



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – (FIFTH SESSION)

THE SENATE

ORDER PAPER

WEDNESDAY, MARCH 01, 2017 AT 2.30 PM

PRAYERS

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers
6. Notices of Motion
7. Statements (As Listed in the Appendix)
8. *****THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILL NO. 2 OF 2017)**
(The Senate Majority Leader)
(Second Reading)
(Resumption of Debate interrupted on Thursday, 23rd February, 2017)
(Division)
9. *****THE KENYA ROADS BILL (NATIONAL ASSEMBLY BILL NO. 26 OF 2015)**
(The Senate Majority Leader)
(Second Reading)
(Resumption of Debate interrupted on Wednesday, 15th February, 2017)
(Division)
10. **COMMITTEE OF THE WHOLE**
*****THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILL NO. 2 OF 2017)**
(The Senate Majority Leader)

11. **MOTION** – (Chairperson, Sessional Committee on County Public Accounts and Investments)

THAT, the Senate adopts the Report of the Sessional Committee on County Public Accounts and Investments on the inquiry into the financial operations of Kiambu, Busia, Tana River, Trans Nzoia, Nyandarua, Migori, Kwale, Kisumu, Samburu and Kericho County Executives for the Financial year 2013/2014 (1st July, 2013 to 30th June, 2014) laid on the Table of the Senate on Thursday, 23rd February, 2017.

(Resumption of Debate interrupted on Tuesday, 28th February, 2017)

12. **COMMITTEE OF THE WHOLE**

****THE COUNTY ASSEMBLY SERVICES BILL (SENATE BILLS NO. 27 OF 2014)**

(Chairperson, Standing Committee on Legal Affairs and Human Rights)

(Consideration of National Assembly Amendments)

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

(Division)

13. **COMMITTEE OF THE WHOLE**

***THE NATIONAL CEREALS AND PRODUCE BOARD (AMENDMENT) BILL**

(SENATE BILL NO.15 OF 2015)

(Sen. Zipporah Kittony)

(Resumption of Debate interrupted on Wednesday, 16th November, 2016)

(Division)

14. **COMMITTEE OF THE WHOLE**

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

(Sen. Stephen Sang)

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

(Division)

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

(Sen. Omar Hassan)

(Resumption of Debate interrupted on Tuesday, 15th November, 2016)

(Division)

16. **COMMITTEE OF THE WHOLE**

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

(The Senate Majority Leader)

(Resumption of Debate interrupted on Tuesday, 15th November, 2016)

17. **COMMITTEE OF THE WHOLE**

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

(The Senate Majority Leader)

...../Bill

18. COMMITTEE OF THE WHOLE****THE TREATY MAKING AND RATIFICATION (AMENDMENT) BILL**
(SENATE BILL NO. 5 OF 2016)

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

19. COMMITTEE OF THE WHOLE****THE PHYSICAL PLANNING BILL (NATIONAL ASSEMBLY BILL NO. 46**
OF 2015)

(The Senate Majority Leader)

(Resumption of Debate interrupted on Wednesday, 9th November, 2016)

20. COMMITTEE OF THE WHOLE***THE MEDICAL PRACTITIONERS AND DENTISTS (AMENDMENT) BILL**
(SENATE BILL NO. 2 OF 2016)

(Sen. (Prof). Wilfred Lesan)

21. COMMITTEE OF THE WHOLE***THE COUNTY GOVERNMENTS (AMENDMENT) (NO.2) BILL (SENATE**
BILL NO. 7 OF 2016)

(Sen. Mutula Kilonzo Jr.)

22. MOTION – (Chairperson, Standing Committee on National Security and Foreign Relations)

THAT, this House adopts the Report of the Standing Committee on National Security and Foreign Relations on the assessment of the security situation in Mandera County, Laikipia county and Kapedo (Border town of Turkana and Baringo Counties) conducted between 19th January and 5th February, 2015 and laid on the Table of the House on Wednesday, 29th July, 2015.

(Resumption of Debate interrupted on Wednesday, 22nd February, 2017)

23. MOTION – (Chairperson, Standing Committee on National Security and Foreign Relations)

THAT, the Senate notes the Report of the Standing Committee on National Security and Foreign Relations on the EALA Reports and Resolutions pursuant to standing order 235 laid on the Table of the House on Tuesday, 19th April, 2016.

24. MOTION – (Chairperson, Standing Committee on National Security and Foreign Relations)

THAT, this House adopts the Report of the Standing Committee on National Security and Foreign Relations on the study visit to Russia laid on the Table of the House on Tuesday, 15th March, 2016.

