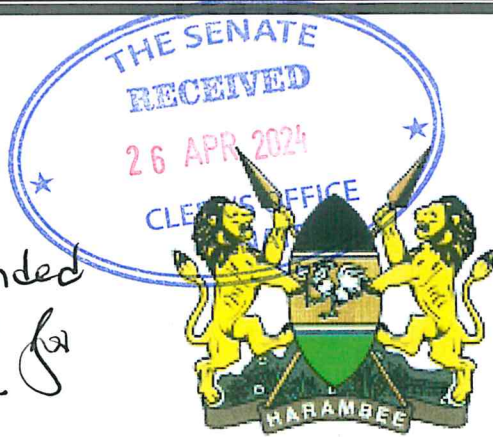


COY
Recommended
for approval for
tabling.



Eg 26/4/24

REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT (THIRD SESSION)

THE SENATE

Rt. Hon. Speaker

You may approve for tabling

J. M. Nyegenye, C.B.S.,

Clerk of the senate/secretary, PSC

Date: 26/4/24

THE STANDING COMMITTEE ON EDUCATION

REPORT ON THE EARLY CHILDHOOD EDUCATION
(AMENDMENT) BILL, 2023 (SENATE BILLS NO. 54 OF 2023)

Handwritten signature in red ink.

APPROVED
RT. HON. SEN
AMASON J. KING

Clerk's Chambers,
Parliament Buildings,
P.O. Box 41842-00100,
NAIROBI.

PAPERS LAID	
DATE	02.05.2024
TABLED BY	Chair
COMMITTEE	Education
CLERK AT THE TABLE ¹	I. Mbaya

April, 2023

Mr. Hon. Speaker
You may approve for tabling
J. M. Nyeganyo, C.B.S.,
Clerk of the Senate/Secretary PSC
Date:

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CHAIRPERSON'S FOREWORD

Mr. Speaker Sir,

The Early Childhood Education (Amendment) Bill, 2023 (Senate Bills No. 54 of 2023) seeks to amend the Early Childhood Education Act, No. 3 of 2021 in order to provide for the improved remuneration and better welfare of teachers serving in early childhood centers in the counties.

Mr. Speaker Sir,

The Early Childhood Education (Amendment) Bill, 2023 (Senate Bills No. 54 of 2023) was introduced in the Senate by way of First Reading on 29th February, 2024 and thereafter stood committed to the Senate Standing Committee on Education for consideration.

Pursuant to the provisions of Article 118 and standing order 145 (5) of the Senate Standing Orders, the Standing Committee on Education invited interested members of the public to submit their representations on the Bill.

The Committee further held an engagement meeting with the Council of Governors and sought to acquaint itself with the implementation status of the Early Childhood Development Education (ECDE) policies in the counties, and the challenges, if any, facing implementation of the said policies.

Mr. Speaker Sir,

The Committee reviewed all the submissions received and has considered the views of all stakeholders proposing the amendments to the Bill during preparation of this report.

Mr. Speaker Sir,

During the consideration of the Bill, the Committee observed-

1. The recruitment of ECDE teachers is done by the county governments through the County Public Service Boards (CPSBs). These CPSBs are expected to recruit from a pool of teachers registered by the Teachers Service Commission (TSC) and are supposed to ensure that ECDE teacher recruitment policies are fully implemented. However, the county governments do not provide opportunities for ECDE teachers professional development, do not equip them with skills, tools and ability to interact with learners, and do not compensate teachers who have undertaken upgrade programs;
2. There has been huge decline in the ECDE sector investments by county governments partly because there is no specific budget allocation for ECDE since the annual budget allocations for departments of education mostly combine with gender, youth, and social service and majority provide scholarships and bursaries for secondary school and tertiary institutions;
3. Many classrooms in ECDE centres have been seized by host primary schools, leaving ECDE learners congested in small rooms which prevent teachers from delivering, monitoring teaching and providing necessary guidance at the right time; and
4. The Salaries and Remuneration Commission (SRC) carried out an evaluation to determine the relative worth of ECDE teachers and published Job Evaluation Report with envisaged job groups and attendant remuneration structure. However, ECDE teachers' salaries vary considerably across counties and the remuneration structure does not consider the qualification teachers.

Mr. Speaker Sir,

With the foregoing, the Committee on Education will be proposing some amendments during the Committee of the whole in order to strengthen the proposals on this Bill.

Mr. Speaker Sir,

On behalf of the Committee, I wish to sincerely thank Sen. Eddy Gicheru Oketch, MP, the Ministry of Education, the Council of Governors, the Teachers Service Commission (TSC), the Salaries and Remuneration Commission (SRC), National Gender and Equality Commission (NGEC) Semi-Autonomous Government Agencies, the Kenya National Union of Teachers (KNUT), Zizi Afrique Foundation, Elimu Yetu Coalition, Civil Society Organizations and individuals who responded to our call and made their well-researched and articulate oral and written submissions.

Mr. Speaker Sir,

As I conclude, I wish to sincerely thank the Members of the Committee for their insightful contributions during the consideration of this Bill and development of the report.

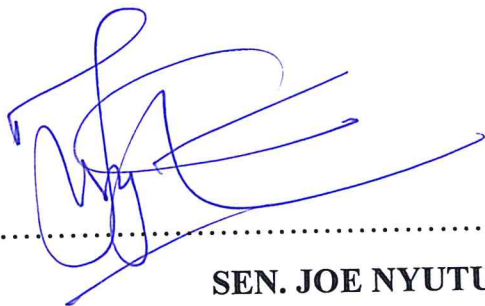
The Committee also thanks the Offices of the Speaker and the Clerk of the Senate for the support extended to it in the execution of its mandate.

Mr. Speaker, Sir

It is now my pleasant duty, pursuant to standing order 145 (5) of the Senate Standing Orders, to present the Report of the Standing Committee on Education on Early Childhood Education (Amendment) Bill, 2023 (Senate Bills No. 54 of 2023).

I thank you

Signed.....



Date.....



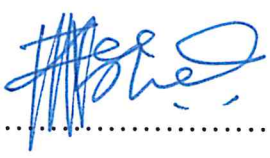
25/04/2024

SEN. JOE NYUTU, MP

CHAIRPERSON, STANDING COMMITTEE ON EDUCATION

ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON EDUCATION

We, the undersigned Members of the Senate Standing Committee on Education, do hereby append our signature to adopt the Report on the Early Childhood Education (Amendment) Bill, 2023 (Senate Bills No. 54 of 2023)

1. Sen. Joe Nyutu, MP **Chairperson** 
2. Sen. Peris Tobiko, CBS, MP **Vice-Chairperson** 
3. Sen. (Prof.) Margaret Kamar, EGH, MP **Member** 
4. Sen. Johnes Mwaruma, MP **Member** 
5. Sen. John Kinyua Nderitu, MP **Member**
6. Sen. Agnes Muthama, MP **Member** 
7. Sen. Joseph Githuku Kamau, MP **Member** 
8. Sen. James Kamau Murango, MP **Member**
9. Sen. Lenku Ole Kanar Seki, MP **Member**

The Early Childhood Education (Amendment) Bill, 2023 (Senate Bills No. 54 of 2023) comprises several provisions, including consequential amendments to existing laws that may be affected by the provisions of this Bill once enacted. The purpose of the Bill is partly to infuse the principles of Article 41 of the Constitution on fair labour practices and the rights of workers to fair remuneration in the provision of early childhood education.

Clause 1 (sic) provides for amendment of section 31 of the Early Childhood Education Act, 2021 to provide for the welfare of teachers to be taken up as one of the primary functions of the boards of management of early childhood education centres in counties.

Clause 2 of the Bill provides for amendment of section 38 of the Early Childhood Education Act, 2021 to provide three additional parameters which ought to be factored by county governments and the Salaries and Remuneration Commission when determining the remuneration for early childhood education teachers. The three are inflation rate, minimum wage, and cost of living.

Clause 3 of the Bill proposes to amend section 68 of the Act which mandates the Cabinet Secretary to prescribe minimum standards relating to schemes of service for early childhood teachers. The Bill seeks to add welfare of teachers as one of the areas under which the Cabinet Secretary may prescribe minimum standards.

It is envisaged that once enacted this Bill will reduce discrimination in remuneration of different cadres workers in public service within our counties by bringing at par the earning capacity of early childhood education teachers to create a more equitable society in Kenya.

CHAPTER TWO

2 OVERVIEW OF PUBLIC PARTICIPATION ON THE BILL

Pursuant to the provisions of Article 118 of the Constitution and Standing Order 145 (5) of the Standing Orders of the Senate, the Senate Standing Committee on Education invited interested members of the public and stakeholders to submit their representations on the Bill. The representations were to be made either orally during a Committee meeting or through submission of written memoranda.

The invitations for submissions were made vide advertisements which appeared in the *Daily Nation* and the *Standard* on Saturday, 2nd March, 2024 (*Annex 3*). The deadline for submission of views was Friday, 15th March, 2024. At the close of the public participation period, a total of nine (9) written memoranda had been received by the Committee and tabulated for the Committee's consideration. The list of the stakeholders and their respective submissions are attached in this report (*Annex 4*).

The Committee held a meeting with the Council of Governors (CoG) Education Committee on 19th March, 2024 to deliberate on the provisions of the Bill and receive oral presentations on their views.

A comprehensive list of all submissions, views and proposed amendments made both orally and vide written memoranda were thereafter captured, compiled and presented in a matrix (*Annex 5*) for Committee's consideration.

The stakeholder submissions were considered by the Committee during its meeting held on 26th March, 2023.

CHAPTER THREE

3 COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

3.1 COMMITTEE OBSERVATIONS

Following extensive deliberations and analysis of the submissions and representation on the Bill, the Committee observes **that** -

1. The recruitment of ECDE teachers is done by the county governments through the County Public Service Boards (CPSBs). These CPSBs are expected to recruit from a pool of teachers registered by the Teachers Service Commission (TSC) and are supposed to ensure that ECDE teacher recruitment policies are fully implemented;
2. There have been huge declines in the ECDE sector investments by county governments partly because there is no specific budget allocation for ECDE since the annual budget allocations for departments of education mostly combine with gender, youth, labour, social service and also provide scholarships and bursaries for secondary school and tertiary institutions;
3. Many classrooms in ECDE centres have been seized by host primary schools, leaving ECDE learners congested in small rooms which prevent teachers from delivering, monitoring teaching and providing necessary guidance at the right time;
4. The Salaries and Remuneration Commission (SRC) carried out an evaluation to determine the relative worth of ECDE teachers and published Job Evaluation Report with envisaged job groups and attendant remuneration structure. However, ECDE teachers' salaries vary considerably across counties and the remuneration structure does not consider the qualification teachers;
5. County governments do not provide opportunities for professional development for ECDE teachers and do not equip them with skills, tools and ability to interact with learners, which is an important prerequisite for the Competence Based Curriculum (CBC); and

5. County governments do not provide opportunities for professional development for ECDE teachers and do not equip them with skills, tools and ability to interact with learners, which is an important prerequisite for the Competence Based Curriculum (CBC); and
6. County governments do not compensate teachers who have undertaken upgrade programs to be CBC compliant, do not provide sufficient instructional resources and framework to continue professional development and have not instituted career ladder models to incentivize ECDE teacher expertise and leadership.

3.2 COMMITTEE RECOMMENDATIONS

Based on the foregoing, the Committee therefore recommends that–

Clause 2 of the Bill be amended by deleting the new proposed sub-section 2A and inserting therefor the following new sub-sections-

(2A) A County Government shall not pay an early childhood education teacher, a salary or allowance less than that advised by the Salaries and Remuneration Commission under subsection (2) above.

(3) in determining the remuneration under subsection (2), the county government shall take into account several factors including-

- (a) minimum wage; and
- (b) the qualification of individual teachers.



MINUTES OF THE NINETEETH MEETING OF THE STANDING COMMITTEE ON EDUCATION HELD ON THURSDAY, 25TH APRIL, 2024 AT 12:00 PM IN COMMITTEE ROOM 5, FIRST FLOOR, MAIN PARLIAMENT BUILDINGS.

PRESENT

- | | |
|---|--------------------|
| 1. Sen. Joe Nyutu, MP | - Chairperson |
| 2. Sen. Peris Tobiko, CBS, MP | - Vice-Chairperson |
| 3. Sen. (Prof.) Margaret Kamar, EGH, MP | - Member |
| 4. Sen. Joseph Githuku Kamau, MP | - Member |
| 5. Sen. Agnes Kavindu Muthama, MP | - Member |
| 6. Sen. Johnes Mwaruma, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|----------------------------------|----------|
| 1. Sen. Lenku Ole Kanar Seki, MP | - Member |
| 2. Sen. James Kamau Murango, MP | - Member |
| 3. Sen. John Kinyua Nderitu, MP | - Member |

SENATE SECRETARIAT

- | | |
|-------------------------|--------------------------|
| 1. Mr. Humphrey Ringera | - Research Officer I |
| 2. Ms. Doris Obure | - Clerk Assistant III |
| 3. Mr. Jackson Wekesa | - Legal Counsel II |
| 4. Ms. Valarie Chemweno | - Research Officer III |
| 5. Ms. Lexxie Mumo | - Audio Officer (Intern) |

MIN/SEN/SCE/090/2024

PRELIMINARIES

The meeting was called to order at twenty-five minutes past twelve and the proceedings commenced with a word of prayer said by Sen. Agnes Kavindu Muthama, MP.

