



**REPUBLIC OF KENYA**

**ELEVENTH PARLIAMENT – FIFTH SESSION**

**THE SENATE**

**VOTES AND PROCEEDINGS**

**TUESDAY, JUNE 13, 2017 AT 2.30 P.M.**

1. The Senate assembled at thirty minutes past Two O'clock.
2. The Proceedings were opened with prayer said by the Speaker.
3. **COMMUNICATIONS FROM THE CHAIR**

The Speaker issued the following Communications from the Chair:-

**a) Status of the Division of Revenue (No. 2) Bill (National Assembly Bill No. 22 of 2017)**

“Honourable Senators,

You will recall that on 9<sup>th</sup> June, 2017 during a Special Sitting of the Senate, I reported that, pursuant to standing order 40 (3) and (5), I had received a Message from the Speaker of the National Assembly regarding the passage, by the National Assembly, of the Division of Revenue (No. 2) Bill (National Assembly Bill No. 22 of 2017). Pursuant to standing order 148 which requires that a Bill which originates in the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading in accordance with standing order 129, I consequently directed that the Bill be listed for First Reading in the Order Paper of Friday, 9<sup>th</sup> June, 2017.

The Bill had been published on 12<sup>th</sup> May, 2017, introduced in the National Assembly by way of First Reading on 17<sup>th</sup> May, 2017 and passed on 30<sup>th</sup> May, 2017.

You will recall that by way of a point of order, the Senator for Homabay County raised an objection to the Senate entertaining the Bill, claiming that it was the same Division of Revenue Bill (National Assembly Bill No. 2 of 2017), which had been published on 6<sup>th</sup> January, 2017 and introduced in the National Assembly, by way of First Reading, on 25<sup>th</sup> January, 2017 and

asserted therefore that the Bill could not be introduced **within six months** of the previous Bill having been negated by virtue of the failure of the Mediation Committee to raise a quorum and consider the Bill within allowed timelines. Sen. Kajwang's position was supported by the Senator for Kakamega County (Sen. (Dr.) Boni Khalwale), who also expressed concern over the inability of the Mediation Committee to table a report on the Bill.

Honourable Senators,

The House may wish to note that the particular Bill referred to by Sen. Kajwang, the Division of Revenue Bill (National Assembly Bill No. 2 of 2017), was passed by the Assembly on 14<sup>th</sup> February, 2017, and referred to the Senate for its concurrence, pursuant to Article 110(3) of the Constitution, whereupon, the Bill was introduced by way of First Reading on 16<sup>th</sup> February, 2017, and passed, **with amendments**, by the Senate on 1<sup>st</sup> March, 2017.

Honourable Senators will also recall that the National Assembly declined to agree with the Senate amendments to the Bill, following which the Bill was referred to a mediation committee, pursuant to Article 112(2)(b) of the Constitution. The mediation committee was constituted on **30<sup>th</sup> March, 2017**.

Under Article 113 of the Constitution, as read with the standing orders of the two Houses, the Mediation Committee had a deadline of **30<sup>th</sup> April, 2017**, to agree on a version of the Bill that would be passed by both Houses. The Committee did not agree on a mediated version of the Bill by the said deadline.

Consequently, pursuant to Article 113(4) of the Constitution, as read with standing order 149(6) of the National Assembly and standing order 154(6) of the Senate, the Bill was **defeated**.

The present Bill, namely, the Division of Revenue (No. 2) Bill (National Assembly Bill No. 22 of 2017) was published on 12<sup>th</sup> May, 2017, and introduced in the National Assembly on 17<sup>th</sup> May, 2017. As aforementioned, the Bill was passed by the Assembly on 30<sup>th</sup> May, 2017, and referred to the Senate for concurrence.

Honourable Senators,

The applicable provision, upon which the objection of Sen. Kajwang was anchored, is Standing order 146(1), which provides that a Bill, the Second Reading or Third Reading of which has been rejected '*may be introduced again in the next Session or after the lapse of six months in the same Session, but subject to fresh publication as provided in Standing Order 117 (Introduction of Bills)*'. It is noteworthy that the Bill passed through the Second and Third Reading stages in the Senate on 23<sup>rd</sup> February, 2017 and 1<sup>st</sup> March, 2017, respectively. Neither the Second Reading nor the Third Reading of the Bill was rejected.

Further, while the captioned provision would apply to a Bill negated at Second or Third Reading stages, there is no similar provision barring re-introduction of a Bill that lapsed at the mediation committee stage, whether by reason of a failed mediation committee process or where a mediation Committee report is negated.

Honourable Senators,

In the present case, even if the text of the Division of Revenue (No. 2) Bill (National Assembly Bill No. 22 of 2017) is the same or substantially the same as the text of the Division of Revenue Bill (National Assembly Bill No. 2 of 2017) which lapsed, the former is a new Bill altogether and there exists no legal bar to its introduction in the Senate.

I therefore direct that the Senate proceeds to dispose the Bill as indicated in the Order Paper.

I thank you.”

**b) Visiting staff from Nyamira, Narok and Siaya County Assemblies**

“Honorable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery this afternoon, of visiting Staff from Nyamira, Narok and Siaya County Assemblies.

I request each member of the delegation to stand when called out so that they may be acknowledged in the Senate tradition.

