



① Has handed for tabling
30/9/2026



② Hon. speaker
You may approve
YA
5/10/26

REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT | FIFTH SESSION

THE SENATE

STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

REPORT ON THE PETITION REGARDING THE WINDING UP AND
LIQUIDATION OF TECHNICAL UNIVERSITY OF KENYA STAFF
RETIREMENT BENEFIT SCHEME

PAPERS LAID	
DATE	7/10/2026
TABLED BY	Chairperson
COMMITTEE	-
CLERK AT THE TABLE	Poly carp.

Clerk's Chambers,
Parliament Buildings,
NAIROBI.

SEPTEMBER, 2026

TABLE OF CONTENTS

LIST OF ABBREVIATIONS/ACRONYMS	3
PRELIMINARIES	4
CHAIRPERSON'S FOREWORD	6
CHAPTER ONE: INTRODUCTION	10
1.0 The Petition.....	10
1.1 Prayers to the Senate.....	11
1.3 Situational Analysis	13
1.4 Legal Provisions	15
CHAPTER TWO: CONDUCT & PROCEEDINGS ON THE PETITION.....	24
2.0 Submissions from the Petitioners	24
2.1 Submission by the Technical University of Kenya	26
2.2. Submission by Retirement Benefit Authority	28
2.3 Submissions by Kenya Commercial Bank (KCB) – (Scheme Custodian).....	32
2.4 Submissions by Central Provident Fund –CPF (Administrator)	32
2.5 Submissions by Co-Op Trust Investment Services (Fund Manager)	33
2.6 Submissions by the Scheme Trustees.....	34
2.7 Submissions by the National Treasury and Economic Planning.....	34
2.8 Submissions by the Ministry of Education.....	34
CHAPTER THREE: EMERGING THEMES FROM THE SUBMISSIONS.....	37
3.0. Weaknesses in Governance and Fiduciary Oversight	37
3.1. Failure to Safeguard Members' Retirement Benefits	37
3.2. Delayed Regulatory Intervention and Enforcement	38
3.3. Inadequate Recovery of Outstanding Contributions	38
3.4. Lack of Transparency and Member Participation	38

3.5. Conflicts of Interest in Scheme Administration.....	39
CHAPTER FOUR: COMMITTEE OBSERVATIONS & RECOMMENDATIONS.....	41
4.0. COMMITTEE OBSERVATIONS	41
4.1. COMMITTEE RECOMMENDATIONS	44
LIST OF APPENDICES	47

LIST OF ABBREVIATIONS/ACRONYMS

DVC- FA	Deputy Vice Chancellor for Finance and Administration
ICPAK	Institute of Certified Public Accountants of Kenya
KCB	Kenya Commercial Bank
RBA	Retirement Benefit Authority
SRBS	Staff Retirement Benefit Scheme
TUK	Technical University of Kenya

PRELIMINARIES

Establishment and Mandate of the Committee

The Standing Committee on Labour and Social Welfare is established pursuant to standing order 228 of the Senate Standing Orders. The Committee is mandated to consider all matters related to manpower and human resources planning, pensions, gender, culture, social welfare, youth affairs, the National Youth Service, children's welfare, national heritage, betting, lotteries, sports, public entertainment, public amenities, and recreation.

The Committee oversights four ministries as follows –

1. The Ministry of Labour and Social Protection;
 - a) State Department for Labour and Skills Development; and
 - b) State Department for Social Protection and Senior Citizens Affairs.
2. The Ministry of Public Service, Human Capital Development and Special Programs;
 - a) State Department for Public Service and Human Capital Development; and
 - b) State Department for Special Programs.
3. The Ministry of Youth Affairs, Creative Economy and Sports;
 - a) State Department for Youth Affairs and Creative Economy; and
 - b) State Department for Sports.
4. The Ministry of Gender, Culture and Children Services;
 - a) State Department for Gender Affairs and Affirmative Action;
 - b) State Department for Culture, the Arts and Heritage; and
 - c) State Department for Children Services.

The Committee also oversights the following institutions under the State Department for Public Investments and Assets Management in the National Treasury –

- a) The department of pension;
- b) The Retirement Benefits Authority;
- c) The Local Authorities Provident Fund;
- d) Public Service Superannuation Scheme; and
- e) The Civil Servants Accident Claim Fund.

The Committee also oversights the following Commissions and State Corporations –

- a) The Public Service Commission;
- b) The Salaries and Remuneration Commission;
- c) National Gender & Equality Commission;
- d) The Commissioner of Sports & Sports Registrar; and
- e) Permanent Presidential Music Commission.

Membership of the Committee

The Committee membership is as follows –

1. Sen. Julius Recha Murgor, CBS, MP - Chairperson
2. Sen. Crystal Kegehi Asige, MP - Vice Chairperson
3. Sen. (Rtd.) Justice Stewart Madzayo, EGH, MP - Member
4. Sen. Erick Okong'o Mogeni, SC, CBS, MP - Member
5. Sen. Alexander Munyi Mundigi, MP – Member
6. Sen. Joe Nyutu, MP - Member
7. Sen. Lenku Seki Ole Kanar, MP - Member
8. Sen. Miraj Abdullahi Abdulrahman, MP – Member
9. Sen. Beth Syengo MP - Member

CHAIRPERSON'S FOREWORD

Mr. Speaker Sir,

The Petition by Mr. Fred Sawenja and others concerning the winding up and liquidation of Technical University of Kenya's Staff Retirement Benefits Scheme (TUK-KSRBS) was presented to the Senate on Thursday, 14th November, 2024, pursuant to Standing Order 236 and referred to the Standing Committee on Labour and Social Welfare pursuant to Standing Order 238 (1).

The issues raised in the Petition were that the Retirement Benefits Authority (RBA), which regulated retirement benefits in Kenya, had instituted proceedings before the Milimani High Court in 2017 (Case No. HCIP/14/2017) concerning the insolvency of the Technical University of Kenya Staff Retirement Benefits Scheme. The case was meant to protect the retirement savings of the scheme's members. However, on 5th July 2024, the court ordered the winding up and liquidation of the pension scheme, putting about 2,000 members at risk of losing the retirement savings they had accumulated over many years of work.

Although pension contributions were deducted from employees' salaries, the funds were allegedly not remitted to the fund manager. Some university officials, through action or failure to act, did not properly account for or remit the money, and several officers involved have since left the university while those currently in office may not be familiar with the case.

As a result, billions of shillings belonging to the scheme's members remain unaccounted for, raising concerns about possible fraudulent activities. The situation had caused serious distress among staff, with some members reportedly dying and others suffering illness due to the psychological stress linked to the uncertainty over their retirement savings. Despite efforts by members to seek help from the university management, the university

council chairperson, the Retirements Benefits Authority, and the Ministry of Education, the matter remained unresolved, and the university was seen as to having failed to effectively protect the interests of its members, stakeholders, and assets.

The Petitioners therefore prayed that the Senate —

- a) Ensures that the assets of the scheme and contributions owed to members are safeguarded, including the transfer of members to another scheme, where possible, to ensure the continuation of their pension contributions.
- b) Ensures that the circumstances that led to the poor financial performance of the scheme and its subsequent insolvency are addressed and that the responsible persons are held accountable.
- c) Formulates legislative interventions aimed at preventing similar occurrences in retirement schemes in the country.
- d) Intervene and help the vulnerable pensioners who have not received their pensions for the last twelve months and are now experiencing both financial and psychological torture; and
- e) Make any other recommendations that the Senate may seem necessarily on this matter.

In a bid to address the issues canvassed in the petition, the Committee held several meetings with the Petitioners and other relevant stakeholders on various dates and received submissions on the Petition.

From its sittings, the Committee observed that since July 2009, the Technical University of Kenya consistently deducted pension contributions from employees but failed for over fifteen years to remit both employee and employer contributions to the Technical University of Kenya Staff Retirement Benefits Scheme. Funds initially deposited with Kenya Commercial Bank were subsequently diverted to support university operations, contrary to the Scheme's Trust Deed and the Retirement Benefits Act. Consequently, the Scheme's deficit had reached Kshs. 589 million by 2015, while unremitted contributions

stood at approximately Kshs. 4.1 billion by June 2024, raising concerns regarding possible criminal liability.

