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TWELFTH PARLIAMENT – FIFTH SESSION – 2021

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SELECT COMMITTEE ON NATIONAL GOVERNMENT CONSTITUENCIES
DEVELOPMENT FUND

.....

REPORT ON CONSIDERATION OF THE NATIONAL GOVERNMENT
CONSTITUENCIES DEVELOPMENT FUND (AMMENDMENT) BILL (NATIONAL
ASSEMBLY BILL NO. 4 OF 2021)

CLERK-AT THE-TABLE:	Mwena Wanjiku
BY:	Chairperson NGCDF Committee
DATE:	21 OCT 2021
DAY:	Thursday
THE NATIONAL ASSEMBLY	

DIRECTORATE OF AUDIT, APPROPRIATIONS & OTHER SELECT COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

OCTOBER, 2021

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CHAIRMAN'S FORWARD

This report contains the proceedings of the select Committee on National Government Constituencies Development Fund on its consideration of the National Government Constituencies Development Fund (Amendment) Bill (National Assembly Bill, No. 4 of 2021) which was published on 16th February, 2021. The Bill went through the First Reading on Thursday, June 10, 2021 and committed to the Select Committee on National Government Constituencies Development Fund for review and report to the house pursuant to Standing Order 127 (2).

The Bill has 17 clauses with the principal objective being to amend the National Government Constituencies Development Fund Act of 2015 to provide for the opening and operating of Constituency accounts in order to facilitate third party transactions. The proposed amendments shall facilitate timely and efficient disbursement of funds to constituencies and establish structures for the efficient and prudent management of the Funds.

This Bill does not delegate any legislative powers and does not contain provisions that limit any fundamental rights and freedoms.

This Bill does not concern county governments in terms of Articles 110(I) (a) of the Constitution. This enactment of this Bill shall occasion additional expenditure of public funds.

The Committee therefore wrote to the National Government Constituencies Development Fund Board, the National Treasury, the Kenya Law Reform Commission and the Office of the Attorney-General for comments on **17th June, 2021** and placed an advertisement on the dailies on the matter on **18th June, 2021**.

The Committee having considered the National Government Constituencies Development Fund (Amendment) Bill (National Assembly Bill, No. 4 of 2021) recommends that the House approves the Bill with amendments.

The Committee is grateful to the offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee further wishes to thank all the stakeholders who participated in the consideration of the Bill. Finally, I wish to express my appreciation to the Honorable members of the Committee and the Committee secretariat who made useful contributions towards the preparations and production of this report.

On behalf of the Select Committee on National Government Constituencies Development Fund and pursuant to provisions of Standing Order 199(6), it is my pleasant privilege and honour to present to this House the report of the Committee on its consideration of the National Government Constituencies Development Fund (Amendment) Bill (National Assembly Bill, No. 4 of 2021).

HON. WAFULA WAMUNYINYI, MP

CHAIRPERSON

PART ONE

1 PREFACE

1.1 ESTABLISHMENT AND MANDATE OF THE COMMITTEE

1. The Select Committee on National Government Constituencies Development Fund is established in accordance with the provisions of section 50 of the National Government Constituencies Development Fund Act, 2015.
2. The Select Committee on National Government Constituencies Development Fund is established in accordance with the provisions of section 50 of the National Government Constituencies Development Fund Act, 2015 and its functions include:
 - a) To oversee the implementation of this Act and in this respect, shall after every two years submit a report to the National Assembly and where necessary, propose any amendments to this Act with respect to the quantum of funds repayable into the Fund in accordance with section 4 of the Act;
 - b) To oversee the policy framework and legislative matters that may arise in relation to the Fund;
 - c) To continually review the framework set out for the efficient delivery of development programmes financed through the Fund;
 - d) To consider and report to the National Assembly, with recommendations, names of persons required to be approved by the National Assembly under this Act; and
 - e) To carry out any other functions relevant to the work of the Fund.

1.2 COMMITTEE MEMBERSHIP

3. The Committee comprises of the following Members -

NO.	MEMBER'S NAME	POSITION	CONSTITUENCY	POLITICAL PARTY
1.	Hon. Wafula Wamunyinyi, MP	Chairperson	Kanduyi	Ford Kenya
2.	Hon. Omar Mohamed Maalim, MP	Vice-Chairperson	Mandera East Constituency	Economic Freedom Party
3.	Hon. Fred Kapondi Chesebe, MP	Member	Mt. Elgon Constituency	Jubilee Party
4.	Hon. Cornelly Serem, MP	Member	Aldai Constituency	Jubilee Party
5.	Hon. Sharif Athman Ali, MP	Member	Lamu East Constituency	Jubilee Party
6.	Hon. Onesmus Kimani Ngunjiri, MP	Member	Bahati Constituency	Jubilee Party
7.	Hon. Sophia Abdi Noor, MP	Member	Ijara Constituency	Party of Reforms and Development
8.	Hon. Moses Lessonet, MP	Member	Eldama Ravine	Jubilee Party
9.	Hon. Joseph Oyula, MP	Member	Butula Constituency	ODM Party
10.	Hon. Josphat G.Kabeabea, MP	Member	Tigania East Constituency	Jubilee Party
11.	Hon. Benjamin Gathiru Mwangi, MP	Member	Embakasi Central	Jubilee Party
12.	Hon. Ferdinard Wanyonyi, MP	Member	Kwanza Constituency	Ford Kenya
13.	Hon. George Kariuki Macharia, MP	Member	Ndia Constituency	Jubilee Party
14.	Hon. Janet Jepkemboi Sitienei, MP	Member	Turbo Constituency	Independent Member
15.	Hon. Kasim Tandaza Sawa, MP	Member	Matuga Constituency	Amani National Congress
16.	Hon. Fred Ouda, MP	Member	Kisumu Central Constituency	Orange Democratic Movement

17.	Hon Joshua Mwalyo, MP	Member	Masinga Constituency	Wiper Party
18.	Hon. Lodepe Nakara, M. P	Member	Turkana Central	ODM Party
19.	Hon. Richard Tongi, MP	Member	Nyaribari Chache	Jubilee Party

1.3 COMMITTEE SECRETARIAT

4. The Committee is facilitated by the following Secretariat:

Mr. Hassan A. Arale

Clerk Assistant II/Head of Secretariat

Ms. Naserian Lotuai	-Clerk Assistant II
Mr. Jonathan Lemurt	- First Fiscal Analyst I
Mr. Bonnie Mathooka	-Chief Research Officer
Ms. Christine Odhiambo	- Legal Counsel
Ms. John Mungai	- Audio Recording Officer
Mr. Joshua Lenambeti	-Sergeant at Arms

PART TWO

2.0 OVERVIEW OF THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 4 OF 2021)

2.1 INTRODUCTION

5. The principal objective of the Bill is to amend the National Government Constituencies Development Fund Act, No. 30 of 2015 to provide for the opening and operating of Constituency accounts in order to facilitate third party transactions. The proposed amendments shall facilitate timely and efficient disbursement of funds to constituencies and establish structures for the efficient and prudent management of the Funds.

2.2 ANALYSIS OF THE BILL

6. **Clause 1** of the Bill contains the Short Title of the Bill.
7. **Clause 2** of the Bill amends section 5 of the Act to provide that all disbursements of funds in the constituencies shall be made through the constituency operations account established for that purpose.
8. **Clause 3** of the Bill provides for the amendment of section 6 of the Act to provide that any funds allocated for a cancelled or discontinued project shall be returned to the constituency operations account.
9. **Clause 4** of the Bill provides for the amendment of section 7 of the Act to provide for the retention of all balance, savings and accruals in the Fund.
10. **Clause 5** of the Bill provides for the amendment of section 12 of the Act to provide for the creation of one constituency operations account and one constituency deposit account in every constituency. The clause further provides for the manner in which the accounts shall be managed.
11. **Clause 6** of the Bill provides for the amendment of section 13 of the Act to clearly provide that the signature of the chief executive officer shall be mandatory in respect of all instruments intended for the actual release of money from the Fund.
12. **Clause 7** of the Bill deletes section 16 and introduces a new section which clearly sets out the functions of the Board.
13. **Clause 8** of the Bill amends section 19 of the Act to provide for additional grounds on which a member of the Board may be removed from office.
14. **Clause 9** of the Bill amends section 28 of the Act to provide with certainty that every constituency shall submit a list of the constituency projects to the Board.

15. **Clause 10** of the Bill amends section 32 of the Act to provide for the role of the Constituency Committee in determining the quantum of instalments for disbursement to projects within the constituency.
16. **Clause 11** of the Bill inserts a new section 32A into the Act to provide for the obligation of the Constituency Committee to inform the Board of all allocations of funds.
17. **Clause 12** of the Bill amends section 36 of the Act to provide that project management committees may be assisted either by the relevant Government department or any registered private practitioners that may be procured in accordance with the Public Procurement and Asset Disposal Act, 2015.
18. **Clause 13** of the Bill amends 43 of the Act to provide that the first meeting of the Constituency Committee shall be convened within one hundred and twenty days. The clause also provides that a vacancy in the Constituency Committee shall be filled within one hundred and twenty days.
19. **Clause 14** of the Bill amends 46 of the Act to allow Constituency Development Fund Committees to consult with relevant Government departments or legally procured government registered private practitioners in coming up with realistic cost estimates for projects.
20. **Clause 15** of the Bill inserts a new section 48A into the Act to allow a Constituency Committee to allocate additional funds to cater for matters relating to education.
21. **Clause 16** of the Bill amends section 56 of the Act to allow the parties to a dispute under the Act to apply to the Cabinet Secretary to commence arbitration in regards to the dispute.
22. **Clause 17** of the Bill amends the Second Schedule to the Act to provide for the additional grounds on which the office of a member of the Board may become vacant.

PART THREE

3.0 PUBLIC PARTICIPATION/ STAKEHOLDER'S CONSULTATIONS

23. Following the call for memoranda from the public through placement of advertisements in the print media on 17th and 18th June, 2021 inviting stakeholders for a meeting, the Committee received oral and written submissions from the following stakeholders;

- (i) National Government Constituencies Development Fund Board;
- (ii) Office of the Attorney-General;
- (iii) The National Treasury; and
- (iv) Mr. Tom Wasike.

The stakeholder's submissions on the Bill are summarized as follows:

3.1 SUBMISSIONS BY NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND BOARD

24. The NG-CDF Board sent written submissions vide letter reference NG-CDFB/CEO/KNA/VOL V (33) and made a presentation to the Committee in a retreat held on 25th July, 2021 in Diani, Kwale County. The Board made the following proposals, THAT

1) Clause 3

Delete and substitute subsection (3) –

“(3) If for any reason a particular project is cancelled or discontinued during the financial year, funds allocated for such a project shall be returned to the constituency operations account of the constituency **from which the funds were withdrawn.**”

Introduce the following new subsection–

“The funds in respect of a particular cancelled or discontinued project referred to in subsection (3) that were yet to be disbursed for implementation, shall be retained in the constituency operations account.”

Justification-

For provision of clarity.

Committee's Observation

The amendment is in order as it seeks to clarify the accounts into which unspent funds for a project shall be returned.

2) Clause 5

Amend the proposed new section 12(1) –

“(1) For the purpose of disbursement of funds under this Act there shall be opened and maintained a constituency operations account for every constituency at any commercial

bank, approved by the National Treasury into which all funds shall be kept and such an account shall be known by the name of the constituency for which it is opened and each constituency shall maintain only one operations account.”

