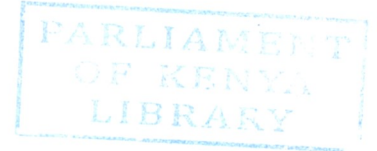


THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 19 OCT 2023	DAY: THURSDAY 19/10/23
TABLED BY:	HON. MUSA SIRMA, M.P. CHAIR, NG-CDF
CLERK AT THE TABLE:	A. SHIBUKO



Approved for tabling.

*SWA
19/10/23*



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – SECOND SESSION (2023)

COMMITTEE ON NATIONAL GOVERNMENT CONSTITUENCIES
DEVELOPMENT FUND

REPORT ON THE NATIONAL GOVERNMENT CONSTITUENCIES
DEVELOPMENT FUND (AMENDMENT) BILL, 2023

October, 2023

Directorate of Audit, Appropriations and Other Select Committees
Clerk's Chambers
National Assembly
Parliament Buildings
NAIROBI



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ABBREVIATIONS

Board	National Government Constituencies Development Fund Board
CBS	Chief of the Order of the Burning Spear
COC	Constituency Oversight Committee
MP	Member of Parliament
NG-CDF	National Government Constituencies Development Fund

CHAIRPERSON'S FOREWORD

The National Government Constituencies Development Fund (Amendment) Bill, 2023 co-sponsored by the Hon. Kimani Ichung'wah, MGH, MP Leader of the Majority Party and the Hon. Opiyo Wandayi, MGH, MP Leader of the Minority Party was published on 24th April, 2023. The Bill went through First Reading on Wednesday, 7th June 2023 and was committed to the Select Committee on National Government Constituencies Development Fund for consideration and report to the House pursuant to Standing Order 127 (2).

The Bill has 14 clauses with the principal objective being to amend the National Government Constituencies Development Fund Act, 2015 to align it with the Constitution of Kenya. This is aimed at avoiding unnecessary litigation on the constitutionality of the National Government Constituencies Development Fund.

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

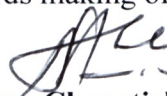
The Bill does not concern county governments in terms of Articles 110(1) (a) of the Constitution.

The Committee conducted public participation and engaged the public and other stakeholders who submitted their views herein as contained in the report.

The Committee having considered the National Government Constituencies Development Fund (Amendment) Bill, 2023 recommends that the House **APPROVES** the Bill with the proposed amendments.

The Committee is grateful to the offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee further wishes to thank all the stakeholders who participated in the consideration of the Bill.

Finally, I wish to express my appreciation to the Honorable Members of the Committee and the Committee secretariat who made useful contributions towards making of this report.



Hon. Musa Sirma Cherutich, CBS, M.P.

Chairperson- Committee on National Government Constituencies Development Fund

1.0 EXECUTIVE SUMMARY

The National Government Constituencies Development Fund (Amendment) Bill, 2023 co-sponsored by the Hon. Kimani Ichung'wah, MGH, MP Leader of the Majority Party and the Hon Opiyo Wandayi, MGH, MP Leader of the Minority Party was published on 24th April, 2023. The Bill went through First Reading on Wednesday, 7th June 2023 and was committed to the Select Committee on National Government Constituencies Development Fund for consideration and report to the House pursuant to Standing Order 127 (2).

The Bill consists of 14 clauses with the principal object being to amend the National Government Constituencies Development Fund Act, 2015 (NG-CDF Act) to align it with the exclusive functions and powers of the National Government as set out in the Constitution.

The Committee conducted public participation and engaged the public and other stakeholders by placing an advert in two local daily new papers on 22nd June, 2023 seeking for submission of memoranda on the Bill.

In considering the Bill, the Committee received four memoranda from the NG-CDF Board, East Africa Collaboration for Economic Social and Cultural Rights (EACOR), Slum Outreach Programme, Stephen Muhindi and Wachira Muthee and Wambui Advocates and carried out public hearing in 24 counties.

While carrying out public hearings, there was a general observation by the public that NG-CDF is the only fund with greater significance on the ground unlike other devolved funds. The public through various submissions noted that the current NG-CDF Act, 2015 needs to be amended further to provide for more allocation from the total share of government revenue to accommodate more activities like school feeding programmes, additional bursary funds, climate change mitigation and constituency digital hubs.

Most of the proposed amendments in the Bill were generally accepted by members of the public while others were rejected and further amendments were proposed as contained in the report.

Having considered the Bill and taking into consideration submissions made by the public, the Committee recommends that the House **APPROVES** the Bill with the proposed amendments.

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

1. The Select Committee on National Government Constituency Development Fund (NG-CDF) is a statutory Committee established in accordance with the provisions of Section 50 of NG-CDF Act, 2015 whose functions include:
 - a) Overseeing the implementation of the NG-CDF Act, 2015 and in this respect, shall after every two years submit a report to the National Assembly and where necessary, propose any amendments to the Act with respect to the quantum of funds payable into the Fund in accordance with Section 4 of the Act;
 - b) Overseeing the policy framework and legislative matters that may arise in relation to the Fund;
 - c) Reviewing the framework set out for the efficient delivery of development programmes financed through the Fund;
 - d) Considering and reporting to the National Assembly, with recommendations, names of persons required to be approved by the National Assembly under this Act; and
 - e) Carrying out any other functions relevant to the work of the Fund.

Committee Membership

2. The Committee comprises the following Members of Parliament:

The Hon. Musa Sirma Cherutich, MP (**Chairperson**)
MP for Eldama Ravine Constituency

UDA Party

The Hon. Eng. Tandaza Kassim Sawa, MP (**Vice Chairperson**)
MP for Matuga Constituency

ANC Party

The Hon. (Dr)Ogolla Gideon Ochanda,MP
MP for Bondo Constituency

ODM Party

The Hon. Owuor Joshua Aduma, MP
MP for Nyakach Constituency

ODM Party

The Hon. Elachi Beatrice Kadeversia
MP for Dagoretti North Constituency

ODM Party

The Hon. Joshua Mbithi MP
MP for Masinga Constituency

Independent

The Hon. Owino John Walter, MP
MP for Awendo Constituency

ODM Party

The Hon Mukwana Titus Khamala, MP
MP for Lurambi Constituency

ODM Party

The Hon Oyula Joseph, MP
MP Butula Constituency

ODM Party

The Hon. Akuja Protus Ewesit, MP
MP Loima Constituency

UDA Party

The Hon. Gisairo Clive Ombane, MP
MP for Kitutu Masaba Constituency

ODM Party

The Hon. Kiprono Mutai Alfred, MP
MP Kuresoi Constituency

UDA Party

Hon. Maina Jane Njeri, MP
MP, Kiriyaanga County

UDA Party

The Nduyo Susan Ngugi
MP for Tharaka Nithi County

UDA Party

The Hon. Wainana Antony Njoroge, MP
MP, Kieni Constituency

UDA Party

The Hon. Wambilanga Catherine, MP
MP for Bungoma County

Ford-K Party

The Hon. Machele Mohamed Soud, MP
MP, for Mvita Constituency

ODM Party

The Hon. Mark Nyamita Ogolla, MP
MP for Uriri Constituency

ODM Party

Committee Secretariat

3. The Committee is facilitated by the following members of the secretariat:

Mr. Erick Nyambati
Clerk Assistant I
Lead Clerk

Mr. Mohamed Jelle
Clerk Assistant III

Ms. Sharon Koskei
Clerk Assistant III

Ms. Emma Essedi
Legal Counsel I

Ms. Peninnah Naisiae
Legal counsel II

Mr. Jonathan Lemurut
Fiscal Analyst III

Mr Chelang'a' Maiyo
Research Officer I

Mr. Ayub Ahmed
Media Relations Officer

Ms. Eva Kaare
Sergeant -at-arms

2.0 BACKGROUND

4. The National Government Constituencies Development Fund was created by the repealed Constituencies Development Fund Act, 2003 with the primary objectives of equitable socio-economic development countrywide.
5. The CDF Act of 2003 that created the constituency development fund was repealed in 2013 and replaced with the CDF Act 2013.
6. Subsequently, the CDF Act 2013 was again repealed in 2015 and replaced it with NGCDF Act, 2015 In order to align the fund with the constitution
7. The National Government Constituencies Development Fund (Amendment) Bill, 2023 co-sponsored by Hon Kimani Ichungwah, MGH, MP , Leader of the Majority Party and Hon Opiyo Wandayi, MGH, MP , Leader of the Minority Party was published on 24th April, 2023. The Bill went through First Reading on Wednesday, 7th June 2023 and was committed to the Select Committee on National Government Constituencies Development Fund for consideration and report to the House pursuant to Standing Order 127 (2).
8. The Bill seeks to amend various provisions in the National Government Constituencies Development Fund Act, 2015 (the Act) that have currently been challenged in the High Court or have attracted an adverse opinion by the Supreme Court.
9. The Bill seeks to amend the Act, to provide that those projects undertaken under the Fund shall be projects that fall within the exclusive mandate of the National Government pursuant to the 4th Schedule of the Constitution. These amendments are to align the Act with the Constitution on the distinct role and functions of the National and County governments and to avoid conflict between the two levels of government.

