



REPUBLIC OF KENYA
ELEVENTH PARLIAMENT – (THIRD SESSION)
THE SENATE
ORDER PAPER
THURSDAY, OCTOBER 29, 2015 AT 2.30 P.M

PRAYERS

1. Administration of Oath
2. Communication from the Chair
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8. **COMMITTEE OF THE WHOLE**
Consideration of the Presidential Memorandum on the Public Procurement and Asset Disposal Bill (National Assembly Bill No. 40 of 2014)
(The Senate Majority Leader)
9. **COMMITTEE OF THE WHOLE**
Consideration of the Presidential Memorandum on the Public Audit Bill (National Assembly Bill No. 38 of 2014)
(The Senate Majority Leader)
10. ****THE OFFICE OF THE COUNTY ATTORNEY BILL, (SENATE BILL NO. 37 OF 2014)**
(Chairperson, Committee on Legal Affairs and Human Rights)
(Second Reading)
(Resumption of Debate interrupted on Tuesday, 27th October, 2015)
(Division)
11. **COMMITTEE OF THE WHOLE**
****THE PUBLIC APPOINTMENTS (COUNTY ASSEMBLY APPROVAL)**
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(Chairperson of the Standing Committee on Labour and Social Welfare)
(Resumption of Debate interrupted on Wednesday, 7th October, 2015)

...../Bill

12. **COMMITTEE OF THE WHOLE**
****THE COUNTY EARLY CHILDHOOD EDUCATION BILL, (SENATE BILL NO. 32 OF 2014)**
 (Chairperson, Standing Committee on Education)
(Resumption of Debate interrupted on Wednesday, 7th October, 2015)
13. **COMMITTEE OF THE WHOLE**
***THE UNIVERSITIES (AMENDMENT) BILL (SENATE BILL NO. 31 OF 2014)**
 (Sen. Halima Abdille)
14. ****THE COUNTY GOVERNMENTS DISASTER MANAGEMENT BILL, (SENATE BILL NO. 40 OF 2014)**
 (Chairperson, Committee on National Security and Foreign Relations)
(Second Reading)
(Resumption of Debate interrupted on Wednesday, 28th October, 2015)
15. ***THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILL NO. 8 OF 2015)**
 (Sen. Hassan Omar)
(Second Reading)
16. **MOTION** – (Sen. Zipporah Kittony)
 (Ministry of Transport and Infrastructure)

THAT, AWARE that traffic congestion in Nairobi Metropolitan Region is increasingly becoming worse leading to increased costs, longer travel times, constrained economic productivity and adverse health and environmental externalities;

CONCERNED that the economic cost of the congestion is estimated to be Kshs.1 billion annually on account of wasted man-hours and wasted fuel due to vehicular queuing;

APPRECIATING the government's effort in mitigating the problem by expanding infrastructure and initiating other interventions such as installation of traffic lights in the Central Business District;

The Senate now calls upon the Government to consider formulating additional policy interventions to mitigate the problem by:-

1. Enacting legislation to allow only high capacity public transport to operate in the city; and
2. Creating regulations to:-
 - a) Require all deliveries to business premises to be done at night;
 - b) Require construction on roads that are in use to be done at night; and
 - c) Reroute heavy commercial vehicles to use the bypasses.

(Resumption of Debate interrupted on Thursday, 17th September, 2015)

(Balance of Time – 1 hr 57 mins)

...../Motion

17. **MOTION**- (Sen. Kiraitu Murungi)
(Department of Land)

GIVEN the clear provisions of Article 6 (1) and the First Schedule which establishes the 47 counties of the Republic of Kenya;

CONSIDERING the clear provisions of the Districts and Provinces Act (Cap 105 A) of 1992 which specifically delineates the geographical boundaries of each county;

NOTING the provisions of Article 188 of the Constitution, which clearly state that the boundaries of a county may be altered only by a resolution of an Independent Commission set up for that purpose by Parliament and with the support of at least two-thirds members of the National Assembly and two-thirds of the county delegations in the Senate;

FURTHER NOTING that the boundaries in counties have not been surveyed and no beacons have been fixed;

CONCERNED that failure by the National Government to mark and fix the county boundaries has led to endless and sometimes violent conflicts, in which innocent Kenyans have been killed and their property destroyed, and is generally perpetuating poverty and underdevelopment in counties;

THIS HOUSE urges the Office of the President and the Ministry of Land, Housing and Urban Development to urgently establish a Task Force to survey, mark and fix beacons for all the county boundaries and to submit a report of the said Task Force to this House on or before 31st March, 2016.