MIN/SEN/SCE/091/2024

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. Agnes Kavindu Muthama, MP, and seconded by Sen. Joseph Githuku Kamau, MP as follows:

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of the Minutes of the Previous Meetings-
 - a. *Minutes of the 4th sitting held on 27th February, 2024; and*
 - b. *Minutes of the 18th sitting held on 18th April, 2024*
4. Matters arising from Minutes of the Previous Committee Meetings;

5. Meeting with the Cabinet Secretary, Ministry of Public Service, Performance and Delivery Management to deliberate on the pending petitions (Committee Paper No. 057);
6. Consideration and Adoption of the Committee Report on the Early Childhood Education (Amendment) Bill (Senate Bills No. 54 of 2023) (*Committee Paper No. 56*);
7. Any Other Business; and
8. Adjournment /Date of the Next Meeting.

MIN/SEN/SCE/092/2024

CONFIRMATION OF MINUTES OF THE PREVIOUS MEETINGS

1. The Minutes of the 4th meeting held on 27th February, 2024 were confirmed as a true record of the deliberations after being proposed by Sen. Agnes Kavindu Muthama, MP and seconded by Sen. Joe Nyutu, MP; and
2. The Minutes of the 18th meeting held on 18th April, 2024 were confirmed as a true record of the deliberations after being proposed by Sen. Peris Tobiko, CBS, MP and seconded by Sen. Joseph Githuku Kamau, MP.

MIN/SEN/SCE/093/2024

MATTERS ARISING FROM MINUTES OF THE PREVIOUS MEETINGS

Ex-MIN/SEN/SCE/087/2024; the Committee resolved to hold a consultation retreat with the Intergovernmental Relations Technical Committee (IGRTC), on 9th to 12th May, 2024 to deliberate on the devolved function under the education sector.

MIN/SEN/SCE/094/2024

MEETING WITH THE CABINET SECRETARY, MINISTRY OF PUBLIC SERVICE, PERFORMANCE AND DELIVERY MANAGEMENT TO DELIBERATE ON THE PENDING PETITIONS

- a) The Committee secretariat presented *Committee Paper No. 057* on the pending petitions on the discrimination in payment of hardship allowance to teachers in Taita Taveta and Kilifi Counties;
- b) The Committee was further informed that a letter **Ref No. MPSG&DM/3/7** had been received from the Cabinet Secretary, Ministry of Public Service, Performance and Delivery Management regarding the petitions pending before the Committee;
- c) The Committee considered the letter from the Cabinet Secretary and resolved to invite him to the next meeting of the Committee to provide information and timelines for conclusion of the Inter-Agency Technical Committee report.

CONSIDERATION AND ADOPTION
OF THE COMMITTEE REPORT ON
THE EARLY CHILDHOOD
EDUCATION (AMENDMENT) BILL
(SENATE BILLS NO. 54 OF 2023)

1. The Committee Secretariat presented *Committee Paper No. 056* on the report on the Early Childhood Education (Amendment) Bill (Senate Bills No. 54 of 2023) for consideration and adoption;
2. The Committee considered the report and resolved to adopt it with amendments;
3. The adoption of the report was proposed by Sen. Johnes Mwaruma, MP and seconded by Sen. (Prof.) Margaret Kamar, EGH, MP.

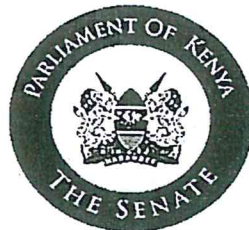
MIN/SEN/SCE/096/2024

ADJOURNMENT AND DATE OF
THE NEXT MEETING

There being no other business, the meeting was adjourned ten minutes past two o'clock. The Committee resolved to hold the next meeting on notice.



SIGNED: DATE:25/04/24.....
(CHAIRPERSON: SEN. JOE NYUTU, M.P.)



MINUTES OF THE EIGHTEENTH (18TH) MEETING OF THE STANDING COMMITTEE ON EDUCATION HELD ON THURSDAY, 18TH APRIL, 2024 AT 12:00 PM AT BILATERAL ROOM II, FIRST FLOOR, KICC BUILDING.

PRESENT

- | | |
|----------------------------------|--------------------|
| 1. Sen. Joe Nyutu, MP | - Chairperson |
| 2. Sen. Peris Tobiko, CBS, MP | - Vice-Chairperson |
| 3. Sen. Joseph Githuku Kamau, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|---|----------|
| 1. Sen. (Prof.) Margaret Kamar, EGH, MP | - Member |
| 2. Sen. John Kinyua Nderitu, MP | - Member |
| 3. Sen. Lenku Ole Kanar Seki, MP | - Member |
| 4. Sen. Johnes Mwaruma, MP | - Member |
| 5. Sen. James Kamau Murango, MP | - Member |
| 6. Sen. Agnes Kavindu Muthama, MP | - Member |

SENATE SECRETARIAT

- | | |
|-------------------------|----------------------------|
| 1. Mr. Humphrey Ringera | - Senior Research Officer |
| 2. Ms. Doris Obure | - Clerk Assistant III |
| 3. Mr. Jackson Wekesa | - Legal Counsel |
| 4. Ms. Valarie Chemweno | - Research Officer III |
| 5. Mr. John Chege | - Sergeant-at-Arms |
| 6. Ms. Lexxie Mumo | - Audio Officer (Intern) |
| 7. Mr. Mohamed Abdi | - Legal Officer (Attachee) |

MIN/SEN/SCE/084/2024

PRELIMINARIES

The meeting was called to order at twenty-five minutes past noon and the proceedings commenced with a word of prayer said by Sen. Peris Tobiko, CBS, MP.

MIN/SEN/SCE/085/2024

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted with amendments having been proposed by Sen. Joseph Githuku Kamau, MP, and seconded by Sen. Peris Tobiko, CBS, MP as follows:

- 1) Prayer;
- 2) Adoption of the Agenda;
- 3) Confirmation of the Minutes of the Previous Meetings-
 - a. *Minutes of the 16th sitting held on 26th March, 2024; and*
 - b. *Minutes of the 17th sitting held on 28th March, 2024.*
- 4) Matters arising from Minutes of the Previous Committee Meetings;

- 5) Consideration and Adoption of the Committee Report on the Early Childhood Education (Amendment) Bill (Senate Bills No. 54 of 2023) (*Committee Paper No. 56*);
- 6) Any Other Business; and
- 7) Adjournment /Date of the Next Meeting.

MIN/SEN/SCE/086/2024

**CONFIRMATION OF MINUTES OF
THE PREVIOUS MEETINGS**

1. The Minutes of the 16th meeting held on 26th March, 2024 were confirmed as a true record of the deliberations after being proposed by Sen. Peris Tobiko, CBS, MP and seconded by Sen. Joseph Githuku Kamau, MP; and
2. The Minutes of the 17th meeting held on 28th March, 2024 were confirmed as a true record of the proceedings after being proposed by Sen. Joseph Githuku Kamau, MP and seconded by Sen. Peris Tobiko, CBS, MP.

MIN/SEN/SCE/087/2024

**MATTERS ARISING FROM
MINUTES OF THE PREVIOUS
MEETINGS**

1. Ex-MIN/SEN/SCE/078/2024: Any other business

The Committee was informed that the Intergovernmental Relations Technical Committee (IGRTC) had sent a letter informing the Committee that they have been monitoring Bills in Parliament which have an effect on devolution and intergovernmental relations. The letter Ref: **IGR/ADM/1/89/Vol. XIV** dated 8th April, 2024 further informed the Committee that IGRTC was available for further consultations. Following deliberations, the Committee resolved to hold a retreat with the IGRTC on 2nd to 4th May, 2024 or a date convenient to them to deliberate further on the issues raised.

2. Ex-MIN/SEN/SCE/082/2024: Meeting with the Cabinet Secretary, Ministry of Education

- a. The Committee resolved to conduct a working retreat with the Ministry of Education during the June recess period to extensively deliberate on issues regarding-
 - a) capitation fund to learning institutions;
 - b) the pending bills in the universities;
 - c) the New University Funding Model;
 - d) the termination of EduAfya; and
 - e) the implementation status of Competence Based Curriculum.
- b. Following the deliberations with the Ministry of Education on a Statement regarding the state of Iiani Kivaa Hearing Impairment Primary School, the Committee further resolved to conduct a county oversight visit to Machakos to inquire into the implementation status of the Sector Policy for Learners and Trainees with Disabilities and acquaint itself with the issues raised in the Statement sought by Sen. Agnes Kavindu Muthama, MP.

CONSIDERATION AND ADOPTION
OF THE COMMITTEE REPORT ON
THE EARLY CHILDHOOD
EDUCATION (AMENDMENT) BILL

1. The Committee Secretariat presented *Committee Paper No. 056* on the report on the Early Childhood Education (Amendment) Bill (*Senate Bills No. 54 of 2023*) for consideration and adoption;
2. The Committee considered the report and observed that-
 - a) the County Public Service Boards are expected to recruit from a pool of teachers registered by the Teachers Service Commission (TSC) and are supposed to ensure that ECDE teacher recruitment policies are fully implemented;
 - b) there have been huge declines in the ECDE sector investments by county governments partly because there is no specific budget allocation for ECDE since the annual budget allocations for departments of education provide scholarships and bursaries for secondary school and tertiary institutions;
 - c) many classrooms in ECDE centres have been seized by host primary schools, leaving ECDE learners congested in small rooms which prevent teachers from delivering, monitoring teaching and providing necessary guidance at the right time;
 - ✓ d) the Salaries and Remuneration Commission (SRC) carried out an evaluation to determine the relative worth of ECDE teachers and published Job Evaluation Report with envisaged job groups and attendant remuneration structure. However, ECDE teachers' salaries vary considerably across counties and the remuneration structure does not consider the qualification teachers; and
 - e) County governments do not provide opportunities for professional development for ECDE teachers and do not equip them with skills, tools and ability to interact with learners, which is an important prerequisite for the Competence Based Curriculum (CBC).
 - ✓ f) County governments do not compensate teachers who have undertaken upgrade programs to be CBC compliant, do not provide sufficient instructional resources and framework to continue professional development and have not instituted career ladder models to incentivize ECDE teacher expertise and leadership.
3. The Committee further **recommended** that-
 - 1) Clause 2(A) be amended by inserting a new sub-clause (d) as follows:

(d) *the qualification of individual teachers.*
 - 2) Insert New Clause 3 as follows:

Clause 3. For avoidance of doubt, no county government shall pay early childhood education teachers' salary and allowances lesser than the remuneration and benefits structure advised by the Salaries and Remuneration Commission.

MIN/SEN/SCE/089/2024

ADJOURNMENT AND DATE OF
THE NEXT MEETING

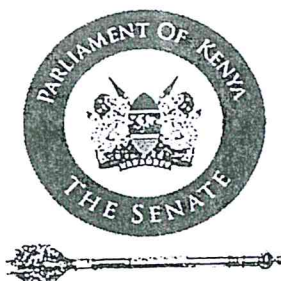
There being no other business, the meeting was adjourned forty-five minutes past one o'clock. The Committee resolved to hold the next meeting on notice.

SIGNED:

DATE:

(CHAIRPERSON: SEN. JOE NYUTU, M.P.)

25/04/2024



MINUTES OF THE ELEVENTH (11TH) MEETING OF THE STANDING COMMITTEE ON EDUCATION HELD ON TUESDAY 12TH MARCH, 2024 AT 12:00 PM AT BILATERAL ROOM 2, KICC BUILDING.

PRESENT

- | | |
|---|--------------------|
| 1. Sen. Joe Nyutu, MP | - Chairperson |
| 2. Sen. Peris Tobiko, CBS, MP | - Vice-Chairperson |
| 3. Sen. (Prof.) Margaret Kamar, EGH, MP | - Member |
| 4. Sen. Agnes Kavindu Muthama, MP | - Member |
| 5. Sen. Lenku Ole Kanar Seki, MP | - Member |
| 6. Sen. Johnes Mwaruma, MP | - Member |
| 7. Sen. Joseph Githuku Kamau, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|---------------------------------|----------|
| 1. Sen. John Kinyua Nderitu, MP | - Member |
| 2. Sen. James Kamau Murango, MP | - Member |

IN ATTENDANCE

- | | |
|---------------------------------|---------------------------|
| 1. Sen. Eddy Gicheru Oketch, MP | - Friend of the Committee |
|---------------------------------|---------------------------|

SECRETARIAT

- | | |
|-------------------------|----------------------------|
| 1. Mr. Humphrey Ringera | - Senior Research Officer |
| 2. Ms. Doris Obure | - Clerk Assistant III |
| 3. Mr. Jackson Wekesa | - Legal Counsel II |
| 4. Mr. Jonathan Lemurt | - Fiscal Analyst |
| 5. Ms. Valarie Chemweno | - Research Officer III |
| 6. Mr. Robert Tonkei | - Research Officer III |
| 7. Mr. John Chege | - Sergeant-At-Arms |
| 8. Ms. Lexxie Mumo | - Audio Assistant (Intern) |

MIN/SEN/DSEC/SCE/048/2024

PRELIMINARIES

The meeting was called to order at fifteen minutes past noon and commenced with a word of prayer said by Sen. Peris Tobiko, CBS, MP.

MIN/SEN/DSEC/SCE/049/2024

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted with amendments having been proposed by Sen. Agnes Kavindu Muthama, MP and seconded by Sen. Joseph Githuku Kamau, MP as follows:

1. Prayer;

2. Adoption of the Agenda;
3. Consideration of the Early Childhood Education (Amendment) Bill (Senate Bills No. 54 of 2023) (**Committee Paper No. 051**);
4. Any other business; and
5. Adjournment /Date of the Next Meeting.

