

INTERNAL MEMO

STANDING COMMITTEE ON FINANCE, COMMERCE AND BUDGET

To: Speaker of the Senate

Thro': Clerk of the Senate

You may approve for tabling.

Wahne
3/23/17

From: Director, Committee Services

Date: 29th March, 2017



RE: PETITION REPORT CONCERNING VARIOUS MATTERS AFFECTING COUNTY EXECUTIVE AND COUNTY ASSEMBLY OF VIHIGA.

The above matter refers.

The Committee has considered and adopted its report on the petition by the residents of Vihiga County on misuse and diversion of public funds by the Vihiga County government.

The purpose of this memo is to forward the report for your consideration, approval for tabling and transmission to the petitioners.

A handwritten signature in blue ink, appearing to be "Njenga Njuguna".

Njenga Njuguna.

Approved
4.4.17

REPUBLIC OF KENYA

*Paper laid by Sen. (Dr.)
Machage on 4/04/2017.*

[Signature]



PARLIAMENT

THE SENATE

ELEVENTH PARLIAMENT – FIFTH SESSION

**REPORT OF THE SENATE STANDING COMMITTEE ON
FINANCE, COMMERCE & BUDGET ON THE PETITION**

**BY RESIDENTS OF VIHIGA COUNTY CONCERNING VARIOUS
MATTERS AFFECTING THE COUNTY EXECUTIVE AND
COUNTY ASSEMBLY OF VIHIGA**

**PARLIAMENT BUILDINGS
NAIROBI**

MARCH 2017

Senate Standing Committee on Finance, Commerce & Budget |

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PREFACE

Establishment of the Committee

The Standing Committee on Finance, Commerce and Budget was constituted by the House on Thursday, 13th March, 2014 during the Second Session of the Eleventh (11th) Parliament. The Standing Committee on Finance, Commerce and Budget is established pursuant to Standing Order No. 208 (1) which *inter alia* states that;-

There shall be Select Committees to be designated Standing Committees which shall be nominated by the Rules and Business Committee in consultation with parliamentary parties at the commencement of every Parliament.

Mandate of the Committee

The Committee is mandated under the Second Schedule of the Standing Orders to, investigate, inquire into and report on all matters relating to coordination, control and monitoring of the county budgets and to:

- a) Discuss and review the estimates of County governments and make recommendations to the Senate;
- b) Examine the Medium term Budget Policy Statement presented to the Senate;
- c) Examine and report on the Budget allocated to constitutional commissions and independent offices;
- d) Examine bills related to the Counties;
- e) Examine the Budget, including the Division of Revenue Bill; and
- f) Examine and 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, monetary policies and public debt, trading activities and commerce, tourism, investment and divestitures policies, planning and development policy.

Membership of the Committee

The Committee is comprised of the following members:-

1. The Hon. Sen. Billow Kerow, MP. - Chairperson
2. The Hon. Sen. (Eng.) Peter Ole Mositet, MP.-Vice - Chairperson
3. The Hon. Sen. G. G. Kariuki, EGH, MP.
4. The Hon. Sen. Moses Wetang'ula, EGH, MP.
5. The Hon. Sen. Beatrice Elachi, CBS, MP.
6. The Hon. Sen. (Dr.) Wilfred Machage, MGH, MP.
7. The Hon. Sen. Mutahi Kagwe, EGH, MP.
8. The Hon. Sen. (Prof.) Peter Anyang' Nyong'o, EGH, MP.
9. The Hon. Sen. (Dr.) Boni Khalwale, MP.
10. The Hon. Sen. (Prof.) John Lonyangapuo, CBS, MP.
11. The Hon. Sen. Mutula Kilonzo Junior, MP.
12. The Hon. Sen. Aaron Kipkirui Cheruiyot, MP.
13. The Hon. Sen. Catherine Mukite Nabwala, MP.
14. The Hon. Sen. Zipporah Kittony, MP.
15. The Hon. Sen. Paul Njoroge Ben, MP.
16. The Hon. Sen. (Dr.) Agnes Zani, MP

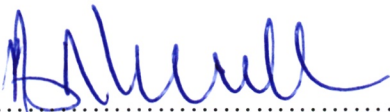
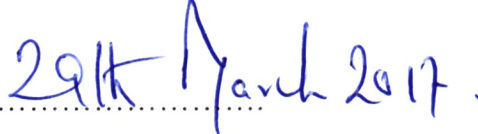
Acknowledgement

Mr. Speaker Sir,

The Committee is grateful to the twelve (12) Petitioners, who submitted the Petition to the Senate for consideration.

The Committee acknowledges the time and considerable effort made by all parties who volunteered information before it. The Committee is also particularly grateful to the Offices of the Speaker and the Clerk of Senate for the support received as it discharged its mandate. I also express my gratitude to my colleagues for their thoughtful input and engaged contributions to the matter.

Mr. Speaker Sir, on behalf of the committee and pursuant to Standing Order 227 (2) it is now my pleasant and honourable duty to present and lay on the table of the house the report of the Finance, Commerce and Budget Committee regarding the Petition to the Senate by residents of Vihiga County concerning various matters affecting the County Executive and County Assembly of Vihiga.

Signed.......... Date..........

SEN. BILLOW KEROW, M.P.

CHAIRPERSON FINANCE, COMMERCE AND BUDGET COMMITTEE

CHAPTER 1

INTRODUCTION

The right of Kenyan citizens to petition public authorities and Parliament is a right conferred by the Constitution under Articles 37 and Article 119 of the Constitution. The right to petition is an essential citizen participatory tool that allows for direct intervention by Parliament on issues relating to the promotion and protection of the rights of citizens.

The Parliament (procedure) Act No. 22 of 2012 makes provisions for the procedure for the exercise of the right to petition and also defines the format of petitions to be addressed to the Senate or National Assembly.

Pursuant to the Senate Standing Order No. 220 (1) (a) and 225 (2) (b) the Senator of Vihiga County, Sen. George Khaniri on 25th February, 2016, presented a public petition to the Senate on behalf of the Petitioners of Vihiga County concerning various matters affecting the County Executive and County Assembly of Vihiga.

1.1 Committee's Proceedings

The guiding principle in the Committees' approach to the petition was to reply to the prayers of the petitioners conclusively. The Members of the Committee analyzed the issues to be determined from the prayers of the petitioners and identified the necessary action to be taken.

It should be noted that the Committee did not have a session with the County Government since the Governor of Vihiga County, Governor Moses Akaranga declined to appear before the Committee despite numerous invitations. The Committee received documentation on the Petition from the Petitioners following a meeting with the Committee where they submitted their corresponding evidence.

1.2 Deliberative Sessions

In the exercise of its mandate, the Committee held six (6) deliberative sessions to consider the matter under review. The Minutes of this session as well as the petition presented to the Committee are annexed to this report.

1.3 Review of Documents

The Committee only reviewed the Petitioners evidence as it awaited the response from the County Government of Vihiga but to no avail.

1.4 Petitioners Prayers

The petitioners therefore prayed that;-

- a) THAT, the senate undertakes urgent investigation into the matters raised in view to establishing:
 - i. How KSh. 1.646 billion received from the exchequer for development in FY 2014/15, inclusive of Ksh. 900 million budgeted by the county assembly for ward development was utilized;
 - ii. How KSh. 105.99 million from Vihiga County Emergency Fund was spent and carry further investigation on Vihiga county emergency fund;
 - iii. How KSh. 61.6 million released by the Transitional Authority was spent
 - iv. How the money appropriated for Vihiga County Empowerment Fund was Utilized; and
 - v. How the county Government incurred and accumulative pending bills worth Kshs. 2.05 billion.
- b) THAT, detailed investigations and reports be undertaken by the Auditor General and the Ethics and the Anti-Corruption Commission (EACC) and the Directorate of Criminal Investigation (DCI) on the matters raised.
- c) THAT, appropriate action be taken based on findings of the investigation such as; prosecution of those in contravention of any law, recovery of funds and assets and lifestyle audit be undertaken by the EACC on all county executive committee members and chief officers of the County Government of Vihiga.
- d) THAT, the office of the Inspector General of Police put measures to ensure safety and security of Members of Vihiga County Assembly who voted in favour of adopting the report of the Ad-Hoc Committee and continue to face threats and intimidation for their brave action.