KEY

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

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

****** - Denotes a Committee Bill

***** - Denotes any other Bill

NOTICE

The Senate resolved on 11th February, 2015 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.

NOTICES OF AMENDMENTS**A. ***THE PRESIDENTIAL MEMORANDUM ON THE PUBLIC PROCUREMENT AND ASSET DISPOSAL BILL (NATIONAL ASSEMBLY BILL NO. 40 OF 2014)**

(The Senate Majority Leader)

PRESIDENT'S RECOMMENDATIONS:

Amendments recommended by H.E. the President to the Public Procurement and Asset Disposal Bill

Clause 51 (3):

THAT the Bill be amended by inserting the words **“and licensed”** immediately after the word **“registered”**

Clause 124:

THAT the Bill be amended by deleting subclause (4) and substituting therefor the following new subclause:

Selection
methods for
requests for
proposals

(4). Subject to the foregoing provisions of this section, in the evaluation of tenders by public entities, the criteria for assessing the technical and financial capability of the tenderers shall as may be prescribed by the accounting officer in the tender documents.

B. *THE PRESIDENTIAL MEMORANDUM ON THE PUBLIC AUDIT BILL (NATIONAL ASSEMBLY BILL NO. 38 OF 2014)**

(The Senate Majority Leader)

PRESIDENT'S RECOMMENDATIONS:

Amendments recommended by H.E. the President to the Public Audit Bill

Clause 4

THAT Clause 4 (2) of the Bill be amended by deleting the existing sub-clause and substituting therefor the following new sub-clause-

(2) The Office shall comprise the Auditor –General as its statutory head and all other staff appointed by the Auditor-General as may be delegated in accordance with Article 234 (5) of the Constitution.

Clause 8

THAT clause 8 of the Bill be amended by deleting paragraphs (a), (b), (c), (d), (h) and (j) and substituting therefor the following:

Administrative
powers of the
office of the
Auditor-
General

(a) develop an organization structure and staffing establishment for the office of the Auditor – General, subject to Article 234 (5) of the Constitution;

(b) subject to Article 234 (5) of the Constitution, recruit and promote qualified and competent staff to perform the office's functions;

...../Amendments

- (c) subject to Article 234 (5) of the Constitution, exercise disciplinary control over staff;
- (d) subject to Article 234 (5) of the Constitution, develop human resource of the office;
- (h) subject to Articles 230 (4) (b) and 234 of the Constitution, determine the remuneration and benefits of each member of staff;
- (j) in addition to what is provided for under any other relevant law, develop and maintain a code of conduct and ethics for the office, specific to auditing, guided by the international code of practice, and code of ethics issued by the International Organization of Supreme Audit Institutions and in consultation with the Public Service Commission and the National Treasury;

New Clause 11 A

THAT, a new Clause be inserted immediately after Clause 11 of the Bill as follows:

11 A. (1) Where:

Acting Auditor-
General

- (a) the office of the Auditor- General becomes vacant;
- (b) the Auditor-General has been suspended in accordance with the Constitution
- (c) the appointment of a person as Auditor-General is pending; or
- (d) the Auditor – General is, for any reason unable to perform the function of his or her office,

then, until a person is appointed to and has assumed the functions of that office in accordance with Section 11 above, or until the Auditor-General has resumed the performance of those functions, the Public Service Commission shall recommend the most senior officer in the office of the Auditor-General to the President to designate such a person as the acting Auditor –General

(2) A person designated under subsection (1) shall meet the minimum qualifications for appointment to the office of the Auditor-General and shall serve for a period not exceeding ninety days.