MIN/SEN/DSEC/SCE/050/2024

**CONSIDERATION OF THE EARLY
CHILDHOOD EDUCATION
(AMENDMENT) BILL, 2023 (SENATE
BILLS NO. 54 OF 2023) (COMMITTEE
PAPER NO. 51)**

1. The Committee Secretariat presented Committee Paper No. 051 on the Early Childhood Education (Amendment) Bill, 2023 (Senate Bills No. 54 of 2023) that proposes to amend the Early Childhood Education Act, No. 3 of 2021. The Bill seeks to provide a legal framework in ensuring fair remuneration for early childhood education teachers in the counties;
2. The Committee was informed that an advertisement calling interested members of the public to submit their representations on the Bill by way of written memoranda had been placed in the newspapers and the deadline for receiving written submissions was Friday, 15th March, 2024.
3. The Committee was further informed that during consideration of the Bill, there would be an opportunity for the Committee to interact with early childhood education teachers to understand the challenges encountered while also factoring in the inflation rate, minimum wage and the cost of living;
4. The Committee observed that once enacted into the law, the Bill would address the-
 - a) uniformity of the Scheme of Service for the ECDE teachers;
 - b) recruitment and career advancement of training for the ECDE teachers; and
 - c) the general welfare for the ECDE teachers.
5. The Committee further noted that the Bill would improve the living conditions of the ECDE teachers which will in return boost their working morale in course of duty resulting to quality education for learners.
6. Following the deliberations, the Committee **resolved** to invite the following stakeholders to submit their representations on the Bill-
 - a. The Council of Governors;
 - b. The Salaries and Remuneration Commission;
 - c. The Teachers Service Commission
 - d. The Kenya National Union of Post Primary Education Teachers; and
 - e. The Kenyan National Union of Teachers

MIN/SEN/DSEC/SCE/051/2024

ANY OTHER BUSINESS

1. The Committee was informed that the oversight visit to Taita Taveta County was successful and useful insights were gained during the visit that would inform the

report on the petition regarding payment of hardship allowances to teachers in the County; and

2. The Committee was informed that an oversight visit to Kajiado County was scheduled to take place from Thursday, 21st March, 2024 to Sunday, 24th March, 2024. Members were consequently requested to confirm their attendance for logistical planning.

MIN/SEN/DSEC/SCE/052/2024

ADJOURNMENT AND DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at fifty minutes past one o'clock. The Committee resolved to hold the next meeting on notice.

SIGNED: DATE: 21/03/2024

(CHAIRPERSON: SEN. JOE NYUTU, M.P.)



MINUTES OF THE TWELVETH (12TH) MEETING OF THE STANDING COMMITTEE
ON EDUCATION HELD ON TUESDAY 19TH MARCH, 2024 AT 10:00 AM IN
COMMITTEE ROOM 5, FIRST FLOOR, MAIN PARLIAMENT BUILDINGS.

PRESENT

- | | |
|-----------------------------------|---------------|
| 1. Sen. Joe Nyutu, MP | - Chairperson |
| 2. Sen. Agnes Kavindu Muthama, MP | - Member |
| 3. Sen. John Kinyua Nderitu, MP | - Member |

ABSENT WITH APOLOGY

- | | |
|---|--------------------|
| 1. Sen. Peris Tobiko, CBS, MP | - Vice-Chairperson |
| 2. Sen. (Prof.) Margaret Kamar, EGH, MP | - Member |
| 3. Sen. James Kamau Murango, MP | - Member |
| 4. Sen. Lenku Ole Kanar Seki, MP | - Member |
| 5. Sen. Johnes Mwaruma, MP | - Member |
| 6. Sen. Joseph Githuku Kamau, MP | - Member |

IN ATTENDANCE

- | | |
|----------------------------------|---------------------------|
| 1. Sen. Wakili Hillary Sigei, MP | - Friend of the Committee |
|----------------------------------|---------------------------|

SECRETARIAT

- | | |
|-------------------------|---------------------------|
| 1. Mr. Humphrey Ringera | - Senior Research Officer |
| 2. Ms. Doris Obure | - Clerk Assistant III |
| 3. Mr. Jackson Wekesa | - Legal Counsel II |
| 4. Ms. Njeri Manga | - Media Relations Officer |
| 5. Mr. Jonathan Lemurt | - Fiscal Analyst |
| 6. Ms. Valarie Chemweno | - Research Officer III |
| 7. Mr. Johnstone Simiyu | - Audio Recording Officer |
| 8. Mr. John Chege | - Sergeant-At-Arms |

IN ATTENDANCE

1. Hon (Dr.) Erick Mutai
2. Hon (Prof.) Hillary Barchok, EGH
3. Ms. Agnes C. Ngeno
4. Ms. Valarie Akinyi
5. Dr. John K. Keter
6. Mr. Bii K. Thomas
7. Mr. Kimutai Kiru

COUNCIL OF GOVERNORS

- | |
|--|
| - Governor, Kericho County & Chair Education |
| - Governor, Bomet County & Member Education |
| - CECM, Education, Bomet County |
| - Education Lead, Council of Governors |
| - Chief Officer, Education, Bomet County |
| - Director, ECDE |
| - Director, Liaison |

MIN/SEN/DSEC/SCE/053/2024

PRELIMINARIES

The meeting was called to order at thirty minutes past ten and commenced with a word of prayer said by Sen. Agnes Kavindu Muthama, MP.

MIN/SEN/DSEC/SCE/054/2024

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted with amendments having been proposed by Sen. Agnes Kavindu Muthama, MP and seconded by Sen. John Kinyua Nderitu, MP as follows:

1. Prayer;
2. Adoption of the Agenda;
3. Meeting with the Council of Governors to consider submissions on the Early Childhood Education (Amendment) Bill (Senate Bills No. 54 of 2023) (Committee Paper No. 052);
4. Any other business; and
5. Adjournment /Date of the Next Meeting.

MIN/SEN/DSEC/SCE/055/2024

MEETING WITH THE COUNCIL OF
GOVERNORS TO CONSIDER THE EARLY
CHILDHOOD EDUCATION (AMENDMENT)
BILL, 2023 (SENATE BILLS NO. 54 OF 2023)
(COMMITTEE PAPER NO. 52)

- a) **Consideration of the Early Childhood Education (Amendment) Bill**
1. The Committee Secretariat presented Committee Paper No.052 on the Early Childhood Education (Amendment) Bill, 2023 (Senate Bills No.54 of 2023) that proposes to amend the Early Childhood Education Act, No.3 of 2021. The Committee was informed that the Bill seeks to provide a legal framework in ensuring fair remuneration for early childhood education teachers in the counties;
 2. The Committee was informed that the Council of Governors Education Committee would be represented by the Hon. (Dr.) Erick Mutai, Governor, Kericho County & Chairperson of the Committee who was accompanied by Hon. (Prof) Hillary Barchok, EGH, the Governor, Bomet County and a member of the Education Committee;
 3. The Committee was informed that-
 - a. Whereas the Early Childhood Education (Amendment) Bill, 2023 (Senate Bills No. 54 of 2023) seeks to mandate the counties to provide for the welfare of Early Childhood Education teachers in public schools, there is need to amend several provisions of the Early Childhood Education Act, 2021;
 - b. The Council of Governors (CoG) serves as a platform for coordination among county governments in implementing ECDE programs. Consequently, the CoG can facilitate collaboration, information sharing, and alignment of efforts to ensure a rational and efficient approach across counties;
 - c. The Salaries and Remuneration Commission (SRC) is a constitutional body responsible for offering advisory to the counties on remuneration and the county

governments are progressively adopting the ECDE teachers Scheme of Service; and

- d. ECDE teachers have a monthly basic remuneration ranging between Kshs. 14,364 to Kshs. 78,300 and that most of the counties are paying the teachers above the stipulated government minimum wage of Kshs. 13,572.

b) Consideration of a Statement on the welfare and status of Early Childhood Development Education (ECDE) in Bomet

3. The Committee was informed that the County Government of Bomet had-

- a. a total of 1348 ECDE teachers are currently employed in the county with 248 being on a fixed renewable contractual term since 2022 and 1095 are on permanent and pensionable terms; and
- b. the County Government is currently implementing the ECDE teachers Scheme of Service which was adopted by the County Public Service Board (CPSB) and that there are 1233 ECDE centres across the County.

4. The Committee observed that-

- a. there were discrepancies in the payment of ECDE teachers in the counties attributed to limited resources, affordability and fiscal sustainability coupled with stretching the available resources thin; and
- b. there should be uniformity in payment of ECDE teachers' salaries to streamline the terms of service and allow teachers to transfer services across the counties.

5. The Committee resolved to-

- a. seek clarification and supplementary information from the Council of Governors regarding the discrepancies on the data on enrolment for ECDE learners in the country; and
- b. reschedule a meeting with the Governor, County Government of Bomet to deliberate on the supplementary issues raised in the Statement regarding the status and welfare of Early Childhood Development (ECDE) teachers sought by Sen. Wakili Hillary Sigei, MP.

MIN/SEN/DSEC/SCE/056/2024

ANY OTHER BUSINESS

The Committee acceded to the request by the Council of Governors requesting the Committee to consider holding a joint retreat with the Council of Governors, Education Committee to deliberate on the ECDE landscape in the counties and implementation of policies on the Technical and Vocational Education and Training (TVET) and requested the Secretariats from the Senate and the CoG to develop a program for consideration.

MIN/SEN/DSEC/SCE/057/2024

ADJOURNMENT AND DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at fifteen minutes past one o'clock. The Committee resolved to hold the next meeting on notice.

SIGNED: for [Signature] DATE: 28/03/2024
(CHAIRPERSON: SEN. JOE NYUTU, M.P.)

SPECIAL ISSUE

Kenya Gazette Supplement No. 238 (Senate Bills No. 54)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2023

NAIROBI, 8th December, 2023

CONTENT

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The Early Childhood Education (Amendment) Bill, 2023 1193

**THE EARLY CHILDHOOD EDUCATION
(AMENDMENT) BILL, 2023**

A Bill for

**AN ACT of Parliament to amend the Early Childhood
Education Act; and for connected purposes**

ENACTED by the Parliament of Kenya, as follows —

1. This Act may be cited as the Early Childhood Education (Amendment) Act, 2023. Short title.

Amendment of
section 31 of No. 3 of
2021.

1. Section 31 of the Early Childhood Education Act, in this Act referred to as “the principal Act” is amended by inserting the following new paragraph immediately after paragraph (f)—

(fa) discuss and recommend measures for the welfare of teachers.

Amendment of
section 38 of No. 3 of
2021.

2. Section 38 of the principal Act is amended by inserting the following new subsection immediately after subsection (2)—

(2A) In determining the remuneration under subsection (2), the county government shall take into account several factors including —

- (a) inflation rate;
- (b) minimum wage; and
- (c) cost of living.

Amendment of
section 68 of No. 3 of
2021.

3. Section 68 of the principal Act is amended in subsection 3(a) by inserting the following new subparagraph immediately after subparagraph (viii)—

(viiiia) welfare of teachers;

MEMORANDUM OF OBJECTS AND REASONS**Statement of the Objects and Reasons for the Bill**

This Bill seeks to amend the Early Childhood Education Act, No. 3 of 2021 to mandate the county governments to provide for the welfare of early childhood education teachers in public schools.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

Statement of how the Bill concerns County Governments

The Bill concerns county governments in terms of Article 110(1)(a) of the Constitution as it contains provisions that affect the functions and powers of the County Governments. Paragraph 9 of Part II of the Fourth Schedule to the Constitution designates pre-primary education as a devolved function.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 13th June, 2023.

EDDY GICHERU OKETCH,
Senator.

Section 31 of No. 3 of 2021 which it is proposed to amend —

31. Functions of the board of management

The functions of the board of management are to —

- (a) identify the needs of early childhood education and development services within their local communities and develop viable strategies for meeting these needs;
- (b) mobilize the parents and local communities to initiate and sustain education centres and support early education programmes;
- (c) manage the early education programme in the centre in ensuring the provision of quality early childhood education;
- (d) identify local resources necessary to equip the education centre and identify sources for, and undertake fundraising activities to raise funds for the education centre;
- (e) ensure the provision of quality early education services in the education centre in accordance with the standards prescribed under this Act and by the County Education Board;
- (f) ensure the provision of adequate equipment and facilities within the education centre that such equipment and facilities are well maintained;
- (g) carry out advocacy in relation to the needs and the rights of the child in relation to early childhood education; and
- (h) carry out such other functions as may be necessary for the implementation of this Act within the education centre.

Section 38 of No. 3 of 2021 which it is proposed to amend —

38. Recruitment of early childhood teachers

(1) The county government shall be responsible for the —

- (a) recruitment and professional development of early childhood education teachers in public education centres within the county; and
- (b) maintenance of a register of early childhood education teachers recruited by it under paragraph (a).

(2) The county government shall pay to early childhood education teachers employed in public education centres within the county, such remuneration as it shall, in consultation with the Salaries and Remuneration Commission, determine.

Section 68 of No. 3 of 2021 which it is proposed to amend —

68. Regulations

(3) The Cabinet Secretary may, in consultation with the Council of County Governors, make regulations generally for the better carrying out of the provisions of this Act.

(4) The Cabinet Secretary shall, in consultation with the Teachers Service Commission and the Council of County Governors, prescribe minimum standards relating to schemes of service for early childhood teachers within one year of enactment of this Act.

(5) Without prejudice to the generality of subsection (1), the Cabinet Secretary may —

- (a) prescribe minimum standards relating to the following matters—
 - (i) premises and facilities;
 - (ii) programmes of education;
 - (iii) practices in relation to children's learning and development;
 - (iv) staffing and parental or caregiver participation;
 - (v) health and safety;
 - (vi) implementation of the curriculum framework;
 - (vii) communication and consultation with parents;
 - (viii) the operation or administration of early childhood education services in a manner that ensures the health, comfort, care, education, and safety of children attending licensed early childhood services;
- (b) limit or regulate the numbers of children who may attend a registered education centre;
- (c) provide for the grant, duration, expiry, renewal, suspension, transfer, reclassification, and cancellation of registration certificates of one or more specified kinds for service providers for each kind of early childhood service;
- (d) prescribe the conditions subject to which such registration certificates may be granted, renewed or transferred and the fees payable in respect of the grant, renewal, and transfer of such certificates;

- (e) prescribe conditions governing, or that may be imposed in respect of, registered education centres and the duties of their service providers;
 - (f) prescribe the records to be kept by education centres in respect of children attending registered centres; and
 - (g) prescribe fees required to be paid under this Act.
- (6) Regulations made under subsection (2) may prescribe different standards and other requirements —
- (a) for early childhood services of different types or descriptions; and
 - (b) in respect of different kinds of registrations.
- (7) For the purposes of Article 94(6) of the Constitution—
- (a) the authority of the Cabinet Secretary to make regulations shall be limited to bringing into effect the provisions of this Act and the fulfilment of the objectives specified under subsection (1); and
 - (b) the principles and standards set out under the Interpretation and the General Provisions Act, (Cap. 2) and the Statutory Instruments Act, (No. 23 of 2013) in relation to subsidiary legislation shall apply to regulations made under this Act.