3.0 OVERVIEW OF THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND (AMENDMENT) BILL, 2023

3.1 ANALYSIS OF THE BILL

Below is the analysis of the various proposed amendments for the committee's consideration.

10. **Clause 1** of the Bill provides for the short title of the Bill.
11. **Clause 2** of the Bill provides for the amendment of Section 3 (h) and (k) of the Act to provide that the objects of the Fund shall be to facilitate the National Assembly to exercise oversight over exclusive national government projects and supplement infrastructure development over projects falling under the exclusive functions of the national government at the constituency level as set out in the Constitution.
12. **Clause 3** of the Bill provides for the deletion of Section 4 (3) to cater for situations where the collected government revenue is lower than the preceding year and which may necessitate lower allocation to the Fund than the previous financial year.
13. **Clause 4** of the Bill provides for the amendment of Section 15 of the Act to empower the Public Service Commission to make recommendations to the Cabinet Secretary on the persons to be appointed as members of the National Government Constituencies Development Fund Board established under section 14 of the Act.
14. **Clause 5** of the Bill provides for the repealing of Section 19 and substituting it with elaborate provisions that incorporate the Public Service Commission in the recruitment process of the Board members as contemplated under Article 234 of the Constitution.
15. **Clause 6** of the Bill provides for the repeal and replacement of Section 24 of the Act to provide that a project under this Act shall only be in respect of works and services falling within the exclusive functions of the national government under the Constitution. It seeks to remove funding of community-based projects that benefit widespread cross-section of inhabitants of a particular area.
16. **Clause 7** of the Bill provides for deletion of Section 25 (8) and (10) of the Act which empower the NGCDF to fund sports activities and environmental activities within the constituencies provided those activities do not exceed 2% respectively of the total allocations to the constituency in every financial year.

17. **Clause 8** of the Bill provides for the amendment of Section 34 by inserting a new paragraph to provide that the total allocation to a constituency shall not be less than the amount allocated to the constituency in the preceding financial year.
18. **Clause 9** of the Bill provides for the amendment of Section 43 (2) by increasing the number of male and female members nominated to the Constituency Committee from two to three.
19. **Clause 9 (a) (iii)** of the Bill provides for the amendment of Section 43 (2) by proposing to delete paragraph (e) that provides for the nomination of two persons by the constituency office.
20. **Clause 9 (b)** of the Bill provides for the amendment of Section 43 (6) by providing that the first meeting of the Constituency Committee shall be convened within 120 days of the holding of a general election.
21. **Clause 9 (c)** of the Bill provides for the amendment of Section 43 (8) by increasing the term of office of a member of the Constituency Committee from two years to three years, renewable.
22. **Clause 10** of the Bill seeks to repeal Section 52 of the Act which provides that allocations to the Fund are supplementary.
23. **Clause 11** of the Bill seeks to repeal Section 53 of the Act which establishes the Constituency Oversight Committee which comprises of the Member of the National Assembly and four other persons appointed by the Member of Parliament in consultation with other stakeholders.
24. **Clause 12** of the Bill seeks to repeal Section 53A of the Act, which provides for facilitation of the Constituency Oversight Committee which is consequential to the repeal of section 52 of the Act.
25. **Clause 13** of the Bill provides for deletion of Section 54(2) of the Act which provides that normal government development allocations shall continue alongside projects funded under the Act.
26. **Clause 14** of the Bill provides for consequential amendments to Section 14 of the National Government Co-ordination Act, No. 1 of 2013 to ensure that constituencies are recognized as national government service delivery units.

4.0 PUBLIC PARTICIPATION

27. Pursuant to Article 118(1) (b) of the Constitution and Standing Order 127(3) of the National Assembly , the Clerk of the National Assembly invited members of the public and relevant stakeholders to submit memoranda on the National Government Constituencies Development Fund (Amendment) Bill , 2023 through placement of advertisements in the print media on 22nd June, 2023. By 28th June, 2023, the committee had received three memoranda from the NG-CDF Board, East Africa Collaboration on Economic Social and Cultural Rights(EACOR) and Slum Outreach Programme.
28. Further, the Committee conducted public hearings in Nyamira, Kisumu, Vihiga, Kakamega, Busia, Bungoma, Homabay, Tana River, Kilifi, Kwale, Mombasa, Nakuru, Kericho, Baringo, Elgeyo Marakwet, Uasin Gishu, Tharaka Nithi, Meru, Kitui, Machakos, Makueni, Isiolo, Kiambu and Nairobi counties regarding the bill and submitted as follows;

4.1 SUBMISSIONS BY RESIDENTS OF TANA RIVER COUNTY.

29. The public participation forum was held in Maridhiano Hall Minjila at Garsen Constituency in Tana River County on 9th August, 2023.
30. It was attended by a population of over 300 people comprising of men, women, the elderly, youth, opinion leaders from education and security sectors and persons living with disabilities drawn from different parties of Tana River County. In attendance were also members of the National Government administrative offices who had done the mobilization of participants.

They submitted as follows;

31. They were concerned about the Supreme Court ruling which had declared NG-CDF unconstitutional since they had interpreted it to mean that NG-CDF was going to be abolished. They therefore appreciated the effort by Parliament to amend the law to ensure that NG-CDF complies with the Constitution.
32. Having a clear strategy that will ensure that there will be no conflict in funding NG-CDF projects and County government projects. The strategy should ensure that the two levels of government complement each other in development projects as opposed to competing with one another.
33. The provision limiting NG-CDF funds from being applied for environmental protection purposes elicited mixed reactions as a majority of the participants expressed concern over

climate change and felt that NG-CDF should be used to also support efforts to conserve the environment.

34. Amending the NG-CDF Act, 2015 to be constitutional as per the Supreme Court ruling was timely since its nullification would have adverse effects to the public who benefit from the Fund immensely.
35. They did not support deletion of Section 25 (8) of the NG-CDF Act, 2015 which provides for funding of sport activities as part of development projects. They instead sought for an increase in funding towards sports activities and nurturing talents.
36. Nurturing talents through sports and art is critical especially in tackling the issue of unemployment among the youth and therefore requires concerted efforts from the National Government, the County Government and NG-CDF.
37. Further, there is need to increase funding toward sports due to the fact that population has increased with increased interest in sports.
38. Participants did not support deletion of section 25 (10) which provides for funding of environmental activities as part of development projects.
39. Residents expressed concern over the existing effects of climate change and felt that the NG-CDF should be used to also support efforts to conserve the environment to mitigate climate changes.
40. The participants proposed an increment of the percentage allocation of the total revenue towards the Fund to meet the high demand for bursary, infrastructure and be commensurate with increase in population.
41. Further, the residents proposed an increase of the percentage that provides for educational bursary due to increased demand of the same.
42. There is need to increase allocation towards sports and environmental activities that has proved insufficient due to the increase of sporting activities in constituencies.
43. Digital innovation is emerging as the next frontier for employment, economic, political and social development thus there is need to establish sustainable digital hubs, digital awareness and innovation programmes at the constituency level. ICT hubs domiciled at the NGCDF offices are necessary in creating online jobs for the youth at the constituency level.
44. The residents applauded the role NGCDF has played in ensuring that educational infrastructure like classes are well built providing a good environment for learning.

45. They however requested if the existing legislation would be reviewed to enable funding of feeding programmes in schools. This would be of great help especially in Arid and Semi-Arid regions where hunger has led to low enrolment in schools and high dropping out of schools.

4.2 SUBMISSIONS BY RESIDENTS OF KILIFI COUNTY

46. The public forum was held at Nidhamia Hall at Malindi in Kilifi County on 9th August, 2023.

47. Members of the public were concerned about the Supreme Court ruling which had declared NG-CDF Act, 2013 unconstitutional. They appreciated the effort by Parliament to amend the law to ensure that the Act complies with the Constitution.

48. The Residents agreed with the proposed amendments and submitted as follows in regard to the Bill. That;

49. They supported the proposal to have the Public Service Commission involved in the recruitment process of Board Members of the NG-CDF board through a competitive process.

50. This will ensure only competent people are nominated and approved to be Board of Directors of the Fund

51. Did not support deletion of section 25 (8) which provides for funding of sport activities as part of development projects.

52. Nurturing talents through sports and art is critical especially in tackling the issue of unemployment among the youth and therefore requires concerted efforts from the National Government, the County Government and NG-CDF. Further, the youth engaged in sports refrain from indulging in crimes.

53. They did not support deletion of section 25 (10) which provides for funding of environmental activities as part of development projects.