(3) When acting in terms of subsection (1), the acting Auditor-General shall have all the powers of the Auditor-General.

Clause 16:

THAT Clause 16 of the Bill be amended in sub-clause (1) by inserting the expression “and 234 (5)” immediately after expression “230”

Clause 19:

THAT Clause 19 (2) of the Bill be amended by:

- (a) inserting the words **“review and”** immediately after the words **“year for”**; and
- (b) deleting the words **“with the Cabinet Secretary’s comments”**

Clause 40A

THAT a new Clause be inserted immediately after Clause 40 of the Bill to read as follows:

Auditor-General
not to question
Government policy
objective

40A. Notwithstanding the provisions of this Act, in an examination under this Act, the Auditor-General shall not question the merits of a policy objective of the national government or county government or any other public entity.

Clause 66

THAT Clause 66 of the Bill be amended by deleting the words **“Auditor-General”** immediately after the word **“The”** and substitute therefor the words **“Cabinet Secretary responsible for matters relating to finance”**.

**C. ** THE PUBLIC APPOINTMENTS (COUNTY ASSEMBLY APPROVAL)
BILL (SENATE BILL NO. 20 OF 2014)**

(Chairperson of the Standing Committee on Labour and Social Welfare)

- (i) **NOTICE** is given that the Chairperson of the Committee on Labour and Social Welfare, intends to move the following amendments to the Public Appointments (County Assembly Approval) Bill, 2014, at the Committee Stage-

Clause 5

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

(1) An advertisement inviting applications for nomination for appointment to an office to which this Act applies shall specify that the candidate shall be required to appear before a committee of the relevant County Assembly.

(2) An applicant shall not be required to appear before the committee of a County Assembly pursuant to a notice issued under subsection (1) within a period of less than twenty-one days.

Clause 6

THAT clause 6 of the Bill be amended by inserting the following new subclause immediately after subclause (1) –

- (1A) An appointing authority shall, in issuing a notice under subsection (1), notify the members of the public on the proposed nomination through such media and platforms established under section 91 of the County Governments Act as it considers appropriate.

Clause 7

THAT clause 7 of the Bill be amended –

(a) in subclause (2) by –

- (i) deleting the word “seven” appearing immediately after the words “later than” and substituting therefor the words “fourteen days”;
- (ii) inserting the words “Subject to subsection (2A)” at the beginning of subclause (2).

(b) inserting the following new subclause immediately after subclause (2) –

(2A) The approval hearings shall be held in a public place and shall be conducted during working hours.

(c) in subclause (4) by deleting the word “two newspapers” appearing immediately after the words “in at least” and substituting therefor the words “one newspaper”;

(d) by inserting the following new subclause immediately after clause 10 –

(10A) A candidate shall have a right to be heard on any statement or evidence submitted to the Clerk contesting the suitability of the candidate to hold the office to which the candidate has been nominated.

Clause 9

THAT clause 9 of the Bill be amended in subclause (1) by deleting the word “fourteen” appearing immediately after the words “decision within” and substituting therefor the word “twenty-one”.

Clause 10

THAT clause 10 of the Bill be amended –

(a) by renumbering the existing clause as subclause (1);

(b) in subclause (1) by deleting the word “may” appearing after the words “appointing authority” and substituting therefor the word “shall”;

(c) by inserting the following new subclause immediately after subclause (1) –

(2) A nominating authority shall not resubmit the name of a candidate whose nomination has been rejected by the County Assembly unless the circumstances relied on for the rejection of the appointment of the candidate did not exist or ceased to exist at the time of rejecting the nomination of the candidate.

First schedule

THAT the First Schedule be amended –

(a) by deleting item 4. and substituting therefor the following new items –

4. **(a) Date of birth:**

(b) Place of Birth:

(b) by deleting items 6 and 7 and substitute the following new items –

6. **Mobile phone number:**

(c) by inserting the following new phrase immediately after item 21 (d)

(Attach clearance letter from the Ethics and Anti-Corruption Commission)

(d) by deleting item 25 and substituting therefor with the following new item –

25. **Tax status:** (Attach your Kenya Revenue Authority Clearance Certificate)

(e) in item 31 by inserting the following new phrase immediately after the words “your nomination?”

