



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (SECOND SESSION)

THE SENATE

ORDER PAPER

THURSDAY, AUGUST 10, 2023 AT 2.30 PM

PRAYER

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions (as listed in the Appendix)
5. Papers (as listed in the Appendix)
6. Notices of Motion
7. Questions and Statements (as listed in the Appendix)
8. **MOTION – ADOPTION OF THE REPORT OF THE COMMITTEE OF POWERS AND PRIVILEGES ON THE INQUIRY, ON ITS OWN MOTION, INTO CONDUCT OF SENATOR GLORIA ORWOBA, MP AND TO ESTABLISH IF THE CONDUCT CONSTITUTED BREACH OF PARLIAMENTARY PRIVILEGE.**

(The Chairperson, Committee of Powers and Privileges)

THAT, the Senate adopts the Report of the Committee of Powers and Privileges on the inquiry, on its own motion, into conduct of Senator Gloria Orwoba, MP and to establish if the conduct constituted breach of Parliamentary Privilege, laid on the Table of the Senate on Wednesday, 9th August, 2023.

9. ***THE PROMPT PAYMENT BILL (SENATE BILLS NO. 8 OF 2022)**
(Sen. Mariam Sheikh Omar, MP)

(Second Reading)

(Resumption of debate interrupted on Tuesday, 23rd May, 2023)

(Division)

10. *****THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 16 OF 2023)**

(The Senate Majority Leader)

(Second Reading)

(Resumption of debate interrupted on Tuesday, 8th August, 2023)

(Division)

...../Bills

11. ****THE EQUALIZATION FUND (ADMINISTRATION) BILL (SENATE BILLS NO. 14 OF 2023)**

(The Chairperson, Standing Committee on Finance and Budget)

(Second Reading)

(Resumption of debate interrupted on Wednesday, 9th August, 2023 – Afternoon Sitting)

(Division)

12. **COMMITTEE OF THE WHOLE**

***THE LEARNERS WITH DISABILITIES BILL (SENATE BILLS NO. 4 OF 2023)**

(Sen. (Prof.) Margaret Kamar, MP and Sen. Crystal Asige, MP)

(Resumption of debate interrupted on Wednesday, 9th August, 2023 – Afternoon Sitting)

(Division)

13. ***THE AGRICULTURE AND FOOD AUTHORITY (AMENDMENT) BILL (SENATE BILLS NO. 13 OF 2023)**

(Sen. James Murango, MP)

(Second Reading)

14. ***THE CONSTITUTION OF KENYA (AMENDMENT) BILL (SENATE BILLS NO. 15 OF 2023)**

(Sen. Beth Syengo, MP)

(Second Reading)

15. ******THE COUNTY GOVERNMENTS (REVENUE RAISING PROCESS) BILL (SENATE BILLS NO. 22 OF 2023)**

(The Senate Majority Leader)

(Second Reading)

16. **MOTION - INTEGRATION OF ETHNIC MINORITIES AND MARGINALIZED COMMUNITIES IN KENYA**

(Sen. William Cheptumo, MP)

AWARE THAT, Kenya is a multi-ethnic country with a rich diversity of cultures, languages and traditions;

FURTHER AWARE THAT, ethnic minorities and marginalized communities face significant social, economic and political challenges including discrimination, marginalization and exclusion;

ACKNOWLEDGING THAT Articles 10 (2)b, 21(3), 27, 56, 91(1)(e), 100, 174(e), 177(1) (c),204(3)(b),216(4) and the Fifth Schedule to the Constitution of Kenya obligate the state to promote and protect the welfare of ethnic minorities and marginalized communities;

...../**Motion**

APPRECIATING THAT, the Government has put in place policies, legal and institutional frameworks including affirmative action programs to address the needs of other special interest groups namely children, persons with disabilities (PWDS), youth, women and the elderly;

CONCERNED THAT, ethnic minorities and marginalized communities remain largely unaddressed through similar interventions due to lack of an existing national policy and legislative framework;

NOW THEREFORE the Senate resolves that the Ministry of Public Service, Gender and Affirmative Action, the National Gender and Equality Commission and any other relevant state departments in collaboration with the Council of Governors:-

- i.) Initiate measures to identify and address the specific needs and challenges faced by ethnic minorities and marginalized communities in Kenya; and
- ii.) Develop and implement national policy and legislative framework for the integration of ethnic minorities and marginalized communities in Kenya as envisaged in the Constitution of Kenya.