They are:

- |                        |                           |
|------------------------|---------------------------|
| 1. Dorah K. Siro       | - Clerk Assistant         |
| 2. Felis K. Osoro      | - Clerk Assistant         |
| 3. Felisters B. Otware | - Communication Officer   |
| 4. Mary K. Nyambega    | - Communication Officer   |
| 5. William Musekenya   | - Clerk Assistant         |
| 6. Sanoe Stephen       | - Clerk Assistant         |
| 7. Francis Rakewa      | - Principal Legal Counsel |
| 8. Mercy Ooga          | - Senior Legal Counsel    |
| 9. Felix Oketch        | - Senior Legal Counsel    |
| 10. Wickly Otonde      | - Legal Clerk             |

On behalf of the Senate and on my own behalf, I welcome them to the Senate and I wish them well for the remainder of their stay.

I thank you.”

4. **PAPERS LAID**

The following papers were laid on the Table of the Senate:-

- 1) Report of the Procedure and Rules Committee on Periodic Review of the Senate Standing Orders;

*(Sen. (Dr.) Wilfred Machage, on behalf of the Chairperson,  
Procedure and Rules Committee)*

- 2) The National Slum Upgrading and Prevention Policy (Sessional Paper No.2 of March 2016);

*(Vice Chairperson, Standing Committee on Roads and Transportation)*

- 3) The National Land Commission (NLC) 2015/2016 Annual Report, Themed; Devolving Land Governance.

*(Vice Chairperson, Standing Committee on Land and Natural Resources)*

5. **NOTICE OF MOTION** – (Sen. (Dr.) Wilfred Machage on behalf of the Chairperson, Procedure and Rules Committee)

**THAT**, pursuant to Standing Orders 249 and 250, the Senate approves the Report of the Procedure and Rules Committee on Periodic Review of the Senate Standing Orders laid on the Table of the Senate on Tuesday, 13<sup>th</sup> June, 2017 and that the amended Standing Orders take effect at the commencement of the 12<sup>th</sup> Parliament.

6. **THE DIVISION OF REVENUE (NO. 2) BILL (NATIONAL ASSEMBLY BILL NO. 22 OF 2017)**

Order for Second Reading read;

Motion made and Question proposed;

**THAT**, the Division of Revenue (No. 2) Bill (National Assembly Bill No. 22 of 2017) be now read a Second Time.

*(Senate Majority Leader)*

Debate arising;

Rising in his place on a Point of Order, the Senator for Migori County (Sen. (Dr.) Machage) claimed to move that “the Mover be now called upon to reply”;

And the Speaker acceding to the claim;

Question put and agreed to.

The Chairperson of the Standing Committee on Finance, Commerce and Budget (Sen. Billow Kerrow) thereupon replied, on behalf of the Mover;

The Speaker directed that electronic voting be taken pursuant to Standing Order 74 (1) and that the Division Bell be rung for two minutes;

After the expiry of two minutes, and there being the requisite quorum of the Senate, the Speaker directed that the bar be drawn and the doors be locked and requested Senators to log-in for electronic voting;

The Speaker put the Question and directed Senators to cast their votes by pressing either the **“Yes”**, **“No”** or **“Abstain”** button;

The results of the Division were as follows-

AYES - 1                      NOES - 12                      ABSTENTIONS - 0

**AYES**

1. Mutahi Kagwe

**NOES**

1. Sen. Billow Adan Kerrow
2. Sen. Chiaba Abu Mohamed
3. Sen. Hargura Godana
4. Sen. Kajwang' Moses
5. Sen. Karaba Dickson Daniel
6. Sen. Kimani Paul Wamatangi
7. Sen. Kindiki Kithure
8. Sen. Lesan Wilfred Rotich
9. Sen. Leshore Sammy Prisa
10. Sen. Machage Wilfred Gisuka
11. Sen. Mugo Beth Wambui – on behalf of Nairobi City County Delegation
12. Sen. Nyong'o Peter Anyang'.

\* The following Senators were present in the Chamber but could not vote because they did not have voting rights pursuant to Article 123 of the Constitution and standing order 71-

1. Sen. Sijeny Judith
2. Sen. (Dr.) Zani Agnes
3. Sen. Mukiite Catherine.

Question negatived.

7. **COMMITTEE OF THE WHOLE**  
**THE COUNTY ASSEMBLY SERVICES BILL (SENATE BILL NO. 27 OF 2014)**  
(Chairperson, Standing Committee on Legal Affairs and Human Rights)

*(Consideration of National Assembly Amendments)*  
*(Resumption of Debate interrupted on Wednesday, 1<sup>st</sup> March, 2017*  
*(Division)*

Order deferred.

8. **COMMITTEE OF THE WHOLE**  
**THE COUNTY STATUTORY INSTRUMENTS BILL (SENATE BILL NO. 10 OF 2015)**

(Sen. Stephen Sang)

*(Resumption of Debate interrupted on Thursday, 16th February, 2017)*  
*(Division)*

Order deferred.

9. **COMMITTEE OF THE WHOLE**  
**THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILLS NO. 8 OF 2015)**

(Sen. Omar Hassan)

*(Resumption of Debate interrupted on Tuesday, 15<sup>th</sup> November, 2016)*  
*(Division)*

Order deferred.

10. **COMMITTEE OF THE WHOLE**  
**THE PERSONS WITH DISABILITIES (AMENDMENT) BILL (SENATE BILLS NO. 13 OF 2015)**

(Sen. Godliver Omondi)

*(Resumption of Debate interrupted on Tuesday, 15<sup>th</sup> November, 2016)*  
*(Division)*

Order deferred.