If yes, explain: _____

(ii) NOTICE is given that Senator Henry Ndiema intends to move the following amendments to the Public Appointments (County Assembly Approval) Bill, 2014, at the Committee Stage-

Clause 8

THAT clause 8 of the Bill be amended in paragraph (b) by inserting the words “including the values and principles of public service set out under Article 232 (1) of the Constitution” immediately after the words “in question”.

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

(Chairperson, Standing Committee on Education)

NOTICE is given that the Chairperson of the Standing Committee on Education, intends to move the following amendments to the County Early Childhood Education Bill, 2014, at the Committee Stage-

Clause 5

THAT clause 5 of the Bill be amended in subclause (1) by inserting the words “in a public education centre” immediately after the words “childhood education”.

Clause 6

THAT clause 6 of the Bill be amended-

- (a) in paragraph (a) by inserting the words “in public education centres” immediately after the words “childhood education”;
- (b) by inserting the following new paragraph immediately after paragraph (a)-
 - (aa) establish such public education centres as may be necessary for the provision of free and compulsory early childhood education within the county;
- (c) by deleting paragraph (c);
- (d) in paragraph (d) by deleting the word “develop” appearing immediately before the words “in consultation with” and substituting therefor the word “implement”; and
- (e) by inserting the following new paragraph immediately after paragraph (k)-
 - (l) develop a best classroom model for early childhood education centres within the respective county in accordance with the specifications set out in the First Schedule.

Clause 7

THAT clause 7 of the Bill be amended-

- (a) in subclause (1) by deleting the words “a pre-primary education institution” appearing immediately after the words “may be, to” and substituting therefor the words “an education centre”; and
- (b) in subclause (2) by deleting the words “one hundred” appearing immediately after the words “not exceeding” and substituting therefor the word “ten”.

Clause 8

THAT clause 8 of the Bill be amended-

- (a) in subclause (1) by inserting the words “in collaboration with the village administrator” immediately after the words “principal shall”; and
- (b) in subclause (3) by deleting the words “five hundred” appearing immediately after the words “not exceeding” and substituting therefor the word “ten”.

Clause 20

THAT clause 20 of the Bill be amended in subclause (2) by deleting the word “principal” appearing immediately after the words “whether or not the” and substituting therefor the word “proprietor”.

Clause 27

THAT clause 27 of the Bill be amended in subclause (1) by deleting the words “and sponsored public education centres” appearing immediately after the words “public education centres” at the beginning of paragraph (b).

Clause 29

THAT clause 29 of the Bill be amended by deleting subclause (3) and substituting therefor the following new subclause-

(3) Where an education centre exists or is established in an existing institution of basic education, the management board of the education centre shall comprise of the principal of the early education centre in addition to the members set out under

No.14 of section 56(1) of the Basic Education Act. 2013.

Clause 35

THAT clause 35 of the Bill be amended by inserting the following new paragraphs immediately after paragraph (c)-

(ca) academic progress assessment reports in relation to each child who is registered in the education centre;

(cb) a record of the immunizations administered with respect to each child who is registered in the education centre;

Clause 36

THAT clause 36 of the Bill be amended-

(a) in subclause (1) by-

(i) deleting the words “and recruited as a teacher or caregiver by the early childhood education recruitment committee” appearing immediately after the words “Teachers Service Commission” in paragraph (c);

(ii) deleting paragraph (e);

(b) in subclause (2) by-

(i) deleting the words “and recruited as a teacher or caregiver by the early childhood education recruitment committee” appearing immediately after the words “Teachers Service Commission” in paragraph (b);

(ii) deleting paragraph (c);

(c) in subclause (3) by deleting all the words appearing immediately after the words “within the county”;

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

(4) 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.

(e) by deleting subclause (5).

...../Amendments

Clause 37

THAT the Bill be amended by deleting clause 37.