54. Members expressed concern over deforestation and its adverse effects of climate change and felt that the status quo should remain and NG-CDF should be used to support efforts to conserve the environment.

55. Clause 10 of the Bill be deleted because there is need to guarantee sustained funding for constituency projects to ensure maximum benefits to residents of different areas within a constituency.

56. Clause 11 of the Bill be deleted because Members of Parliaments are constitutionally mandated to carry out oversight role.

57. The Constituency Oversight Committee (COC) comprises of the Member of the National Assembly and not more than four (4) other persons whose role is to mobilize and sensitize target groups on matters related to the Fund and soliciting views, opinions and proposals from the public in regard to the Fund and presenting the views and opinions to the Board and to the National Assembly.
58. COCs provide critical functions which strengthen the prevailing check and balance mechanisms for proper implementation of constituency projects.
59. The COC also ensure that constituents obtain value for money by monitoring prudent expenditure of funds and resources for the benefit of the constituents.
60. NG-CDF has had a huge impact especially on the education sector as evidenced by construction of school infrastructure, support of students with bursaries and purchase of stationery and other equipment that support other learning programme yet the money is insufficient.
61. While appreciating the huge role the NG-CDF has played regarding infrastructure in schools, the residents observed that Kilifi County is usually hit by drought and there is food insecurity in the region.

They noted that lack of food has led to children dropping out of school leaving classrooms empty.

4.3 SUBMISSIONS BY RESIDENTS OF TAITA TAVETA COUNTY

- 62 The public participation forum was held at Voi Constituency in Dan Maanzo Social Hall on 10th August,2023. Members of the public were happy to have such a forum to discuss about NGCDF and their concerns about the Supreme Court ruling which had declared NG- CDF Act, 2013 unconstitutional. They appreciated the effort by the National Assembly to amend the law to ensure that the Act complies with the Constitution.
- 63 The residents agreed with the amendments and submitted as follows in regard to the Bill. That
- 64 Clause 7(a) and (b) be deleted and be amended further to increase allocation towards environment by 5%.
- 65 The provision for allocation on sports has enabled sponsorship of tournaments, access to sports equipment and promotion of talent in constituencies. Sports has kept youth busy thus reducing

youth vices leading to decrease in crime. The residents also noted that the National Government has a role in promoting sports.

- 66 Increase allocation of the National Government's share of revenue from not less than 2.5% to 5%. This is because the demand for the Fund is ever on the rise. This is due to increase in population thus increased demand for bursary, educational and security infrastructure.
- 67 The provision for allocation towards environmental protection is key in mitigating climate change which is a global concern.
- 68 The limit of not more than 2% will hinder the realization of talents among the youth and further protection of the environment in as far climate change is concerned.
- 69 Notwithstanding the achievements that NG-CDF has made in the education sector ranging from bursary allocation, scholarship and construction of education infrastructure like lavatories, classes and laboratories, the current Act should be amended to provide for funding of school feeding programme. The feeding programme will promote school enrollment and encourage school completion of children in Arid and Semi- Arid Areas prone to hunger.
- 70 The residents further underscored the need to leverage technology by ensuring the youth have access to WIFI at the constituency level. This will enable them access online job and business opportunities.

4.4 SUBMISSIONS BY RESIDENTS OF MOMBASA COUNTY

- 71 The public forum was held at Mvita Constituency CDF offices in Mombasa County on 11th August,2023. Members of the public were concerned about the Supreme Court ruling which had declared NG- CDF Act, 2013 unconstitutional. The residents appreciated the effort by Parliament to amend the law to ensure that the Act complies with the Constitution.

The Residents submitted as follows in regard to the Bill. That

- 72 They supported Clause 5 that proposes to have the Public Service Commission involved in the recruitment process of Board Members and Chairperson of the NG-CDF Board through a competitive process. This will ensure competitive recruitment of NG-CDF Board Members.
- 73 There is need to increase allocation of the National Government's share of revenue from not less than 2.5% to 5% towards NG-CDF. This will enhance development in the constituencies,

access to better services and try to match the demand of the Fund towards infrastructure and bursaries funding.

- 74 They did not support deletion of section 25 (8) as proposed in Clause 7(a) which provides for funding of sport activities as part of development projects. Nurturing talents through sports and art is critical especially in tackling the issue of unemployment among the youths and therefore requires concerted efforts from the National Government, the County Government and NG-CDF.
- 75 They were opposed to deletion of section 25 (10) as proposed in 7(b) which provides for funding of environmental activities as part of development projects. Members expressed concern over global climate change and felt that the NG-CDF should be used to support efforts to conserve the environment.
- 76 Additionally, the residents proposed that NGCDF should Fund ICT hubs in every ward to enable the youth access WIFI. This will enable them access online jobs thus creating employment opportunities for the youths and access business opportunities.
- 77 There is need to change the existing legislation to provide for funding of school feeding programmes and more allocation towards bursary to meet the high demand of the same.

4.5 SUBMISSIONS BY RESIDENTS OF KWALE COUNTY

- 78 Public Hearing was held at Matuga Primary School in Matuga Constituency, Kwale County on Saturday 12th August, 2023. Members of the public were concerned about the Supreme Court ruling which had declared NG- CDF Act, 2013 unconstitutional. They appreciated the effort by Parliament to amend the law to ensure that the Act complies with the Constitution.
- 79 The residents submitted as follows in regard to the Bill. That
- 80 The percentage allocation towards NG-CDF of the total revenue collected be increased. This is due to inadequacy of the Fund to meet needs of constituents ranging from inadequate bursary and those funds towards infrastructure development.
- 81 There should be an annual increment regardless of the total revenue collected.
- 82 NG-CDF has had a huge impact on the education sector as evidenced by construction of school infrastructure, support of students with bursaries and purchase of stationery and other equipment that support other learning programmes yet the Fund is significantly insufficient.

- 83 Clause 5 be deleted. Contrary to the provision of recruitment of NG-CDF Board members through the Public Service Commission, they advocated for the idea of allowing Members of Parliament to play an active role in recruiting NG-CDF Board members on account that they have a better understanding of persons who are likely to deliver.
- 84 They were opposed to Clause 7 (a) that proposes for deletion of section 25 (8) which provides for funding of sport activities as part of development projects.
- 85 Nurturing talents through sports and art is critical especially in tackling the issue of unemployment among the youth and therefore requires concerted efforts from the National Government, the County Government and NG-CDF. Further, the youth engaged in sports to refrain from indulging in crimes.
- 86 They did not support deletion of section 25 (10) which provides for funding of environmental activities as part of development projects.
- 87 Members expressed concern over deforestation and its adverse effects of climate change and felt that the status quo should remain and NG-CDF should be used to support efforts to conserve the environment.
- 88 Clause 10 of the Bill be deleted to guarantee sustained funding for constituency projects to ensure maximal benefits to residents of different areas with a constituency.
- 89 Clause 11 of the Bill be deleted since Members of Parliaments are constitutionally mandated to an oversight role.
- 90 COCs are critical functions which strengthen the prevailing check and balance mechanisms for proper implementation of constituency projects.
- 91 The COCs also ensure that constituents obtain value for money by monitoring prudent expenditure of funds and resources for the benefit of the constituents.
- 92 Since the country is going digital and most Government services are accessed on online platforms like e-citizen platform, the Government should connect fiber to various markets in constituencies and have ICT centers. This will enable youth to access information including but not limited to job advertisements, online jobs, and tenders among others.
- 93 NG-CDF to consider funding school feeding programmes to prevent children from dropping out of school due to hunger.

4.6 SUBMISSIONS BY RESIDENTS OF NAKURU COUNTY

- 94 The public participation forum was held at Imani ACK Social Hall in Nakuru West Constituency on 9th August, 2023. Members of the public were happy to have such a forum to discuss about NGCDF and their concerns about the Supreme Court ruling which had declared NG- CDF Act, 2013 unconstitutional. They appreciated the effort by the National Assembly to amend the law to ensure that the Act complies with the Constitution.
- 95 The residents submitted as follows in regard to the Bill. That
- 96 Increase allocation of NG-CDF from the National Government's share of revenue from not less than 2.5% to 5%. This will match with the ever rising in demand for the Fund. This is due to increase in population thus increased demand for bursary, educational and security infrastructure.
- 97 Delete clause 7(a) and (b) of the bill and further amend it to increase allocation to sport and environment activities to 5%.
- 98 The provision for allocation on sports has enabled sponsorship of tournaments, access to sports equipment and promotion of talent in constituencies. Sports has kept youth busy thus reducing youth vices leading to decrease in crime.
- 99 Further the National Government has a role in promoting sports. Additionally, the provision for allocation towards environmental protection is key in mitigating climate change that is a global concern.
- 100 The limit of not more than 2% will hinder the realization of talents among the youth and further protection of the environment in as far as climate change is concerned.
- 101 Notwithstanding the achievements that NG-CDF has made in the education sector ranging from bursary allocation, scholarship and construction of education infrastructure like lavatories, classes and laboratories, as the residents, they proposed that the current Act be amended to provide for funding of school feeding programmes.
- 102 The feeding programmes will promote school enrollment and increase school completion of children in Arid and Semi- Arid areas that are prone to hunger.
- 103 As residents, they further underscore the need to leverage on technology by ensuring the youth have access to WIFI at constituency level. This will enable them to access online jobs and business opportunities.

