



**REPUBLIC OF KENYA**  
**TWELFTH PARLIAMENT – (FOURTH SESSION)**  
**THE SENATE**  
**ORDER PAPER**  
**THURSDAY, MARCH 05, 2020 AT 2:30 PM**

**PRAYERS**

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers
6. Notices of Motion (as listed in the Appendix)
7. Statements (as listed in the Appendix)
8. **\*\*\*THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO. 2) BILL (NATIONAL ASSEMBLY BILLS NO. 13 OF 2018)**  
(The Senate Majority Leader)  
(*Second Reading*)  
***(Resumption of debate interrupted on Wednesday, 4<sup>th</sup> December, 2019)***  
***(Division)***
9. **\*\*\*THE SACCO SOCIETIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 1 OF 2018)**  
(The Senate Majority Leader)  
(*Second Reading*)  
***(Resumption of debate interrupted on Tuesday, 18<sup>th</sup> February, 2020)***  
***(Division)***
10. **\*THE FISHERIES MANAGEMENT AND DEVELOPMENT (AMENDMENT) BILL (SENATE BILLS NO. 22 OF 2019)**  
(Sen. Moses Kajwang', MP)  
(*Second Reading*)  
***(Resumption of debate interrupted on Wednesday, 19<sup>th</sup> February, 2020)***  
***(Division)***

11. **\*\*\*THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (AMENDMENT) (NO. 3) BILL (NATIONAL ASSEMBLY BILLS NO.35 OF 2019)**

(The Senate Majority Leader)

*(Second Reading)*

*(Resumption of debate interrupted on Thursday, 20<sup>th</sup> February, 2020)*

*(Division)*

12. **COMMITTEE OF THE WHOLE CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS TO THE OFFICE OF THE COUNTY ATTORNEY BILL (SENATE BILLS NO. 3 OF 2018)**

(The Senate Majority Leader)

*(Resumption of debate interrupted on Tuesday, 25<sup>th</sup> February, 2020)*

*(Division)*

13. **COMMITTEE OF THE WHOLE CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS TO THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE) BILL (SENATE BILLS NO. 22 OF 2018)**

(The Senate Majority Leader)

*(Resumption of debate interrupted on Tuesday, 25<sup>th</sup> February, 2020)*

*(Division)*

14. **COMMITTEE OF THE WHOLE CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS TO THE EARLY CHILDHOOD EDUCATION BILL (SENATE BILLS NO. 26 OF 2018)**

(The Senate Majority Leader)

*(Resumption of debate interrupted on Tuesday, 25<sup>th</sup> February, 2020)*

*(Division)*

15. **\*THE LIFESTYLE AUDIT (NO. 2) BILL (SENATE BILLS NO. 21 OF 2019)**

(Sen. (CPA) Farhiya Ali Haji, MP)

*(Second Reading)*

*(Resumption of debate interrupted on Tuesday, 3<sup>rd</sup> March, 2020)*

16. **MOTION ON ADOPTION OF THE REPORTS OF THE STANDING COMMITTEE ON ROADS AND TRANSPORTATION ON ITS VISITS TO MALABA INTERNATIONAL BORDER POINT AND THE KIBWEZI-ATHI-MUTOMO-KITUI ROAD PROJECT**

(Chairperson, Standing Committee on Roads and Transportation)

**THAT**, the Senate adopts the reports of the Standing Committee on Roads and Transportation on the visit to the Malaba International Border Point (OSBP) and the inspection visit and familiarization of the Kibwezi-Athi-Mutomo-Kitui Road Project in Kitui County laid on the Table of the Senate on Wednesday, 4<sup>th</sup> December, 2019.

...../Motion

17. **MOTION ON THE ADOPTION OF THE REPORT OF THE 141<sup>ST</sup> ASSEMBLY OF THE INTER-PARLIAMENTARY UNION (IPU) AND RELATED MEETINGS, HELD IN BELGRADE, SERBIA, ON 13<sup>TH</sup> -17<sup>TH</sup> OCTOBER, 2019.**

(Sen. Susan Kihika, MP)

**THAT**, the Senate notes the Report of the Parliament of Kenya Delegation to the 141<sup>st</sup> Assembly of the Inter-Parliamentary Union (IPU) and related meetings, held in Belgrade, Serbia from 13<sup>th</sup> -17<sup>th</sup> October, 2019, and laid on the Table of the Senate on Wednesday, 4<sup>th</sup> March, 2020.