11. **COMMITTEE OF THE WHOLE**  
**THE NATIONAL CEREALS AND PRODUCE BOARD (AMENDMENT) BILL (SENATE BILL NO. 15 OF 2015)**

(Sen. Zipporah Kittony)

*(Resumption of Debate interrupted on Wednesday, 16<sup>th</sup> November, 2016)*  
*(Division)*

Order deferred.

12. **COMMITTEE OF THE WHOLE**

Order for Committee read;

**IN THE COMMITTEE**

(The Acting Chairperson of Committees - (Sen. (Dr.) Machage) – in the Chair)

**Consideration of National Assembly Amendments to the County Early Childhood Education Bill (Senate Bill No. 32 of 2014)**

**National Assembly amendment to Clause 4**

Motion made and Question proposed;

**“THAT** clause 4 of the Bill is amended in paragraph (a) by inserting the word “basic” immediately after the word “compulsory”

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 4 - vote deferred

**National Assembly amendment to Clause 8**

Motion made and Question proposed;

**“THAT** clause 8 of the Bill is amended-

- (a) in subsection (1) by deleting the words “child fails to attend an education centre, the principal” and substituting therefor the words “pupil admitted in an education centre fails to attend the education centre, the head teacher”
- (b) by deleting the word “child” wherever it appears and substituting therefor the word “pupil”

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 8 - vote deferred

**National Assembly amendment to Clause 9**

Motion made and Question proposed;

**“THAT** clause 9 of the Bill is amended —

- (a) in sub-clause (1) by deleting the words “establish a mechanism for the identification of children with special needs and”;
- (b) by deleting sub-clause 2 and substituting therefor the following new sub-clause—
  - (2) In performing the functions under subsection (1) the county executive committee member shall—
    - (a) ensure that there are adequate learning institutions and facilities for children with disabilities; and
    - (b) put in place necessary facilities to assist children with disabilities to access to affordable assistive aids and devices.
- (c) by deleting sub-clause 3.

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 9 - vote deferred

**National Assembly amendment to Clause 10**

Motion made and Question proposed;

**“THAT** clause 10 of the Bill is amended—

- (a) by deleting the words “including education centers for children with special needs”; and
- (b) by inserting the words “of the Constitution” immediately after the words “Article 53”.

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 10 -      vote deferred

**National Assembly amendment to Clause 11**

Motion made and Question proposed;

**“THAT** clause 11 of the Bill is amended—

- (a) in sub-clause (1) by—
  - (i) Deleting the word “persons” appearing in paragraph (a) and substituting therefor the words “education centre”;
  - (ii) Deleting paragraph (b);
- (b) In sub clause (2) by deleting the words “upon payment of such a fee as the Registrar shall determine”.

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 11 -      vote deferred

**National Assembly amendment to Clause 12**

Motion made and Question proposed;

**“THAT** clause 12 of the Bill is amended by—

- (a) deleting the word “Part “ and substituting therefor the word “Act”; and
- (b) renumbering the existing provision as subclause (1) and inserting the following new subclause immediately after the proposed new subclause (1)  
—

“(2) A person who fails to comply with subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years, or to both.”

*(Chairperson, Standing Committee on Education)*



National Assembly amendment to Clause 12 - vote deferred

**National Assembly amendment to Clause 13**

Motion made and Question proposed;

**“THAT** clause 13 of the Bill is amended in sub-clause (2)—

- (a) by deleting the word “institution” appearing in paragraph (b) and substituting therefor the word “education centre”;
- (b) by deleting the word “institution” appearing in paragraph (c) and substituting therefor the word “education centre”; and
- (c) by deleting the word “institution” appearing in paragraph (d) and substituting therefor the word “education centre”.

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 13 - vote deferred

**National Assembly amendment to Clause 14**

Motion made and Question proposed;

**“THAT** clause 14 of the Bill is amended by deleting the expression “71” and substituting therefor the expression “70”

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 14 - vote deferred

**National Assembly amendment to Clause 15**

Motion made and Question proposed;

**“THAT** clause 15 of the Bill is amended in subclause (3) by deleting the word “a private” appearing in paragraph (b) and substituting therefor the word “an”.

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 15 - vote deferred

**National Assembly amendment to Clause 16**

Motion made and Question proposed;

**“THAT** clause 16 of the Bill is amended —

- (a) in sub-clause (2) by deleting the words “ with the consent of the principal” appearing in paragraph (b) and substituting therefor the words” in the

opinion of the department, a shorter time is necessary”;

- (b) in sub-clause (4) by deleting the word “principal” and substituting therefor the word “head teacher” ;and
- (c) in sub-clause (5) by deleting the word “a private” appearing in paragraph (a)and substituting therefor the word “an”.

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 16 - vote deferred

**National Assembly amendment to Clause 17**

Motion made and Question proposed;

“**THAT** clause 17 of the Bill is amended —

- (a) in the opening statement by deleting the word “centre” appearing immediately after the word “such” and substituting therefor the word “institution”;
- (b) in paragraph (e) by deleting the word “education” ;and
- (c) in paragraph (f) by deleting the word “principal” and substituting therefor the word “head teacher”

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 17 - vote deferred

**National Assembly deletion of Clause 19**

Motion made and Question proposed;

“**THAT** clause 19 of the Bill is deleted.”