NOTICE

The Senate resolved on 15th February, 2017 as follows:-

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

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

KEY

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

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

****** - Denotes a Committee Bill

***** - Denotes any other Bill

NOTICES OF AMENDMENTS**A. ***THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILL NO. 2 OF 2017)**

(The Senate Majority Leader)

NOTICE is given that Sen. Billow Kerrow intends to move the following amendments to the Division of Revenue Bill, 2017, at the Committee Stage-

SCHEDULE

The Bill is amended by deleting the schedule and substituting therefor the following new schedule-

Type/Level of allocation	Amount in KSh.	Percentage (%) of 2013/14 audited and approved Revenue i.e. KSh. 935,653 Million
A. Total Shareable Revenue (B+C+D)	1,549,412,000,000.0	
B. National Government*	1,214,815,029,224.4	
C. Equalization Fund	7,727,000,000.0	
D. County Government (1+2)	326,869,970,775.6	34.93%
1. County Equitable Share	314,664,970,775.6	33.63%
2. Conditional Allocations	12,205,000,000.0	
2.1 Leasing of Medical Equipment	4,500,000,000.0	
2.2 Compensation for User Forgone	900,000,000.0	
2.3 Level 5 hospitals	4,200,000,000.0	
2.4 Construction of County Headquarters	605,000,000.0	
2.5 Development of Youth Polytechnics	2,000,000,000.0	
E. Additional County Conditional Allocations (not part of sharable revenue)	25,965,179,761.0	
3. Allocation from fuel levy (15%)	7,875,000,000.0	
4. Conditional Allocations (loans & grants)	18,090,179,761.0	
F. Total County Allocations (D+E)	352,835,150,536.6	37.71%

...../ *Amendments*

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

Consideration of the National Assembly amendments to the County Assembly Services Bill, (Senate Bill No. 27 of 2014)-

Clause 48

THAT, Clause 48 is amended in sub – clause (2) by deleting the expression “12(3)(d)” wherever it appears and substituting therefor the expression “12(3)(b), (c) and (d).”

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

(Sen. (Dr.) Zipporah Kittony)

NOTICE is given that Senator Stewart Madzayo intends to move the following amendments to the National Cereals and Produce Board (Amendment) Bill, Senate Bill No. 15 of 2015, at the Committee Stage-

CLAUSE 4

THAT clause 4 of the Bill be amended in subclause (1) of the proposed new clause 12 C by deleting paragraph (g) (iii).

D. **THE COUNTY STATUTORY INSTRUMENTS BILL (SENATE BILL NO. 10 OF 2015)

(Chairperson, Sessional Committee on Delegated Legislation)

NOTICE is given that Sen. Amos Wako, the Chairperson to the Standing Committee on Legal Affairs and Human Rights, intends to move the following amendments to the County Statutory Instruments Bill, 2015, at the Committee Stage-

CLAUSE 5

THAT clause 5 of the Bill be amended in sub-clause (1) by inserting the words “and shall invite members of the public to give their views on the instrument within a prescribed period and in a manner to be determined by the Committee” immediately after the words “affected by the proposed instrument”.

CLAUSE 15-

THAT the Bill be amended by deleting clause 15 and substituting therefor the following new clause-

Notice to the regulation making authority **15.** In so far as is practically possible, the committee shall in considering a statutory instrument, and before tabling its report in the county assembly, confer with the regulation-making authority which has made the statutory instrument that is before the committee for scrutiny.

E. *THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL, (SENATE BILLS NO. 8 OF 2015)
(Sen. Omar Hassan)

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

CLAUSE 5

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

- 5.** Pursuant to Articles 43 and 53(1)(c) of the Constitution every person has the right to –
 - (a) the highest attainable standards of health which includes the right to health care services including reproductive health care services;
 - (b) accessible and adequate housing;
 - (c) reasonable standards of sanitation;
 - (d) be free from hunger and to have adequate food of acceptable quality;
 - (e) basic nutrition for children;
 - (f) clean and safe water in adequate quantities;
 - (g) social security and social assistance;
 - (h) emergency treatment; and
 - (i) education.

CLAUSE 6

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

CLAUSE 8

THAT clause 8 of the Bill be amended by-

...../ **Amendments**

- (a) inserting the words “for purposes of this Act” at the beginning of the introductory phrase to subsection (1); and
- (b) inserting the following new sub-clause immediately after sub-clause (1)-
 - (1A) In undertaking its functions under subsection (1), the Commission may consult the Commissions established under Article 59 of the Constitution and any other relevant person or institution.

CLAUSE 9

THAT clause 9 of the Bill be amended-

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

CLAUSE 19

THAT clause 19 of the Bill be amended in sub-clause (3) by inserting the words “and any other criteria that it may publish in the Gazette” at the end of the clause.

CLAUSE 20

THAT clause 20 of the Bill be amended by deleting paragraph (b) of sub-clause 2 and substituting therefor the following new sub-clause-

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

NEW CLAUSE

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

- Transition **27** (1) Every county government with a county integrated development plan which took effect prior to the commencement of this Act, shall within six months after the commencement of this Act, amend its county integrated development plan to bring it into conformity with this Act.
- (2) The procedure set out under section 112 of the County Governments Act shall apply to the process of amendment of a county integrated development plan under subsection (1).

No. 17 of
2012

FIRST SCHEDULE

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

CLAUSE 2

THAT clause 2 of the Bill be amended -

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

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

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

“vulnerable persons” include women, older members of society, persons with disabilities, children including infants, school going children, youth, members of minority or marginalised communities, members of particular ethnic, religious or cultural communities, pregnant and nursing mothers, internally displaced persons and victims of conflict, sick persons with chronic diseases such as HIV/AIDS, persons living in precarious livelihood situations

in rural areas, marginalised populations in urban areas, groups at risk of social marginalisation and discrimination and any other group that may be identified from time to time.