18. **MOTION – PROVISION OF CEMETERY, FUNERAL PARLOURS AND CREMATORIA IN ALL COUNTIES**

(Sen. (Dr.) Alice Milgo, MP)

**THAT, AWARE THAT** under Article 61 of the Constitution of Kenya, land in Kenya is classified into three categories, public, Community and private land;

**FURTHER AWARE THAT** , public land is vested in both the County and National Governments and is managed on their behalf by the National Land Commission, and that Article 62 (2) clarifies the distribution of public land between the two levels of government.;

**COGNIZANT THAT**, the Fourth Schedule of the Constitution delegates cemeteries, funeral parlours and crematoria as a function of County Governments;

**CONCERNED THAT**, cemeteries in the Country are filling up, and counties are finding it increasingly difficult to identify land to allocate as “public” for use as a cemetery with the knowledge that any cemetery or burial-place that is crowded and therefore dangerous to health is defined as constituting a nuisance in the Public Health Act;

**NOW THEREFORE**, the Senate calls upon the county governments to ensure that funds are allocated in the County Annual Development Plans for FY 2020/2021, towards the planning and development of cemetery, funeral parlours and crematory facilities.

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...../Notice

The Senate resolved on 18<sup>th</sup> February, 2020 as follows:-

**THAT**, pursuant to Standing Order 106 (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.

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**KEY**

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

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

**\*\*** - Denotes a Committee Bill

**\*** - Denotes any other Bill

**NOTICE OF AMENDMENTS**

**A. \*\*THE OFFICE OF THE COUNTY ATTORNEY BILL (SENATE BILLS NO. 3 OF 2018)**

(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)  
*(Consideration of National Assembly Amendments)*

***Schedule of amendments, to the Bill, as passed by the National Assembly on Thursday, November 21, 2019***

**CLAUSE 2**

**THAT** Clause 2 of the Bill is amended by deleting the definition of the term “Cabinet Secretary” and substituting therefor the following new definition- “Attorney-General” means the Attorney-General appointed under Article 156 of the Constitution;

**CLAUSE 5**

**THAT** Clause 5 of the Bill is amended in sub-clause (2) by deleting paragraph (b).

**CLAUSE 6**

**THAT** Clause 6 of the Bill is amended-

- (a) by renumbering the existing provision as sub-clause (1);
- (b) by inserting the following new sub-clause immediately after the renumbered sub-clause (1)-

(2) The County Attorney shall have the status and rank of a member of the county executive committee.

**CLAUSE 20**

**THAT** Clause 20 of the Bill is amended by deleting sub-clause (2) and substituting therefor the following new sub-clause-

(2) The Attorney-General may, from time to time by notice in the *Gazette*, amend the Second Schedule.

**CLAUSE 29**

**THAT** Clause 29 of the Bill is amended by deleting the expression “Cabinet Secretary” and substituting therefor the expression “Attorney-General”

**B. \*THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE) BILL (SENATE BILLS NO. 22 OF 2018)**

(Sen. Judith Pareno, MP)

***(Consideration of National Assembly Amendments)***

***Schedule of amendments, to the Bill, as passed by the National Assembly on Thursday, November 21, 2019***

**CLAUSE 5**

**THAT**, Clause 5 of the Bill be amended-

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

(3) The relevant county assembly committee may, when considering the petition-

(a) invite the petitioner to clarify or submit such further information as the committee may consider necessary, and;

(b) make a site visit if it is deemed necessary to do so.

(b) by deleting sub-clause (4) and substituting therefore the following new sub-clause-

(4) The relevant county assembly committee shall respond to the petitioner by way of a report addressed to the petitioner and tabled in the county assembly and no debate on or in relation to the report shall be allowed except on the recommendation of the chairperson of the committee and with the approval of the speaker.

(c) in sub-clause (5) by inserting the words “relevant committee or the” immediately after the words “decision of the” when they first appear.

**C. \*\*THE EARLY CHILDHOOD EDUCATION BILL (SENATE BILLS NO. 26 OF 2018)**

(Chairperson, Standing Committee on Education)

***(Consideration of National Assembly Amendments)***

***Schedule of amendments, to the Bill, as passed by the National Assembly on Thursday, November 21, 2019***

**CLAUSE 2**

**THAT**, clause 2 of the Bill be amended by—

- (a) in the definition of the term “Education Appeals Tribunal” by deleting the expression “section 92 and substituting therefor the expression “section 93”;
- (b) deleting the definition of the term “pupil”; and
- (c) inserting the following new definition in their proper alphabetical sequence—
  - “children with special needs” means children in need of special needs education;
  - “learner” has the meaning assigned to it in the Teachers Service Commission Act;
  - “special needs education” has the meaning assigned to it in the Basic Education Act;
  - “village administrator” means the office of a village administrator established in section 52 of the County Governments Act.”