***(Resumption of debate interrupted on Wednesday, 2nd August, 2023-
Morning Sitting – Balance of time – 2hrs 7mins)***

17. MOTION – REGULATION OF ELECTRONIC CIGARETTES IN KENYA

(Sen. Catherine Mumma, MP)

THAT, AWARE THAT Section 68 (1) (b) of the Health Act, 2017 provides for interventions by the national government to reduce the use of tobacco and other addictive substances and to counter exposure of children and others to tobacco smoke, and Section 32 of the Tobacco Control Act, 2007 provides for the right of every person to a smoke free environment including the protection from exposure to second-hand smoke;

CONCERNED THAT, while the Tobacco Control Act, defines key terms and covers topics including, but not limited to, restrictions on public smoking, tobacco advertising, promotion and sponsorship, and packaging and labelling of tobacco products, Section 2 of the Act does not contemplate non tobacco products and therefore lacks restrictions on the use, advertising, promotion and sponsorship, or packaging and labelling of synthetic nicotine in the form of e-cigarettes resulting in the increase in popularity and consumption of e-cigarettes among the youth including minor children;

NOW THEREFORE, the Senate resolves that the Ministry of Health should urgently convene an all-inclusive stakeholder forum to:

- 1. Develop a national policy regulating e-cigarettes and all related elements, including vape pens, e-liquids, flavors and their marketing and advertising in mainstream media as well as social media; and

...../Motion

- 2. Establish rules to govern the production, sale, advertising and consumption of synthetic nicotine, and control the illicit trade of counterfeit products.

18. **MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON HEALTH ON THE DEATH OF THE LATE EDWARD OTIENO ONYANGO DUE TO ALLEGED MEDICAL NEGLIGENCE**

(The Chairperson, Standing Committee on Health)

THAT, the Senate adopts the Report of the Standing Committee on Health on inquiry into the death of Late Edward Otiemo Onyango, due to alleged medical negligence, laid on the table of the Senate on Wednesday, 31st May, 2023.

19. **MOTION- ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON HEALTH ON THE DEATH OF THE LATE MAUREEN ANYANGO AT MAMA LUCY KIBAKI HOSPITAL DUE TO ALLEGED MEDICAL NEGLIGENCE**

(The Chairperson, Standing Committee on Health)

THAT, the Senate adopts the Report of the Standing Committee on Health on inquiry into the death of the late Maureen Anyango at Mama Lucy Kibaki Hospital due to alleged medical negligence, laid on the table of the Senate on Wednesday, 31st May, 2023.

20. **MOTION- ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON HEALTH ON THE CIRCUMSTANCES THAT LED TO THE DEATH OF THE LATE MASTER TRAVIS MAINA AT KENYATTA NATIONAL HOSPITAL**

(The Chairperson, Standing Committee on Health)

THAT, the Senate adopts the Report of the Standing Committee on Health on inquiry into the circumstances that led to the death of the late Master Travis Maina at Kenyatta National Hospital, laid on the table of the Senate on Wednesday, 31st May, 2023.

21. **MOTION - REPORT OF THE 146TH ASSEMBLY OF THE INTER - PARLIAMENTARY UNION (IPU) AND RELATED MEETINGS HELD IN MANAMA, KINGDOM OF BAHRAIN FROM 11TH TO 15TH MARCH, 2023**

(Sen. Kathuri Murungi, MP)

THAT, the Senate notes the Report of the 146th Assembly of the Inter-Parliamentary Union (IPU) and Related Meetings, held in Manama, Kingdom of Bahrain, from 11th to 15th March, 2023, laid on the Table of the Senate on Tuesday 2nd May, 2023.

...../Motion

22. **MOTION - REPORT OF THE SENATE DELEGATION TO THE 67TH SESSION OF THE COMMISSION ON THE STATUS OF WOMEN (CSW 67) HELD IN NEW YORK, FROM 6TH TO 17TH MARCH 2023.**

(Sen. Fatuma Dullo, MP)

THAT, the Senate notes the Report of the Senate Delegation to the 67th Session of the Commission on the Status of Women (CSW) held in New York, from 6th to 17th March, 2023, laid on the Table of the Senate on Thursday, 29th June, 2023.

