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THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FIFTH SESSION – 2026

DIRECTORATE OF DEPARTMENTAL COMMITTEES

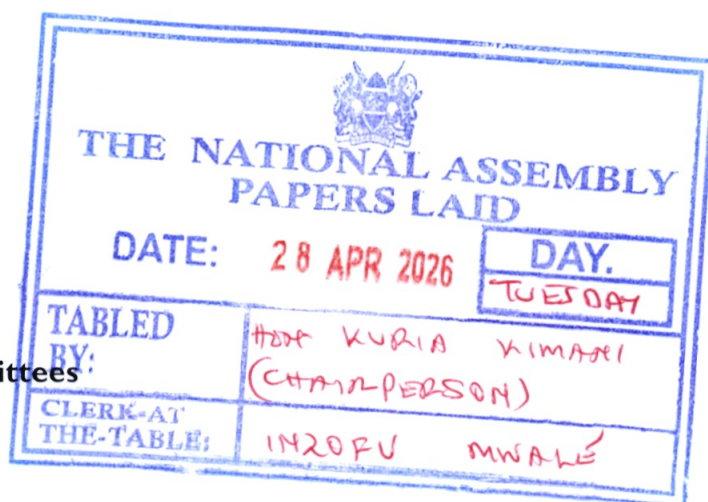
DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

REPORT ON:

**THE CONSIDERATION OF PUBLIC FINANCE MANAGEMENT (AMENDMENT)
BILL (NATIONAL ASSEMBLY BILL NO. 17 OF 2025)**

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LIST OF ABBREVIATIONS AND ACRONYMS

CPAs	-	County Participatory Agreements
COB	-	Controller of Budget
COK	-	Constitution of Kenya
IPAs	-	Intergovernmental Participation/Partnership Agreements
MDAs	-	Ministries, Departments and Agencies
MP	-	Member of Parliament
OCOB	-	Office of the Controller of Budget
ODM	-	Orange Democratic Movement
UDA	-	United Democratic Alliance

ANNEXURES

Annexure 1: Adoption Schedule

Annexure 2: Minutes

Annexure 3: The Public Finance Management (Amendment) Bill, 2025 (National Assembly Bills No. 17 of 2025)

Annexure 4: Advertisement inviting the public to submit memoranda on the Bill

Annexure 5: Letter from the Clerk of the National Assembly inviting relevant stakeholders to attend the public participation forum

Annexure 6: Memoranda by Stakeholders

CHAIRPERSON'S FOREWORD

This report contains the proceedings of the Departmental Committee on Finance and National Planning on its consideration of the Public Finance Management Bill, 2025 (National Assembly Bills No. 17 of 2025). It was published in the Kenya Gazette Supplement No. 59 of 24th April, 2026 and it was read for a first time on 2nd December, 2025. The Bill was committed to the Committee for consideration and tabling of the report to the House pursuant to Standing Order 127.

The purpose of the Bill is to amend the Public Finance Management Act, in order to ensure that there shall be no duplication in management of additional allocations through intergovernmental agreements. It seeks to repeal sections 191A, 191 B, 191C, 191D, and 191E of the Public Finance Management Act.

In compliance with Article 118 (1) (b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly placed an advertisement in the print media on 21st February, 2026 inviting the public to submit memoranda by way of written statements on the Bill. In addition, the Clerk of the National Assembly vide letter Ref. No. NA/DDC/F&NP/2026/062 dated 15th April 2026 invited key stakeholders to submit views on the Bill and attend a public participation forum on Thursday, 23rd April 2026 and Friday, 24th April 2026. The memoranda were to be received on or before 28th February 2026 at 5.00 pm (East African Time).

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 consideration of the Bill. Similarly, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made invaluable contributions towards the preparation and production of this report.

On behalf of the Departmental Committee on Finance and National Planning and pursuant to the provisions of Standing Order 199(6), it is my pleasure to report that the Committee has considered the Public Finance Management (Amendment) Bill, 2025 (National Assembly Bills No. 17 of 2025) and wish to report to this august House with the recommendation that the House approves the Bill without amendments

Hon. FCPA. Kuria Kimani, CBS, M.P.

Chairperson, Departmental Committee on Finance and National Planning

CHAPTER ONE

I PREFACE

I.1 ESTABLISHMENT AND MANDATE OF THE COMMITTEE

1. The Departmental Committee on Finance and National Planning is one of twenty departmental committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows:
 - a) To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
 - b) To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;
 - c) To, on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;
 - d) To study and review all legislation referred to it;
 - e) To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;
 - f) To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;
 - g) To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);
 - h) To examine treaties, agreements and conventions;
 - i) To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation;
 - j) To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
 - k) To examine any questions raised by Members on a matter within its mandate.
2. The Second Schedule to the National Assembly Standing Orders assigns the Committee the mandate to consider matters in relation to public finance, public audit policies, monetary policies, financial institutions, economy, investment policies, competition, banking, insurance, national statistics, population, revenue policies including taxation, national planning and development, digital finance, including digital currency.
3. In executing its mandate, the Committee oversees the following Ministries/Departments:
 - a) The National Treasury.
 - b) State Department for Economic Planning.
 - c) State Department for Public Investment and Asset Management.
 - d) The Commission on Revenue Allocation (CRA)
 - e) Office of the Controller of Budget

I.2 COMMITTEE MEMBERSHIP

- I. The Departmental Committee on Finance and National Planning was constituted by the House on 27th October 2022 and comprises the following Members:

Chairperson

Hon. FCPA Kuria Kimani, CBS, MP
Molo Constituency
UDA Party

Vice-Chairperson

Hon. (Amb.) FCPA Langat Benjamin Kipkirui, CBS, MP
Ainamoi Constituency
UDA Party
Members

Hon. Peter Kaluma, CBS, MP
Homa Bay Town Constituency
ODM Party

Hon. Sunkuyia, R. George, MP
Kajiado West Constituency
UDA Party

Hon. FCPA Oyula, Joseph H. Maero, MP
Butula Constituency
ODM Party

Hon. Betty N. Maina, MP
Murang'a County
UDA Party

Hon. Mboni, David Mwalika, MP
Kitui Rural Constituency
WDM Party

Hon. Sheikh Umul Sheikh, MP
Mandera County
UDM Party

Hon. Okuome Adipo Andrew, MP
Karachuonyo Constituency
ODM Party

Hon. (Dr.) Shadrack Mwiti, MP
South Imenti Constituency
Jubilee Party

Hon. Chiforomodo, Munga, MP
Lunga Lunga Constituency
UDM Party

Hon. Dr. CPA Ariko John Namoit, MP
Turkana South Constituency
ODM Party

Hon. CPA Rutto Julius Kipletting, MP
Kesses Constituency
UDA Party

Hon. Machele M. Soud, MP
Mvita Constituency
ODM Party

Hon. Paul Biego, MP
Chesumei Constituency
UDA Party

I.3 COMMITTEE SECRETARIAT

4. The Committee is facilitated by the following staff:

Ms. Jennifer Ndeto
Deputy Director Legal Services

Mr. Benson Kamande
Clerk Assistant III

Ms. Winfred Kambua
Clerk Assistant III

Mr. Salem Lorot
Senior Legal Counsel

Mr. James Macharia
Media Relations Officer

Mr. George Ndenjeshe
Fiscal Analyst II

Ms. Joyce Wachera
Hansard Reporter II

Ms. Nelly W. Ondieki
Research Officer III

Mr. Eugene Luteshi
Audio Officer III

Mr. Benson Muthuri
Assistant Serjeant-At-Arms

Mr. Allan Ngugi
Administrative Officer II

Ms. Peninnah Simiren
Legal Counsel II

CHAPTER TWO

2.0 OVERVIEW OF THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 17 OF 2025)

2.1 Background

5. The Public Finance Management (Amendment) Bill, 2025 (National Assembly Bills No. 17 of 2025), sponsored by the Leader of Majority Party, was published on 24th April, 2025. It was read for the First Time on 2nd December, 2025, and was then committed to the Committee for consideration and tabling of the report.

2.2 Summary of Legal Provisions

6. The purpose of the Bill is to amend the Public Finance Management Act, in order to ensure that there shall be no duplication in management of additional allocations through intergovernmental agreements.
7. The Bill contains 6 clauses.
8. Clause 2 provides for the repeal of section 191A of the Public Finance Management Act (Principal Act).
9. Section 191A provides as follows—
 - 191A. Intergovernmental agreements
 - (1) The National Treasury shall enter into an agreement with the respective county government for the transfer of the respective conditional allocation made to the county government pursuant to this Act.
 - (2) An agreement under subsection (1) shall set out any conditions that may be attached to the conditional allocations made under this Act.
 - (3) Where a county government intends to enter into an agreement under subsection (1), the county executive committee member shall submit the agreement to the respective County Assembly for approval.
 - (4) The County Assembly shall, within fourteen days of submission of an agreement under subsection (3), approve or reject the agreement.
 - (5) Where a County Assembly fails to consider an agreement under subsection (3) within fourteen days, the agreement shall be deemed to be approved.
 - (6) An agreement under subsection (1) shall set out all conditions attached to an allocation made under this Act.
 - (7) The respective county government shall forward the agreement approved under this section to the Controller of Budget within seven days of approval.
10. Clause 3 provides for the repeal of section 191B of the principal Act.
11. Section 191B provides as follows—
 - 191B. Public participation
 - The county executive committee member shall facilitate public participation on any agreement made pursuant to section 191A.

12. Clause 4 provides for the repeal of section 191C of the principal Act.
191C. Execution of agreement for conditional allocation
An agreement under section 191A shall be—
 (a) *signed by an authorized person or officer; and*
 (b) *published in the Kenya Gazette within a period of seven days of the agreement.*
13. Clause 5 provides for the repeal of section 191D of the principal Act.
191D. Submission to Senate
 (1) *The National Treasury shall, within seven days of entering into an agreement under section 191A, submit to the Senate and the Controller of Budget, the agreement together with any other documents relating to the agreement.*
 (2) *The National Treasury shall publish and publicize all agreements entered into pursuant to section 191A.*
14. Clause 6 provides for the repeal of section 191E of the principal Act.
191E. Requisition of funds
Requisition of funds from the county revenue fund for the purposes of a conditional grant shall be supported by the intergovernmental agreement approved under section 191A.

Analysis of the Bill

Constitutional and statutory anchors

15. The law on additional allocations is anchored in three primary levels of legislation:

(i) The Constitution of Kenya (2010)

16. Article 202(1) and (2) of the Constitution is the core anchor of additional allocations. Clause (1) mandates the equitable sharing of national revenue. Clause (2) explicitly states: “County governments may be given additional allocations from the national government's share of the revenue, either conditionally or unconditionally”.

17. Article 203 of the Constitution sets out the criteria to be considered in the equitable sharing of revenue, including the need to ensure that county governments are able to perform the functions allocated to them.

18. Article 190 of the Constitution provides for the support and oversight of county governments by the National Government, which often takes the form of conditional financial grants.

(ii) The Public Finance Management (PFM) Act (Cap. 412A)

19. Section 191 of the Public Finance Management Act (PFM Act) provides for the framework for the National Government to transfer funds to counties.

20. Sections 191A – 191E (Specific to Intergovernmental Agreements): These sections (currently subject to the Bill under consideration) require the National Treasury to enter into intergovernmental agreements for these allocations, ensuring they are approved by County Assemblies and the Senate.

(iii) The County Governments Additional Allocations Act

21. The County Governments Additional Allocations Act is an annual legislation providing for additional allocations to the county governments. Because the amounts and sources of these grants (especially donor-funded loans) change every year, Parliament must pass a new version of this Act for each financial year.
22. Additional allocations refer to additional resources allocated to county governments from the national government's revenue or in the form of loans and grants from development partners.
23. The legislation provides for both the unconditional and conditional allocations to county governments.

CHAPTER THREE

3. PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT ON THE BILL

3.1 LEGAL FRAMEWORK ON PUBLIC PARTICIPATION

24. Article 118 (1)(b) of the Constitution provides that:

“Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.”