4.7 SUBMISSIONS BY RESIDENTS OF KERICHO COUNTY

104 The public participation forum was held at Kipkelion East Constituency in Londiani NG-CDF offices on 9th August, 2023. Members of the public were concerned about the Supreme Court ruling which had declared NG- CDF Act, 2013 unconstitutional. They appreciated the effort by the National Assembly to amend the law to align with the Constitution.

The residents submitted as follows; That

105 Clause 7(a) and (b) be deleted but further amend section 25 (8) and (10) of the NG-CDF Act by deleting the word ‘two’ and substitute with the word ‘five’ to increase allocation to these projects.

106 There is need to increase allocation of the National Government’s share of revenue from not less than 2.5% to 5% towards NG-CDF. This will enhance development in the constituencies, access to better services and try to match the demand of the Fund towards infrastructure and bursaries funding.

107 The proposed amendment will facilitate promotion of talent and protection of the environment. sports and environmental protection are key issues and that the limit of not more than 2% hinders the realization and promotion of talents among the youth and further protection of the environment in as far climate change is concerned.

108 The fund has positively impacted the lives of needy students who would have gone without education if the fund was not available. The number of needy learners who require bursary allocation has increased and therefore the allocation to the Fund should be increased.

109 There is need for an enhancement of the Fund on grounds that increased population has brought about the need for more school infrastructure and with limited land for expansion this has led to increased cost of infrastructure in schools due to the need to develop modern buildings.

110 NG-CDF should ensure that they have ICT centers where they can access free WIFI in order to access online jobs and business opportunities.

4.8 SUBMISSIONS BY RESIDENTS OF ELGEYO MARAKWET COUNTY

111 The public participation forum was held at Keiyo South in Nyaru NG-CDF offices on 10th August,2023. Members of the public submitted as follows

112 NG-CDF is a Fund with the greatest achievements than any other devolved fund.

- 113 They appreciated the effort by National Assembly to amend the law to ensure that the Act complies with the Constitution.
- 114 There is need to increase allocation of the National Government's share of revenue from not less than 2.5% to 5% towards NG-CDF. This will enhance development in the constituencies, access to better services and try to match the demand of the Fund towards infrastructure and bursaries funding.
- 115 Clause 11 be deleted on grounds that it was important for the Member of Parliament to nominate members of the COC to ensure oversight of the projects and that the Constitution mandates Members of Parliament with an oversight role.
- 116 Delete clause 7(a) and (b) of the bill and further increase allocation to 5%. Sports and environmental protection are key issues and the limit of not more than 2% will hinder the realization of talents among the youth and further protection of the environment in as far climate change is concerned.
- 117 There is a need to increase the Fund to match with the rising need for more infrastructure, cost of infrastructure in schools, demand for bursary and security infrastructure.
- 118 The residents proposed increment of the Fund and recommended that the mandate of the Fund be expanded to include paying for utilities like electricity to compliment the efforts of other government projects like constituency ICT hubs that are crucial in addressing unemployment among the youth.
- 119 The residents underscored the need to address the high school dropout rate which is witnessed in Arid and Semi- Arid regions due to hunger. They sought to amend the Act to provide for school feeding programmes.

4.9 SUBMISSIONS BY RESIDENTS OF UASIN GISHU COUNTY

- 120 The public participation forum was held in Waunifor Peace Center at Ainabkoi NG-CDF offices on 10th August,2023. Members of the public were concerned about the Supreme Court ruling which had declared NG- CDF Act, 2013 unconstitutional. They appreciated the effort by Parliament to amend the law to ensure that the Act complies with the Constitution.

The residents submitted as follows in regard to the Bill. That

- 121 Section 34 of NG-CDF Act 2015 that provides on allocation formula for sharing the fund which is currently based on number of wards be amended to consider population in allocating funds

thus per capita allocation. This is because some constituencies have less number of constituencies but higher population and as such allocating funds using the current formula is unfair on such constituencies.

- 122 Increase NG-CDF allocation of the National Government's share of revenue from not less than 2.5% to 5%. This will assist in achieving the objectives set out under the Act and further avail services from the National Government to the lowest level within the county thus there is need to amend Section 4 of the Act.
- 123 There is a need for NG-CDF to start school feeding program in the current society to avoid learners breaking to their homes for lunch which may not be available in some homes.
- 124 Clause 7(a) and (b) be deleted and further amended to increase allocation to 5% towards sports and environment.
- 125 That the proposal is necessary in nurturing youth talents within constituencies and promote environmental protection thus mitigating climate change.

4.10 SUBMISSIONS BY RESIDENTS OF BARINGO COUNTY

- 126 The public participation forum was held at Eldama Ravine Constituency NG-CDF offices on 11th August,2023. Members of the public were concerned about the Supreme Court ruling which had declared NG- CDF Act, 2013 unconstitutional. They appreciated the effort by National Assembly to amend the law to ensure that the Act complies with the Constitution and submitted as follows; That
- 127 The amendments were necessary to align the NG-CDF Act with the Constitution.
- 128 Clause 7 (a) & (b) be deleted and further amend it to increase allocation to both sports and environmental activities to 10% to assist in nurturing talent among the youth and enhance protection of environment.
- 129 Section 34 of the Act be amended to provide that allocation of the Fund to constituencies be based on population of the constituency and not the number of wards.
- 130 The current allocation formula is unfair to the constituencies with high population but less wards.
- 131 Amend Section 4 of the NG-CDF Act to increase allocation to the Fund. This will enhance development and support those in need of the Fund and match with the rising need for more

infrastructure, cost of infrastructure in schools, demand for bursary funding and security infrastructure.

- 132 They appreciated bursary allocation but sought for a provision to ensure that more funds are allocated towards bursary thus constituency bursary allocation be increased up to 40% from 35%.
- 133 The residents proposed increment of the fund and recommended that the mandate of the Fund be expanded to include paying for utilities like electricity to compliment the efforts of other government projects like constituency ICT hubs that are crucial in addressing unemployment among the youth.
- 134 The residents underscored the need to address the high school drop-out that is witnessed in Arid and Semi- Arid regions due to hunger. They sought to amend the Act to provide for school feeding program.

4.11 SUBMISSIONS BY RESIDENTS OF NYAMIRA COUNTY

- 135 The public participation forum was held at Kitutu Masaba NG-CDF offices on 9th August ,2023. Members of the public were concerned about the Supreme Court ruling which had declared NG- CDF Act, 2013 unconstitutional. They appreciated the effort by the National Assembly to amend the law to ensure that the Act complies with the Constitution.
- 136 The residents supported the amendments on grounds that they were meant to align the NGCDF Act 2015, with the Constitution and prevent further court cases challenging the NG-CDF Act, 2015 and submitted as follows in regard to the Bill. That
- 137 Constituency Oversight Committee led by the area Member of Parliament is critical in offering checks and balance mechanisms for proper implementation of constituency projects. Further, it ensures that constituents get value for money by monitoring and ensuring prudent expenditure of funds. Thus Clause 11 of the bill be deleted.
- 138 The provision for allocation on sports has enabled sponsorship of tournaments, access to sports equipment and promotion of talents among the youth in constituencies. Sports has kept the youth busy thus reducing youth vices leading to decrease in crime. Further, the National Government has a role in promoting sports.

- 139 The provision for fund allocation towards environmental protection is key in mitigating climate change that is a global concern thus there is need to retain sports and Environment as a function funded by the Fund. Consequently, Clause 7(a) and (b) should be deleted
- 140 There is need to increase NG-CDF allocation by amending Section 4 to increase allocation from 2.5% to 5%.
- 141 There is a need to increase the National Government share of revenue to 5% so as to match with the development needs in constituencies. Due to population increase, there is need for increased education and security infrastructure. Further, fund allocation towards bursary is required to meet the demand of needy learners.
- 142 The residents underpinned the importance of leveraging technology in addressing unemployment of the youth. They proposed that the Act be reviewed to cater for security, electricity, and other utilities in Constituency ICT centres.
- 143 They further proposed that there is need for NG-CDF to start school feeding programme in the modern time and society to avoid learners from taking lunch breaks to go to their homes for lunch which may not be available in some homes.
- 144 School feeding programme will level the learning conditions, ensure increased enrollment of learners in schools and encourage school completion since it will motivate learners to attend school and provide for those who may not have.

