person's Cash Transfer Programme is a universal and voluntary programme. Consequently, all Kenyans citizens who are 70 years and above are eligible to be registered into the programme. The only requirement for registration is a valid National Identification Card to prove one is a Kenyan and above 70 years of age.
- The last registration for this cohort was in 2017, meaning that besides those who could have been erroneously left out during the last registration, there are many who have turned 70 years since that time.

xii) THAT, the state has never proved / demonstrated its inability to accommodate all our over 70 years of age people or its inability to gather or allocated enough resources to enable it meet its obligations of giving reasonable care and assistance to majority of old people in our Country.

- The Ministry has not been able to undertake any Targeting or Registration of new beneficiaries in the cash transfer program for the

last five (5) years. However, the Ministry has been requesting for allocation of additional funding to expand the programme but has not been successful.

xiii) THAT, there is urgent need to investigate Inua Jamii cash transfer program with a view of auditing all records of recipients and beneficiaries of the program to find out whether some ministry officials and or the banking Agents have been taking advantage of the program and stealing the Tax payer's money through its systems.

- The Ministry confirm that the Inua Jamii programme is normally audited by the Office of the Auditor General once every year. In addition, the programme on a regular basis receives technical advice from the Ministry's Internal Audit Department. The aim of these audits is to review the status of implementation of the programme, identify fiduciary risks, operational gaps and provide recommendations to strengthen the systems and operational processes of the programme.
- The implementing department also conducts periodic monitoring of the Inua Jamii programme to assess the areas of improvement. Audits conducted on Inua Jamii programme provide recommendations which are operational in nature and they're meant to improve programme operations.

2) On the Statement on the Management of Inua Jamii Programme by the Kenya Commercial Bank

(i) State the rationale for shifting the process of cash disbursement for the Inua Jamii programme from the Postal Corporation of Kenya (POSTA) to Kenya Commercial Bank (KCB), noting that majority of the beneficiaries reside in the rural and far-flung areas, where POSTA enjoys a wider presence than KCB.

The shifting of cash disbursement process from PCK to KCB was informed by the following:

The World Bank review of the cash transfer programme for orphans and vulnerable children in early 2009, observed that although Postal Corporation of Kenya (PCK) was more stable in terms of the delivery cash to beneficiaries than the previous payment system, there was need for an

alternative payment mechanism that was fast, secure, convenient, cost effective, accessible and auditable as the programme expanded. These recommendations were meant to reduce fiduciary risks on programme payment. (The World Bank Project Appraisal Document (PAD) of February, 2009).

The Joint Review and Implementation Support mission of May, 2011, with the Development partners (World Bank, DFID and UNICEF), stressed the need to have an alternative programme payment system that ensures the payment system requirements as stipulated in the Project Appraisal Document and which was necessary for securing their on-going and future financing to the programme.

In view of the above, through a national competitive bidding process, the government started the procurement of alternative payment service provider(s) who would meet the agreed payment system requirements. Equity Bank and Kenya Commercial Bank were brought on board through this process as new payment service providers. These payment service providers had the following advantages over the PCK;

- The payroll was electronically generated and shared, unlike PCK manual payroll;
- Two-factor authentication (use of payment card and biometrics) during payment process unlike the manual thumb-print authentication process under PCK;
- Bank payments were based on Agency Network model which were more spread easily accessible by the beneficiaries unlike PCK model that used Post Office branches only;
- Fast reconciliation process under the alternative service providers compared to manual reconciliation process under the PCK that was tedious, time consuming and prone to human errors.

(ii) **Shed light on the alleged mismanagement and irregularities in the disbursement of funds perpetuated by the Ministry of Labour and officers of KCB with specific reference to July 2021 in the disbursement of Kshs.8.7 billion to Inua Jamii Programme beneficiaries and Kshs.26 million towards the**

nutrition improvement through cash and health education (NICHE) complementary programme, both of which were not received by the beneficiaries.

The Ministry wishes to categorically state that there was no mismanagement and irregularities in the disbursement of funds during the payment cycle in reference.

The State Department for Social Protection generated the payroll for 1,092,551 beneficiaries amounting Kshs. 8,758,120,000. The Ministry made an Exchequer requisition to the National Treasury for the same amount. The National Treasury released the exchequer to the Ministry on 5th July 2021 and the funds were transferred to the four contracted payment service providers on the same day.

(a) Presentation by the Petitioners

1. The petitioner expressed concerns that the State Department of Social Protection, Senior Citizens and Special Programmes does not have clear communication channels for dissemination of information on the Inua Jamii Programme.
2. The Petitioners lamented that they have not received any money since 2018 and urged the Committee to pursue their case.

(b) Members' Interventions.

1. Members sought to know if there has been any impact evaluation of the Inua Jamii programme.
2. Members stated that grassroots leaders such as chiefs were not aware of any registration of persons with disabilities (PWDs) and persons above 70 years.
3. Members sought to be informed on why most Kenyans above 70 years have not received their Inua Jamii cash disbursement since the outbreak of COVID-19 in 2019.
4. Members sought to know if they could be roped in to assist the State Department of Social Protection, Senior Citizens and Special Programmes during their targeting programme to on-board persons above 70 years and PWDs.

5. Members urged the Permanent Secretary (PS) to ensure uniformity and fairness during cash disbursement for the Inua Jamii programme.

(c) Responses by the PS, Mr. Nelson Marwa

He stated that the State Department of Social Protection, Senior Citizens and Special Programmes had not been allocated funds for registration of new beneficiaries. However, they hope that Treasury will allocate funds for on boarding beneficiaries.