Amend the proposed new subsection (1B) –

“Each constituency shall open one deposit bank account for holding third party monies which shall so be designated and such an account shall be known by the name of the constituency for which it is opened and each constituency shall maintain only one deposit account.”

Introduce new subsection–

“The third-party monies in respect of accumulated gratuity or service pay may be held in Pension Funds subject to the concurrence of the Board.”

Justification –

To ensure the operations of the proposed accounts are in line with Public Finance Management requirements, eases constituency account operations and ensures constituencies meet third party’s obligations as and when they fall due.

Committee’s Observation

The amendment seeks to restate the clauses in the Bill with better clarity.

3) Clause 6-

Delete the word “any” and substitute with “and”

Justification-

To use the correct word as contained in the Act.

Committee’s Observation

The amendment is necessary for correction purposes.

4) Clause 7-

Amend the functions of the Board as follows–

- (a) consider project proposals submitted from various constituencies in accordance with the Act, approve for funding those projects proposals that are consistent with this Act and send funds to the respective constituency operations account of the approved projects;
- (b) ensure timely and efficient disbursement of funds to every constituency;
- (c) ensure efficient management of the Fund;
- (d) co-ordinate the implementation of projects at the inter-constituency level
- (e) receive and address complaints that may arise from the implementation of the Act;
- (f) encourage best practices in the implementation of projects;

- (g) administer the funds and assets of the Board in such manner and for such purpose as shall promote the best interest of the Board in accordance with the Act to ensure efficient management of the Fund; and
- (h) Perform such other duties as the Board may deem necessary from time to time for the proper management of the Fund.

Justification-

For the enhancement of the timely and efficient disbursement of funds to every constituency and ensuring efficient management of the Fund, in line with Section 16(a) and (b) of the NGCDF Act, as well as conforming to the practice at Central Bank of Kenya. The said clause also rearranges the functions of the Board in order to provide clarity on the said functions.

Committee's Observation

The amendment seeks to provide better clarity in regards to the functions of the Board.

5) Clause 9

Amend the proposed new subsection (1) –

"(1) Every constituency shall within three months of the official release of the budget ceilings for the constituencies or such other time as may be determined by the Board, submit a list of **the ongoing and** proposed constituency projects to the Board."

Justification

To ensure the adherence to Section 46(2) of the NGCDF Act, and also in order to conform to the current practice as well as ease the operations at constituency.

Committee's Observation

Section 46(2) of the Act provides that priority shall be given to ongoing projects in ranking, therefore the amendment is necessary.

6) Clause 13-

- Section 43(6)- Delete the words “on such day as may be designated by the Cabinet Secretary”
- Introduce new subsection–
“Notwithstanding the foregoing provisions on term of office for the members of the Constituency Committee, the time period for the commencement of constitution or reconstitution thereof of the Committee where no contentious issues exist shall be limited to One Hundred and Twenty days”

Justification-

To ease the operations at constituency and ensure prompt transition between committees.

Committee's Observation

The amendment is necessary to allow sufficient time to make all arrangements necessary for the convening of the Constituency Committees.

7) Clause 15 –

Amend the proposed new section 48A–

“Despite section 48, a Constituency Committee may, with the approval of the Board, allocate additional funds to cater for education bursary schemes and education days **and other teaching and learning related activities.**”

Justification-

There will be conformance to the current practice and ease of operations at Constituency.

Committee's Observation

The amendment is necessary to allow for all activities relating to teaching and learning to benefit from the funds.

3.2 THE KENYA LAW REFORM COMMISSION

25. The Kenya Law Reform Commission did not submit any comments to the Committee despite a written request made on 17th June, seeking comments on the bill.

3.3 SUBMISSIONS BY THE OFFICE OF THE ATTORNEY-GENERAL

26. The Office of the Attorney-General submitted as follows, THAT

Clause 2

- 1) Clause 2 of the Bill seeks to amend section 5(3) of the Principal Act by inserting the word “operations” immediately after the words “through the constituency”. Section 5(3) of the Principal Act provides that –

“All disbursements shall be made through the constituency bank accounts maintained for every constituency in accordance with section 12 of this Act.”

- 2) Section 5 (3) as read together with sections 12(1) and 13 of the Act, provides for the constituencies bank accounts to enable disbursement of funds to each constituency. The proposed amendment seeks to rename the existing constituency bank account to read “constituency operations account”. There is need to define the “constituency operations account” in the Bill and the purpose of the account in light of creation of the constituency deposit bank account in clause 5.

Clause 3

- 3) Clause 3 of the Bill, proposes to amend section 6 (3) of the Principal Act by deleting the words “Fund and credited to the account of the constituency from which the funds were withdrawn” appearing immediately after the words “returned to the” and substituting therefor the words “constituency operations account”.

- 4) Section 6 of the Act provides that the Board shall, with the approval of the relevant Committee of the National Assembly, allocate funds for every constituency in each financial year in accordance with section 34. Once funds are allocated for a particular project, they shall remain allocated for that project and may only be re-allocated for any other purpose during the financial year with the approval of the Board. If for any reason a particular project is cancelled or discontinued during the financial year, funds allocated for such a project shall be returned to the Fund and credited to the account of the constituency from which the funds were withdrawn.
- 5) From the proposed amendment, funds allocated for a cancelled or discontinued project shall be returned to the constituency operations account. It is not clear whether the approval of the Board is required, prior to utilizing the funds returned to the constituency operations account.

Committee's Observation

Section 6(2) of the Act provides that funds may only be re-allocated with the approval of the Board. The amendment is therefore not necessary

Clause 4

- 6) Section 7 of the Act provides that all receipts, savings and accruals to the Fund and the balance of the Fund at the end of each financial year shall be returned to the Fund and applied in accordance with section 6 (5) of this Act. Section 6 (5) provides that a return as set out in the First Schedule shall be made for the current financial year and every previous financial year on which some funds remain unspent.
- 7) The Bill proposes to have all the receipts, savings and accruals to the Fund and the balance of the Fund at the end of each financial year to be retained in the Fund, and applied in accordance with the Act. However, the proposed amendment does not specify the provisions in the Act in which the balance of the fund shall be applied and the manner on which such monies may be re-allocated.

Committee's Observation

Section 6(2) of the Act provides that funds may only be re-allocated with the approval of the Board. The amendment is therefore not necessary.

Clause 5

- 8) Clause 5 of the Bill amends section 12 of the Act which provides for a constituency account for the purpose of disbursement of funds under the Act.
- 9) Section 12 of the Act provides that there shall be opened and maintained a constituency account for every constituency at any commercial bank, approved by the National Treasury into which all funds shall be kept and such an account shall be known by the name of the constituency for which it is opened and each constituency shall maintain only one account.

- 10) The proposed amendments permit the opening of two accounts, the operations account and the deposit bank account in which the deposit bank account is to hold third party monies. The Bill does not specify how the bank account will be operated and the use of the money in that account.

Committee's Observation

The signing instructions of the accounts are provided in the proposed new subsections (2A) and (2B), as contained in clause 5(c) of the Bill.

Clause 8

- 11) Clause 8 of the Bill amends section 19 of the Act by inserting a new subsection which provides for the procedure of removal of a member of the Board in accordance with the procedure prescribed in the Second Schedule.
- 12) The Second Schedule provides the conduct and affairs of the Board and the proposed amendment is a substantive in nature hence ought to be provided for in the Act.

Committee's Observation

The provisions dealing with the removal of a member of the Board are substantive and should be included in section 19 of the Act.

Clause 17

- 13) Clause 17 of the Bill seeks to amend the Second Schedule of the Act to provide for provisions on vacation of office of members of the Board. The proposed amendments are substantive in nature and would be best placed immediately after under clause 18 of the Bill.

Committee's Observation

The provisions dealing with the removal of a member of the Board are substantive and should be included in section 19 of the Act.

3.4 SUBMISSIONS BY THE NATIONAL TREASURY

27. The National Treasury and Planning, State Department for Planning vide letter reference TNTTP/SDP/4/52 submitted comments on the proposed amendments to the NG-CDF Act (National Assembly Bill No. 4 of 2021) -, THAT

The Memorandum of Objects and Reasons should be amended to include the rationale for all amendments.

Committee's Observation

The Memorandum of Objects and Reasons cannot be amended at the Committee Stage since during Committee of the Whole House only the substantial parts of the Bill are amended.

3.5 SUBMISSIONS BY MR. TOM WASIKE

28. Mr. Tom Wasike submitted that; - Under clause 15, when funds for a project are allocated to an institution with existing structure e.g., schools then an AIE should be issued to the institution by NG-CDF Committee for funds disbursed and that the institution would be answerable to how the said funds have been utilized.

Committee's Observations

Section 12(3) of the Act provides that, the Fund account Manager shall hold the authority to incur expenditure of the funds at the Constituency level.

Proposed New Clauses by NGCDF Board:-

29. Amendment to section 2

Insert new definitions in section 2-

“Constituency operations account” means the accounts maintained for every constituency in accordance with section 12;

“Third party monies” means any monies withheld by the constituency in respect of retention monies for construction projects, accumulated gratuity or service pay and any other monies withheld by the Constituency in relation to implementation of projects under this Act”

Justification

To have a clear definition of the Constituency operations account, and third party monies withheld by the Constituency.

Committee's Observation

The amendment is necessary to provide for the definition of the terms as used in the Bill.

30. Amendment to section 53

The Principal Act is amended in Section 53 by creating a new Section (53A) which provides as follows-

“**53A.** in discharging its obligations, the Constituency Oversight Committee shall be facilitated by funds set aside by the constituency, provided that such allocation does not exceed one per centum of the total allocation of the constituency in that financial year”

Justification

To provide for funding of the Constituency Oversight Committee.

Committee's Observation

The amendment is necessary to ensure that the administrative costs of the Constituency Oversight Committees shall be adequately catered for.

PART FOUR

4.0 COMMITTEE OBSERVATIONS

4 The Committee observed that—

- 1) The Memorandum of Objects and Reasons cannot be amended at the Committee Stage since during Committee of the Whole House only the substantial parts of the Bill are amended.
- 2) The principal objective of the Bill is to amend the National Government Constituencies Development Fund Act, No. 30 of 2015 to provide for the opening and operating of Constituency accounts in order to facilitate third party transactions.
- 3) The proposed amendments shall facilitate timely and efficient disbursement of funds to constituencies and establish structures for the efficient and prudent management of the Funds.
- 4) The Bill does not delegate any legislative powers and does not contain provisions that limit any fundamental rights and freedoms.
- 5) The Bill does not concern county governments in terms of Articles 110(I) (a) of the Constitution. This enactment of this Bill shall occasion additional expenditure of public funds.

PART FIVE

5.0 COMMITTEE RECOMMENDATIONS

5 The Committee having considered the National Government Constituencies Development Fund (Amendment) Bill (National Assembly Bill, No. 4 of 2021) and the submissions from stakeholders, recommends that Bill be amended as follows: -

CLAUSE 3

1) **THAT**, the Bill be amended by deleting clause 3 and inserting the following new clause—

Amendment 3. Section 6 of the principal Act is amended—

of section 6 (a) by deleting subsection (3) and inserting the following new
of No. 30 of subsection—
2015.

“(3) If for any reason a particular project is cancelled or discontinued during the financial year, the funds allocated for such a project shall be returned to the constituency operations account of the constituency from which the funds were withdrawn.”