The Committee further observed that persistent non-remittance caused the Scheme's assets to fall below 20 per cent of its liabilities, rendering it insolvent and resulting in a court-ordered liquidation in 2024. The collapse caused significant hardship to retirees who depended on their pensions and uncertainty among serving members, with some retirees reportedly passing away before receiving their benefits.

The Committee also noted significant governance and oversight failures, including the failure by the trustees to convene Annual General Meetings for over a decade and inadequate reporting to members. While Kenya Commercial Bank discharged its role as custodian, the University and Scheme trustees failed to fulfil their fiduciary responsibilities, while the Retirement Benefits Authority and other oversight bodies did not enforce compliance sufficiently early.

Although the University's elevation in 2013 and inadequate Government funding contributed to its financial challenges, the Committee observed that these circumstances did not justify the failure to remit pension deductions. The Committee therefore emphasized the need for an accelerated settlement of outstanding pension liabilities, a clear repayment framework before establishment of any new scheme, and strengthened regulatory and governance mechanisms to prevent recurrence.

Having considered the Petition in accordance with its mandate and the prayers of the Petitioners, the Committee made recommendations aimed at safeguarding members' pension benefits, addressing the circumstances that led to the scheme's insolvency, ensuring accountability, and providing relief to affected pensioners.

The recommendations call for the expedited winding up of the scheme and transparent distribution of available assets to verified members and beneficiaries; the transition of active members to a compliant, registered retirement benefits scheme, subject to the

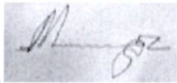
applicable statutory requirements; and the inclusion of outstanding pension liabilities in the next budget cycle. The Committee further recommends investigations into the non-remittance of pension contributions, unauthorized withdrawals and related fiduciary decisions, with prosecution of persons found culpable.

The Committee also recommends the implementation of automated payroll deduction and remittance systems to prevent recurrence of similar cases, the disbursement of available funds to affected pensioners, implementation of the Government Recovery Roadmap on university legacy liabilities, ring-fencing of funds allocated for historical pension arrears, and a comprehensive audit of university legacy liabilities to facilitate their settlement. These measures are intended to promote accountability, protect retirement benefits and secure the timely settlement of outstanding pension obligations.

The Committee thanks the Offices of the Speaker of the Senate and the Clerk of the Senate for the support extended to the Committee in the execution of its mandate.

Mr. Speaker Sir,

It is now my pleasant duty and privilege, on behalf of the Committee, to present this Report of the Standing Committee on Labour and Social Welfare on the Petition on the Winding Up and Liquidation of Technical University of Kenya's Staff Retirement Benefits Scheme (TUK-KSRBS).

SIGNATURE..........DATE.....30.09.2026.....

CHAIRPERSON: SEN. JULIUS MURGOR RECHA, CBS, MP

STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE

CHAPTER ONE: INTRODUCTION

1.0 The Petition

1. At the sitting of the Senate held on 13th November 2024, a Petition concerning the winding up and liquidation of the Technical University of Kenya Staff Retirement Benefit Scheme was Read in the Senate by the Speaker and committed to the Committee on Labour and Social Welfare according to the Standing Order.
2. The Petition was submitted through the clerk of the Senate and was presented at the sitting of the Senate held on Wednesday, 13th November, 2024 Senate pursuant to Standing Order 236.
3. The issues raised in the Petition are as follows –
 - a) That, the Retirement Benefits Authority (herein RBA) which is mandated to regulate the pensions subsector in Kenya, petitioned the Milimani High Court in 2017 in the matter of Insolvency of the Technical University of Kenya Staff Retirement Benefits Scheme (TU-K SRBS) case number HC. IP/14/2017 to protect the scheme's members from losing their retirement savings.
 - b) That, on 5th July, 2024, the Milimani High Court, in its judgement, ordered the RBA to wind up and liquidate the pension scheme, which resulted in, approximately 2,000 scheme members being at risk of losing their lifelong savings accrued from years of hard work, potentially downgrading them to a life of poverty in their later years.
 - c) The scheme had deducted members' contributions though the contributions had not been remitted to the fund manager.
 - d) The scheme owes its members billions of shillings in unremitted subscriptions, which cannot be traced, raising the possibility that the scheme may have been fraudulent from the beginning.
 - e) That, as a result, some members have suffered illnesses due to the psychosocial stress caused by this situation while others have lost their lives in the pursuit of justice.

1.1 Prayers to the Senate

4. The Petitioners prayed that the Senate—
 - a) Ensures that the assets of the scheme and contributions owed to members are safeguarded, including the transfer of members to another scheme, where possible, to ensure the continuation of their pension contributions.
 - b) Ensures that the circumstances that led to the poor financial performance of the scheme and its subsequent insolvency are addressed and that the responsible persons are held accountable.
 - c) Formulates legislative interventions aimed at preventing similar occurrences in retirement schemes in the country.
 - d) Intervene and help the vulnerable pensioners who have not received their pensions for the last twelve months and are now experiencing both financial and psychological torture; and
 - e) Make any other recommendations that the Senate may seem necessarily on this matter.

1.2 Background Information

5. The Technical University of Kenya (TUK) was established through the elevation of The Kenya Polytechnic University College (KPUC) to full university status. TUK was established as the first Technical University in Kenya in line with the provisions of the proposed Universities Act, 2012.
6. The Technical University was a new type of university in Kenya, whose mandate was to offer higher education and research in technology. TUK offers undergraduate degrees at the Bachelor's level. In this respect it will be noted that in the education of technical personnel at the university level, institutions of higher learning in Kenya have consistently over the years only focussed on the training of professionals at the level of engineers, architects, surveyors, planners, and estate managers. The education and training of the technologist has however been totally neglected in this structure, thus the need to establish the technical college.

7. According to a Business Daily newspaper article on December 18th 2020, the trouble at the University began in 2009, when the institution was upgraded to a fully-fledged university. The Retirements Benefits Authority (herein RBA) took over management of the Fund in 2015 after it was discovered that the Fund's remittances were irregular. An interim administrator was appointed to look into the scheme's financial health revealing the scheme's weak position.
8. The Retirement Benefits Authority filed a petition on 25th September, 2017 pursuant to section 5B & 11(4) of the Retirement Benefits (Minimum Funding Level and Winding-Up Schemes) Regulations 2000 and sections 423(1), 424(1) (e) and (g) of the Insolvency Act. The petitioner (RBA) sought an order to wind up the respondent (TUK SRBS) and for the appointment of the Official Receiver or an Insolvency Petitioner registered under the Insolvency Act as trustee.
9. RBA submitted that the TUK SRBS was placed under interim administration around 10th November 2015 for failure to comply with various mandatory provisions of the Retirement Benefits Act No. 3 of 1997. This included the failure to meet the prescribed minimum funding level.
10. At the end of the administration, the interim administrator recommended the winding up of the Scheme, noting that the Scheme was not sufficiently solvent to meet its liabilities when they became due, especially liabilities to its members. RBA warned that the continued deduction of monies from the employees without remitting either the employee and employer contribution meant that the respondent's debt continued to accrue every month and if the court did not wind up the respondent, the members of the respondent would be greatly prejudiced. Further RBA noted that the allegation that the government was willing to fund the scheme had remained illusory to date.
11. The Management of TUK SRBS argued that although it had been placed under temporary administration, the trustees of the Scheme and the sponsor's management were committed to ensuring the success of the respondent. This was evidenced by

the remedial plan dated 17th February 2015. The respondent was confident that the scheme was on its way to full recovery in a period of 12-24 months from the date of the affidavit based on the respondent's funding levels and expected additional funding by the Ministry of Education, Science and Technology.

