



REPUBLIC OF KENYA
ELEVENTH PARLIAMENT – (FOURTH SESSION)
THE SENATE

ORDER PAPER

TUESDAY, NOVEMBER 15, 2016 AT 2.30 P.M

PRAYERS

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers
6. Notices of Motion
7. Statements (As listed in the Appendix)
8. ***THE COUNTY STATISTICS BILL (SENATE BILL NO. 11 OF 2016)**
(Sen. Naisula Lesuuda)

(Second Reading)

(Resumption of Debate interrupted on Thursday, 10th November, 2016)
(Division)

9. **COMMITTEE OF THE WHOLE**
***THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILL NO. 8 OF 2015)**
(Sen. Hassan Omar)
(Resumption of Debate interrupted on Thursday, 10th November, 2016)
10. **COMMITTEE OF THE WHOLE**
***THE PERSONS WITH DISABILITIES (AMENDMENT) BILL (SENATE BILL NO. 13 OF 2015)**
(Sen. Godliver Omondi)
11. **COMMITTEE OF THE WHOLE**
*****THE BASIC EDUCATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 35 OF 2014)**
(The Senate Majority Leader)
12. ***THE CYBER SECURITY AND PROTECTION BILL (SENATE BILL NO. 12 OF 2016)**
(Sen. Mutahi Kagwe)

(Second Reading)

..... /Bill

13. ***THE IMPEACHMENT PROCEDURE BILL (SENATE BILL NO. 8 OF 2016)**

(Sen. (Eng.) Muriuki Karue)

*(Second Reading)*14. ****THE TREATY MAKING AND RATIFICATION (AMENDMENT) BILL
(SENATE BILL NO. 5 OF 2016)**

(Chairperson, Standing Committee on National Security and Foreign Relations)

*(Second Reading)*15. *****THE WAREHOUSE RECEIPTS SYSTEM BILL (NATIONAL ASSEMBLY
BILL NO. 12 OF 2015)**

(Senate Majority Leader)

*(Second Reading)*16. **MOTION** - (Sen. George Khaniri)

(Ministry of Education, Science and Technology)

WHEREAS Article 43(1)(f) and 53(1)(b) of the Constitution guarantees every citizen a right to education and every child a right to free and compulsory basic education, respectively;

NOTING that the Teachers Service Commission is mandated to handle employment, deployment, remuneration and discipline of teachers in public schools in Kenya;

CONCERNED that there are great disparities in the distribution of teachers in public schools across the country leading to oversupply in some schools and undersupply in others and ultimately leading to major teacher shortage especially in rural and marginalized areas;

APPRECIATING efforts made by the national government to improve the teacher pupil ratio to international standards in all public schools through yearly employment of teachers;

FURTHER CONCERNED that the statistics on the number and distribution of teachers in public schools is not readily available;

NOW THEREFORE, the Senate directs the Ministry of Education, Science and Technology to conduct a countrywide audit on the distribution of teachers in all public schools indicating the requisite establishment per school and the corresponding number of teachers who are in-post and further that the Ministry submits a report to the House on the matter within ninety (90) days.

17. **MOTION** – (Sen. (Prof.) John Lonyangapuo)

(Department of Education)

THAT, whereas Article 53 (1)(b) of the Constitution provides that every child in Kenya has the right to free and compulsory basic education;

RECOGNIZING the importance of education in the alleviation of the main challenges facing Kenya's sovereignty identified at independence, namely; poverty, illiteracy and disease;

APPRECIATING the gains made following the implementation of the free primary education program in 2003 and cognizant of the principles set out in the Basic Education Act of 2013 whose objectives include promotion and regulation of free and compulsory basic education besides providing for accreditation, registration and management of basic education institutions;

..... **/Motion**

NOTING the substantial resources invested by the national and county governments, parents, sponsors and development partners in the provision of basic education;

FURTHER NOTING that pursuant to the Basic Education Act, the County Director of Education is vested with numerous responsibilities including facilitation of auditing of all basic educational institutions in the respective county thereby leaving fundamental gaps of governance especially in the management of the available resources;

NOW THEREFORE, the House recommends to the Cabinet Secretary for Education to facilitate the creation of the office of an auditor to specifically audit the basic education institutions' funds to enhance transparency and accountability and improve governance in the management of these institutions.