*(Chairperson, Standing Committee on Education)*

National Assembly deletion of Clause 19 - vote deferred

**National Assembly amendment to Clause 23**

Motion made and Question proposed;

“**THAT** clause 23 of the Bill is amended—

- (a) in sub-clause (1) by inserting the word “County Education” immediately before the word “Board”;
- (b) in sub-clause (2) by—
  - (i) Inserting the word “County Education” immediately before the word

“Board”;

- (ii) Deleting the word “ principal” appearing in paragraph (a) and substituting therefor the word “head teacher”;
  - (iii)Deleting the word “ principal” appearing in paragraph (b) and substituting therefor the word “head teacher”;
  - (iv)deleting the word “children” appearing in paragraph(b) and substituting therefor the term “pupils”
- (c) in sub-clause (3) by inserting the word “County Education” immediately before the word “Board”;

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 23 -      vote deferred

**National Assembly amendment to Clause 24**

Motion made and Question proposed;

**“THAT** clause 24 of the Bill is amended—

- (a) in the marginal note by deleting the word “children” and substituting therefor the word “pupils”
- (b) in the opening statement by deleting the word “children” and substituting therefor the word “pupils”
- (c) in subclause (2) by—
  - (i) inserting the word “County Education” immediately before the word “Board”;
  - (ii) deleting the word “principal of the centre” appearing in paragraph (a) and substituting therefor the word “head teacher”;
- (d) in subclause (3) by-
  - (i) inserting the word “County Education” immediately before the word “Board”;
  - (ii) by deleting the word “children” appearing in paragraph (a) and substituting therefor the word “pupils”
  - (iii) deleting the word “principal” appearing in paragraph (b) and substituting therefor the word “head teacher”;

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 24 -      vote deferred

**National Assembly amendment to Clause 25**

Motion made and Question proposed;

**“THAT** clause 25 of the Bill is amended—

- (a) in sub-clause (1) by—
  - (i) deleting the words “by it”
  - (ii) inserting the word “County Education” immediately before the word “Board” appearing in subparagraph (a) (ii);
  - (iii) by deleting the word “ principal” appearing in paragraph (b) and substituting therefor the word “head teacher”;
- (b) in subclause (2) by—
  - (i) inserting the word “County Education” immediately before the word “Board” wherever it appears”;
  - (ii) deleting the word “officer” appearing in paragraph (a) and substituting therefor the word “committee”
  - (iii) deleting the word “ principal” appearing in paragraph (b) and substituting therefor the word “head teacher”;

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 25 - vote deferred

**National Assembly amendment to Clause 27**

Motion made and Question proposed;

**“THAT** clause 27 of the Bill is amended in subclause (2) by deleting the words “or to any other private status unless the county executive committee member has consulted with the county Education Board and has approved such conversion”.

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 27 - vote deferred

**National Assembly amendment to Clause 28**

Motion made and Question proposed;

**“THAT** clause 28 of the Bill is amended—

- (a) in sub-clause (1) by deleting the word “or” and substituting therefor the word “including a”;
- (b) in sub-clause (5) by deleting the words “secular” and substituting therefor the word “as set and approved by the Kenya Institute of Curriculum

Development”.

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 28 - vote deferred

**National Assembly amendment to Clause 29**

Motion made and Question proposed;

“**THAT** clause 29 of the Bill is amended by deleting subclause (3).

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 29 - vote deferred

**National Assembly amendment to Clause 30**

Motion made and Question proposed;

“**THAT** clause 30 of the Bill is amended—

(a) in subclause (1) by—

- (i) deleting the word “children” appearing in paragraph (a) and substituting therefor the word “pupils”;
- (ii) deleting paragraph (c) and substituting therefor the following new paragraph—

(c) two persons with experience in matters of nutrition and social work relating to early childhood development and education nominated by the County Governor on the recommendation of the County Education Board;

(iii) inserting the following new paragraph immediately after paragraph (d) —

(da) one person to represent children with disabilities

(db) the head teacher of the education centre, who shall be an ex officio member.

(b) in subclause (3) by deleting the word “principal” and substituting therefor the word “head teacher”

(c) in subclause (4) by inserting the word “of Management” immediately after the word “Board” where it appears at the first instance and third instance”;

(d) in subclause (5) by inserting the word “of the Board” immediately after the word “committee”;

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 30 - vote deferred

**National Assembly amendment to Clause 31**

Motion made and Question proposed;

**“THAT** clause 31 of the Bill is amended—

- (a) by inserting the word “of management” immediately after the word “Board” in the opening statement;
- (b) in paragraph (a) by deleting the word “the said” and substituting therefore the word “these”;
- (c) in paragraph (d) by deleting the word “ to” appearing immediately after the word “equip”; and
- (d) in paragraph (h) by inserting the word “of” immediately after the word “implementation”.

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 31 - vote deferred

**National Assembly amendment to Clause 32**

Motion made and Question proposed;

**“THAT** clause 32 of the Bill is amended by inserting the word “of management” immediately after the word “Board”.

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 32 - vote deferred

**National Assembly amendment to Clause 33**

Motion made and Question proposed;

**“THAT** clause 33 of the Bill is amended—

- (a) by deleting in sub-clause (1) and substituting therefor the following new sub-clause—

“(1) There shall be a Parents Teachers Association for every public and private school consisting of—

- (a) every parent with a child in the education centre; and
  - (b) a representative of the teachers in the education centre
- (b) inserting the following new sub clauses immediately after the sub-clause (1)  
—
  - (1A) There shall be an Executive Committee of the Parents Teachers

Association consisting of representatives of parents with children in each level within the education centre and a teacher.

(1B) The members of the Executive Committee of Parents Teachers Association shall be elected during an annual general meeting of parents and teachers.

(1C) The Parents Teachers Association shall, at its first meeting, elect a Chairperson from amongst the persons elected under subsection (3).

(1D) The Chairperson of the Parents Teachers Association shall be co-opted to the Board of Management.