23. **MOTION - ADJOURNMENT OF THE SENATE**

(The Senate Majority Leader)

THAT, pursuant to Standing Order 31 (3), the Senate do adjourn until Tuesday, 5th September, 2023.

NOTICE

1. **THAT**, pursuant to Standing Order 259(1)(d) the sitting will be a hybrid sitting consisting of Senators who are physically present in the Senate Chamber and Senators participating virtually from a remote location through **Zoom** online meeting platform, as per guidelines issued by the Speaker pursuant to Standing Order 260.

2. The Senate resolved on 15th February, 2023 as follows:-

i.) **THAT**, pursuant to Standing Order 111 (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.

ii.) **THAT**, notwithstanding the provisions of Standing Order 111 (4), the debate on any Motion for the adjournment of the Senate to a day other than the next normal sitting day in accordance with the calendar of the Senate shall be limited to a maximum of two hours with not more than fifteen minutes for each Senator speaking after which the Senate shall adjourn without question put;

Provided that when the period of recess proposed by any such Motion does not exceed nine calendar days, the debate shall be limited to a maximum of thirty (30) minutes, and shall be confined to the question of adjournment.

KEY

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

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

**** - Denotes a Committee Bill**

***- Denotes any other Bill**

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NOTICE OF AMENDMENTS

***THE LEARNERS WITH DISABILITIES BILL (SENATE BILLS NO. 4 OF 2023)**

(Sen. (Prof.) Margaret Kamar, MP and Sen. Crystal Asige, MP)

NOTICE is hereby given that the Chairperson, Standing Committee on Education, intends to move the following amendments to the Learners with Disabilities Bill (Senate Bills No. 4 of 2023), at the Committee Stage –

CLAUSE 3

THAT clause 3 of the Bill be amended in paragraph (a) by inserting the words “at all levels of education” immediately after the words “right to education”.

CLAUSE 4

THAT clause 4 be amended in paragraph (c) by deleting the words “cultural and” appearing immediately after the words “sensitive to the”.

CLAUSE 5

THAT clause 5 of the Bill be amended –

- (a) by deleting paragraph (b);
- (b) in paragraph (c) by inserting the words “augmentative and alternative communication” immediately after the words “Kenyan sign language”;
- (c) in paragraph (e) by deleting the words “institution of learning” appearing immediately after the words “to any” and substituting therefor the words “educational institution”;
- (d) in paragraph (f) by inserting the word “appropriate” immediately after the words “equal access to”; and
- (e) inserting the following new paragraph immediately after paragraph (f) –
 - (fa) protection from any form of discrimination.

CLAUSE 6

THAT clause 6 of the Bill be amended –

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

(a) present their child for admission to a school as the case may be, for the purposes of completion of the child’s education; and

(b) in subclause (3) by –

(i) deleting the word “and” appearing immediately after the words “such parent” and substituting therefor the word “or”; and

(ii) deleting the words “a school or institution of basic education” appearing immediately after the words “absence of the learner” and substituting therefor the words “an educational institution”.

CLAUSE 7

THAT clause 7 of the Bill be amended in subclause (2) by –

(a) deleting the word “necessary” appearing immediately after the words “put in place the” in paragraph (c) and substituting therefor the words “appropriate and adequate”;

(b) deleting the word “learning” appearing immediately after the words “with disabilities in” in paragraph (c) and substituting therefor the words “educational”;

(c) deleting the words “at such intervals as may be necessary a” appearing immediately after the word “conduct” in paragraph (d) and substituting therefor the words “an annual”; and

(d) deleting paragraph (h) and substituting therefor the following new paragraph –

(h) ensure that educational institutions, parents and guardians have the necessary tools to support learners with disabilities.

CLAUSE 8

THAT clause 8 of the Bill be amended –

(a) in subclause (1) by deleting the word “learning” appearing immediately after the words “with respect to the” and substituting therefor the word “educational”;

(b) in subclause (2) by –

(i) deleting the words “learners with” appearing immediately after the words “the needs of” in paragraph (e);

- (ii) deleting the word “learning” appearing immediately after the words “existing public” and substituting therefor the word “educational” in paragraph (g); and
- (iii) deleting the word “learning” appearing immediately after the words “them in the” and substituting therefor the word “educational” in paragraph (i).