1. He stated that the Department did massive education and outreach on TVs, through chiefs and radio stations urging beneficiaries who had been removed in the payroll to re-register.
2. He informed the meeting that a targeting programme was rolled out on 27th September, 2021 and is expected to end by November 2021 and advertisements were done.

MINUTE SEN/SCLSW/363/2021: ANY OTHER BUSINESS AND ADJOURNMENT

1. The Chairperson informed Members that a physical meeting with the Cabinet Secretary, Ministry of Sports, Culture and Heritage and the Football Kenya Federation (FKF) had been scheduled for the following day (Thursday, 4th November, 2021) to discuss the Statement on the directive by the CS to the Sports Registrar to undertake an impromptu inspection of the FKF.
2. There being no other business, the meeting was adjourned at 12.15 p.m.



SIGNATURE:

(CHAIRPERSON: SEN. JOHNSON SAKAJA, CBS)

DATE: Saturday, 27th November 2021



Republic of Kenya

MINISTRY OF PUBLIC SERVICE, GENDER, SENIOR CITIZENS AFFAIRS & SPECIAL PROGRAMMES STATE DEPARTMENT FOR SOCIAL PROTECTION, SENIOR CITIZENS AFFAIRS & SPECIAL PROGRAMS

STATEMENT ON THE PETITION CONCERNING THE STATE OF THE INUA JAMII PROGRAMME

Introduction

The Inua Jamii Program is a Consolidated Cash Transfer Program that comprises of Cash Transfer for Orphans and Vulnerable Children (CT-OVC); Older Persons Cash Transfer (OPCT); and Cash Transfer for Persons with Severe Disabilities (CT-PWSD). These programs were started in 2004, 2007 and 2010 respectively, starting off as pilot program.

Previously, the programs were domiciled in two different Departments, with two different Management Information Systems (MIS) namely; the CT-OVC under the Department of Children services and OPCT and PWSD under the Department for Social Development. In 2016, the Ministry reengineered the programs and established the Social Assistance Unit in order to consolidate the operations of the Cash Transfers programs as Inua Jamii. This process meant the consolidation of the two MIS's into a single Consolidated Cash Transfer Program Management Information System (CCTPMIS) where beneficiaries' data was migrated from the legacy systems to the new CCTPMIS. The migration focused on 1,233,129 programme beneficiaries' data and was guided by a Data Migration Strategy.

Before migration could be undertaken, all data in the legacy system was verified through Integrated Population Registry Service (IPRS) to ensure only those beneficiaries whose details matched those in IPRS were migrated. The migration was carried out in phases: Phase 1 was for those who had correct data who comprised 1,091,166 beneficiaries, Phase 2 comprised of 112,810 beneficiaries who had minor errors in their data

which were correctable through case management process and Phase 3 comprised of 29,153 beneficiaries who had total IPRS mismatch and their data had to be recapture to enable them get into the new management information system.

Response to Issues Raised by The Petitioner;

- i) THAT, for the last two years, the Government has been falsely indicating that it would unveil its third phase of registering all the older people who were qualified to have been included in Inua Jamii phase 1 and 2 program but were left out and those who have since reached the mandatory age of 70 years.**

Over the last two years, the Government intended to conduct the third phase of data migration. This was to target the 29,153 beneficiaries who were not migrated due to errors in their data. However, this exercise was **NOT** meant to register fresh cohort of older persons who had turned the mandatory age of 70 years as it was alleged in the petition.

The delay of the Phase 3 migration was due programme management information system enhancement especially the targeting module which was to be used to recapture the data for these cases. Nevertheless, the exercise started on 27th September, 2021 and is expected to end by November 2021. These beneficiaries will be reinstated back to the payroll once the exercise is completed in November, 2021.

- ii) THAT, many elderly people who were registered for the Inua Jamii program and issued with the relevant cards have never received a single cent from the said program and the complaint to the Department of Social services has never born any fruit.**

The last Government registration for the Older Persons' Cash Transfer Programme for Senior Citizens aged 70 years and above took place countrywide in all constituencies during the months of July and August, 2017. All Senior Citizens whose registration was successful were enrolled into the programme, and began receiving their bi-monthly stipends in January 2018. These Senior Citizens continue to receive their stipends to date.

However, some older person's registration was not successful and therefore have never received any payments because;

- Some registered for the second time and hence were flagged as duplicates within the programme forcing them to be suspended;
- Others had shared caregivers which is against programme guidelines; and
- Others had their accounts opened but were not successfully transmitted to the Consolidated Cash Transfer Programme Management Information System by the respective PSPs.

These beneficiaries will be given another an opportunity to open accounts starting from November 2021.

iii) THAT, about three years ago, all those old people who were enlisted in the Inua Jamii program were advised by the Government to register with the National Hospital Insurance fund so that the Government could start its monthly contribution health cover support to those individuals but to date, the said promised contribution is yet to start regardless of the old people registering as advised.

At its inception, the NHIF cover for Inua Jamii Programme was a pilot complimentary programme which was being funded by World Bank through the Ministry of Health. The role of the State Department for Social Protection was to provide beneficiaries data to NHIF for the sub counties where the pilot was being carried out. The government was to take over the programme at the end of the pilot in terms of funding. In FY2020/21 the State Department for Social Protection was allocated Kshs.600 million against the required Kshs.4.9 billion for the 833,000 older persons' NHIF Cover. This amount could only cover 100,000 elderly persons at the rate of Kshs.6000 per year. Therefore, through the advice of the National Treasury, the amount was reallocated to cater for budget deficit in the cash transfer programme operations. No further allocation was made toward this item; hence the programme could not be rolled out.

iv) THAT, many of sick elderly people who are over 80 years and who are eligible and registered for receiving the social assistance benefits have never been paid while some received their benefits for a short period before it was mysteriously discontinued

There are 8,192 elderly persons who were registered into the programme and have never been paid due to total IPRS mismatch in their data. These cases are the ones being addressed currently through the retargeting exercise.