(b) by inserting the following new subsection immediately after subsection (3)—

“(3A) The funds in respect of a particular cancelled or discontinued project referred to in subsection (3) that were yet to be disbursed for implementation, shall be retained in the constituency operations account.”

Justification

The amendment seeks to provide further clarity in regards to the accounts into which unused funds shall be returned.

The amendment further seeks to ensure that any funds relating to a cancelled or discontinued project shall be retained in the constituency operations account in accordance with the section.

CLAUSE 5

2) **THAT**, clause 5 of the Bill be amended by deleting paragraph (a) and inserting the following new paragraph—

“(a) deleting subsection (1) and inserting the following new subsections—

“(1) For the purpose of disbursement of funds under this Act there shall be opened and maintained a constituency operations account for every constituency at any commercial bank, which account shall be approved by the National Treasury and

in to which all funds shall be kept and such an account shall be known by the name of the constituency for which it is opened.

(1A) each constituency shall open one deposit bank account for holding third party monies which shall so be designated and such an account shall be known by the name of the constituency for which it is opened.

(1C) for the purposes of this Act, each constituency shall maintain one deposit account and one operations account.”

Justification

The amendment seeks to ensure that each constituency shall only open and operate one deposit bank account and one operations account for the purposes of the Act.

The Act further redrafts the provisions as contained in the Bill for purposes of clarity.

CLAUSE 6

- 3) **THAT**, clause 6 of the Bill be amended by deleting the word “any” appearing immediately after the words “money from the fund, plus” and substituting therefor the word “and”.

Justification

The amendment seeks to make correct reference to the actual words to be deleted from the Act.

CLAUSE 7

- 4) **THAT**, clause 7 of the Bill be amended by deleting the proposed new section 16 and inserting the following new section—

Functions of the Board. **16.** The functions of the Board shall be to—

- (i) consider project proposals submitted from various constituencies in accordance with the Act, approve for funding those projects proposals that are consistent with this Act and send funds to the respective constituency operations account of the approved projects;
- (j) ensure timely and efficient disbursement of funds to every constituency;
- (k) ensure efficient management of the Fund;
- (l) co-ordinate the implementation of projects at the inter-constituency level;
- (m) receive and address complaints that may arise from the implementation of the Act;
- (n) encourage best practices in the implementation of projects;

- (o) administer the funds and assets of the Board in such manner and for such purpose as shall promote the best interest of the Board in accordance with the Act to ensure efficient management of the Fund; and
- (p) Perform such other duties as the Board may deem necessary from time to time for the proper management of the Fund.

Justification

The amendment seeks to clearly spell out the functions to be performed by the Board, which is necessary for the enhancement of the timely and efficient disbursement of funds as well as the efficient management of the Fund.

CLAUSE 8

5) **THAT**, the Bill be amended by deleting clause 8 and inserting the following new clause—

Amendment of No. 30 of 2015. 8. Section 19 of the principal Act is amended by deleting subsection (1) and inserting the following new subsection—
“(1) The office of a member of the Board for a member appointed under paragraphs (e) and (f) of section 15(1) shall become vacant if the member—

- (a) resigns by giving written notice to the Cabinet Secretary;
or
- (b) is removed from office on any one or more of the following grounds—
 - (i) serious violation of the Constitution or any other law;
 - (ii) gross misconduct, whether in performance of the member’s or office holder’s functions or otherwise;
 - (iii) physical or mental incapacity to perform the functions of office;
 - (iv) incompetence;
 - (v) bankruptcy;
 - (vi) engaging in active politics;
 - (vii) absence from three consecutive meetings of the Board without the permission of the Chairperson;
or
 - (viii) Conviction of a criminal offence with a sentence of imprisonment for a period exceeding six months without the option of a fine.”

Justification

The amendment seeks to ensure that all substantial provisions relating to the grounds for removal of a member of the Board are contained in the same section and not in the Schedule to the Act.

The amendment further seeks to introduce the option of resignation of a member as one of the ways in which the office of a member of the Boars may become vacant.

CLAUSE 9

- 6) **THAT**, clause 9 of the Bill be amended in the proposed new subsection (1) by inserting the words “ongoing and” immediately after the words “submit a list of the”.

Justification

The amendment seeks to ensure adherence to section 46(2) of the Act which provides that ongoing projects shall take precedence over all other projects.

CLAUSE 13

- 7) **THAT**, clause 13 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) deleting subsection (6) and inserting the following new subsection—

“(6) The first meeting of the Constituency Committee shall be convened within one hundred and twenty days of the commencement of a new term of Parliament or the date of the holding of a by-election, by the national government official at the constituency or in his or her absence, by an officer of the board seconded to the constituency.”

Justification

The amendment seeks to increase the days within which a meeting of the Constituency Committee shall be convened, from 60 days to 120 days. This extension is necessary to allow for any issues that may arise after elections, which would include election petitions.

The amendment further seeks to ensure that there is no ambiguity in the subsection by removing the requirement that the Cabinet Secretary shall designate the date of convening the meeting.

CLAUSE 14

- 8) **THAT**, clause 14 of the Bill be amended by deleting the word “practioners” and substituting therefor the word “practitioners”.

Justification

The amendment seeks to make a correction to a grammatical error.

CLAUSE 15

- 9) **THAT**, clause 15 of the Bill be amended in the proposed new section 48A by inserting the words “and other teaching and learning related activities” immediately after the words “and education days”.

Justification

The amendment seeks to ease operations at constituency and allow for the funding of other activities related to teaching and learning in schools which benefit from the bursary schemes.

CLAUSE 17

- 10) **THAT**, the Bill be amended by deleting clause 17.

Justification

The deletion of clause 17 seeks to ensure that the provisions relating to the removal of a member of the Board are retained in section 19 of the Act since they are substantial provisions of the Act.

The deletion further seeks to cure the conflict that would result in regards to the procedure for the removal of a member of the Board, if it were to be done both by the National Assembly and the Cabinet Secretary.

NEW CLAUSE

- 11) **THAT**, the Bill be amended by inserting the following new clause immediately after clause 1—

Amendment of 2. The National Government Constituencies Development Fund section 2 of No. Act, (hereinafter referred to as the “principal Act”) is amended in 30 of 2015. section 2—

- (a) by deleting the definition of “constituency account”; and
- (b) by inserting the following new definitions in their proper alphabetic sequence—

“Constituency operations account” means the accounts maintained for every constituency in accordance with section 12;

“Third party monies” means any monies withheld by the constituency in respect of retention monies for construction projects, accumulated gratuity or service pay and any other monies withheld by the constituency in relation to implementation of projects under this Act;”

Justification

The amendment seeks to introduce the definition of the terms “constituency operations account” and “third party monies” which are used in the Bill.

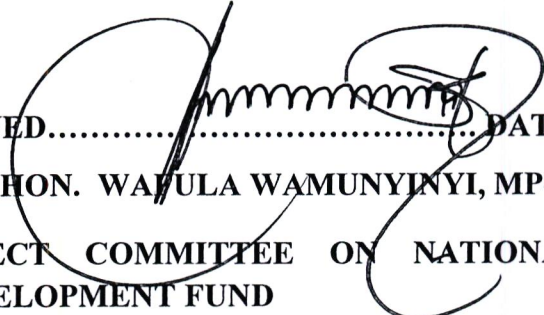
NEW CLAUSE


12) **THAT**, the Bill be amended by inserting the following new clause immediately after clause 15—

Insertion of new **53A**. In discharging its obligations, the Constituency Oversight section in No. 30 of Committee shall be facilitated by funds set aside by the constituency, provided that such allocation does not exceed one per centum of the total allocation of the constituency in that financial year.

Justification

The amendment seeks to provide for the manner in which the funding of the Constituency Oversight Committee shall be done.

SIGNED.......... DATE 28/9/2021.....
THE HON. WAFULA WAMUNYINYI, MP- CHAIRMAN
SELECT COMMITTEE ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND

 THE NATIONAL ASSEMBLY PARLIAMENT BUILDING	
DATE: 21 OCT 2021	
DAY: Thursday	
TABLED BY:	Chairperson, NGADF Committee
CLERK-AT THE-TABLE:	Maira Warijku

ANNEXURES

Annexure I

Annexure II

Annexure III

Committee Adoption Minutes

Adoption list

Submissions

ANNEXTURE I- COMMITTEE ADOPTION MINUTES

MINUTES OF THE 62ND SITTING OF THE SELECT COMMITTEE ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND HELD ON 28 SEPTEMBER 2021 IN COMMITTEE ROOM SECOND FLOOR CONTINENTAL HOUSE AT 12 NOON

MEMBERS PRESENT

1. Hon. Wafula Wamunyinyi, MP -**Chairperson**
2. Hon. Omar Maalim, MP – **Vice Chairperson**
3. Hon. Benjamin Gathiru Mwangi, MP- **Virtually**
4. Hon. Josphat Gichunge Kabeabea, MP
5. Hon. Cornelly Serem, MP
6. Hon. Fred Kapondi Chesebe, MP
7. Hon. Richard Tongi,MP
8. Hon. Mwalyo Joshua, MP
9. Hon. George Kariuki Macharia, MP- **Virtually**

ABSENT WITH APOLOGIES

1. Hon. John Lodepe Nakara, MP
2. Hon. Joseph Oyula, MP
3. Hon. Sharif Athman, MP
4. Hon. Sophia Abdi Noor, MP
5. Hon. Fred Ouda, MP
6. Hon. Kasim Tandaza Sawa, MP
7. Hon. Ferdinand Wanyonyi, MP
8. Hon. Janet Jepkemboi Sitienei, MP
9. Hon. Onesmus Ngunjiri, MP
10. Hon. Moses K. Lessonet, MP

SECRETARIAT

1. Mr. Hassan A. Arale - Clerk Assistant II
2. Ms. Angeline Naserian - Clerk Assistant II
3. Mr. John Mungai - Audio Officer
4. Mr. Joshua Lenambeti - Serjeant At Arms

MINISTRY OF EDUCATION OFFICIALS

1. Dr. Margret Mwakima – Principal Secretary TVET
2. Mr. Jmaes Nyambune – Assistant Director TVET
3. Mr. Mulati – Director Technical Engineering

AGENDA

1. Preliminaries
2. Meeting with the Principal Secretary of the State Department of Vocational and Technical Training.
3. Consideration of the Report on National Government Constituencies Development Fund Bill No. 34 of 2021.
4. Adjournment.

MIN. NA/DCS/NG-CDF /2021/227: PRELIMINARIES

The Chairperson called the meeting to order at 12.23 pm and said the prayers.

MIN. NA/DCS/NG-CDF /2021/228: MEETING WITH THE PRINCIPAL SECRETARY OF THE STATE DEPARTMENT OF VOCATIONAL AND TECHNICAL TRAINING

Having appeared before the Committee, the Principal Secretary of the State Department of Vocational and Technical Training made the following presentations: That

1. **North Rift Technical Training Institute (TTI)** in Tiaty Constituency: It is one of five new TTIs started in 2013 four out of which (Mitunguu, Karumo, Geitai Ekerubo and Bondo) TTIs are complete and operational. The physical completion of works at North Rift TTI is currently at 70% and plans are underway to partially handover the institution due to increase in prices
2. **Wajir East TVC** in Wajir East Constituency: it was started in 2012 under GoK/AfDB Phase I project but stalled at 52%. Plans are underway to re-measure the remaining works.
3. **Rabai TVC** in Rabai Constituency: It was started in 2017 under Equalization Fund Project; however, the project has stalled at 35% work done due non disbursement of funds by the National Treasury to date.
4. In the Phase of construction of two (**Murang'a and Kipkabus**) TVCs in two Counties are complete and operational. The table below shows the location of the two institutions:

S/No.	Name of Institution	Mentoring Institution	County	Constituency
1	Murang'a	Thika TTI	Murang'a	Maragua
2	Kipkabus	Rift Valley TTI	Uasin Gishu	Ainabkoi

5. **9 TTIs in Counties:** In Phase of construction of nine (9) TVCs in Counties six (6) TVCs are completed.