Pursuant to Standing Order No. 227, the petition stood committed to the Standing Committee of the Senate on Finance Commerce and Budget.

CHAPTER TWO

2.1 CIRCUMSTANCES LEADING TO THE PETITION

Formation of the County Assembly Ad-hoc committee

The petition arises from issues that accrue from resolution by the assembly to form a 15-member ad-hoc committee to investigate inconsistencies of expenditure by the county government.

The County Assembly Ad-hoc committee at that time investigated the following matters of concern:

- How Ksh. 36 million ward development allocated in 2014/15 was spent
- How an unused low loader was procured
- Status county emergency fund in FY 2014/15
- Projects executed by the county government without approval of county assembly
- Status of the Vihiga Community Empowerment Fund
- Accountability of the hire of heavy vehicles and motor vehicles in the department of transport and infrastructure
- Accountability of transitional funds set aside for renovation of the county assembly
- The accountability and management local revenue collection.

The Committee further received documentation that entailed a form of agreement made between the County Government of Vihiga and Sulu Construction Limited to execute Construction of Kitchen/Store & toilet at Vihiga Radio Station. Petitioners were concerned with value for money obtained.

2.2 CONSIDERATION OF THE PETITION BY THE COMMITTEE

The Committee considered the petition presented and the corresponding evidence as submitted by the Petitioners and was awaiting the Governor Vihiga County's response so as to make conclusive recommendations.

The Committee in its efforts to invite the Governor experienced challenges as indicated below.

1. On 18th February, 2016, the Senate received a Petition from the residents of Vihiga County concerning various matters affecting the County Executive and County Assembly of Vihiga. The Speaker of the Senate referred the Petition to the Senate Committee on Finance, Commerce and Budget ("the Committee").
2. After failing to honour several invitations to appear before the Committee, the Committee resolved to Summon Hon. Akaranga (the Governor) to appear before the Committee on 11th October, 2016.
3. The Governor did not honour the summons and soon thereafter, filed *Judicial Review Application No. 495 of 2016 (Moses Akaranga v Senate and Others)*, seeking orders to prohibit the Senate from summoning him. The Court however, did not give the Governor the reliefs that he sought at the interlocutory stage and ordered the Governor to comply with the said summons.
4. In light of the Court's Order, it was mutually agreed between the parties that the Governor would appear before the Senate on 1st November, 2016.
5. The Governor subsequently failed to appear before the Committee and the Committee therefore issued directions to the Inspector General of Police to arrest the Governor and present him before the Committee to respond to the queries in the Petition.
6. The Governor, on the other hand, filed a new suit, *Judicial Review No. 513 of 2016: R v The Senate, Inspector General of Police, The Director of Public Prosecutions, Hon Moses Akaranga and the Council of Governors* seeking to quash the Orders by the Senate and the arrest of the Governor. The Governor also withdrew *Judicial Review Application No. 495 of 2016 (Moses Akaranga v Senate and Others)* on 8th November, 2016.

7. In granting leave to institute the new judicial Review proceedings (***Judicial Review No. 513 of 2016***), the Court also issued *ex-parte* orders staying the summons issued to the Governor by the Senate and the Senate's directions to the Inspector General of Police and the Director of Public Prosecutions to arrest and charge the Governor for failure to honour the summons.
8. ***Judicial Review No. 513 of 2016*** is currently ongoing before the High Court.
9. That the Governor, in response to the various summons to appear before the Committee, averred that the Senate was acting ultra vires in purporting to sit on appeal on matters that had been considered and voted on by the Vihiga County Assembly. The Governor further averred that the Senate has original but not appellate jurisdiction and cannot set aside the determination of a County Assembly.

CHAPTER THREE

OBSERVATIONS & CONCLUSION

3.1 OBSERVATIONS

The Committee makes the following observations-

1. that in support of the allegations made in the petition, the Petitioners submitted the report of the Vihiga County Assembly Ad Hoc Committee which had considered the matters raised in the petition before the Senate. Vihiga County Assembly rejected the report of this Ad hoc Committee;
2. that standing order 90(5) of the Senate Standing Orders provides that "*it shall be out of order for a Senator to criticize or call to question, the proceedings in the National Assembly, a County Assembly or the Speaker's Ruling in the National Assembly but any debate may be allowed on the structures and roles of County Assemblies or the National Assembly*". The Committee is therefore precluded from considering the circumstances under which the report of the Committee was rejected by Vihiga County Assembly;
3. that pursuant to Article 119 of the Constitution and the provisions of the Petitions to Parliament (Procedure) Act any person may petition Parliament on any matter within the jurisdiction of Parliament. The law therefore does not limit the matters which a petition to Parliament may address. The Senate is therefore not precluded from considering a matter that has been addressed by a County Assembly. Indeed in doing so the Senate does not sit in appeal of the decision of the County Assembly but considers the matter and makes its own determination;
4. that Standing Order 227(2) of the Senate Standing Orders requires that the committee to which a petition is referred, dispenses with the petition within sixty calendar days of the date of referral;
5. that despite the Committee making several attempts to offer the Governor (Respondent) the right to be heard and respond to the allegations made and further issuing a summons

to appear pursuant to Article 125 of the Constitution and section 14 of the National Assembly (Powers and Privileges) Act Cap 6, the Governor failed to appear before the Committee and elected to institute various suits in court as a means to circumvent the authority of the Senate and its Committees;

6. that therefore there has been an inordinate delay in dispensing with the petition due to the failure of the Governor to cooperate with the Committee in its inquiry into the Petition in contravention of the Constitution and the National Assembly (Powers and Privileges) Act and the attendant court cases; and
7. that the Committee on Finance, Commerce and Budget submits its report to the Senate since it is long overdue; and
8. that at the time of submitting this report to the House the Governor had not appeared before the Committee and the matter of his non-appearance was still pending in court.

3.2 RECOMMENDATION

The Committee therefore recommends that the Director of Public Prosecutions to direct investigations and to institute criminal proceedings into the following matters-

- (a) how KSh. 1.646 billion received from the exchequer for development in FY 2014/15, inclusive of Ksh. 900 million budgeted by the county assembly for ward development was utilized;
- (b) how KSh. 105.99 million from Vihiga County Emergency Fund was spent and carry further investigation on Vihiga county emergency fund;
- (c) how KSh. 61.6 million released by the Transitional Authority was spent
- (d) how the money appropriated for Vihiga County Empowerment Fund was utilized; and
- (e) how the county Government incurred pending bills worth Kshs. 2.05 billion.

MINUTES OF THE 10TH SITTING OF THE SENATE STANDING COMMITTEE ON FINANCE, COMMERCE AND BUDGET HELD AT COUNTY HALL BUILDING ON TUESDAY, 14TH MARCH, 2017 AT 11.55A.M.

PRESENT

- | | |
|---------------------------------------|-------------------|
| 1. Sen. Billow Kerrow | - Chairperson |
| 2. Sen. Peter Ole Mositet | -Vice Chairperson |
| 3. Sen. Moses Wetang'ula | -Member |
| 4. Sen. Paul Ben Njoroge | -Member |
| 5. Sen. Mutula Kilonzo Junior | -Member |
| 6. Sen. Beatrice Elachi | -Member |
| 7. Sen. (Dr.) Agnes Zani | -Member |
| 8. Sen. (Dr.) BoniKhalwale | -Member |
| 9. Sen. (Prof.) Peter Anyang' Nyong'o | -Member |

ABSENT WITH APOLOGY

- | | |
|-----------------------------------|---------|
| 1. Sen. Aaron KipkiruiCheruiyot | -Member |
| 2. Sen. Catherine Mukite | -Member |
| 3. Sen. Mutahi Kagwe | -Member |
| 4. Sen. (Dr.) Wilfred Machage | -Member |
| 5. Sen. Zipporah Kittony | -Member |
| 6. Sen. (Prof.) John Lonyang'apuo | -Member |
| 7. Sen. G.G Kariuki | -Member |

IN ATTENDANCE

SENATE SECRETARIAT

- | | |
|----------------------------|-----------------------------|
| 1. Mr. Boniface Lenairoshi | - Principal Clerk Assistant |
| 2. Mr. Victor Bett | - Clerk Assistant |
| 3. Mr. Christopher Gitonga | - Clerk Assistant |
| 4. Mr. Benjamin Ng'imor | - Fiscal Analyst |
| 5. Mr. Gorrd Abdi | - Fiscal Analyst |
| 6. Ms. Lucy Radoli | - Legal Counsel |
| 7. Mr. Eugene Luteshi | - Audio Officer |
| 8. Ms. Paula Wanjiru | - Intern |

MIN NO.048/2017:

PRELIMINARIES

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

MIN NO.49/2017:

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. Mutula Kilonzo Junior and seconded by Sen. Moses Wetangula.

