

# SENATE OF PAKISTAN



**REPORT NO. 46**

**REPORT OF THE SENATE STANDING COMMITTEE ON  
LAW AND JUSTICE**



**“THE CONSTITUTION (AMENDMENT) BILL, 2020”**

(Amendment of Article 73)

**PRESENTED BY**

**Senator Muhammad Javed Abbasi**

**Chairman**

**Standing Committee on Law and Justice**

# **SENATE SECRETARIAT**

## **REPORT OF THE STANDING COMMITTEE ON LAW AND JUSTICE ON "THE CONSTITUTION (AMENDMENT) BILL, 2020"**

I, Senator Muhammad Javed Abbasi, Chairman Standing Committee on Law and Justice, have the honor to submit, on behalf of the Committee, this report on "The Constitution (Amendment) Bill, 2020" (Amendment of Article 73), introduced by Senators Manzoor Ahmed, Kalsoom Perveen, Molana Abdul Ghafoor Haideri, Muhammad Akram, Sardar Muhammad Shafiq Tareen, Mir Kabeer Ahmed Muhammad Shahi, Naseebullah Bazai, Muhammad Usman Khan Kakar, Ghous Muhammad Khan Niazi, Abida Muhammad Azeem, Sajjad Hussain Turi, Hilal ur Rehman, Mian Muhammad Ateeq Sheikh, Mirza Muhammad Afridi, Gul Bushra, Mushtaq Ahmed and Muhammad Javed Abbasi in the Senate sitting held on 13<sup>th</sup> July, 2020 and referred to the Committee for consideration and report.

2. The composition of the Committee is as under:-

1. Senator Muhammad Javed Abbasi	Chairman
2. Senator Mian Raza Rabbani	Member
3. Senator Farooq Hamid Naek	Member
4. Senator Zeeshan Khanzada	Member
5. Senator Sirajul Haq	Member
6. Senator Syed Muzafar Hussain Shah	Member
7. Senator Ayesha Raza Farooq	Member
8. Senator Dr. Ghous Muhammad Khan Niazi	Member
9. Senator Mustafa Nawaz Khokhar	Member
10. Senator Sana Jamali	Member
11. Senator Walid Iqbal	Member
12. Senator Muhammad Ali Khan Saif	Member
13. Senator Musadik Masood Malik	Member
14. Minister for Law and Justice	Ex-Officio Member

3. The Committee considered the Bill in its various meetings and held conclusive discussion in the meeting on 29<sup>th</sup> January 2021, under the chairmanship of Senator Muhammad Javed Abbasi, with the following in attendance:



1.	Senator Muhammad Javed Abbasi	Chairman
2.	Senator Sana Jamali	Member
3.	Senator Zeeshan Khanzada	Member
4.	Senator Mustafa Nawaz Khokhar	Member
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5.	Senator Manzoor Ahmed	Mover

4. A detailed discussion was held on the Bill. Senator Manzoor Ahmed briefed the Committee that the Bill proposes that at least twenty percent of the total recommendations made by the Senate ought to be incorporated in the Finance Bill when it is passed by the National Assembly. He explained that Senate's Standing Committees on Finance and Revenue as well as Planning, Development and Reform hold comprehensive deliberations on the Finance Bill including PSDP and thereafter present their recommendations to the Senate, which passes them and then the same are transmitted to National Assembly for consideration. However, during last few years not a single recommendation from Senate has been incorporated in the Finance Bill. The Chairman Committee added that Standing Committee on Planning, Development and Reform stopped holding meetings on Finance Bill this year in protest on the same issue.


5. Senator Zeeshan Khanzada Khan noted that it is difficult to ascertain that which twenty percent of the total recommendations of Senate on Finance Bill to be adopted by National Assembly. He further added that it is the prerogative of the government to pass all money bills including the Finance Bill, and such bills are transmitted to Senate for recommendations only. Senator Mustafa Khokhar opposed the Bill and informed the Committee that the constitutional scheme of things cannot be termed as tyranny of the majority as provided in the Statement of Objects and Reasons of the Amendment Bill. He further quoted the maxim of parliamentary practice "no parliament can tie the hands of future parliaments" and deliberated that the Upper House should have valid reasons to change the Constitutional structure. He was of the view that the instant amendment of making recommendations mandatory may lead to paralyzing the government and creating constitutional crisis.