Table: Institutions those are complete

S/No.	Name of Institution	Mentoring Institution	County	Constituency
1	Tharaka TTI	Meru NP	Tharaka Nithi	Tharaka
2	Samburu TTI	Meru NP	Samburu	Samburu East
3	Kerio Valley TTI	RVTTI	Elgeyo Marakwet	Marakwet East
4	Tana River TTI	NE NP	Tana River	Galole
5	Laikipia East TTI	Mathenge TTI	Laikipia	Laikipia East
6	Kimasian	Kaiboi TTI	Kericho	Kipkelion East

Table B: Institutions those are not complete

No.	Name of Institution	Mentoring Institution	County	Constituency	Status percent work done
1	Garbatulla	NE NP	Isiolo	Isiolo South	48
2	Lamu Mpeketoni	Kenya Coast NP	Lamu	Lamu West	75
3	Chepareria	Kitale NP	West Pokot	Pokot South	Building collapsed at 44% work done

CHALLENGES

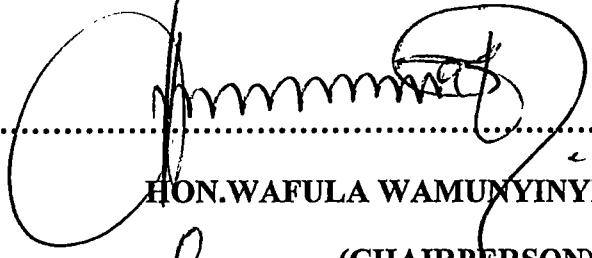
1. Scarce resources to construct vocational and technical training institutes however the principal secretary informed the committee that, they are in consultation with development partners to engage them on financing of building and equipping of vocational training colleges.
2. Some of them were abandoned due to insecurity like in wajir.

MIN. NA/DCS/NG-CDF /2021/229: CONSIDERATION OF THE REPORT ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND BILL NO. 34 OF 2021

The Report on National Government Constituencies Development Fund Bill no.34 of 2021 was adopted as the true reflection of the Committee deliberation having been proposed by the Hon. Fred Kapondi Chesebe, MP and seconded by the Hon. Joshua Mwalyo, MP.

MIN.NA/DCS/NG-CDF/2021/230:ADJOURNMENT

There being no any other business the meeting was adjourned, the dates and time for the next meeting shall be communicated in due course.

Signature

HON.WAFULA WAMUNYINYI, M.P.
(CHAIRPERSON)
Date..... 7/10/21

ANNEXTURE II- ADOPTION LIST





TWELFTH PARLIAMENT –FIFTH SESSION – 2021

THE NATIONAL ASSEMBLY

SELECT COMMITTEE ON NG-CDF

ADOPTION LIST

REPORT: National Government Expenditures Development Fund amendment bill NO. 4 N.A. 2021

DATE: 28/9/2021 VENUE: 4th floor Continental house

	NAME	Signature
1.	Hon. Wafula Wamunyinyi, M.P. Chairperson	
2.	Hon. Omar Mohamed Maalim Hassan, M.P. –Vice Chairperson	
3.	Hon. Fred Kapondi Chesebe, M.P.	
4.	Hon. Moses Lessonet, M.P.	
5.	Hon. Richard Nyagaka Tongi, M.P.	
6.	Hon. Sharif Athman Ali, M.P.	
7.	Hon. Sophia Abdi Noor, M.P.	
8.	Hon. Ferdinand Wanyonyi, M.P.	
9.	Hon. John Lodepe Nakara, M.P.	
10.	Hon. Cornelly Serem, MP	
	Hon. Onesmas Kimani Ngunjiri, MP	
12.	Hon. Benjamin Gathiru Mwangi, M.P.	
13.	Hon. Janet Jepkemboi Sitienei, M.P.	
14.	Hon. Fred Ouda, M.P.	
15.	Hon. Joshua Mwalyo, M.P.	
16.	Hon. Kassim Sawa Tandaza, M.P.	
17.	Hon. George Kariuki Macharia, M.P.	
18.	Hon. Josphat Gichunge Mwirabua Kabeabea, M.P.	
19.	Hon. Joseph Oyula, M.P.	

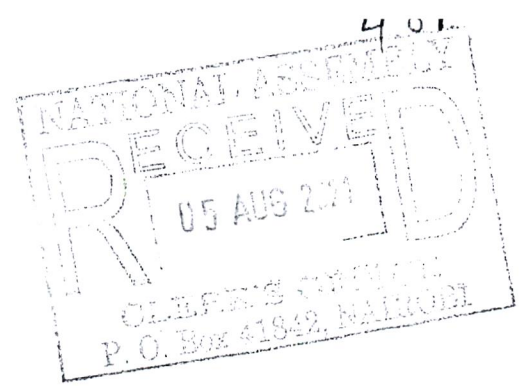


ANNEXTURE III- SUBMISSIONS



① D/AASC's

Please deal.
Sgri
06/08/21



REPUBLIC OF KENYA

OFFICE OF THE ATTORNEY-GENERAL
&
DEPARTMENT OF JUSTICE

AG/LDD/1101/1/90

4th August 2021

The Clerk of the National Assembly
Clerks Chambers
Parliament Buildings
P.O Box 41842-00100
NAIROBI.

② LOZUA
Please deal
FAA
09/8/21

③ Amogon
Please note
FAA
09/8/21

RE: SCRUTINY OF THE NATIONAL GOVERNMENT
CONSTITUENCIES DEVELOPMENT FUND (AMENDMENT) BILL,
2021

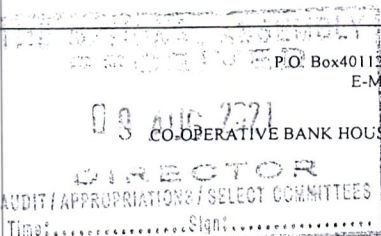
Reference is made on the above matter and your letter ref no. NA/DCS/NG-
CDF/2021/017, dated the 17th June, 2021 inviting this Office to submit written
memorandum on the above mentioned Bill.

We have reviewed the content of the Bill in light of the Public Finance
Management Act, 2012 and the Regulations thereto and our considered views are
as specified hereunder:

Clause 2

Clause 2 of the Bill seeks to amend section 5(3) of the Principal Act by inserting
the word "operations" immediately after the words "through the constituency".
Section 5(3) of the Principal Act provides that –

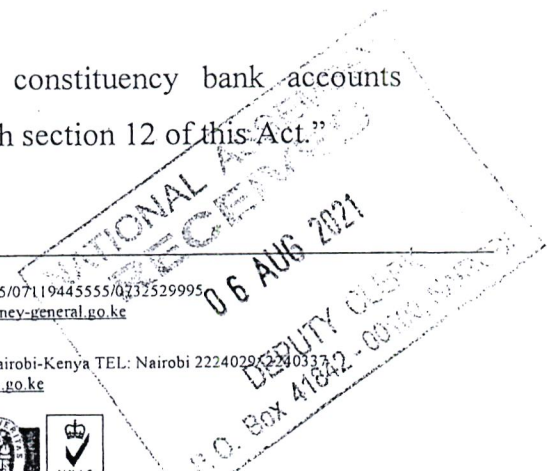
"All disbursements shall be made through the constituency bank accounts
maintained for every constituency in accordance with section 12 of this Act."



SHERIA HOUSE, HARAMBEE AVENUE
P.O. Box 40112-00100, NAIROBI, KENYA. TEL: +254 20 2227461/2251355/07119445555/0732529995
E-MAIL: info.statelawoffice@kenya.go.ke WEBSITE: www.attorney-general.go.ke

DEPARTMENT OF JUSTICE
CO-OPERATIVE BANK HOUSE, HAILLE SELLASIE AVENUE P.O. Box 56057-00200, Nairobi-Kenya TEL: Nairobi 2224020/2240333
E-MAIL: legal@justice.go.ke WEBSITE: www.justice.go.ke

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Section 5 (3) as read together with sections 12(1) and 13 of the Act, provides for the constituencies bank accounts to enable disbursement of funds to each constituency. The proposed amendment seeks to rename the existing constituency bank account to read “constituency operations account”. There is need to define the “constituency operations account” in the Bill and the purpose of the account in light of creation of the constituency deposit bank account in clause 5.

Clause 3

Clause 3 of the Bill, proposes to amend section 6 (3) of the Principal Act by deleting the words “Fund and credited to the account of the constituency from which the funds were withdrawn” appearing immediately after the words “returned to the” and substituting therefor the words “constituency operations account”.

Section 6 of the Act provides that the Board shall, with the approval of the relevant Committee of the National Assembly, allocate funds for every constituency in each financial year in accordance with section 34. Once funds are allocated for a particular project, they shall remain allocated for that project and may only be re-allocated for any other purpose during the financial year with the approval of the Board. If for any reason a particular project is cancelled or discontinued during the financial year, funds allocated for such a project shall be returned to the Fund and credited to the account of the constituency from which the funds were withdrawn.

From the proposed amendment, funds allocated for a cancelled or discontinued project shall be returned to the constituency operations account. It is not clear whether the approval of the Board is required, prior to utilizing the funds returned to the constituency operations account.

Clause 4

Section 7 of the Act provides that all receipts, savings and accruals to the Fund and the balance of the Fund at the end of each financial year shall be returned to the Fund and applied in accordance with section 6 (5) of this Act. Section 6 (5)

provides that a return as set out in the First Schedule shall be made for the current financial year and every previous financial year on which some funds remain unspent.

The Bill proposes to have all the receipts, savings and accruals to the Fund and the balance of the Fund at the end of each financial year to be retained in the Fund, and applied in accordance with the Act. However, the proposed amendment does not specify the provisions in the Act in which the balance of the fund shall be applied and the manner on which such monies may be re-allocated.

Clause 5

Clause 5 of the Bill amends section 12 of the Act which provides for a constituency account for the purpose of disbursement of funds under the Act.

Section 12 of the Act provides that there shall be opened and maintained a constituency account for every constituency at any commercial bank, approved by the National Treasury into which all funds shall be kept and such an account shall be known by the name of the constituency for which it is opened and each constituency shall maintain only one account.

The proposed amendments permit the opening of two accounts, the operations account and the deposit bank account in which the deposit bank account is to hold third party monies. The Bill does not specify how the bank account will be operated and the use of the money in that account.

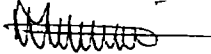
Clause 8

Clause 8 of the Bill amends section 19 of the Act by inserting a new subsection which provides for the procedure of removal of a member of the Board in accordance with the procedure prescribed in the Second Schedule.

The Second Schedule provides the conduct and affairs of the Board and the proposed amendment is a substantive in nature hence ought to be provided for in the Act.

Clause 17

Clause 17 of the Bill seeks to amend the Second Schedule of the Act to provide for provisions on vacation of office of members of the Board. The proposed amendments are substantive in nature and would be best placed immediately after under clause 18 of the Bill.