25. The National Assembly Standing Order 127 (3) and (3A) stipulates that:

*“(3) The Departmental Committee to which a Bill is committed shall **facilitate public participation on the Bill** through an appropriate mechanism including-*

- (a) inviting submission of memoranda;*
- (b) holding public hearings;*
- (c) consulting relevant stakeholders in a sector; and*
- (d) consulting experts on technical subjects.*

(3A) The Departmental Committee shall take into account the views and recommendations of the public under paragraph (3) in its report to the House.”

3.2 MEMORANDA RECEIVED ON THE BILL

26. Pursuant to the aforementioned provisions of law, the Clerk of the National Assembly placed an advertisement in the print media on 21st February, 2026, inviting the public to submit memoranda on the Bill. Further, the Clerk of the National Assembly vide letter Ref. No. NA/DDC/F&NP/2026/062, dated 15th April 2026, invited key stakeholders to submit views on the Bill and to attend a public participation forum on 23rd April 2026 and 24th April 2026.

27. The Committee received memoranda from the stakeholders as *Annexed*.

General Submissions

3.2.1 The National Treasury

The National Treasury appeared before the Committee and submitted as follows;

28. The National Treasury submitted that the existing constitutional and legal framework already provides clear accountability mechanisms, since Article 226 of the Constitution designates accounting officers at both levels of government while Regulation 131(1)(b) of the Public Finance Management (National Government) Regulations, 2015 assigns responsibility for ensuring compliance with laws governing transfers, thereby rendering additional intergovernmental agreements unnecessary.

29. Further, the National Treasury noted that County Participatory Agreements (CPAs), which are executed between line Ministries, Departments and Agencies (MDAs) and county governments for each conditional allocation, already serve the purpose of intergovernmental agreements, since they outline project financing arrangements, implementation responsibilities, conditions precedent, and allocation criteria in a consultative manner. On this basis, the National Treasury supported the repeal of Section 191A and its related subsections, since maintaining these provisions would result in duplication of processes and impose unnecessary administrative burdens on both the National Treasury and county governments.
30. The Ministry also submitted that provisions relating to public participation under Section 191B are redundant, since the Constitution, the Public Finance Management Act, and the County Governments Act already require meaningful public participation during the budgeting process, thereby making additional participation requirements at the agreement stage duplicative and resource-inefficient.
31. Additionally, the National Treasury explained that Sections 191C and 191D, which provide for submission, publication, and execution of the agreements, would become redundant once Section 191A is repealed, since they are dependent on the existence of intergovernmental agreements under that section. Further, the National Treasury submitted that Section 191E, which relates to withdrawal of funds, is unnecessary since Article 228 of the Constitution, together with the Public Finance Management Act and the Controller of Budget Act, already provides sufficient safeguards for authorization of withdrawals from the County Revenue Fund.
32. Consequently, the National Treasury supported the repeal of Sections 191A, 191B, 191C, 191D, and 191E in their entirety, so that the management of conditional allocations can be streamlined while eliminating duplication and enhancing efficiency within the existing public finance management framework. Additionally, the Ministry indicated that the proposed amendments will facilitate seamless implementation of conditional allocations, since they remove redundant legal requirements while preserving existing accountability, oversight, and coordination mechanisms between the national and county governments.

Committee Observation

The Committee noted the National Treasury's submission.

3.2.2 Commission on Revenue Allocation (CRA)

33. The Commission submitted that they are in support of the proposed amendments on the basis that sections 191A-E of the PFM Act create duplication in-
 - i. Requiring signing of intergovernmental agreements by the National Treasury yet the same are also signed by line MDAs at the national level with the relevant county governments in the form of County Participatory Agreements (CPAs) where necessary; and
 - ii. Public participation on the agreements yet the Public Finance Management Act comprehensively outlines the budget process at both levels of government. Regarding

county governments, Part IV of the PFM Act outlines how the county budgetary process is to be executed which process entails all sources of funding including any additional allocations and conditional grants. Such budgetary processes entail public participation which is again a requirement under sections 191A-E.

34. CRA stated that County Participatory Agreements (CPAs) under MDAs and the budget framework provided for in the PFM Act are adequate in terms of formalizing agreements between the two levels of government and also on the aspect of stakeholder engagement on identification of projects and programmes for the county governments. There is therefore no merit in instituting another parallel process for conditional grants under sections 191A-E of the PFM Act.

Committee Observation

The Committee noted the submissions by the Commission on Revenue Allocation.

3.2.3 Council of Governors (CoG)

35. The Council of Governors supported the Bill in its entirety and proposed that the Bill be passed without any amendments.
36. They noted that county governments, pursuant to Article 189 of the Constitution, have been signing Intergovernmental Participation/Partnership Agreements (IPAs) with various National government Ministries, Departments and Agencies (MDAs) for implementation of conditional grants advanced to them. Therefore, the requirement for the Intergovernmental Agreements for Transfer of the Conditional Agreements signed with the National Treasury under Section 191A (1) of the PFM Act is unnecessary and should be deleted.
37. They stated that MDAs are responsible for setting the conditions precedent and the day-to-day monitoring of adherence to these conditions to the allocations as opposed to the National Treasury as Section 191A of the PFM Act suggests.
38. The IPAs are signed for the life of the projects or the agreed grant implementation period therefore any other Agreement would result to duplication of efforts leading to delays in project implementation.
39. The IPAs are always preceded by signing a Financing Agreement by the National Treasury for all Development Partner supported allocations. This therefore places the National Treasury at a good view of the additional allocations going to counties for consolidated reporting purposes and honouring international obligations.
40. Section 191A (3)-(7) of the PFM Act provide for approval by the County Assembly. However, this is a duplication of the process since the County Assemblies approve all additional allocations as contained in the County governments' Fiscal Strategy Papers and Budget Estimates. They proposed deletion of these sections.

41. Further, they stated that there is no clarification on what happens if the County Assembly rejects the agreement(s) under section 191A (4) and (5). The Act does not address possibility of reintroduction of the intergovernmental agreement(s) and the procedure or timelines to be adhered to.
42. They stated that there is a lack of a logical sequence of the activities to be undertaken regarding the agreements. Specifically, Section 191B provides for public participation to be undertaken after the agreements have been approved by the County Assemblies and forwarded to the Controller of Budget under section 191A (7). This negates the need for meaningful and qualitative public participation for an agreement that has already been approved by the County Assembly. In this regard, they proposed the deletion of Section 191B of the PFM Act.
43. Additionally, CoG noted that Sections 191C and 191D on publication and publicization of the agreements by various entities such as the County governments, the National Treasury and the Senate, could lead to inconsistencies. These processes further introduce unnecessarily lengthy procedures that are not aimed at improving efficiency and funds absorption. Therefore, they proposed deletion of Sections 191C and 191D.
44. Lastly, CoG noted that Section 191E requiring approval of the Controller of Budget is a constitutional provision already being adhered to by County governments hence an unnecessary introduction thus should be deleted.
45. The signing of the said Intergovernmental Agreements is not aligned with the Budget Calendar/Cycle and will interfere with the budget making and execution process. This is because the Agreements are to be signed after Parliament has passed the conditional allocations through the annual County Governments Additional Allocations Acts.

Committee Observation

The Committee noted the submissions by the Council of County Governors.

3.2.4 Clause by Clause

Clause I

Office of the Controller of Budget (OCOB)

46. The stakeholder noted that the commencement left to the ministerial proclamation may indefinitely delay the operationalisation of critical accountability safeguards. They proposed fixing the commencement date in the Act itself rather than leaving it to ministerial discretion and that a Gazette notification should be for information only, not as a condition precedent to commencement.

Committee Observation

The Committee noted the stakeholder's proposal but was of a different view. Clause 1 of the Bill does not provide that the Bill's commencement date would be appointed vide a Gazette by the Cabinet Secretary, as alluded by the stakeholder. Instead, its commencement, pursuant to Article 116(2) of the Constitution, would be fourteen days after publication in the Gazette. Thus, the stakeholder's concerns have already been addressed in the Bill.

Clause 2

Bowmans

47. The stakeholder proposed deletion of the proposal. They observed that section 191A is the principal statutory mechanism that operationalises conditional allocations at implementation stage, therefore its repeal would leave no express requirement for the parties to document the terms of a conditional allocation before disbursement. Also, repealing of section 191A without replacement removes the only statutory basis for County Assembly oversight of the conditions attached to allocations received by the County Government, which is inconsistent with the constitutional role of county assemblies in financial oversight. Further, the requirement to forward the approved agreement to the Controller of Budget supports the Controller's oversight role under Article 228 of the Constitution and should be retained.

Committee Observation

The Committee noted the stakeholder's proposal but was of the view that the repeal of the provision was proper since it sought to address duplication. Ministries, Departments and Agencies (MDAs) and county governments execute County Participatory Agreements (CPAs) for each conditional allocation thus the provisions in the PFM Act are duplicative since CPAs serve the purpose of intergovernmental agreements. Further, despite the repeal, the constitutional and statutory safeguards and oversight mechanisms have not been removed.

OCOB

48. The stakeholder observed that the term "duplication" is undefined, giving the National Treasury the discretion to determine what constitutes duplication with no independent verification mechanism. Additionally, the CoB's quarterly reports have consistently documented double-counting of conditional grants and equitable share top-ups across multiple county governments.
49. They proposed the following:
- i. Defining "duplication" expressly in the amendment with sufficient legal precision.
 - ii. Require the National Treasury to obtain a Certificate of No-Duplication from the Controller of Budget before disbursing any additional allocation under an intergovernmental agreement.

- iii. Empower the CoB to withhold certification where a proposed allocation duplicates an existing transfer.
- iv. Prescribe a recovery mechanism for any duplicate transfer already disbursed, to be operationalised within a period specified by the CoB.

Committee Observation

The Committee noted the stakeholder's proposal and observed that the Bill's memorandum of objects and reasons ought to have elaborated on the "duplication" in the management of additional allocations through intergovernmental agreements. This therefore posed interpretative challenges in discerning the Bill's mischief. However, the Committee was persuaded that the repeal of the provisions relating to intergovernmental agreements was proper since it sought to address duplication. Ministries, Departments and Agencies (MDAs) and county governments execute County Participatory Agreements (CPAs) for each conditional allocation thus the provisions in the PFM Act are duplicative since CPAs serve the purpose of intergovernmental agreements. Therefore, the concerns addressed by the Bill are on *duplication of processes* and not *duplication in allocations* which is the stakeholder's concern.

Clause 3

Bowmans

50. They proposed deletion of the proposal and that section 191B be retained. They noted that public participation is a foundational constitutional value, a principle of public finance management.

Committee Observation

The Committee agreed with the stakeholder that public participation is a core requirement in our processes that is underpinned in our Constitution and statutes. However, the Committee was of a different view of retaining clause 3 of the Bill for two reasons:

- (a) The provision is intertwined with the previous clause (2) providing for the repeal of section 191A of the PFM Act providing for intergovernmental agreements; thus, the repeal of section 191A has a consequential effect on clause 3;
- (b) Public participation in the budgetary process is well anchored both in the Constitution and the PFM Act. For instance, section 125(2) of the PFM Act provides that, "*The County Executive Committee member for finance shall ensure that there is public participation in the budget process*". Further, section 35(2) of PFM Act provides that, "*The Cabinet Secretary shall ensure public participation in the budget process provided for under subsection (1)*".

OCOB

51. The CoB noted that compliance with existing quarterly reporting requirements under Sections 107 and 166 of the PFM Act remains persistently low. The clause does not strengthen enforcement for non-compliance. They proposed that non-compliance with intergovernmental agreement reporting obligations should expressly empower the CoB to withhold authorisation of subsequent disbursements to the defaulting county. Also, there is need to link reporting obligation to CoB's existing powers under Section 68(2)(1) of the PFM Act as a meaningful compliance incentive.