(1E) The head teacher shall be the Secretary to the Parents Teachers Association.

(c) in sub-clause (2) by—

- (i) deleting the word “children” wherever it appears and substituting therefor the word “pupils”;
- (ii) deleting the word “recommend” in paragraph (e) and substituting therefor the word “approve”

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 33 - vote deferred

**National Assembly amendment to Clause 35**

Motion made and Question proposed;

**“THAT** clause 35 of the Bill is amended—

- (a) in the opening statement by deleting the words “committee or”;
- (b) deleting the word “child” wherever it appears and substituting therefor the word “pupil”;
- (c) deleting the word “children” wherever it appears and substituting therefor the word “pupils”;
- (d) by deleting paragraph (f).

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 35 - vote deferred

**National Assembly amendment to Clause 36**

Motion made and Question proposed;

**“THAT** clause 36 of the Bill is amended—

- (a) in sub-clause (1) —

- (i) by deleting the words “or caregiver” the opening statement;
- (ii) in paragraph (d) by deleting the words “ and a medical certificate evidencing soundness of mind”;
- (iii) by inserting the following new paragraph immediately after paragraph (d)  
—
  - (e) a medical certificate evidencing soundness of mind;
- (b) in sub-clause (2)—
  - (i) by deleting the words “principal or” the opening statement;
  - (ii) by inserting the words “and has at least two years’ experience in matters of early childhood education” immediately after the word “development” in paragraph (a)
- (c) in sub-clause (3) by deleting the words “Each County Government” and substituting therefor the words “The Teachers Service Commission”.
- (d) in sub-clause (4) by deleting the words “County Government” and substituting therefor the words “Teachers Service Commission”.

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 36 - vote deferred

**National Assembly amendment to Clause 38**

Motion made and Question proposed;

“**THAT** clause 38 of the Bill is amended by deleting the words “in consultation with the Council of Governors” in the opening statement

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 38 - vote deferred

**National Assembly amendment to Clause 39**

Motion made and Question proposed;

“**THAT** clause 39 of the Bill be amended in sub-clause (2) by deleting paragraphs (b) and (c)

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 39 - vote deferred

**National Assembly amendment to Clause 41**

Motion made and Question proposed;



**“THAT** clause 41 of the Bill is amended—

- (a) in sub-clause (2) by deleting the word “principal” wherever it appears and substituting therefor the word “head teacher”
- (b) in sub-clause (3) by—
  - (i) deleting the word “principal” and substituting therefor the word “head teacher”;
  - (ii) inserting the words “passport or any other recognized identification document” immediately after the words “birth certificate”;
- (c) by deleting sub-clause (4).

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 41 -      vote deferred

**National Assembly deletion of Clause 43**

Motion made and Question proposed;

**“THAT** clause 43 of the Bill is deleted.”

*(Chairperson, Standing Committee on Education)*

National Assembly deletion of Clause 43 -      vote deferred

**National Assembly amendment to Clause 44**

Motion made and Question proposed;

**“THAT** clause 44 of the Bill is amended—

- (a) by deleting sub-clause (1);
- (b) in sub-clause (2) by deleting the word “child” and substituting therefor the word “pupil”.

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 44 -      vote deferred

**National Assembly amendment to Clause 46**

Motion made and Question proposed;

**“THAT** clause 46 of the Bill is amended—

- (a) in subsection (2) by deleting the words “county executive committee member” and substituting therefor the word “relevant stakeholders including the national and county quality assurance bodies”;

- (b) in subsection (4) by deleting the words “county executive committee member” and substituting therefor the words “Kenya Institute of Curriculum Development”;
- (c) by deleting sub-clause (5);
- (d) in sub-clause (6) by deleting the words “county executive committee member” and substituting therefor the word “Kenya Institute of Curriculum Development”

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 46 - vote deferred

**National Assembly deletion of Clause 47**

Motion made and Question proposed;

**“THAT** clause 47 of the Bill is deleted.”

*(Chairperson, Standing Committee on Education)*

National Assembly deletion of Clause 47 - vote deferred

**National Assembly amendment to Clause 48**

Motion made and Question proposed;

**“THAT** clause 48 of the Bill is amended—

- (a) by deleting subsection (2)(b);
- (b) by deleting subsection (3);
- (c) by deleting subsection (4);
- (d) by inserting the following new sub clause immediately after sub-clause (2) —
  - (2A) A head teacher of a public education centre who –
    - (a) imposes a charge or causes any parent or guardian to pay tuition fees commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months.
    - (b) refuses a child admitted in an education centre to attend the education centre because of failure by the parent or guardian to pay any tuition fees or charges imposed on the child, commits an offence and shall be liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding twelve months or both.

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 48 - vote deferred

**National Assembly amendment to Clause 49**

Motion made and Question proposed;

“**THAT** clause 49 of the Bill is amended—

- (a) in sub-clause (1) by—
  - (i) deleting the word “and” appearing after the word “materials” in paragraph (a);
  - (ii) inserting the word “and” immediately after the word “materials” in paragraph (b);
- (b) deleting sub-clause (2);
- (c) deleting sub-clause (3); and
- (d) deleting sub-clause (4).

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 49 -      vote deferred

**National Assembly deletion of Clause 51**

Motion made and Question proposed;

“**THAT** clause 51 of the Bill is deleted.”