TITLE

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

CLAUSE 1

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

F. *THE BASIC EDUCATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 35 OF 2014)**
(Senate Majority Leader)

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

CLAUSE 4

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

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

(i) deleting paragraph (a) and substituting therefor the following new paragraph-

(a) the county commissioner who shall be the chairperson of the Board;

(ii) deleting paragraph (d);

(iii) deleting paragraph (i); and

(iv) deleting paragraph (k) and substituting therefore the following new paragraph-

(k) one person jointly nominated by the Primary School Heads Teachers' Association and the Secondary School Principals' Association.

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

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

(a) observe the principles of-

- (i) gender equity;
- (ii) regional, ethnic and religious balance;
- (iii) transparency;

(iv) openness;
competitiveness; and

(v) equal opportunities for persons with disability; and

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

CLAUSE 5

THAT clause 5 of the Bill be amended-

(a) in the proposed new section 25A-

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

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

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

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

(a) observe the principles of-

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

(b) ensure that the persons appointed under sub-section (1) meet the requirements of Chapter six of the Constitution.

(b) in the proposed new section 25B-

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

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

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

CLAUSE 6

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

CLAUSE 7

THAT clause 7 of the Bill be amended-

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

(aa) deleting the words “at their own expenses” appearing immediately after the words “chaplains” in paragraph (c).

(b) in paragraph (c) by deleting the new proposed paragraph (f) and substituting therefor the following new paragraph-

(f) to make recommendations in consultation with the Teachers Service Commission on persons appointed or deployed as head teachers, principals and their deputies in public sponsored institutions.

CLAUSE 13

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

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

(1) by deleting paragraph (a) and substituting therefor the following new paragraph-

(a) three people elected to represent parents of the pupils in the school or from the local community;

(2) by inserting the following new paragraph immediately after paragraph (f)-

(fa) one person co-opted from the Parents Teachers Association;

NEW CLAUSE 13A

THAT the Basic Education Bill, 2014 be amended by inserting the following new clause immediately after clause 13-

Amendment of section 94 of No.14 of 2013. **13A.** Section 94 of the Principal Act is amended by inserting the following new sub-section immediately after sub-section (1)

(a) inserting the following new subsection immediately after subsection (1)-

(1A) The National Council for Nomadic Education in Kenya shall be a body corporate with perpetual succession and common seal and shall, in its corporate name, be capable of-

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of moveable and immoveable property;
- (c) entering into contract; and
- (d) undertaking or performing all other activities necessary for the proper performance of its functions under this Act that may lawfully be done or performed by a body corporate.

CLAUSE 2

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

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

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

(ii) Notice is hereby given that Sen. Kithure Kindiki, the Senate Majority Leader, intends to move the following amendments to the Basic Education (Amendment) Bill (National Assembly Bills No. 35 of 2014), at the Committee Stage-

CLAUSE 3

THAT clause 3 of the Bill be amended in the proposed amendment to section 18(1) by inserting the words “faith based organisations” immediately after the words “civil societies” in paragraph (d).

CLAUSE 5

THAT clause 5 of the Bill be amended in the proposed new section 25B by deleting paragraph (h).

CLAUSE 7

THAT the Bill be amended by deleting clause 7 and substituting therefor the following new clause –

7. Section 27 of the principal Act is amended by –

(a) deleting paragraph (a) and substituting therefor the following new paragraph –

(a) to participate and offer proposals on matters regarding syllabus, textbooks, digital content and other instructional materials and teaching aids and other material that touches on the morals, values and norms of the society during curriculum review;

- (b) deleting the words “at their own expense” immediately after “chaplains” appearing in paragraph (c);
- (c) deleting paragraph (e) and substituting therefor the following new paragraph–
 - (e) to offer material and financial support to institutions in regards to infrastructure improvement or any other project to support academic programs;
- (d) inserting the following new paragraphs immediately after paragraph (e) –
 - (f) to consult with the Teachers Service Commission on persons to be appointed as head teachers, principals, deputy head teachers and deputy principals in sponsored public schools;
 - (g) to make proposals and recommendations to the Teachers Service Commission on persons to be appointed or deployed as head teachers and principals in public sponsored schools; and
 - (h) to participate in the decision making process leading to change of status of a sponsored public school to a category of National, Extra-County or be a government school.

CLAUSE 13

THAT clause 13 of the Bill be amended by deleting paragraph (c).

FOURTH SCHEDULE

THAT paragraph 19 of the Fourth Schedule be amended by –

- (a) inserting the words “or a sponsor” immediately after the words “of basic education”; and
- (b) inserting the words “or a sponsor” immediately after the words “of the institution”.

NEW CLAUSES

CLAUSE 7A

THAT the Bill be amended by inserting the following new clause immediately after clause 7 –

7A Section 28 of the Principal Act is amended by inserting the following new subsection immediately after subsection (2) –

(3) The Cabinet Secretary, in consultation with the Cabinet Secretary responsible for the Treasury shall develop and gazette Regulations for the provision of financial assistance to children learning in non-public or sponsored schools but who, on account of financial hardship experience difficulty in paying fees and other charges levied in such schools limited to the amount that it would cost to educate such a child in a public school.

CLAUSE 12A

THAT the Bill be amended by inserting the following new clause immediately after clause 12 –

12A Section 43 of the principal Act is amended by –

- (a) deleting the words “and includes sponsored schools” appearing at the end of paragraph (a); and
- (b) inserting the following new paragraph immediately after paragraph (b) –
 - (c) sponsored schools which are schools established, owned or operated by sponsors but which the Government supports financially, materially or through the provision of teachers from the Teachers Service Commission.