Committee Observation

The Committee noted the stakeholder's proposal but was of the view that the repeal of the provisions relating to intergovernmental agreements on additional allocations did not intend to oust the Office of Controller of Budget from its constitutional and statutory obligations. The repeal of the provisions sought to streamline parallel processes. Ministries, Departments and Agencies (MDAs) and county governments execute County Participatory Agreements (CPAs) for each conditional allocation thus the provisions in the PFM Act are duplicative since CPAs serve the purpose of intergovernmental agreements. Further, despite the repeal, the constitutional and statutory roles of the OCOB in the budget process remain intact.

Clauses 4, 5 & 6

Bowmans

52. They proposed amending the proposals rather than repealing. They observed that the requirement in section 191C to publish agreements in the Kenya Gazette serves an important transparency function. It ensures that the terms of conditional allocations are a matter of public record. Additionally, it is consistent with the principles of openness and accountability in Article 201(a) of the Constitution. Repealing of section 191D would remove the Senate's oversight role in relation to conditional allocation agreements without replacement.

Committee Observation

The Committee noted the stakeholder's proposal but was of the view that the main object of the Bill was to repeal the provisions relating to intergovernmental agreements. Ministries, Departments and Agencies (MDAs) and county governments execute County Participatory Agreements (CPAs) for each conditional allocation thus the provisions in the PFM Act are duplicative since CPAs serve the purpose of intergovernmental agreements. Further, despite the repeal, the constitutional and statutory safeguards, including openness and accountability in the budget process, remain intact.

Clause 4

OCOB

53. The stakeholder noted that the savings clause does not expressly preserve the CoB's existing powers under Article 228 of the Constitution and Section 68 of the PFM Act, thereby risking unintended limitations on CoB oversight. They proposed inserting an express savings clause confirming that nothing in the amendment limits the CoB's powers to investigate, report on, or withhold authorisation in respect of any intergovernmental transfer. Also, they needed a confirmation that the CoB's jurisdiction under Article 228(4) and Section 68 of the PFM Act is unaffected.

Committee Observation

The Committee noted the stakeholder's proposal but was of the view that the main object of the Bill was to repeal the provisions relating to intergovernmental agreements. Ministries, Departments and Agencies (MDAs) and county governments execute County Participatory Agreements (CPAs) for each conditional allocation thus the provisions in the PFM Act are duplicative since CPAs serve the purpose of intergovernmental agreements. Further, despite the repeal, the constitutional and statutory safeguards, including the role of OCOB in the budget process, remain intact.

Kenya Institute of Supplies Management

Clauses 2,3,4,5 and 6

54. Adopt deletion of Sections 191A, 191B, 191C, 191D and 191E as they remove duplicative approval processes relating to conditional and additional allocations to county governments. The existing requirement under Section 191 for an annual County Government Additional Allocations Bill already provides a structured mechanism for approval of such funds. Retaining parallel approval frameworks creates inefficiency and delays in implementation. The proposal is further supported on the basis that the County Government Additional Allocations Bill is prepared annually and is capable of accommodating conditional grants from the National Government as well as donor-funded allocations. This consolidates approval processes into a single framework and enhances administrative efficiency.
55. However, the Bill should be amended to refine Section 191, so as to exclude donations and funding from development partners from being subjected to the County Government Additional Allocations Bill. Donor-funded projects are often time-bound and require timely absorption. Subjecting them to annual legislative processes may result in delays, thereby increasing the risk of withdrawal or reallocation of funds by development partners. Accordingly, while the deletion of Sections 191A–191E enhances efficiency by eliminating duplication, an amendment to Section 191 is necessary to safeguard the timely utilisation of donor funds and ensure that external financing is not constrained by procedural delays.

Committee Observation

The Committee noted the stakeholder's submissions. The Committee further observed that the Bill sought to address the concerns raised by the stakeholder in regard to donations and funding from development partners.

CHAPTER FOUR

4. COMMITTEE OBSERVATIONS

56. The Committee made the following observations:

Object of the Bill

- (a) The Bill seeks to repeal sections 191A, 191B, 191C, 191D, 191E of the PFM Act which provide for intergovernmental agreements between the national government and county governments on conditional additional allocations. Ministries, Departments and Agencies (MDAs) and county governments execute County Participatory Agreements (CPAs) for each conditional allocation thus the provisions in the PFM Act are duplicative since CPAs serve the purpose of intergovernmental agreements.

Constitutional and statutory safeguards

- (b) Despite the repeal of the provisions relating to intergovernmental agreements in the PFM Act, the constitutional and statutory safeguards and oversight mechanisms in the budget process remain intact. Further, the role of the Controller of Budget as provided for in the Constitution and the PFM Act in the budget process within which conditional additional allocations will be considered remain intact.

Submissions supporting the Bill

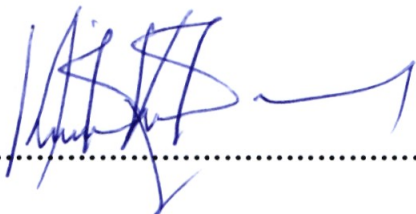
- (c) The National Treasury, the Commission on Revenue Allocation and the Council of Governors fully supported the Bill underscoring the parallel process that sections 191A, 191B, 191C, 191D, 191E of the PFM Act occasioned, thus duplicating the County Participatory Agreements (CPAs), thus creating bottlenecks and administrative challenges in the management of conditional additional allocations.

CHAPTER FIVE

5. COMMITTEE RECOMMENDATION

57. The Committee, having considered the Public Finance Management (Amendment) (National Assembly Bills No. 17 of 2025) recommends that the House **approves** the Bill without amendments.

SIGNED.....



DATE.....

28th April, 2022

HON. FCPA KURIA KIMANI, CBS, MP
CHAIRPERSON

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 28 APR 2026	
DAY: TUESDAY	
TABLED BY:	HON. KURIA KIMANI (CHAIRPERSON)
CLERK-AT THE-TABLE:	INZOPU MWALE



THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - FIFTH SESSION - 2026

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING.
ADOPTION LIST

REPORT ON THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILL NO. 17 OF 2025)

We, the Members of the Departmental Committee on Finance and National Planning have pursuant to Standing Order 199, adopted this Report and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity today, **Tuesday, 28th April 2026.**

S/NO.	NAME	SIGNATURE
1.	HON. FCPA KURIA KIMANI, CBS, MP - CHAIRPERSON	
2.	HON. FCPA (AMB). BENJAMIN KIPKIRUI LANGAT, MP – VICE CHAIRPERSON	
3.	HON. KALUMA PETER OPONDO, CBS, MP	
4.	HON. GEORGE SUNKUYIA RISA, MP	
5.	HON. (FCPA) JOSEPH MAERO OYULA, OGW, MP	
6.	HON. ANDREW ADIPO OKUOME, MP	
7.	HON. DAVID MWALIKA MBONI, MP	
8.	HON. CHIFOROMODO MANGALE MUNGA, MP	
9.	HON. MAINA BETTY NJERI, MP	
10.	HON. (CPA) JULIUS KIPLETING RUTTO, MP	
11.	HON. PAUL KIBICHIY BIEGO, MP	
12.	HON. UMUL KER SHEIKH KASSIM, MP	
13.	HON. DR. SHADRACK MWITI ITHINJI, MP	
14.	HON. DR. JOHN ARIKO NAMOIT, MP	
15.	HON. MOHAMED SOUD MACHELE, MP	

**MINUTES OF THE 40TH SITTING OF THE DEPARTMENTAL COMMITTEE
ON FINANCE & NATIONAL PLANNING HELD ON TUESDAY, 28TH
APRIL, 2026 IN COMMITTEE ROOM 20, 3RD FLOOR, BUNGE TOWER,
PARLIAMENT BUILDINGS AT 10.00 A.M**

PRESENT

1. Hon. FCPA. Kuria Kimani, CBS, MP
2. Hon. Peter Kaluma, CBS, MP
3. Hon. FCPA. Joseph Maero Oyula, MP
4. Hon. David Mwalika Mboni, MP
5. Hon. Julius Kipletting Rutto, MP
6. Hon. Umul Ker Sheikh Kassim, MP
7. Hon. Dr. John Ariko Namoit, MP
8. Hon. Paul Kibichiy Biego, MP
9. Hon. Dr. Shadrack Mwiti Ithinji, MP
10. Hon. George Sunkuyia Risa, MP
11. Hon. Chiforomodo, Munga, MP

-Chairperson

ABSENT WITH APOLOGIES

1. Hon. FCPA (Amb.) Benjamin Kipkirui Langat, CBS, MP
2. Hon. Betty N. Maina, MP
3. Hon. Andrew Adipo Okuome, MP
4. Hon. Mohamed Soud Machele, MP

-Vice-Chairperson

COMMITTEE SECRETARIAT

- | | | |
|-------------------------|---|---------------------------------|
| 1. Ms. Jenniffer Ndeto | - | Deputy Director, Legal Services |
| 2. Ms. Tracy Chebet | - | Principal Clerk Assistant II |
| 2. Ms. Winfred Kambua | - | Clerk Assistant III |
| 3. Mr. Benson Kamande | - | Clerk Assistant III |
| 4. Mr. Salem Lorot | - | Senior Legal Counsel |
| 5. Mr. George Ndenjeshe | - | Fiscal Analyst II |
| 6. Ms. Joyce Wachera | - | Hansard Reporter II |
| 7. Ms. Nelly Ondieki | - | Research officer III |
| 8. Mr. James Macharia | - | Senior Media Relations Officer. |
| 9. Mr. Benson Muthuri | - | Sergeant at arms |
| 10. Mr. Allan Ngugi | - | Administrative Officer |
| 11. Ms. Ann Kangethe | - | Administrative Officer |

MIN No. NA/F&NP/2026/051: -

PRELIMINARIES

The chairperson called the meeting to order at 10.06 a.m. This was thereafter, followed with a word of prayer and introductions.

MIN No. NA/F&NP/2026/052:-**AGENDA**

The Agenda of the meeting was adopted having being proposed by Hon. Paul Kaluma, CBS, MP and seconded by Hon. David Mwalika Mboni, MP as follows; -

1. Prayer
2. Adoption of the Agenda
3. Introductions
4. Substantive agenda

Consideration and Adoption of the Report on the Income Tax (Amendment) Bill (National Assembly Bill No. 20 of 2026) and the Public Finance Management (Amendment) Bill, 2025 (National Assembly Bill No. 17 of 2025)

5. Any Other Business
6. Adjournment

MIN No. NA/F&NP/2026/053:-REMARKS BY THE CHAIRPERSON

The chairperson welcomed the Members to the meeting and thanked them for availing themselves for consideration of the report.

MIN No. NA/F&NP/2026/054: -

**CONSIDERATION OF THE REPORT
ON THE INCOME TAX
(AMENDMENT) BILL (NATIONAL
ASSEMBLY BILL NO. 20 OF 2026)
AND THE PUBLIC FINANCE
MANAGEMENT (AMENDMENT)
BILL, 2025 (NATIONAL ASSEMBLY
BILLS NO. 17 OF 2025)**

The Income Tax (Amendment) Bill (National Assembly Bill No. 20 Of 2026)

The Committee observed that;

- i) the Bill seeks to amend the Income Tax Act to provide for the exemption of capital gains tax in the transfer of property by a company to its shareholders as part of an internal reorganization, or on the transfer of property to the company by the shareholders as consideration for the transfer.
- ii) the proposed amendment introduces a new exemption under item 6 of the Eighth Schedule to the Income Tax Act to provide that transfers of property between a company and its shareholders, as part of an internal reorganization, shall not be subject to Capital Gains Tax, provided certain conditions are met. These

conditions include that the property must be distributed in proportion to the shareholders' existing shareholding immediately before the transfer, and where shares are involved, they must relate to a subsidiary of the company undertaking the reorganization.