MIN NO.050/2017:

CONFIRMATION OF MINUTES

The minutes of the 8th sitting held on Thursday, 2nd of March 2017 at 2pm in Committee Room 4, Main Parliament were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Mutula Kilonzo Junior and seconded by Sen. Moses Wetangula.

MIN NO.051/2017: CONSIDERATION AND ADOPTION OF PETITION REPORTS.

a) Petition by residents of Bukhayo Central ward, Busia County concerning utilization of Ward Development Fund for the Financial Year 2014/2015;

The Committee considered and unanimously adopted the report with amendments as follows-

Due to time constraints, the Committee was not in position to visit the ward as requested by the petitioners.

b) Petition by Mr. David Gesicho on enactment of legislation to confine the national and county governments to the exclusive use of interest free Islamic Bonds ('Sukuk');

The Committee unanimously adopted the report.

c) Petition by residents of Vihiga County concerning various matters affecting the County Executive and County Assembly of Vihiga

The Committee considered and unanimously adopted the report with the following amendments to the recommendations;

That, the all the issues raised by the petitioners be referred to EACC for investigation.

i.

d) Petition by residents of Turkana County, concerning alleged embezzlement of funds, financial impropriety and skewed employment in Turkana County.

Noting that the petitioners were unwilling to provide evidence on the allegations raised the Committee resolved to dispense of the petition.

The Committee unanimously adopted the report on the status of the petition.

e) Petition concerning various matters including and not limited to allegations on corruption and breach of law affecting the county government of Bungoma.

The Committee considered and unanimously adopted the report with the following amendments to the recommendations:

1. On the issue of Pending Bills the Director of Public Prosecution (DPP) and Ethics and Anti-Corruption Commission (EACC) investigates the breach of the Public Procurement and Disposal Act 2005, Section 26 (6) and Public Finance Management Act, 2012 Section 104 (1)(i);
2. The Ethics and Anti-Corruption Commission (EACC) to investigate and determine whether value for money was achieved and thereafter recommends to the Director of Public Prosecutions to prosecute any acts of corruption, breach of law or violation of any codes of ethics associated with-
 - a. The supply of fertilizers where there was a change from MAVUNO to MIJINGU fertilizers without soil survey guidance /testing and single sourcing in procuring and that there was no open tendering.
 - b. investigates the partitioning works for the county executive offices to ascertain whether there was single sourcing;
 - c. investigates the fire stations project to ascertain the procurement process was in accordance with the law;
 - d. the Chepyuk-Kapkateny and Chesikakai water projects to ascertain whether the procurement process was in accordance with the law;
 - e. the high altitude training centre for athletics in Mt. Elgon to ascertain whether the procurement process was in accordance with the law;
 - f. the Chetambe Springs project and Nakoyonjo water projects to ascertain the procurement process was in accordance with the law;
 - g. the unjustified variation in prices for the rehabilitation of the Simba Street and Maruti-Mt. Crest Posta road;
 - h. the award of tender to M/S Ethics Institute of East Africa to verify whether the conditions for restricted tendering were adhered to as contemplated in Section 73 of the PPAD Act 2005; and
 - i. the deposits made to personal bank accounts of Mr. Charles Wafula, and Ms. Violet MakokhaMachenje.

3. Ethics and Anti-Corruption Commission to expedite investigation and recommend to the Director of Public Prosecutions to prosecute any acts of corruption, breach of law or violation of any codes of ethics with respect to-
 - a. The irregular procurement of land title no. E.BUKUSU/S.KANDUYI 1082 co-owned by Sarah Hersi and Asha HersiMoghe;
 - b. The purchase of wheelbarrows and slaughter house equipment and further investigates the payment claims for the ad-hoc committee established; and
 - c. the prosecution and recovery of misappropriated public funds on the wheelbarrow and slaughter house equipment tender from Patrick Koyi, Juma Matsanza, OseaOjwanga, John Masinde, Reuben Ruto, ArlingoShikuku, Christine Mulunda, JacklineNamukali, Francis Lusenaka, Pascal Wakafura and MwalatiKaliwanga.
 - d. the investigations on variation of prices and single sourcing of the out-patient facility at county referral hospital.

4. the DPP and the EACC to investigate transactions between the Bungoma County Government and Ms. Lilian WafulaNamukhasi Cooperative Bank Bungoma Branch Account No. 01109290096200 for the period between 31st January 2014 and 18th December 2015 and to immediately institute and undertake criminal proceedings against the Governor, the County Treasury and Ms. Lillian WafulaNamukhasi;
The Committee resolved to immediately request the EACC to investigate this matter.

5. The County Government to take disciplinary action against Mr. WafulaSimiyu, Mr. Evans Fwamba, and the Deputy Governor for failing to surrender imprest within the stipulated timelines. In addition, the Governor should institute recoveries (surcharged) with accrued interest thereon at the CBK rates pursuant to PFM Act, 2012 Regulations, failing which the Governor should be held liable;

6. That County should maintain an updated county asset register;

7. The governor should adhere and implement the recommendations of the Special Delivery Unit.

8. That County Government should comply with Section 104(1) of the PFM Act and fast-track the setting up of the Internal Audit Committee.

MIN NO.052/2017: ADJOURNMENT

The Chairperson adjourned the sitting at 1.00pm.

SIGNED



(CHAIRPERSON)

DATE

28/03/2017

MINUTES OF THE 86TH SITTING OF THE SENATE STANDING COMMITTEE ON FINANCE, COMMERCE AND BUDGET HELD AT COUNTY HALL, GROUND FLOOR BOARDROOM ON WEDNESDAY, 19TH OCTOBER, 2016 AT 9.00A.M.

PRESENT

- | | |
|----------------------------------|---------------------|
| 1. Sen. (Dr.) Wilfred Machage | -Member (Ag. Chair) |
| 2. Sen. Moses Wetang'ula | -Member |
| 3. Sen. Aaron Kipkirui Cheruiyot | -Member |
| 4. Sen. Zipporah Kittony | -Member |

ABSENT WITH APOLOGY

- | | |
|--|-------------------|
| 1. Sen. Billow Kerrow | -Chairperson |
| 2. Sen. Peter Ole Mositet | -Vice Chairperson |
| 3. Sen. G.G Kariuki | -Member |
| 4. Sen. Beatrice Elachi | -Member |
| 5. Sen. (Dr.) Boni Khalwale | -Member |
| 6. Sen. (Dr.) Agnes Zani | -Member |
| 7. Sen. (Prof.) John Lonyang'apuo | -Member |
| 8. Sen. Mutula Kilonzo Junior | -Member |
| 9. Sen. Mutahi Kagwe | -Member |
| 10. Sen. (Prof.) Peter Anyang' Nyong'o | -Member |
| 11. Sen. Catherine Mukite | -Member |
| 12. Sen. Paul Ben Njoroge | -Member |

IN ATTENDANCE

1. Mr. Victor Bett
2. Mr. Benjamin Ng'imor
3. Mr. Thomas Ogwell
4. Ms. Catherine Ngati
5. Ms. Fatuma Abdi
6. Ms. Laura Kitur

SENATE SECRETARIAT

- Clerk Assistant
- Parliamentary Budget Office
- Parliamentary Budget Office
- Parliamentary Budget Office
- Audio Recording
- Intern

MIN NO.496/2016:

PRELIMINARIES

The chair called the meeting to order at 9.15 am. This was followed by a word of prayer.