The others who were receiving their benefits for a short period before it was discontinued could have been either due to:

- a) Double registration especially those who were registered under 65 and again registered under 70 years' cohort;
- b) Sharing of caregiver across the programme;
- c) Some after migration opened accounts which were never transmitted to the CCT MIS.

These cases are being addressed on a continuous basis through case management process.

v) **THAT, on around 6th July 2021, the government released its latest disbursement of (Eight Billion, Seven hundred and fifty-eight Million, One hundred and twenty thousand (Ksh. 8,758,120,000) to the beneficiaries enrolled in Inua Jamii program and a further total of sum of Twenty-six million, three hundred and eighty-six thousand (26,386,000) towards nutrition improvement through cash and Health Education (NICHE) complementary program.**

It is true that the government released Kshs.8, 758,120,000 on 6th July 2021 for payment of Inua Jamii programme beneficiaries for the months of March to June 2021. The funds were disbursed to beneficiaries through the four contracted Payment Service Providers as follows;

S/No.	PSP	Beneficiaries Numbers	Amount (Kshs)
1	Coop Bank	57,853	463,874,000
2	EBL	427,135	3,424,554,000
3	Post Bank	52,384	419,698,000
4	KCB	555,179	4,449,120,000
Total :			8,758,120,000

The amount was credit to individual beneficiaries' accounts out of which **1,091, 224** beneficiaries accounts were successfully credited while **1327** were failed credits. The amount was refunded to the ministry's holding accounts in the respective bank.

The Kshs.26, 386,000.00 for NICHE was paid together with the normal cash transfer stipends as a top up to 7,908 selected Inua Jamii programme beneficiaries in five counties (Kitui, Kilifi, Turkana West Pokot and Marsabit) where the programme is being implemented.

vi) THAT, majority of the old people who are beneficiaries of the Inua Jamii cash transfer program and who get their payment through Kenya Commercial Bank are yet to receive their latest payment which was released on 6th July 2021.

The Ministry is not aware that majority of Inua Jamii older person's beneficiaries who get their payment through Kenya Commercial Bank are yet to receive their latest payment released on 6th July 2021. However, what is known is that 526 older person's beneficiaries under Kenya Commercial Bank whose accounts had failed credit did not receive their money.

vii) THAT, there is high suspicion that some people in the Government have been receiving money meant for all those old people, orphans and persons living with disability who were enlisted with the Inua Jamii program. Issued with the official Inua Jamii card and had their Bank account opened, but have never received their share of the cash of money.

The Ministry will be glad to receive the details of the Government official(s) who may be engaging in such a corrupt practice.

However, it is important to note that the Programme has put appropriate measures to cap likelihood of such malpractices by introducing a two-factor authentication at the point of payment. That means through the two-factor authentication, recipient beneficiaries or caregivers are required to produce a programme payment card and verify him/her biometrically using finger prints. This ensures only the correct account holder access the funds in the account.

viii) THAT, the Government has caused trauma to all those old people who were enlisted with the Inua Jamii programme and were given the official Inua Jamii card and had their Bank account opened but have never received their share, as

they witness their age mates as well as some people who are younger than them benefitting.

The Ministry is fully aware of this cases. To address this, the Ministry has planned for an account opening exercise for 93,565 registered beneficiaries who for one reason or another, are not in the payroll. The account opening exercise will commence in November, 2021 and the enrolled beneficiaries will be reinstated in the payroll thereafter.

ix) THAT, all over this Country, those old people who have attained the age of 70 years and above and who have been left out by the Inua Jamii cash transfer program have been crying out loudly for assistance from their leaders.

It is true there are some elderly persons who have attained the age of 70 years in the country and are not covered by the programme. According to the 2019 Kenya National Population Census, there are over 250,000 persons who are 70 years and above and who qualify to be in the programme. These cases can only be registered when the Ministry get additional funding for programme expansion.

x) That, many orphans and persons living with disability who are eligible and registered for receiving the social assistance benefits have never been paid while some received the benefits for a short period before it was mysteriously discontinued.

It is true that we have 20,961 caregivers of orphans and vulnerable children's and persons with severe disabilities programme who were registered into the programme and have never been paid due to total IPRS mismatch in their data. These cases are the ones being addressed through the retargeting exercise currently being conducted in the country.

The others who were receiving their benefits for a short period before it was discontinued could have either been due to:

- i. Sharing of caregiver across the programme which requires updates;
- ii. Some after migration opened accounts which were never transmitted to the CCT MIS; and
- iii. Some could have been exited due to none legibility.
- iv. Bio failures during payments

These cases are being addressed on a continuous basis through case management process.

xi) THAT, the Inua Jamii program is currently very discriminative such that most of the needy, sickly, weak and vulnerable over 80 members of our society have been left out in the program.

The Older Person's Cash Transfer Programme is a universal and voluntary programme. Consequently, all Kenyans citizens who are 70 years and above are eligible to be registered into the programme. The only requirement for registration is a valid National Identification Card to prove one is a Kenyan and above 70 years of age.