**CLAUSE 8**

**THAT**, clause 8 of the Bill be deleted and substituted with the following new clause—

Duty of head teacher.

**8.** (1) Where a learner admitted in an education centre fails to attend the education centre, the head teacher shall, in collaboration with the village administrator, cause an investigation of the circumstances of the learner’s absence from school.

(2) Where the head teacher finds that there are no reasonable grounds for the learner’s failure to attend school, the head teacher shall—

- (a) issue a written notice to the parent of the learner requiring that parent to comply with the provisions of this Act; and
- (b) submit a report on the learner to the County Education Board.

(3) A parent who without reasonable cause and after a written notice from the head teacher, fails to comply with a notice under subsection (2) commits an offence and shall be liable, on conviction, to a fine not exceeding ten thousand shillings or imprisonment for a term not exceeding one year, or to both.

**CLAUSE 9**

**THAT**, clause 9 of the Bill be deleted and substituted with the following new clause-

Children with special needs.

**9.** (1) The county executive committee member shall put in place such infrastructure as may be necessary to ensure that children with special needs have access to, and are provided with early childhood education.

(2) In performing the functions under subsection (1), the county executive committee member shall-

- (a) ensure that screening tools for early identification of children with special needs and disabilities are developed and distributed for use;
- (b) ensure early identification, assessment and interventions of children with special needs and disabilities;
- (c) ensure training of personnel working with children with special needs and disabilities on use of screening tools for early interventions;
- (d) facilitate development of programmes for training and professional development for all pre-primary education providers and personnel in special needs education;
- (e) ensure that children with special needs and disabilities have equal access to recreational sporting facilities within and outside pre-primary school programmes to nurture talents;
- (f) ensure that teachers and other staff in integrated pre-primary schools plan and implement an integrated individualized education programme for the purpose of monitoring the progress of an individual child with special needs and disabilities;
- (g) liaise with other professionals and stakeholders to provide psychosocial support to children with special needs and disabilities;
- (h) facilitate provision of teacher aids to pre-primary schools to support teachers handling children with special needs and disabilities; and
- (i) ensure that children with special needs and disabilities are provided with any other necessary support.

**CLAUSE 15**

**THAT**, clause 15 of the Bill be amended-

- (a) in sub-clause (1), by deleting the expression “or is likely to meet”; and
- (b) in sub-clause (3), by deleting paragraph (b).



**CLAUSE 16**

**THAT**, clause 16 of the Bill be deleted and substituted with the following new clause—

Review of **16.** (1) As soon as practicable after provisionally registering an education centre under section 15, the County Education Board shall inform the County Executive Committee member of the provisional registration.

(2) The County Executive Committee member shall cause the county early childhood quality assurance committee to review any education centre that is provisionally registered under section 15 either—

- (a) between six and twelve months after the provisional registration of the education centre or proposed education centre; or
- (b) a period earlier than that specified in paragraph (a) if in the opinion of the County Executive Committee member, a shorter time is necessary.

(3) The County Executive Committee member shall cause a further review of an education centre to be conducted upon the request of the County Education Board.

(4) The County Executive Committee member shall submit the findings of a review under this section to the County Education Board and to the head teacher of the education centre for implementation.

(5) The findings submitted under subsection (4) shall include—

- (a) information on whether the education centre meets the criteria for registration as an education centre; and
- (b) information on the areas where improvement is required, if it does not meet the criteria.

**CLAUSE 20**

**THAT**, clause 20 of the Bill be amended—

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

“(1) The board of management shall not change the location of the centre nor acquire additional premises for the purpose of running the education centre unless it has applied to, and obtained the approval, of the County Education Board.”

(b) in sub-clause (3) by deleting the words “head teacher” and substituting therefor the expression “board of management”

**CLAUSE 23**

**THAT**, clause 23 of the Bill be amended—

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

“(c) the head teacher of the education centre has breached or is breaching his or her statutory duties in relation to the education centre under this Act or any other written law;”

(b) in sub-clause (2) by deleting the word “pupil” appearing in paragraph (b) and substituting therefor the word “learner”.