MIN NO. 497/2016:

ADOPTION OF THE AGENDA

The agenda was adopted as follows;

1. Preliminaries
 - *Prayer*
 - *Remarks by the Chairperson*
2. Adoption of the Agenda
3. **Petition by members of the Garissa County Assembly on the rejected Garissa County Government Budget Estimates for the financial year 2016/2017**

4. Petition by members of SOCATT- Kenya for annulment of regulations 25(1)(f), 37 and 38 of the Public Finance Management (County Governments) Regulations, 2015
5. Any Other Business
6. Date of Next Meeting
7. Adjournment

MIN NO. 498/2016: **PETITION BY MEMBERS OF THE GARISSA COUNTY ASSEMBLY ON THE REJECTED GARISSA COUNTY GOVERNMENT BUDGET ESTIMATES FOR THE FINANCIAL YEAR 2016/2017**

The Committee members were taken through the Petition brief (*copy attached*) by the Parliamentary Budget Office and the Committee noted that the Petition had been overtaken by events since the Estimates had earlier been rejected but as at the time of the meeting the Committee noted that the County Government had passed their Budget the previous week.

Therefore Committee resolved that the Petitioners should be reported back to by a report to be adopted by the Committee acknowledging receipt of the Petition and that since the matter has already been settled then the matter rests.

MIN NO. 499/2016: **PETITION BY MEMBERS OF SOCATT-KENYA FOR ANNULMENT OF REGULATIONS 25(1)(F), 37 AND 38 OF THE PUBLIC FINANCE MANAGEMENT (COUNTY GOVERNMENTS) REGULATIONS, 2015**

~~The Committee members were taken through the Petition brief (*copy attached*) by the Parliamentary Budget Office and the Committee noted that the Petition is very urgent and that the Committee should proceed and invite the National Treasury and the Controller of Budget to give their views on the matter since the Senate had communicated to them previously on the matter and they have since not acted.~~

MIN NO. 500/2016: **ANY OTHER BUSINESS**

- The Committee reviewed the matter to set the date on the Vihiga Summons to the Governor Vihiga and resolved that the Governor be allowed to appear before the Committee on 1st November, 2016.
- The Committee reviewed the matter on the Petition by Mr. David O. Gesicho for enactment of legislation to confine the National and County Governments to the exclusive use of interest free Islamic Bonds ('Sukuk') when borrowing and resolved that following a brief by the Legal Counsel attached to the Committee that a letter be sent to the National Treasury seeking their advice and input on the way forward relating to the aforementioned Petition then given the advice and going forward the Committee may either decide to invite the Petitioner or alternatively report back to him.

MIN NO. 501/2016:

DATE OF NEXT MEETING

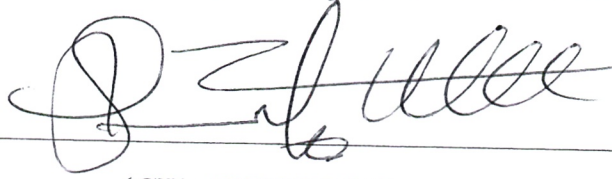
The date of the next meeting was scheduled for Tuesday, 25th October, 2016 at the County Hall Boardroom at 11.00am.

MIN NO. 502/2016:

ADJOURNMENT

There being no other business, the meeting was adjourned at 10.45am.

SIGNED



(CHAIRPERSON)

DATE

02/03/17

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MINUTES OF THE 82ND SITTING OF THE SENATE STANDING COMMITTEE ON FINANCE, COMMERCE AND BUDGET HELD AT COUNTY HALL, GROUND FLOOR BOARDROOM ON TUESDAY, 11TH OCTOBER, 2016 AT 9.00A.M.

PRESENT

- | | |
|----------------------------------|---------------------------|
| 1. Sen. (Dr.) Wilfred Machage | -Member (Ag. Chairperson) |
| 2. Sen. Moses Wetang'ula | -Member |
| 3. Sen. Catherine Mukite | -Member |
| 4. Sen. Paul Ben Njoroge | -Member |
| 5. Sen. Beatrice Elachi | -Member |
| 6. Sen. Aaron Kipkirui Cheruiyot | -Member |

ABSENT WITH APOLOGY

- | | |
|---------------------------------------|-------------------|
| 1. Sen. Billow Kerrow | -Chairperson |
| 2. Sen. Peter Ole Mositet | -Vice Chairperson |
| 3. Sen. (Dr.) Boni Khalwale | -Member |
| 4. Sen. Zipporah Kittony | -Member |
| 5. Sen. (Prof.) John Lonyang'apuo | -Member |
| 6. Sen. Mutula Kilonzo Junior | -Member |
| 7. Sen. Mutahi Kagwe | -Member |
| 8. Sen. (Dr.) Agnes Zani | -Member |
| 9. Sen. (Prof.) Peter Anyang' Nyong'o | -Member |
| 10. Sen. G.G Kariuki | -Member |

IN ATTENDANCE

1. Mr. Bonny Lenairoshi
2. Mr. Victor Bett
3. Mr. Benjamin Ng'imor
4. Mr. Chelang'a Mayo
5. Ms. Lucy Radoli
6. Ms. Fatuma Abdi

SENATE SECRETARIAT

- Principal Clerk Assistant
- Clerk Assistant
- Parliamentary Budget Office
- Policy Analyst/Researcher
- Legal Counsel
- Audio Recording

MIN NO.475/2016:

PRELIMINARIES

The chair called the meeting to order at 9.30 am. This was followed by a word of prayer.

MIN NO. 476/2016:

ADOPTION OF THE AGENDA

The agenda was adopted as follows;

1. Preliminaries
 - *Prayer*
 - *Remarks by the Chairperson*
2. Adoption of the Agenda

MINUTES OF THE SEVENTY NINTH SITTING OF THE SENATE STANDING COMMITTEE ON FINANCE, COMMERCE AND BUDGET HELD ON TUESDAY, 20TH SEPTEMBER, 2016 AT COUNTY HALL, GROUND FLOOR BOARD ROOM AT 9.00A.M.

PRESENT

- | | |
|-----------------------------|---------------------------|
| 1. Sen. Mutahi Kagwe | -Member (A.g Chairperson) |
| 2. Sen. Beatrice Elachi | -Member |
| 3. Sen. (Dr.) Boni Khalwale | -Member |

ABSENT WITH APOLOGY

- | | |
|--|-------------------|
| 1. Sen. Billow Kerrow | - Chairperson |
| 2. Sen. Peter Ole Mositet | -Vice Chairperson |
| 3. Sen. Moses Wetang'ula | -Member |
| 4. Sen. (Dr.) Wilfred Machage | - Member |
| 5. Sen. Aaron Kipkirui Cheruiyot | - Member |
| 6. Sen. Paul Ben Njoroge | -Member |
| 7. Sen. Mutula Kilonzo Junior | -Member |
| 8. Sen. G.G Kariuki | -Member |
| 9. Sen. (Dr.) Agnes Zani | -Member |
| 10. Sen. (Prof.) Peter Anyang' Nyong'o | -Member |
| 11. Sen. Catherine Mukite | -Member |
| 12. Sen. Zipporah Kittony | -Member |
| 13. Sen. (Prof.) John Lonyang' apuo | -Member |

IN ATTENDANCE

1. Mr. Victor Bett
2. Ms. Lucy Radoli
3. Ms. Fatuma Abdi

SENATE SECRETARIAT

- Committee Clerk
- Legal Counsel
- Audio Recording

MIN NO.463/2016:

PRELIMINARIES

The apologies of the Chairperson and Vice Chairperson were conveyed. Pursuant to Standing Order No. 192, the Committee nominated Sen. Mutahi Kagwe as the Ag. Chairperson. The Ag. Chairperson welcomed the members to the meeting and offered a word of prayer.

