



**REPUBLIC OF KENYA**

**ELEVENTH PARLIAMENT – (FIFTH SESSION)**

**THE SENATE**

**ORDER PAPER**

**TUESDAY, FEBRUARY 21, 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 (As Listed in the Appendix)
7. Statements (As Listed in the Appendix)
8. **\*THE CONSTITUTION OF KENYA (AMENDMENT) BILL (SENATE BILL NO. 16 OF 2015)**  
(Sen. Judith Sijeny)

*(Second Reading)*

***(Resumption of Debate interrupted on Wednesday, 28<sup>th</sup> December, 2016)***

***(Division)***

9. **\*\*\*THE CONSTITUTION OF KENYA (AMENDMENT) (NO. 2) BILL (NATIONAL ASSEMBLY BILL NO. 2 OF 2015)**  
(The Senate Majority Leader)

*(Second Reading)*

***(Resumption of Debate interrupted on Thursday, 3<sup>rd</sup> November, 2016)***

***(Division)***

10. **\*\*\*THE CONSTITUTION OF KENYA (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 26 OF 2013)**  
(The Senate Majority Leader)

*(Second Reading)*

***(Resumption of Debate interrupted on Thursday, 3<sup>rd</sup> November, 2016)***

***(Division)***

...../Bill

11. **\*\*\*THE KENYA ROADS BILL (NATIONAL ASSEMBLY BILL NO. 26 OF 2015)**  
(The Senate Majority Leader)  
*(Second Reading)*  
*(Resumption of Debate interrupted on Wednesday, 15<sup>th</sup> February, 2017)*  
*(Division)*
  
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, 16<sup>th</sup> February, 2017)*  
*(Division)*
  
13. **COMMITTEE OF THE WHOLE**  
**\*THE PERSONS WITH DISABILITIES (AMENDMENT) BILL (SENATE BILLS NO. 13 OF 2015)**  
(Sen. Godliver Omondi)  
*(Resumption of Debate interrupted on Tuesday, 15<sup>th</sup> November, 2016)*  
*(Division)*
  
14. **COMMITTEE OF THE WHOLE**  
**\*THE NATIONAL CEREALS AND PRODUCE BOARD (AMENDMENT) BILL (SENATE BILL NO.15 OF 2015)**  
(Sen. Zipporah Kittony)  
*(Resumption of Debate interrupted on Wednesday, 16<sup>th</sup> November, 2016)*  
*(Division)*
  
15. **COMMITTEE OF THE WHOLE**  
**\*THE COUNTY STATUTORY INSTRUMENTS BILL (SENATE BILL NO. 10 OF 2015)**  
(Sen. Stephen Sang)  
*(Resumption of Debate interrupted on Thursday, 16<sup>th</sup> February, 2017)*  
*(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, 15<sup>th</sup> November, 2016)*  
*(Division)*

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

(Sen. Omar Hassan)

***(Resumption of Debate interrupted on Tuesday, 15<sup>th</sup> November, 2016)  
(Division)***18. **MOTION** – (Chairperson, Standing Committee on Land and Natural Resources)

**THAT**, pursuant to Section 7 of the Climate Change Act, 2016, Section 8(1) of the Public Appointments (Parliamentary Approval) Act, 2011 and Senate Standing Order 65, the Senate adopts the Report of the Joint Sitting of the Senate Standing Committee on Land and Natural Resources and the National Assembly Departmental Committee on Environment and Natural Resources on the vetting of nominees for appointment to the National Climate Change Council, laid on the Table of the Senate on Wednesday, December 28, 2016 and approves the recommendations of the Committees as follows:-

- i) Approves the nomination of Messrs. Suresh Patel and John Kioli for appointment to the National Climate Change Council;
- ii) Rejects the nomination of Ms. Cynthia Wechabe and Dr. Jane Mutheu for appointment to the National Climate Change Council; and
- iii) Recommends that the appointing authority submits nominees of the female gender to represent the marginalized communities and Commission for University Education as prescribed by the Public Appointments (Parliamentary Approval) Act.

19. **MOTION** - (The Senate Majority Leader)

**THAT**, pursuant to Standing Order Nos. 177, 179 and 210, the Senate approves the following Senators nominated by the Senate Business Committee to serve in the respective Sessional Committees as indicated below:-

**A. COUNTY PUBLIC ACCOUNTS AND INVESTMENTS COMMITTEE**

1. Sen. Wamatangi Kimani
2. Sen. Stephen Ole Ntutu
3. Sen. (Eng.) Karue Muriuki
4. Sen. (Prof.) John Lonyangapuo
5. Sen. Wangari Martha
6. Sen. Mong'are Okong'o Kennedy
7. Sen. (Dr.) Khalwale Boni
8. Sen. Omar Hassan
9. Sen. Sitswila Wako Amos
10. Sen. Nyong'o Anyang' Peter
11. Sen. George Khaniri
12. Sen. (Dr.) Agnes Zani