Marion Muriithi
Deputy Chief Parliamentary Counsel.
FOR: ATTORNEY-GENERAL

Copy to: Hon. P. Kihara Kariuki

Attorney-General

Mr. Kennedy Ogeto EBS

Solicitor General

Margaret Nzioka (Mrs)

Chief Parliamentary Counsel.



National Government Constituencies Development Fund Board
Harambee Cooperative Plaza, 5th Floor
Junction of Haile Selassie Avenue & Uhuru Highway
P.O Box 46682-00100
Nairobi, Kenya
Tel: 020-2230019, 2230027, 2230032 | Cell: 0709894000
Email: info@ngcdf.go.ke | Website: www.ngcdf.go.ke

OUR REF: NG-CDFB/CEO/KNA/VOL V (33)

June 24, 2021

Mr. Michael Sialai (EBS),
Clerk of the National Assembly,
Parliament Buildings, Parliament Road,
P O Box 41842-00200,
NAIROBI

① D/AA DCS's
Please deal.
Enli
24/06/21

Dear Sir

RE: SCRUTINY OF THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 4 OF 2021) BY THE SELECT COMMITTEE ON NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND

Reference is made to the above matter and your letter ref: NA/DCS/NG-CDF/2021/018, dated June 17, 2021.

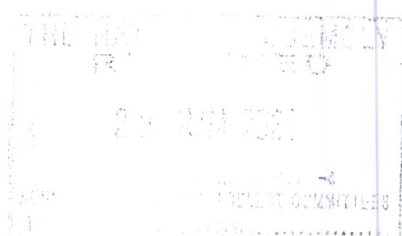
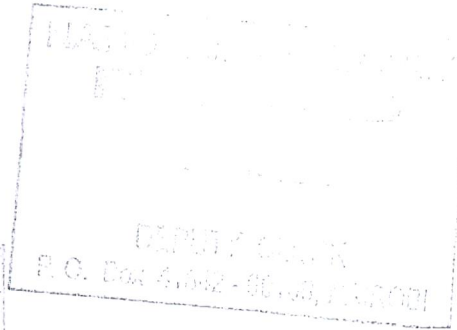
Attached hereto, please find our comments on the amendment bill for your further consideration.

Yours Sincerely

Yusuf Mbuno
CHIEF EXECUTIVE OFFICER
Encl.

② LOTUAI
Please deal
fmm
28/6/21

③ LUKWAGO
Please note
fmm
28/6/21



Vision: Equitable socio-economic development countrywide



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NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND BOARD

Comments/memoranda on the proposed amendment to the NGCDF Act National Assembly Bill No. 4 of 2021		
INITIAL PROPOSED AMENDMENT BEFORE PUBLICATION OF THE BILL.	THE BILL	COMMENTS/RECOMMENDATIONS
1. The Principal Act is amended in Section 2 by inserting the following definitions- 'Constituency Operations account' to mean "the accounts maintained for every constituency in accordance with Section 12 of the Act"	Missing in the Bill	The Bill to be amended to include the clause.
2. 'Third Party Monies' shall mean "any monies withheld by the Constituency in respect of retention monies for construction projects, accumulated gratuity/service pay, and any other monies withheld by the Constituency in relation to implementation of projects under this Act"	Missing in the Bill	The Bill to be amended to include the clause.
3. The principal Act is amended in section 5(3) by inserting the word "operations" in between the words "constituency" and "bank".	The National Government Constituencies Development Fund Act, (<i>hereinafter referred to as the "principal Act"</i>) is amended in section 5 by inserting the word "operations" immediately after the words "through the constituency" appearing in subsection (3).	Captured as per the initial proposed amendment

Comments/memoranda on the proposed amendment to the NGCDF Act National Assembly Bill No. 4 of 2021

INITIAL PROPOSED AMENDMENT BEFORE PUBLICATION OF THE BILL.	THE BILL	COMMENTS/RECOMMENDATIONS
<p>4. The principal Act is amended in Section 6(3) by deleting the word 'Fund' and substituting thereof with the word 'Constituency'</p>	<p>Section 6 of the principal Act is amended in subsection (3) by deleting the words "Fund and credited to the account of the constituency from which the funds were withdrawn" appearing immediately after the words "returned to the" and substituting therefor the words "constituency operations account"</p>	<p>The was some additions, which brought about greater clarity and should be adopted.</p>
<p>5. The principal Act is amended in Section 7(1) by- (a) by deleting the word 'returned' and substituting thereof with the word 'retained' (b) by deleting the words- "and applied in accordance with section 6(5) of this Act." and inserting the following new words immediately after the word 'Fund' "and applied in accordance with this Act."</p>	<p>Section 7 of the principal Act is amended by deleting subsection (1) and substituting therefor the following new subsection — "(1) All receipts, savings and accruals to the Fund and the balance of the Fund at the end of each financial year shall be retained in the Fund, and applied in accordance with this Act."</p>	<p>The Bill captured the amendment as proposed</p>
<p>6. The principal Act is amended in Section 12 by:- in Section 12(1) by deleting the said provision and inserting the following new provision, "For the purpose of disbursement of funds under this Act there shall be opened and maintained a constituency and operations account for every constituency at any commercial bank, approved by the National</p>	<p>Section 12 of the principal Act is amended by (a) deleting subsection (1) and substituting therefor the following new subsections — "(1) For the purpose of disbursement of funds under this Act, each constituency shall open and maintain a constituency bank operations account at any commercial bank, approved by the National Treasury." "(1A) Each constituency shall maintain only</p>	<p>The new Section makes provisions for two Banks Account, as envisioned, being one "operations" and one "Deposit" account</p>

Comments/memoranda on the proposed amendment to the NGCDF Act National Assembly Bill No. 4 of 2021

INITIAL PROPOSED AMENDMENT BEFORE PUBLICATION OF THE BILL.	THE BILL	COMMENTS/RECOMMENDATIONS
<p>Treasury into which all funds shall be kept and such an account shall be known by the name of the constituency for which it is opened and each constituency shall maintain only one operations account.</p>	<p>one operations bank account, to be styled as "[Name of constituency] Operations Account". "(1B) Each constituency shall operate one deposit bank account for purposes of holding third party monies.</p>	
<p>In addition, each constituency shall open one deposit bank account for holding third party monies which shall so be designated and such an account shall be known by the name of the constituency for which it is opened and each constituency shall maintain only one deposit account. <i>The Third Party Monies in respect of accumulated gratuity/service pay may be held in Pension Funds subject to the concurrence of the Board.</i></p>	<p>"The Third Party Monies in respect of accumulated gratuity/service pay may be held in Pension Funds subject to the concurrence of the Board.</p>	<p>The highlighted part is missing in the Bill and the Bill need to be amended to capture the same.</p>
<p>(b)Section 12(2) of the Act is amended by deleting the said provision and inserting the following new provision "At least three signatories shall be required for every cheque or instrument for actual payment or withdrawal of funds from the constituency</p>	<p>(b) deleting subsection (2) and substituting therefor the following new subsection — "(2) At least three signatories shall be required for every cheque or instrument for actual payment or withdrawal of funds from the constituency operations account and the constituency deposit account." (c) inserting the following new subsections after the new subsection (2)—</p>	<p>The signatories to the Constituency Operations Account have been clarified</p>

Comments/memoranda on the proposed amendment to the NCCDF Act National Assembly Bill No. 4 of 2021

INITIAL PROPOSED AMENDMENT BEFORE PUBLICATION OF THE BILL.	THE BILL	COMMENTS/RECOMMENDATIONS
<p>operations account and constituency deposit account. The signing instructions for the Constituency operations account shall be such that there shall be at least one signature of an officer seconded by the Board and at least one signature of a member of the Constituency Committee and at least one signature of the accountant in charge of the Fund/National Sub-County Accountant.</p>	<p>"(2A) The signing instructions for the constituency operations account shall be such that there shall be at least one signature of an officer seconded by the Board for that purpose and, at least one signature of a member of the constituency Committee, and the signature of the sub-county accountant in charge of the Fund."</p> <p>"(2B) The signing instructions for the constituency deposit account shall be such that there shall be at least one signature of an officer seconded by the Board for that purpose and, at least one signature of a member of the Constituency Committee who shall not be a signatory to the Constituency Operations account and the signature of the sub-county accountant in charge of the Fund."</p>	<p>The signatories to the Constituency Deposit Account have been clarified</p>

Comments/memoranda on the proposed amendment to the NGCDF Act National Assembly Bill No. 4 of 2021

	INITIAL PROPOSED AMENDMENT BEFORE PUBLICATION OF THE BILL.	THE BILL	COMMENTS/RECOMMENDATIONS
7.	<p>The principal Act is in Section 13(3) by deleting the words ‘plus and two’ and substituting thereof with the words “plus at least one”</p>	<p>Section 13 of the principal Act is amended in subsection (3) by deleting the words "and/or instruments intended for actual release of money from the fund, plus any two" and substituting therefor the words "or instruments intended for actual release of money from the Fund and at least one".</p>	<p>The amendment captured the intended position. However, the highlighted word (any) in the Bill should be changed to “and”.</p>
8.	<p>The principal Act is amended in Section 16 by rearranging the functions of the Board as follows:-</p> <p><i>(a) consider project proposals submitted from various constituencies in accordance with the Act, approve for funding those projects proposals that are consistent with this Act and send funds to the respective constituency fund account of the approved projects,</i></p> <p><i>(b) ensure timely and efficient disbursement of funds to every constituency,</i></p> <p><i>(c) ensure efficient management of the Fund;</i></p> <p><i>(d) co-ordinate the implementation of projects at the inter-constituency level;</i></p> <p><i>(e) receive and address complaints that may arise from the implementation of the Act;</i></p> <p><i>(f) encourage best practices in the</i></p>	<p>7. The principal Act is amended by deleting section 16 and substituting therefor the following new section—</p> <p>"16. The Board shall —</p> <p>(a) consider and approve or reject project proposals submitted by constituencies and, where a project proposal is approved, release funds to that constituency;</p> <p>(b) ensure timely and efficient disbursement of funds to every constituency;</p>	<p>a. Paragraph 16(a) of the Bill did not capture the version of the principal Act. The Bill to be amended to capture the Section as is in the Principal Act, save rearrangements</p> <p>b. Paragraph 16(b) captured as is in the principal Act</p>

Comments/ memoranda on the proposed amendment to the NGCDF Act National Assembly Bill No. 4 of 2021

INITIAL PROPOSED AMENDMENT BEFORE PUBLICATION OF THE BILL.	THE BILL	COMMENTS/RECOMMENDATIONS
<p><i>(g) administer the funds and assets of the Board in such manner and for such purpose as shall promote the best interest of the Board in accordance with the Act to ensure efficient management of the Fund; and</i></p> <p><i>(h) perform such other duties as the Board may deem necessary from time to time for the proper management of the Fund</i></p>	<p>(c) ensure efficient management of the Fund;</p> <p>(d) co-ordinate and oversight the implementation of constituency projects;</p> <p>(e) consider complaints or other matters which arise in the implementation of the Act;</p> <p>(f) promote best practices in the implementation of constituency projects;</p> <p>(g) administer, control, and, supervise the assets of the Board in such manner as best promotes the purpose for which the Board is established; and</p> <p>(h) perform such other duties as may be performed by the Board under this Act for the proper management</p>	<p>c. Paragraph 16(c) captured as is in the principal Act</p> <p>d. Paragraph 16(d) has been changed</p> <p>e. Paragraph 16(e) has been changed</p> <p>f. Paragraph 16(f) the word <u>“encourage”</u> has been substituted with the word <u>“Promote”</u></p> <p>g. There was a total recast of Paragraph 16 (g)</p> <p>h. There was a total recast of Paragraph 16 (h) which appears to lose the original meaning. It is suggested that the original version be retained.</p>