12. In the circumstances, TUK SRBS pleaded that the petition be dismissed or at the very least be suspended for 12 months to allow for the sponsor to demonstrate the viability and sustainability of the scheme
13. In the analysis of the case, the Court noted that the respondent has not specifically controverted the petitioner's submission and the quarterly reports by Zamara Actuaries, Administrators & Consultants Limited which indicate that as at December 2019, the respondent's debt stood at Kshs. 1,177,946,502/=.
14. The Court also noted that the argument that the government was willing to fund the scheme had obviously not materialised, and if this had happened the respondent would have provided the evidence of the same. Further, the assets held by the respondent were significantly less than its liabilities and this pointed to a situation of insolvency. Noting that this petition was filed in 2017 and to date, the petitioner has not been able to remedy its financial distress.
15. Hon Lady Justice Dr Githuri Freda Mugambi granted an order winding up the respondent on 5th July 2024.

1.3 Situational Analysis

16. From the foregoing, the Committee ascertained that Technical University of Kenya Staff Retirement Benefit Scheme (TUK - SRBS) had accrued massive debt which stood at Kshs. Kshs. 1,177,946,502/= in December of 2019 as submitted by Zamara Actuaries, Administrators & Consultants Limited.
17. The Fund was therefore in violation of section 5B & 11(4) of the Retirement Benefits (Minimum Funding Level and Winding-Up Schemes) Regulations 2000 which was flagged by the Retirement Benefits Authority and led to the RBA taking over management of the Fund in 2015.

18. The Retirements Benefit Authority moved to court pursuant to sections 423(1), 424(1) (e) and (g) of the Insolvency Act, and were granted an order of winding up/liquidating the Fund in order to settle the Fund's numerous liabilities.
19. As it stands more than 1500 employees are facing a bleak future in retirement as they have lost all their pension savings to the institution, with the unlimited amount totalling Kshs 800 million.
20. The interim administrators Octagon in their report submitted that the more the scheme remains open, the more members are losing out on their savings. Additionally, the University's management is not committed to making contributions to the scheme, meaning the debt will continue to grow to unmanageable levels.
21. The Retirement Benefits Authority has a robust framework of guidelines on the administration and management of Pensions schemes. Regulations such as the Retirement Benefit (Managers and Custodians) Regulations 2000 are essential to the mandate of the Authority.
22. The Authority is also tasked with the protection of members and grants them Member's rights which include the right to -
 - a) receive a summary of the audited financial statement of the scheme
 - b) participate in members' days organised by the scheme
 - c) question any anomalies within the audited accounts of the scheme
 - d) right to good governance of the scheme
 - e) right to prudent management of scheme expenses
23. This creates a corresponding obligatory responsibility on fund managers and custodians to uphold these rights. The fund managers of the TUK SRBS are therefore in violation of their obligations to the members and the Fund and should be held liable.
24. International law also offers pension beneficiaries limited protection. The legislation of the European Union and International Labour Organization (ILO)

does offer protection for employees in the case of the bankruptcy of their employer, covering areas such as wages, outstanding holiday, sick leave and maternity leave (which receive priority rankings) - but surprisingly pensions are not covered. According to the Organisation for Economic Cooperation and Development (OECD) pension beneficiaries do not receive priority status during the winding up of pension funds. The beneficiaries of the fund as well as the retired employees are at a greatly disadvantaged position to recoup their savings and have been described as the 'lost voices' during liquidation proceedings.

25. In conclusion, the order winding up TUK SRBS Fund is in effect and must be obliged, despite the uncertainty that the beneficiaries will ever be compensated.

1.4 Legal Provisions

26. This section of the report analyses the law governing retirement benefits schemes.

The Constitution

27. Article 43 (1) (e) of the Constitution on economic and social rights states that every person has the right to social security.

The Retirement Benefits Act

28. This is the principal law on the regulation, supervision and promotion of retirement benefits schemes and the development of the retirement benefits sector in Kenya.
29. The Retirement Benefits Act provides for the establishment, functions and management of the Retirement Benefits Authority under Part II. Section 5 of the Act provides that the object and functions of the Retirement Benefits Authority are to—
 - a) Regulate and supervise the establishment and management of retirement benefits schemes;
 - b) Protect the interests of members and sponsors of retirement benefits sector;
 - c) Approve trustees' remuneration approved by members during the annual general meeting after every three years;

- d) Promote the development of the retirement benefits sector; and
 - e) Advise the cabinet secretary responsible for retirement benefits scheme on the national policy to be followed with regard to retirement benefits schemes and to implement all government policies relating thereto.
30. Under section 5B of the Act on the powers of the Authority to investigate, where the Authority has reasonable cause to believe, either on its own motion or as a result of a complaint received from any person, that—
- a) An offence has been committed under the Retirement Benefits Act; or
 - b) A manager, custodian, trustee or an administrator may have engaged in embezzlement, fraud, misfeasance or other misconduct in connection with its regulated activity; or
 - c) The manner in which a manager, custodian, trustee or an administrator has engaged or is engaging in the regulated activity is not in the interest of the person's clients or in the public interest,
 - d) The Authority shall in writing depute a suitably qualified person to conduct investigations into the matter on behalf of the Authority.
31. As such, the Retirement Benefits Authority is the statutory body responsible for regulation and supervision of the retirement benefits schemes in Kenya.
32. The Authority is also responsible for investigating embezzlement, fraud, misfeasance or other misconduct in connection with retirement benefits schemes.
- Registration of Retirement Benefits Schemes, Managers, Custodians and Administrators
33. Part III of the Retirement Benefits Act provide for the registration of retirement benefits schemes, managers, custodians and administrators.
34. Under sections 22 and 23 of the Act, all retirement benefits schemes, managers, custodians and administrators are required to be registered with the Retirement Benefits Authority.
35. Under section 22A of the Act, the Authority, in determining whether a person is suitable to act as a trustee, manager, custodian or an administrator under the Act, considers the—

- a) Financial status or solvency of the person;
- b) Educational or other qualifications or experience of the person, having regard to the nature of the functions which, if the application is granted, the person shall perform;
- c) Status of any other license or approval granted to the person by any financial sector regulator;
- d) Ability of the person to carry on the regulated activity competently, honestly and fairly; and
- e) Reputation, character, financial integrity and reliability—
 - (i) In the case of a natural person, of that individual; or
 - (ii) In the case of a company, of the company, its chairperson, directors, chief executive, management and all other personnel including all duly appointed agents, and any substantial shareholder of the company, if the chairperson, director, chief executive, management or the personnel are shareholders of the company.

Trustees

36. Under section 26 on the requirements with regard to trustees, no person shall be a trustee of any scheme fund if such person—
- a) Has been sentenced to imprisonment by a court of competent jurisdiction for a period of six months or more;
 - b) Is adjudged bankrupt;
 - c) Was previously involved in the management or administration of a scheme which was deregistered for any failure on the part of the management or the administration thereof;
 - d) Is disqualified under any other written law, or his holding office as such is deemed by the authority as being, in any way, detrimental to the scheme;
 - e) Does not comply with the guidelines or practice notes issued by the authority.

37. From the foregoing, the Retirement Benefits Authority is responsible for the registration of retirement benefits schemes, managers, custodians and administrators in the country.
38. The Authority is also mandated to ensure that the retirement benefits schemes, managers, custodians, trustees and administrators meet the suitability criteria prescribed by law.

Regulation and Supervision of Retirement Benefits Schemes

39. Under section 34 of the Act on annual reports and accounts—
- a) the trustees of every scheme shall cause to be kept all proper books and records of account of the income, expenditure and assets of the scheme fund;
 - b) within a period of three months after the end of each financial year, the trustees shall cause to be prepared in respect of the scheme fund—
 - (i) statement of assets and liabilities;
 - (ii) a statement of income and expenditure;
 - (iii) a statement of the assets and liabilities of the scheme as on the last day of that year; and
 - (iv) such other documents as may be prescribed.
 - c) the accounts of the scheme fund in respect of each financial year shall be audited by an auditor appointed by the trustees with the approval of the Retirement Benefits Authority Board; and
 - d) within three months after the end of each financial year, the trustees shall submit a copy of the audited accounts of the scheme to the Chief Executive Officer of the Retirement Benefits Authority.