- iii) the majority of the stakeholders who either made oral submissions or submitted memoranda expressed support for the Bill. The amendments proposed sought to further clarify the intention of the amendments, provide necessary safeguards, or expand its scope. The Committee noted the proposals but was of the view that additional proposals could be addressed through a different Bill, preferably in a Finance Bill or a tax Bill.
- iv) the Bill needs to be amended to provide for the commencement date of the Act on a date to be appointed by the Cabinet Secretary through a Gazette. This will ensure that transitional mechanisms on the operationalization of the Act are addressed.

The Public Finance Management (Amendment) Bill (National Assembly Bills No. 17 of 2025)

The Committee observed that;

- i) the Bill seeks to repeal sections 191A, 191B, 191C, 191D, 191E of the PFM Act which provide for intergovernmental agreements between the national government and county governments on conditional additional allocations. Ministries, Departments and Agencies (MDAs) and county governments execute County Participatory Agreements (CPAs) for each conditional allocation thus the provisions in the PFM Act are duplicative since CPAs serve the purpose of intergovernmental agreements.
- ii) despite the repeal of the provisions relating to intergovernmental agreements in the PFM Act, the constitutional and statutory safeguards and oversight mechanisms in the budget process remain intact. Further, the role of the Controller of Budget as provided for in the Constitution and the PFM Act in the budget process within which conditional additional allocations will be considered remain intact.
- iii) the National Treasury, the Commission on Revenue Allocation and the Council of Governors fully supported the Bill underscoring the parallel process that sections 191A, 191B, 191C, 191D, 191E of the PFM Act occasioned, thus duplicating the County Participatory Agreements (CPAs), thus creating bottlenecks and administrative challenges in the management of conditional additional allocations.

MIN No. NA/F&NP/2026/055:-

**ADOPTION OF THE REPORT ON
THE INCOME TAX (AMENDMENT)
BILL (NATIONAL ASSEMBLY BILL
NO. 20 OF 2026) AND THE PUBLIC
FINANCE MANAGEMENT
(AMENDMENT) BILL, 2025
(NATIONAL ASSEMBLY BILLS NO.
17 OF 2025)**

The report on The Income Tax (amendment) Bill (National Assembly Bill No. 20 of 2026) and the Public Finance Management (Amendment) Bill, 2025 (National Assembly Bills No. 17 of 2025) were thereafter adopted having been proposed by Hon. Umul Ker Sheikh Kassim, MP and seconded by Hon. Chiforomodo, Munga, MP.

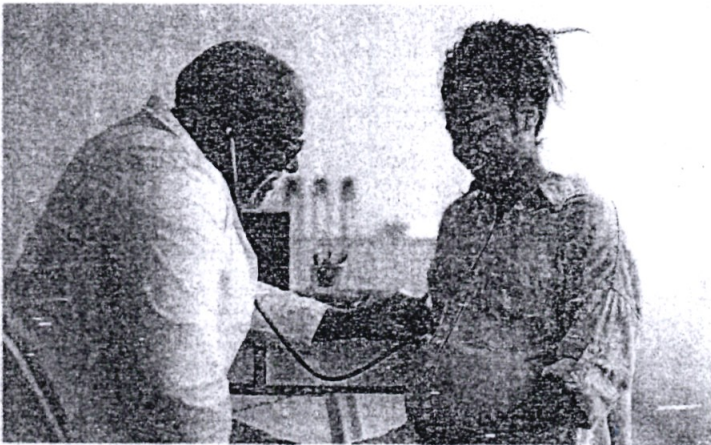
MIN No. NA/F&NP/2026/056:- ANY OTHER BUSINESS / ADJOURNMENT

There being no any other business, the meeting was adjourned at ten minutes past twelve noon. The next meeting will be held on notice.

**Signed.....
Hon. FCPA. Kuria Kimani, CBS, MP
Chairperson**

Date.....

Findings Overall mortality for women is declining and life expectancy has risen to nearly 67 years



Kenyan women live longer, but health gaps still kill them

Longevity rises to 67 years, yet preventable maternal deaths, and system failures expose a fragile healthcare chain

BY WANJA MBUTHIA

Kenya's latest Population Situation Analysis (PSA) confirms what many suspect but rarely examine closely: Kenyan women are outliving men. Overall mortality for women is declining and life expectancy has risen to nearly 67 years. These are hard-won gains that signal progress for premature deaths, better health survival, and steady improvements in public health.

The survival gap has a familiar pattern. Men die more in adolescence and adulthood, when injuries and road accidents bite hardest. In everyday Kenya, the difference plays out in small, unrecorded moments: the young man who jumps off a moving motorbike, the late-night dash across a highway the bravado that turns a short trip into an emergency. The PSA notes that injury burdens fall heavily on adolescents and young adults, with males consistently recording higher mortality.

Angela Nguku, Founder and Executive Director of White Ribbon Alliance Kenya, says women's longevity advantage is built as much in behaviour and community as in biology.

"Women tend to seek care ear-

lier, engage less in high-risk behaviours, and build stronger social networks that protect them. Across communities, I have seen how women organise, share information, and show up for one another. Those patterns matter because they contribute to longer life," she says.

Biology also plays a role. Women carry two X chromosomes, offering genetic redundancy, and oestrogen appears to protect cardiovascular health before menopause. Men, with XY chromosomes, carry fewer protective genes on the Y chromosome and are more vulnerable to genetic disorders. Higher testosterone levels in men are also linked to greater cardiovascular risk and risk-taking behaviour in younger years.

The way women use healthcare compounds these advantages. Antenatal visits bring regular contact with clinicians. Family planning services create additional touchpoints. Women often take children for immunisations and absorb health information along the way. They are more likely to consult community health promoters, ask neighbours about functioning clinics, and take symptoms seriously.

"Women also tend to consciously take care of their health. They drink more water, eat more vegetables, and are receptive to supplements. Men especially dread hospitals and may ignore a serious issue until it is too late, while women will seek medical attention even for the flu or a headache," Ms Nguku observes.

The PSA's broader picture helps explain how this social fabric

translates into extra years. Kenya has expanded health infrastructure, with facility-to-population ratios meeting global benchmarks and community health platforms widening access to preventive services. Quality and readiness vary widely — the report is clear on that — but the system has improved enough to shift the average.

Only after the headline statistic settles does the PSA reveal its uncomfortable underside: preventable deaths remain unacceptably high, particularly among mothers, newborns, children, adolescents and the poor.

Ms Nguku does not soften the contradiction. Biology may give women a modest advantage, she says, "but chromosomes and hormones cannot shield them from preventable risks, weak systems and structural gaps that still cost too many women their lives."

Kenya's maternal mortality ratio stands at 355 deaths per 100,000 live births, far above the Sustainable Development Goal target of 70, with some counties recording rates above 500.

Dr Grace Kanyo, an Obstetrician and Gynaecologist working in Tharaka Nithi and Meru counties, calls maternal health the loudest contradiction in Kenya's longevity story. The causes of death are not mysterious, she says: severe bleeding after delivery, infection, obstructed labour and hypertensive disorders — all emergencies that modern healthcare is designed to anticipate and manage.

"This is where the idea of care stops being a slogan and becomes a chain of events that must hold. A pregnant woman needs skilled

staff who are present, not overwhelmed or absent. She needs essential medicines and supplies that do not run out. If she begins to bleed, she needs blood available immediately, not after relatives have been sent out to search. If her condition escalates, she needs a referral that works: transport, fuel, a receiving facility ready to act," she says.

The PSA's health systems chapter shows why that chain still snaps. Kenya has far fewer doctors and nurses than universal health coverage requires, and uneven distribution between counties means shortages hit rural, arid and marginalised areas hardest. Stock-outs remain common. Overall health coverage declined between 2018 and 2024, a sign of systemic stress even as infrastructure expands.

Chronic disease adds another layer of risk. Non-communicable diseases now account for nearly 40 per cent of deaths in Kenya, while communicable diseases still cause over 40 per cent. For many women, this means carrying risk in both hands: infections that have not disappeared and long-term conditions such as hypertension, diabetes and cancer that demand screening, follow-up and continuity of care.

Ms Nguku sees how this plays out in families. "Many delay screening and treatment for

chronic illness because family needs come first," she says.

In the White Ribbon Alliance Kenya's *What Women Want* findings, drawn from nearly four million women and girls, the ask is consistent: respectful care, skilled providers, essential medicines, blood in emergencies, mental health support, safety from violence and facilities that actually function.

"These are not big asks," Ms Nguku says. "They are the basics." Adolescents and young wom-

en sit at the sharpest intersection of risk. The PSA notes rising threats from anaemia and cancers among young people. Dr Kanyo adds that teenage pregnancy stands at about 15 per cent and contributes significantly to maternal mortality, a reality shaped not only by biology but by poverty, violence, harmful norms, early marriage and limited decision-making power that delays care-seeking.

Even when women die, Kenya does not always count them properly. The PSA flags weak civil registration and incomplete cause-of-death data, with death registration completeness recorded at 45.1 per cent, meaning most deaths occur without documented causes. When deaths are not fully recorded, accountability weakens and policy responses arrive late or miss their target entirely.

There are efforts to respond. Dr Kanyo notes that the Ministry of Health, through the reproductive, maternal, newborn, child and adolescent health division, has launched a Rapid Response Initiative under the Every Woman an Every Newborn Everywhere framework, targeting a reduction in preventable maternal and newborn deaths between January and June 2026.

lmbuthia@ke.nationmedia.com

DISPARITY Kenya's mortality ratio

355

Kenya's maternal mortality ratio stands at 355 deaths per 100,000 live births, far above the Sustainable Development Goal target of 70.



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT- FIFTH SESSION (2026)

THE NATIONAL ASSEMBLY

IN THE MATTER OF ARTICLE 118(1)(b) OF THE CONSTITUTION OF KENYA

AND

IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF
THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 17 OF 2025)

INVITATION TO SUBMIT MEMORANDA

WHEREAS, Article 118(1)(b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees and Standing Order 127(3) of the National Assembly Standing Orders requires House Committees considering Bills to facilitate public participation;

AND WHEREAS, the Public Finance Management (Amendment) Bill (National Assembly Bill No. 17 of 2025) was read a First Time and referred to the Departmental Committee on Finance and National Planning for consideration and reporting back to the House;

IT IS NOTIFIED that the Public Finance Management (Amendment) Bill (National Assembly Bill No. 17 of 2025) is a Bill sponsored by the Leader of the Majority Party that seeks to amend the Public Finance Management Act, Cap. 412A in order to prevent duplication in management of additional allocations made to the county governments through intergovernmental agreements.

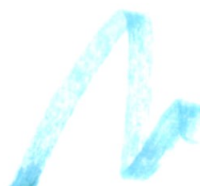
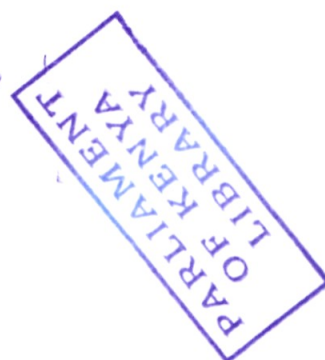
NOW THEREFORE, in compliance with Article 118(1)(b) of the Constitution and National Assembly Standing Order 127(3), the Clerk of the National Assembly hereby invites the public and stakeholders to submit memoranda on the Bill to the Departmental Committee on Finance and National Planning.

Copies of the Bill are available at the National Assembly Table Office, Main Parliament Building, and on www.parliament.go.ke/the-national-assembly/house-business/bills.

The memoranda may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Building, Nairobi; or emailed to enr@parliament.go.ke to be received on or before Monday, 9th March 2026 at 5.00 p.m.