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REPUBLIC OF KENYA



MANDERA COUNTY GOVERNMENT

ADDENDUM TO TENDER

Mandera County Government wishes to notify all prospective bidders that the closing date for tenders advertised on the Standard of 6th February, 2024, which has been extended to 7th March, 2024 remains effective.

- That this addendum is hereby issued to bring to your attention that:
- Tender No. MCG/01/66/2023-2024 - Proposed Desilting and Expansion of Kobadadi West Earth Pan By 20,000M3 In Mandera West Sub County has changed from 20,000M3 to 30,000M3
 - That the new tender document has been uploaded in the county website and can be downloaded at www.mandera.go.ke
 - That the tenderers are advised to confirm the correct tender document before submitting their bids
 - That Tender no MCG/01/012/2023-2024 Proposed Construction of 30,000m3 Earthpan at Mikoreb is erroneously indicated in Mandera West instead of Mandera South Sub-County. The BQ for this tender remains the same.

All other terms and conditions remain the same.

N/B: Bidders who have already submitted bids for tender no. MCG/01/66/2023-2024 - Proposed Desilting and Expansion of Kobadadi West Earth Pan By 20,000M3 In Mandera West Sub-county need to resubmit their bids again.

County Head of Supply Chain Management.

REPUBLIC OF KENYA



THIRTEENTH PARLIAMENT | THIRD SESSION

THE SENATE

INVITATION FOR SUBMISSION OF MEMORANDA

At the sitting of the Senate held on Thursday, 29th February, 2024, the Bills listed at the second column below were introduced in the Senate by way of First Reading and thereafter stood committed to the respective Standing Committees indicated at the third column.

Pursuant to the provisions of Article 118 of the Constitution and standing order 145 (5) of the Senate Standing Orders, the Committees now invite interested members of the public to submit any representations that they may have on the Bills by way of written memoranda.

The memoranda may be submitted to the Clerk of the Senate, P.O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk of the Senate, Main Parliament Buildings, Nairobi or emailed to clerk.senate@parliament.go.ke and copied to the email addresses of the respective Committee indicated at the fourth column below, to be received on or before Friday, 15th March, 2024 at 5.00 p.m.

BILL	Committee Referred To	Email Address
a) The Co-operative Societies (Amendment) Bill (Senate Bills No. 53 of 2023)	Standing Committee on Trade, Industrialization and Tourism	tradeindtourism.senate@parliament.go.ke
b) The Early Childhood Education (Amendment) Bill (Senate Bills No. 54 of 2023)	Standing Committee on Education	educationcommittee.senate@parliament.go.ke
c) The Fire and Rescue Services Professionals Bill (Senate Bills No. 55 of 2023)	Standing Committee on National Security, Defense and Foreign Relations	soneto.nsdf@parliament.go.ke
d) The Narcotic Drugs and Psychotropic Substances (Control) (Amendment) Bill (Senate Bills No. 1 of 2024)	Standing Committee on National Security, Defense and Foreign Relations	senate.nsdf@parliament.go.ke

The Bills may be accessed on the Parliament website at <http://www.parliament.go.ke/the-senate/house-business/bills>.

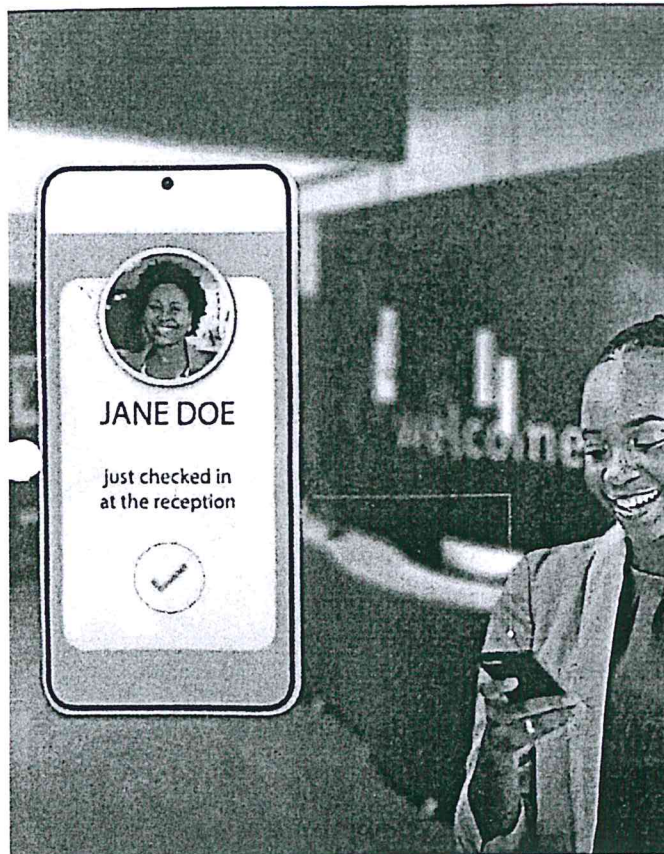
J.M. NYEGENYE, CBS,
CLERK OF THE SENATE.

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MINISTRY OF EDUCATION
Office of the Cabinet Secretary

Telephone: Nairobi (020) 3318581
Email: cs@education.go.ke
Website: www.education.go.ke

Jogoo House "B"
Harambee Avenue
P. O. BOX 30040 - 00100
NAIROBI - Kenya

Ref: MOE.HQS/3/6/45

March 21, 2024

Mr. J.M. Nyegenye, CBS
Clerk of the Senate
Parliament Buildings
Parliament Road
NAIROBI

Dear Sir

**SUBMISSION OF COMMENTS ON THE EARLY CHILDHOOD EDUCATION
(AMENDMENT) BILL, 2023 (SENATE BILLS NO. 54 OF 2023)**

This has reference to the captioned subject matter and to your letter dated 6th March, 2023, under Ref. No. SEN/SCE/CORR/2024/021, by which you sought our comments on the referenced Bill.


We have considered the contents of the Bill and note as follows:

1. The Bill seeks to amend the Early Childhood Education Act, 2021, to mandate the County Governments to provide for the welfare of early childhood education teachers in public schools.
2. The Bill seeks to achieve the foregoing by amending Section 31 of the principal Act, to require the Boards of Management to discuss and make recommendations on the welfare of teachers; Section 38 to require the County Governments to consider inflation rate, the minimum wage and the cost of living in determining the remuneration of early childhood education teachers; and, Section 68 to include the welfare of early childhood education teachers, in matters over which the Cabinet Secretary may prescribe regulations.
3. The import of the Bill is to strengthen the framework for the promotion of the welfare of early childhood education teachers. It is our view that the Bill is consistent with the functions of the County Governments as outlined in the Fourth Schedule of the Constitution, and that its enactment will provide clarity on the protection of the welfare of early childhood education teachers.

4. Going forward, and as recommended by the Presidential Working Party on Education Reform, the Ministry of Education will work together with the Teachers Service Commission and the Council of Governors to review and develop policies and guidelines to ensure collaborative management of teacher registration and recruitment, deployment and transfer, promotion and standardised remuneration of all pre-primary teachers.

We trust that what we have stated hereinabove will be of assistance, and remain at your disposal to provide such other information as may be required.

Yours sincerely



Dr. Ezekiel Machogu, EGH

CABINET SECRETARY

Copy to: **Dr. Belio Kipsang, CBS**
Principal Secretary
State Department for Basic Education
Ministry of Education
NAIROBI



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Address all Correspondence(s) to:
The Secretary General
P.O. Box 30407, 00100
NAIROBI - KENYA.

KNUT/ECDE/925/2/2024

March 19, 2024

The Clerk of the Senate,
Clerk's Chambers,
Parliament Buildings,
P. O. Box 41842 – 00100,
NAIROBI.

Dear Sir,

RE: SUBMISSION OF COMMENTS ON THE EARLY CHILDHOOD
DEVELOPMENT EDUCATION (AMENDMENT) BILL, 2023 (SENATE BILL
NO. 54 OF 2023)

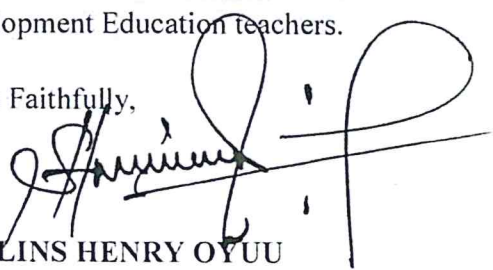
We acknowledge with thanks receipt of your letter Ref. SEN/SCE/CORR/2024/036 dated 13th March, 2024 on the above subject.

Please find attached the comments of Kenya National Union of Teachers (KNUT) on the Early Childhood Development Education (Amendment) Bill – 2023 (Senate Bill No. 54 of 2023).

It is the earnest hope of the Union that the Senate Standing Committee on Education will find the comments on the Amendment Bill quite appropriate and geared towards raising the education standards through professionally managed teachers.

KNUT leadership looks forward to prompt and suitable reply. The Union is willing and ready to cooperate with the Education Committee to finding a lasting solution to Early Childhood Development Education teachers.

Yours Faithfully,


COLLINS HENRY OYUU
SECRETARY GENERAL
K.N.U.T.

C.C.

The National Chairman - K.N.U.T.
The National Treasurer - K.N.U.T.

THE EARLY CHILDHOOD EDUCATION (AMENDMENT) BILL, 2023

(SENATE BILL NO. 54 OF 2023)

Proposals By

Kenya National Union of Teachers

On The Consequential Amendments on The ECDE Senate Bill (2023)

Written Law	Provision	Amendment
The Early Childhood Education Act (2021)	Section 31 of the Early Childhood Education Act, in this Act referred to as “the principal Act” is amended by inserting the following new paragraph immediately after paragraph (f) – (fa) discuss and recommend measures for the welfare of teachers.	<p><u>KNUT proposal:</u></p> <p>Teachers Service Commission (TSC) is the <u>ONLY</u> constitutionally mandated body as per Section 237 (2) (a) (b) (c) (d) (e) and (f) to discuss and recommend measures for the welfare of teachers. It is for this reason that through a letter dated January 15th, 2024 KNUT called on the Inter-Governmental Relations Committee to expedite the process of transferring the management of ECDE teachers from County governments to TSC under Article 187 (1) (a) (b); (2) (a) (b) of the Constitution (2010).</p> <p><i>Justification</i></p> <p>The proposal is made in good faith based on Chapter Four Articles 43, 53, 54, 55, 56, 57 and 59 of the Constitution which provides for children’s right to free inclusive and equitable quality education and lifelong learning.</p> <p>KNUT’s recommendation that ECDE teachers should be managed by TSC is hinged on a very valid and reasoned argument that the Commission has the</p>

		<p>expertise, human resource, structures, programmes and the technical experience to manage all cadres of Basic Education teachers.</p> <p>TSC has elaborate and well-defined governance structures, policies and programmes built on a solid legal framework founded on the Constitution (2010) to effectively manage teachers. These authorities and infrastructures which are <u>NOT</u> found in the County governments facilitate the Commission to professionally run Teaching Service. To manage teachers effectively and efficiently; and moreover, to ensure that the Kenyan child gets equitable quality education and lifelong learning – TSC has nine directorates in place to carry out the duties. These are:</p> <p>(i) Human Resource Management and Development; (ii) Administrative Services; (iii) Field Services Staffing; (iv) Finance and Accounts; (v) Legal, Labour and Industrial Relations; (vi) Information and Communication Technology; (vii) Quality Assurance and Standards; (viii) Internal Audit.</p> <p>County Governments lack all these infrastructures to effectively manage teachers, and also guarantee the Kenyan child equitable quality education.</p>
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		<p>TSC manages over 350,000 trained and certified teachers, serving in over 35,000 public learning institutions across the country. On the other hand, there are over 32,000 ECDE centers managed by County governments which employ over 60,000 teachers with no unified and well-defined scheme of service. Enrolment in ECDE centers currently stands at over 2.5 million children.</p> <p>According to SRC, ECDE Teacher Certificate holders were to pocket Shs29,561 per month; Diploma holders Shs40,000, and Degree holders Shs59,770. However, these gradings and salary scales were never implemented by the County Governments because of lack of a central corporate body to manage Pre-primary school teachers. For instance, it is common to find that ECDE teachers of whatever qualifications are paid as little as Shs10,000 per month – County governments pay this cadre of teachers according to their wishes.</p> <p>There is no ever-known Gazette Notice on the emolument of Pre-primary teachers.</p> <p>SRC recommendation on the remuneration of ECDE teachers has never been considered by County</p>
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		<p>Governments which is a violation of Article 230 (4B) which states: <u>“SRC shall advise the National and County Governments on the remuneration and benefits of Public officers, including teachers.”</u></p> <p>TSC operates in collaboration with Kenya Teachers College Principal Association; Kenya Secondary School Heads Association; Kenya Primary School Heads Association; Kenya Union of Post Primary Education Teachers; Kenya National Union of Teachers; Kenya Union of special Needs Teachers, UNICEF, UNESCO, Kenya Institute of Special Education, Kenya Institute Curriculum Development and Kenya Education Management Institute – these are the organizations that can adequately discuss teachers’ concerns. County Governments are not in partnership with any of these institutions.</p> <p>The Presidential Working Party on Education Reforms recommends that the Ministry of Education adopts a Comprehensive School system (PP1 to Grade 9) comprising Pre-primary, Primary school and Junior school managed as one institution with a single Board of Management. Thus, it would be more logical and prudent if ECDE teachers were brought under a</p>
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		single umbrella with their colleagues serving in upper classes under one Head teacher.
	<p>Section 38 of the principal Act is amended by inserting the following new subsection immediately after subsection (2) –</p> <p>(2A) In determining the remuneration under (2), the County Government shall take into account several factors including:</p> <ul style="list-style-type: none">) Inflation.) Minimum wage.) Cost of living. 	<p><u>KNUT proposal:</u></p> <p>Refer to Article 187 of the Constitution (2010) on transfer of functions and powers between levels of Government and the functions of TSC under Article 237 of the Constitution. The Commission with the advice of Salaries and Remuneration Commission (SRC) can effectively carry out this function.</p>
	<p>Section 68 of the principal Act is amended in Subsection 3(a) by inserting the following new subparagraph immediately after subparagraph (viii) –</p> <p>(viii a) welfare of teachers.</p>	<p><u>KNUT proposal:</u></p> <p>Refer to Article 187 of the Constitution (2010) on transfer of functions and powers between levels of Government. Recruitment and management of ECDE teachers, and ensuring their career progression should be the function of the National Government (Teachers Service Commission under Article 237 of the Constitution).</p>