CLAUSE 15

THAT the Bill be amended by inserting the following new clause immediately after clause 14 –

15. Section 100 of the principal Act is amended in subsection (1) by inserting the words “or be possessed by” immediately after the words “section vest in”

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

(The Senate Majority Leader)

NOTICE is given that Sen. Amos Wako, the Chairperson to the Standing Committee on Legal Affairs and Human Rights, intends to move the following amendment to the Parliamentary Powers and Privileges Bill, 2014, at the Committee Stage-

CLAUSE 35

THAT clause 35 of the Bill be deleted.

H. *THE PHYSICAL PLANNING BILL (NATIONAL ASSEMBLY BILL NO. 46 OF 2015)**

(The Senate Majority Leader)

a) NOTICE is given that Sen. Lenny Kivuti, the Chairperson to the Standing Committee on Lands and Natural Resources, intends to move the following amendments to the Physical Planning Bill, 2015, at the Committee Stage-

CLAUSE 9

THAT clause 9 be amended-

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

(c) approval of national physical development plans on recommendation of Parliament; and

(b) in paragraph (e) by inserting the words “in consultation with National Land Commission and county governments.” immediately after the words “levels of planning”.

CLAUSE 12

THAT clause 12 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph-

(b) advising the Cabinet Secretary on formulating national physical planning policies, guidelines and standards.

CLAUSE 13

THAT clause 13 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph-

(c) approving county physical development plans on recommendation of the county assembly;

CLAUSE 22

THAT clause 22 of the Bill be amended by deleting sub-clause (3) and substituting therefore the following new sub-clause-

(3) Upon incorporation of the proposed changes by the National Physical Planning Consultative Forum, the plan shall be

submitted to the Cabinet Secretary who shall cause it to be placed before Parliament for approval.

CLAUSE 29

THAT clause 29 of the Bill be amended by deleting sub-clause (1) and substituting therefore the following new sub-clause-

(1)The National Director of Physical Planning shall, with the approval of the Cabinet Secretary and in consultation with the county governments prepare regional plans and part development plans for national projects and programmes.

CLAUSE 37

THAT clause 37 of the Bill be amended by deleting sub-clause (2) and substituting therefore the following new sub-clause-

(2)The county executive committee member in charge of physical planning shall submit the completed county physical development plan to the governor who shall cause it to be laid before the county assembly for approval.

CLAUSE 45

THAT the Bill be amended in clause 45 by-

- (a) numbering the existing clause as sub-clause (1); and
- (b) inserting the following new sub-clause immediately after the new sub-clause (1)-

The county executive committee member in charge of physical planning shall submit a copy of the approved local physical development plan to the national land commission for their record.

CLAUSE 68

THAT clause 68 of the Bill be amended by inserting the following new paragraph immediately after paragraph (l)-

(m)National Director of Physical Planning.

CLAUSE 71

THAT clause 71 of the Bill be amended in paragraph (c) by deleting the words “Kenya Institute of Planners” appearing immediately after the words “physical planner nominated by the” and substituting therefor the words “Physical Planners Registration Board”.

CLAUSE 87

THAT the Bill be amended by deleting clause 87.

FIRST SCHEDULE

THAT the Bill be amended by deleting the First Schedule.

CLAUSE 2

THAT clause 2 of the Bill be amended by inserting the following new definitions in their proper alphabetical sequence-

“amenity” means physical attributes which contribute and enhance quality of the environment and enjoyment of the permitted use;

“base map” means a plan that delineates the planning area that depicts the spatial representation of natural and man made features;

“county physical development plan” means a plan for the area or part thereof of a county and has the same meaning as the County Spatial Plan contemplated under section 107(1) (c) of the County Government Act 2012;

“land” has the meaning assigned to it under Article 260 the Constitution;

“local physical development plan” means a plan for the area or part thereof of a city, municipal, town or urban council and includes a plan with reference to any trading or marketing centre;

“national physical development plans” means a plan prepared to provide a national spatial development framework for the territory of Kenya as defined in Article 5 of the Constitution and includes regional physical development plans;

“regional physical development plan” means a plan prepared to provide spatial development framework for two or more counties and includes part development plans for national projects and programmes.

Long title

THAT the Bill be amended by deleting the long title and substituting therefor the following new title-

A Bill for an Act of Parliament to give effect to Article 66(1) and the Fourth Schedule of the Constitution and to make provisions for planning, use, regulation and development of land and for connected purposes.

b) NOTICE is given that Sen. Mutula Kilonzo Junior intends to move the following amendments to the Physical Planning Bill, 2015, at the Committee Stage-

CLAUSE 3

THAT clause 3 of the Bill be amended –

- (a) in paragraph (b) by deleting the word “physical” appearing immediately after the words “and management of” and substituting therefor the words “land use”;
- (b) in paragraph (b) by deleting the word “physical” appearing immediately after the words “and management of” and substituting therefor the words “land use”;
- (c) in paragraph (c) by deleting the words “physical planning and” appearing immediately after the words “the regulation of”;
- (d) in paragraph (g) by deleting the words “planning authorities” appearing immediately after the words “the relationship between” authorities responsible for regulating land use in Kenya”.