Comments/memoranda on the proposed amendment to the NGCDF Act National Assembly Bill No. 4 of 2021

	INITIAL PROPOSED AMENDMENT BEFORE PUBLICATION OF THE BILL.	THE BILL	COMMENTS/RECOMMENDATIONS
9.		<p>of the Fund."</p> <p>Section 19 of the principal Act is amended by inserting the following new sub section immediately after sub section (6)—</p> <p>"(7) Despite sub section (1) and (2), a member of the Board may be removed from office in accordance with the procedure prescribed in the Second Schedule."</p>	<p>This is a new subsection, intended to resonate with the amendment of second schedule.</p>
10.	<p>The principal Act is amended in Section 28 by deleting the words 'allocation table' and substituting thereof with the words 'budget ceilings for each constituency'</p>	<p>Section 28 of the principal Act is amended by deleting subsection (1) and substituting therefor the following new subsection --</p> <p>"(1) Every constituency shall within three months of the official release of the budget ceilings for the constituencies or such other time as may be determined by the Board, submit a list of the proposed constituency projects to the Board."</p>	<p>The previously amended section 28(1) has been re-casted. The intended re-amendment thereof has been captured.</p>

Comments/memoranda on the proposed amendment to the NGCDF Act National Assembly Bill No. 4 of 2021

INITIAL PROPOSED AMENDMENT BEFORE PUBLICATION OF THE BILL.	THE BILL	COMMENTS/RECOMMENDATIONS
<p>11. The principal Act is amended in Section 32 by:-</p> <p>a) by deleting the said provision and inserting the following new provision thereof,</p> <p>'The Constituency Committee shall at its discretion, determine the quantum of installments to various projects in the constituency, taking into account the disbursement received and the requirement of different projects.'</p> <p>creating a new section (32 A) which provides that, 'The Constituency Committee shall within 45 days of allocation of Funds to the projects in line with Section 32 inform the Board of the said allocation in line with Section 5(2) of this Act'</p>	<p>The principal Act is amended by deleting section 32 and substituting therefor the following new section —</p> <p>"32. The constituency Committee shall determine the quantum of installments for disbursement to projects within the constituency, taking into account, the disbursement received and, the projects requirements."</p> <p>The principal Act is amended by inserting the following new section immediately ,after section 32—</p> <p>"32A. The constituency Committee shall within forty-five days of allocating funds under section 32, inform the Board of such allocation."</p>	<p>a. The amendment has been re-casted but has however captured the intended outcome.</p> <p>b. The new section 32A was re-casted capturing the intended outcome. The highlighted part of the initial proposed amendment was omitted in the bill. The said omission is harmless as had no correlation to the quoted section.</p>

Comments/memoranda on the proposed amendment to the NGCDF Act National Assembly Bill No. 4 of 2021

	INITIAL PROPOSED AMENDMENT BEFORE PUBLICATION OF THE BILL.	THE BILL	COMMENTS/RECOMMENDATIONS
12.	The principal Act is amended in section 36 by inserting the words "or legally procured government registered private practitioners" in between the words 'Government' and 'and' in section 36(1)	Section 36 of the principal Act is amended in subsection (1) by inserting the words "government registered private practitioners procured in accordance with the Public Procurement and Asset Disposal Act, 2015" immediately after the words "department of Government".	The amendment has been re-casted to make reference to the PPAD. The intended outcome was achieved.
13.	The principal Act is amended in Section 43 by:- (a) deleting the word 'sixty' and substituting thereof with the words "one hundred and twenty" in Section 43(6) and deleting the words " <u>on such day as may be designated by the cabinet Secretary</u> " that appear at the end of the said subsection; deleting the word 'thirty' and substituting thereof with the words "one hundred and twenty" in Section 43(10)	Section 43 of the principal Act is amended by— (a) deleting the word "sixty" appearing in subsection (6) and substituting therefor the words "one hundred and twenty"; (b) deleting the word "thirty" appearing in subsection (10) and substituting therefor the words "one hundred and twenty"; and (c) deleting subsection (12).	<p>a. The amendments captured the intended outcome.</p> <p>b. However, the last part (highlighted) of Section 43(6) was not deleted, and need to be deleted from the Bill, as it serves no purpose</p> <p>c. Section 43(12) has been deleted. The deletion is in order as the subsection is now the new Section 32.</p>

Comments/memoranda on the proposed amendment to the NGCDF Act National Assembly Bill No. 4 of 2021

INITIAL PROPOSED AMENDMENT BEFORE PUBLICATION OF THE BILL.	THE BILL	COMMENTS/RECOMMENDATIONS
<p>14. The principal Act is amended in 46 by inserting the words "or legally procured government registered private practitioners" in between the words 'department' and 'to' in section 46(1)</p>	<p>Section 46 of the principal Act is amended in subsection (1) by inserting the words "or legally procured government registered private practitioners" immediately after the words "Government departments".</p>	<p>While the amendment captures the original intention, the amendment is similar to the amendments in Section 36 and for consistency, the wordings should be the same.</p>
<p>15. The principal Act is amended in Section 48 by creating a new section (48 A) which provides that, "The provisions of Section 48 notwithstanding, a constituency may, with the approval of the Board, allocate additional funds to cater for education bursary schemes, education days and other teaching and learning related activities and ."</p>	<p>The principal Act is amended by inserting the following new section immediately after section 48— "48A. Despite section 48, a Constituency Committee may, with the approval of the Board, allocate additional funds to cater for education bursary schemes and education days."</p>	<p>The section was re-casted and captured the intended outcome.</p>
<p>16. The Principal Act is amended in Section 53 by creating a new Section (53A) which provides as follows, "In discharging its obligations, the Constituency Oversight Committee shall be facilitated by funds set aside by the constituency, provided that such allocation does not exceed one per centum of the total allocation of the constituency in that financial year"</p>		<p>The clause was totally omitted in the Bill. The Bill to be amended to include the clause.</p>

Comments/memoranda on the proposed amendment to the NGCDF Act National Assembly Bill No. 4 of 2021

	INITIAL PROPOSED AMENDMENT BEFORE PUBLICATION OF THE BILL.	THE BILL	COMMENTS/RECOMMENDATIONS
17.	<p>The principal Act is amended in 56 by deleting the words 'to reconsider the Board's decision and determine the matter.' and substituting thereof with the words "to the Cabinet Secretary to direct the Board in conjunction with the Office of the Attorney General to commence Arbitration." in Section 56(4)</p>	<p>Section 56 of the principal Act is amended in subsection (4) by deleting the words "reconsider the Board's decision and determine the matter" and substituting thereof the words "direct the Board in collaboration with the Office of the Attorney General to commence arbitration".</p>	<p>The amendment captured the intended outcome and was aptly captured.</p>
18.	<p>The Act is amended in its Second Schedule by inserting the following new subsection:-</p> <p>1 (A) Vacation of Office A member other than an ex-officio member may—</p> <p>(a) at any time resign from office by notice in writing to the Cabinet Secretary, with a copy to the Board;</p> <p>(b) be removed from office by the Cabinet Secretary on recommendation of the Board if the member—</p> <p>(i) has been absent from three consecutive meetings of the Board without its permission;</p> <p>(ii) is convicted of a criminal offence that amounts to a felony</p>	<p>The Second Schedule to the principal Act is amended by inserting the following new section immediately after section 2 — Vacation of Office. 2A. (1) A member other than an <i>ex-officio</i> member may resign from office at any time, by notice in writing to the Cabinet Secretary, with a copy to the Board.</p> <p>(2) The Cabinet Secretary may upon the recommendation of the Board, remove a member from office, if the member —</p> <p>(a) has been absent from three consecutive meetings of the Board without the permission of the Chairperson;</p> <p>(b) is convicted of a criminal offence and sentenced to imprisonment for a period exceeding six months without the option of a fine;</p> <p>(c) is incapacitated by prolonged physical or mental illness for a period exceeding six months; or</p>	<p>This is a new insertion and captures what had been omitted in the principal Act.</p>

Comments/memoranda on the proposed amendment to the NGCDF Act National Assembly Bill No. 4 of 2021

INITIAL PROPOSED AMENDMENT BEFORE PUBLICATION OF THE BILL	THE BILL	COMMENTS/RECOMMENDATIONS
<p>under the laws of Kenya; (iii) is incapacitated by prolonged physical or mental illness for a period exceeding six months; or (iv) is otherwise unable or unfit to discharge his functions.</p> <p>(c) The Chairperson shall not be removed from office unless such removal is in accordance with sub paragraph (1A).</p>	<p>(d) is otherwise unable or unfit to discharge the functions of a member of the Board. (3) The Chairperson shall be removed from office only in accordance with sub paragraph (1).</p>	

REPUBLIC OF KENYA



THE NATIONAL TREASURY AND PLANNING
STATE DEPARTMENT FOR PLANNING

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NAIROBI

Ref. No: TNTP/SDP/4/52

Date. 6th July 2021

Mr. Michael Sialai, CBS
Clerk of the National Assembly
The National Assembly
Parliament Building
NAIROBI

*Mr. Emergen DO/D C
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CNA
7/11/21*

Dear Clerk,

**SCRUTINY OF THE NATIONAL GOVERNMENT CONSTITUENCIES
DEVELOPMENT FUND (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 4
OF 2021) BY THE SELECT COMMITTEE ON NATIONAL GOVERNMENT
CONSTITUENCIES DEVELOPMENT FUND.**

Reference is made to your letter Reference No. NA/DCS/NG-CDF/2021/019 dated 17th June 2021 on the above subject matter.

This is therefore to submit our comments on the proposed amendment to the NG-CDF Act (National Assembly Bill No. 4 of 2021).

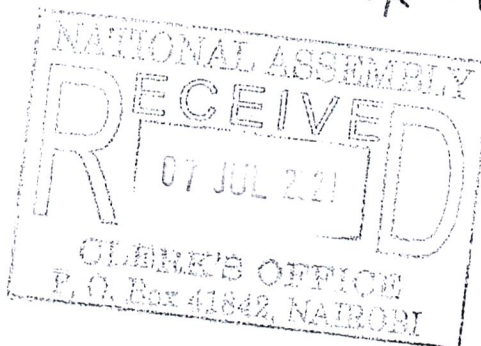
Attached please find our comments.