S. NJOROGE, CBS
CLERK OF THE NATIONAL ASSEMBLY
21st February 2026

"For the Welfare of Society and the Just Government of the People"





THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

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When replying, please quote

REF: NA/DDC/F&NP/2026/062

15th April, 2026

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NAIROBI

Carole Kariuki
Chief Executive Officer
KEPSA
7th Floor, South Tower, Two Rivers
NAIROBI

**RE: STAKEHOLDER ENGAGEMENT ON THE PUBLIC FINANCE
MANAGEMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.
17 OF 2025) AND THE SOVEREIGN WEALTH FUND BILL (NATIONAL
ASSEMBLY BILL NO. 7 OF 2026) BY THE DEPARTMENTAL COMMITTEE
ON FINANCE AND NATIONAL PLANNING**

The Departmental Committee on Finance and National Planning is established pursuant to National Assembly Standing Order 216 which mandates it *inter alia*, to **study and review all the legislation referred to it.**

The Public Finance Management (Amendment) Bill (National Assembly Bill No. 17 of 2025), and the Sovereign Wealth Fund Bill (National Assembly Bill No. 7 of 2026) underwent the First Reading pursuant to Standing Order 127(3) and were committed to the Departmental Committee on Finance and National Planning for consideration and reporting back to the House. The principal objects of the Bills are as follows:

1. The Public Finance Management (Amendment) Bill (National Assembly Bill No. 17 of 2025)

The Bill seeks to amend the Public Finance Management Act, Cap. 412A in order to prevent duplication in management of additional allocations made to the county governments through intergovernmental agreements.

2. The Sovereign Wealth Fund Bill (National Assembly Bill No. 7 of 2026)

The Bill seeks to establish the Sovereign Wealth Fund; to provide institutional arrangements for the effective administration and efficient management of minerals and petroleum revenues and monies from other sources allocated to the fund and for connected purposes.

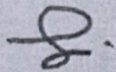
Pursuant to the provisions of Article 118(1) (b) of the Constitution of Kenya and Standing Order 127 (3), the Committee hereby invites you for a meeting to make your submissions and comments on the said Bills. The meeting will be held on **Thursday, 23rd April, 2026 and Friday 24th April, 2026** at a venue to be communicated in due course within Parliament Buildings.

Copies of the Bills are available at the National Assembly Table Office, Main Parliament Buildings, or on <http://www.parliament.go.ke/the-national-assembly/house-business/bills>.

You are requested to prepare comprehensive submissions on any representations you may have on the Bills and email a soft copy to the cna@parliament.go.ke on or before the day of the meeting.

The Committee's Liaison Officers for the meeting are **Mr. Benson Kamande** Tel. No **0789459387** or email address benson.kamande@parliament.go.ke and **Ms. Winfred Kambua Kilonzo** Tel. **0720571777** or email address winfred.kilonzo@parliament.go.ke.

Yours



JEREMIAH W. NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

24 April 2026

The National Assembly

Office of the Clerk, First Floor

Main Parliament Buildings

Parliament Road

Nairobi, Kenya

Email: cna@parliament.go.ke and financecommitteena@parliament.go.ke

Dear Sirs

Bowmans – Submissions on the Public Finance Management (Amendment) Bill, 2025 (National Assembly Bill No. 17 of 2025)

1. Introduction

- 1.1 We refer to the Public Finance Management (Amendment) Bill, 2025 (National Assembly Bill No. 17 of 2025) (the **Bill**), which was gazetted on 24 April 2025 and has undergone the First Reading and been committed to the Departmental Committee on Finance and National Planning for consideration.
- 1.2 These submissions are made by and on behalf of Bowmans (Coulson Harney LLP) (**Bowmans**).
- 1.3 Bowmans is a Pan-African law firm with nine (9) offices in six (6) African countries and over six hundred and fifty (650) specialist lawyers that works for clients across numerous African jurisdictions on corporate, finance, competition, taxation, employment, technology, and dispute resolution matters.

2. General Comments

- 2.1 The Bill proposes to repeal sections 191A to 191E of the Public Finance Management Act Chapter 412A of the Laws of Kenya (the **PFM Act**), which collectively establish the intergovernmental agreements framework for the transfer of conditional allocations from the national government to county governments.
- 2.2 While Bowmans appreciates the objective of streamlining administrative processes, we are concerned that the proposed wholesale repeal of sections 191A to 191E, without replacement, would remove important accountability, transparency, public participation, and oversight safeguards that are embedded in the current framework.
- 2.3 These safeguards give practical effect to the constitutional principles of public finance management under Articles 6(2), 10(2)(a), 96(1), 118(1)(b), 196, 201, and 228 of the Constitution of Kenya, 2010.

- 2.4 Although the Bill does not amend any tax or revenue legislation, the management of conditional allocations to county governments has direct and significant fiscal and commercial implications.
- 2.5 Conditional allocations finance critical infrastructure, health services, and economic development programmes at the county level. Businesses, including construction companies, consultants, and suppliers that contract with county governments, rely on the certainty, transparency, and accountability of the conditional allocation framework when assessing contract risk and structuring commercial arrangements.
- 2.6 We elaborate in detail below.

No	Clause	Description of the Clause	Proposal	Justification
1.	Clause 2 (Repeal of section 191A of Cap. 412A)	The Bill proposes to repeal section 191A of the PFM Act, which was introduced by the County Governments Additional Allocations Act, 2022 and requires the National Treasury to enter into a formal written agreement with each county government for the transfer of any conditional allocation. The agreement must set out the conditions attached to the allocation, be submitted by the County Executive Committee member for finance to the County Assembly for approval, and be forwarded to the Controller of Budget within seven (7) days after approval.	We propose that Clause 2 be deleted because: (a) section 191A is the principal statutory mechanism that operationalises conditional allocations at implementation stage, therefore its repeal would leave no express requirement for the parties to document the terms of a conditional allocation before disbursement; (b) repeal of section 191A without replacement removes the only statutory basis for County Assembly oversight of the conditions attached to allocations received by the County Government, which is inconsistent with the constitutional role of county assemblies in financial oversight; and	1. Section 191A gives effect to constitutional principles of public finance management Section 191A of the PFM Act gives practical effect to Articles 6(2), 187, and 189 of the Constitution, which require the national and county governments to conduct their mutual relations on the basis of consultation and cooperation. It also gives effect to Article 201(a) of the Constitution, which requires openness and accountability in financial matters, by requiring the terms of conditional allocations to be agreed in writing, approved at the county level, and submitted to an independent oversight body. 2. Repeal without replacement removes accountability safeguards Conditional allocations represent a significant component of county revenues and fund critical services and infrastructure. The PFM Act does not otherwise contain a mechanism requiring the terms of conditional allocations to be formally agreed or independently overseen. A repeal of section 191A without replacement would mean there is no statutory requirement for the conditions attached to allocations to be documented in a binding agreement, for County Assembly

- (c) the requirement to forward the approved agreement to the Controller of Budget supports the Controller's oversight role under Article 228 of the Constitution and should be retained.
- oversight of those conditions, or for oversight by the Controller of Budget under Article 228 of the Constitution. This would leave County Governments exposed to unilateral or undocumented changes to the conditions on which they receive allocations.

3. Repeal would disrupt county fiscal planning and budgeting

County governments prepare medium-term budgets, development plans, and cash flow projections under the PFM Act on the basis of certainty about the terms and amounts of national government transfers. The intergovernmental agreement under section 191A provides the contractual certainty that underpins this process. Without it, county governments may face uncertainty about disbursement conditions, disrupting procurement processes and delaying development projects.

4. Commercial impact on the private sector

Private sector entities that contract with county governments for projects funded by conditional allocations rely on the intergovernmental agreement framework as evidence that funding has been committed and its conditions documented. Commercial counterparties and lenders require such documentation as part of project due diligence and financial structuring. Repeal without replacement would increase counterparty risk and the cost of procurement for county governments.

2. Clause 3 of the Bill proposes to repeal Section 191B which requires the County Executive Committee Member to facilitate public participation on any intergovernmental agreement made under section 191A.

We propose that Clause 3 be **deleted** and that section 191B be retained. Public participation is a foundational constitutional value, a principle of public finance management.

Recommendation

The Committee should retain section 191A (or a consolidated version thereof) with the following core elements:

- (a) the requirement for the National Treasury to enter into agreements with county governments;
- (b) County Assembly approval; and
- (c) oversight by the Controller of Budget.

1. Section 191B provides the statutory anchor for public participation on conditional allocations

Section 191B gives a specific statutory basis for public participation in relation to conditional allocation agreements. This is important because the terms of those agreements may directly affect project design, implementation timetables, counterpart funding obligations, reporting burdens, and the use of county resources which are matters in which residents of the affected county have a direct and legitimate interest.

Public participation in county financial matters is a substantive constitutional requirement under Articles 10(2)(a), 174(c), 196(1)(b), and 201(a) of the Constitution. The High Court reaffirmed in *Nyabuto v County Assembly of Nairobi City County & 2 others* [2025] KEHC 8865 (KLR) that public participation must be meaningful, effective, and

informed. Repeal of section 191B would remove the only specific statutory mechanism requiring public participation on conditional allocation agreements, with no replacement.

2. Public participation on conditional allocations is distinct from general budget participation

The PFM Act contains general public participation requirements at various stages of the County Government budget process under sections 125 and 137 of the PFM Act. However, those provisions address the preparation of county budgets and fiscal strategy papers, not the specific terms and conditions attached to individual conditional allocations imposed by the national government. Section 191B addresses a distinct matter and serves a distinct purpose.

Recommendation

Section 191B should be retained.

- | | | | |
|---|--------------------|--|--|
| 3 | Clauses 4, 5 and 6 | The Bill proposes to repeal sections 191C, 191D, and 191E of the PFM Act, (Repeal which together establish the of transparency, oversight, and sections disbursement safeguards that apply 191C, once an intergovernmental agreement 191D and has been concluded under section 191E of 191A. | Amend consolidate and streamline rather than repeal. |
|---|--------------------|--|--|

1. Gazettement ensures transparency and legal certainty (section 191C)

The requirement in section 191C to publish agreements in the Kenya Gazette serves an important transparency function.

It ensures that the terms of conditional allocations are a matter of public record. This is consistent with the principles of openness and accountability in Article 201(a) of the Constitution.

Cap. 412A) Section 191C requires the agreement to be signed by an authorised officer and published in the Kenya Gazette within seven (7) days of execution.

Section 191D requires the National Treasury to submit the agreement to the Senate and the Controller of Budget within seven (7) days, and to publish and publicise all agreements.

Section 191E requires that any requisition of funds from the County Revenue Fund for a conditional grant be supported by an approved intergovernmental agreement.

Removing this requirement would reduce transparency in the management of public funds.

2. Senate oversight is constitutionally important (section 191D)

The Senate has a specific constitutional mandate under Article 96(1) to represent and protect the interests of counties.

Conditional allocations are transfers to County Governments from the national share of revenue, which directly engages that mandate. The High Court confirmed in *Council of Governors & 6 others v Senate* [2015] KEHC 6967 (KLR) that the Senate is bound by the methods, procedures, and requirements of the PFM Act when exercising its oversight mandate in county finance matters.

Repeal of section 191D would remove the Senate's oversight role in relation to conditional allocation agreements without replacement.

3. The requirement to support requisitions with approved agreements protects county funds (section 191E)

Section 191E is particularly important. It links the requisition of funds for a conditional grant directly to the existence of an approved intergovernmental agreement, acting as a practical safeguard against disbursement or expenditure outside the agreed framework.

Without it, county funds could be requisitioned on terms that have not been formally agreed, undermining the Controller of Budget's oversight role under Article 228 of the Constitution.

4. Potential impact on commercial contracts with county governments

Private sector entities that contract with County Governments for projects funded by conditional allocations (such as infrastructure projects) rely on the intergovernmental agreement framework as evidence that funding has been approved and is available.

The removal of this framework could increase counterparty risk for private sector contractors and potentially increase the cost of procurement for County Governments.



COUNCIL OF GOVERNORS

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Ref: COG/8/5A Vol. 14

21st April 2026

Mr. Samuel Njoroge
Clerk of the National Assembly
Main Parliament Buildings
NAIROBI

Att: Mr. Jeremiah W. Ndombi, MBS

STAKEHOLDER ENGAGEMENT ON THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO 17 OF 2025) AND THE SOVEREIGN WEALTH FUND BILL (NATIONAL ASSEMBLY BILL NO 7 OF 2026) BY THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

Greetings from the Council of Governors.