MIN NO. 464/2016:

ADOPTION OF THE AGENDA

The agenda was adopted as follows;

1. Preliminaries
 - (i) Prayer
 - (ii) Remarks by the Chairperson
2. Adoption of the Agenda

3. Meeting with the County Government of Vihiga concerning a Petition to the Senate concerning various matters affecting the County Government of Vihiga
4. Discuss the Economic Partnership Agreement (EPA) for debate, approval and the necessary parliamentary process towards ratification.
5. Any Other Business
6. Date of Next Meeting
7. Adjournment

MIN NO. 465/2016:

MEETING WITH THE COUNTY GOVERNMENT OF VIHIGA CONCERNING A PETITION TO THE SENATE CONCERNING VARIOUS MATTERS AFFECTING THE COUNTY GOVERNMENT OF VIHIGA

The Committee received a letter from Manyonge Wanyama & Associates advocates notifying the Committee that the Governor was not going to appear and the Committee resolved to ignore the letter as the County Government is the one expected to write to the Committee and not a Law firm. Reference was made to the Constitution of Kenya Articles 119 & 125.

The Committee eventually resulted to writing summons to the Governor to appear.

MIN NO. 466/2016:

DISCUSS THE ECONOMIC PARTNERSHIP AGREEMENT (EPA) FOR DEBATE, APPROVAL AND THE NECESSARY PARLIAMENTARY PROCESS TOWARDS RATIFICATION

By a letter dated 2nd September, 2016, the Principal Secretary for the Ministry of Industry, Trade and Cooperatives, forwarded the Economic Partnership Agreement (EPA) for debate, approval and the necessary parliamentary process towards ratification.

In the letter, the Principal Secretary indicated that the EPA had been considered and approved by the Cabinet at its sitting of 15th June, 2016. The Principal Secretary further indicated that Kenya is required to have signed and ratified the EPA by 30th September, 2016, in order to be eligible to duty-free and quota-free access to the EU market from 1st October, 2016.

National Assembly is in the process of passing the Economic Partnership Agreement since the Treaty Making and Ratification Act, No. 45 of 2012 as amended on 24th November, 2014 gives effect to the provisions of Article 2(6) of the Constitution and provides for the procedure for the making and ratification of treaties. Therefore before a treaty is a ratified, it must be approved by the Cabinet and the National Assembly.

MIN NO.467/2016:

ANY OTHER BUSINESS

CORRESPONDENCES

- i. The Committee received a letter from County Assemblies Forum seeking to meet the Committee on the matter of the Implementation of the County Allocation of Revenue Act, 2016 and County Government Appropriation Acts of 2016.
- ii. The Committee looked at the letter from the **National Treasury submitting proposed further amendments to the County Allocation of Revenue Act, 2016** and resolved that this will be looked at during the next sitting.
- iii. The Committee looked at the request from the Senate County Public Accounts and Investments Committee to meet on Monday, 3rd October, 2016 to have a joint meeting and the Committee was in agreement and both Chairs are to agree and notify members of the Committee.

CONTROLLER OF BUDGET AND COMMISSION ON REVENUE ALLOCATION MEETING ON WEDNESDAY, 21ST SEPTEMBER, 2016.

The Committee resolved to have the aforementioned meeting postponed to a later date since the Committee is suffering from quorum challenges as observed in the meeting following the recess period and the fact that some members are held up in foreign official duties.

MIN NO.467/2016:

DATE OF NEXT MEETING

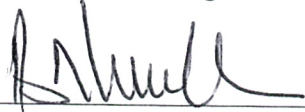
The date of the next meeting was to be called on notice.

MIN NO.468/2016:

ADJOURNMENT

There being no other business, the meeting was adjourned at 11.08am.

SIGNED



(CHAIRPERSON)

DATE

MINUTES OF THE 75TH SITTING OF THE SENATE STANDING COMMITTEE ON FINANCE, COMMERCE AND BUDGET HELD AT COUNTY HALL, GROUND FLOOR BOARDROOM ON TUESDAY, 26TH JULY, 2016 AT 10.00A.M.

PRESENT

- | | |
|----------------------------------|---------------|
| 1. Sen. Billow Kerrow | - Chairperson |
| 2. Sen. Mutula Kilonzo Junior | -Member |
| 3. Sen. Aaron Kipkirui Cheruiyot | -Member |
| 4. Sen. (Dr.) Agnes Zani | -Member |
| 5. Sen. Moses Wetang'ula | -Member |
| 6. Sen. Catherine Mukite | -Member |
| 7. Sen. (Dr.) Wilfred Machage | -Member |
| 8. Sen. Paul Ben Njoroge | -Member |
| 9. Sen. Mutahi Kagwe | -Member |

ABSENT WITH APOLOGY

- | | |
|---------------------------------------|-------------------|
| 1. Sen. Peter Ole Mositet | -Vice Chairperson |
| 2. Sen. (Prof.) John Lonyang'apuo | -Member |
| 3. Sen. (Prof.) Peter Anyang' Nyong'o | -Member |
| 4. Sen. (Dr.) Boni Khalwale | -Member |
| 5. Sen. G.G Kariuki | -Member |
| 6. Sen. Beatrice Elachi | -Member |
| 7. Sen. Zipporah Kittony | -Member |

IN ATTENDANCE

1. Dr. Johnson Okello
2. Mr. Martin Masinde
3. Mr. Sheriff Mwendwa
4. Mr. Victor Bett
5. Mr. Gorod Abdi
6. Mr. Chelang'a Mayo

SENATE SECRETARIAT

- Ag. Director, Legal Services - Senate
- Dep. Director, PBO
- Dep. Director, Litigation and Compliance
- Clerk Assistant
- Parliamentary Budget Office
- Policy Analyst/Researcher

MIN NO.439/2016:

PRELIMINARIES

The chair called the meeting to order at 10.30 am. This was followed by a word of prayer.

MIN NO. 440/2016:

ADOPTION OF THE AGENDA

The agenda was adopted as follows;

1. Preliminaries
 - *Prayer*
 - *Remarks by the Chairperson*
2. Adoption of the Agenda

3. Meeting with the Directorate of Legal Services-Senate on the petition from residents of Vihiga County concerning various matters affecting the County Executive and County Assembly of Vihiga.
4. Meeting with the Department of Litigation on the guidelines of the Equalization Fund and enjoining the Senate as an interested party in the Filed Court Case.
5. Any Other Business
6. Date of Next Meeting
7. Adjournment

MIN NO. 441/2016: **MEETING WITH THE DIRECTORATE OF LEGAL SERVICES-SENATE ON THE PETITION FROM RESIDENTS OF VIHIGA COUNTY CONCERNING VARIOUS MATTERS AFFECTING THE COUNTY EXECUTIVE AND COUNTY ASSEMBLY OF VIHIGA**

The Deputy Director, Legal Counsel informed the Committee that it is in order for the Committee to invite the Governor, Vihiga County despite the concerns of the Governor's concern through his lawyer that the matter had been discussed and concluded at length in the County Assembly.

The Deputy Director made reference to the Senate Standing Orders 223 and 90.

The Committee therefore following extensive deliberations on the matter resolved as follows:

Nothing would stop the Committee from looking into the matters in the Petition and summoning anyone it deems answerable to the issues as outlined in the Petition notwithstanding the County Assemblies findings as they had concluded the matter.

The Committee further resolved that it is the duty of the Governor to appear before the Committee and inform the Committee that the certain issues as he deems necessary had been adequately dealt with by the County Assembly.

The Committee also noted that the Petitioners were not presenting their petition on appeal but are coming on a different platform.

Following the aforementioned resolutions the Committee resolved to have the Governor appear before the Committee at a convenient date after recess.