CLAUSE 4

THAT clause 4 of the Bill be amended in the introductory clause by deleting the words “physical planning or” appearing immediately after the words “engaged in”.

CLAUSE 5

THAT the Bill be amended by deleting clause 5.

CLAUSE 6

THAT the Bill be amended by deleting clause 6.

CLAUSE 7

THAT the Bill be amended by deleting clause 7.

CLAUSE 8

THAT the Bill be amended by deleting clause 8 and substituting therefor the following new clause –

The National Land Commission shall, in relation to the matters set out in this Act –

- (a) pursuant to Article 67(2)(h) of the Constitution, monitor and have oversight responsibilities over land use planning throughout the country;

- (b) prepare and submit to Parliament, reports on the status of land use planning;
- (c) prepare general principles and guidelines on land use planning and coordinate planning by counties;
- (d) recommend a national land use policy to the cabinet secretary;
- (e) publish and publicize the status of national land use planning report pursuant to Article 35(3) of the Constitution;
- (f) encourage use of traditional dispute resolution mechanisms in land use planning; and
- (g) conduct research related to land use planning and natural resources.

CLAUSE 9

THAT clause 9 of the Bill be amended –

- (a) in paragraph (a) by deleting the word “physical” appearing immediately after the words “national policy” and substituting therefor the words “land use”;
- (b) in paragraph (b) by deleting the word “physical” appearing immediately after the words “specific aspects of” and substituting therefor the words “land use”;
- (c) by deleting paragraph (d).

CLAUSE 10

THAT the Bill be amended by deleting clause 10.

CLAUSE 11

THAT the Bill be amended by deleting clause 11.

CLAUSE 12

THAT the Bill be amended by deleting clause 12.

CLAUSE 13

THAT the Bill be amended at clause 13 by-

- (a) deleting the word “physical” appearing immediately after the words “policy on” in paragraph (a);
- (b) deleting paragraph (b); and
- (c) deleting paragraph (c).

CLAUSE 15

THAT the Bill be amended by deleting clause 15.

CLAUSE 17

THAT clause 17 of the Bill be amended –

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

(1) The Cabinet Secretary shall be responsible for the preparation of the National Land Use Plan.

(b) in sub-clause (2) by deleting the words “Physical Development” appearing immediately after the word “the” in the introductory clause and substituting therefor the words “Land Use”.

CLAUSE 18

THAT clause 18 of the Bill be amended –

(a) in sub-clause (1) by deleting the words “Physical Development” appearing immediately after the word “the” in the introductory clause and substituting therefor the words “Land Use”;

(b) in sub-clause (2) by -

(h) deleting the words “Physical Development” appearing immediately after the word “the” in the introductory clause and substituting therefor the words “Land Use”;

(ii) deleting the words “physical development” appearing immediately after the words “of national” in paragraph (e) and substituting therefor the words “land use”.

CLAUSE 19

THAT clause 19 of the Bill be amended in sub-clause (1) by-

(a) deleting the introductory clause and substituting therefor the following new clause –

In preparing a National Land Use Plan, the Cabinet Secretary shall –

(b) deleting paragraph (c).

...../ **Amendments**

CLAUSE 20

THAT clause 20 of the Bill be amended-

- (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause –
 - (1) A Land Use Plan shall include –
 - (a) an objective of the plan;
 - (b) situation analysis including –
 - (i) an analysis of the state of land development in Kenya; and
 - (ii) the relevant studies and reports concerning land use in Kenya;
 - (c) policies, strategies and measures necessary to optimize opportunities and potentials and resolve challenges relating to land use planning in Kenya;
 - (d) maps and plans showing current and anticipated land use patterns;
 - (e) an implementation framework;
 - (f) a monitoring and evaluation strategy; and
 - (g) such other information as may be necessary.
- (b) in sub-clause (2) by deleting the words “National Director of Physical Planning” appearing at the beginning of the sub-clause and substituting therefor the words “Cabinet Secretary”;
- (c) in sub-clause (3) by deleting the words “Physical Development” appearing immediately after the words “preparation of the” and substituting therefor the words “Land Use”;
- (d) in sub-clause (4) by deleting the words “Physical Development” appearing immediately after the words “within which a” and substituting therefor the words “Land Use”;

CLAUSE 21

THAT clause 21 be amended –

- (a) in sub-clause (1) by deleting the words “Physical Development” wherever they appear in the sub-clause and substituting therefor the words “Land Use”;
- (b) in sub-clause (2) by deleting the words “Physical Development” appearing immediately after the words “about the National” and substituting therefor the words “Land Use”.

CLAUSE 22

THAT clause 22 of the Bill be amended-

- (a) in sub-clause (1) by deleting the words “National Physical Planning Consultative Forum for comments” appearing immediately after the words “Plan to the” and substituting therefor the word “Cabinet for approval”.
- (b) by deleting sub-clause (2);
- (c) by deleting sub-clause (3);
- (d) by inserting the following new subclause immediately after subclause (3) –
 - (3A) The Cabinet Secretary shall, within thirty days of approval by the Cabinet, submit the land use plans to Parliament for consideration and approval.
- (e) by deleting the sub-clause appearing immediately after sub-clause (3) and substituting therefor the following new sub-clause-
 - (4) The Cabinet Secretary shall, within fourteen days the approval of the plan by Parliament, publish the approved plan in the *Gazette* and in at least two newspapers of national circulation.