We acknowledge receipt of your letter referenced NA/DDC/F&NP/2026/065 dated 16th April 2026 inviting the Council to prepare a submission and appear before the Departmental Committee on Finance and National Assembly on 22nd April 2026 at 3.15p.m at a venue to be communicated.

We wish to register our apologies on behalf of the CEO of COG who will not be able to attend the committee meeting due to other pre-scheduled meeting outside of Nairobi. **Mr. Kizito Wangalwa, Director**, has been appointed to represent the Chief Executive Officer in the referenced meeting.

Further, kindly find attached our submission on the **Public Finance Management (Amendment) Bill (National Assembly Bill No. 17 Of 2025)** for consideration. We request for more time to review and present our submissions on **The Sovereign Wealth Fund Bill (National Assembly Bill No. 7 Of 2026)**

Please accept the assurance of our highest esteem and consideration.

Yours sincerely,

Mary Mwiti, EBS
Chief Executive Officer



**LEGISLATIVE MEMORANDUM ON THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY
BILL NO 17 OF 2025)**

TO

THE FINANCE AND NATIONAL PLANNING COMMITTEE OF THE NATIONAL ASSEMBLY

FROM

THE COUNCIL OF GOVERNORS

THE COUNCIL OF GOVERNORS,

In recognition of the fact that sovereign power of the state is exercised at two levels of government, that is, the National Government and the County Governments, whose distinctness is recognized by Article 6 (2);

In further recognition of the need to ensure that all legislation is cognizant of devolved governments; and

Aware of the need for coordinated action between the National and County Governments to ensure that legislation properly respond to the key issues, and further reflects the spirit and purpose of devolution.

Having reviewed the Public Finance Management (Amendment) Bill, (National Assembly Bill No.17 of 2025), the Council of Governors, on behalf of the 47 County Governments, submits the proposals highlighted herein below for consideration:

A. GENERAL COMMENTS

The Council of Governors appreciates the National Assembly's renewed collaboration in ensuring matters affecting Counties and devolution are addressed. Specifically, to this Committee on ensuring that issues of finance and planning are aligned to the devolved system of government as demonstrated through this invitation and the recognition of the Council as a key stakeholder. The Public Finance Management (Amendment) Bill, (National Assembly Bill No.17 of 2025) is critical to the County governments as it seeks to enhance efficiency in the transfer and utilization of funds emanating from various conditional grants. As you are aware, Sections 191A to 191E of the Public Finance Management (PFM) Act, CAP 412A, were introduced in the FY 2021/22 as a Consequential amendment to the County Governments Additional Allocations Act (CGAAA). The Council governments have, in collaboration with the National Treasury, attempted to implement the new Sections of the PFM Act unsuccessfully. Due to the implementation challenges, application of the Sections has been Suspended by Parliament for 5 consecutive FYs including the current one. The National Treasury also established a multi-agency taskforce whose membership included the Parliamentary Budget Office to review these Sections and recommended that they be repealed. The same recommendation was also ratified by the National and County governments Coordinating Summit. The Council therefore appreciates the National Assembly's initiative to take corrective action and repeal the said Sections.

B. SPECIFIC CONCERNS

The Council makes the following comments specific to the Public Finance Management (Amendment) Bill, (National Assembly Bill No.17 of 2025):

1. The Council of Governors supports the Bill in its entirety and requests that it is fast-tracked to avoid duplication in the management of conditional allocations.
2. The Council therefore proposes that the Bill is passed by Parliament without amendments before the beginning of the FY 2026/27.
3. The Council's proposals are informed by the following:
 - i. County governments, pursuant to Article 189 of the Constitution, have been signing Intergovernmental Participation/Partnership Agreements (IPAs) with various National government Ministries, Departments and Agencies (MDAs) for implementation of Conditional grants advanced to them. **Therefore, the requirement for the Intergovernmental Agreements for Transfer of the Conditional Agreements signed with the National Treasury under Section 191A (1) of the PFM Act is unnecessary and should be deleted.**
 - ii. The MDAs are responsible for setting the conditions precedent and the day-to-day monitoring of adherence to these conditions to the allocations as opposed to the National Treasury as Section 191A of the PFM Act suggests. **Section 191A (2) of the PFM Act therefore is incorrect and should be deleted.**
 - iii. The IPAs are signed for the life of the projects or the agreed grant implementation period therefore any other Agreement would result to duplication of efforts leading to delays in project implementation.
 - iv. The IPAs are always preceded by signing a Financing Agreement by the National Treasury for all Development Partner supported allocations. This therefore places the National Treasury at a good view of the additional allocations going to Counties for consolidated reporting purposes and honoring international obligations.
 - v. Subsections 191A (3-7) of the PFM Act provide for approval by the County Assembly. However, this is a duplication of the process since the County Assemblies approve all additional allocations as contained in the County governments' Fiscal Strategy Papers and Budget Estimates. **These Sections should therefore be deleted.**
 - vi. Further, there is no clarification on what happens if the County Assembly rejects the agreement(s) (191 A (4& 5). The Act does not address possibility of reintroduction of the intergovernmental agreement(s) and the procedure or timelines to be adhered to.

- vii. There is a lack of a logical sequence of the activities to be undertaken regarding the agreements. Specifically, Section 191B provides for public participation to be undertaken after the agreements have been approved by the County Assemblies and forwarded to the Controller of Budget (191A (7)). This negates the need for meaningful and qualitative public participation for an agreement that has already been approved by the County Assembly. **In this regard, Section 191B of the PFM Act should be deleted.**
- viii. Sections 191C and D on publication and publicization of the agreements by various entities such as the County governments, the National treasury and the Senate could lead to inconsistencies. These processes further introduce unnecessarily lengthy procedures that are not aimed at improving efficiency and funds absorption. **Sections 191C and D should therefore be deleted.**
- ix. Section 191E requiring approval of the Controller of Budget is a constitutional provision already being adhered to by County governments hence an unnecessary introduction. **Section 191E should therefore be deleted.**
- x. The signing of the said Intergovernmental Agreements is not aligned with the Budget Calendar/Cycle and will interfere with the budget making and execution process. This is because the Agreements are to be signed after Parliament has passed the conditional allocations through the annual CGAAA.

Conclusion

In view of the above highlighted challenges and inconsistencies coupled with fact that Sections 191A to 191E of the PFM Act have not been implemented since enactment in the FY 2021/22, points to a fundamental flaw in the law that is incurable hence the proposal to repeal them. The Council urges the National Assembly to consider the Bill expeditiously to ensure that the additional allocations of the ensuing FY are not affected. The Council looks forward to a favorable consideration of the submissions made on behalf of the County governments.



REPUBLIC OF KENYA
THE NATIONAL TREASURY

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FINANCE – NAIROBI
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THE NATIONAL TREASURY
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NAIROBI
KENYA

Ref: TNT/268/019/TY/10

22nd April, 2026

SAMUEL NJOROGUE, CBS
Clerk of the National Assembly
Parliament Buildings
Nairobi

Dear *Clerk,*

Re: STAKEHOLDER ENGAGEMENT ON THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 17 OF 2025) AND THE SOVEREIGN WEALTH FUND BILL (NATIONAL ASSEMBLY BILL NO. 7 OF 2026) BY THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

Reference is made to letter No. NA/DDC/F&NP/2026/065 dated 16th April, 2026 from the Clerk of the National Assembly with the above subject matter. The Committee Departmental Committee on Finance and National Planning has invited the Principal Secretary for The National Treasury to make a comprehensive submission on the above Bills on Wednesday, 22nd April, 2026.

However, I will not be able to attend the meeting as scheduled. The purpose of this letter is to seek your indulgence to request you to inform the Honourable Committee of this situation and to request you to allow his office to be represented by **Mr. Lawrence Kibet, Director General - Public Investment & Portfolio Management** and to also submit the National Treasury presentation

Please consider

Yours

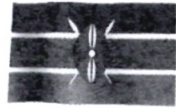
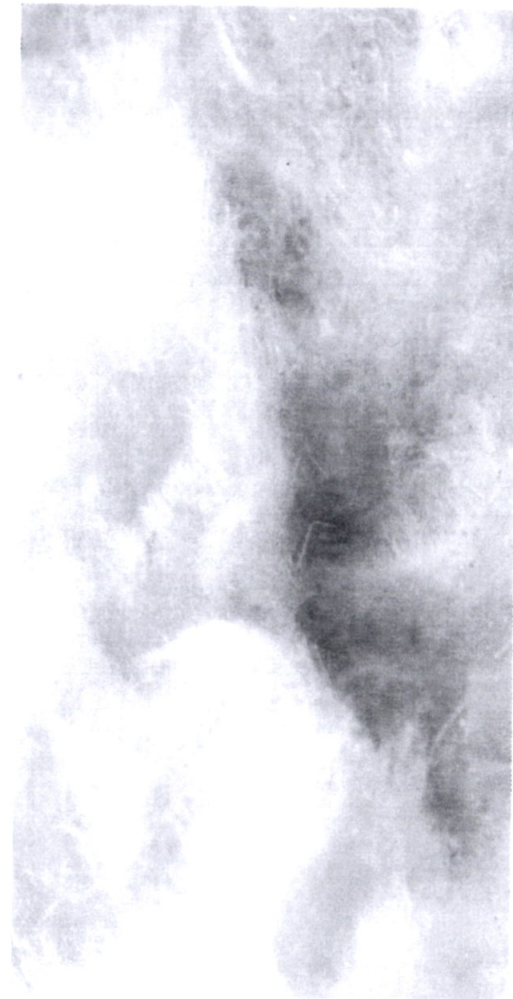
Hon. FCPA. John Mbadi Ng'ongo, EGH
CABINET SECRETARY

Submission by the National
Treasury on the Sovereign
Wealth Fund Bill, 2025, to the
Departmental Committee on
Finance and National
Planning, Wednesday 22nd
April 2026

Presentation by:

LAWRENCE KIBET, EBS

THE NATIONAL TREASURY



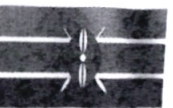
INTRODUCTION



Honourable Chairman and Members of the Departmental Committee on Finance and National Planning.

1. Thank you for the opportunity you have given to the National Treasury to meet this Committee and make submissions on the Sovereign Wealth Fund Bill, 2025.
2. We have a brief submission organised in two parts – namely:
 - i. Background – The rationale of the Bill; and,
 - ii. Highlights of the Bill.

BACKGROUND



- We propose establishment of Sovereign Wealth Fund (SWF) to actualize Kenya's obligation of inter-generational equity as provided in Article 201 of the Constitution, which states that: - *'the burdens and benefits of the use of the resources and public borrowing shall be shared equitably between present and future generations.'*

- The Fund comprises three (3) components, namely:
 1. The stabilisation component;
 2. The Strategic Infrastructure Investment component; and
 3. The future generations component.



BACKGROUND

1. **Stabilisation component:** - Under this category, the SWF is expected to provide the national government with resources for management of extra-ordinary shocks which may affect macro-economic stability.
- Sources of funds of the Stabilisation component are to be drawn from transfers received from the Holding Account, and 50% of the investment income earned from the stabilization component.



BACKGROUND

2. The Strategic Infrastructure Investment Component will provide funding for strategic infrastructure investment priorities (agriculture, transport, housing, energy, water, education and health) that are aligned to the national development plan to foster a stronger and more inclusive growth and development.
- The strategic infrastructure investment priorities may leverage private sector finances in commercially viable projects.
 - Sources of funds include transfers received from the Holding Account, and 50% of the investment income earned on the Strategic Infrastructure Investment component.



BACKGROUND

3. The Future Generations Component aims at building a savings base for future generations by:

- a) Establishing an endowment to support Strategic Infrastructure Investment for future generations, when the revenues from minerals and petroleum are depleted;
- b) Generating an alternative stream of income to support expenditure on capital projects because of revenue downturn caused by depletion of minerals and petroleum revenues; and
- c) Distributing wealth across generations.