KNUT PRAYERS

- The proposed amendments in Sections 31, 38 and 68 of the Principal Act should be nipped in the bud as any law that is inconsistent with the Constitution (2010) is void to the extent of the inconsistency, and any act or omission in contravention of the Constitution is invalid. The Constitution is the supreme law of the Republic and binds all persons and all State organs at both levels of Government.
- County governments should collaborate with other constitutional bodies that have been mandated to carry out specific functions such as TSC and SRC to foster Early Childhood Development Education. County governments should establish ECDE centers, supply learning and play materials, manage School Feeding Programmes, initiate and manage infrastructural development of ECDE centers.
- KNUT in liaison with the Ministry of Education, TSC, UNESCO, UNICEF and World Bank Group emphatically notes that ECDE teachers play a leading role in the holistic growth of children by nurturing them for a better future. This cadre of teachers hold the responsibility of molding the toddlers and influencing their physical, intellectual and emotional growth positively. ECDE teachers create a conducive environment to launch Foundational Education (Learning), whereby the National Government is obligated to manage teachers through a highly professionalized central employer – in this particular case, Teachers Service Commission.
- The Standing Committee on Education of the Senate during the Twelfth Parliament (Sixth Session) on April 24th, 2022 observed that TSC is mandated to register trained teachers, recruit and employ registered teachers, assign teachers duties, promote and transfer teachers, terminate the employment of teachers, and exercise disciplinary control over teachers (contained in TSC Act). On the other hand, the recruitment of ECDE teachers is supposed to be done by the County Public Service Boards. “This has created inconsistencies in hiring and remuneration of ECDE teachers. Lack of Schemes of Service for ECDE teachers has led to low and irregular remuneration of Pre-primary school teachers, thus adversely affecting their morale,” observed the Senate.

- The Senate recommended that the Council of Governors, Teachers Service Commission and the Inter-Governmental Relations Technical Committee should within 90 days after the tabling of the report, establish modalities and create an ECDE collaborative framework. To date, **NO** framework has ever been established – the reason why KNUT calls for transferring the hiring and management of ECDE teachers to the National Government (Teachers Service Commission).
- The Senate further recommended that the Ministry of Education and Teachers Service Commission should enhance and facilitate their Quality Assurance and Standards Officers to undertake rigorous monitoring and inspections covering all ECDE centers. This has not been met.
- The Senate recommended that the Ministry of Education, Council of Governors and Teachers Service Commission ensure that in all undertakings, the educational needs for learners with Special Needs and Disabilities are taken into consideration. This includes providing functional and fully equipped Education Assessment and Resource Centers (EARCs), ensuring adequate supply of Special Needs Education (SNE) teachers, and more importantly, ensure the learners/teacher ratio is within recommended parameters, and learning and play materials are sufficiently provided. This has also **NOT** been achieved.
- TSC developed a Scheme of Service for ECDE teachers which was shared with the Council of Governors. The Scheme provided a well-refined career structure that attracts and retains suitably qualified and competent teachers in service. The Scheme provided for well-defined job descriptions and specifications with clear delineation of duties and responsibilities at all levels within the career structure which ensured proper deployment and utilization of teachers. County governments took no notice of the Scheme of Service – each County government has its own remuneration formula.
- The Scheme of Service for ECDE teachers established standards for training, recruitment, remuneration and career progression; and more importantly, ensured appropriate career planning and succession management. The initiative of TSC to foster **Foundational Learning**, and stamp professionalism within ECDE Sub-sector were disregarded by County governments – on the basis of which KNUT

pleads with the Senate to **invoke Article 187** of the Constitution, and rightly transfer the function of ECDE teacher management to the National Government (Teachers Service Commission), and fittingly realign the Sub-sector to Kenya's Philosophy of Education; Article 273 of the Constitution (2010), TSC Act (2012), International Conventions, Treaties, Protocols and Memorandum of Understanding on **Foundational Learning**.

TEACHERS SERVICE COMMISSION

TELEPHONE: NAIROBI 2892000
EMAIL: info@tsc.go.ke
WEBSITE: www.tsc.go.ke

When Replying Please Quote

Ref: TSC/LLIR/SEN/86/VOL.II/165



TSC HOUSE, UPPERHILL,
KILIMANJARO ROAD,
OFF MARA ROAD,
PRIVATE BAG - 00100,
NAIROBI, KENYA.

Date: 20th March, 2024

Mr. J.M. Nyengenyne, CBS
Clerk of the Senate,
Parliament Buildings,
P.O Box 41842-00100
NAIROBI

Dear Sir,

SUBMISSION OF COMMENTS ON THE EARLY CHILDHOOD (AMENDMENT) BILL (SENATE BILLS NO. 54 OF 2023)

The above captioned matter and your letter Ref: SEN/SCE/CORR/2024/023 dated 6th March, 2024 refers.

Attached hereto please find the comments for your further action.

Yours sincerely,

CAVIN ANYUOR
FOR: SECRETARY/CHIEF EXECUTIVE

**FORM FOR SUBMISSION OF COMMENTS ON THE EARLY CHILDHOOD EDUCATION
(AMENDMENT) BILL, 2023.**

NAME OF THE ORGANISATION: TEACHERS SERVICE COMMISSION

CONTACTS: EMAIL & PHONE: dirllir@tsc.go.ke 0202892013

PROVISION IN THE BILL	WHAT IS YOUR PROPOSAL/INPUT	WHAT IS YOUR JUSTIFICATION/COMMENT FOR THE PROPOSED CHANGES
Section 38-Recruitment	Amend Section 38 of the Principal Act by inserting a new subsection 1C to provide that: (1C) County Government shall only recruit early childhood education teachers who are registered under the Teachers Service Commission Act.	Sec 23 (2) of the TSC Act outlaws teaching unless one is a registered teacher under the Act.
	Proposed Amendment Section 2A be deleted and instead be amended to provide that: (2A) For avoidance of doubt, no County Government shall pay early childhood education teachers salary and allowances lesser than remuneration and benefits structure advised by the Salaries and Remuneration Commission	<ol style="list-style-type: none"> 1) The provision proposed in 2A if implemented will water down the Remuneration and Benefit Structure for early childhood education teachers as may be advised by SRC. The proposal is aimed at giving a justification to pay less in terms of salary and allowances. This may lead to demotivation of the teachers and cripple learning at this critical level. 2) Early childhood education is the foundation of learning hence requires a highly motivated workforce. 3) Teaching is a noble profession which requires remuneration commensurate to the professional duty of teachers.



**Salaries & Remuneration
Commission**

Rewarding productivity

Ref. No: SRC/TS/8 VOL. I (96)

14th March, 2024

J. M. Nyengeny, CBS
Clerk of the Senate
Main Parliament Buildings
P.O Box 41842 – 00100
NAIROBI

Dear *Mr. Nyengeny,*

**INVITATION TO SUBMIT VIEWS ON THE EARLY CHILDHOOD EDUCATION
(AMENDMENT) BILL, 2023 (SENATE BILLS NO. 54 OF 2023)**

Reference is made to your letter Ref. No. SEN/SCE/CORR/2024/033 dated 13th March, 2024 on the above subject.

The Salaries and Remuneration Commission (SRC) is established under Article 230 of the Constitution of Kenya with the mandate to: a) set and regularly review the remuneration and benefits of all State officers; and b) advise the national and county governments on the remuneration and benefits of all other public officers.

The Senate Standing Committee on Education vide the letter under reference invited SRC to submit views on the Early Childhood Education (Amendment) Bill, No. 54 of 2023. SRC has reviewed the Bill and submits its views as follows:

No.	PROPOSED AMENDMENTS	OBSERVATIONS	RECOMMENDATION
New Amendments			
Clause 1	Section 31 of the Early Childhood Education Act, in this Act referred to as "the principal Act" is amended by inserting the following new paragraph immediately after paragraph (f)—	The proposed amendment introduces an additional function to the board of management on welfare of teachers.	SRC has no objection to the proposed amendment.

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Email: info@src.go.ke Website: <https://www.src.go.ke/>



@srckenya

@SRCKE

Salaries and Remuneration Commission

For your signature

	(fa) discuss and recommend measures for the welfare of teachers		
Clause 2.	<p>Section 38 of the principal Act is amended by inserting the following new subsection immediately after subsection</p> <p>(2)-</p> <p>(2A) In determining the remuneration under subsection (2), the county government shall take into account several factors including -</p> <p>(a) inflation rate;</p> <p>(b) minimum wage; and</p> <p>(c) cost of living</p>	<p>Section 38 of the Principal Act revolves around the recruitment of early childhood teachers. The Section provides that:</p> <p>(1) The county government shall be responsible for the—</p> <p>(a) recruitment and professional development of early childhood education teachers in public education centres within the county; and</p> <p>(b) maintenance of a register of early childhood education teachers recruited by it under paragraph (a).</p> <p>(2) The county government shall pay to early childhood education teachers employed in public education centres within the county, such remuneration as it shall, in consultation with the Salaries and Remuneration Commission, determine</p> <p>The new additional paragraphs seek to introduce factors that county governments shall take into account during determination of remuneration.</p>	<p>The proposed amendment is in order as it is in line with Article 230 of the Constitution on the mandate of the of SRC and some of the factors that SRC considers in the discharge of its mandate.</p>
Clause 3.	<p>Section 68 of the principal Act is amended in subsection 3(a) by inserting the following new subparagraph immediately after subparagraph (viii)—</p> <p>(viii a) welfare of teachers;</p>	<p>The proposed amendment seeks to include the welfare of teachers in the minimum standards to be provided for in the regulations to be made by the Cabinet Secretary.</p>	<p>SRC is not opposed to the proposed amendment.</p>

Owing to other official commitments scheduled earlier, the Commission will not be in a position to attend the meeting on Tuesday, 19th March 2024, but will be available on any other day with prior notice.

The Commission appreciates your continued cooperation and support as we discharge our respective mandates.

Yours



Mrs. Anne R. Gitau, EBS
COMMISSION SECRETARY/CEO



MEMORANDUM

ON THE EARLY CHILDHOOD EDUCATION (AMENDMENT) BILL 2023

PRESENTED TO

SENATE

STANDING COMMITTEE ON EDUCATION

15TH OF MARCH 2024

SUMMITTED BY

**ELIMU YETU COALITION
HILLSIDE APARTMENTS, RAGATI ROAD
OFF HAILE SELLASIE AVENUE
P.O BOX 24621-00100,
GPO NAIROBI KENYA
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**Board of Trustees: Kenya Foundation for Youth and Women programme, VSO – Kenya, International Aid Services, Trace Kenya
Sightsavers Kenya, Makueni Remand Education Group, Balm Kenya, AFOSC-Kenya, New Haven Robert Centre**

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E-mail: info@elimuyetu.net elimuyetu@gmail.com Website www.elimuyetu.net**

EYC is a member of ANCEFA, GCE & IDAY

A. INTRODUCTION

Elimu Yetu Coalition (EYC) is the National Campaign Network of Civil Society Organizations working towards the realization of the right to quality basic education for all in Kenya. The Coalition was established in 1999 as a national platform for civil society organizations and other non-state actors in Kenya's education sector to lobby for the implementation of Education for All (EFA) goals; it dedicates itself to advocating for the universal realization of the right to education. EYC Primary focus revolves around rallying and synergizing the combined endeavors of its members and local populations across Kenya mainly through policy engagement discourses.

The work of the Coalition has received recognition regionally and globally, including by the Global Campaign for Education (GPE), on its role in promoting Education transformation in Kenya.

The Coalition is a member of the African National Coalitions for Education for All (ANCEFA) and also a respected member of the Global Campaign for Education (GCE).

EYC was involved in the development of the Kenya Partnership Compact, it is one of the signatories. The others are; the Foreign and Commonwealth Development Office (FCDO), UNICEF and the African Development Bank (ADB). The partnership compact is primarily focused on enhancing learning outcomes and addressing matters of education inequalities in Kenya. The largest Education Programme in Kenya yet, the Kenya Basic Education Equity in Learning programme (KPEEL) is derived from the partnership compact.

Membership to the coalition is corporate and it enjoys a wide network of CSO membership across the country which currently stands at 185 organizations, mostly locally based.