MIN NO. 442/2016: **MEETING WITH THE DEPARTMENT OF LITIGATION ON THE GUIDELINES OF THE EQUALIZATION FUND AND ENJOINING THE SENATE AS AN INTERESTED PARTY IN THE FILED COURT CASE**

**MINUTES OF THE 74TH SITTING OF THE SENATE STANDING COMMITTEE
ON FINANCE, COMMERCE AND BUDGET HELD AT COUNTY HALL,
GROUND FLOOR BOARDROOM ON THURSDAY, 21ST JULY, 2016 AT 10.00A.M.**

PRESENT

- | | |
|-------------------------------|--------------------|
| 1. Sen. Billow Kerrow | - Chairperson |
| 2. Sen. Peter Ole Mositet | - Vice Chairperson |
| 3. Sen. Mutula Kilonzo Junior | - Member |

ABSENT WITH APOLOGY

- | | |
|---------------------------------------|----------|
| 1. Sen. (Prof.) John Lonyang'apuo | - Member |
| 2. Sen. Aaron Kipkirui Cheruiyot | - Member |
| 3. Sen. (Dr.) Agnes Zani | - Member |
| 4. Sen. (Prof.) Peter Anyang' Nyong'o | - Member |
| 5. Sen. (Dr.) Boni Khalwale | - Member |
| 6. Sen. G.G Kariuki | - Member |
| 7. Sen. Beatrice Elachi | - Member |
| 8. Sen. Zipporah Kittony | - Member |
| 9. Sen. Moses Wetang'ula | - Member |
| 10. Sen. Catherine Mukite | - Member |
| 11. Sen. (Dr.) Wilfred Machage | - Member |
| 12. Sen. Paul Ben Njoroge | - Member |
| 13. Sen. Mutahi Kagwe | - Member |

IN ATTENDANCE

1. Mr. Victor Bett
2. Mr. Gorod Abdi
3. Ms. Josephine Kusyinyi
4. Mr. Chelang'a Mayo

SENATE SECRETARIAT

- Clerk Assistant
- Parliamentary Budget Office
- Legal Counsel
- Policy Analyst/Researcher

MIN NO.433/2016:

PRELIMINARIES

The chair called the meeting to order at 10.30 am. This was followed by a word of prayer.

MIN NO. 434/2016:

ADOPTION OF THE AGENDA

The agenda was adopted as follows;

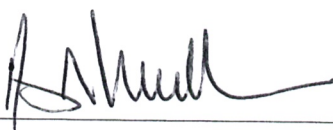
1. Preliminaries
 - *Prayer*
 - *Remarks by the Chairperson*
2. Adoption of the Agenda

MIN NO. 438/2016:

ADJOURNMENT

There being no other business, the meeting was adjourned at 11.55am.

SIGNED



(CHAIRPERSON)

DATE

MINUTES OF THE 63RD SITTING OF THE SENATE STANDING COMMITTEE ON FINANCE, COMMERCE AND BUDGET HELD AT COUNTY HALL, GROUND FLOOR BOARDROOM ON THURSDAY, 19TH MAY, 2016 AT 9.00A.M.

PRESENT

1. Sen. Zipporah Kittony -Member (Ag. Chairperson)
2. Sen. Moses Wetang'ula -Member
3. Sen. Catherine Mukite -Member

ABSENT WITH APOLOGY

1. Sen. Billow Kerrow - Chairperson
2. Sen. Peter Ole Mositet -Vice Chairperson
3. Sen. (Dr.) Agnes Zani -Member
4. Sen. (Dr.) Wilfred Machage -Member
5. Sen. G.G Kariuki -Member
6. Sen. Paul Ben Njoroge -Member
7. Sen. (Prof.) John Lonyang'apuo -Member
8. Sen. (Dr.) Boni Khalwale -Member
9. Sen. Mutahi Kagwe -Member
10. Sen. (Prof.) Peter Anyang' Nyong'o -Member
11. Sen. Aaron Kipkirui Cheruiyot -Member
12. Sen. Mutula Kilonzo Junior -Member
13. Sen. Beatrice Elachi -Member

IN ATTENDANCE

A) PETITIONERS FROM VIHIGA COUNTY

1. Mr. Wycliffe Masisni -MCA, County Assembly of Vihiga
2. Mr. Andrew Mwenesi -MCA, County Assembly of Vihiga
3. Mr. David Ogora -MCA, County Assembly of Vihiga
4. Mr. Josephat Munayi -MCA, County Assembly of Vihiga
5. Ms. Gladys Analo -MCA, County Assembly of Vihiga
6. Ms. Pamela Amunga -MCA, County Assembly of Vihiga
7. Mr. Peter Amuhinda -MCA, County Assembly of Vihiga
8. Mr. Joshua Olao -MCA, County Assembly of Vihiga
9. Ms. Venna Kaisha -MCA, County Assembly of Vihiga
10. Mr. James Mukabi -Staff, County Assembly of Vihiga

B) SENATE SECRETARIAT

1. Mr. Boniface Lenairoshi - Principal Clerk

2. Mr. Victor Bett - Clerk Assistant
3. Mr. James Mungai - Audio Officer

MIN NO.370/2016:

PRELIMINARIES

The chair called the meeting to order at 9.20 am. This was followed by a word of prayer. The chairman thereafter welcomed the members of the County Assembly of Vihiga and a brief introduction was done.

MIN NO. 371/2016:

ADOPTION OF THE AGENDA

The agenda was adopted as follows;

1. Preliminaries
 - *Prayer*
 - *Remarks by the Chairperson*
2. Adoption of the Agenda
3. Confirmation of Minutes
4. **Meeting with Petitioners;**
 - A. Petition to the Senate concerning various matters affecting the County Government of Vihiga(9.00am)
 - B. Petition by residents of Turkana County, concerning alleged embezzlement of funds, financial impropriety and skewed employment in Turkana County(11.00am)
5. Any Other Business
6. Date of Next Meeting
7. Adjournment

MIN NO. 372/2016:

**PETITION TO THE SENATE CONCERNING VARIOUS
MATTERS AFFECTING THE COUNTY
GOVERNMENT OF VIHIGA**

Meeting with Petitioners

The petitioners submitted five annexures of their evidence and informed the committee that they were unable to get some documents showing the uncovered events within the County Assembly and that would show the compromised members of the county assembly.

They informed the committee that some MCA's were taken to Kisumu and hosted by the executive as an appreciation for them going against their own report. They further informed the committee that no projects were taking place at the County.

They also informed the committee that they are being targeted and are receiving threats and that their counties are not receiving adequate development since they are against the Governor.

**MINUTES OF THE 60TH SITTING OF THE SENATE STANDING COMMITTEE
ON FINANCE, COMMERCE AND BUDGET HELD AT COUNTY HALL,
GROUND FLOOR BOARDROOM ON THURSDAY, 5TH MAY, 2016 AT 10.00AM**

PRESENT

- | | |
|--------------------------|---------------------------|
| 1. Sen. Mutahi Kagwe | -Member (Ag. Chairperson) |
| 2. Sen. Catherine Mukite | -Member |
| 3. Sen. Paul Ben Njoroge | -Member |
| 4. Sen. (Dr.) Agnes Zani | -Member |

ABSENT WITH APOLOGY

- | | |
|---------------------------------------|-------------------|
| 1. Sen. Billow Kerrow | -Chairperson |
| 2. Sen. Peter Ole Mositet | -Vice Chairperson |
| 3. Sen. Moses Wetang'ula | -Member |
| 4. Sen. (Dr.) Boni Khalwale | -Member |
| 5. Sen. (Prof.) Peter Anyang' Nyong'o | -Member |
| 6. Sen. Beatrice Elachi | -Member |
| 7. Sen. Zipporah Kittony | -Member |
| 8. Sen. G.G Kariuki | -Member |
| 9. Sen. (Prof.) John Lonyang'apuo | -Member |
| 10. Sen. (Dr.) Wilfred Machage | -Member |
| 11. Sen. Mutula Kilonzo Junior | -Member |
| 12. Sen. Aaron Kipkirui Cheruiyot | -Member |

IN ATTENDANCE

1. Mr. Victor Bett
2. Ms. Gorod Abdi
3. Ms. Lucy Radoli

SENATE SECRETARIAT

- | |
|------------------------------|
| -Committee Clerk |
| -Parliamentary Budget Office |
| -Legal Counsel |

MIN NO. 354/2016:

PRELIMINARIES

The chair called the meeting to order at 12.28 pm followed by a word of prayer.

MIN NO. 355/2016:

ADOPTION OF THE AGENDA

The agenda was adopted as follows;

1. Preliminaries
 - (i) *Prayer*
 - (ii) *Remarks by the Chairperson*
2. Adoption of the Agenda
3. Confirmation of Minutes
 - **Consideration of new Petitions before the Committee**
 - **Petition to the Senate concerning various matters affecting the County Government of Vihiga; and**
 - **Petition by residents of Turkana County, concerning alleged embezzlement of funds, financial impropriety and skewed employment in Turkana County**
4. House Keeping
5. Any Other Business
6. Date of Next Meeting
7. Adjournment

MIN NO. 356/2016:

CONFIRMATION OF MINUTES

The confirmation of the previous minutes was postponed to the next housekeeping meeting.