The last registration for this cohort was in 2017, meaning that besides those who could have been erroneously left out during the last registration, there are many who have turned 70 years since that time.

xii) THAT, the state has never proved / demonstrated it inability to accommodate all our over 70 years of age people or its inability to gather or allocated enough resources to enable it meet its obligations of giving reasonable care and assistance to majority of old people in our Country.

The Ministry has not been able to undertake any Targeting or Registration of new beneficiaries in the cash transfer program for the last five (5) years. However, the Ministry has been requesting for allocation of additional funding to expand the programme but has not been successful.

xiii) THAT, there is urgent need to investigate Inua Jamii cash transfer program with a view of auditing all records of recipients and beneficiaries of the program to find out whether some ministry officials and or the banking Agents have been taking advantage of the program and stealing the Tax payer's money through its systems.

The Ministry confirm that the Inua Jamii programme is normally audited by the Office of the Auditor General once every year. In addition, the programme on a regular basis receives technical advice from the

Ministry's Internal Audit Department. The aim of these audits is to review the status of implementation of the programme, identify fiduciary risks, operational gaps and provide recommendations to strengthen the systems and operational processes of the programme.

The implementing department also conducts periodic monitoring of the Inua Jamii programme to assess the areas of improvement. Audits conducted on Inua Jamii programme provide recommendations which are operational in nature and they're meant to improve programme operations.



Prof. Margaret Kobia, PhD, MGH
CABINET SECRETARY

SCHEDULE (S.3)

FORM OF PETITION

THE CLERK OF SEANTE
Parliament Buildings
P.O. Box 41842 – 00100
NAIROBI
8th August 2021

Clerk Assist J - Labour
Kindly deal
09/09/2021

RE: PETITION TO THE SENATE TO ORDER FOR AN URGENT SPECIAL FORESIC
AUDIT ON THE GOVERNMENT'S SOCIAL SECURITY FUND POPULARLY
REFERRED TO AS INUA JAMIA PROGRAM MINISTRY OF LABOUR AND SOCIAL
PROTECTION.

I, the undersigned,

am a Kenyan Citizens, Nationalists, and a residents of Embu County in the Republic of
Kenya.

DRAW the attention of the Senate to the following:

THAT, I am a human rights defender and protector and I have interacted with many
members of our community and I have received so many complaints in regard to the
management and disbursement of Inua Jamii cash transfer program.

THAT, I have been escalating many complaints from the elderly and orphans and in many
cases my enquiries as to the reasons as to why their complaints are never been appropriately
addressed always hit a snag save for a single incident in which I physically took a list of
complainants to the State department for Social protection in Nairobi concerning people
who had been registered with the INUA Jamii program and who had been left out, where
about 9 of them started receiving their money.

THAT, under the United Nations Principles for Older Persons, Older persons should have
access to health care to help them to maintain or regain the optimum level of physical,
mental and emotional well-being and to prevent or delay the onset of illness.

THAT, under the United Nations Principles for Older Persons, Older persons should benefit
from family and community care and protection in accordance with each society's system of
cultural values.

THAT, as a measure geared towards implementation and actualizing 57(d), our Government
unveiled the Inua Jamii program.

THAT, Inua Jamii is the Government of Kenya's flagship National Safety Net Program
(NSNP) for the beneficiaries of, Cash Transfer for Orphans and Vulnerable Children (CT-

PETITION TO THE SENATE TO ORDER FOR AN URGENT SPECIAL FORESIC AUDIT ON THE
GOVERNMENT'S SOCIAL SECURITY FUND POPULARLY REFERED TO AS INUA JAMIA PROGRAM
UNDER THE MINISTRY OF LABOUR AND SOCIAL PROTECTION

OVC), Older Persons Cash Transfer (OPCT), Persons with Severe Disabilities Cash Transfer (PWSD-CT) as well as Hunger Safety Net Programme (HSNP).

THAT, through the Ministry of Labour and Social Protection the Government runs various social security programs which includes Inua Jamii, Cash Transfer for Orphans and Vulnerable Children program and nutrition improvement through cash and Health Education (NICHE) complementary program.

THAT, Under Section 57, Sub-section c & d, of part 3, Chapter 4 of the Constitution of Kenya 2010, the Government has the responsibility of ensuring the rights of older persons and it is obligated to give reasonable care and assistance to such older people.

THAT, for the last two years, the Government has been falsely indicating that it would unveil its third phase of registering all the older people who were qualified to have been included in Inua Jamii phase 1 and 2 program but were left out and those who have since reached the mandatory age of 70 years.

THAT, many elderly people who were registered for the Inua Jamii program and issued with the relevant cards have never received a single cent from the said program and the complaint to the Department of Social services has never born any fruit.

THAT, about three years ago, all those old people who were enlisted in the Inua Jamii program were advised by the Government to register with the National Hospital Insurance fund so that the Government could start its monthly contribution health cover support to those individuals but to date, the said promised contribution is yet to start regardless of the old people registering as advised.

THAT, many of sick elderly people who are over 80 years and who are eligible and registered for receiving the social assistance benefits have never been paid while some received their benefits for a short period before it was mysteriously discontinued.

THAT, on or around 6th July 2021, the government released its latest disbursement of (Eight Billion, Seven hundred and fifty eight Million, One hundred and Twenty thousand (Ksh.8,758,120,000) to the beneficiaries enrolled in Inua Jamii program and a further total of sum of Twenty six Million, three hundred and eighty six thousand (Ksh.26,386,000) towards nutrition improvement through cash and Health Education (NICHE) complementary program.