*(Chairperson, Standing Committee on Education)*

National Assembly deletion of Clause 51 -      vote deferred

**National Assembly amendment to Clause 52**

Motion made and Question proposed;

“**THAT** clause 52 of the Bill is amended by deleting the words “County Education Board” and substituting therefor the words “Teachers Service Commission”

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 52 -      vote deferred

**National Assembly amendment to Clause 55**

Motion made and Question proposed;

“**THAT** clause 55 of the Bill is amended—

- (a) in sub-clause (1) by inserting the words “County Education” immediately before the word “Board.
- (b) deleting sub-clause (3)
- (c) deleting sub-clause (4)
- (d) deleting sub-clause (5)
- (e) deleting sub-clause (6)

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 55 - vote deferred

**National Assembly deletion of Clause 56**

Motion made and Question proposed;

“**THAT** clause 56 of the Bill is deleted.”

*(Chairperson, Standing Committee on Education)*

National Assembly deletion of Clause 56 - vote deferred

**National Assembly amendment to Clause 59**

Motion made and Question proposed;

“**THAT** clause 59 of the Bill is deleted and substituted with the following new clause—

Interim accreditation

59. (1) The County Education Board may, in consultation with the County executive member grant to an applicant a certificate of interim accreditation where the County Education Board is not satisfied that that the education centre complies with the prescribed accreditation standards.

(2) An education centre to which a certificate of interim accreditation is issued under subsection (2) shall address areas of non-compliance within such a period as may be specified by the County Education Board not exceeding twelve months from the date on which the certificate is issued and on compliance, resubmit an application to the County Education Board for full accreditation.

(3) The certificate of interim accreditation shall be deemed to have expired if an education centre fails to meet the accreditation standards within the period specified by the County Education Board.

Grant of accreditation.

59A. (1)The County Education Board in consultation with the County executive member, may —

(a) grant to an applicant a certificate of accreditation upon satisfaction that the education centre complies with the prescribed accreditation standards and meets the requirements under this Act;

(b) reject the application.

(2) The certificate of accreditation shall be valid for a period of five years and renewable subject to the education centre meeting the prescribed conditions.

(3) The County Education Board may defer its decision on an application for accreditation and require the applicant to submit to it such additional information or take such measures as it may consider necessary.

Renewal of accreditation.

59B. (1) An education centre may make an application for renewal of its accreditation to the County Education Board in the prescribed form.

(2) An application for renewal of accreditation shall be submitted at least ninety days before the expiry of the certificate of accreditation.

(3) The County Education Board in consultation with the County executive member shall consider an application for renewal of accreditation

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 59 - vote deferred

**National Assembly amendment to Clause 60**

Motion made and Question proposed;

**“THAT** clause 60 of the Bill is amended in—

(a) the opening statement by deleting the words “under section 60”;

(b) paragraph (a) by deleting the words “throughout the period of accreditation”;

(c) paragraph (b) by deleting the words “section 48 and such further standards as may be determined by the Kenya Institute of Curriculum Development in consultation with the County Education Board” and substituting therefore the words “under section 47 and such further standards as may be determined under this Act”

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 60 - vote deferred

**National Assembly deletion of Clause 61**

Motion made and Question proposed;

**“THAT** clause 61 of the Bill is deleted.”

*(Chairperson, Standing Committee on Education)*

National Assembly deletion of Clause 61 - vote deferred

**National Assembly amendment to Clause 62**

Motion made and Question proposed;

**“THAT** clause 62 of the Bill is amended by deleting sub-clause (2).

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 62 - vote deferred

**National Assembly amendment to Clause 64**

Motion made and Question proposed;

**“THAT** clause 64 of the Bill is deleted and substituted with the following new Clause—

*Register of accredited education centres.*

64 (1) The County Education Board shall establish maintain a register of accredited education centers.

(2) The register established and maintained under subsection (1) shall be open to the public for inspection.

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 64 - vote deferred

**National Assembly amendment to Clause 65**

Motion made and Question proposed;

**“THAT** clause 65 of the Bill is amended —

(a) in the opening statement by inserting the words “in consultation with the Education Standards and Quality Assurance Council” immediately after the word “committee”; and

(b) in sub clause (2) by deleting the words “in consultation with the Education Standards and Quality Assurance Council” in paragraph (d)

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 65 - vote deferred

**National Assembly deletion of Clause 66**

Motion made and Question proposed;

“**THAT** clause 66 of the Bill is deleted.”

*(Chairperson, Standing Committee on Education)*

National Assembly deletion of Clause 66 - vote deferred

**National Assembly deletion of Clause 67**

Motion made and Question proposed;

“**THAT** clause 67 of the Bill is deleted.”

*(Chairperson, Standing Committee on Education)*

National Assembly deletion of Clause 67 - vote deferred

**National Assembly amendment to Clause 68**

Motion made and Question proposed;

“**THAT** clause 68 of the Bill is amended in—

(a) sub-clause (1) by deleting—

(i) paragraph (d); and

(ii) paragraph (e)

(b) sub-clause (4) by deleting the words “county executive committee member” and substituting therefor the words “Cabinet Secretary”.

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 68 - vote deferred

**National Assembly deletion of Clause 71**

Motion made and Question proposed;

“**THAT** clause 71 of the Bill is deleted.”