**CLAUSE 24**

**THAT**, clause 24 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “pupils” appearing in the opening sentence and substituting therefor the word “learners”; and

(b) in sub-clause (3) by deleting the word “pupils” appearing in paragraph (a) and substituting therefor the word “learners”.

**CLAUSE 25**

**THAT**, clause 25 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “are” appearing in paragraph (b) after the word “centre” and substituting therefor the word “is”;

(b) in sub-clause (2)—

(i) by deleting the words “head teacher” appearing in paragraph (b) and substituting therefor the expression “board of management”; and

(ii) by deleting the words “head teacher” appearing in paragraph (c) and substituting therefor the expression “board of management”;

**CLAUSE 27**

**THAT**, clause 27 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) A public education centre shall not be converted to a private education centre or to any other private status without consultation with the County Education Board and approval by the County Executive Committee member.”

**CLAUSE 28**

**THAT**, clause 28 of the Bill be amended by deleting sub-clause (4) and substituting therefor the following new sub-clause—

“(4) Notwithstanding the generality of subsection (2), the role of the sponsor under subsection (1) shall be to—

(a) participate and make proposals for the review of syllabus, curriculum, books and other teaching aids; and

(b) offer financial, infrastructural and spiritual support to the education centre.”

**CLAUSE 29**

**THAT**, clause 29 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2)—

“(3) In the performance of its functions under subsection (2)(b) and (c), the board of management shall first seek the approval of the County Education Board.”

**CLAUSE 30**

**THAT**, clause 30 of the Bill be amended in sub-clause (1) by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) one person elected by the parents from each level within the education centre to represent parents of learners in the education centre;”

**CLAUSE 33**

**THAT**, clause 33 of the Bill be deleted.

**CLAUSE 35**

**THAT**, clause 35 of the Bill be amended by deleting the word “pupil” wherever it appears and substituting therefor the word “learner”.

**CLAUSE 36**

**THAT**, clause 36 of the Bill be amended in sub-clause (1) by—

- (a) deleting paragraph (a); and
- (b) deleting paragraph (c).

**CLAUSE 37**

**THAT**, clause 37 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2) -

“(3) In the performance of the functions under this section, the County Education Board shall establish a County Early Childhood Education Committee, as a committee of the County Education Board, to oversee the implementation of early childhood education in each county.”

**CLAUSE 41**

**THAT**, clause 41 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (3) -

“(4) A child shall not be denied admission in an early childhood education centre for lack of proof of age.”

**CLAUSE 43**

**THAT**, clause 43 of the Bill be deleted and substituted with the following new clause—

<p>Prohibition from holding back and expulsion.</p>	<p><b>43.</b> A learner admitted in an education centre shall not be held back in any class or expelled from the centre without the approval of the County Education Board.</p>
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**CLAUSE 44**

**THAT**, clause 44 of the Bill be deleted and substituted with the following new clause—

Standards of education in a private education centre. **44.** A private education centre shall comply with and follow the curriculum approved by the Kenya Institute of Curriculum Development.

**CLAUSE 46**

**THAT**, clause 46 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “pupil” and substituting therefor the word “learner”; and
- (b) by deleting sub-clause (3) and substituting therefor the following new sub-clause—

“(3) A head teacher or a member of the board of management of a public education centre who 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 imprisonment for a term not exceeding six months, or to both.”

**CLAUSE 47**

**THAT**, clause 47 of the Bill be amended in paragraph (c) by deleting the expression “need for the”.

**CLAUSE 56**

**THAT**, clause 56 of the Bill be amended in sub-clause (1) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) reject the application and give written reasons for the rejection.”

**CLAUSE 63**

**THAT**, clause 63 of the Bill be amended—

- (a) in sub-clause (1) by—
  - (i) deleting the word “fifteen” appearing in paragraph (a) and substituting therefor the word “ten”; and
  - (ii) deleting the expression “Education Standards and Quality Assurance Council” appearing in paragraph (d) and substituting therefor the words “quality assurance body established under the Basic Education Act”; and
  - (iii) inserting the following new paragraph immediately after paragraph (e)—
    - “(f) one person representing persons with disabilities nominated by the National Council for Persons with Disabilities.”
- (b) in sub-clause (5) by—
  - (i) inserting the expression “make proposals for” immediately after the expression “and where appropriate” appearing in paragraph (c); and
  - (ii) deleting paragraph (d).