6. Ministry of Law and Justice in its comments opposed the Bill on the grounds that it is against the parliamentary system and it will defeat the will of the majority of Parliament. Secretary Law and Justice pointed out that development schemes and recommendations require due procedure and referral from concerned province for inclusion in PSDP. Inclusion of such schemes in PSDP at the stage of consideration of Finance Bill is not possible.

7. After detailed deliberations, the Committee decided to put the Bill to vote whereupon it was rejected by majority, with Senator Sana Jamali voting in favor of the Bill while Senators Mustafa Nawaz Khokhar and Zeeshan Khanzada against it.

8. The Committee recommends that "The Constitution (Amendment) Bill, 2020" (Amendment of Article 73), as introduced in the Senate may not be passed by the Senate of Pakistan. The Committee also gave approval for presentation of this report to the House. Copy of the Bill is annexed.

  
**(Haris Rehman)**  
DS / Secretary Committee

  
**(Senator Muhammad Javed Abbasi)**  
Chairman, Standing Committee on Law and Justice

**As**  
**[TO BE INTRODUCED IN THE SENATE]**

**A**  
**BILL**

*further to amend the Constitution of the Islamic Republic of Pakistan*

**WHEREAS** it is expedient further to amend the Constitution of the Islamic Republic of Pakistan for the purposes hereinafter appearing;

It is hereby enacted as follows:-

**1. Short title and commencement.-** (1) This Act may be called the Constitution (Amendment) Act, 2020.

(2) It shall come into force at once.

**2. Amendment of Article 73 of the Constitution.-** In the Constitution of the Islamic Republic of Pakistan, in Article 73, in clause (1A), for the full stop (.) occurring at the end, a colon (: ) shall be substituted and thereafter the following proviso shall be inserted, namely:-

"Provided that at least twenty percent of the total recommendations made by the Senate shall be incorporated in the Bill."

**STATEMENT OF OBJECTS AND REASONS**

The Senate of Pakistan, House of the Federation, ensures protection of interest and rights of the provinces and work as a safeguard of against the tyranny of majority. One of the major and perhaps the single most important interest and areas of concern and deprivation in federating units is to have some if not equal say in money matters. As per the constitutional scheme passing of money bill is prerogative of one House i.e. National Assembly, yet, Senate has been given role by making recommendations to ensure protection of all federating units. Undeniably, the House of the Federation can make recommendations but data and record of acceptance of any meaningful / major recommendations shows a very discouraging picture. Therefore, in order to ensure protection of interests of all provinces in the Money Bill it is essential to amend Article 73 of the Constitution of Pakistan so that minimum twenty percent of the total recommendations shall be constitutionally protection and become part of the Bill.

2. The Bill is designed to achieve the aforesaid objects.

**SENATOR MANZOOR AHMED**  
**SENATOR KALSOOM PERVEEN**  
**SENATOR MOLANA ABDUL GHAFUOR HAIDERI**  
**SENATOR MUHAMMAD AKRAM**  
**SENATOR SARDAR MUHAMMAD SHAFIQ TAREEN**  
**SENATOR MIR KABEER AHMED MUHAMMAD SHAHI**  
**SENATOR NASEEBULLAH BAZAI**  
**SENATOR MUHAMMAD USMAN KHAN KAKAR**  
**SENATOR GHOUS MUHAMMAD KHAN NIAZI**  
**SENATOR ABIDA MUHAMMAD AZEEM**  
**SENATOR SAJJAD HUSSAIN TURI**  
**SENATOR HILLAL UR REHMAN**  
**SENATOR MIAN MUHAMMAD ATEEQ SHAIKH**  
**SENATOR MIRZA MUHAMMAD AFRIDI**  
**SENATOR GUL BASHRA AND**  
**SENATOR MUSHTAQ AHMED**  
**SENATOR MUHAMMAD JAVED ABBASI**  
**MEMBERS-IN-CHARGE**