THAT, majority of the old people who are beneficiaries of the Inua Jamii cash transfer program and who get their payment through Kenya Commercial Bank are yet to receive their latest payment which was released on 6th July 2021.

THAT, there is high suspicion that some people in the Government have been receiving money meant for all those old people, orphans and persons living with disability who were enlisted with the Inua Jamii program, issued with the official Inua Jamii card and had their Bank account opened, but have never received their share of the cash of money.

THAT, the Government has caused trauma to all those old people who were enlisted with the Inua Jamii program and were given the official Inua Jamii card and had their Bank account opened but have never received their share, as they witness their age mates as well as some people who are younger than them benefitting.

THAT, all over this Country, those old people who have attained the age of 70 years and above and who have been left out by the Inua Jamii cash transfer program have been crying out loudly for assistance from their leaders.

THAT, Principal Secretary Mr. Nelson Marwa Sospeter, CBS oversees the design and implementation of policy reforms in Child Protection, Older Persons and Persons with Disability Sector and also provides strategic leadership in the design and execution of innovative programmes that strengthen service delivery to the vulnerable people in the communities across the country.

THAT, none other Principal Secretary Mr. Nelson Marwa Sospeter, CBS than who has been telling the whole world that there are some cartels under his ministry and unscrupulous bank agents who have been stealing from the old people program and coning them respectively.

THAT, Principal Secretary in the Ministry of Labour and Social Protection the Mr. Nelson Marwa Sospeter, CBS, who is also the accounting officer in the ministry has failed in his core duties for being unable to tame the cartels in that Ministry as well as the suspected mega corruption in that Ministry.

THAT, my own father was a victim of use of identity theft whereby his National Identity Card was used to register a female from Kitui and who used to be paid his Inua Jamii cash .

THAT, regardless of the cleanup exercise undertaken by the Ministry in 2019, there is no one who has ever been charged in court for the suspected massive stealing of public money through the Inua Jamii.

THAT, many orphans and persons living with disability who are eligible and registered for receiving the social assistance benefits have never been paid while some received the benefits for a short period before it was mysteriously discontinued.

THAT, the Inua Jamii program is currently very discriminative such that most of the needy, sickly, weak and vulnerable over 80 members of our society have been left out in the program.

THAT, the state has never proved/demonstrated its inability to accommodate all our over 70 years of age people or its inability to gather or allocated enough resources to enable it meet its obligations of giving reasonable care and assistance to majority of old people in our Country.

THAT, there is an urgent need investigate Inua Jamii cash transfer program with a view of:-

- Handwritten mark*
- a. Auditing all records of recipients and beneficiaries of the program to find out whether some ministry officials and or the banking Agents have been taking advantage of the program and stealing the Tax payers' money through its systems.

- b. Exposing any weak point(s) in the process of the program which could have been used as avenues for stealing of the money meant for the most vulnerable in our society.
- c. Exposing the cartels in the ministry of Labour and Social Protection and recommending for action
- d. Investigating on whether the money which had been budgeted for medical insurance cover for the older people was released by the treasury to Ministry of Labour and Social Protection and if so why did the ministry stop the program at its initial stage and where did that money go.
- e. Recommending for forensic audit on all the people suspected of stealing or unlawfully benefiting from the Social security fund which is one of our government's flagship programs.
- f. Recommending for forensic audit and or investigation on all the people suspected of stealing or unlawfully benefiting from the Social security fund which is one of our government's flagship programs.
- g. Recommending for the Government disengagement and or termination of its contracts with the Banks which are frustrating our old people or which have their Agents frustrating or stealing from the Inua Jamii cash transfer program beneficiaries.


THAT, I confirm that the issues in respect of which the petition is made are not pending before any court of law, or constitutional or legal body.

HEREFORE your humble petitioners Pray that Senate—

- a. Constitute a parliamentary committee to investigate and recommend for a special audit on the public fund expenditure under Inua Jamii cash transfer program in the Ministry of Labour and Social Protection and also to investigate the Management of all the cash transfer programs under the Ministry of Labour and Social Protection.
- b. Recommend for and or take any other legal action deemed appropriate for securing the dignity and the rights of our old people and as well as for safeguarding and protecting public funds from theft, misappropriation of any kind and misuse.

And your PETITIONERS will ever pray.

That their petition heard and considered with a view of having it dealt with in accordance with the law and disposed off appropriately and expeditiously.

	Name of petitioner	Full Address	National ID	Signature
1.	TARATISIO IREH KAWA	BOX 129-60103 RUYENJES	8660483	

PETITION TO THE SENATE TO ORDER FOR AN URGENT SPECIAL FORESIC AUDIT ON THE GOVERNMENT'S SOCIAL SECURITY FUND POPULARLY REFERED TO AS INUA JAMIA PROGRAM UNDER THE MINISTRY OF LABOUR AND SOCIAL PROTECTION

INTERNAL MEMO

SENATE STANDING COMMITTEE ON FINANCE AND BUDGET

To: Speaker of the Senate
Thro': Clerk of the Senate
Thro': Deputy Clerk
From: Director, Committee Services
Date: 20th December, 2021



Rt. Hon. Speaker
You may approve for
tabling 20/12/21

RE: REPORT ON THE CONSIDERATION OF THE AMENDMENTS PASSED BY THE NATIONAL ASSEMBLY TO THE COUNTY GOVERNMENTS GRANTS BILL (SENATE BILLS NO.35 OF 2021)

The above matter refers.

At its 266th meeting, the Standing Committee on Finance and Budget considered the report on the consideration of the amendments passed by the National Assembly to the County Governments Grants Bill (Senate Bills No.35 of 2021). The Committee intends to table the report in the next Senate Plenary sitting.