BACKGROUND

- The sources of funds of the Future Generations component include:
 - i. transfers received from the Holding Account;
 - ii. investment income earned on the Future Generations Component;
 - iii. 50% of the investment income earned on the Stabilisation Component; and
 - iv. fifty per cent of the investment income earned on the Strategic Infrastructure Investment Component.





OBJECTIVE OF THE BILL

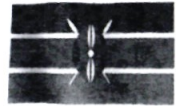
Honorable Chairman and Members,

- The bill seeks to establish Sovereign Wealth Fund to be vested in the National Treasury in trust for the Citizens of Kenya.
- The Fund shall be managed and invested for the benefit of current and future generations.
- The **objective** of the Fund is to achieve long-term fiscal sustainability and inter-generational wealth sharing.

PURPOSE OF THE FUND

- The proposed SWF seeks to:
 - i. provide the national government with a buffer from fluctuations in resource revenues or extraordinary shocks;
 - ii. provide finance for strategic infrastructure investment priorities to foster strong and inclusive growth and development; and
 - iii. build a savings base for future generations when minerals and petroleum resources are exhausted.





PROPOSED REVENUE STREAMS

- Proposed revenue sources for the Fund include:
 - i. the Government's share of profit derived from upstream petroleum operations excluding the share of profit payable under section 58(2) and (3) of the Petroleum Act;
 - ii. all petroleum royalties payable to the Government;
 - iii. all mining royalties payable to the national government under section 183(5)(a) of the Mining Act;
 - iv. all bonus payments on grants or when production levels or prices of petroleum operations reaches a defined level;

PROPOSED REVENUE STREAMS ... CONT'D

- v. all payments on grants or assignment of a mining rights;
- vi. all earnings from direct or indirect participation interest of the Government in minerals and petroleum operations;
- vii. all proceeds from divestment from petroleum and mining interests held by the Government; and
- viii. any other revenue from minerals, petroleum and monies from other sources as may be determined by the Cabinet Secretary and approved by Cabinet.





MANAGEMENT OF THE FUND

Honorable Chairman and Members,

- The Bill proposes establishment of a Sovereign Wealth Fund Board to, among other, provide overall guidance and oversight of the Fund.
- The Bill also proposes a Chief Executive Officer of the Fund who shall be competitively recruited by the Board in consultation with the Cabinet Secretary.



INVESTMENT FUND MANAGERS

- It is proposed that Board shall, through an open, competitive and transparent process, recruit and appoint investment fund managers to:
 - a) implement the investment policies, strategies and guidelines of the Board in respect to the investment of funds; and
 - b) ensure full compliance with the provisions of the Third Schedule while making investments.



INVESTMENT OF THE FUND

- The SWF Bill proposes investment of resources of the Fund in qualifying instruments, as specified in the second schedule.
- It is also proposed that the Fund shall not be invested in speculative derivatives, unlisted real estate, private equity, art or commodities or any other instrument as may be prescribed in a

Gazette



REPORTING AND AUDIT OF THE FUND

- The Board shall prepare and submit consolidated financial statements of the Fund in accordance with the standards set by the Accounting Standards Board for each component of the Fund for onward transmission to the Auditor-General with a copy to the Cabinet Secretary.
- **Honorable chairman and Members**, we request the Committee to: -
 - i. note contents of the SWF Bill, 2025; and
 - ii. consider, and pass the Bill to establish the SWF which provide institutional arrangements for the effective administration and efficient management of minerals revenues, petroleum revenues and monies from other sources allocated to the Fund.

Thank you



NDENTESHE

COMMENTS ON THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) ACT, 2025

A: Introduction

The purpose of the Bill is to amend the Public Finance Management Act, in order to ensure that there shall be no duplication in management of additional allocations through intergovernmental agreements.

B: Bill Analysis

The Bill amends the Public Finance Management Act by repealing sections 191A-E. These amendments were introduced under Section 9 of the County Governments Additional Allocations Act, 2022. Sections 191A-E which are subject of repeal under this Bill require the National Treasury to enter into intergovernmental agreements with the County Governments for transfer of conditional allocations. Further, the sections also entail other incidental matters such as public participation at the county level.

The Commission is in support of the proposed amendments on the basis that sections 191A-E of the PFM Act create duplication in-

- i. Requiring signing of intergovernmental agreements by the National Treasury yet the same are also signed by line MDAs at the national level with the relevant county governments in the form of County Participatory Agreements (CPAs) where necessary; and
- ii. Public participation on the agreements yet the Public Finance Management Act comprehensively outlines the budget process at both levels of government. Regarding county governments, Part IV of the PFM Act outlines how the county budgetary process is to be executed which process entails all sources of funding including any additional allocations



and conditional grants. Such budgetary processes entail public participation which is again a requirement under sections 191A-E.

In essence therefore, County Participatory Agreements (CPAs) under MDAs and the budget framework provided for in the PFM Act are adequate in terms of formalizing agreements between the two levels of government and also on the aspect of stakeholder engagement on identification of projects and programmes for the county governments. There is therefore no merit in instituting another parallel process for conditional grants under sections 191A-E of the PFM Act.

The amendments are therefore merited.



COMMENTS ON THE SOVEREIGN WEALTH FUND BILL, 2026

A. Introduction

The Bill as per its long title seeks to establish the Sovereign Wealth Fund; to provide institutional arrangements for the effective administration and efficient management of minerals revenues, petroleum revenues and monies from other sources allocated to the Fund; and for connected purposes.

B. Clause by Clause Analysis

The following issues are noted on review of the Bill-

No.	Clause	Recommendation	Justification for Change
1.	Clause 2 Interpretation	Under the definition of the word “ <i>resource revenue</i> ” add the word “ <i>national</i> ” between the phrase “ <i>means the</i> ” and the word “ <i>Government</i> ”	To specify the relevant level of Government
2.	Clause 6 Sources of funds to the Fund	Clause 6 (a)- <i>(a) government’s share of profit derived from upstream petroleum operations excluding share of profit payable under section 58(2) and (3) of the Petroleum Act, 2019;</i> Recommendation: Add the word “ <i>national</i> ” before the word “ <i>government</i> ” at the beginning of the paragraph	For clarity



3.	Clause 8 Transfers from the Holding Account	Clause 8 <i>8. (1) Any deposits into the Holding Account shall be transferred into the components of the Fund in proportions specified by the Cabinet Secretary in consultation with the Board at the beginning of each financial year taking into account conditions specified under section 5(2)</i> This provision- i. Does not specify how much goes to which component leaving it to the CS in consultation with the Board's discretion. Recommendation: Stipulate a percentage for each component in the paragraph. Subsequently, include a provision for parliamentary approval for the various percentages set. i. For instance, allocation to the three components can be specified as: 30% to the stabilisation component, at least 40% to the infrastructure component due to its capital-intensive nature, and 30% future generations component. ii. Does not include parliamentary approval step	i. For transparency and prudent use of public resources ii. To strengthen checks and balance and for accountability iii. A higher percentage of the revenue share should be provided to the infrastructure component since the infrastructure developed will be for the benefit of future generations.
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		Recommendation: Add requirement for parliamentary approval.	
5.	Clause 11 Withdrawals from the Stabilization Component	Sub clause (a)(i) and 7(b)(i) read as follows- <i>7) Transfers to the Stabilisation Component shall cease when the component grows to ten billion shillings or such ampunt as may be prescribed by the Cabinet Secretary, and any amount above that amount shall with the approval of the Cabinet and the National Assembly, be utilized to service the public debt</i> Recommendations: - Substitute the word “ampunt” with “amount” - Qualify the provision to clarify what aspect of the public debt is being serviced-whether interest or principal or both interest and principal. - Add a requirement subjecting withdrawals under the provision to approval by the Controller of Budget	- To correct an editorial error - For clarity - To enhance checks and balances and align with Article 228 of the Constitution
6.	Clause 14	Recommendation: Add a requirement subjecting withdrawals under the	To enhance checks and balances and align with Article 228 of the Constitution



	Withdrawal from the Strategic Infrastructure Investment Component	provision to approval by the Controller of Budget	
7.	Clause 15 Object and purpose of the Future Generations Component	This clause generally provides for the object and purpose of the Future Generations Component so as to build a savings base for future generations. Recommendations: - This component should only be accessed after a minimum duration of twenty (20) years of savings and in phases. - Since the Strategic Infrastructure Investment Component is also being used to set up strategic infrastructure investment, which also benefits the future generations, the Future Generations Component be targeted towards human capital development initiatives such as free education, innovation, e-labour, health for future generations as this will have a multiplier effect in driving growth and development by such future generations.	Because it is a future Fund and to enhance accountability and growth of the Fund proceeds for the advancement of future generations.



		iii. Controller of Budget must approve any withdrawals from this Component.	
8.	Clause 18 Depletion Resources of	This clause provides under sub clause (1) as follows- (1) <i>Where there is a significant depletion of large and medium-sized mineral operations and petroleum resources.</i> Recommendation: There must be a clear threshold set as to what amounts to a “significant depletion of mineral and petroleum resources” as inferred in this provision.	For ease of implementation and clarity.
		This provision under 18(1)(a) which reads- <i>“The cash balances held in the respective components of the Fund shall cease to exist...”</i> This contradicts with Clause 15 (a) and (b) that provide for the object and purpose of the Future Generations Component as to build a savings base for future generations when the revenues from minerals and petroleum are depleted.	For consistency and to avoid defeating the objects of the Future Generations Component



		Recommendation: Redraft to align the two provisions.	
9.	PART IV Clauses 25-34 Composition of the Board etc	General Recommendation: <i>Align content to replace the board as proposed with the already existing CBK board. All incidental matters of the deleted Board e.g. functions to now vest with the CBK board</i> Specific recommendations: In case the above general recommendation on donating functions to the already existing CBK Board does not suffice- i. <i>Under clause 28(f) providing for four other independent persons appointed by the Cabinet Secretary, provide for one of these four to be a Council of Governors representative.</i> ii. <i>There is also need for other inclusivity parameters in the Board</i>	i. To reduce administrative bureaucracy and additional costs. ii. There is need for COG representation as some of the thematic areas catered for by the Fund components fall under county mandate. iii. To align with the Constitution Articles 54, 56 etc.



		<i>composition more specifically PWDs under sub clause 28(2).</i>	
11.	Clause 43 Qualifying Instruments of the Future Generations Component	The rationale for exemption of local investments is unclear under clause 43(2)(a). Recommendation: Redraft to provide that not more than 10% should be invested locally i.e. in the Nairobi Securities Exchange and in bonds	There may be instances where local investments may be more lucrative.
12.	Clause 60 Transitional Provisions	This clause provides as follows- <i>(1) The Cabinet Secretary may appoint an interim manager and staff to administer the Fund pending the constitution of the Board under section 28.</i> Recommendation: Include the qualifications, powers and terms of office of such an Interim Manager.	For clarity



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1. INTRODUCTION

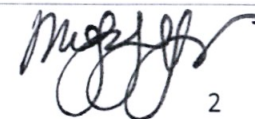
The Office of the Controller of Budget is established under Article 228 of the Constitution of Kenya to oversee the implementation of the budgets of the National and County Governments by authorising withdrawals from public funds under Articles 204, 206, and 207. Section 5(b) of the Controller of Budget Act, 2016, provides that the Controller of Budget shall ensure prudent and efficient use of public funds by, among other functions, monitoring, evaluating, reporting, and making recommendations to the National and County Governments on measures to improve budget implementation.

The Office of the Controller of Budget submits this clause-by-clause analysis in response to the invitation of the Departmental Committee on Finance and National Planning dated 16th April 2026. The analysis addresses two Bills currently before the National Assembly: The Public Finance Management (Amendment) Bill (NAB No. 17 of 2025) and the Sovereign Wealth Fund Bill (NAB No. 7 of 2026). Both Bills carry significant implications for public finance accountability, the constitutional mandate of the Controller of Budget under Article 228 of the Constitution, and the integrity of Kenya's public financial management framework.