Actuarial evaluations

40. Under section 35 of the Act on actuarial evaluations, the Retirement Benefits Authority Board may require the trustees of such schemes or categories of schemes as it may specify, to cause the schemes to be evaluated by an actuary appointed by

the trustees with the approval of the Board and to present the actuarial report to the Chief Executive Officer at such regular intervals as the Board may specify.

Investment of scheme funds

41. Section 37 of the Act on the investment of scheme funds provides that—
- a) Every scheme shall have a prudent investment policy on the investment of the funds of the scheme so as to maintain the capital funds of the scheme and generally to secure market rates of return on such investment;
 - b) The investment policy of a scheme shall be implemented subject to any regulations the minister may, in consultation with the authority, make for that purpose; and
 - c) There shall be submitted to the chief executive officer of the retirement benefits authority, in respect of every scheme, a statement of all investments of the scheme fund, in such form, manner and at such intervals as may be prescribed.

Unsafe and unsound practices

42. Under section 39 of the Act on unsafe and unsound practices—
- a) Where, in the opinion of the Chief Executive Officer of the Retirement Benefits Authority, a trustee, manager, custodian or administrator of a scheme is pursuing an act or course of conduct which the Chief Executive Officer considers to be an unsafe or unsound practice, or in any way detrimental to the scheme, the Chief Executive Officer shall, by notice in writing, direct such trustee, manager, custodian or administrator to refrain from pursuing such act or course of conduct; and
 - b) A trustee, manager or custodian who acts in contravention of a direction under section 39 commits an offence and shall be liable, on conviction, to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding two years, or to both.

General obligations of trustees and managers

43. Under section 40 of the Act, a trustee, manager, custodian or administrator of a scheme shall—
- a) Ensure that the scheme fund is at all times managed in accordance with the Act, any regulations made thereunder, the scheme rules and any directions given by the Chief Executive Officer;
 - b) Take reasonable care to ensure that the management of the scheme is carried out in the best interests of the members and sponsors of the scheme;
 - c) Report to the Chief Executive Officer, as soon as reasonably practicable, any unusual occurrence which in his view could jeopardize the rights of the members or sponsors of the scheme; and
 - d) Report to the Chief Executive Officer, as soon as reasonably practicable, if any contributions into a scheme fund remain due for a period of more than thirty days.

Inspection of Retirement Benefits Schemes

44. Part V of the Act provides for inspection of retirement benefits schemes. Under section 41 of the Act, the Chief Executive Officer of the Retirement Benefits Authority may, at any time and from time to time, and shall, if so directed by the Board, cause an inspection to be made by an inspector authorized by him in writing, of any scheme or of the business of any manager, custodian or administrator registered under this Act, and of its books, accounts and records.

Inspection reports

45. Under section 43 of the Act, an inspector appointed under the Act shall submit a report to the Chief Executive Officer and the report shall draw attention to any breach of the requirements of this Act and any regulations made thereunder, any mismanagement or lack of management skills in the manager and any other matter revealed or discovered in the course of the inspection warranting, in the opinion of the inspector, remedial action or further investigation.

Appointment of interim administrator.

46. Section 45 of the Act provides that an interim administrator may be appointed to a retirement benefits scheme under the following circumstances—
- a) If the trustees of a scheme fail to submit to the Chief Executive Officer the annual accounts for over six months after the end of the financial year to which they relate;
 - b) If the trustees are found to have submitted or provided any accounts, returns, statements, books, records, correspondence, documents or other information relating to the scheme fund which are false or misleading; or
 - c) If the Chief Executive Officer, whether on inspection or otherwise, becomes aware of any fact or circumstance which, in his opinion, warrants the exercise of the relevant power in the interests of the sponsors and members of the scheme or in public interest.
47. The responsibilities of an interim administrator include—
- a) Tracing, preserving and securing all the assets and property of the scheme;
 - b) Recovering all debts and other sums of money due to and owing to the scheme;
 - c) Evaluating the solvency and the liquidity of the scheme;
 - d) Assessing the scheme's, the manager's, the custodian's and the administrator's compliance with the provisions of this act and any regulations made thereunder;
 - e) Determining the adequacy of the capital and reserves and the management of the scheme and recommending to the chief executive officer any restructuring or re-organization which he considers necessary and which, subject to the provisions of any other law, may be implemented by him on behalf of the trustees, the manager, the custodian or the administrator; and
 - f) Obtain from any former trustee, manager or administrator of the scheme or any officer, employee or agent thereof, any documents, records, accounts, statements, correspondence or information relating to the scheme.

The Retirement Benefits (Minimum Funding Level and Winding up of Schemes) Regulations.

48. Under the Retirement Benefits (Minimum Funding Level and Winding up of Schemes) Regulations—

- a) A scheme shall not be de-registered unless the winding up process has been determined subsequent to a final actuarial valuation done on a winding up basis and the benefits of all members transferred to other schemes to purchase a retirement benefit.
- b) Where the Retirement Benefits Authority is of the opinion that—
 - (i) a scheme is in such an unsound financial condition or its funding is below the minimum funding level and that arrangements by the trustees to improve the condition are ineffective, impracticable or unsatisfactory; or
 - (ii) a scheme is in breach of section 28(1)(a) and (c) of the Retirement Benefits Act on deregistration;
 - (iii) the Authority, subject to section 28(2) of the Act may apply to the court for an order to windup the scheme.
- c) The provisions of the Companies Act (Cap. 486) shall apply *mutatis mutandis* to the winding up of a scheme in so far as the said provisions refer to the winding by the court in terms of the Companies Act, (Cap. 486) and in so far as that said provisions are applicable and not inconsistent with the Retirement Benefits Act and the regulations made thereunder.
- d) The court may direct that the provisions of the Companies Act, (Cap. 486), for the purpose of the winding up of a scheme be suitably modified in an particular case if the court is satisfied that having regard to the circumstances of the scheme concerned, it would be impracticable or onerous to comply with the said provisions in every particular and that in spite of such modification the interests of the creditors and members of the scheme will remain sufficiently safeguarded.
- e) In the winding up of a scheme the value of the interests and benefits of the members shall be ascertained in such manner as the court may direct.
- f) The liquidator appointed pursuant to the winding-up order issued under these Regulations shall give the Authority such information as the Authority may from time to time require and shall whenever he intends to apply to the court for

instructions report to the Authority who shall be entitled to be heard in person or by a representative at any such application, and may itself make an application to the court in reference to the winding up process.

- g) The liquidator shall be required, in the preparation of the preliminary accounts, to provide for the distribution of surpluses identified which shall be on a 50-50 basis between the members and the sponsor.
- h) The fees payable to the liquidator shall be borne by the scheme at such rates as shall be determined by the court issuing the winding up order.
- i) The committee of inspection for the purposes of winding up a scheme shall include the Authority sponsors, members and creditors.
- j) In the event of the winding up of a scheme the benefits of members of the scheme still in the service of the sponsor shall not be paid but shall be transferred to a registered individual retirement benefits scheme specified in writing for that purpose by the members.
- k) The members of a scheme shall be treated as deferred creditors, and their claims against the scheme in their capacity as members shall not be settled until the debts of ordinary creditors have been fully paid.

CHAPTER TWO: CONDUCT & PROCEEDINGS ON THE PETITION

49. This section of the report summarises the Committee's engagement with petitioners and the stakeholders relevant to the matters brought forward in the petition. In all meetings, the common denominator were the petitioners, whose interaction with other stakeholders allowed the issue to be addressed conclusively.
50. The Committee held sittings with all the relevant stakeholders such as the Technical University of Kenya, Retirement Benefits Authority, Kenya Commercial Bank, Octagon Pension Services Limited, Co-Op Trust Investment Services, Central Provident Fund (CPF), the National Treasury and Economic Planning, Ministry of Education and the Scheme appointed Liquidator on various dates and received submissions on the Petition.