*(Chairperson, Standing Committee on Education)*

National Assembly deletion of Clause 71 - vote deferred

**National Assembly amendment to Clause 72**

Motion made and Question proposed;

**“THAT** clause 72 of the Bill is amended—

- (a) in sub-clause (2) by deleting the words “county executive committee member may, taking into account any policies, standards or regulations applying to all education centres prescribed by the Cabinet Secretary” and substituting therefor the words “Cabinet Secretary may”
- (b) by inserting the following new paragraph immediately after paragraph (f) —
- (fa) prescribe fees required to be paid under this Act;

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 72 -      vote deferred

**National Assembly amendment to Clause 74**

Motion made and Question proposed;

**“THAT** clause 74 of the Bill is amended—

- (a) in paragraph (a) by—
  - (i) by deleting subparagraph (i) and substituting therefor the following new subparagraph—
    - “(i) deleting the words “pre-primary education institutions and” and substituting therefor the word “early childhood education” in the definition of the word “basic education”
  - (b) inserting the following new paragraph immediately after paragraph (a)—
    - (aa) in section 4(g) by deleting the word “pre-primary” and substituting therefor the words “early childhood”.
  - (c) deleting paragraph (b) and substituting therefor the following new paragraph—
    - “in section 18(1) by deleting the word “pre-primary” and substituting therefor the words “early childhood”.
  - (d) inserting the following new paragraphs immediately after paragraph (b)—
    - (ba) in section 26(1) by deleting the word “preprimary” and substituting therefor the words “early childhood”.
  - (e) in paragraph (c) by inserting the words “and substituting therefor the words “early childhood” after the expression “Section (28)(2)(a)”.
  - (f) by inserting the following new paragraphs immediately after paragraph (c)—
    - (ca) in section 41 by deleting the word “pre-primary” appearing in paragraph



- (a) and substituting therefor the words “early childhood.”
- (g) in paragraph (d) by inserting the words “ and substituting therefor the words “early childhood” after the expression “Section 44(2)”.

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 44 - vote deferred

**National Assembly insertion of New Clause 20A**

Motion made and Question proposed;

“**THAT** the following new clause is inserted immediately after clause 20—  
Change of premises.

20A. (1) The head teacher of an education centre shall not change the location of the centre nor acquire additional premises for the purpose of running the education centre unless he or she has applied to, and obtained the approval of the County Education Board.

(2) In determining whether to grant approval of premises under subsection (1), the Board shall take into account the criteria specified under section 17.

(3) The head teacher of an education centre shall notify the County Education Board of any change in the location of the education centre including -

- (a) the acquisition of premises that are in addition to its current premises; or
- (b) the relocation of the education centre to a different premises from that currently occupied by the education centre.

*(Chairperson, Standing Committee on Education)*

National Assembly insertion of New Clause 20A - vote deferred

**National Assembly insertion of New Clause 21A**

Motion made and Question proposed;

“**THAT** the following new clause is inserted immediately after clause 21—  
Obligations of a private education centre

21A. A private early childhood education provider registered under this Act shall—

- (a) establish the structures necessary for the management and administration of education within the centre;
- (b) recruit persons who are qualified and registered by the Teachers Service Commission to teach the early childhood education curriculum in the education centre;

- (c) administer a curriculum that adheres to the early childhood education policy and this Act;
- (d) maintain premises in a manner that ensures that it meets the requirements of the occupational health, safety regulations and building standards;
- (e) maintain necessary teaching and learning materials and equipment;
- (f) maintain a data bank on pupils admitted in the education centre and submit to the county executive committee member; and
- (g) met such other requirements as the committee executive committee member, in consultation with the County Education Board, may consider necessary for the delivery of quality early childhood education services within the county.

*(Chairperson, Standing Committee on Education)*

National Assembly insertion of New Clause 21A - vote deferred

**National Assembly insertion of New Clause 61A**

Motion made and Question proposed;

“**THAT** the following new clause is inserted immediately after clause 61—

Suspension of a certificate of accreditation

61A. (1) The County Education Board may, in consultation with the County executive committee member suspend a certificate of accreditation issued to an education centre for a specified period where the centre fails to comply with the standards of accreditation until the standards are met.

(2) The County Education Board shall communicate a decision made under subsection (1) to the education centre specifying the reasons for the decision, the non-compliance noted and the action required to be taken by the education centre.

*(Chairperson, Standing Committee on Education)*

National Assembly insertion of New Clause 61A - vote deferred

**National Assembly amendment to Clause 2**

Motion made and Question proposed;

“**THAT** clause 2 of the Bill is amended—

- (a) in the definition of the term “children with special needs” by deleting the word “special needs” and substituting therefor the word “disabilities”;
- (b) in the definition of the term “principal” by deleting the term “principal” and substituting therefor the term “head teacher”
- (c) by deleting the definition of the word “child” and substituting therefor the

following new definition—

“child” has the meaning assigned to it under the “Children’s Act”

- (d) by deleting the definition of the word “teacher” and substituting therefor the following new definition—

“teacher” has the meaning assigned to it under the Teachers Service Commission Act”

- (e) by inserting the following new definitions in proper alphabetical sequence—

“Board of Management” means the Board of management of an education centre.

“Education Appeals Tribunal” means the Appeals Tribunal established under section 92 of the Basic Education Act;

“pupil” means a person who meets criteria for admission to early Childhood Centre as the Cabinet Secretary may, in consultation with the County Education Board, prescribe;

*(Chairperson, Standing Committee on Education)*

National Assembly amendment to Clause 2 - vote deferred

### **Progress Report**

Motion made;

**THAT**, the Committee of the Whole do report progress on its consideration of the National Assembly amendments to the County Early Childhood Education Bill (Senate Bill No. 32 of 2014) and seek leave to sit again tomorrow.

*(Chairperson, Standing Committee on Education)*

Before the question was put and pursuant to Standing Order 72, the Acting Chairperson (Sen. (Dr.) Machage) ruled that the Question did not affect counties;

Question put and agreed to.