This is therefore to forward the report for your information, and seek your approval for tabling.

S.N. Njuguna.





REPUBLIC OF KENYA



TWELFTH PARLIAMENT

FIFTH SESSION

THE SENATE

Rt. Hon. Speaker
You may approve for
tabling.
20/12/21

Approved
[Signature]
21/12/2021

THE STANDING COMMITTEE ON FINANCE AND BUDGET

REPORT ON THE CONSIDERATION OF THE AMENDMENTS PASSED BY
THE NATIONAL ASSEMBLY TO THE COUNTY GOVERNMENTS GRANTS
BILL, (SENATE BILLS NO. 35 OF 2021)

PAPERS LAID	
DATE	21/12/21
TABLED BY	Chair. Finance - Sen. Ketsiro
COMMITTEE	Finance
CLERK AT THE TABLE	M. Affehodou

Clerk's Chambers
Parliament Buildings,
NAIROBI

December 2021

DC-EG-
Recommended & Forwarded for approval
for processing
20/12/2021

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PREFACE

The Standing Committee on Finance and Budget was constituted by the House on Thursday, 14th December, 2017 during the First Session of the Twelfth Parliament. The Committee was later reconstituted on Wednesday, 24th June, 2020, during the Fourth Session of the Twelfth (12th) Parliament. The Committee as currently constituted, comprises the following Members-

- | | |
|--|--------------------|
| 1. Sen. Charles Kibiru, MP | - Chairperson |
| 2. Sen. (Dr.) Ochillo-Ayacko, EGH, MP | - Vice Chairperson |
| 3. Sen. Wetang'ula Moses Masika, EGH, MP | - Member |
| 4. Sen. Kimani Wamatangi, MP | - Member |
| 5. Sen. Mutula Kilonzo Junior, CBS, MP | - Member |
| 6. Sen. Aaron Cheruiyot, MP | - Member |
| 7. Sen. Rose Nyamunga, CBS, MP | - Member |
| 8. Sen. CPA Farhiya Haji, MBSMP | - Member |
| 9. Sen. Millicent Omanga, MP | - Member |

The Standing Committee on Finance and Budget is established pursuant to Section 8 of the Public Finance Management Act, 2012 and standing order 218(3) of the Senate Standing Orders and is mandated to -

- a) *Investigate, inquire into and report on all matters relating to coordination, control and monitoring of the county budgets and to examine -*
 - i) *the Budget Policy Statement presented to the Senate;*
 - ii) *report on the Budget allocated to Constitutional Commissions and independent offices;*
 - iii) *the Division of Revenue Bill, County Allocation of Revenue Bill, and cash disbursement schedule for county governments;*

iv) *Consider all matters related to resolutions and Bills for appropriations, share of national revenue amongst the counties and all matters concerning the National Budget, including public finance and monetary policies and public debt, planning and development policy.*

b) *Pursuant to Article 228 (6) of the Constitution, to examine the report of the Controller of Budget on the implementation of the budgets of county governments.*

EXECUTIVE SUMMARY

The County Governments Grants Bill (Senate Bills No.35 of 2021) was read a First Time in the Senate on 6th July, 2021. Thereafter, pursuant to standing order 140(1) of the Senate Standing Orders, the Bill was committed to the Standing Committee on Finance and Budget for consideration, facilitation of public participation and subsequently tabling of a report

The Senate passed the Bill on 15th September, 2021. Subsequently, it was transmitted to the National Assembly for concurrence. The National Assembly passed the Bill with amendments on 2nd December, 2021.

Through a letter dated 8th December, 2021, the Speaker informed the Committee on the passage of the Bill with amendments by the National Assembly. The Speaker directed the Committee to expeditiously consider the National Assembly amendments to the Bill and report back to the Senate in the following Plenary sitting.

At its 266th Sitting held on 14th December, 2021, the Committee considered the National Assembly amendments to the County Governments Grants Bill (Senate Bills No.35 of 2021) and noted that the spirit of the amendments negated the object or purpose of the Bill.

The Committee recommends that the Senate rejects the amendments passed by the National Assembly to the County Governments Grants Bill (Senate Bills No. 35 of 2021).

Acknowledgement

The Committee wishes to thank the Office of the Speaker and the Office of the Clerk of the Senate for the support extended to it in the consideration of the amendments proposed by the National Assembly.

Mr. Speaker Sir,

It is my pleasant duty, pursuant to standing order 213 (6) of the Senate Standing Orders, to present the Report of the Standing Committee on Finance and Budget on the amendments passed by the National Assembly to the County Governments Grants Bill (Senate Bills No. 35 of 2021) for consideration by the House.

SIGNATURE:



SEN. CHARLES KIBIRU, MP.

(CHAIRPERSON, STANDING COMMITTEE ON FINANCE AND BUDGET)

DATE: 15th December, 2021

1 INTRODUCTION

1.1 Background on the County Governments Grants Bill (Senate Bills No. 35 of 2021)

The Bill seeks to provide a framework for the transfer of additional allocations under Article 202(2) of the Constitution from national government's share of revenue and development partners to the county governments.

The Bill also seeks to comply with the orders of the court in High Court Petition No. 252 of 2016. In the matter, the court held that Article 202 of the Constitution as read with Article 218(1)(a) of the Constitution did not permit conditional or unconditional grants to be provided for in the Annual Division of Revenue Act. The court held that such conditional or unconditional grants could be issued to the county level of government under Article 190 of the Constitution or through an agreement between the two levels of government that respects the institutional and functional integrity of both levels of government but not in the Annual Division of Revenue Act.