CLAUSE 9

THAT clause 9 of the Bill be amended in subclause (1) by inserting the words “and private” immediately after the words “public” in paragraph (a).

CLAUSE 12

THAT clause 12 of the Bill be amended in subclause (1) by deleting the words “early childhood education or technical and vocational training centre” appearing immediately after the word “An” in the introductory clause and substituting therefor the words “educational or training institution”.

CLAUSE 13

THAT the Bill be amended by deleting clause 13.

CLAUSE 14

THAT the Bill be amended by deleting clause 14.

CLAUSE 15

THAT clause 15 of the Bill be amended in subclause (2) by –

- (a) deleting the words “board of management” appearing immediately after the words “shall assist the” in the introductory clause and substituting therefor the words “governing body”; and
- (b) deleting the words “parent-child-teacher” appearing immediately after the words “positive approach in” in paragraph (b) and substituting therefor the words “parent-learner-teacher”.

CLAUSE 23

THAT the Bill be amended by deleting clause 23.

CLAUSE 24

THAT clause 24 of the Bill be amended in –

- (a) subclause (2) by deleting the words “shadow teachers” appearing immediately after the word “providing” in paragraph (c) and substituting therefor the words “learner support assistants”; and
- (b) subclause (3) by deleting the words “disabled children” appearing immediately after the words “supportive services to” in paragraph (c) and substituting therefor the words “children with disabilities”.

CLAUSE 25

THAT clause 25 of the Bill be amended in –

- (a) paragraph (b) by deleting the words “learning institutions in the country are friendly” appearing immediately after the words “amenities in” and substituting therefor the words “educational institutions in the country are accessible and appropriate”; and
- (b) paragraph (c) by deleting the word “learning” appearing immediately after the words “amenities in” and substituting therefor the word “educational”.

CLAUSE 26

THAT clause 26 of the Bill be amended in subclause (1) by deleting the words “special equipment” appearing immediately after the words “and distribution of” and substituting therefor the words “assistive devices”.

CLAUSE 28

THAT the Bill be amended by deleting clause 28 and substituting therefor the following new clause –

Training of auxiliary staff.	28. Every special needs education institution shall ensure that its auxiliary staff and any person providing special needs services within its premises are qualified in their special areas.
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CLAUSE 29

THAT clause 29 of the Bill be amended in paragraph (a) by deleting the word “fast” appearing immediately after the words “the redress of” and substituting therefor the word “vast”.

CLAUSE 30

THAT clause 30 of the Bill be amended in subclause (4) by deleting the words “The board of management of a special education” appearing at the beginning of the clause and substituting therefor the words “The governing body of a special needs educational institution”.

CLAUSE 35

THAT clause 35 of the Bill be amended in subclause (1) by deleting the word “education” appearing immediately after the words “of the special” in paragraph (c) and substituting therefor the words “needs educational”.

CLAUSE 39

THAT clause 39 of the Bill be amended in subclause (1) by deleting the word “education” appearing immediately after the words “public special” and substituting therefor the words “needs educational”.

CLAUSE 41

THAT clause 41 of the Bill be amended by –

- (a) deleting the word “centre” appearing immediately after the words “research or training” in subclause (1) and substituting therefor the word “institution”; and
- (b) deleting the word “education” appearing immediately after the words “to be a public special” and substituting therefor the words “needs educational”.

CLAUSE 42

THAT clause 42 of the Bill be amended –

- (a) in subclause (2) by –
 - (i) deleting the word “education” appearing immediately after the words “curriculum at special” in paragraph (b)(i) and substituting therefor the words “needs educational”; and
 - (ii) deleting the word “education” appearing immediately after the words “provided at special” in paragraph (b)(ii) and substituting therefor the words “needs educational”.
- (b) by inserting the following new subclause immediately after subclause (2) –

(3) Any person authorized by the County Education Board shall be entitled to have access, at any reasonable time, to a home under this section in order to monitor the special educational provision made under subsection (1).

CLAUSE 45

THAT clause 45 of the Bill be amended in subclause (1) by deleting the word “education” appearing immediately after the words “conducts a special” in paragraph (a) and substituting therefor the words “needs educational”.