CLAUSE 23

THAT clause 23 of the Bill be amended-

- (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause –
 - (1) The national government and county governments shall base the preparation of inter-county land use plans, integrated county land use plans, city land use plans, urban area land use plans and sectoral plans on the National Land Use Plan.
- (b) In sub-clause (2) by deleting the words “Physical Development” appearing immediately after the words “lack of a National” and substituting therefor the words “Land Use”.

CLAUSE 24

THAT clause 24 of the Bill be amended –

- (a) in sub-clause (1) by deleting the words “Physical Development” appearing immediately after the words “implementation of a National” and substituting therefor the words “Land Use”;

(b) in sub-clause (2) by deleting the words “Physical Development” wherever they appear in the sub-clause and substituting therefor the words “Land Use”.

CLAUSE 25

THAT clause 25 of the Bill be amended -

(a) in sub-clause (1) by deleting the words “regional physical development” appearing immediately after the words “formulate a regional” and substituting therefor the words “an inter-county land use”.

(b) in sub-clause (2) by deleting the words “Regional Physical” appearing immediately after the words “shall form a” and substituting therefor the words “Inter-County Land Use”.

(c) in sub-clause (3) by-

(i) deleting paragraph (a) and substituting therefor the following new paragraph-

(a) A person nominated by the Cabinet Secretary with knowledge and experience in matters relating to land use planning.;

(ii) deleting the word “physical” appearing immediately after the words “responsible for” and substituting therefor the words “land use”.

(d) by inserting the following new paragraph immediately after clause (4)-

(4A) The members of the Inter-County Land Use Development Committee shall elect a chairperson from amongst themselves.

(e) in sub-clause (4) by deleting the words “regional joint physical” appearing immediately after the word “the” and substituting therefor the words “inter-county land use”.

(f) in sub-clause (5) by deleting the words “The National Director of Physical Planning” appearing at the beginning of the sub-clause and substituting therefor the words “The Cabinet Secretary”.

CLAUSE 26

THAT clause 26 of the Bill be amended by deleting the words “A Regional Physical Development” appearing in the introductory clause and substituting therefor the words “Inter-County Land Use”.

CLAUSE 27

THAT clause 27 of the Bill be amended by –

- (a) deleting sub-clause (1) and substituting therefor the following new sub-clause –
 - (1) The Inter-County Land Use Planning Committee preparing an inter-county land use plan shall publish a notice of intention to prepare a plan in the gazette and in at least two newspapers of national circulation.
- (b) deleting the words “Regional Physical Planning Joint” appearing immediately after the words “constitution of the” in sub-clause (2) and substituting therefor the words “Inter-County Land Use;
- (c) deleting the words “Regional Physical Development” appearing immediately after the words “complete the” in sub-clause (3) and substituting therefor the words “Inter-County Land Use;
- (d) deleting the words “Regional Physical Development” appearing immediately after the words “preparation of the” in sub-clause (4) and substituting therefor the words “Inter-County Land Use.

CLAUSE 28

THAT Clause 28 of the Bill be amended by-

- (a) deleting sub-clause (1) and substituting therefor the following new sub-clause –
 - (1) Within thirty days of the completion of an inter-county land use plan, the inter-county land use committee shall public a notice in the gazette and in at least two newspapers of national circulation informing the public that the plan is available at the places and times designated in the notice for inspection and that any interested person may comment on the content of the plan
- (b) in sub-clause (2) deleting the words “Regional Physical Planning Joint” appearing immediately after the words “constitution of the” in sub-clause (2) and substituting therefor the words “Inter-County Land Use;
- (c) deleting sub-clause (3); and
- (d) in sub-clause (4) by deleting the words “National Physical Planning Liaison Committee” appearing immediately after the words “decision of the” and substituting therefor the words “Inter-County Land Use Committee”.

CLAUSE 29

THAT clause 29 of the Bill be amended –

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

- (1) The County Executive Committee members of all counties participating in the inter-county land use plan shall separately approve the plan and submit the same to the respective county assemblies.

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

- (2) within thirty days of the approval of the Inter-County Land Use Plan by the respective county assemblies, the Governors of the relevant counties shall jointly publish the approved Inter-County Land Use Plan in the *Gazette* ;

- (c) by deleting sub-clause (3); and

- (d) by deleting sub-clause (4) and substituting therefor the following new sub-clause-

- (4)The published Inter-County Land Use Plan shall be deposited with the relevant County Executive Committee Member.

CLAUSE 30

THAT the Bill be amended by deleting clause 30 and substituting therefor the following new clause–

- (1) In addition to the national land use plan, the inter-county land use plan shall inform the preparation of a county land use plan or urban area plan for the county governments within the planning area covered by the inter-county land use plan.

- (2) Where the National Land Use Plan and an Inter-County Land Use plan have not been approved, county governments may prepare other land use plans which will be incorporated into the National Land Use Plan or the relevant Inter-County Land Use Plan after they have been prepared and approved.

CLAUSE 31

THAT the Bill be amended by deleting clause 31 and substituting therefor the following new clause –

31. At least three months before the end of a financial year, every county executive committee member responsible for land use planning in a county covered by an inter-county land use plan shall submit a report on the implementation of the inter-county land use plan to the National Land Commission and the Cabinet Secretary for their purposes.