The object of the Bill is to provide for the allocation of conditional grants to county governments for the financial year 2021/2022.

1.2 Committal of the Bill to the Standing Committee on Finance and Budget

The County Governments Grants Bill (Senate Bills No. 35 of 2021) was published on 25th May, 2021 and read a First Time in the Senate on 6th July, 2021. The Bill was thereafter committed to the Standing Committee on Finance and Budget for consideration.

Pursuant to Article 118 (1) (b) of the Constitution and standing order 140 (5) of the Senate Standing Orders, the Committee invited views on the Bill from the public by placing advertisements in the Daily Nation and the Standard newspapers and publication on the Parliamentary Service Commission Website.

The Committee received oral submissions at the Public Hearing held on 14th July, 2021 from the National Treasury, Office of the Controller of Budget (CoB), Commission on Revenue Allocation (CRA), and Council of Governors (CoG). The Committee considered the submissions and reported back to the Senate.

The Senate passed the Bill, with amendments, on 15th September, 2021 and it was thereafter transmitted to the National Assembly for concurrence. Pursuant to standing order 156 of the Senate Standing Orders, the Bill was forwarded to the National Assembly together with a message requesting for concurrence.. The National Assembly passed the Bill with further amendments on 2nd December, 2021.

Through a letter dated 8th December, 2021 the Speaker informed the Committee on the passage of the Bill with amendments by the National Assembly. The Speaker directed the Committee to expeditiously consider the National Assembly amendments to the Bill and report back to the Senate in the following sitting.

At its 266th Sitting held on 14th December, 2021, the Committee considered the amendments passed by the National Assembly to the Bill.

2 CONSIDERATION OF AMENDMENTS PASSED BY THE NATIONAL ASSEMBLY TO THE BILL

At its 266th Sitting held on 14th December, 2021, the Committee considered the amendments passed by the National Assembly as summarized below-

Observations by the Committee

From the foregoing the Committee made the following observations-

- (1) That the County Governments Grants Bill, sponsored by the Committee on Finance and Budget, was introduced in the Senate following the judgment in High Court Petition No. 252 of 2016, in which the court held, *inter alia*, that conditional grants cannot be included in the Division of Revenue Bill (and therefore Division of Revenue Act) as a strict consideration of the provisions of Article 218 of the Constitution sets out that the only matters to be dealt with in the Division of Revenue Bill is the division of nationally raised revenue between the national government and county governments;
- (2) Further that whereas the court found that conditional grants cannot be included in the Division of Revenue Bill, it did not preclude the development, introduction and enactment of a legislative instrument to provide for the manner in which conditional grants will be distributed to county governments. Indeed, the judgment dealt with the question of the nature of the matters to be dealt with in a Division of Revenue Bill but did not preclude a legislative action setting out conditional grants;
- (3) That the County Governments Conditional Grants Bill seeks to set out the information that was hitherto contained in the Second and Third Schedule of the County Allocation of Revenue Bill prior to coming into effect of the judgment in HC Petition No. 252 of 2016;

- (4) That the National Assembly has proposed various amendments to the County Governments Grants Bill whose effect would be to defeat the principle object of the Bill which is to deal with the question of disbursement of conditional grants to the county governments from the national government and development partners;
- (5) That in particular by changing the long title and short title of the Bill to refer to additional allocations under Article 202(2) of the Constitution, the amendments proposed by the National Assembly would leave out conditional allocations by development partners which form part of the transfers to county governments;
- (6) Further that the proposed deletion of the First and Second Schedule to the Bill would amount to a complete erosion of the substratum of the Bill and its objects. Further that by including the issue of financing of transferred functions in the provisions of the Bill introduces an issue outside the scope of the Bill which would be properly dealt with through a separate legislation.

The Committee therefore makes the following specific recommendations with respect to the proposed amendments-

CLAUSE 1

Clause of the Bill amended—

(a) THAT, Clause 1 of the Bill be amended by deleting the word “Grants” and substituting therefor the following words “Additional Allocation”;

Resolution: Not agreed to.

CLAUSE 2

(b) THAT, Clause 2 of the Bill be amended in the definition of “conditional allocation” by deleting the word “conditional” and substituting therefor the word “additional”;

Resolution: Not agreed to.

CLAUSE 3

(c) THAT, Clause 3 of the Bill be amended in paragraph (a) by deleting the expression “for the financial year 2021/2022” appearing after the word “allocations”;

Resolution: Not agreed to.

CLAUSE 4

(d) THAT, the Bill be amended by deleting clause 4 and substituting therefor the following new clause—

Additional allocation to the county governments.

4. (1) Additional grants shall be funds agreed upon by the national and the county governments during the consideration of the Budget Policy Statement and shall comprise of—

(a) resources required for transfer of functions to counties from the National Government as provided for under Article 187 of the Constitution;

(b) conditional and unconditional allocations provided for under Article 202(2) of the Constitution; and

(c) loans and grants from development partners. (2) Additional funds allocated under this section shall be included in the respective county governments’ appropriation bills. (3) The National Treasury shall facilitate any agreement between a county government and a development partner and shall table the agreements in the National Assembly and the Senate before inclusion in the Budget Policy statement.”;

Resolution: Not agreed to.

CLAUSE 8

(e) THAT, Clause 8 of the Bill be amended –

- i) by deleting paragraph (a);
- ii) by deleting paragraph (b); and
- iii) in paragraph (c) by deleting the proposed New Section 191 B.

Resolution: Not agreed to.