MIN NO. 357/2016:

**CONSIDERATION OF NEW PETITIONS
BEFORE THE COMMITTEE**

- A. **Petition to the Senate concerning various matters affecting the County Government of Vihiga &**
- B. **Petition by residents of Turkana County, concerning alleged embezzlement of funds, financial impropriety and skewed employment in Turkana County**

The Committee reviewed both petitions and resolved as follows;

- Invitations be sent to the Petitioners to appear before the Committee and submit all relevant evidence;
- The petition be forwarded to the Office of the Auditor General for them to confirm whether they have audited the particular aspects mentioned and if so that they give a detailed report to this respect; and
- The Committee was also concerned with the manner in which the petitions will be sent to the petitioners and it was resolved that courier services would be the most accurate way to ensure receipt of the said documents.

MIN NO. 358/2016:

ANY OTHER BUSINESS

The Committee discussed about the three Banks namely Dubai, Imperial and Chase Banks' that were put under receivership and it was agreed that the Governor, Central Bank of Kenya be invited to shade more light on the procedure by which a bank is put under liquidation and whether it was a sole decision of an individual or a board decision.

MIN NO. 359/2016:

DATE OF NEXT MEETING

The date of the next meeting was to be held on Wednesday, 11th May, 2016 at 9.00am at County Hall, Mini Chamber.

MIN NO. 360/2016:

ADJOURNMENT

There being no other business, the meeting was adjourned at 11.50am.

SIGNED

[Handwritten Signature]

(CHAIRPERSON)

DATE

PETITION TO THE SENATE CONCERNING VARIOUS MATTERS
AFFECTING THE COUNTY GOVERNMENT OF VIHIGA.

THE CLERK OF THE SENATE,
PARLIAMENT BUILDINGS,
P.O. BOX 41842-00100,
NAIROBI.

Email: csenate@parliament.go.ke



RE: PETITION TO THE SENATE CONCERNING VARIOUS MATTERS
AFFECTING THE COUNTY GOVERNMENT OF VIHIGA.

WE THE UNDERSIGNED

Citizens of the Republic of Kenya, and residents of the County of Vihiga

DRAW the attention of the Senate to the following:

1. **THAT** at the end of FY 2014/2015 there was an outcry from the contractors/suppliers demanding payments for the work and services rendered within the County. Even the contractor who refurbished the County Assembly Chamber threatened to close it because the executive had not paid the contractor after he had completed the work. Due to the many complaints and outcry from the contractors/suppliers and public, the County Assembly constituted an adhoc committee to investigate the financial mismanagement of funds in the Vihiga County Executive.
2. **THAT** on 1-12-2015, the Leader of Majority moved a motion in the County Assembly of Vihiga to constitute an Adhoc Committee with the mandate to investigate;

PETITION TO THE SENATE CONCERNING VARIOUS MATTERS
AFFECTING THE COUNTY GOVERNMENT OF VIHIGA.

- a) How Kshs. 36,000,000.00(thirty six million) per ward in the financial-year 2014/2015 appropriated for the ward development was spent.
- b) How and why the low loader was procured since it was not being used.
- c) The status of the Kshs. 100,000,000(one hundred million) which was appropriated for Vihiga County Emergency Fund in FY 2014/2015.
- d) The projects executed by the County Executive without approval of County Assembly,
- e) Status of the Vihiga County Community Empowerment Fund,
- f) Accountability of hire of heavy machinery and motor vehicles in the department of transport and infrastructure,
- g) Accountability of Transitional funds set aside for renovation of the County Assembly ,
- h) The disbursement trends of funds from the National Treasury,
- i) The accountability and management of local revenue collected.

3. THAT the County Assembly indeed constituted an adhoc committee of 15 members comprising of the following;

- | | |
|--------------------------|------------------|
| 1) Hon. Andrew Ahuga | chairperson |
| 2) Hon. Jenipher Ekhuya | vice chairperson |
| 3) Hon. Richard Muhiga | Member |
| 4) Hon. David Ogova | ” |
| 5) Hon. Peter Amuhinda | ” |
| 6) Hon. Abdalla Chogo | ” |
| 7) Hon. Clyde Kweya | ” |
| 8) Hon. Zachariah Murefu | ” |
| 9) Hon. Pauline Amwata | ” |
| 10) Hon. Elizabeth Anaya | ” |
| 11) Hon. Noah Mmbwanga | ” |
| 12) Hon. Joshua Olao | ” |

PETITION TO THE SENATE CONCERNING VARIOUS MATTERS
AFFECTING THE COUNTY GOVERNMENT OF VIHIGA.

900,000,000.00(nine hundred million) for 25 wards. This amount was budgeted and the treasury was to set aside the same in FY 2014/2015.

6. THAT from the evidence of the County Executive Committee Member for Finance and Economic Planning, the exchequer released Kshs.1,646,616,000.00 (one billion six hundred and forty six million six hundred and sixteen thousand) for development in Vihiga County Government in the FY 2014/2015.
7. THAT the County Treasury headed by both the County Executive Committee Member and Chief Office for Finance and Economic Planning was to facilitate the implementation of ward development projects as per the Ward Development Programme Plan from the money received for development.
8. THAT both the County Executive Committee Member and Chief Officer for Finance and Economic Planning could not produce documentary evidence to show how the entire amount of Kshs. 1,646,616,000.00 received from the exchequer for development during the FY 2014/2015 was spent. This is against the principles of public finance as provided under chapter twelve of the Constitution of Kenya 2010 and part four of the Public Finance Management Act 2012.
9. THAT in the FY2014/2015 the County Assembly of Vihiga budgeted for Kshs. 100,000,000(one hundred million) for Vihiga Emergency Fund. The money was appropriated for and was set aside by the County Treasury. The document produced before the committee revealed that during the FY 2014/2015 the money allocated to Vihiga Emergency Fund was used to pay some firms and individuals contrary to section 112,113 and 114 of the Public Finance Management Act No.

PETITION TO THE SENATE CONCERNING VARIOUS MATTERS
AFFECTING THE COUNTY GOVERNMENT OF VIHIGA.

18 of 2012. Some of the firms and individuals who benefited from the Vihiga Emergency Funds contrary to the law are;

a) County Consultant Ltd.....Kshs	3,000,000.00
b) Brown Nathan & Co. advocates.....kshs.	4,500,000.00
c) Council of Governors.....kshs.	8,340,880.00
d) Daysey Enterprises.....kshs.	3,216,000.00
e) Ahadi Trust.....kshs.	3,463,920.00
f) Antonina & Co. advocates.....kshs.	12,845,344.80
g) Rafiki Microfinance Bank.....Kshs.	32,000,000.00
h) Kenya Revenue Authority (PAYE).....Kshs.	1,563,686.00
i) Leadman Security Services Ltd.....Kshs.	3,897,600.00
j) Mian Contractors Ltd.....Kshs.	5,677,800.00
k) Manvuh Ltd.....Kshs.	6,283,140.00
l) Mr. Herbert Isuha Kenogo..... Kshs.	100,000.00
m) Mr. Hudson Murila Mutsotso..... Kshs.	30,000.00
n) Commioner of VAT.....Kshs.	2,286,040.45
o) Ollkey Consultants.....Kshs.	11,855,355.00
p) Critical Path Limited.....Kshs.	4,608,620.70
q) Elk + Wedge adventures.....Kshs.	820,526.00
r) SOSA Cottages ltd.....kshs.	500,000.00
s) Earth- movers Enterprises.....kshs.	500,000.00

10. **THAT** the County Assembly of Vihiga budgeted for Kshs. 100,000,000.00 (one hundred million), for the Vihiga County Community Empowerment Fund. The said amount was appropriated for and set aside during FY 2014/2015. The County Treasury brought forward Kshs. 25,000,000.00 (twenty five million) out of the kshs100,000,000.00. Thus kshs. 75,000,000.00 were not accounted for.