...../ ***Motion***

**B. COMMITTEE ON DEVOLVED GOVERNMENT**

- 1. Sen. Murkomen Kipchumba
- 2. Sen. Lesuuda Naisula
- 3. Sen. Kerrow Billow
- 4. Sen. Beatrice Elachi
- 5. Sen. (Prof.) Wilfred Lesan
- 6. Sen. Sitswila Wako Amos
- 7. Sen. Janet Ong’era
- 8. Sen. Omar Hassan
- 9. Sen. Tiolo Ndiema Henry

**C. COMMITTEE ON IMPLEMENTATION**

- 1. Sen. Haji Mohammed Yusuf
- 2. Sen. Bule A. Ali
- 3. Sen. Chelule Liza
- 4. Sen. Mbura Emma Gertrude
- 5. Sen. (Dr.)Kariuki Godfrey Gitahi
- 6. Sen. Ali Hassan Abdirahman
- 7. Sen. James Orengo
- 8. Sen. Muthama Johnson
- 9. Sen. Nyongesa Kanainza Daisy

**D. COMMITTEE ON DELEGATED LEGISLATION**

- 1. Sen. Sang Stephen
- 2. Sen. Gwendu Joy
- 3. Sen. Onchwang’i Hosea
- 4. Sen. Mbura Emma Gertrude
- 5. Sen. Karaba Daniel
- 6. Sen. Madzayo Stewart
- 7. Sen. Sijeny Judith
- 8. Sen. Musila David
- 9. Sen. Omondi Godliver Nanjira

**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 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).”

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

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

**Clause 3**

**THAT** clause 3 of the Bill be amended-

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

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

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

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

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

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

**Clause 4**

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

Amendment of section 4 of No. 14 of 2013. **4.** Section 4 of the principal Act be amended-

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

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

- (ii) by deleting paragraph (b);

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

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

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

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

- (iv) by deleting paragraph (d); and

- (v) by deleting paragraph (g);

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

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

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

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

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

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

**CLAUSE 4**

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

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

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

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

(ii) deleting paragraph (d);

(iii) deleting paragraph (i); and

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

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

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

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

(a) observe the principles of-

(i) gender equity;

(ii) regional, ethnic and religious balance;

(iii) transparency;

(iv) openness;

(v) competitiveness; and

(vi) equal opportunities for persons with disability; and

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



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

**CLAUSE 5**

**THAT** clause 5 of the Bill be amended-

(a) in the proposed new section 25A-

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

(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.’

**F. \*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-

- (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)-

...../ **Amendments**

(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).

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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”.

**APPENDIX**

**1. NOTICE OF MOTION - (The Senate Majority Leader)**

**THAT**, pursuant to Standing Order Nos. 177, 179 and 210, the Senate approves the following Senators nominated by the Senate Business Committee to serve in the respective Sessional Committees as indicated below:-

**A. COUNTY PUBLIC ACCOUNTS AND INVESTMENTS COMMITTEE**

- 1. Sen. Wamatangi Kimani
- 2. Sen. Stephen Ole Ntutu
- 3. Sen. (Eng.) Karue Muriuki
- 4. Sen. (Prof.) John Lonyangapuo
- 5. Sen. Wangari Martha
- 6. Sen. Mong'are Okong'o Kennedy
- 7. Sen. (Dr.) Khalwale Boni
- 8. Sen. Omar Hassan
- 9. Sen. Sitswila Wako Amos
- 10. Sen. Nyong'o Anyang' Peter
- 11. Sen. George Khaniri
- 12. Sen. (Dr.) Agnes Zani

**B. COMMITTEE ON DEVOLVED GOVERNMENT**

- 1. Sen. Murkomen Kipchumba
- 2. Sen. Lesuuda Naisula
- 3. Sen. Kerrow Billow
- 4. Sen. Beatrice Elachi
- 5. Sen. (Prof.) Wilfred Lesan
- 6. Sen. Sitswila Wako Amos
- 7. Sen. Janet Ong'era
- 8. Sen. Omar Hassan
- 9. Sen. Tirole Ndiema Henry

**C. COMMITTEE ON IMPLEMENTATION**

- 1. Sen. Haji Mohammed Yusuf
- 2. Sen. Bule A. Ali
- 3. Sen. Chelule Liza
- 4. Sen. Mbura Emma Gertrude
- 5. Sen. (Dr.)Kariuki Godfrey Gitahi
- 6. Sen. Ali Hassan Abdirahman
- 7. Sen. James Orengo
- 8. Sen. Muthama Johnson
- 9. Sen. Nyongesa Kanainza Daisy

**D. COMMITTEE ON DELEGATED LEGISLATION**

1. Sen. Sang Stephen
2. Sen. Gwendu Joy
3. Sen. Onchwang’i Hosea
4. Sen. Mbura Emma Gertrude
5. Sen. Karaba Daniel
6. Sen. Madzayo Stewart
7. Sen. Sijeny Judith
8. Sen. Musila David
9. Sen. Omondi Godliver Nanjira

**2. 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.

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