CLAUSE 32

THAT clause 32 of the Bill be amended –

- (a) in sub-clause (1) by deleting the words “physical development” appearing immediately after the words “prepare a county” and substituting therefor the words “land use”;
- (b) by deleting sub-clause (2) and substituting therefor the following new sub-clause –
 - (2) Each county land use plan shall be in conformity with the National Land Use Plan and any relevant Inter-County Land Use plan.
- (c) in sub-clause (3) by deleting the words “physical development” appearing immediately after the words “in charge of” and substituting therefor the words “land use”;
- (d) in sub-clause (4) by deleting the words “physical development” appearing immediately after the words “the county” and substituting therefor the words “land use”

CLAUSE 33

THAT the Bill be amended by deleting clause 33.

CLAUSE 34

THAT the Bill be amended by deleting clause 34.

CLAUSE 35

THAT the Bill be amended by deleting clause 35.

CLAUSE 36

THAT the Bill be amended by deleting clause 36.

CLAUSE 37

THAT the Bill be amended by deleting clause 37.

CLAUSE 38

THAT the Bill be amended by deleting clause 38.

CLAUSE 39

THAT the Bill be amended by deleting clause 39.

CLAUSE 40

THAT the Bill be amended by deleting clause 40.

CLAUSE 41

THAT the Bill be amended by deleting clause 41.

CLAUSE 42

THAT the Bill be amended by deleting clause 42.

CLAUSE 43

THAT the Bill be amended by deleting clause 43.

CLAUSE 44

THAT the Bill be amended by deleting clause 44.

CLAUSE 45

THAT the Bill be amended by deleting clause 45.

CLAUSE 46

THAT the Bill be amended by deleting clause 46.

CLAUSE 47

THAT clause 47 of the Bill be amended-

- (a) in sub-clause (1) by deleting the words “or the National Physical Planning Consultative Forum” appearing immediately after the words “National Government”;
- (b) in sub-clause (2) by deleting the words “physical development” appearing immediately after the words “area until a” and substituting therefor the words “land use”;
- (c) in sub-clause (3) by deleting the word “planning” wherever it appears in the sub-clause and substituting therefor the words “land use”;
- (d) in sub-clause (4) by deleting the word “planning” wherever it appears in the sub-clause and substituting therefor the words “land use”;
- (e) by deleting sub-clause (6) and substituting therefor the following new sub-clause –
 - (6) A land use plan prepared for special land use area shall undergo the process of approval in accordance with section 112 of the County Governments Act”

CLAUSE 49

THAT clause 49 of the Bill be amended-

- (a) in paragraph (a) by deleting the word “physical” appearing immediately after the words “ensure orderly” and substituting therefor the words “land use”;
- (b) in paragraph (e) by deleting the word “physical” appearing immediately after the words “participation in” and substituting therefor the words “land use”.

CLAUSE 50

THAT clause 50 of the Bill be amended-

- (a) in paragraph (d) by deleting the word “physical development” appearing immediately after the words “of approved” and substituting therefor the words “land use”;
- (b) in paragraph (f) by deleting the word “physical development” appearing immediately after the words “the approved” and substituting therefor the words “land use”.

CLAUSE 51

THAT clause 51 of the Bill be amended–

- (a) in sub-clause (1) by deleting the word “planning” wherever it appears and substituting therefor the words “land use”;
- (b) in sub-clause (3) by deleting the word “planning” appearing immediately after the word “the” and substituting therefor the words “land use”;
- (c) in sub-clause (4) by deleting the word “planning” appearing immediately after the words “sub-section (3) the” and substituting therefor the words “land use”;
- (d) in sub-clause (5) by deleting the word “planning” appearing immediately after the word “the” and substituting therefor the words “land use”;
- (e) in sub-clause (6) by deleting the word “planning” appearing immediately after the word “the” and substituting therefor the words “land use”;

CLAUSE 52

THAT clause 52 of the Bill be amended–

- (a) in sub-clause (1) by deleting the word “planning” wherever it appears and substituting therefor the words “land use”;
- (b) in sub-clause (2) by deleting the word “planning” appearing immediately after the words “required by the” and substituting therefor the words “land use”;
- (c) in sub-clause (4) by deleting the word “planning” appearing immediately after the words “consent to the” and substituting therefor the words “land use”;
- (d) in sub-clause (5) by deleting the word “planning” appearing immediately after the words “granted by” and substituting therefor the words “land use”.

CLAUSE 53

THAT clause 53 of the Bill be amended in –

- (a) in sub-clause (1) by deleting the word “planning” appearing immediately after the words “provided to the” and substituting therefor the words “land use”;

in sub-clause (2) by deleting the word “planning” appearing immediately after the words “so by the” and substituting therefor the words “land use”.