18. **MOTION** – (Sen. (Eng.) Muriuki Karue)
(Ministry of Interior and Coordination of National Government)

THAT,

CONCERNED about the numerous reports of the arbitrary arrests of innocent people by the police;

FURTHER CONCERNED that a large number of those arrested are allegedly locked up in police cells without being recorded either in the Occurrence Book or elsewhere;

DEEPLY CONCERNED that some of the arrested people disappear without a trace and that many who are subsequently traced are found dead away from where they were known to have been locked up;

ALARMED by the recent incident where three young men were locked up for hours at Syokimau Police Post without any record indicating they had been at the police post, only for them to be found days later, in another area far from the police post, having been brutally killed;

APPRECIATING that the Closed Circuit Television (CCTV) system installed by the Government in Nairobi has helped a lot in criminal investigations;

NOW THEREFORE the Senate calls upon the National Government to-

- a) install CCTV cameras in all police stations and police posts in order to record each and every person going in and out of the station;
- b) have the CCTV system designed in such a way that it is capable of capturing the Occurrence Book entries every twelve hours; and
- c) ensure the CCTV system is connected to a central depository in order to minimize chances of subsequent tampering.

19. **MOTION** (Sen. Peter Mositet)
(Standing Committee on Education)

AWARE that Article 43 (1) (f) of the Constitution of Kenya provides that every person has the right to education and that Article 53 (1) (b) of the Constitution provides that every child has the right to free and compulsory basic education;

COGNIZANT that Article 54 (1) (b) of the Constitution provides that a person with any disability is entitled to access educational institutions and facilities for

..... /*Motion*

persons with disabilities that are integrated into society to the extent compatible with the interests of the person;

RECOGNIZING that education in Kenya is a shared function of both the county and national governments;

CONCERNED that while significant gains have been made under the Free Education Programme introduced in the year 2003, access and participation of children with special needs is generally low across the country and their needs have not been specifically addressed;

NOW THEREFORE the Senate directs the Standing Committee on Education to inquire into the performance of the Ministry of Education, Science and Technology in the implementation of the policy statements and strategies made in the National Special Needs Education Policy Framework, 2009 and report back to the Senate within three months.

NOTICE

The Senate resolved on 10th February, 2016 as follows:-

THAT, pursuant to Standing Order 100 (1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Committee shall be limited in the following manner:-

A maximum of three hours with not more than twenty minutes for the Mover, twenty minutes for the Majority Party Official Responder, twenty minutes for the Minority Party Official Responder and fifteen minutes for each other Senator speaking and that fifteen minutes before the time expires, the Mover shall be called upon to reply.

KEY

******** - Denotes a Majority /Minority Party Bill

******* - Denotes a National Assembly Bill

****** - Denotes a Committee Bill

***** - Denotes any other Bill

NOTICES OF AMENDMENTS**A. *THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF
ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILL NO. 8 OF 2015)**

(Sen. Hassan Omar)

NOTICE is given that Sen. Amos Wako, the Chairperson to the Standing Committee on Legal Affairs and Human Rights, intends to move the following amendments to the Preservation of Human Dignity and the Enforcement of Economic and Social Rights Bill, 2015, at the Committee Stage-

CLAUSE 5

THAT the Bill be amended by deleting clause 5 and substituting therefor the following new clause-

5. Pursuant to Articles 43 and 53(1)(c) of the Constitution every person has the right to –

- (a) the highest attainable standards of health which includes the right to health care services including reproductive health care services;
- (b) accessible and adequate housing;
- (c) reasonable standards of sanitation;
- (d) be free from hunger and to have adequate food of acceptable quality;
- (e) basic nutrition for children;
- (f) clean and safe water in adequate quantities;
- (g) social security and social assistance;
- (h) emergency treatment; and
- (i) education.