Members at the county engage through structures known as County Education Networks (CENs), whereby they meet and deliberate on education policy matters including those touching on Early Childhood Education. It is on this basis that the coalition submits a memorandum on **The Early Childhood Education (Amendment) Bill 2023**.

B. OUR UNDERSTANDING OF THE EARLY CHILDHOOD CONTEXT IN KENYA

It is our understanding;

1. **That;** Part 2(9) of the Fourth schedule of the Constitution of Kenya 2010, on the distribution of the functions between the National Government and the County Governments devolves pre-primary education to County Governments
2. **That;** Part 1(15) of the Fourth Schedule of the Constitution of Kenya 2010 assigns the role of education policy, standards, curricula, examinations and the granting of university charters to the National Government hence placing ECDE Policy development in the hands of the National Government.
3. **That;** Article 237(2) of the Constitution of Kenya 2010, lists the functions of the Teachers Service Commission (TSC) as including the registration, recruitment, promotion, transfer, disciplining and termination of teachers
4. **That;** According to Article 230(4)(b) of the Constitution of Kenya 2020, the functions of the Salaries and Remuneration Commission includes advising both the national and county governments on remuneration of public officers

5. **That;** under Article 96(1) of the Constitution of Kenya, the Senate represents the counties and serves to protect the interests of the counties and their governments
6. **That;** as at 2020, the enrolment rate for pri-primary for both public and private institutions stood at 2,832,897 with Girls being 1395973 while boys being 1436924. And the number of pri-primary institutions are at 46656 with public institutions being at 28505, and private institutions being 18147¹
7. **That;** since the advent of devolution, Early Childhood sub-sector has registered improvements, varying across counties, through progressive investments by County Governments mainly through enhancing infrastructure and teacher recruitment; but challenges still persist. Through Elimu Yetu County Education forums some of the challenges identified are;
 - i. unsustainable feeding programs
 - ii. Inadequate physical infrastructure
 - iii. Need for hiring ECDE teachers and putting them under a schemes of service
 - iv. Inadequate supervision and quality assurance challenges at that level
 - v. Poor remuneration of ECDE teachers
 - vi. Inadequate teachers: high Pupil teacher ratios
 - vii. Low parental engagement
 - viii. Need to provide free ECDE at the county level
 - ix. Inadequate training opportunities for ECDE teachers including CBC training.
 - x. Inadequate research at the county level on ECDE with the aim of identifying county specific gaps and challenges with the view of informing county governments on appropriate action.
 - xi. Access to ECDE centres especially for Arid and Semi-Arid Areas
 - xii. Stand-alone ECDE centres that pose the challenges of safety as they lack fencing facilities
 - xiii. Inadequate teaching and learning resources
 - xiv. Low enrolment rates in some counties
 - xv. Lack of facilities supporting Special needs education(SNE)
 - xvi. Lack of capitation for ECDE
8. **That;** the Report of the joint sector review on the National Education Sector strategic Plan 2018-2022, among other findings on ECDE reported an increase in enrolment of 39% between 2018-2022.
9. **That;** since 2012 the Education sector has been in a reform mode with policies and legislation having a bearing on the ECDE. The main ones are;
 - a. Sessional paper No 1. Of 2019 on Reforming Education and Training for sustainable development in Kenya which acknowledges the distribution of roles between the National Government and the County Government and prioritises; mainstreaming pre-primary schools into the primary school system, strengthening strategic Public Private partnerships, reforming the pri-primary curriculum and assessment framework, strengthening the regulatory framework for pre-primary education, strengthening continuous professional development(CPD) of teachers; and the promotion of health and nutrition for learners together with that of STEM programmes.

¹ Basic Education Statistical Booklet 2020

continuous professional development(CPD) of teachers; and the promotion of health and nutrition for learners together with that of STEM programmes.

- b. The Basic Education Act 2013 which under section 28 actualises the provision of free and compulsory Basic Education and identifies, a pre-primary education, as one of those offered in basic education institutions under section 2 of the Act and recognises it as part of the system and structures of education under section 41.
- c. The Report of the Presidential working party on Education Reform which, recommends prioritizing investing in foundational learning to avert future crisis in education but also recommends the repeal of the Early Childhood Education Act 2021 and transferring the provisions to the Basic Education Act premised on the argument of aligning the same to the legal definition of basic education and making amendments necessary to provide for governance and management of independently-run public ECE centers
- d. The **Early Childhood Education Act 2021** which provides a framework for the establishment of systems for the administration of early childhood education within a county.

C. OUR UNDERSTANDING OF MEMORANDUM OF OBJECTS AND REASONS OF THE EARLY CHILDHOOD EDUCATION (AMENDMENT) BILL 2023

Our understanding of the memorandum of objects and reasons from the amendment Bill is;

1. **That;** the Bill seeks to amend the Early Childhood Education Act, No. 3 of 2021 to mandate the county governments to provide for the welfare of early childhood education teachers in public schools.
2. **That;** the Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.
3. **That;** the Bill concerns county governments in terms of Article 110(1)(a) of the Constitution as it contains provisions that affect the functions and powers of the County Governments. Paragraph 9 of Part II of the Fourth Schedule to the Constitution designates pre-primary education as a devolved function.
4. **That;** the Bill is not a money Bill within the meaning of Article 114 of the Constitution

D. OUR SUBMISSION

We submit the memorandum based on an invitation for submission of Memoranda by the thirteenth Parliament; Third Sitting of the Senate to interested members of the public to submit representations on the Bill by way of written memoranda pursuant to the provisions of Article 11B of the Constitution and standing order 145(5) of the Senate standing orders.

Our presentation, is made notwithstanding, a recommendation of the Report of the Presidential working party on Education Reforms for the repeal of the Early Childhood Education Act 2021. We understand that the repeal of the Early Childhood Education Act 2021 would be a result of the adoption by parliament of the transfer of provisions on ECE to the Basic Education Act; and this would call for a full parliamentary process of the development of law, including public participation, which is yet to be done

We also understand that the proposed amendments have a bearing on the implementation of the current Act and that the adoption and implementation of the sections that the amendments fall under may be in conflict with other existing legislation governing Basic Education.

ISSUES

1. *Section 31 of the Early Childhood Education Act, in this Act referred to as “the principal Act” is amended by inserting the following new paragraph immediately after paragraph (f)—*

(fa) discuss and recommend measures for the welfare of teachers.

Observations:

This amendment provides an additional task to the Boards of Management as set under section 31 of the Early Childhood Education Act 2021: that of discussing and recommending the welfare of teachers. The amendment could be stretched to cover the welfare of non- teaching staff and address the safety and protection of the children including children with special needs.

Concern:

The Early Childhood Education Act 2021 under section 29 establishes a Board of Management (B.O.M) in every public education center, the functions of which are set under section 31, with an additional function of teacher welfare through the proposed amendment. At the same time, the Basic Education Act 2013 under section 55 establishes a Board of Management (B.O.M) for every public Institution including Pre-primary and provides for its functions under section 59. Additionally, it provides for the functions of a school management committee for pre-primary education under section 58. This creates a confusion to stakeholders as to which functions they ought to bare reference to. The recommendation of the Presidential Working Party of having legislative amendments that transfer the provisions of the Early Childhood Education Act 2021 to the Basic Education Act does not seem to provide a solution to this specific matter; but acts as a beginning point for the Ministry and the Council of Governors to dialogue and find a way forward.

2. *Section 38 of the principal Act is amended by inserting the following new subsection immediately after subsection (2)—*

(2A) in determining the remuneration under subsection (2), the county government shall take into account several factors including –

(a) Inflation rate;

(b) Minimum wage; and

(c) Cost of living

Observations

This amendment proposes factors that shall be considered by the county government when determining remuneration. The consideration of inflation rate, minimum wage and cost of living are vital considerations in determining remuneration.

Concerns

The consideration of the factors to take into account while determining remuneration is not in the hands of the County Government. Article 230(4)(b) on the powers and functions of the Salaries and remuneration Commission stipulates the role of the commission as that of advising the national and the county government on remunerations and benefits of all public officers. This is then, the body that takes into consideration the factors that have been targeted through the amendment. A much larger concern however, is that section 38 under which the amendment is sought is about the recruitment of early childhood education teachers. The county government takes responsibility for the recruitment and professional development of Early Childhood Education Teachers in public centers as well as vesting on itself the responsibility of maintaining a register of Early Childhood Education teachers recruited. This flies against the Constitutional provisions under Article 237(2) which vests such functions to the Teachers Service Commission (TSC). This then means that the recruitment of teachers can only be done in consultation with the Teachers Service Commission. The Section could be amended to include consultations with the Teachers service Commission (TSC).

3. Section 68 of the principal Act is amended in subsection 3(a) by inserting the following new subparagraph immediately after subparagraph (viii)—

(viiiia) welfare of teachers;

Observations:

This amendment appears to be in order as the whole section (68) is predicated on consultations with relevant entities in this case, the Cabinet secretary and the Teachers Service Commission (TSC)

E. CONCLUSION AND RECCOMENDATION

The main purpose of the amendments proposed is to mandate county governments to provide for the welfare of the early childhood education teachers in public schools. This is a noble goal, however, teacher welfare cannot be realized if sections under which the amendments are pegged appear to conflict with other provisions of the law including those of the Constitution. Though paragraph 9 of Part II of the Fourth Schedule to the Constitution designates pre-primary education as a devolved function, it is crucial that the county government, through the council of Governors, liaises with other Institutions including the Teachers Service Commission (TSC), the Salaries and Remuneration Commission (SRC); and the National Government to clear grey areas. By doing this, two things may be realized; first, enhanced ease in tackling challenges affecting the ECDE sub-sector and secondly; and most important, the realization of the fundamental right to education of every child including those marginalized and children living with disabilities

Joseph Wasikhongo

National Coordinator, Elimu Yetu Coalition





Zizi Afrique
Foundation

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P.O. Box 6183 - 00100 Nairobi
Tel: +254 705 091 68

Memorandum on the Early Childhood Education (Amendment) Bill No.54 of 2023

Presented To: The National Parliament, Senate of Kenya

Date: 15/3/2024

Submitted By: Zizi Afrique Foundations.

Zizi Afrique Foundation is a not-for-profit Company incorporated in Kenya with Registration No. CPR/2015/210040). The vision of Zizi Afrique Foundation is a world where children and youth will learn and thrive. Our mission is to consolidate evidence, innovate solutions through collaborative networking, and shape policy and practice to equip all children and youth with competencies for life and work in Kenya, Tanzania, and Uganda and for collective impact.

We have reviewed and interrogated the Early Childhood Education (Amendment) bill No. 54 of 2023. We therefore submit this memorandum in line with its mandate. It responds to the invitation for submission of memoranda by the Thirteenth Parliament/ Third session of Senate of Kenya, dated 29th February 2024. This memorandum highlights Zizi Afrique's select views on the proposal included in the Bill.

The suggested recommendation for amendment includes:

S/No	Clause No	Provision of the Clause	Rational for Amendment recommendation	Proposed Amendment
1.	Clause No 1 (Citation of the Bill	This Act may be cited as the Early Childhood Education (Amendment) Act, 2023.	<p>The Title is limited to the Education Component, while ECD is Multifaceted. There is need for addition of development to take care of other nurturing care components responsive caregiving, health and nutrition, and safety and protection; indeed, Section 31 (a) of the Act alludes to this as captured below:</p> <p>Functions of the Board of Management " a) identify the needs of early childhood education and development services within their local communities and develop viable strategies for meeting these needs, which expands the objective of the bill to include development.</p>	It would be great if the bill could be cited as Early Childhood Development and Education (Amendment) Bill, 2023



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2.	Clause 2A	In determining the remuneration under subsection (2), the county government shall consider several factors including – (a) inflation rate; (b) minimum wage; and (c) cost of living.	There is need also to take account of the prevailing TSC Terms and Conditions of Service for other cadres of teachers for equity	In determining the remuneration under subsection (2), the county government shall consider several factors including – (a) inflation rate; (b) minimum wage; c) Cost of Living; d) prevailing TSC Terms of Conditions of Service
3.	Section 31	Functions of the Board of Management	<p>Add another layer of function to give the Board of Management the responsibility of ensuring that children's health, nutrition, protection, social security, and responsive caregiving are integrated within the ECDE service delivery.</p> <p>The functions of the board of management are to –</p> <p>(a) identify the needs of early childhood education and development services within their local communities and develop viable strategies for meeting these needs.</p> <p>(b) mobilize the parents and local communities to initiate and sustain education centers and support early education programmes;</p>	<p>It would be great to insert the statement " The Cabinet Secretary may, in consultation with the Council of County Governors, make regulations to guide provision of childcare services for children below three (3) years in Daycare/playgroup sections in the ECDE Centers.</p> <p>The functions of the board of management are to,</p> <p>a) identify the needs of early childhood education and development services within their local communities, and collect disaggregated data for all children and develop viable strategies for meeting their needs;</p> <p>b) develop a robust parental engagement and Empowerment Framework to mobilize the parents and local communities to initiate and sustain education centers and support early education programmes.</p>



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			(f) ensure the provision of adequate equipment and facilities within the education center that such equipment and facilities are well maintained;	f.) ensure the provision of adequate equipment and facilities, particularly those categories of children who are abled differently within the education center that such equipment and facilities are well maintained.
4.	Section 38 (chapter 2)	Recruitment of Early Childhood teachers: The County government shall pay teachers employed in public education centers within the county, such remuneration as it shall in consultation with the Salaries and Remuneration Commission.	This clause does not provide uniformity or standardization in payment of salary of Early Childhood teachers across different counties.	There is need to incorporate the Teachers Service Commission terms of service and consideration of Early Childhood Education and Development scheme of service in determining standard salary for ECDE teachers across the counties.
5.	Section 68	Regulation	Add a layer for the Cabinet Secretary in consultation with Council of Governors to develop regulations for childcare facilities for children below 3 years in ECD Centers; this would be helpful to take care of play group/day care sections in the ECD centers	It would be great to insert the statement " The Cabinet Secretary may, in consultation with the Council of County Governors, make regulations to guide provision of childcare services for children below three (3) years in Daycare/playgroup sections in the ECED Centers

In conclusion, Zizi Afrique Foundation acknowledges the importance of Early Childhood Education (Amendment) Bill in making reform on the policies and laws governing the growth and development of Kenyan children.