2.0 Submissions from the Petitioners

51. The Petitioners in the matter made the following assertions -
- a) That, the University failed in its fiduciary duty and in upholding the expected high standard of care for its staff members and other stakeholders.
 - b) That, the Council, in order to protect the members' funds as per their duty, failed to ask questions of the following management officers:
 - i. The immediate former Vice Chancellor, now retired, Prof Francis Aduol.
 - ii. The University Bursar and Finance Officer, Mr Ben Sanda.
 - iii. The University Legal Officer, Ms Ruth Kirwa.
52. That, the former Vice Chancellor, Prof. Francis Aduol, failed in his responsibility to safeguard the staff members of the TU-K SRBS. The matter of members' contributions being deducted without being remitted occurred during his tenure, a matter he could have addressed and prevented.

53. The former Vice Chancellor failed to facilitate and oversee the appointment of a substantive Deputy Vice Chancellor for Finance and Administration (DVC- FA). The Technical University of Kenya is the only public university that has never had, and still does not have, a substantive DVC-FA. This may have been a deliberate move to obscure reporting lines, allowing junior officers, such as the Legal Officer and Finance Officer to report directly to him.
54. That, the Legal Officer, Ms. Ruth Kirwa, failed to protect and safeguard the University from exposure to potential breaches of the law and the Constitution of Kenya. She intentionally frustrated efforts of the Scheme Administrator (CPF) to hold mandatory member AGMs and education days by threatening to take the business away from them.
55. That, contrary to the law and in another clear conflict of interest the Legal Officer continued to act as the workers' trustee and representative of the Council and Management in the Scheme.
56. That, by ensuring the Scheme Administrator does not hold members pension AGM, it was difficult to ascertain who and how many TU-K SRBS members there are; the value of the assets therein the scheme; the scheme's deficit and how much is outstanding; to peruse the annual financial statements; annual growth/ returns on savings; the different fees paid etc.
57. That, the Bursar and Finance Officer (F.O), Mr Ben Sanda, failed his professional oath as a registered and licenced member of the Institute of Certified Public Accountants of Kenya (ICPAK) to protect and ensure the prudent use of university finances; adhere to the PFMA 2012; and ensure the timely settlement of third-party statutory and non-statutory deductions such as pensions, PAYE, NSSF, NHIF and AHL, bank loans, mortgages, SACCO etc.

58. That, the said Finance Officer over the years continued to deduct and not remit members' pensions contributions within the 10 days mandated by law. Alarming, even after the court order was obtained by RBA in July 2024, he still made deductions to members' salaries without remitting to the fund manager. Some officials, including the Vice Chancellor, who were present during that period have since left the university, yet these funds have not been accounted for.
59. The TU-K SRBS members have, numerous, raised this issue of pensions with the University Management, the University Council Chair, RBA officials and Ministry of Education officials. However, all these efforts have been futile and all the officers have been unresponsive.
60. That, the Scheme Administrator (CPF) contrary to Sec. 9(2)(ix) of the RBA Regulations 2000 which states "The scheme rules SHALL... convene an annual meeting of members to enable them raise any matters pertaining to their scheme... have irregularly and consistently failed to do so.
61. That, without the Pensions AGM, members are in the dark and therefore have no access to information, contrary to Art. 35 of the Constitution of Kenya: The Scheme's financial statements; membership roll (including how many have left/joined the Scheme); growth and returns on their investments; the size of deficits and unremitted monies; service provider fees; taxes paid by the Scheme etc.
62. The Technical University of Kenya has failed to protect its members, stakeholders, and assets due to lack of efficient and effective oversight of affairs of the university.

2.1 Submission by the Technical University of Kenya

63. Through a memorandum submitted by the Vice-Chancellor of the Technical University of Kenya (TU-K), on the cause of non-remittance, the University reported that the challenge did not arise from negligence or mismanagement, but

from systemic underfunding and structural imbalances inherited during its transition from a Polytechnic to a University.

64. The following factors were highlighted:

- a) Legacy Staff and Funding Shortfall: When the Kenya Polytechnic University College (KPUC), TU-K's predecessor, was established in 2007, it retained existing staff. From 1st July, 2009, the Ministry of Education withdrew funding for lecturers previously paid by the Teachers Service Commission (TSC) but maintained the same capitation as the Polytechnic. This created a cumulative funding shortfall of KES 1.5 billion.
- b) Unfunded Student Growth: The increase in Government-sponsored degree student enrolment was not matched by a corresponding rise in Government support. When diploma (TVET) admissions resumed in 2015, no additional capitation or staff funding was provided, resulting in a further gap of KES 979 million.
- c) Budgetary Deficits: Owing to persistent underfunding, TU-K accumulated budgetary deficits of KES 6.586 billion between FY 2014/2015 and FY 2023/2024. Despite these constraints, the University remitted KES 441,526,613.55 into the scheme before it was wound up by a High Court judgment on 5th of July, 2024.

65. On compliance with statutory provisions, it was reported that TU-K and the Scheme Administrator, CPF Financial Services, took measures from February 2021. An Annual General Meeting (AGM) for the financial year ending 30th June, 2020, was held on 11th December, 2021. While AGMs for 2022 and 2023 could not be convened due to the scheme's challenges, CPF organized member education and pre-retirement training sessions on 1st September, 2021, and 9th March, 2023.
66. On efforts by management following the Court's winding-up order, the Committee was informed that TU-K has actively cooperated with the Liquidator, the RBA, and the unions (UASU, KUSU, and KUDHEIHA) to safeguard members' welfare. Specific actions included:

- a) Cooperation with Liquidator: Meetings were held on 30th January and 13th June, 2025, during which the Liquidator outlined a timetable for recalculating contributions, circulating member statements by 4th September, 2025, and convening the first members/creditors' meeting on 15th October, 2025.
- b) Debt Recovery: The Liquidator confirmed that debts owed to the scheme would be pursued, including through legal action, with a first pro-rated distribution planned once resources allowed, despite the funding level being only 16%.
- c) Reconstruction of Balances: The Scheme Administrator made progress in reconstructing member balances for July 2010–June 2024 by cross-checking payroll records and applying the 7.5% employee and 20% employer rates. TU-K is addressing queries on historic contribution anomalies to enable timely completion.
- d) New Scheme Initiative: On February 24, 2025, TU-K requested guidance from the RBA on establishing a new Staff Retirement Benefits Scheme. The RBA responded on March 10, 2025, setting conditions for registration: approval from the National Treasury on viability, resolution of the underfunding in the wound-up scheme, and a sustainable funding mechanism for the new scheme. TU-K reported that it continues to engage relevant bodies to satisfy these requirements.
- e) Reassurance to Members: The University stated that it has consistently assured members, through memoranda and union engagement, that their dues from the wound-up scheme will not be lost.

2.2. Submission by Retirement Benefit Authority

67. The RBA submitted that-

- a) The Technical University of Kenya Staff Retirement Benefits Scheme was registered on 12th November 2013, and the scheme's trustees were issued with a certificate of registration Ref No. RBA/SUP/200/1974.
- b) The Scheme was established by a Trust Deed and Rules (the TDR) dated 28th May 2013, with the sponsor of the Scheme being the TUK.
- c) The Scheme was operated under a Defined Contribution (DC) structure with members required to contribute 7.5% of their pensionable emoluments and the sponsor expected to match with a 15% contribution