CLAUSE 6

THAT clause 6 of the Bill be amended at sub-clause (2)(c) by deleting the words “national and county development plans” appearing immediately after the words “integrate, within their” and substituting therefor the words “respective policies”.

CLAUSE 8

THAT clause 8 of the Bill be amended by-

- (a) inserting the words “for purposes of this Act” at the beginning of the introductory phrase to subsection (1); and
- (b) inserting the following new sub-clause immediately after sub-clause (1)-

(1A) In undertaking its functions under subsection (1), the Commission may consult the Commissions established under Article 59 of the Constitution and any other relevant person or institution.

...../ *Amendments*

CLAUSE 9**THAT** clause 9 of the Bill be amended-

- (a) in sub-clause (1) by inserting the words “within six months of coming into office” immediately after the words “County Government shall”;
- (b) in sub-clause (3) by inserting the words “county” immediately after the words “rights within the” appearing in paragraph (a); and
- (c) in sub-clause (4) by inserting the words “for free or” immediately after the words “goods and services” appearing in paragraph (i) .

CLAUSE 19**THAT** clause 19 of the Bill be amended in sub-clause (3) by inserting the words “and any other criteria that it may publish in the Gazette” at the end of the clause.**CLAUSE 20****THAT** clause 20 of the Bill be amended by deleting paragraph (b) of sub-clause 2 and substituting therefor the following new sub-clause-

- (b) in the case of conditional grants, disbursed directly to the counties and managed on behalf of the National Government by the respective County Government.

NEW CLAUSE**THAT** the Bill be amended by inserting the following new clause immediately after clause 26-

Transition

- 27** (1) Every county government with a county integrated development plan which took effect prior to the commencement of this Act, shall within six months after the commencement of this Act, amend its county integrated development plan to bring it into conformity with this Act.

No. 17 of
2012

- (2) The procedure set out under section 112 of the County Governments Act shall apply to the process of amendment of a county integrated development plan under subsection (1).

FIRST SCHEDULE

That the First Schedule to the Bill be amended in the heading by deleting the words “SOCIAL AND ECONOMIC” and substituting therefor the words “ECONOMIC AND SOCIAL”.

CLAUSE 2

THAT clause 2 of the Bill be amended -

- (a) in the definition of the expression ‘subsidy programme’ by deleting the words “limited capacity” appearing immediately after the words “persons with” and substituting therefore the words “in need”;
- (b) by deleting the definition of the expression “persons with limited capability” and substituting therefor the following new definition-

“persons in need” means a person who in spite of having a competent social support system, is unable to produce or purchase essential goods and services in adequate quantities and quality for short or extended periods of time; and

- (c) by deleting the definition of the expression “vulnerable persons” and substituting therefor the following new definition-

“vulnerable persons” include women, older members of society, persons with disabilities, children including infants, school going children, youth, members of minority or marginalised communities, members of particular ethnic, religious or cultural communities, pregnant and nursing mothers, internally displaced persons and victims of conflict, sick persons with chronic diseases such as HIV/AIDS, persons living in precarious livelihood situations in rural areas, marginalised populations in urban areas, groups at risk of social marginalisation and discrimination and any other group that may be identified from time to time.

TITLE

THAT the title to the Bill be amended by deleting the word “and” appearing immediately after the word “Human Dignity” and substituting therefor the word “in”.

CLAUSE 1

THAT clause 1 of the Bill be amended by deleting the word “and” appearing immediately after the word “Dignity” and substituting therefor the word “in”.

B. *THE PERSONS WITH DISABILITIES (AMENDMENT) BILL (SENATE BILL NO. 13 OF 2015)

(Sen. Godliver Omondi)

NOTICE is given that Senator Stewart Madzayo, the Chairperson of the Standing Committee on Labour and Social Welfare intends to move the following amendments to the Persons with Disabilities (Amendment) Bill, Senate Bills No. 13 of 2015, at the Committee Stage-

Clause 3

THAT clause 3 of the Bill be amended-

(a) in subclause (1) of the proposed new section 2C by deleting paragraph (b) and substituting therefor the following new paragraph-

(b) two persons, one man and one woman, having knowledge and experience in matters relating to persons with disabilities, nominated by organizations representing persons with disabilities, in such manner as the county executive committee member may determine, and appointed by the Governor by notice in the *Gazette*;

(b) in the introductory clause of paragraph (b) of the proposed new section 2D by inserting the words "residing within the county" immediately after the words "of persons with disabilities";

(c) in the proposed new section 2F by inserting the following new subclauses immediately after subclause (2)-

(3) A member proposed to be removed under subsection (1)(f) shall be informed of the grounds of the proposed removal and shall be given an opportunity to be heard on the grounds of removal.