20 MAR 2024



COUNCIL OF GOVERNORS

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Our Ref: COG/6/39 Vol. 21 (3)

15th March 2024

J.M. Nyegenye, CBS
The Clerk of the Senate
Parliament Buildings
Nairobi.

Dear Mr. Nyegenye,

INVITATION TO SUBMIT COMMENTS ON THE EARLY CHILDHOOD (AMENDMENT) BILL (SENATE BILLS NO.54 OF 2023)

The above subject matter and your letter Ref: SEN/SCE/CORR/2024/022 and dated 6th March 2024 refers.

The Council of Governors has reviewed the Early Childhood (Amendment) Bill (Senate Bills No.54 of 2023) and hereby submits as follows:

From the onset, the Council supports the proposed amendments on the premise that the same is progressive. Further, the Council's support is predicated upon the Bill's alignment with the devolved function framework established under our Constitution.

Specifically, Section 9 of Part 2 of the Fourth Schedule of the Constitution designates pre- primary education as a devolved function within the purview of County Governments. Consequently, counties are constitutionally mandated to provide for the welfare of early childhood education teachers in public schools. Similarly, the case of *Kenya National Union of Teachers v Attorney General & 4 others* [2016] eKLR stated as follows:

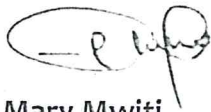
"...pre-primary education is a function of the County Governments and being such a function, the County Government is responsible for developing and maintaining the infrastructure and providing learning materials..."

Significantly, the Council opposes the proposed Section 2A of the Bill on the ground that it contravenes Article 230 (4) of the Constitution which mandates the Salaries and Remuneration Commission to determine the remuneration and benefits of pre-primary teachers in public schools.

Further, the Council underscores the fiscal implication of the proposed amendments on county government budgets. In light of the foregoing, the Council posits that there is need for commensurate increase in budgetary allocation to counties to ensure that they have the necessary financial resources to fulfill their mandate regarding the welfare of early childhood education teachers in public schools.

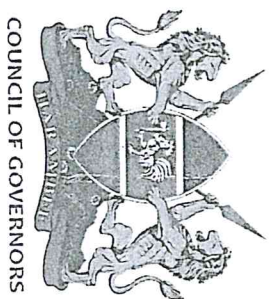
Please accept our highest esteem and regards.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Mary Mwiti', enclosed within an oval shape.

Mary Mwiti

Chief Executive Officer



COUNCIL OF GOVERNORS

LEGISLATIVE MEMORANDUM ON THE EARLY CHILDHOOD (AMENDMENT) BILL (SENATE BILLS NO. 54 OF 2023)

TO

THE SENATE STANDING COMMITTEE ON EDUCATION

FROM

THE COUNCIL OF GOVERNORS

INTRODUCTION

The Council of Governors,

In recognition of Article 1(4) of the Constitution of Kenya, that sovereign power of the people is exercised at the National level and the County level;

In further recognition of Article 6(2) that Government at the National and County levels are distinct and interdependent; and

Aware of the need for coordinated action between the National and County Governments to ensure that legislation properly respond to the key issues, and further reflects the spirit and purpose of devolution.

Having reviewed the Early Childhood (Amendment) Bill (Senate Bills No. 54 of 2023), the Council of Governors on behalf of the 47 County Governments submits the proposals highlighted herein below for consideration:

A. GENERAL COMMENTS

1. The Bill seeks to mandate the counties to provide for the welfare of early childhood education teachers in public schools.
2. However, as the Council we note that the aforesaid amendment is not sufficient. The Early Childhood Act still requires further amendments as outlined below:

B. SPECIFIC CONCERNS

The tabulated analysis below provides specific areas of concern to the Council of Governors that should be further considered/ addressed in the Bill:

Section of the Bill	Provision	Council of Governors' Proposal	Rationale/Justification
1	Short title This Act may be cited as the Early Childhood Education Act.	Delete the words "Early Childhood Education" and substitute therefore with the following words "Pre-Primary Education."	This aligns with the provisions of the Constitution and the Basic Education Curriculum Framework 2019 which uses the terms Pre-primary Education.
		To read as follows: This Act may be cited as the Pre-Primary Education Act.	
3	Objects The objects of this Act are to—	Insert the following new provision to read as follows: f) provide a framework for registration and monitoring of operations of all preprimary schools	This Act applies to all pre - primary schools thus the need to include the proposed provision.
8	Duty of head teacher	Delete the words " head teacher" and substitute therefore with the following words "institutional head"	This is to ensure uniformity among all pre-primary schools.
8(2)(b)	Where the head teacher finds that there are no reasonable	Amend to read as follows: Where the institutional head	The County Education Board serves the interest of the National Government

	grounds for the learner's failure to attend school, the head teacher shall— (b) submit a report on the learner to the County Education Board.	finds that there are no reasonable grounds for the learner's failure to attend school, the institutional head shall- (b) submit a report on the learner to the County Education Department	while the County Education Department is in charge of pre-primary education in counties.
11	<p>11. Register of education centres</p> <p>(1) The County Education Board shall keep and maintain a register of—</p> <p>(a) all education centres registered to provide early childhood education services within the respective county;</p> <p>(c) such other particulars as the County Education Board may from time to time determine to be necessary.</p>	<p>Amend to read as follows:</p> <p>(1) The County Education Department shall keep and maintain a register of-</p> <p>(a) All education centres registered to provide pre- primary education services within the respective county;</p> <p>(c) Such other particulars as the County Education Department may from time to time determine to be necessary</p>	<p>The County Education Board serves the interests of the National Government while the County Education Department is in charge of pre-primary education in counties.</p>

30(1) (c)	(1) The Board of Management shall consist of – (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 recommendation of the County Education Board	Amend by deleting the words “County Education Board” and substituting therefore with the words “County Education Department” to read as follows: (1) The Board of Management shall consist of – (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 recommendation of the County Education Department.	The County Education Board serves the interests of the National Government while the County Education Department is in charge of pre-primary education in counties.
37 (2)	37(2) The county executive committee member in each County shall, in consultation with the County Education Board, determine the early childhood education resource	Amend by to read as follows: 37(2) The County Executive Committee member in each County shall determine the pre-primary education resource and infrastructure	This is in accordance with Article 179 of the Constitution and clarifies that a County Executive Committee Member (CECM) cannot seek consultation from their own department, thereby eliminating ambiguity

Gibitere Mwita <gibiteremwita@gmail.com>

Mar 4 ★

To educationcommittee senate

CAUTION: This Mail Originated from outside of the Organization. Do not click links or open attachments unless you can confirm the sender and know the content is safe.

- ☒ It is my humble request that the TSC should pay ECDE teachers while the county government to employ ECDE teachers.
- ☒ The ECDE salary should be harmonised nationwide as per the schemes of service. This is a case whereby some teachers are highly paid in some counties while in some counties, teachers are poorly paid.
- ☒ The government should provide teaching and learning materials to public ECDE centres like primary schools.
Teacher/child ratio. The government should employ other ECDE teachers in public ECDE centres to curb the issue of teacher- child ratio.
- ☒ The government to provide milk to all public ECDE centres so as to increase the enrollment of ECDE learners in public schools.

Brian Kibet <kibetb494@gmail.com>
To: educationcommittee senate

Mar 3

CAUTION: This Mail Originated from outside of the Organization. Do not click links or open attachments unless you can confirm the sender and know the content is safe.

The Amendment bill does not include Promotion of ECDE teachers to the next job group as the other teachers employed by TSC are being promoted after every 3 years. The bill should address this and be included in the bill. Teachers can't be stagnating in the same job group for over 15 years, it really isn't fair.

The amendment bill should clearly state that all County Governments MUST adhere to payment of Salaries of ECDE as per the scheme of service and there should be no disparity in salaries from county to county as it is currently. Kericho county government pays up to 40K while Bomet's maximum is 19K.

There must be uniformity in all counties. All senators please ensure this is adhered to in your respective counties because of late ECDE teachers have been on demonstrations because they are paid as little as 13K. Bomet and Vihiga counties are the most notorious when it comes to this. Hon. Wakili Sigei and Hon. Osotsi can bear witness.

wish to inform the Education committee to fast track this Bill and ensure it is implemented as soon as possible because ECDE teachers are seriously suffering in the counties.

Finally the last thing I would like the Education committee to address is the consistency in payment of Salaries. When a new Governor for example comes into office, he/she can change the salaries and the way of management of teachers leading to disparity. If possible the bill should be clear about that. Please hear by submit this memoranda. Please consider it.

THIRTEENTH PARLIAMENT | SECOND SESSION

THE SENATE

STANDING COMMITTEE ON EDUCATION

CONSIDERATION OF PUBLIC VIEWS RECEIVED ON THE EARLY CHILDHOOD EDUCATION (AMENDMENT) BILL, 2023 (SENATE BILLS NO.54 OF 2023)

CLAUSE	STAKEHOLDER	PROPOSAL	RATIONALE	COMMITTEE DETERMINATION
Clause 1 – (Amendment of Section 31 of No. 3 of 2021)	Elimu Yetu Coalition (EYC)	The amendment could be stretched to cover the welfare of non-teaching staff and address the safety and protection of the children including children with special needs	Both the Early Childhood Education Act under section 29 and the Basic Education Act under Section 55 have Boards of Management. The recommendation of the Presidential Working Party on Education Reforms PWPER of merging the two legislation doesn't provide a solution to this.	
	National Gender and Equality Commission (NGEC).	Amend (fa) by inserting after the phrase “teachers” the following, “ <i>and all non-teaching staff.</i> ” However, section 33(7)(g) on Parent Teacher Association states that one of the functions of the PTA is:- (g) discuss and recommend measures for the welfare of staff and learners.	The welfare of support staff also needs to be considered because of the nature of their work. Taking care of the other needs of toddlers requires incentives. In light of section 33(7)(g) amend the section by indicating that this section will only apply to the private sector so that two bodies do not have an overlapping function IE the county government and the parent teacher's association in rockets PTA. Teachers are part of the staff.	

CLAUSE	STAKEHOLDER	PROPOSAL	RATIONALE	COMMITTEE DETERMINATION
	Salaries and Remuneration Commission (SRC)	The proposed amendment introduces an additional function to the board of management on welfare of teachers	SRC has no objection to the proposed amendment.	
	Zizi Afrique Foundation (ZAF)	<p>It would be great to insert the statement " The Cabinet Secretary may, in consultation with the Council of County Governors, make regulations to guide provision of childcare services for children below three (3) years in Day-care/playgroup sections in the ECDE Centres. The functions of the board of management are to,</p> <p>a) identify the needs of early childhood education and development services within their local communities, and collect disaggregated data for all children and develop viable strategies for meeting their needs;</p> <p>b) develop a robust parental engagement and Empowerment Framework to mobilize the parents and local communities to initiate and sustain education centres and support early education programmes.</p>	<p>Add another layer of function to give the Board of Management the responsibility of ensuring that children's health, nutrition, protection, social security, and responsive caregiving are integrated within the ECDE service delivery. The functions of the board of management are to —</p> <p>(a) identify the needs of early childhood education and development services within their local communities and develop viable strategies for meeting these needs.</p> <p>(b) mobilize the parents and local communities to initiate and sustain education centres and support early education programmes.</p>	

CLAUSe	STAKEHOLDER	PROPOSAL	RATIONALE	COMMITTEE DETERMINATION
		f.) ensure the provision of adequate equipment and facilities, particularly those categories of children who are abled differently within the education center that such equipment and facilities are well maintained.		
	Kenya National Union of Teachers (KNUt)	Teachers Service Commission (TSC) is the ONLY constitutionally mandated body as per Section 237 (2) (a) (b) (c) (d) (e) and (f) to discuss and recommend measures for the welfare of teachers. It is for this reason that through a letter dated January 15th, 2024, KNUt called on the Inter-Governmental Relations Committee to expedite the process of transferring the management of ECDE teachers from County governments to TSC under Article 187 (1) (a) (b); (2) (a) (b) of the Constitution (2010).	The proposal is made in good faith based on Chapter Four Articles 43, 53, 54, 55, 56, 57 and 59 of the Constitution which provides for children's right to free inclusive and equitable quality education and lifelong learning. KNUt's recommendation that ECDE teachers should be managed by TSC is hinged on a very valid and reasoned argument that the Commission has the expertise, human resource, structures, programmes, and the technical experience to manage all cadres of Basic Education teachers. TSC has elaborate and well-defined governance structures, policies and programmes built on a solid legal framework founded on the Constitution (2010) to effectively manage teachers.	