CLAUSE 9

(f) THAT, Clause 9 of the Bill be deleted

Resolution: Not agreed to.

FIRST SCHEDULE

(g) That, the first schedule of the Bill be amended by deletion.

Resolution: Not agreed to.

SECOND SCHEDULE

(h) That, the Second schedule of the Bill be amended by deletion.

Resolution: Not agreed to.

3 COMMITTEE RECOMMENDATION

Pursuant to standing order 159 (4) of the Senate Standing Orders, the Committee recommends that the Senate rejects the amendments passed by the National Assembly to the County Governments Grants Bill (Senate Bills No. 35 of 2021).

MINUTES OF THE 266TH MEETING OF THE SENATE STANDING COMMITTEE ON FINANCE AND BUDGET HELD ON TUESDAY, 14TH DECEMBER, 2021 AT 9:00 AM VIA ZOOM ONLINE PLATFORM.

PRESENT

- | | | |
|---|---|-------------|
| 1. Sen. Charles Kiburu, MP | - | Chairperson |
| 2. Sen. Mutula Kilonzo Junior, CBS, MP | - | Member |
| 3. Sen. Moses Wetangula Masika, EGH, MP | - | Member |
| 4. Sen. Millicent Omanga, MP | - | Member |
| 5. Sen. Rose Nyamunga, CBS, MP | - | Member |
| 6. Sen. CPA Farhiya Haji, MBS, MP | - | Member |

ABSENT WITH APOLOGY

- | | | |
|---------------------------------------|---|------------------|
| 1. Sen. (Dr.) Ochillo-Ayacko, EGH, MP | - | Vice-Chairperson |
| 2. Sen. Kimani Wamatangi, MP | - | Member |
| 3. Sen. Aaron Cheruiyot, MP | - | Member |

SECRETARIAT

- | | | |
|----------------------------|---|------------------|
| 1. Mr. Christopher Gitonga | - | Clerk Assistant |
| 2. Ms. Beverlyne Chivadika | - | Clerk Assistant |
| 3. Ms. Phyllis Makau | - | Director, PBO |
| 4. Ms. Amran Yunis | - | Fiscal Analyst |
| 5. Mr. William Wambiru | - | Fiscal Analyst |
| 6. Mr. Chacha Machage | - | Fiscal Analyst |
| 7. Ms. Sharon Rotino | - | Researcher |
| 8. Mr. Ian Otieno | - | Audio Officer |
| 9. Ms. Lucy Radoli | - | Legal Counsel |
| 10. Mr. Daniel Kirwa | - | Serjeant-at-Arms |

MIN. NO. 3063/12/2021: PRELIMINARIES

The Chairperson called the meeting to order at 9.13 a.m. and thereafter followed by a word of prayer.

MIN. NO. 3064/12/2021: ADOPTION OF THE AGENDA

The agenda was adopted after it was proposed by Sen. CPA Farhiya Haji, MBS, MP and seconded by Sen. Mutula Kilonzo Junior, CBS, MP.

MIN. NO. 3065/12/2021: CONFIRMATION OF MINUTES

- a) The minutes of the 263rd meeting held on Monday, 6th December, 2021 at 9:30 a.m. was confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Millicent Omanga, MP, and seconded by Sen. Rose Nyamunga, CBS, MP.

- b) The minutes of the 264th meeting held on Wednesday, 8th December, 2021 at 9:00 a.m. were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Millicent Omanga, MP, and seconded by Sen. Mutula Kilonzo Junior, CBS, MP.
- c) The minutes of the 265th meeting held on Thursday, 9th December, 2021 at 9:00 a.m. was confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Moses Wetangula Masika, EGH, MP, and seconded by Sen. Mutula Kilonzo Junior, CBS, MP.

MIN. NO. 3066/12/2021: CONSIDERATION AND ADOPTION OF THE REPORT ON 2022 BUDGET POLICY STATEMENT AND THE MEDIUM TERM DEBT MANAGEMENT STRATEGY

The Committee deliberated on the report and resolved to propose the following financial recommendations that-

- (a) the County Equitable share be **Kshs. 495 billion**,
- (b) the Equalization Fund- **Kshs. 7.07 billion**,
- (c) the County Conditional Grants be **Kshs. 37.03 billion** which comprises of the following-
 - Supplement for Construction of County HQs- **Kshs. 0. 45 billion**,
 - Leasing of Medical Equipment- **Kshs. 5.20 billion**
 - Allocation from Development Partners as Loans and Grants- **Kshs. 31.38 billion**
- (d) That the proposed allocation of **Kshs. 1,764.52 billion** shareable revenues to the National Government for FY 2022/23 in the 2022 BPS, be **reduced by 7 percent**;
- (e) That the budget deficit including grants be pegged at 6 percent of GDP while budget deficit excluding grants be pegged at 6.4 percent as projected in the BPS 2022

The Committee considered the report on the 2022 BPS and MTDMS. The Committee unanimously adopted the report having being proposed by Sen. Mutula Kilonzo Junior, CBS, MP, and seconded by Sen. Rose Nyamunga, CBS, MP with the following recommendations.

MIN. NO. 3067/12/2021: CONSIDERATION OF NATIONAL ASSEMBLY AMENDMENTS TO THE COUNTY GOVERNMENTS GRANTS BILL

The Committee was apprised on amendments from the National Assembly to the County Governments Grants Bill (Senate Bills No. 35 of 2021). The Bill provides for the allocation and transfer of conditional allocations from national government's share of revenue and from development partners to the county governments, pursuant to Article 202 (2) of the Constitution.