4.12 SUBMISSIONS BY RESIDENTS OF KISUMU COUNTY

- 145 The public participation forum was held at Job Omino Secondary School, Kisumu Central Constituency on 9th August,2023. Members of the public were concerned about the Supreme Court ruling which had declared NG- CDF Act, 2013 unconstitutional. They appreciated the effort by Parliament to amend the law to ensure that the Act complies with the Constitution. The Residents submitted as follows in regard to the Bill.
- 146 Section 43 of NG-CDF Act be amended to provide for nomination of the National Government Constituency Development Fund Committee by the public and approved by the National Assembly. This will enhance public participation and improve transparency while strengthening efficiency and effectiveness in the implementation of the Fund.

- 147 That the Fund has increased the economic wellbeing of persons and as such should be increased to impact the society further positively thus there is need to amend section 4 (1) (a) by increasing the allocation to 5% from 2.5%.
- 148 Further, it's time the Act is amended to provide for Funding of school feeding programme to motivate learners and meet the cost of utilities like water and electricity for constituency ICT hubs to ensure that the hubs are operational and address unemployment among the youth.

4.13 SUBMISSIONS BY RESIDENTS OF VIHIGA COUNTY

- 149 The public participation forum was held in Friends Church, Chango, at Vihiga Constituency Vihiga County on 10th August, 2023. Members of the public were concerned about the Supreme Court ruling which had declared NG- CDF Act, 2013 unconstitutional. They appreciated the effort by Parliament to amend the law to ensure that the Act complies with the Constitution. The Residents submitted as follows in regard to the Bill.
- 150 Clause 7 (a) & (b) be deleted to retain funding of sports and environment. Amend the clause further by renaming sports to talent development whereas environment should be renamed to climate change adaptation to continue nurturing talents and mitigating climate change
- 151 Stopping CDF from funding sports and environment is not a well thought idea given that through the Fund, a lot of talents have been nurtured and developed while tree planting is key in mitigating climate change
- 152 NG-CDF has great impact on constituency development and has increased the economic wellbeing of persons. This has been achieved through employment opportunities it has created, bursary allocation etc. As such it should be increased to impact more to the society positively. Consequently Section 4 (1) (a) to be amended by increasing the NG-CDF allocation to 10% from 2.5%.
- 153 While appreciating the role NG-CDF has done in educating children in constituencies, the residents called for more allocation towards bursary to ensure that all needy learners benefit from the kitty.
- 154 The residents further sought amendment to the existing NG-CDF law to provide for school feeding programme. This will ensure that learners from poor backgrounds do not drop out of school due to hunger.

155 There is need for the youth to access WIFI at constituency level so as to access online jobs and business opportunities. Subsequently the NG-CDF Act should be reviewed to provide for the same.

4.14 SUBMISSIONS BY RESIDENTS OF KAKAMEGA COUNTY

156 The public participation forum was held in Kakamega Muslim Primary School, Lurambi Constituency in Kakamega County on 10th August,2023. Members of the public were concerned about the Supreme Court ruling which had declared NG- CDF Act, 2013 unconstitutional.

157 The Residents submitted as follows;

They accepted the amendments and appreciated the effort by the National Assembly to amend the law to ensure that the Act complies with the Constitution.

158 NG-CDF Should continue funding sports and environment because through the fund, a lot of grassroots talent development has been witnessed and that tree planting is necessary in this era of global warming.

159 That the proposal is necessary in nurturing youth talents within constituencies and to promote environmental protection thus mitigating climate change.

160 Section 4 (1) of the NG-CDF Act be amended to increase NG-CDF allocation to 10% from 2.5% from the share of Government revenue. The impact of the Fund in terms of development in education and security is enormous. The Fund has increased the economic wellbeing of persons and as such should be increased to impact the society further positively.

161 This will enable an increase in bursary allocation to 40% without affecting allocation towards development and enable payment of current utilities, costs and maintenance of constituency digital hubs.

4.15 SUBMISSIONS BY RESIDENTS OF BUNGOMA COUNTY

162 The public participation forum was held at St. Teresa Sio High School in Kanduyi constituency, Bungoma County on 11th August,2023. Members of the public were concerned about the Supreme Court ruling which had declared NG- CDF Act, 2013 unconstitutional. They appreciated the effort by Parliament to amend the law to ensure that the Act complies with the Constitution.

- 163 The residents submitted as follows in regard to the Bill. That
- 164 They supported the amendments that are aimed at aligning the NGCDF Act with the Constitution.
- 165 Enormous development has been witnessed in various constituencies that are funded by NG-CDF more than any other devolved funds
- 166 Various households have benefited from bursary allocation that has enabled several learners to attend classes and complete schooling without which they would be drop outs.
- 167 Police stations have been erected in insecure areas thus the public is enjoying security courtesy of CDF.
- 168 Notwithstanding the success of N-GCDF, the Fund remain to be inadequate in satisfy the bursary and infrastructure demand thus need for enhancement of the fund.
- 169 Constituency Oversight Committee led by the area Member of Parliament is critical in offering checks and balance mechanisms for proper implementation of constituency projects.
- 170 They opined that it will also ensures that constituents get value for money by monitoring and ensuring prudent expenditure of funds.
- 171 Sports and environment be retained as functions funded by the Fund. The provision for allocation on sports has enabled sponsorship of tournaments, access to sports equipment and promotion of talents among the youth in constituencies. Sports has kept youth busy thus reducing youth vices leading to a decrease in crime. Further, the National Government has a role in promoting sports.
- 172 The provision for allocation towards environmental protection is key in mitigating climate change that is a global concern.
- 173 There is a need to increase the National Government share of revenue to 5% to match with the development needs in constituencies. Due to population increase, there is need for increased education and security infrastructure. Further, more money towards bursary is required to meet the demand of needy learners.
- 174 The residents underpinned the importance of leveraging technology in addressing the unemployment of the youth. They proposed that the Act be reviewed to cater for security, electricity and other utilities in constituency ICT centres.

175 They further proposed that there is need for NG-CDF to start school feeding programme to ensure all students have access to lunch for proper learning. This will level the learning conditions, ensure increased enrollment of learners in schools and encourage school completion as this will motivate learners to attend school and provide for those who may not have.

4.16 SUBMISSIONS BY RESIDENTS OF BUSIA COUNTY

176 The public participation forum was held at Farm View Hotel grounds, Matayos constituency in Busia County on 11th August,2023. Members of the public were concerned about the Supreme Court ruling which had declared NG- CDF Act, 2013 unconstitutional. The Residents submitted as follows in regard to the Bill.

177 They appreciated the effort by the National Assembly to amend the law to ensure that the Act complies with the Constitution.

178 They supported clause 2 that proposes to designate NG-CDF resources to functions exclusive to the National Government pursuant to Schedule 4 of the Constitution

179 They Further supported Clause 5 to provide for competitive recruitment of NG-CDF Board members. This will ensure competitive recruitment of Board members.

180 They support the proposed amendment in Clause 14 to provide that the sub-county/ constituency as a service delivery unit. This will align the Act with the Constitution.

181 They proposed deletion of proposed amendment under Clause 7 (a) and (b) so as to retain sports and environment while enhancing the allocation to meet the demands by youth and mitigate climate change

182 They proposed an increase in the fund allocation from the current 2.5% to 10% from the share of national revenue. This will ensure availability of funds towards school feeding programme, meeting operational and maintenance costs of constituency digital hubs, bursaries and other development needs.

183 With increased population and high enrolment in schools, the demand for bursary is not met. Section 48A therefore needs to be amended to provide for an increase in the allocation to education bursary from 35% to 40%.

184 Increasing funding towards bursary will meet the high demand and benefit many needy learners.

4.17 SUBMISSIONS BY RESIDENTS OF HOMA BAY COUNTY

- 185 The public participation forum was held at Homa Bay Town Constituency NG-CDF Office, Homa Bay county on 12th August,2023. The stakeholders submitted as follows; That
- 186 They supported the proposed amendment to the National Government Co-ordination Act, 2013 to provide for the sub-county/ Constituency as a service delivery unit.
- 187 Digital innovation is emerging as the next frontier for economic, political and social development, thus, the need to establish digital hubs, supportive digital awareness and innovation programme at the constituency level.
- 188 Approvals or funding of project consistent with the Act, should not be denied on the ground of existence of allocations to other projects because different communities in the constituencies have varying needs with unique project requirements

4.18 SUBMISSIONS BY RESIDENTS OF MACHAKOS COUNTY

- 189 The residents of Machakos County met the Committee in Masii High school on 9th August,2023 and observed that;
- 190 They support the object of the Bill is to amend the principal Act to provide that the object of the Fund shall be to implement infrastructure development over projects falling under the exclusive functions and powers of the National Government as set out in the Constitution. This would enhance service delivery by the National Government to the constituencies.
- 191 Clause 4 be deleted in its entirety to retain the current procedure for appointment and approval of appointment of members of the Board which involves appointment by the Cabinet Secretary with the approval of the National Assembly.
- 192 The Bill seeks to align the principal Act with Constitution on the distinct roles and functions of the National Government and the County Governments to avoid conflict between the two levels of government, thus, the need to retain the current provision on appointment of Board members by the Cabinet Secretary and approval of the appointment by the National Assembly.
- 193 Delete clause 5 in its entirety to retain the current provision for filling of a vacancy in the Board by the National Assembly Committee because Members of Parliament are better placed to know people who can serve the board better
- 194 Increase funds allocated for sports and environmental activities; and environment. The current allocation of an amount that does not exceed 2% of the total allocation of a constituency in a

financial year for sports and environmental activity has proved to be insufficient due to the increase in sporting and environment activities in the constituency.