(4) The Governor shall be bound by the recommendation of the Committee under subsection 2(b).

Clause 4

THAT the Bill be amended by deleting clause 4 and substituting therefor the following new clause-

Amendment 4. Section 4 of the principal Act be amended-

of section 4 (a) in subsection (1)-

of No. 14 of (i) by deleting paragraph (a) and substituting
2013. therefor the following new paragraph-

(a) not more than four persons nominated in a manner approved by the Minister, by organizations representing persons with various categories of disabilities, at least one of whom shall be from a rural-based organisation;

...../ **Amendments**

(ii) by deleting paragraph (b);

(iii) by deleting paragraph (c) and substituting therefor the following new paragraphs-

(ca) the Principal Secretary in the Ministry responsible for matters relating to labour and social welfare or an alternate designated in writing;

(cb) the Principal Secretary in the Ministry responsible for matters relating to education or an alternate designated in writing;

(cc) the Principal Secretary in the Ministry responsible for matters relating to health or an alternate designated in writing;

(iv) by deleting paragraph (d); and

(v) by deleting paragraph (g);

(b) by inserting the following new subsections immediately after subsection (1)-

(1A) The members nominated under subsection (1)(a) shall equitably represent the types of disabilities within the country.

(1B) The Council may co-opt not more than two members to sit in the Council, whose knowledge and skills are found necessary for the performance of the functions of the Council, and who shall have no right to vote.

(1C)A member co-opted under section subsection (1B) shall serve for a specified period as may be determined by the Council.

C. *THE BASIC EDUCATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 35 OF 2014)**

(Senate Majority Leader)

NOTICE is given that Sen. Daniel Karaba, the Chairperson to the Standing Committee on Education, intends to move the following amendments to the Basic Education (Amendment) Bill, 2014, at the Committee Stage-

...../ **Amendments**

CLAUSE 4

THAT clause 4 of the Bill be amended in the proposed new section 20-

(a) in sub-clause (1) by-

- (i) deleting paragraph (a) and substituting therefor the following new paragraph-
 - (a) the county commissioner who shall be the chairperson of the Board;
- (ii) deleting paragraph (d);
- (iii) deleting paragraph (i); and
- (iv) deleting paragraph (k) and substituting therefore the following new paragraph-
 - (k) one person jointly nominated by the Primary School Heads Teachers' Association and the Secondary School Principals' Association.

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause-

(2) In appointing a person as a member of the County Education Board, the Cabinet Secretary shall-

(a) observe the principles of-

- (i) gender equity;
- (ii) regional, ethnic and religious balance;
- (iii) transparency;
- (iv) openness;
- (v) competitiveness; and
- (vi) equal opportunities for persons with disability; and

(b) ensure that persons appointed meet the requirements of Chapter six of the Constitution.

(c) in sub-clause (4) by deleting the words "Member of Parliament" appearing at the beginning of the sub-clause and substituting therefor the words "Senator and Women Representative".

CLAUSE 5

THAT clause 5 of the Bill be amended-

(a) in the proposed new section 25A-

- (i) in sub-clause (2) by deleting paragraph (h) and substituting therefor the following new paragraph-

...../ ***Amendments***

(h) one person jointly nominated by the Primary School Head Teachers' Association and the Secondary School Principals' Association;

(ii) by deleting sub-clause (3) and substituting therefor the following sub-clause-

Education (3) In appointing a person as a member of the Sub-County Board, the Cabinet Secretary shall-

(a) observe the principles of-

(i) gender equity;

(ii) regional, ethnic and religious balance;

(iii) transparency;

(iv) openness;

(v) competitiveness; and

(vi) equal opportunities for persons with disability; and

meet the (b) ensure that the persons appointed under sub-section (1)

requirements of Chapter six of the Constitution.