**CLAUSE 64**

**THAT**, clause 64 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “pupils” appearing in paragraph (b) and substituting therefor the word “learners”; and
- (b) in sub-clause (4) by deleting the word “pupils” and substituting therefor the word “learners”.

**CLAUSE 66**

**THAT**, clause 66 of the Bill be amended in sub-clause (2) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) if the service provider makes an application within the required period, the centre continues to be registered under subsection (1) until that application is determined.”

**CLAUSE 68**

**THAT**, clause 68 of the Bill be amended in sub-clause (3)—

- (a) in paragraph (c) by inserting the word “one” immediately after the expression “registration certificates of”; and
- (b) by deleting paragraph (h).

**CLAUSE 69**

**THAT**, clause 69 of the Bill be deleted and substituted therefor the following new clause—

General penalty. **69.** A person who contravenes any provision of this Act for which no penalty is specifically provided commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand shillings or imprisonment for a term not exceeding one year, or to both.

**SECOND SCHEDULE**

**THAT**, the Second Schedule to the Bill be amended in paragraph 1 by—

- (a) deleting the word “two” appearing in sub-paragraph (1) and substituting therefor the word “three”; and
- (b) deleting the word “vice-chairman” appearing in sub-paragraph (4) and substituting therefor the word “vice-chairperson”.

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APPENDIX

1. NOTICE OF MOTION – PROVISION OF CEMETERY, FUNERAL PARLOURS AND CREMATORIA IN ALL COUNTIES

(Sen. (Dr.) Alice Milgo, MP)

**THAT, AWARE THAT** under Article 61 of the Constitution of Kenya, land in Kenya is classified into three categories, public, Community and private land;

**FURTHER AWARE THAT** , public land is vested in both the County and National Governments and is managed on their behalf by the National Land Commission, and that Article 62 (2) clarifies the distribution of public land between the two levels of government.;

**COGNIZANT THAT**, the Fourth Schedule of the Constitution delegates cemeteries, funeral parlours and crematoria as a function of County Governments;

**CONCERNED THAT**, cemeteries in the Country are filling up, and counties are finding it increasingly difficult to identify land to allocate as “public” for use as a cemetery with the knowledge that any cemetery or burial-place that is crowded and therefore dangerous to health is defined as constituting a nuisance in the Public Health Act;

**NOW THEREFORE**, the Senate calls upon the county governments to ensure that funds are allocated in the County Annual Development Plans for FY 2020/2021, towards the planning and development of cemetery, funeral parlours and crematory facilities.

2. STATEMENTS

**i) Pursuant to Standing Order 47(1)**

- a) Nominated Senator (Sen. Rose Nyamunga, MP) to make a statement on the menace that is caused by security personnel manning business premises.
- b) Nominated Senator (Sen. (Dr.) Alice Milgo, MP) to make a statement concerning medical interventions to address the challenges brought about by diabetes in Kenya.

**ii) Pursuant to Standing Order 48(1)**

- a) The Senator for Lamu County (Sen. Anuar Loitiptip, MP) to seek a statement from the Standing Committee on Roads and Transportation regarding the LAPPSET Presidential Scholarship Programme in Lamu County.
- b) Nominated Senator (Sen. Rose Nyamunga, MP) to seek a statement from the Standing Committee on Agriculture, Livestock and Fisheries concerning the state of Ahero and West Kano Irrigation Schemes.

- c) Seneta wa Kaunti ya Mombasa (Sen. Mohamed Faki, MP) kuomba taarifa kutoka kwa Kamati ya Kudumu ya Barabara na Uchukuzi kuhusu ubomoaji wa makazi ya watu wa eneo la Mwaeba, Wadi ya Miritini, Eneo bunge la Jomvu, Kaunti ya Mombasa.
- d) Nominated Senator (Sen. (Dr.) Alice Milgo, MP) to seek a statement from the Standing Committee on Land, Environment and Natural Resources concerning the implementation of the National Land Use Policy in the counties.
- e) The Senator for Taita Taveta County ( Sen. Johnes Mwaruma, MP) to seek a statement from the Standing Committee on Education on the understaffing of Special Unit Schools in Taita Taveta County.
- f) The Senator for Taita Taveta County ( Sen. Johnes Mwaruma, MP) to seek a statement from the Standing Committee on Education on the supply of text books and learning materials to public schools.

**(iii) Pursuant to Standing Order 52(1)**

The Senate Majority Leader to issue a statement on the business of the Senate for the week commencing Tuesday, 10<sup>th</sup> March, 2020.

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