- 195 Expand the scope of activities that may be funded by the allocated funds to include talent promotion; promotion of digital innovations; and other innovations among other.
- 196 Digital innovation is emerging as the next frontier for economic, political and social development, thus, the need to establish digital hubs, supportive digital awareness and innovation programme at the constituency level.
- 197 Approvals or funding of project consistent with the Act, should not be denied on the ground of existence of allocations to other projects because different communities in the constituencies have varying needs with unique project requirements.
- 198 The Constituency Oversight Committee comprises of the Member of the National Assembly and not more than four (4) other persons who mobilize and sensitize target groups on matter related to the Fund and solicit views, opinions and proposals from the public in regard to the Fund and present the views and opinions to the National Assembly.
- 199 These are critical functions which strengthen the prevailing check and balance mechanisms for proper implementation of constituency projects.
- 200 The Constituency Oversight Committee also ensures that constituents obtain value for money by monitoring prudent expenditure of funds and resources for the benefit of the constituents.
- 201 National Government Constituency Development Fund allocations to projects funded under the principal Act should continue to ensure adequate funding, and ultimately timely completion of projects.
- 202 Allocation to the Fund to be increased to meet the demands for bursary and other infrastructure development

4.19 SUBMISSIONS BY RESIDENTS OF MAKUENI COUNTY

- 203 In a meeting held in Wote Green Park, the residents of Makueni County on 9th August,2023 and observed that amending the principal Act to align it with the exclusive functions and powers of the National Government as set out in the Constitution would promote certainty over which level of government is responsible for specific projects in the constituencies, and thus submitted as follows. That

- 204 Delete the clause 4 in its entirety and preserve the current procedure for appointment and approval of appointment of members of the Board which provides for appointment by the Cabinet Secretary with the approval of the National Assembly.
- 205 Providing for appointment of Board Members by the Cabinet Secretary and approval of the appointment by the National Assembly will promote better implementation of the object of the Act which is to align the Fund to the exclusive functions and powers of the National Government as set out in the Constitution.
- 206 Restricting the mandate for filling of a vacancy in the Board to the National Assembly Committee will provide a more inclusive and deliberative mechanism on suitability of candidates for appointment to vacancies that fall vacant.
- 207 Clause 7 be deleted and amend the Bill further by inserting a new Clause 7 to provide for increment of the funds allocated for sports and environmental activities; and expand the scope of activities that may be funded by the allocated funds to include talent promotion; promotion of digital innovations; and other innovations among others.
- 208 The prevailing allocations and funding for sports and environmental activities are insufficient due to emerging developments such as sports and climate change.
- 209 Global digital innovation trends and opportunities necessitate deliberate action by government to enable our youth to compete for global digital space and derive the benefits associated therewith thus creation of digital hubs.
- 210 There is a need to guarantee sustained funding for constituency projects to ensure maximum benefits to residents of different areas within a constituency.
- 211 The Constituency Oversight Committee creates awareness in the constituencies on matters related to the Fund and serves as a focal point between the leadership in a constituency and the National Assembly.
- 212 It is necessary to retain funding for the Constituency Oversight Committee subsequent to the amendment proposed to Clause 11.
- 213 To ensure continuity of adequate funding for normal national government development allocations to projects funded under the principal Act.
- 214 The residents proposed for a provision for increased allocation towards bursary and school feeding programme.

4.20 SUBMISSIONS BY RESIDENTS OF KITUI COUNTY

- 215 The residents of Kitui County met the Committee in Kitui Multi-Purpose Centre on 10th August,2023 and supported the proposed amendments that the principal Act to provide that the object of the Fund shall be to implement infrastructure development over projects falling under the exclusive functions and powers of the National Government as set out in the Constitution. The residents submitted as follows—
- 216 Clause 4 of the Bill be deleted in its entirety and preserve the current procedure for appointment and approval of appointment of members of the Board which provides for appointment by the Cabinet Secretary with the approval of the National Assembly.
- 217 Providing for appointment of Board Members by the Cabinet Secretary and approval of the appointment by the National Assembly will promote the object of the proposed legislation which is to align the Fund to the exclusive functions and powers of the national government as set out in the Constitution.
- 218 Restricting the mandate of filling a vacancy in the Board to the National Assembly Committee will provide a more functional mechanism for verification and assessment of candidates for suitability for appointment as Board members.
- 219 Funding for sports and environmental activities are insufficient due to emerging developments such as talent development in sports and arts and climate change resulting to global warming.
- 220 Global digital innovation trends and opportunities necessitate deliberate action by government to enable our youth to compete for global digital space and derive the benefits associated therewith.

4.21 SUBMISSIONS BY RESIDENTS OF THARAKA NITHI COUNTY

- 221 In a meeting with the Committee held at Kathwana Municipality, kathwana Stadium on 10th August,2023. The residents of Tharaka Nithi County submitted that;
- 222 The Fund had transformed the lives of county's residents because they could approach their Members of Parliament for intervention on various issues through the Fund since most government services are unavailable in most regions in the county.
- 223 The residents agreed to the amendments aimed at aligning the Act with the Constitution.

- 224 Clause 4 of the Bill be deleted to retain the current procedure which provides for appointment of Board Members by the Cabinet Secretary and approval of the appointments by the National Assembly.
- 225 Providing for appointment of Board Members by the Cabinet Secretary and approval of their appointment by the National Assembly will provide for a coordinated approach between the Cabinet Secretary and the National Assembly on matters relating to the Fund.
- 226 Restricting the mandate for filling of a vacancy in the Board to the National Assembly Committee will provide a more inclusive mechanism for assessment of suitability of candidates for appointment to the subject vacancy.
- 227 Increase allocation of NG-CDF from the National Government's share of revenue from not less than 2.5% to 5%. This will match with the ever rising in demand for the Fund. This is due to increase in population thus increased demand for bursary, educational and security infrastructure.
- 228 Delete clause 7(a) and (b) of the bill and further amend it to increase allocation to sport and environment activities to 5%.
- 229 The provision for allocation on sports has enabled sponsorship of tournaments, access to sports equipment and promotion of talent in constituencies. Sports has kept youth busy thus reducing youth vices leading to decrease in crime.
- 230 Further the National Government has a role in promoting sports. Additionally, the provision for allocation towards environmental protection is key in mitigating climate change that is a global concern.
- 231 The limit of not more than 2% will hinder the realization of talents among the youth and further protection of the environment in as far as climate change is concerned.
- 232 Notwithstanding the achievements that NG-CDF has made in the education sector ranging from bursary allocation, scholarship and construction of education infrastructure like lavatories, classes and laboratories, as the residents, they proposed that the current Act be amended to provide for funding of school feeding programme.
- 233 The feeding programme will promote school enrollment and increase school completion of children in Arid and Semi- Arid areas that are prone to hunger.

234 As residents, they further underscore the need to leverage on technology by ensuring the youth have access to WIFI at constituency level. This will enable them to access online jobs and business opportunities.

4.22 SUBMISSIONS BY RESIDENTS OF MERU COUNTY

235 In a meeting with the Committee held at Meru TTC on 11th August,2013, the residents of Meru County supported the Bill and submitted that

236 The Fund provides a platform for direct interactions between the government, individual constituents and community groups based in the constituencies. They also submitted that persons living with disability and vulnerable members of the community were some of the primary beneficiaries of the Fund.

237 Delete clause 4 of the Bill in its entirety to retain the current procedure for appointment and approval of appointment of members of the Board which involves appointment by the Cabinet Secretary with the approval of the National Assembly.

238 The Bill seeks to align the principal Act with the Constitution on the distinct roles and functions of the National Government and the County Governments to avoid conflict between the two levels of government, thus, the need to retain the current provision on appointment of Board members by the Cabinet Secretary and approval of the appointment by the National Assembly.

239 Delete the clause 5 in its entirety. The Bill seeks to align the principal Act with the Constitution by mandating the Fund to oversee and implement infrastructure development over projects falling under the exclusive functions and powers of the National Government as set out in the Constitution. Thus, the need to retain the current provision for filling of a vacancy in the Board by the National Assembly Committee to enable enhanced coordination between the relevant National Government agencies.