The matrix below sets out, clause by clause, a summary of each provision, the CoB's observations and concerns, and specific recommendations for the Committee's consideration. The CoB's overarching position is that both Bills, as currently drafted, require targeted amendments to align with the constitutional framework for public finance management and to safeguard the independence and effectiveness of oversight institutions. The recommendations are intended to strengthen both Bills and to ensure that any new financial architecture established thereby operates within, rather than in parallel to, Kenya's existing constitutional and statutory accountability framework.

SECTION 1 — PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 17 OF 2025)

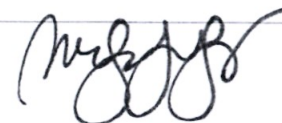
Clause / Provision	Summary of Clause	CoB Observation / Concern	CoB Recommendation
Clause 1: Short Title & Commencement	Provides the short title of the Amendment and its commencement upon Gazette notification.	Commencement left to the Ministerial proclamation may indefinitely delay the operationalisation of critical accountability safeguards.	1. Fix the commencement date in the Act itself rather than leaving it to Ministerial discretion. 2. Gazette notification should be for information only, not as a condition precedent to commencement.
Clause 2: Prevention of Duplication in County Allocations	The principal operative clause. Amends the PFM Act to prevent duplication in additional allocations to county governments through intergovernmental agreements.	"Duplication" is undefined, giving the National Treasury the discretion to determine what constitutes duplication — with no independent verification mechanism. The CoB's quarterly reports have consistently documented double-counting of conditional grants and equitable share top-ups across multiple county governments.	3. Define "duplication" expressly in the Amendment with sufficient legal precision. 4. Require the National Treasury to obtain a Certificate of No-Duplication from the Controller of Budget before disbursing any additional allocation under an intergovernmental agreement. 5. Empower the CoB to withhold certification where a proposed allocation duplicates an existing transfer. 6. Prescribe a recovery mechanism for any duplicate transfer already disbursed, to be operationalised within a period specified by the CoB.
Clause 3:	Introduces or modifies reporting obligations of county governments in respect to	Compliance with existing quarterly reporting requirements under Sections 107 and 166 of the PFM Act remains persistently low. The clause	7. Non-compliance with intergovernmental agreement reporting obligations should expressly empower the CoB to withhold


2

Clause / Provision	Summary of Clause	CoB Observation / Concern	CoB Recommendation
Reporting Obligations	funds received under intergovernmental agreements.	does not strengthen enforcement for non-compliance.	authorisation of subsequent disbursements to the defaulting county. 8. Link reporting obligation to CoB's existing powers under Section 68(2)(f) of the PFM Act as a meaningful compliance incentive.
Clause 4 Consequential Amendments & Savings	Addresses consequential amendments and savings provisions necessary to give effect to the Amendment.	The savings clause does not expressly preserve the CoB's existing powers under Article 228 of the Constitution and Section 68 of the PFM Act, thereby risking unintended limitations on CoB oversight.	9. Insert an express savings clause confirming that nothing in the Amendment limits the CoB's powers to investigate, report on, or withhold authorisation in respect of any intergovernmental transfer. 10. Confirm that the CoB's jurisdiction under Article 228(4) and Section 68 of the PFM Act is unaffected.

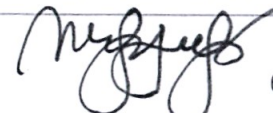
SECTION 2 — SOVEREIGN WEALTH FUND BILL (NATIONAL ASSEMBLY BILL NO. 7 OF 2026)

Clause / Provision	Summary of Clause	CoB Observation / Concern	CoB Recommendation
Clause 1: Preliminary Provisions	Defines key terms and sets out the Fund's objects — the management of mineral and petroleum revenues for the long-term benefit of Kenyans.	The interpretation clause does not classify the Fund as a public fund under Article 207 of the Constitution, nor does it acknowledge the CoB's jurisdiction under Article 228(4). This creates a foundational accountability gap.	1. Amend the interpretation clause to expressly classify the Fund as a public fund under Article 207. 2. Confirm that the PFM Act applies in its entirety to the Fund. 3. Expressly acknowledge the CoB's oversight jurisdiction under Article 228(4) of the Constitution.
Clause 2: Establishment of the SWF	Formally establishes the Fund as a body corporate with perpetual succession, a common seal, and the capacity to sue and be sued.	The clause is silent on the Fund's relationship with the Consolidated Fund and the CoB's authorisation powers under Article 228(4). There is a real risk that the Fund will operate as a parallel financial architecture outside the national budget framework, which is constitutionally impermissible.	4. All revenues deposited into the Fund must be expressly recognised as public money subject to the Constitution and the PFM Act. 5. Insert a provision that no withdrawal shall be made from the Fund without the prior written authorisation of the Controller of Budget. 6. Expressly prohibit the Fund from operating independently of the national budget framework.
Clause 3: Sources of Funding	Prescribes sources of revenue, mineral revenues, petroleum revenues, and other monies allocated by the National Assembly.	The clause does not specify whether revenues flow through the Consolidated Fund before being credited to the SWF. Article 206(1) of the Constitution requires all money raised by the national government to be paid into the	7. All revenues must first be paid into the Consolidated Fund and transferred to the SWF by Parliamentary appropriation, consistent with Article 206.



Clause / Provision	Summary of Clause	CoB Observation / Concern	CoB Recommendation
		Consolidated Fund unless expressly excluded by an Act of Parliament.	8. Any statutory exclusion from the Consolidated Fund requirement must be expressly and constitutionally justified in the Bill.
Clause 4: Governance & Management (The Board)	Establishes the Board responsible for the Fund's governance and strategic direction, setting out its composition, qualifications, and terms.	No provision for independent oversight representation at the Board level. The Board is not expressly accountable to Parliament through the CoB's reporting framework. The appointment process lacks adequate safeguards against executive capture.	9. Designate a non-voting CoB observer at all Board meetings. 10. Require the Board to account to Parliament through the CoB's budget implementation reports under Article 228(6). 11. All Board appointments must be subject to a competitive, transparent process with Parliamentary approval.
Clause 5: Investment Mandate	Sets out permissible investment classes, risk management principles, and return objectives of the Fund.	The mandate grants broad discretion to the Board and the Cabinet Secretary. Mineral and petroleum revenues are finite and non-renewable — poor investment decisions are irreversible. No measurable benchmarks or external review mechanism is prescribed.	12. A statutory Investment Policy Statement must be approved by Parliament and reviewed every three years. 13. Performance benchmarked against measurable, publicly disclosed targets. 14. The CoB must have access to all investment reports, performance audits, and quarterly returns. 15. Establish an independent Investment Advisory Committee to review mandate compliance and report to Parliament.

Clause / Provision	Summary of Clause	CoB Observation / Concern	CoB Recommendation
Clause 6: Withdrawals from the Fund	Governs the conditions and authority for withdrawals from the Fund.	CRITICAL: As currently drafted, the clause risks vesting withdrawal authority in the Cabinet Secretary without adequate constitutional checks. This is the most significant accountability gap in the entire Bill.	16. No withdrawal shall be made except under a prior Parliamentary appropriation — consistent with Articles 206 and 228(4). 17. Every withdrawal must be expressly authorised in writing by the Controller of Budget before it is effected. 18. A statutory withdrawal rule must cap annual withdrawals as a percentage of the Fund's value to protect long-term sustainability. 19. Withdrawals in excess of the prescribed limit shall be null and void, with personal civil and criminal liability attaching to the authorising officer.
Clause 7: Reporting & Audit	Provides for reporting obligations of the Board, including preparation and submission of financial statements and annual reports.	The reporting clause does not integrate the Fund into the CoB's budget implementation reporting framework under Article 228(6) or link the audit to the Auditor-General's mandate under Article 229.	20. The Board must submit quarterly financial and investment performance statements to the CoB within 45 days of the close of each quarter. 21. Annual accounts must be audited by the Auditor-General under Article 229 and the Public Audit Act, 2015. 22. Annual reports must be tabled in both Houses of Parliament within three months of the financial year end. 23. The Fund's financial data must be incorporated into the CoB's four-

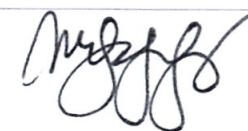


Clause / Provision	Summary of Clause	CoB Observation / Concern	CoB Recommendation
			monthly budget implementation reports to Parliament under Article 228(6).
Clause 8: Miscellaneous & Transitional	Addresses regulations, transitional arrangements, and commencement of the Act.	Savings provisions do not expressly preserve the application of the PFM Act, Public Audit Act, and the CoB's Article 228 powers. Regulations are subject only to negative resolution, which is insufficient Parliamentary oversight for a Fund of this magnitude.	24. Insert an express savings clause preserving the full application of the PFM Act, the Public Audit Act 2015, and Article 228 of the Constitution to all Fund operations. 25. Regulations made under this Act must be subject to affirmative Parliamentary resolution. 26. Commencement of all substantive provisions must be by a fixed date set in the Act, not by Ministerial proclamation.

2. CONSOLIDATED RECOMMENDATIONS

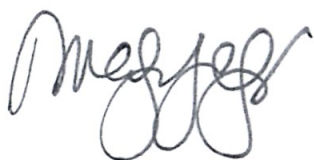
SECTION A — PFM (AMENDMENT) BILL (NAB NO. 17 OF 2025)	
REC. 1	Define "duplication" expressly in the Amendment with sufficient legal clarity and precision.
REC. 2	A Certificate of No-Duplication issued by the Controller of Budget must be a mandatory condition precedent to the disbursement of any additional allocation to county governments under intergovernmental agreements.

SECTION A — PFM (AMENDMENT) BILL (NAB NO. 17 OF 2025)	
REC. 3	The CoB must be expressly empowered to withhold certification where duplication is established, and to direct recovery of duplicate transfers already disbursed.
REC. 4	Non-compliance with reporting obligations under intergovernmental agreements must be linked to suspension of subsequent disbursements, consistent with Section 68(2)(f) of the PFM Act.
REC. 5	Commencement must be by a fixed date in the Act and not left to Ministerial discretion.
REC. 6	The consequential provisions must expressly confirm that the CoB's powers under Article 228 of the Constitution and Section 68 of the PFM Act are unaffected by the Amendment.
SECTION B — SOVEREIGN WEALTH FUND BILL (NAB NO. 7 OF 2026)	
REC. 1	The Fund must be expressly classified as a public fund under Article 207 of the Constitution, subject to the PFM Act and the CoB's jurisdiction under Article 228(4).
REC. 2	All revenues must pass through the Consolidated Fund and be subject to Parliamentary appropriation before transfer to the SWF, consistent with Article 206.
REC. 3	No withdrawal shall be made from the Fund without a prior Parliamentary appropriation and the written authorisation of the Controller of Budget.
REC. 4	The Cabinet Secretary's discretionary powers must be expressly limited; all material decisions must be made by the Board subject to independent CoB oversight.



SECTION A — PFM (AMENDMENT) BILL (NAB NO. 17 OF 2025)

REC. 5	A statutory Investment Policy Statement must be approved by Parliament every three years, benchmarked against publicly disclosed performance targets.
REC. 6	The Board must submit quarterly financial and investment performance reports to the CoB within 45 days of the close of each quarter.
REC. 7	Annual accounts must be audited by the Auditor-General under Article 229 and the Public Audit Act, 2015, with reports tabled in Parliament within three months of the year-end.
REC. 8	The CoB's four-monthly budget implementation reports must expressly incorporate the Fund's revenues, expenditures, and investment returns.
REC. 9	A non-voting CoB observer must be designated at all meetings of the Fund's Board.
REC. 10	Regulations made under the Act must be subject to affirmative Parliamentary resolution; commencement of substantive provisions must be by a fixed date.
REC. 11	An express savings clause must confirm the application of the PFM Act, the Public Audit Act, 2015, and Article 228 of the Constitution to all Fund operations.



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CONTROLLER OF BUDGET