CLAUSE	STAKEHOLDER	PROPOSAL	RATIONALE	COMMITTEE DETERMINATION
			<p>These authorities and infrastructures which are not found in the County governments facilitate the Commission to professionally run Teaching Service. To manage teachers effectively and efficiently; and moreover, to ensure that the Kenyan child gets equitable quality education and lifelong learning - TSC has nine directorates in place to carry out the duties.</p> <p>These are:</p> <ul style="list-style-type: none"> • Human Resource Management and Development; • Administrative Services; • Field Services Staffing; • Finance and Accounts; • Legal, Labour and Industrial Relations • Information and Communication Technology; • Quality Assurance and Standards; • Internal Audit. <p>County Governments lack all these infrastructures to effectively manage teachers, and guarantee the Kenyan child equitable quality education.</p>	

CLAUSE	STAKEHOLDER	PROPOSAL	RATIONALE	COMMITTEE DETERMINATION
			<p>TSC manages over 350,000 trained and certified teachers, serving in over 35,000 public learning institutions across the country. On the other hand, there are over 32,000 ECDE centres managed by County governments which employ over 60,000 teachers with no unified and well-defined scheme of service. Enrolment in ECDE centres currently stands at over 2.5 million children.</p> <p>According to SRC, ECDE Teacher Certificate holders were to pocket Shs29,561 per month; Diploma holders Shs40,000, and Degree holders Shs59,770. However, these gradings and salary scales were never implemented by the County Governments because of lack of a central corporate body to manage Pre-primary school teachers. For instance, it is common to find that ECDE teachers of whatever qualifications are paid as little as Shs10,000 per month - County governments pay this cadre of teachers according to their wishes.</p> <p>There is no ever-known Gazette Notice on the emolument of pre-primary teachers.</p> <p>SRC recommendation on the remuneration of ECDE teachers has never been considered by County Governments which is a violation of</p>	

CLAUSE	STAKEHOLDER	PROPOSAL	RATIONALE	COMMITTEE DETERMINATION
			<p>Article 230 (4B) which states: "SRC shall advise the National and County Governments on the remuneration and benefits of Public officers, including teachers."</p> <p>TSC operates in collaboration with Kenya Teachers College Principal Association; Kenya Secondary School Heads Association; Kenya Primary School Heads Association; Kenya Union of Post Primary Education Teachers; Kenya National Union of Teachers; Kenya Union of special Needs Teachers, UNICEF, UNESCO, Kenya Institute of Special Education, Kenya Institute Curriculum Development and Kenya Education Management Institute - these are the organizations that can adequately discuss teachers' concerns. County Governments are not in partnership with any of these institutions.</p> <p>The Presidential Working Party on Education Reforms recommends that the Ministry of Education adopts a Comprehensive School system (PP1 to Grade 9) comprising Pre-primary, Primary school and Junior school managed as one institution with a single Board of Management. Thus, it would be more logical and prudent if ECDE teachers were brought under a single umbrella with their colleagues</p>	

CLAUSE	STAKEHOLDER	PROPOSAL	RATIONALE	COMMITTEE DETERMINATION
			serving in upper classes under one Head teacher.	
Clause 2 (Amendment of Section 38 of No. 3 of 2021)	EYC	Amend the proposal to make it in consultation with TSC	This proposal offends Article 237(2) which places the mandate of recruitment of teachers on the Teachers Service Commission.	
	NGEC	Amend (2A) by inserting a new sub-clause (d) as follows: - (d) <i>The qualification of individual teachers</i>	Considering the qualifications of individual teachers, we'll ensure that those teachers with higher or specialized academic qualifications/skills (meaning with skills beyond the provisions in section 36 to be of the act) are remunerated only and not the same time attack special needs teachers who are crucial for children at the formative stages as envisaged in section 9(f) on special needs children.	
	Salaries and Remuneration Commission (SRC)	Section 38 of the Principal Act revolves around the recruitment of early childhood teachers. The Section provides that: (1) The county government shall be responsible for the – (a) recruitment and professional development of early childhood education teachers	The proposed amendment is in order as it is in line with Article 230 of the constitution on the mandate of the SRC and some of the factors that SFC considers in the discharge of their mandate.	

CLAUSE	STAKEHOLDER	PROPOSAL	RATIONALE	COMMITTEE DETERMINATION
		<p>in public education centres within the county; and</p> <p>(b) maintenance of a register of early childhood education teachers recruited by it under paragraph (a)</p> <p>(2) The county government shall pay to early childhood education teachers employed in public education centres within the county, such remuneration as it shall, in consultation with the Salaries and Remuneration Commission, determine.</p> <p>The new additional paragraphs seek to introduce factors that county governments shall take into account during determination of remuneration.</p>		
	COG	Opposes the clause	The Council opposes the proposed section on the ground that it contravenes Article 230 (4) of the Constitution which mandates the Salaries and Remuneration Commission to determine the remuneration and benefits of pre-primary teachers in public schools.	

CLAUSE	STAKEHOLDER	PROPOSAL	RATIONALE	COMMITTEE DETERMINATION
	ZAF	In determining the remuneration under subsection (2), the county government shall consider several factors including – (a) inflation rate; (b) minimum wage; c) Cost of Living; d) prevailing TSC Terms of Conditions of Service	There is need also to take account of the prevailing TSC Terms and Conditions of Service for other cadres of teachers for equity. There is need to incorporate the Teachers Service Commission terms of service and consideration of Early Childhood Education and Development scheme of service in determining standard salary for ECDE teachers across the counties.	
	KNUT	This clause does not provide uniformity or standardization in payment of salary of Early Childhood teachers across different counties. Refer to Article 187 of the Constitution (2010) on transfer of functions and powers between levels of Government and the functions of TSC under Article 237 of the Constitution. The Commission with the advice of Salaries and Remuneration Commission (SRC) can effectively carry out this function.		
	TSC	Amend Section 38 of the Principal Act by inserting a new subsection 1C to provide that:	Sec 23 (2) of the TSC Act outlaws teaching unless one is a registered teacher under the Act.	

CLAUSE	STAKEHOLDER	PROPOSAL	RATIONALE	COMMITTEE DETERMINATION
		<i>(1C) County Government shall only recruit early childhood education teachers who are registered under the Teachers Service Commission Act.</i>		
	TSC	<p>Proposed Amendment Section 2A be deleted and instead be amended to provide that:</p> <p><i>(2A) For avoidance of doubt, no County Government shall pay early childhood education teachers' salary and allowances lesser than remuneration and benefits structure advised by the Salaries and Remuneration Commission</i></p>	<p>1) The provision proposed in 2A if implemented will water down the Remuneration and Benefit Structure for early childhood education teachers as may be advised by SRC. The proposal is aimed at giving a justification to pay less in terms of salary and allowances. This may lead to demotivation of the teachers and cripple learning at this critical level.</p> <p>2) Early childhood education is the foundation of learning hence requires a highly motivated workforce.</p> <p>3) Teaching is a noble profession which requires remuneration commensurate to the professional duty of teachers.</p>	
Clause 3 <i>(Amendment of Section 68 of No. 3 of 2021)</i>	EYC	The amendment is in order.	The whole of Section 68 is predicated on consultations between the TSC and the Cabinet Secretary.	

CLAUSE	STAKEHOLDER	PROPOSAL	RATIONALE	COMMITTEE DETERMINATION
	NGEC	<p>Amend by inserting after the phrase “Teachers”, the following “and non-teaching staff”.</p> <p>The Commission further proposes that a provision for vetting of all staff for ECDEs and a register to be kept to be introduced by way of amendment in Section 64(5) under PART VIII- SAFETY AND PROTECTION OF CHILDREN IN AN EDUCATION CENTRE</p>	<p>The Commission considers it crucial that the welfare of all staff in ECDEs be addressed. We need to be considerate of the nature of work and the age of children.</p> <p>The Act does not protect children of tender age from abusers or paedophiles.</p>	
	SRC	The proposed amendment would the welfare of teachers in the minimum standard to be provided for in the regulations to be made by the Cabinet Secretary	SRC is not opposed to the proposed amendment.	
	ZAF	It would be great to insert the statement " The Cabinet Secretary may, in consultation with the Council of County Governors, make regulations to guide provision of childcare services for children below three (3) years in Day-care/playgroup sections in the ECED Centres	Add a layer for the Cabinet Secretary in consultation with Council of Governors to develop regulations for childcare facilities for children below 3 years in ECD Centres; this would be helpful to take care of play group/day care sections in the ECD centres.	
	KNUT	Refer to Article 187 of the Constitution (2010) on transfer of		

CLAUSE	STAKEHOLDER	PROPOSAL	RATIONALE	COMMITTEE DETERMINATION
		functions and powers between levels of Government. Recruitment and management of ECDE teachers, and ensuring their career progression should be the function of the National Government (Teachers Service Commission under Article 237 of the Constitution).		
<i>Other proposed amendments</i>				
Short title (<i>This Act may be cited as the Early Childhood Education Act.</i>)	COG	Delete the words “ Early Childhood Education ” and substitute therefore with the following words “ Pre-Primary Education. ” To read as follows: This Act may be cited as the Pre-Primary Education Act.	This aligns with the provisions of the Constitution and the Basic Education Curriculum Framework 2019 which uses the terms Pre-primary Education.	
	ZAF	It would be great if the bill could be cited as <i>Early Childhood Development and Education (Amendment) Bill, 2023</i>	The Title is limited to the Education component, while ECD is Multifaceted. There is need for addition of development to take care of other nurturing care components responsive caregiving, health and nutrition, and safety and protection; indeed, Section 31 (a) of the Act alludes to this as captured below:	

CLAUSE	STAKEHOLDER	PROPOSAL	RATIONALE	COMMITTEE DETERMINATION
			Functions of the Board of Management " a) identify the needs of early childhood education and development services within their local communities and develop viable strategies for meeting these needs, which expands the objective of the bill to include development.	
Section 3 The Objects The objects of this Act are to	COG	Insert the following new provision to read as follows: <i>f) provide a framework for registration and monitoring of operations of all preprimary schools</i>	This Act applies to all pre - primary schools thus the need to include the proposed provision.	
Section 8 Duty of head teacher	COG	Delete the words " head teacher" and substitute therefore with the following words "institutional head."	This is to ensure uniformity among all pre-primary schools.	
Section 8 (2) (b) <i>Where the head teacher finds that there are no reasonable</i>	COG	Amend to read as follows: Where the institutional head finds that there are no reasonable grounds for the learner's failure to attend school, the institutional head shall- (b) submit a report on the learner	The County Education Board serves the interest of the National Government while the County Education Department is in charge of pre- primary education in counties.	

CLAUSE	STAKEHOLDER	PROPOSAL	RATIONALE	COMMITTEE DETERMINATION
<i>grounds for the learner's failure to attend school, the head teacher shall— (b) submit a report on the learner to the County Education Board.</i>		to the County Education Department		
Section 11 of Register of education centers <i>(1) The County Education Board shall keep and maintain a register of— (a) all education centers registered to provide early childhood</i>	COG	<p>Amend to read as follows:</p> <p>(1) The County Education Department shall keep and maintain a register of—</p> <p>(a) All education centers registered to provide pre-primary education services within the respective county;</p> <p>Such other particulars as the County Education Department may from time to time determine to be necessary</p>	The County Education Board serves the interests of the National Government while the County Education Department is in charge of pre-primary education in counties.	

CLAUSE	STAKEHOLDER	PROPOSAL	RATIONALE	COMMITTEE DETERMINATION
<p><i>education services within the respective county;</i></p> <p><i>(c) such other particulars as the County Education Board may from time to time determine to be necessary.</i></p>				
<p>Section 30(1)(c) <i>The Board of Management shall consist of—</i> <i>(c) two persons with experience in matters of nutrition and social work relating to early childhood development and education nominated by the County</i></p>	COG	<p>Amend by deleting the words “County Education Board” and substituting therefore with the words “County Education Department” to read as follows:</p> <p>(1) The Board of Management shall consist of –</p> <p>(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 recommendation of</p>	<p>The County Education Board serves the interests of the National Government while the County Education Department is in charge of pre- primary education in counties.</p>	

CLAUSE	STAKEHOLDER	PROPOSAL	RATIONALE	COMMITTEE DETERMINATION
<i>Governor on recommendation of the County Education Board</i>		the County Education Department.		
Section 37 (2) <i>The county executive committee member in each County shall, in consultation with the County Education Board, determine the early childhood education resource and infrastructure requirements within the County.</i>	COG	Amend by to read as follows: 37(2) The County Executive Committee member in each County shall determine the pre- primary education resource and infrastructure requirements within the County.	This is in accordance with Article 179 of the Constitution and clarifies that a County Executive Committee Member (CECM) cannot seek consultation from their own department, thereby eliminating ambiguity	
47 (c) In administering early childhood education, an education	COG	Insert a new paragraph on that will address the school feeding and nutritional aspect	Adequate nutrition is critical to a child's optimal development. Without proper nutrition, learners may not have the energy or interest to explore their environment, limiting their interaction with new situations, senses, and experiences	

CLAUSE	STAKEHOLDER	PROPOSAL	RATIONALE	COMMITTEE DETERMINATION
center shall— (c) emphasize the child centered approach in individual learning for the development of each individual child.				
Section 49. <i>The teacher to child ration in an early childhood education center under this Act shall be as prescribed by the Cabinet Secretary in consultation with the Teachers Service Commission and the County</i>	COG	Amend to read as follows: 49. The teacher to child ration in a pre-primary education center under this Act shall be as prescribed by the Cabinet Secretary in consultation with the Teachers Service Commission and the County Education Department.	The County Education Board serves the interests of the National Government while the County Education Department is in charge of pre- primary education in counties.	

24th April, 2024

The Clerk of the Senate,
Parliament Buildings,

NAIROBI

**RE: COMMITTEE STAGE AMENDMENTS TO THE EARLY CHILDHOOD
EDUCATION (AMENDMENT) BILL, 2023 (SENATE BILLS NO. 54 OF
2023)**

NOTICE is given that the Chairperson Standing Committee on Education intends to move the following amendment to the Early Childhood Education Bill, 2023, Senate Bills No. 54 of 2023, at the Committee Stage—

CLAUSE 2

THAT Clause 2 of the Bill be amended by deleting the new proposed sub-section 2A and inserting therefor the following new sub-sections—

Amendment of section 38 of Cap 211B. (2A) A County Government shall not pay an early childhood education teacher, a salary or allowance less than that advised by the Salaries and Remuneration Commission under subsection (2) above.

(3) In determining the remuneration under subsection (2), the county government shall take into account several factors including –

(a) minimum wage; and

(d) the qualification of individual teachers.

Dated: 24th April, 2024.

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Sen. Joe Nyutu,
Chairperson, Committee on Education.