240 The current provision for allocation of an amount that does not exceed two per centum of the total allocation to a constituency in a financial year for sports and environmental activities is insufficient due to the emergence of modern sporting activities for all ages gaps; and

241 The need to promote digital innovation establishing digital hubs and encouraging digital innovation amongst the youth.

- 242 Existence of other projects in different areas or allocations to the projects should not be used as a ground to deny subsequent approvals or funding of project projects in the constituencies because varying projects have unique requirements.
- 243 The Constituency Oversight Committee comprised of the Member of the National Assembly and other members mobilizes and sensitizes target groups on matters related to the Fund and also solicit views, opinions and proposals from the public in regard to the Fund and present those views and opinions to the National Assembly.
- 244 There is need to provide funding for the Constituency Oversight Committee subsequent to the amendment proposed to Clause 11 for quality oversight
- 245 Normal National Government development allocations to projects funded under the principal Act should continue to ensure that projects do not stall due to lack of funding.

4.23 SUBMISSIONS BY RESIDENTS OF ISIOLO COUNTY

- 246 In a meeting with the Committee held at Isiolo Catholic Parish Hall, the residents of Isiolo County supported the Bill and observed that mandating the Fund to deal with the exclusive functions and powers of the national government as set out in the Constitution would promote up scaling of National Government services in the constituencies including services such security and provision of services designed for arid and semi-arid areas (ASALs), and thus submitted as follows—
- 247 The percentage allocation towards NG-CDF of the total revenue collected be increased. This is due to inadequacy of the Fund to meet needs of constituents ranging from inadequate bursary and those funds towards infrastructure development. There should be an annual increment regardless of the total revenue collected.
- 248 NG-CDF has had a huge impact on the education sector as evidenced by construction of school infrastructure, support of students with bursaries and purchase of stationery and other equipment that support other learning programme yet the Fund is significantly insufficient.
- 249 Clause 5 be deleted. Contrary to the provision of recruitment of NG-CDF Board members through the Public Service Commission, they advocated for the idea of allowing Members of Parliament to play an active role in recruiting NG-CDF Board members on account that they have a better understanding of persons who are likely to deliver.

- 250 They were opposed to Clause 7 (a) that proposes for deletion of section 25 (8) which provides for funding of sport activities as part of development projects.
- 251 Nurturing talents through sports and art is critical especially in tackling the issue of unemployment among the youth and therefore requires concerted efforts from the National Government, the County Government and NG-CDF. Further, the youth engaged in sports to refrain from indulging in crimes.
- 252 They did not support deletion of section 25 (10) which provides for funding of environmental activities as part of development projects.
- 253 Members expressed concern over deforestation and its adverse effects of climate change and felt that the status quo should remain and NG-CDF should be used to support efforts to conserve the environment.
- 254 Clause 10 of the Bill be deleted to guarantee sustained funding for constituency projects to ensure maximal benefits to residents of different areas with a constituency.
- 255 Clause 11 of the Bill be deleted since Members of Parliaments are constitutionally mandated to an oversight role. COCs are critical functions which strengthen the prevailing check and balance mechanisms for proper implementation of constituency projects.
- 256 The COCs also ensure that constituents obtain value for money by monitoring prudent expenditure of funds and resources for the benefit of the constituents.
- 257 The youths present opined that since the country is going digital and most Government services are accessed on online platforms like e-citizen platform, the Government should connect fiber to various markets in constituencies and have ICT centers. This will enable youth to access information including but not limited to job advertisements, online jobs, tenders among others.
- 258 NG-CDF to consider funding school feeding programme to prevent children from dropping out of school due to hunger.

4.24 SUBMISSIONS BY RESIDENTS OF KIAMBU COUNTY

- 259 The public participation forum was held at Eldama Ravine Constituency NG-CDF offices on 11th September, 2023. Members of the public were concerned about the Supreme Court ruling which had declared NG-CDF Act, 2013 unconstitutional. They appreciated the effort by National Assembly to amend the law to ensure that the Act complies with the Constitution and submitted as follows; That

- 260 The amendments were necessary to align the NG-CDF Act with the Constitution.
- 261 Section 34 of the Act be amended to provide that allocation of the Fund to constituencies be based on population of the constituency and not the number of wards since the current Constituency Fund allocation formula is unfair to the constituencies with high population but less wards.
- 262 Clause 7 (a) & (b) be deleted and further amend it to increase allocation to both sports and environmental activities to 10% to assist in nurturing talent among the youth and enhance protection of environment.
- 263 Amend Section 4 of the NG-CDF Act to increase allocation to the Fund. This will enhance development and support those in need of the Fund and match with the rising need for more infrastructure, cost of infrastructure in schools, demand for bursary funding and security infrastructure.
- 264 They appreciated bursary allocation but sought for a provision to ensure that more funds are allocated towards bursary. Thus, constituency bursary allocation be increased up to 40% from 35%.
- 265 The residents proposed increment of the fund and recommended that the mandate of the Fund be expanded to include paying for utilities like electricity to compliment the efforts of other government projects like constituency ICT hubs that are crucial in addressing unemployment among the youth.
- 266 The residents underscored the need to address the high school drop-out that is witnessed in Arid and Semi- Arid regions due to hunger. They sought to amend the Act to provide for school feeding program.
- 267 The Act to be reviewed to provide that people living with disability should be involved in NG-CDF matters.

4.25 SUBMISSION BY RESIDENTS OF NAIROBI COUNTY

- 268 The Nairobi County Public Participation was held at Weston Hotel on 12th September,2023. Residents from all constituencies of Nairobi County constituencies appeared before the Committee and submitted as follows. That,
- 269 The Government need to increase its annual allocation to NG-CDF from 2.5% to 10% of its share of revenue to enable greater realization of development in Nairobi.

- 270 Bursary allocation be increased to up to 50% of the total allocation to be able to meet the demand of needy learners.
- 271 NG-CDF is the only devolved fund whose development can be witnessed in Nairobi and that with an enhanced amount, a lot of development can be realized.
- 272 The Current Act need to be amended to provide for sustainable school feeding programme. This will help learners from less privileged families have access to food while in school. This will not only motivate them to attend school but also motivate them to complete school.
- 273 Existing digital Hubs have played a useful role to the communities in which they are located. Youths from Dagoretti North Constituency have been able to access jobs online and earn through content creation.
- 274 For sustainable digital hubs, NG-CDF Act needs to be amended to provide for paying utilities like electricity and for security. This will ensure there is no disconnection of WIFI due to lack of electricity.
- 275 Consequently, Section 25 of the NG-CDF Act should be amended to provide for recurrent expenditure on utilities for Constituency digital hubs Constituency digital hubs will create online job employment, promote innovation and enable access to online business.
- 276 Nothing is wrong with existing provisions on nomination and approval of the NG-CDF Board of Directors hence there is no need for the proposed amendment.
- 277 For reasonable funding of sports and environmental activities there is need to increase allocation towards the same to 5% to ensure adequate nurturing of talent and climate change mitigation measures.

4.26 NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND BOARD

- 278 Led by the Board Secretary Mr Simeon Ndweka, the NGCDF Board Directors appeared before the Committee at Weston Hotel on. The NGCDF Board Secretary submitted on behalf of the NG-CDF Board as follows; That
- 279 NG-CDF Board appreciated the amendments to the Act noting that it was important for the proposed provisions of the Bill to align with the Constitution and prevent further court cases challenging the constitutionality of the Act.

- 280 Ensuring exclusivity of national government function addresses the concerns regarding separation of powers raised by the Courts of Law and affirms the doctrine of separation of functions between the two levels of government.
- 281 The proposals provide greater certainty in project implementation.
- 282 On the elaborate proposals on appointment of chairperson and members of the Board this will provide remedy for any foreseeable gaps and scenario where the Act is silent on remedies.
- 283 The proposed provisions will ensure equity in allocation of funds to constituencies as well as ensuring continuous growth across all constituencies.

Clause 4 (a)

- 284 Amend clause 4 (a) by deleting the proposed provision on recommendation from the Public Service Commission in the appointment of members and chairperson of the Board.

Justification

Appointment of members of the Board should be a reserve of the Cabinet Secretary to ensure expeditious appointments of members thereby securing efficient management of the Fund.

Clause 4 (b)

- 285 Amend clause 4 (b) by deleting the words '**National Assembly**'.

Justification

The Bill proposes deletion of section 15 (4) of the Act. Therefore, the role of the National Assembly in the approval process will have been extinguished.

Amend clause 5 by deleting the new proposed section 19A.

Justification

The appointment of members of the Board should be a reserve of the Cabinet Secretary as this will mirror the provisions of section 6 of the State Corporations Act, the Board being a body corporate established under section 14 of the Act.

New Amendment

Clause 5

286 Further amend clause 5 by inserting a new clause 19A to reads as follows:

Whenever a vacancy arises in the Board, the Cabinet Secretary shall, within sixty days, fill the position as appropriate.