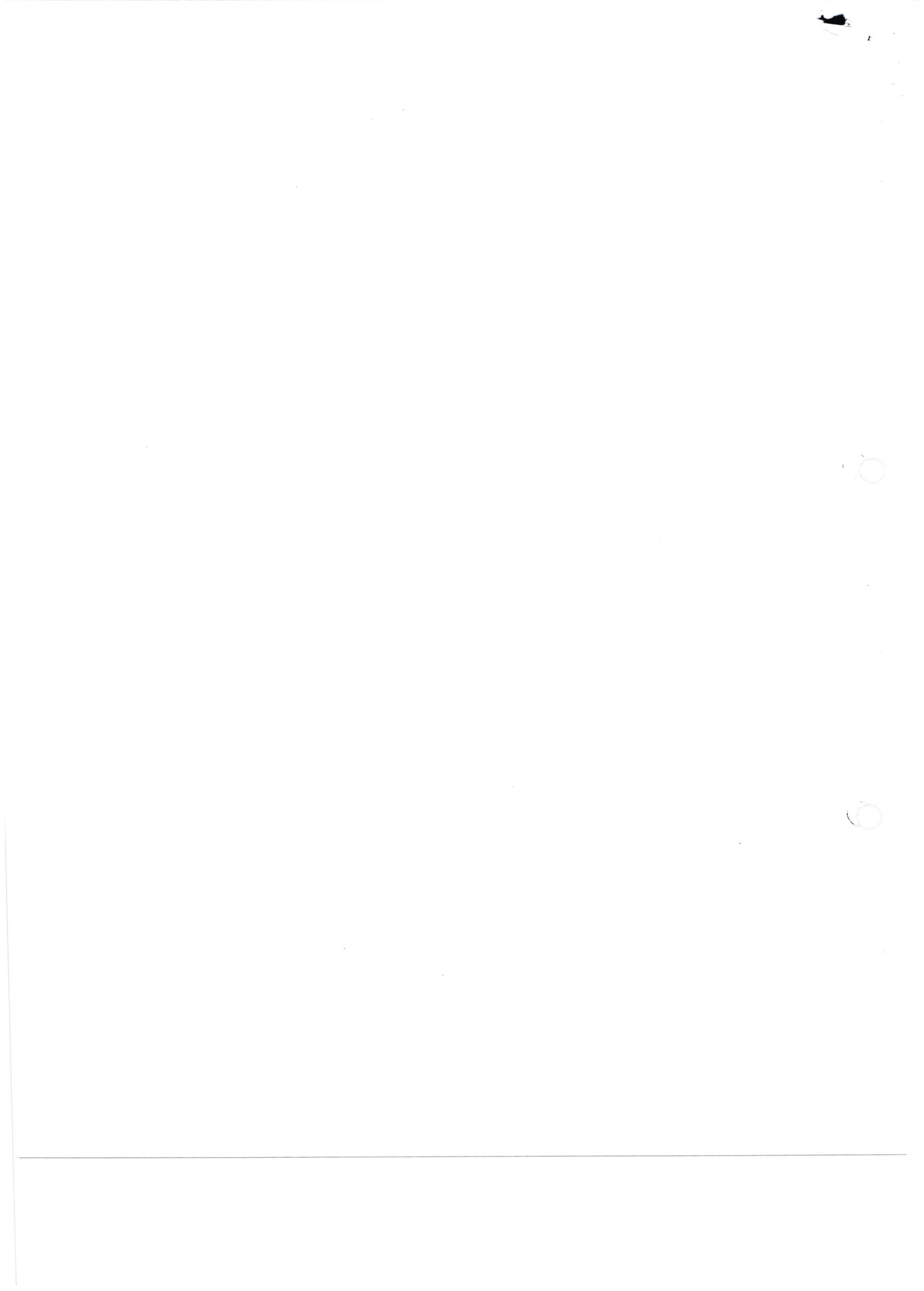
Yours Sincerely,

Saitoti Torome
Saitoti Torome, CBS
PRINCIPAL SECRETARY

*2. Nansenan
Follow up on the comments &
bring to the attention of
Committee
8/11/21*

Encl





Comments/memoranda on the proposed amendment to the NGCDF Act National Assembly Bill No. 4 of 2021

INITIAL PROPOSED AMENDMENT BEFORE PUBLICATION OF THE BILL.	THE BILL	COMMENTS/RECOMMENDATIONS
1. The Principal Act is amended in Section 2 by inserting the following definitions- 'Constituency Operations account' to mean "the accounts maintained for every constituency in accordance with Section 12 of the Act"	Missing in the Bill	Rationale to be provided in the Memorandum of Objects and Reasons as follows: Clause xx of the Bill gives the definition of the constituency operations account
2. 'Third Party Monies' shall mean "any monies withheld by the Constituency in respect of retention monies for construction projects, accumulated gratuity/service pay, and any other monies withheld by the Constituency in relation to implementation of projects under this Act"	Missing in the Bill	Rationale to be provided in the Memorandum of Objects and Reasons as follows: Clause xx of the Bill gives the definition of Third Party Monies
3. The principal Act is amended in section 5(3) by inserting the word "operations" in between the words "constituency" and "bank".	The National Government Constituencies Development Fund Act, (<i>hereinafter referred to as the "principal Act"</i>) is amended in section 5 by inserting the Word "operations" immediately after the words "through the constituency" appearing in subsection (3).	Rationale to be provided in the Memorandum of Objects and Reasons as follows: Clause 2 of the Bill makes it possible to have deposits in the constituency bank accounts.
4. The principal Act is amended in Section 6(3) by deleting the word 'Fund' and substituting thereof with the word 'Constituency'	Section 6 of the principal Act is amended in subsection (3) by deleting the words "Fund and credited to the account of the constituency from which the funds were	Rationale to be provided in the Memorandum of Objects and Reasons as follows: Clause 3 provides clarity on to section 6(3) of the Principal Act and aligns it

Comments/memoranda on the proposed amendment to the NGCDF Act National Assembly Bill No. 4 of 2021

	INITIAL PROPOSED AMENDMENT BEFORE PUBLICATION OF THE BILL.	THE BILL	COMMENTS/RECOMMENDATIONS
		<p>withdrawn" appearing immediately after the words "returned to the" and substituting therefor the words "constituency operations account"</p>	<p>with the provisions of section 12(7) of the Act</p>
5.	<p>The principal Act is amended in Section 7(1) by- (a) by deleting the word 'returned' and substituting thereof with the word 'retained' (b) by deleting the words- "and applied in accordance with section 6(5) of this Act." and inserting the following new words immediately after the word 'Fund' "and applied in accordance with this Act."</p>	<p>Section 7 of the principal Act is amended by deleting subsection (1) and substituting therefor the following new subsection — "(1) All receipts, savings and accruals to the Fund and the balance of the Fund at the end of each financial year shall be retained in the Fund, and applied in accordance with this Act."</p>	<p>Rationale to be provided in the Memorandum of Objects and Reasons as follows: Clause 4 of the Bill aligns section 7(1) to its side note and provides clarity as the referred section has no correlation</p>
6.	<p>The principal Act is amended in Section 12 by:- in Section 12(1) by deleting the said provision and inserting the following new provision, "For the purpose of disbursement of funds under this Act there shall be opened and maintained a constituency operations account for every constituency at any commercial bank, approved by the National Treasury into which all funds shall be kept and such an account shall be known by the name of the</p>	<p>Section 12 of the principal Act is amended by — (a) deleting subsection (1) and substituting therefor the following new subsections — "(1) For the purpose of disbursement of funds under this Act, each constituency shall open and maintain a constituency bank operations account at any commercial bank, approved by the National Treasury." "(1A) Each constituency shall maintain only one operations bank account, to be styled as "[Name of constituency] Operations Account".</p>	<p>Rationale to be provided in the Memorandum of Objects and Reasons as follows: Clause 5 of the Bill eases constituency account operations and ensures constituencies meet third parties' obligations as and when they fall due</p>

Comments/memoranda on the proposed amendment to the NGCDF Act National Assembly Bill No. 4 of 2021

INITIAL PROPOSED AMENDMENT BEFORE PUBLICATION OF THE BILL.	THE BILL	COMMENTS/RECOMMENDATIONS
<p>constituency for which it is opened and each constituency shall maintain only one operations account.</p> <p>In addition, each constituency shall open one deposit bank account for holding third party monies which shall so be designated and such an account shall be known by the name of the constituency for which it is opened and each constituency shall maintain only one deposit account.</p> <p><i>The Third Party Monies in respect of accumulated gratuity/service pay may be held in Pension Funds subject to the concurrence of the Board.</i></p>	<p>"(1B) Each constituency shall operate one deposit bank account for purposes of holding third party monies.</p> <p>"The Third Party Monies in respect of accumulated gratuity/service pay may be held in Pension Funds subject to the concurrence of the Board.</p>	
<p>(b)Section 12(2) of the Act is amended by deleting the said provision and inserting the following new provision "At least three signatories shall be required for every cheque or instrument for actual payment or withdrawal of funds from the constituency operations account and constituency deposit account. The signing instructions for the Constituency operations account shall be such that there shall be at</p>	<p>(b) deleting subsection (2) and substituting therefor the following new subsection — "(2) At least three signatories shall <i>be</i> required for every cheque or instrument for actual payment or withdrawal of funds from the constituency operations account and the constituency deposit account." (c) inserting the following new subsections after the new subsection (2)— "(2A) The signing instructions for the</p>	

Comments/memoranda on the proposed amendment to the NGCDF Act National Assembly Bill No. 4 of 2021

	INITIAL PROPOSED AMENDMENT BEFORE PUBLICATION OF THE BILL.	THE BILL	COMMENTS/RECOMMENDATIONS
	<p>least one signature of an officer seconded by the Board and at least one signature of a member of the Constituency Committee and at least one signature of the accountant in charge of the Fund/National Sub-County Accountant.</p>	<p>Constituency operations account shall be such that there shall be at least one signature of an officer seconded by the Board for that purpose and, at least one signature of a member of the constituency Committee, and the signature of the sub-county accountant in charge of the Fund."</p>	
	<p>The signing instructions for the Constituency deposit account shall be such that there shall be at least one signature of an officer seconded by the Board and at least one signature of a member of the Constituency Committee who is not a signatory to the Constituency Operations Account and at least one signature of the accountant in charge of the Fund/National Sub-County Accountant.</p>	<p>"(2B) The signing instructions for the constituency deposit account shall be such that there shall be at least one signature of an officer seconded by the Board for that purpose and, at least one signature of a member of the Constituency Committee who shall not be a signatory to the Constituency Operations account and the signature of the sub-county accountant in Charge of the Fund."</p>	
7.	<p>The principal Act is in Section 13(3) by deleting the words 'plus and two' and substituting thereof with the words "plus at least one"</p>	<p>Section 13 of the principal Act is amended in subsection (3) by deleting the words "and/or instruments intended for actual release of money from the fund, plus <u>any</u> two" and substituting therefor the words "or</p>	<p>Rationale to be provided in the Memorandum of Objects and Reasons as follows:</p>

Comments/memoranda on the proposed amendment to the NGCDF Act National Assembly Bill No. 4 of 2021

INITIAL PROPOSED AMENDMENT BEFORE PUBLICATION OF THE BILL.	THE BILL	COMMENTS/RECOMMENDATIONS
8. The principal Act is amended in Section 16 by rearranging the functions of the Board as follows:- <i>(a) consider project proposals submitted from various constituencies in accordance with the Act, approve for funding those projects proposals that are consistent with this Act and send funds to the respective constituency fund account of the approved projects,</i> <i>(b) ensure timely and efficient disbursement of funds to every constituency,</i> <i>(c) ensure efficient management of the Fund,</i> <i>(d) co-ordinate the implementation of projects at the inter-constituency level;</i> <i>(e) receive and address complaints that may arise from the implementation of the Act;</i>	Instruments intended for actual release of money from the Fund and at least one". 7. The principal Act is amended by deleting section 16 and substituting therefor the following new section— "16. The Board shall — (a) consider and approve or reject project proposals submitted by constituencies and, where a project proposal is approved, release funds to that constituency; (b) ensure timely and efficient disbursement of funds to every constituency;	Clause 6 of the Bill removes the ambiguity in section 12(2) of the Principal Act and conforms it to the PFMA provisions and eases the operations at constituency as well as enhances accountability Rationale to be provided in the Memorandum of Objects and Reasons as follows: Clause 7 of the Bill enhances the timely and efficient disbursement of funds to every constituency and ensures efficient management of the fund in line with section 16 (a) and (b) of the principal Act, as well as conforming to the practice of the Central Bank of Kenya. The said clause also rearranges the functions of the Board in order to provide clarity on the said functions.