CLAUSE 2

THAT clause 2 of the Bill be amended –

(a) by deleting the definition of the term “special needs education” and substituting therefor the following new definition —

“special needs education” includes education and training for gifted or talented learners as well as learners with disability and includes education which provides appropriate curriculum differentiation in terms of content, pedagogy, instructional materials, alternative media of communication or duration to address the special needs of learners and to eliminate social, mental, intellectual, physical or environmental barriers to learners;

(b) by deleting the definition of the term “special needs school”;

(c) by deleting the definition of the words “special service providers” and substituting therefor the following new definition —

“special service providers” means any person providing specialized, supplementary and related services to learners with special education needs and includes braille readers and technicians, sign language instructors and interpreters, orientation and mobility specialists, physiotherapists, occupational therapists, speech and language pathologists and therapists, counsellors, behaviour specialists, sensory integration therapists, psychologists, nutritionists, social workers and learner support assistants.

(d) by inserting the following new definitions in the proper alphabetical sequence

—

No. 3 of “special needs educational institution” means
2021. an institution that is specially organized to make
No. 14 of special educational provision for learners with
2013. disabilities and is for the time being registered or
No. 29 of accredited as an educational institution under the
2013. Early Childhood Education Act, the Basic Education
No. 42 of Act, the Technical and Vocational Education and
2012. Training Act, the Universities Act or any other Act of
Parliament; and

“reasonable accommodation” means
necessary and appropriate modification and
adjustments not imposing a disproportionate or
undue burden, where needed in a particular case,
to ensure learners with disabilities the enjoyment or
exercise on an equal basis with others of all human
rights and fundamental freedoms;

APPENDIX

1. PETITION

Report of the Standing Committee on Justice, Legal Affairs and Human Rights regarding a Petition by the Kipsigis Community Clans Organization regarding historical land injustices against the Kipsigis community.

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

2. PAPERS

- i.) The Water Services Regulations, Legal Notice No. 168 of 2021.
- ii.) Report of the Auditor General on the financial statement of Kisumu County Emergency Fund for the year ended 30th June, 2023.

(The Senate Majority Leader)

3. QUESTIONS AND STATEMENTS

STATEMENTS

a) Statements pursuant to Standing Order 53(1)

Nominated Senator (Sen. Beth Syengo, MP) to seek a statement from the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration concerning the promotion of the Lesbians, Gays, Bisexual, Transgender, Queer, Intersex and Asexual (LGBTQIA) agenda in the country.

b) Pursuant to Standing Order 57(1)

The Senate Majority Leader to issue a statement on the business of the Senate for the week commencing Tuesday, 5th September, 2023.

NOTICE PAPER

Tentative Business for

Tuesday, 5th September, 2023

(Published pursuant to Standing Order 43 (1))

It is notified that the Senate Business Committee has approved the following **tentative** business to appear in the Order Paper for Tuesday, September 05, 2023.

A. BILLS AT THE SECOND READING STAGE

- i.) *THE TEA (AMENDMENT) BILL (SENATE BILLS NO. 1 OF 2023)
(Sen. Wakili Hillary Sigei, MP)
- ii.) *THE COUNTY BOUNDARIES BILL (SENATE BILLS NO. 6 OF 2023)
(Sen. Moses Kajwang' MP)
- iii.) **THE HERITAGE AND MUSEUMS BILL (SENATE BILLS NO. 8 OF 2023)
(The Chairperson, Standing Committee on Labour and Social Welfare)
- iv.) *THE KENYAN SIGN LANGUAGE BILL (SENATE BILLS NO. 9 OF 2023)
(Sen. (Prof.) Margaret Kamar, MP and Sen. Crystal Asige, MP)

B. MOTIONS

- i.) REPOSSESSION OF MOVABLE ASSETS BY LENDING INSTITUTIONS DUE TO NON-PERFORMING LOANS
(Sen. Wahome Wamatinga, MP)
- ii.) DESIGNATION OF A MONTHLY CAR FREE DAY AND COUNTY CAR FREE ZONES
(Sen. Crystal Asige, MP)
- iii.) DEVELOPMENT OF A POLICY AND LAW FOR SOCIAL RISK MANAGEMENT IN INFRASTRUCTURE DEVELOPMENT PROJECTS IN KENYA
(Sen. Catherine Mumma, MP)