(b) in the proposed new section 25B-

(i) deleting the words " village polytechnic" appearing immediately after the words "private youth" in paragraph (e) and substituting therefor the words "vocational centers";

(ii) by deleting paragraph (g) and substituting therefor the following new paragraph-

(g) facilitate the registration of basic education institutions and for that purpose, make such recommendation to the County Education Board as it considers necessary;

CLAUSE 6

THAT clause 6 the Bill be amended in the proposed new sub-section (4) by inserting the words "in consultation with the Council of Governors" immediately after the words "Teachers Service Commission".

CLAUSE 7

THAT clause 7 of the Bill be amended-

(a) by inserting the following new paragraph immediately after paragraph (a)-

- (aa) deleting the words “at their own expenses” appearing immediately after the words “chaplains”.
- (b) in paragraph (c) by deleting the new proposed paragraph (f) and substituting therefor the following new paragraph-
- (f) to make recommendations in consultation with the Teachers Service Commission on persons appointed or deployed as head teachers, principals and their deputies in public sponsored institutions.

CLAUSE 13

THAT the Bill be amended by deleting clause 13 and substituting therefor the following new clause-

Amendment of **13.** Section 56(1) of the Principal Act is amended-
section 56 of
No.14 of 2013.

- (1) by deleting paragraph (a) and substituting therefor the following new paragraph-
- (a) three people elected to represent parents of the pupils in the school or from the local community;
- (2) by inserting the following new paragraph immediately after paragraph (f)-
- (fa) one person co-opted from the Parents Teachers Association;

NEW CLAUSE 13A

Amendment of 13-
section 94 of **13A.** Section 94 of the Principal Act is amended by inserting
No.14 of 2013. the following new sub-section immediately after sub-section

- (1)
- (a) inserting the following new subsection immediately after subsection (1)-
- (1A) The National Council for Nomadic Education in Kenya shall be a body corporate with perpetual succession and common seal and shall, in its corporate name, be capable of-
- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of moveable and immoveable property;
- (c) entering into contract; and
- (d) undertaking or performing all other activities necessary for the proper performance of its functions under this Act that may lawfully be done or performed by a body corporate.

CLAUSE 2

THAT clause 2 of the Bill be amended by deleting paragraph (b) and substituting therefor with the following new paragraph-

(b) by deleting the definition “manager” and substituting therefor the following new definition-

“manager”, means a person appointed by the proprietor with the approval of the Cabinet Secretary to coordinate and oversee the implementation of education policies and guidelines in an institution of basic education and training and may perform delegated teacher management functions.’

APPENDIX

STATEMENTS TO BE ISSUED

- a) The Chairperson, Standing Committee on Education to issue a statement on Higher Education Loans Board loans advanced to University students (Sen. Martha Wangari);
- b) The Chairperson, Sessional Committee on Devolved Government to issue a statement on the role of the Senate and its engagement with the County Governments (Sen. (Dr.) Agnes Zani);
- c) The Chairperson, Standing Committee on Labour and Social Welfare to issue a statement on collection of levies by MCSK and KAMP-PRISK from business premises and public transport vehicles for playing music (Sen. Daisy Kanainza);
- d) The Chairperson, Standing Committee on Education to issue a statement on use of corporal punishment in learning institutions (Sen. Catherine Mukiite);
- e) The Chairperson, Standing Committee on Agriculture, Livestock and Fisheries to issue a statement regarding farmers' preparedness for the planting season and supply of fertilizer and other farm inputs to farmers (Sen. Daniel Karaba);
- f) The Chairperson, Standing Committee on Education to issue a statement regarding relocation of the Kenya Technical Training College (Sen. Moses Wetang'ula);
- g) The Chairperson, Standing Committee on National Security and Foreign Relations to issue a statement regarding the status of the National Security Communication System (Sen. Moses Kajwang').