Clause 39

THAT the Bill be amended by deleting clause 39 and substituting therefor the following new clause-

Recruitment of early childhood teachers. **39.** The Teachers Service Commission shall, in consultation with the Council of County Governors, be responsible for the-

(a) recruitment, training and discipline of early childhood education teachers; and

(b) maintenance of a register of early childhood education teachers recruited by it under paragraph (a).

Clause 40

THAT clause 40 of the Bill be amended in subclause (2) by inserting the words “and the respective Parents Teachers Association” immediately after the words “County Education Board” appearing in paragraph (b).

Clause 42

THAT clause 42 of the Bill be amended-

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

(1) A child who has attained the age of three years and who is not more than six years of age shall be eligible for admission in an education centre.

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

(1A) Notwithstanding the provisions of subsection (1), the principal of an education centre may, where the principal considers it appropriate, admit a child who is more than six years of age.

Clause 43

THAT clause 43 of the Bill be amended by deleting the words “A public” appearing immediately before the words “education centre” and substituting therefor the word “An”.

Clause 45

THAT clause 45 of the Bill be amended-

(a) in subclause (2) by deleting the words “subject to subsection (3)” appearing immediately after the words “centre shall”; and

(b) by deleting subclause (3).

Clause 47

THAT clause 47 of the Bill be amended-

(a) by deleting subclause (2) and substituting therefor the following new subclauses-

(2) The Kenya Institute of Curriculum Development shall review the curriculum framework to be administered by all licensed education centres within the county in consultation with the county executive committee member-

(a) within a period of five years after the development of the curriculum under subsection (1); and

(b) subsequently every five years after each review.

(2A) The Kenya Institute of Curriculum Development shall, in carrying out the review under subsection (2), take into account the specific or special needs of children within the respective county.

(b) in subclause (3) by deleting paragraph (b); and

(c) in subclause (4) by deleting the words “county executive committee member” appearing immediately after the words “unless the” and substituting therefor the words “Kenya Institute of Curriculum Development”.

Clause 49

THAT clause 49 of the Bill be amended in subclause (2) by inserting the words “and the respective Parent Teachers Association” immediately after the words “County Education Board” appearing in paragraph (b).

Clause 51

THAT clause 51 of the Bill be amended by inserting the words “on weekends” immediately after the words “school holidays”.

Clause 52

THAT the Bill be amended by deleting clause 52 and substituting therefor the following new clause-

Feeding programmes in education centres
52. The county executive committee member shall, in consultation with the County Education Board, implement school feeding programmes in early childhood education centres within the respective county and shall for this purpose-

(a) issue guidelines and facilitate the implementation of the feeding programmes; and

(b) provide adequate nutritious foods taking into account the physiological and regional demands of children in the early childhood centre within the respective county.

Clause 56

THAT clause 56 of the Bill be amended by inserting the following new subclause immediately after subclause (1)-

(1A) An education centre shall submit the application made under subsection (1) together with a certificate from the Kenya Institute of Curriculum Development containing a statement that the foreign curriculum adheres to the set curriculum for early childhood education.

Clause 68

THAT clause 68 of the Bill be amended in subclause (1) by deleting the words “subsection (1)” appearing immediately after the words “specified under” and substituting therefor the words “subsection (2)”

Clause 69

THAT clause 69 of the Bill be amended in subclause (1) by inserting the following new paragraph immediately after paragraph (c)-

(ca) implement emergency response capacity building programmes for all members of staff working in education centres within the county;

Clause 71

THAT clause 71 of the Bill be amended in subclause (1) by deleting the words “the relevant period for registration” appearing immediately after the words “licensed for” and substituting therefor the words “a period of one year after the commencement of this Act”.

Clause 73

THAT clause 73 of the Bill be amended in subclause (1) by deleting the words “County Education Board” appearing immediately after the words “consultation with the” and substituting therefor the words “Council of County Governors”.

First Schedule

THAT the First Schedule to the Bill be amended in item 2 by deleting the word “fifteen” appearing immediately after the words “not more than” and substituting therefor the word “forty”.