CLAUSE 54

THAT clause 54 of the Bill be amended in sub-clause (2) by deleting the word “planning” appearing immediately after the words “permission from the” and substituting therefor the words “land use”;

CLAUSE 55

THAT clause 55 of the Bill be amended in –

(a) in sub-clause (1) by –

(i) deleting the word “planning” appearing immediately after the words “development permission a” appearing in the introductory clause and substituting therefor the words “land use”;

(ii) deleting the words “physical development” appearing immediately after the words “relevant approved” in paragraph (a) and substituting therefor the words “land use”;

(b) in sub-clause (2) by deleting the word “planning” appearing immediately after the words “development permission the” appearing in the introductory clause and substituting therefor the words “land use”;

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

(3) An applicant or an interested party that is aggrieved by the decision of the land use authority regarding an application for development permission may appeal to the Environment and Land Court

CLAUSE 56

THAT clause 56 of the Bill be amended–

(a) in sub-clause (1) by deleting the word “planning” appearing immediately after the word “a” at the beginning of the sub-clause and substituting therefor the words “land use”;

(b) in sub-clause (2) by deleting the word “planning” appearing immediately after the “a” at the beginning of the sub-clause and substituting therefor the words “land use”;

(c) in sub-clause (3) by deleting the word “planning” wherever it appears in the sub-clause and substituting therefor the words “land use”.

CLAUSE 62

THAT clause 62 of the Bill be amended in sub-clause (1) by deleting the words “physical development” appearing immediately after the words” by the relevant” and substituting therefor the words “land use”;

CLAUSE 63

THAT clause 63 of the Bill be amended in sub-clause (2) by deleting the words “physical development” appearing immediately after the words” any regional” and substituting therefor the words “land use”;

CLAUSE 64

THAT clause 64 of the Bill be amended in sub-clause (2) by deleting the words “physical development” appearing immediately after the word ”All“ at the beginning of the sub-clause and substituting therefor the words “land use”.

CLAUSE 65

THAT the Bill be amended by deleting clause 65.

CLAUSE 66

THAT the Bill be amended by deleting clause 66.

CLAUSE 67

THAT the Bill be amended by deleting clause 67.

CLAUSE 68

THAT the Bill be amended by deleting clause 68.

CLAUSE 69

THAT the Bill be amended by deleting clause 69.

CLAUSE 70

THAT the Bill be amended by deleting clause 70.

CLAUSE 71

THAT the Bill be amended by deleting clause 71.

CLAUSE 72

THAT the Bill be amended by deleting clause 72.

CLAUSE 73

THAT the Bill be amended by deleting clause 73.

CLAUSE 74

THAT the Bill be amended by deleting clause 74.

CLAUSE 75

THAT the Bill be amended by deleting clause 75.

CLAUSE 76

THAT the Bill be amended by deleting clause 76.

CLAUSE 77

THAT the Bill be amended by deleting clause 77.

CLAUSE 78

THAT the Bill be amended by deleting clause 78.

CLAUSE 79

THAT the Bill be amended by deleting clause 79.

CLAUSE 80

THAT the Bill be amended by deleting clause 80.

CLAUSE 81

THAT the Bill be amended by deleting clause 81.

CLAUSE 82

THAT the Bill be amended by deleting clause 82.

CLAUSE 83

THAT the Bill be amended by deleting clause 83.

CLAUSE 86

THAT the Bill be amended by deleting clause 86 and substituting therefor the following new clause-

Dispute
resolution **86.** Unless otherwise provided in this Act, all disputes relating to land use planning shall be heard and determined by the Environment and Land Court.

CLAUSE 87

THAT the Bill be amended by deleting clause 87.

FIRST SCHEDULE

THAT the Bill be amended by deleting the First Schedule.

SECOND SCHEDULE

THAT the Second Schedule to the Bill be amended-

- (a) in the heading by deleting the word "INTER-COUNTY" appearing immediately after the word "NATIONAL" and substituting therefor the word "REGIONAL"; and
- (b) in paragraph 12 by deleting the words "county director" appearing immediately after the words "refer it to" appearing in paragraph (2).

THIRD SCHEDULE

THAT the Third Schedule to the Bill be deleted.

FOURTH SCHEDULE

THAT the Fourth Schedule to the Bill be amended -

by deleting the heading and substituting therefor the following new heading-

DEVELOPMENT CONTROL

in paragraph 2(a), by deleting the word "physical" appearing immediately after the words "by approved" and substituting therefor the words "land use";

in paragraph 5(a), by deleting the word "physical" appearing immediately after the words "an approved" and substituting therefor the words "land use";

in paragraph 6(e), by deleting the word "physical" appearing immediately after the words "relevant approved" and substituting therefor the words "land use";

in paragraph 7(b), by deleting the word” physical” appearing immediately after the words “relevant approved” and substituting therefor the words” land use”;

CLAUSE 2

THAT Clause 2 of the Bill be amended by-

(a) by deleting the definition of the term “land use planning” and substituting therefor the following new definition –

“land use planning” refers to the discipline which seeks to order and regulate land use in an efficient and ethical way;

(b) deleting the definition of the word “local physical planning development plan”;

(c) deleting the definition of the word “National Director of Physical Planning”;

(d) deleting the definition of word “physical planning”;

(e) in the definition of planning authority by deleting the word “planning” and substituting therefor the word “land use”.

CLAUSE 1

THAT clause 1 of the Bill be amended by deleting the word “physical” appearing immediately after the words “cited as the” and substituting therefor the words “Land Use”.

APPENDIX

STATEMENT TO BE REQUESTED

The nominated Senator (Sen. Janet Ong'era) to seek a statement from the Chairperson, Standing Committee on Legal Affairs and Human Rights regarding the missing BVR kits allegedly stolen from Mandera by the Al Shabab terror group.