13. **HOUSE RESUMED** – Temporary Speaker (Sen. (Dr.) Machage) – in the Chair

14. **THE COUNTY EARLY CHILDHOOD EDUCATION BILL (SENATE BILL NO. 32 OF 2014)**

### **Progress reported;**

Motion made and Question Proposed;

**THAT**, the House do agree with the Committee in the said report.

*(Chairperson, Standing Committee on Education)*

There being no Senator wishing to contribute;

Before the question was put and pursuant to Standing Order 72, the Temporary Speaker (Sen. (Dr.) Machage) ruled that the Question did not affect counties;

Question put and agreed to.

15. **COMMITTEE OF THE WHOLE**  
**THE ASSUMPTION OF OFFICE OF GOVERNOR BILL (SENATE BILL NO. 10 OF 2016)**

(Sen. Paul Kimani Wamatangi)

Order deferred.

16. **COMMITTEE OF THE WHOLE**  
**THE KENYA ROADS BILL (NATIONAL ASSEMBLY BILL NO. 26 OF 2015)**

(The Senate Majority Leader)

Order deferred.

17. **COMMITTEE OF THE WHOLE**  
**THE PARLIAMENTARY POWERS AND PRIVILEGES BILL (NATIONAL ASSEMBLY BILL NO. 35 OF 2014)**

(The Senate Majority Leader)

Order deferred.

18. **COMMITTEE OF THE WHOLE**  
**THE COUNTY GOVERNMENTS (AMENDMENT) (NO. 4) BILL (SENATE BILL NO. 18 OF 2014)**

(Sen. Kipchumba Murkomen)

Order deferred.

19. **COMMITTEE OF THE WHOLE**

Order for Committee read;

**IN THE COMMITTEE**

(The Acting Chairperson of Committees - (Sen. (Dr.) Machage) – in the Chair)

**The Medical Practitioners and Dentists (Amendment) Bill (Senate Bill No. 2 of 2016)**

Clauses 2, 3, 4 and 5 – vote deferred

The Title and Clause 1 - vote deferred

**Progress Report**

Motion made;

**THAT**, the Committee of the Whole do report progress on its consideration of the Medical Practitioners and Dentists (Amendment) Bill (Senate Bill No. 2 of 2016) and seek leave to sit again tomorrow.

*(Sen. (Prof.) Wilfred Lesan)*

Before the question was put and pursuant to Standing Order 72, the Acting Chairperson (Sen. (Dr.) Machage) ruled that the Question did not affect counties;

Question put and agreed to.

20. **HOUSE RESUMED** – Temporary Speaker (Sen. (Dr.) Machage) – in the Chair
21. **THE MEDICAL PRACTITIONERS AND DENTISTS (AMENDMENT) BILL (SENATE BILL NO. 2 OF 2016)**

**Progress reported;**

Motion made and Question Proposed;

**THAT**, the House do agree with the Committee in the said report.

*(Sen. (Prof.) Wilfred Lesan)*

There being no Senator wishing to contribute;

Before the question was put and pursuant to Standing Order 72, the Temporary Speaker (Sen. (Dr.) Machage) ruled that the Question did not affect counties;

Question put and agreed to.

22. **COMMITTEE OF THE WHOLE**  
**THE AGRICULTURE, FISHERIES AND FOOD AUTHORITY (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 17 OF 2015)**  
(The Senate Majority Leader)

Order deferred.

23. **COMMITTEE OF THE WHOLE**  
**THE MICRO AND SMALL ENTERPRISES (AMENDMENT) BILL (SENATE BILL NO. 12 OF 2015)**  
(Sen. Paul Kimani Wamatangi)

Order deferred.

24. **COMMITTEE OF THE WHOLE**  
**THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT) BILL**  
**(SENATE BILLS NO. 9 OF 2015)**  
(Sen. Martha Wangari)

Order deferred.

25. **THE COUNTY PENSION SCHEME BILL (SENATE BILL NO. 20 OF 2016)**  
(Chairperson, Standing Committee on Labour and Social Welfare)

*(Second Reading)*  
*(Resumption of Debate interrupted on Friday, 9<sup>th</sup> June, 2017)*  
*(Division)*

Order deferred.

26. **MOTION – ADOPTION OF THE REPORT OF THE MEDIATION COMMITTEE**  
**ON THE HEALTH BILL (NATIONAL ASSEMBLY BILL NO. 14 OF 2015) LAID**  
**ON THE TABLE OF THE SENATE ON THURSDAY, 25<sup>TH</sup> MAY, 2017**

**THAT**, the Senate adopts the Report of the Mediation Committee on the Health Bill (National Assembly Bill No. 14 of 2015) laid on the Table of the Senate on Thursday, 25<sup>th</sup> May, 2017 and pursuant to Article 113 of the Constitution and standing order 155 (3) of the Senate Standing Orders, approves the mediated version of the Bill.

*(Chairperson of the Mediation Committee – 09.06.2017)*  
*(Resumption of Debate interrupted on Friday, 9<sup>th</sup> June, 2017)*  
*(Mover to reply)*

Order deferred.

And there being no other business, the Temporary Speaker (Sen. (Dr.) Machage) adjourned the Senate at thirty minutes past Five O'clock without question put, pursuant to the Standing Orders.

27. **SENATE ROSE** – at thirty minutes past Five O'clock.

### **M E M O R A N D U M**

*The Speaker will take the Chair on*  
*Wednesday, June 14, 2017 at 2.30 p.m.*

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