Comments/memoranda on the proposed amendment to the NGCDF Act National Assembly Bill No. 4 of 2021

INITIAL PROPOSED AMENDMENT BEFORE PUBLICATION OF THE BILL.	THE BILL	COMMENTS/RECOMMENDATIONS
<p>(f) <i>encourage best practices in the implementation of projects;</i></p> <p>(g) <i>administer the funds and assets of the Board in such manner and for such purpose as shall promote the best interest of the Board in accordance with the Act to ensure efficient management of the Fund; and</i></p> <p>(h) <i>perform such other duties as the Board may deem necessary from time to time for the proper management of the Fund</i></p>	<p>(c) ensure efficient management of the Fund;</p> <p>(d) co-ordinate and oversight the implementation of constituency projects;</p> <p>(e) consider complaints or other matters which arise in the implementation of the Act;</p> <p>(f) promote best practices in the implementation of constituency projects;</p> <p>(g) administer, control, and, supervise the assets of the Board in such manner as best promotes the purpose for which the Board is established; and</p> <p>(h) perform such other duties as may be performed by the Board under this Act for the proper management</p>	

Comments/memoranda on the proposed amendment to the NGCDF Act National Assembly Bill No. 4 of 2021

	INITIAL PROPOSED AMENDMENT BEFORE PUBLICATION OF THE BILL.	THE BILL	COMMENTS/RECOMMENDATIONS
9.		<p>Section 19 of the principal Act is amended by inserting the following new sub section immediately after sub section (6)—</p> <p>"(7) Despite sub section (1) and (2), a member of the Board may be removed from office in accordance with the procedure prescribed in the Second Schedule."</p>	<p>Rationale to be provided in the Memorandum of Objects and Reasons as follows:</p> <p>Clause 8 of the Bill provides clarity on the procedure for removal of Board members, including the option to resign.</p>
10.	<p>The principal Act is amended in Section 28 by deleting the words 'allocation table' and substituting thereof with the words 'budget ceilings for each constituency'</p>	<p>Section 28 of the principal Act is amended by deleting subsection (1) and substituting therefor the following new subsection --</p> <p>"(1) Every constituency shall within three months of the official release of the budget ceilings for the constituencies or such other time as may be determined by the Board, submit a list of the proposed constituency projects to the Board."</p>	<p>Rationale to be provided in the Memorandum of Objects and Reasons as follows:</p> <p>Clause 9 of the Bill amends sections 28 of the Principal Act in order to conform to the current practice and ease the operations at constituency level.</p>

Comments/memoranda on the proposed amendment to the NGCDF Act National Assembly Bill No. 4 of 2021

	INITIAL PROPOSED AMENDMENT BEFORE PUBLICATION OF THE BILL	THE BILL	COMMENTS/RECOMMENDATIONS
11.	<p>The principal Act is amended in Section 32 by:-</p> <p>a) by deleting the said provision and inserting the following new provision thereof,</p> <p>‘The Constituency Committee shall at its discretion, determine the quantum of installments to various projects in the constituency, taking into account the disbursement received and the requirement of different projects.’</p> <p>creating a new section (32 A) which provides that, ‘The Constituency Committee shall within 45 days of allocation of Funds to the projects in line with Section 32 inform the Board of the said allocation in line with Section 5(2) of this Act’</p>	<p>The principal Act is amended by deleting section 32 and substituting therefor the following new section —</p> <p>"32. The constituency Committee shall determine the quantum of installments for disbursement to projects within the constituency, taking into account, the disbursement received and, the projects Requirements."</p>	<p>Rationale to be provided in the Memorandum of Objects and Reasons as follows:</p> <p>Clause 10 of the Bill amends section 32 of the Principal Act in order to conform to the current practice and ease the operations at constituency level.</p>
12.		<p>The principal Act is amended by inserting the following new section immediately after section 32—</p>	<p>Rationale to be provided in the Memorandum of Objects and Reasons as follows:</p>

Comments/memoranda on the proposed amendment to the NGCDF Act National Assembly Bill No. 4 of 2021

INITIAL PROPOSED AMENDMENT BEFORE PUBLICATION OF THE BILL.	THE BILL	COMMENTS/RECOMMENDATIONS
	<p>"32A. The constituency Committee shall within forty-five days of allocating Funds under section 32, inform the Board of such allocation."</p>	<p>Clause 11 of the Bill amends section 32 of the Principal Act in order to ease the operations at constituency level.</p>
<p>13. The principal Act is amended in section 36 by inserting the words "or legally procured government registered private practitioners" in between the words 'Government' and 'and' in section 36(1)</p>	<p>Section 36 of the principal Act is amended in subsection (1) by inserting the words "government registered private practitioners procured in accordance with the Public Procurement and Asset Disposal Act, 2015" immediately after the words "department of Government".</p>	<p>Rationale to be provided in the Memorandum of Objects and Reasons as follows: Clause 12 of the Bill amends Section 36 of the Act to curb challenges brought about by fewer government practitioners.</p>
<p>14. The principal Act is amended in Section 43 by:- (a) deleting the word 'sixty' and substituting thereof with the words "one hundred and twenty" in Section 43(6) and deleting the words "on such day as may be designated by the cabinet Secretary" that appear at the end of the said subsection; deleting the word 'thirty' and substituting thereof with the words "one hundred and twenty" in Section 43(10)</p>	<p>Section 43 of the principal Act is amended by— (a) deleting the word "sixty" appearing in subsection (6) and substituting therefor the words "one hundred and twenty"; (b) deleting the word "thirty" appearing in subsection (10) and substituting therefor the words "one hundred and twenty"; and (c) deleting subsection (12).</p>	<p>Rationale to be provided in the Memorandum of Objects and Reasons as follows: Clause 13 of the Bill amends Section 43(6) and (10) of the Act by enhancing the period of holding of the first meeting of the Constituency Development Fund Committee since gazettelement involves various offices, as well as to provide autonomy and eliminate possible delays</p>

Comments/memoranda on the proposed amendment to the NGCDF Act National Assembly Bill No. 4 of 2021

	INITIAL PROPOSED AMENDMENT BEFORE PUBLICATION OF THE BILL.	THE BILL	COMMENTS/RECOMMENDATIONS
15.	The principal Act is amended in 46 by inserting the words "or legally procured government registered private practitioners" in between the words 'department' and 'to' in section 46(1)	Section 46 of the principal Act is amended in Subsection (1) by inserting the words "or legally procured government registered private practitioners" immediately after the words "Government departments".	<p>Rationale to be provided in the Memorandum of Objects and Reasons as follows:</p> <p>Clause 14 of the Bill amends Section 46 of the Act to fast track compilation and submission of proposals.</p>
16.	The principal Act is amended in Section 48 by creating a new section (48 A) which provides that, "The provisions of Section 48 notwithstanding, a constituency may, with the approval of the Board, allocate additional funds to cater for education bursary schemes, education days and other teaching and learning related activities and ."	<p>The principal Act is amended by inserting the following new section immediately after section 48—</p> <p>"48A. Despite section 48, a Constituency Committee may, with the approval of the Board, allocate additional funds to cater for education bursary schemes and education days."</p>	<p>Rationale to be provided in the Memorandum of Objects and Reasons as follows:</p> <p>Clauses 15 of the Bill amends Section 48 of the Act to cater for unique circumstances faced by constituencies, especially urban based ones and to give constituencies latitude to allocate more funds to bursaries, based on prevailing demands.</p>
17.	The Principal Act is amended in Section 53 by creating a new Section (53A) which provides as follows, " In discharging its obligations, the Constituency Oversight Committee shall be facilitated by funds set aside by the constituency, provided that such allocation does not exceed one per centum of the total allocation of		<p>Rationale to be provided in the Memorandum of Objects and Reasons as follows</p> <p>Clause xx of the Bill amends section 53 of the Principal Act to provide for funding of the Constituency Oversight Committee</p>

Comments/memoranda on the proposed amendment to the NGCDF Act National Assembly Bill No. 4 of 2021

	INITIAL PROPOSED AMENDMENT BEFORE PUBLICATION OF THE BILL.	THE BILL	COMMENTS/RECOMMENDATIONS
	the constituency in that financial year"		
18.	The principal Act is amended in 56 by deleting the words 'to reconsider the Board's decision and determine the matter.' and substituting thereof with the words "to the Cabinet Secretary to direct the Board in conjunction with the Office of the Attorney General to commence Arbitration." in Section 56(4)	Section 56 of the principal Act is amended in subsection (4) by deleting the words "reconsider the Board's decision and determine the matter" and Substituting thereof the words "direct the Board in collaboration with the Office of the Attorney General to commence arbitration".	Rationale to be provided in the Memorandum of Objects and Reasons as follows Clause 16 of the Bill amends Section 56 of the Principal Act to clear the ambiguity on the role played by the complainants in the Alternative Dispute Resolution Mechanism provided for under the Act.
19.	The Act is amended in its Second Schedule by inserting the following new subsection:- 1 (A) Vacation of Office A member other than an ex-officio member may— (a) at any time resign from office by notice in writing to the Cabinet Secretary, with a copy to the Board; (b) be removed from office by the Cabinet Secretary on	The Second Schedule to the principal Act is amended by inserting the following new section immediately after section 2 — Vacation of Office. 2A. (1) A member other than an ex-officio member may resign from office at any time, by notice in writing to the Cabinet Secretary, with a copy to the Board. (2) The Cabinet Secretary may upon the recommendation of the Board, remove a member from office, if the member — (a) has been absent from three consecutive meetings of the Board without the permission of the Chairperson; (b) is convicted of a criminal offence	Rationale to be provided in the Memorandum of Objects and Reasons as follows: Clause 17 of the Bill provides for an amendment to the second schedule of the Principal Act by introducing an option for resignation from the Board in addition to Section 19 of the Act. The clause also provides the procedure for removal of members from office.

Comments/memoranda on the proposed amendment to the NGCDF Act National Assembly Bill No. 4 of 2021

	INITIAL PROPOSED AMENDMENT BEFORE PUBLICATION OF THE BILL	THE BILL	COMMENTS/RECOMMENDATIONS
	<p>recommendation of the Board if the member—</p> <ul style="list-style-type: none"> (i) has been absent from three consecutive meetings of the Board without its permission; (ii) is convicted of a criminal offence that amounts to a felony under the laws of Kenya; (iii) is incapacitated by prolonged physical or mental illness for a period exceeding six months; or (iv) is otherwise unable or unfit to discharge his functions. <p>(c) The Chairperson shall not be removed from office unless such removal is in accordance with sub paragraph (1A).</p>	<p>and sentenced to imprisonment for a period exceeding six months without the option of a fine;</p> <ul style="list-style-type: none"> (c) is incapacitated by prolonged physical or mental illness for a period exceeding six months; or (d) is otherwise unable or unfit to discharge the functions of a member of the Board. <p>(3) The Chairperson shall be removed from office only in accordance with sub Paragraph (1).</p>	