- d) Following the registration of the Scheme, the RBA observed that contributions were not remitted to the Scheme by the 9th day of every month, and members were not paid their benefits as and when they fell due.
- e) The Authority indulged the Scheme from time to time as required under the RBA Act and Regulations to persuade the Scheme to comply with the legal framework set out for retirement benefits management.
- f) The Scheme was placed under interim administration on 10th November 2015, and Octagon Pension Services Limited was appointed as the Interim Administrator. Upon the expiry of the Interim period on 10th February 2016, the Octagon Pension Services Limited recommended that the Scheme be wound up as it was seemingly not solvent enough to meet its liabilities as and when they fell due.
- g) The RBA then reviewed the recommendations and the following information was obtained as at 13th May 2016-
 - i. As at the end of 2015, the Scheme was insolvent as its assets were valued at Kshs 133,598,732 while the liabilities were Kshs 722,989,511, accounting for a Kshs 589,390,779 difference.
 - ii. The Scheme's funding level was 16% of the liabilities, contrary to the 100% minimum funding level required under Regulation 4 of the RBA (Minimum Funding Level Winding up of Schemes) Regulations 2000.
 - iii. The pension payments due to members had been in arrears for more than 6 months for the period extending to May 2016.
 - iv. The TUK was in contribution arrears and had only made a lump sum payment of Kshs 118,149,716 following numerous letters from the Authority to comply.
 - v. The TUK did not present any acceptable and satisfactory remedy to RBA, citing shortfalls in government capitation and funding.
 - vi. The RBA issued a 28-day notice of intention to wound up the Scheme on 12th October 2016, after which the TUK, through the vice-chancellor,

- reverted with a letter dated 8th November 2016 stating that they had appealed for financial support from the Ministry of Education.
- vii. The RBA then petitioned the High Court for a petition to wound up the Scheme, with the petition being lodged on 2nd September 2017.
 - viii. The High Court then issued an order for the winding up of the Scheme on 5th July 2024.
 - ix. Table 1 shows the financial position of the Scheme as at 30th June 2024.

Financial Status of the Scheme as at 30th June 2024.

No.	Details	Amount (Kshs.)
1.	Net Assets	4,345,366,305
2.	Outstanding Contributions	2,811,623,012
3.	Penalties Receivables	1,377,053,592

Source: RBA

- h) The total outstanding contribution, including penalties, amounts to **Kshs. 4,148,676,604**, which represents 95.5% of the net asset position of Kshs. **4.345 billion**.
- i) The Scheme had 1,850 members, of which 1,299 were active while 551 were deferred members.
- j) As at 30th June 2024, the Scheme's operational expenses were 14.36% of the contributions compared to the industry average of 12%.
- k) The total expenses were 1.08% of the Scheme's total assets compared to the industry average of 1%.
- l) The Authority received a request from TUK to register a new pension scheme. The Authority advised settling existing liabilities under the liquidated scheme, obtaining formal approval from the National Treasury, and demonstrating the sponsor's fitness and propriety to operate a new retirement benefits arrangement.
- m) The RBA received a request from TUK to register a new pension scheme. The Authority advised settling existing liabilities under the liquidated scheme,

obtaining formal approval from the National Treasury, and demonstrating the sponsor's fitness and propriety to operate a new retirement benefits arrangement.

- n) The Authority submitted the trend of unremitted contributions as shown in Table 2 below.

Table 2: TUK Unremitted Pensions Liabilities.

Financial Year	Unremitted Contribution	Interest on Unremitted Contribution	Total Outstanding	Net Asset	% Total Outstanding to Net Asset
2013	273,789,302	48,112,345	321,901,647	321,901,647	100
2014	407,350,802	131,353,828	538,704,630	538,704,630	100
2015	497,353,392	153,743,722	651,096,114	791,000,266	82.3
2016	741,205,530	191,361,205	932,566,735	1,084,813,818	86
2017	1,006,551,163	383,708,809	1,390,259,972	1,572,049,207	88.4
2018	1,270,872,555	591,566,704	1,862,439,259	2,117,358,608	88
2019	1,595,074,825	748,788,246	2,343,863,071	2,614,815,925	89.6
2020	1,728,985,367	938,567,653	2,667,553,020	3,167,594,395	84.2
2021	1,943,867,231	1,153,993,732	3,097,860,963	3,421,686,826	90.5
2022	2,211,928,894	1,209,119,958	3,421,048,852	3,666,653,473	93.3

2023	2,502,546,668	1,269,891,244	3,772,437,912	3,975,228,268	94.9
2024	2,811,623,012	1,337,053,592	4,148,676,604	4,345,366,305	95.5

Source: Retirement Benefits Authority

2.3 Submissions by Kenya Commercial Bank (KCB) – (Scheme Custodian)

68. KCB Bank Kenya Limited submitted that it had been appointed as the Custodian of the TU-K Staff Retirement Benefits Scheme (SRBS) on 31st October 2013 following a competitive tender process, and that it carried out its custodial role in accordance with applicable laws, including the Retirement Benefits Act No. 3 of 1997, the Capital Markets Act, and the Income Tax Act. KCB stated that the terms and conditions of its services were outlined in the Custody Agreement dated 31st October 2013, with a subsequent agreement dated 1st October 2020.
69. The Bank further submitted additional information concerning the operations of the Technical University of Kenya Pension Account number 1122174462. It reported that the holding account had been opened as a savings account on 13th October 2010, based on instructions from Kenya Polytechnic University College dated 7th October 2010, and that the account signatories had changed over time, with the current signatories being Mr. Jamleck Mugo Kanambiu, Prof. Paul Mwanza Shiundu, Mr. Stanley Mucheru Mwangi, Mr. Ben Masawa Sanda, and Prof. Mutua Mwavu Benedict. The balance as at 31st August, 2025 was Kshs. 538,899.
70. The Kenya Commercial Bank (KCB) received a letter of appointment as the Scheme custodian on 31st October 2013. Upon the opening of the Custody Account, 1150922931, a transfer deposit of **Kshs 3,369,406** was made.
71. The contributions received into the Custody account totalled **Kshs 441,526,613.55** as at April 2024. The last deposit was made on 5th August 2021.
72. The balance in the custody account as at 8th April 2025 was Kshs 1,627,900.71.

2.4 Submissions by Central Provident Fund –CPF (Administrator)

73. The CPF Financial Services was appointed as the administrator on 27th January 2021. The administrator submitted that:
- a) A financial audit was conducted by Octagon Africa that revealed that as at 30th June, 2020, the fund value was Kshs 500 million and liabilities totaled Kshs. 3.2 billion. This represented a funding level of 16% (Kshs 2.7 billion deficit).
 - b) The employer deducted contributions of 7.5% from the members of the Scheme up to the period leading to the order to wound up the Scheme.
 - c) The administrator proposed different remedies to ensure remittance of member contributions before the issuance of the court order.

2.5 Submissions by Co-Op Trust Investment Services (Fund Manager)

74. The Coop Trust reported that it had assets under management amounting to Kshs. 658,459,513.
75. This consists of:

No.	Asset Class	Market Value	Asset Allocation(%)	RBA Limit (%)
1.	Cash & Demand Deposits	20,752,084	3.15	5
2.	Equities	121,319,250	18.42	70
3.	Government Securities	512,373,220	77.81	90
4.	Fixed Deposits	4,014,959	0.61	30
	Total	658,459,513	100	

Source: Co-op Trust Investment Services.

2.6 Submissions by the Scheme Trustees

76. The trustees submitted that the member's contributions were not made as the TUK did not receive enough capitation from the National Government to allow them to make the contributions.

2.7 Submissions by the National Treasury and Economic Planning

77. The Ministry informed that the Technical University of Kenya Staff Retirement Benefits Scheme experienced persistent non-remittance of pension contributions by the University, resulting in severe underfunding. The Scheme was placed under interim administration in 2015, and following continued deterioration of its financial position, the High Court ordered its winding-up and liquidation on 5th July 2024. The liquidation process is being overseen by the Official Receiver and an appointed insolvency practitioner, whose responsibilities include recovering outstanding employer contributions, verifying members' claims and distributing recovered funds to beneficiaries.
78. The National Treasury further stated that the Government is committed to protecting members' retirement savings and strengthening governance of pension schemes. Before a new retirement benefits scheme can be established for TUK employees, the University must address the outstanding liabilities of the former Scheme and demonstrate strong governance, financial sustainability and internal controls. The Treasury is also implementing reforms to prevent future non-remittance, including automatic deduction and remittance of pension contributions through payroll, with HRIS-Ke being integrated with IFMIS and other government payment systems to improve compliance, transparency and timely remittance.