11. **THAT** all the monies raised or received as Revenue is to be deposited to Revenue Fund in accordance with Article 207 of the Constitution of

PETITION TO THE SENATE CONCERNING VARIOUS MATTERS
AFFECTING THE COUNTY GOVERNMENT OF VIHIGA.

Kenya 2010 and section 109 of the Public Finance Management Act No. 18 of 2012. Contrary to the law, the County Executive Committee Member, Chief Officer and Director, Transport and Infrastructure opened a bank account in Rafiki Microfinance bank, being Vihiga County Mechanical and Transport, A/C NO. 011202000533, in which all the money received from hire of heavy machinery and motor vehicles were deposited. Thus the money received as revenue was being deposited in another account other than Revenue Fund.

12. THAT all the Government entity must procure goods and services in accordance with the Public Procurement and Asset Disposal Act 2005 and Public Procurement and Disposal Regulation. The County Executive procured the low loader without following procurement process. The said low loader though delivered to the County Executive premises, has not been officially received and fully owned by the County Government of Vihiga. The low loader is parked and not being used for the intended purpose, hence the public is not getting value for their money.

13. THAT most of the tenders are awarded to companies in which some senior officers of the County Government or their relatives are directors. Further such companies are being awarded more than one tender. For instance ZENAP HOLDINGS LTD which qualified to supply fuel, oil and lubricants for the FY 2014/2015 and 2015/2016 is owned by Mr. Nathaniel Ahaza who is one of the Directors together with his wife M/S. Perice Odari and Mr. H.B. Wanjala.

14. THAT during Transition period, the Transition Authority (T.A) released to the County Government of Vihiga a total of Kshs. 61,592,200 to be spent as follows;

- a) Completion of the County Hall and offices at Kshs. 29,947,772.00
- b) Purchase of Hansard for the County Assembly Kshs. 6,600,000.00

PETITION TO THE SENATE CONCERNING VARIOUS MATTERS
AFFECTING THE COUNTY GOVERNMENT OF VIHIGA.

- c) Roads grading and murraming Kshs. 2,750,000.00
- d) Refurbishment of County Assembly chamber Kshs. 15,775,362.00.

15. **THAT** the Kshs. 61,592,200.00 cannot be fully accounted for since some projects have not been executed and some contractors, who have completed their work, have not been paid. The contractor who refurbished the County Assembly Chamber has threatened to close the same because the balance of Kshs. 8,054,168 has not been paid but the work is complete. Optic Technologies was paid for installation of Hansard System and voting machine system in the County Assembly Chamber when the same was not installed.

16. **THAT** the County Executive recruited some people and later some of them were deployed in unclear circumstances on pretext that the wage bill was high. It has emerged that some people are recruited and assigned position in the field they don't qualify.

17. **THAT** the functions of the County Government are clearly stipulated under Fourth Schedule of the Constitution of Kenya 2010. The projects are budgeted for and implemented by the County Government in accordance with its functions. The County Executive has executed some projects which have not been budgeted for. These projects include;

- a) Construction of Kaimosi University Dining Hall at Kshs. 13,528,036.00
- b) Installation of a generator at the Governors residence at Kshs. 6,040,000.00
- c) Rehabilitation of an 8km Kapsanjo-habalia road in Busali ward at Kshs. 2,995,874.00

PETITION TO THE SENATE CONCERNING VARIOUS MATTERS
AFFECTING THE COUNTY GOVERNMENT OF VIHIGA.

- d) Installation of CCTV surveillance System at the Governor's residence at kshs.872,900.00
- e) Internet and Wi-Fi installation at KMTC, computer laboratory at Kshs. 1,698,530.00
- f) Construction of Vihiga County Court headquarters at Kshs. 9,417,956.00
- g) Perimeter walling at the Vihiga County Headquarter at Kshs. 18,810.212.00
- h) Construction of kitchen/store and toilet at Vihiga Radio station at Kshs. 11,339,017.00
- i) Construction of a sentry house and electrical perimeter wall at Vihiga FM Radio station at Kshs. 14,695,400.00

18. THAT clear scrutiny of the projected listed in paragraph 17, points out that projects like construction of Vihiga County Court headquarters, construction of Kaimosi University Dining Hall and internet and Wi-Fi installation at KMTC, computer laboratory are to be undertaken by the Central Government since education is a function of Central Government.

19. THAT when the committee was executing its mandate all the members of the committee together with the speaker of the County Assembly of Vihiga received threatening messages sent to them through their phone numbers. The message read; *speaker Dan Chitwa and Andrew Ahuga we shall kill you and your wives and all MCA in your Adhoc committee. We are coming for your heads. Uliza Embu County speaker, Kariuki Mate.* The members especially those who voted for the report are leaving in fear for their lives.

20. THAT we have made the best efforts to have these matters addressed by the relevant authorities all of which have failed to give a satisfactory response.

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21. THAT none of these issues raised in this petition are pending in any court of law, Constitutional or any other legal body.

WHEREFORE, your humble petitioner pray that the Senate-


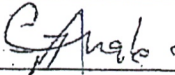

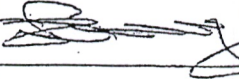
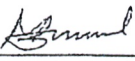
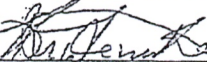
1. Through its relevant committees undertakes an urgent investigation into the matters raised in this petition, with a view to establishing-
 - a) How the Kshs. 1,646,616,000.00 received from exchequer for development in the FY 2014/2015, inclusive of kshs.900,000,000.00 budgeted by County Assembly for Ward Development projects, was spent.
 - b) How Kshs. 105,984,712.95 from the Vihiga County Emergency Fund was spent and carries further investigation on Vihiga County Emergency fund.
 - c) How Kshs. 61,592,200.00 released by Transition Authority was utilized.
 - d) How the money appropriated for Vihiga County Empowerment Fund was utilized.
 - e) How the County Government incurred an accumulative pending bills of over Kshs. 2,056,406,670.00
2. In undertaking the inquiry, to call for detailed investigations and report thereon from the office of the Auditor General, the Ethics

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and Anti-Corruption Commission (EACC) and the Directorate of Criminal Investigation (DCI).

3. Recommend appropriate action based on the finding of the investigation thereof, including, where applicable;
 - a) Prosecution of those found to have contravened the applicable laws;
 - b) Recovery of funds and assets of those who may have unlawfully benefited from the County Government Funds;
 - c) A lifestyle to be undertaken by the Ethics and Anti-Corruption Commission on all County Executive Committee Members and Chief Officers of County Government of Vihiga, including their bank accounts and properties.
4. Request the office of the Inspector General of Police to put measures in place to ensure the safety and security of members of the Vihiga County Assembly who voted in favour of adopting the report by the Ad-Hoc committee and who continue to face threats and intimidation for their brave action.

DATED THIS ... 15TH ... DAY OF ... FEBRUARY ... 2016


N O	NAME	ADDRESS	I.D. NO	SIGNATURE
1	ANDREW AHUGA MWENESI	P.O. BOX 90 50313-MARAGOLI	5122536	
2	GILADYS ANALO MADERE	P.O. BOX 2 CHAMALANGA	11093812	
3	PETER A. ANWATHWA	P.O. BOX 90 MARAGOLI	0642286	
4	JOSHUA S. DLAO	P.O. BOX 90 MARAGOLI	224736	
5	NATHAN KAMIDI OZICI	Box 82 Ramboui	22954439	
6	Kwenuka Benedict	Box 118 Chonokaga	8725870	

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7	JOSEPHAT AMUNGA AMUNGA	90 MARAGOLI	2639438	<i>[Signature]</i>
8	RICHARD SHUGH MUNIGA	ITT KAIMOSI	22 094 607	<i>[Signature]</i>
9	PAMELLA AMUNGA	90 Maragoli	10001875	<i>[Signature]</i>
10	DAVID DGOVA	305 Maragoli	039384	<i>[Signature]</i>
11	WYCHIFFE MASINI	47, VIHIGA	12675224	<i>[Signature]</i>
12	VENNA KAUSA	UBBAGA 90, MARAGOLI	22159622	<i>[Signature]</i>

BY

Counter signed by Senator HON. GEORGE KHANIRI, Senator for Vihiga County.



Sen. HON. GEORGE KHANIRI

Senator for Vihiga County.