Clause 2

THAT clause 2 of the Bill be amended-

- (a) in the definition of the term “early childhood education ”by inserting the words “pre-primary” immediately after the words “education means the”;
- (b) by deleting the definition of the term early childhood education recruitment committee;
- (c) by inserting the following new definitions immediately after the definition of the word “sponsor”-

“teacher” means a person registered as a teacher by the Teachers Service Commission;

“Teachers Service Commission” means the Teachers Service Commission established under Article 237(1) of the Constitution;

E. *THE UNIVERSITIES (AMENDMENT) BILL (SENATE BILL NO. 31 OF 2014)

NOTICE is given that the Chairperson of the Standing Committee on Education, intends to move the following amendments to the Universities (Amendment) Bill, 2014, at the Committee Stage-

NEW CLAUSES

THAT the Bill be amended by inserting the following new clauses immediately after clause 3-

Amendment
of section 14
of No. 42 of
2012.

3A. Section 14 of the principal Act is amended by inserting the following new sub-section immediately after subsection (3)-

(4) The Commission shall not issue to an applicant a letter of interim authority where that applicant is a public mid-level learning institution.

Amendment
of section 19
of No. 42 of
2012.

3B. Section 19 of the principal Act is amended-

(a) in subsection (1) by deleting paragraph (c) and substituting therefore the following new paragraph-

(c) reject the application if satisfied that the applicant-

(i) is a public mid-level learning institution; or

(ii) does not meet the requirements for the establishment of a university.

(b) by inserting the following new sub-section immediately after sub-section (3)-

(4) The President shall not grant a Charter where such a grant would result in the conversion of a public mid-level institution to a university.

Repeal of
section 25 of
No. 42 of
2012.

3C. The principal Act is amended by deleting section 25.

NEW CLAUSE

That the Bill be amended by inserting the following new clause immediately after clause 1-

1A. The Universities Act, in this Act referred to as “the principal Act” is amended in section 2 by inserting the following new definition immediately after the definition of the word “institution”-

“**mid-level institution**” means a post-secondary school learning institution that offers a certification below that of a degree;

APPENDIX**1. PAPER**

The Business of the Senate for the coming week;
(The Senate Majority Leader)

2. STATEMENTS

- a) The Senate Majority Leader to issue a Statement on Business of the Senate for the coming week;
 - b) Nominated Senator (Sen. Godliver Omondi) to seek a statement from the Chairperson of the Standing Committee on National Security and Foreign Relations regarding the security of persons living with albinism in the country;
 - c) The Deputy Senate Majority Leader to issue a statement on circumstances surrounding the death of Mr. Alex Madaga, an accident victim who was allegedly forced to wait in an ambulance for 18 hours (Sen. George Khaniri);
 - d) The Senate Majority Leader to issue a statement on El-Nino preparedness across the counties (Sen. Catherine Mukiite);
 - e) The Chairperson of the Standing Committee on Roads and Transportation to issue a statement on the status of road construction projects in urban centres by the Kenya Urban Roads Authority (KURA) (Sen. Henry Ndiema);
 - f) The Chairperson of the Standing Committee on Land and Natural Resources to issue a statement on issuance of title deeds in Meru county (Sen. Kiraitu Murungi);
 - g) The Chairperson of the Standing Committee on National Security and Foreign Relations to issue a statement on recent killing of a number of Kitui residents by cattle herders from neighbouring Counties (Sen. David Musila);
 - h) The Chairperson of the Standing Committee on National Security and Foreign Relations to issue a statement on alleged discrimination in issuance of National Identity Cards to residents of Isiolo county (Sen. Fatuma Dullo);
 - i) The Chairperson of the Standing Committee on Land and Natural Resources to issue a statement on the status of Sub-County Land Control Boards in Meru County (Sen. Kiraitu Murungi);
 - j) The Chairperson of the Standing Committee on Education to issue a statement on non-payment of September salaries to teachers (Sen. George Khaniri);
 - k) The Chairperson of the Standing Committee on National Security and Foreign Relations to issue a statement on the killing of Mr. Eliud Wachira Gachoki (Sen. Daniel Karaba).
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