2.8 Submissions by the Ministry of Education

79. The Ministry stated that the Technical University of Kenya attributed the non-remittance of pension contributions largely to long-standing structural underfunding, inherited payroll obligations and financial pressures, which resulted in accumulated pension arrears. The University acknowledged that approximately

Kshs. 39 million collected before the Scheme's registration was not transferred to the Scheme. A Government Recovery Roadmap was subsequently adopted to address the University's legacy liabilities, including pension arrears, with Kshs. 500 million allocated towards pension arrears and full pension remittance expected to resume from July 2025.

80. The Liquidator's verification exercise reconciled member records and established unpaid pension contributions of Kshs. 3.043 billion, accrued interest of Kshs. 3.782 billion, and a total outstanding liability of approximately Kshs. 6.825 billion. The University continues to seek Government funding to implement the recovery roadmap and settle its pension and other outstanding liabilities, while reaffirming its commitment to resolving the matter and protecting staff members' retirement benefits.

2.9 Submissions from the Liquidator

81. The Liquidator's Report dated 20th July 2026 provided an update on the winding up and liquidation of the Technical University of Kenya Staff Retirement Benefits Scheme (TUK-SRBS). The Scheme, established in 2009 and registered with the Retirement Benefits Authority in 2013, was placed under interim administration in November 2015 for failure to meet the prescribed minimum funding requirements and was subsequently placed under liquidation following a winding-up order issued on 5 July 2024. An Insolvency Practitioner was appointed on 13 January 2025 to oversee the liquidation. As at 30 April 2026, the Scheme had outstanding receivables of approximately Kshs. 6.825 billion, comprising unremitted contributions of approximately Kshs. 3.043 billion and accrued interest of approximately Kshs. 3.782 billion. External auditors were engaged to audit the Scheme's financial records for the financial years 2024/2025 and 2025/2026 and verify members' balances and receivables.
82. The Liquidator further reported that the Scheme currently had approximately Kshs. 907.1 million in available assets. The proposed approach is to reserve 10% of these assets for recovery of outstanding receivables and distribute approximately Kshs. 816.39 million, representing 90% of the available funds, to members. Since the

Scheme is currently only approximately 13% funded, members would initially receive a maximum of approximately 13% of their respective entitlements, subject to the final audited position.

83. Following completion of the audit, members' statements will be updated and redistributed, with an opportunity for members to raise queries or disputes. A members' meeting is proposed for 8th September 2026, at which the audited financial statements, proposed first distribution, and measures for recovery of outstanding receivables will be presented for consideration.

CHAPTER THREE: EMERGING THEMES FROM THE SUBMISSIONS

3.0. Weaknesses in Governance and Fiduciary Oversight

84. The Committee established that there were significant weaknesses in the governance and fiduciary oversight of the Scheme. The Board of Trustees had been responsible for safeguarding members' retirement benefits and exercising oversight over contributions, investments, benefit payments, financial reporting and compliance with the applicable legal and regulatory framework.
85. The prolonged accumulation of contribution arrears, deterioration in the Scheme's funding position and delays in payment of pension benefits raised concerns regarding the effectiveness of the governance mechanisms that had been in place and the extent to which the Trustees had discharged their fiduciary responsibilities.
86. The Committee observed that effective governance of a retirement benefits scheme required independence, competence, accountability and regular oversight, particularly where the sponsoring institution experienced financial difficulties. The financial challenges faced by the sponsoring institution could not have been allowed to undermine the governance safeguards established to protect members' retirement savings.

3.1. Failure to Safeguard Members' Retirement Benefits

87. The Committee established that the deteriorating financial position of the Scheme had a direct and adverse impact on members, who depended on the Scheme for their retirement security. The prolonged non-remittance of contributions and arrears in payment of pension benefits exposed members to financial uncertainty and loss of confidence in the retirement benefits system.
88. The Committee observed that pension contributions constituted deferred employee earnings intended to provide income security upon retirement. Consequently, failure to remit deducted contributions had adversely affected members by depriving the Scheme of funds that would otherwise have been available for investment and payment of benefits.

3.2. Delayed Regulatory Intervention and Enforcement

89. The Committee raised concerns regarding the timeliness and effectiveness of regulatory intervention as the financial position of the Scheme deteriorated. The Committee observed that the regulatory framework was intended to identify emerging risks and facilitate corrective action before members' benefits were placed at significant risk.
90. The prolonged accumulation of contribution arrears and deterioration in the funding position therefore raised questions regarding the adequacy and timeliness of the measures that had been taken to address the emerging challenges.
91. The Committee further observed that earlier regulatory and enforcement intervention could have assisted in containing the accumulation of liabilities and mitigating the eventual impact of the Scheme's liquidation on members.

3.3. Inadequate Recovery of Outstanding Contributions

92. The Committee established that outstanding contributions had accumulated over an extended period and had contributed significantly to the financial distress experienced by the Scheme.
93. The Committee noted that where contributions had already been deducted from employees' salaries, the sponsoring institution had an obligation to remit the funds to the Scheme. The prolonged delay in remittance had resulted in the accumulation of arrears and increased the financial burden faced by the Scheme and its members.
94. The Committee observed that effective pension administration required regular reconciliation of contributions, prompt identification of arrears, timely recovery measures and escalation of persistent defaults through the mechanisms provided under the law.

3.4. Lack of Transparency and Member Participation

95. The Committee established that members had experienced limited access to information concerning the affairs and financial position of the Scheme, partly due to the failure to regularly convene Annual General Meetings.

96. The absence of regular AGMs had limited members' access to financial statements and information relating to the Scheme's membership, assets, liabilities, investment performance, fees and funding position.
97. The Committee observed that the limited participation of members had weakened accountability and transparency within the Scheme and had reduced members' ability to exercise effective oversight over the management of their retirement benefits.

3.5. Conflicts of Interest in Scheme Administration

98. The Committee was informed of allegations of overlapping roles and potential conflicts of interest within the governance structures of the Scheme. In particular, concerns were raised regarding the alleged simultaneous involvement of the Legal Officer as a workers' trustee and representative of management. Questions were also raised concerning potential conflicts of interest within the Board of Trustees.
99. The Committee observed that effective governance of retirement benefits schemes required clear separation of roles, independence of oversight and avoidance of circumstances that could compromise, or reasonably appear to compromise, the impartial discharge of fiduciary responsibilities.

3.6. Dependence on Government Capitation

100. The Committee established that both the Trustees and the management of the Technical University of Kenya had attributed the failure to remit pension contributions, in part, to inadequate Government capitation and the financial difficulties experienced by the institution.
101. The Committee acknowledged that inadequate financing of public universities had presented significant challenges to institutional operations. However, the Committee found that financial constraints could not, in themselves, have justified the prolonged non-remittance of pension contributions that had already been deducted from employees' salaries.
102. The Committee observed that the circumstances surrounding TU-K SRBS demonstrated the need for stronger safeguards to ensure that financial difficulties

within sponsoring institutions did not compromise the security of employees' retirement savings.

3.7. Impact of the Liquidation on Members

103. The Committee established that the winding up and liquidation of the Scheme had created significant uncertainty among members and pensioners regarding the recovery, verification and payment of their accrued retirement benefits.
104. The Committee emphasised the need for the liquidation process to be undertaken in a transparent and accountable manner, including accurate reconciliation of members' records, verification of outstanding contributions, determination of individual entitlements and regular communication to affected members.
105. The Committee further observed that particular attention was required in cases where members' contribution records were incomplete, disputed or inconsistent with payroll records, to ensure that administrative deficiencies did not adversely affect their legitimate entitlements.

CHAPTER FOUR: COMMITTEE OBSERVATIONS & RECOMMENDATIONS

4.0. COMMITTEE OBSERVATIONS

106. The Committee made observations and findings on the Petition as follows-

- a) That the Technical University of Kenya Staff Retirement Benefits Scheme experienced prolonged and systemic non-remittance of both employee and employer pension contributions, despite regular salary deductions. The Committee noted that this directly undermined the financial integrity of the Scheme and exposed members to sustained financial risk over an extended period.
- b) That the TUK attributed the non-remittance of pension contributions largely to long-standing structural underfunding, inherited payroll obligations and financial pressures, which resulted in accumulated pension arrears. The Committee further noted that approximately Kshs. 39 million was collected before the Scheme's registration was not transferred to the Scheme.
- c) That the insolvency of the Scheme was a progressive deterioration evident as early as 2015, when the Retirement Benefits Authority placed the Scheme under interim administration, with actuarial assessments consistently confirming severe underfunding that was neither remedied nor effectively contained.
- d) That the governance weaknesses within TUK, materially contributed to the Scheme's collapse, particularly the absence of effective financial oversight structures and the failure to establish and maintain clear accountability lines for officers responsible for financial management and statutory remittances.
- e) That despite the existence of a comprehensive regulatory framework under the Retirement Benefits Act, TU-K, RBA, the Ministry of Education and the

National Treasury disregarded or inadequately enforced the regulatory framework.

- f) That the Scheme members were systematically denied access to timely and accurate information regarding the financial status of their retirement savings, as evidenced by irregular or absent annual general meetings, limited disclosure of audited accounts, and restricted opportunities for member participation as provided for under the law.
- g) That the continued deduction of pension contributions even after the issuance of a court order winding up the Scheme reflects a serious breakdown in internal controls and raises concerns regarding adherence to both legal directives and fiduciary responsibilities owed to Scheme members.
- h) That the financial data presented by the Retirement Benefits Authority demonstrated a persistent growth of unremitted contributions and accrued penalties, which by June 2024 constituted a proportion of liabilities nearly equivalent to the Scheme's net asset position, thereby severely constraining any meaningful recovery for members.
- i) That the explanations advanced by TUK relating to inadequate government capitation do not sufficiently account for the prolonged failure to ring-fence deducted employee contributions, which under law should not have been treated as discretionary operational funds of the institution.
- j) That the governance arrangements of the Scheme were compromised by conflicts of interest and insufficient separation between institutional management and trustee responsibilities, which weakened independent oversight and impaired prudent decision-making.

- k) That since July 2009, the Technical University of Kenya consistently deducted pension contributions from employees but failed for over fifteen years to remit both employee and employer contributions to the Technical University of Kenya Staff Retirement Benefits Scheme. Some of the funds, initially deposited in accounts at Kenya Commercial Bank, were later diverted to support university operations, in breach of the Scheme's Trust Deed and the Retirement Benefits Act of Kenya. This mismanagement left the Scheme with a deficit of Kshs 589 million by 2015 and unremitted contributions of about Kshs 4.1 billion by June 2024, raising concerns about possible criminal liability of responsible officials.
- l) That TU-K requested guidance from the RBA on establishing a new Staff Retirement Benefits Scheme. The RBA responded setting conditions for registration including approval from the National Treasury on viability, resolution of the underfunding in the wound-up scheme, and a sustainable funding mechanism for the new scheme.
- m) That the Liquidator was in the process of finalizing the auditing of members' statements prior to the winding up the scheme. It was noted that it had managed to consolidate thirteen percent of the assets which was supposed to be disbursed to the pensioners following a meeting scheduled for 8th September, 2026.
- n) That the Liquidator further noted that the Scheme had approximately Kshs. 907.1 million in available assets. The Committee further noted that the Liquidator proposed to reserve 10% of the assets for recovery of outstanding receivables and distribute approximately Kshs. 816.39 million, representing 90% of the available funds, to members.
- o) That the legal provisions on remittance of statutory deductions are adequate however there is need for Parliament to continuously engage with the relevant implementing agencies to ensure strict compliance with the provisions in law and be apprised if there is any legislative gap which can be addressed.

4.1. COMMITTEE RECOMMENDATIONS

The Committee having considered the Petition in accordance with its mandate and in response to the Petitioners' prayers recommends, THAT:

Prayer One - Ensures that the assets of the scheme and contributions owed to members are safeguarded, including the transfer of members to another scheme, where possible, to ensure the continuation of their pension contributions.

107. The Technical University of Kenya (TUK) management, in collaboration with the Retirement Benefits Authority (RBA) and the appointed Scheme Liquidator, shall expedite the winding up of the scheme and ensure the transparent distribution of available liquidated assets to verified members and beneficiaries where applicable within six months of adoption of this report.

108. The Technical University of Kenya (TUK) management, in collaboration with the Retirement Benefits Authority (RBA) and the appointed Scheme Liquidator undertake transition of all active members to a compliant, registered retirement benefits scheme upon full satisfaction of statutory re-establishment conditions set by the RBA. Further, the Ministry of Education and the National Treasury to ensure that the outstanding amounts owed to the pensioners are included in the next budget cycle. This should be actioned within the next twelve months.

Prayer Two - Ensures that the circumstances that led to the poor financial performance of the scheme and its subsequent insolvency are addressed and that the responsible persons are held accountable.

109. The relevant investigative agencies, including the Directorate of Criminal Investigations (DCI) and the Ethics and Anti-Corruption Commission (EACC), carry out investigations into the systemic non-remittance of pension contributions amounting to over Kshs. 4.1 billion, unauthorized withdrawals and spending and fiduciary decisions by the TUK management, the scheme trustees and any other responsible persons during the relevant period and submit a status report to the Senate within ninety (90) days of the adoption of this report.

110. The Office of the Director of Public Prosecutions (ODPP) to institute criminal prosecutions against all individuals found culpable subject to the investigations by the relevant investigative agencies within (one hundred and twenty) 120 days of the adoption of this Report.

Prayer Three - Formulates legislative interventions aimed at preventing similar occurrences in retirement schemes in the country.

111. The National Treasury and the Retirement Benefits Authority expedite the implementation of automated payroll deduction systems, integrating human resource integrated systems (HRIS-Ke) with IFMIS and government payment gateways to ensure timely automated remittance of statutory deductions across all public institutions within six (6) months of the adoption of this report and submit a status report to the Senate within the same period.

Prayer Four - Intervene and help the vulnerable pensioners who have not received their pensions for the last twelve months and are now experiencing both financial and psychological torture.

112. The Scheme Liquidator finalizes the auditing of members' statements prior to winding up the scheme and disburse the consolidated available funds to the pensioners within six (6) months of the adoption of this report and submit a status report to the Senate within the same period.
113. The Ministry of Education implements the adopted Government Recovery Roadmap which is to address university legacy liabilities including pension arrears within six (6) months of the adoption of this report and submit a status report to the Senate within the same period.

Prayer Five - Make any other recommendations that the Senate may seem necessary on this matter.

114. The National Treasury undertakes to ring-fence and disburse funds under the legacy allocation specifically dedicated to clearing historical pension arrears within thirty (30) days of the adoption of this report.

115. The Ministry of Education to carry out a comprehensive audit of all university legacy liabilities including pension arrears with a view towards full statutory remittances to all relevant state agencies within thirty (30) days of the adoption of this Report

LIST OF APPENDICES

- Appendix 1:** Copies of the minutes of the deliberations
- Appendix 2:** Copy of the Petition by Mr. Fred Sawenja and others concerning the winding up and liquidation of Technical University of Kenya's Staff Retirement Benefits Scheme (TUK-KSRBS)
- Appendix 3:** Submission by the Petitioners
- Appendix 4:** Submission by Technical University of Kenya
- Appendix 5:** Submissions by Retirement Benefit Authority
- Appendix 6:** Submission by Scheme Trustees
- Appendix 7:** Submission by Co-Op Trust Investment Services (Fund Manager)
- Appendix 8:** Submission by Central Provident Fund(Administrator)
- Appendix 9:** Submission by Octagon Pension Services Limited
- Appendix 10:** Submissions by Kenya Commercial Bank (KCB) – (Scheme Custodian)
- Appendix 11:** Submissions by National Treasury and Economic Planning
- Appendix 12:** Submissions by Ministry of Education
- Appendix 13:** Submission by the Scheme Liquidator