Justification

To ensure consultations and expeditious appointment thereby securing efficient management of the Fund.

Clause 6

287 Support the amendment.

Justification

This would ensure clarity on the projects to be implemented under the Act.

Clause 7 (a)

288 Support the amendment.

Justification

This would ensure consistency with other amendments such as clause 6.

Clause 7 (b)

289 Support the amendment.

Justification

This would ensure consistency with other amendments such as clause 6.

Clause 8

290 Support the amendment.

Justification

This would ensure equity in allocation of funds to constituencies as well as ensuring continuous growth across all constituencies.

Clause 9 (a) (i) & (ii)

291 Support the amendment.

Justification

This would absolve proposed deletion of 43 (2) (e).

Clause 9 (iii)

292 Support the amendment.

Justification

This would diffuse the perceived conflict in regards to separation of powers between the Executive and Legislature.

Clause 9 (b)

293 Support the amendment.

Justification

This would improve the implementation of the Act, which will allow committees to have sufficient time to perform their obligations.

Clause 9 (c)

294 Support the amendment.

Justification

For effective and efficient administration of the Funds at constituency level which would allow the committees to have efficient time to consider, approve and monitor implementation of projects within there year cycle.

Clause 10

295 Support the amendment.

Justification

This would clean up the Act and the section is outside the perceived scope of the Act.

Clause 11

296 Support the amendment.

Justification

This would clean up the Act and ensure that the legislative arm of the government would effectively discharge its oversight role.

Clause 12

297 Support the amendment.

Justification

This would clean the Act and ensure that the legislative arm of the government would effectively discharge its oversight role.

Clause 13

298 Support the amendment.

Justification

This would clean the Act and ensure that the legislative arm of the government would effectively discharge its oversight role.

New proposed Amendments

Section 23

299 Amend section 23 of the Act by deleting the words '*with the concurrence of the National Assembly Committee*'.

Justification

This will address the challenges brought about by the principle of separation of powers and align with the proposed amendments of section 15, 19 and 43 of the Act.

4.27 EAST AFRICA COLLABORATION FOR ECONOMIC, SOCIAL AND CULTURAL RIGHTS (EACOR)

300 The Committee considered the written submissions by EACOR who submitted as follows on the Bill:

Clause 2(a) & (b)

301 Supports the amendment as it ensures alignment of the NGCDF Act with the Constitution.

Clause 3

302 Supports the proposed amendment as it aligns with the 2.5% computation. The current provision makes the inaccurate assumption that national revenue, and in extension national government share of revenue will always be on the increase.

Clause 4(a) (b) and (c)

303 Supports the proposed amendments.

Justification

The involvement of the Public Service Commission makes the recruitment process more transparent, accountable, and professional. It also limits potential negative political influence in the selection process.

Clause 5

304 Delete the proposed amendment of Section 19.

Justification

This weakens the existing provisions on vacancy in the Board which are more elaborate thus establishing more safeguards to the integrity of the office.

New Amendment

Section 19

305 Include death as an additional ground for vacancy in the Act.

Justification

The proposal does not provide for the procedure for removal of a Member of the Board creating a legal vacuum. Reference to 'procedure set out in any written law' is insufficient.

Clause 5

306 Supports the new proposed section 19A on filling of a vacancy in the Board.

Justification

Involvement of the Public Service Commission makes the recruitment transparent, accountable, and professional. It limits potential negative political influence in the selection process.

Clause 6

307 Supports the amendment of repealing and substitution of Section 24.

Justification

This ensures alignment of the Act with the Constitution.

Clause 7 (a)

308 Supports deletion of allocation of funds for sports activities.

Justification

This ensures alignment of the Act with the Constitution.

Clause 7 (b)

309 Supports deletion of allocation of funds for environment activities.

Justification

This ensures alignment of the Act with the Constitution.

Clause 8

310 Does not support the provision on allocation of funds in a given financial year 'being less than what was allocated in the previous year.

Justification

This contradicts the proposed deletion in clause 3 of the Bill as this is a Fund based on a fixed percentage of national revenue. There is a likelihood of a lesser allocation in the event of a lesser sharable revenue.

Clause 9 (a) (i) & (ii)

311 Supports the deletion of 'two' and substitution of 'three'.

Justification

This ensures alignment of the Act with the Constitution.

Clause 9 (a) (iii)

312 Supports deletion of paragraph (e).

Justification

This protects the principle of separation of powers between the legislature and executive.

Clause 9 (b)

313 Supports the proposal on convening of the first meeting of the Constituency Committee.

Justification

The Board representative is better placed to initiate the meeting due to the Board's detailed information on NGCDF.

This conflicts with the term of the Committee, which according to the NGCDF Regulations is 5 years. This causes an overlap between the life of the Committee and the contractual terms of the members.

Clause 10

314 Delete the proposed amendment and retain section 52.

Justification

The NGCDF funds are instrumental in supplementing underfunded projects which require additional support.

Clause 11

315 Does not support deletion of Section 53.

Justification

Repealing of Section 53 limits oversight and participation of the people in the decisions of the Committee.

Clause 12

316 Delete the proposed amendment.

Justification

Based on the need for an oversight organ proposes retaining of the current provision.

Clause 13

317 Supports the amendment.

Justification

The deletion does not raise any contentious matters.

Clause 14

318 Supports the consequential amendment under the National Government Co-ordination Act.

Justification

In the absence of legislation declaring constituencies as service delivery units, there would be no basis for allocation of resources and carrying out of development at the constituency level.

4.28 SLUM OUTREACH PROGRAMME

Slum Outreach Programme made a written submission as follows-

Clause 11

319 Delete the proposed amendment.

Justification

Transparency and accountability are the best tools to ensure projects benefit the intended people in any given constituency through the NG-CDF projects. This will avoid embezzlement happening in constituencies.

New Amendment

Section 4

320 Increase the allocation from 2.5% to 3.5%.

Justification

There is need to increase allocation from the current 2.5% to 3.5% to reflect increase in population growth and the current economic recession for actual realization of development in the grassroots as initially intended.

Clause 5

320 Further amend section 23 by introducing new subsection (3) to read as follows:

(3) Any unexpended money, for whatever reason in the Board's Accounts at the end of a particular financial year, or at any other time, shall be cumulative and shall be carried forward from one year to the next, for use in accordance with this section.

Justification

This will ensure that the Board remains operational and is able to execute its continuing programmes and enable the Board to meet its maturing obligations. Additionally, this will ensure legislative consistency and uniformity.

4.28 STEPHEN MUHINDI

The Stakeholder appeared before the Committee on 11th September 2023 at Kiambu County and made the following proposals to the Bill.

New Amendment

Section 4

321 Increase the allocation from 2.5% to 3.5%.

Justification

The extra 1% should be shared among the constituencies in accordance with population quota.

New Clause

321 Provide a clause to initiate and sustain collaboration and cooperation with state and non-state actors.

Justification

This provision should seek to eliminate duplication of roles, double allocation of funds, and conflict of interest.

4.29 WACHIRA MUTHEE & WAMBUI ADVOCATES

The stakeholders submitted a written memorandum to the Committee and made the following proposals to the Bill.

New Amendment

Section 25

322 (a) Inserting a new subsection immediately after subsection (2)—

‘(2A) Notwithstanding the provisions of subsection (2), up to a maximum of three percent of the total annual allocation for the constituency may be used for recurrent utilities, costs and maintenance of Constituency Digital Hubs and such use shall be listed in the Third Schedule as a project.’

(b) Amending subsection (10) by deleting the word ‘two’ appearing immediately after the word exceed and substituting it therefor with the word ‘five’.

Justification

The proposed amendments will ensure that ICT hubs established at the constituency level can be maintained and operational expenses met through NG-CDF. The ICT hubs are important for the creation of online jobs to the youth at the constituency level, by providing an income-generating infrastructure as a digital economy.

5.0 COMMITTEE OBSERVATIONS

323 The Committee having considered and analyzed submissions from various stakeholders, made the following observations—

- 1) The Committee noted that it is important to ensure the NG-CDF Act is compliant with the Constitution of Kenya and specifically in relation to separation of functions. The Committee noted that the Supreme Court of Kenya (SCOK) Judgment held that the NG-CDF Act, 2013 violated the vertical division of powers between the National Government and the County Governments.
- 2) The inclusion of the Public Service Commission in the recruitment of NG-CDF Board Members and the Chairperson will ensure NG-CDF Board vacancies are filled in an efficient and competitive manner.
- 3) There is a need to consider the economic realities where national revenue collected in the current financial year could be less than what was collected in the previous financial year.
- 4) There is a need to align with the principles of public finance management which calls for prudent use of public resources through avoiding double allocation of funds to align with Article 201 of the Constitution of Kenya. This will prevent imprudent use of public resources created by unnecessary, parallel and duplicative offices, bodies and structures.
- 5) Climate change mitigation requires concerted efforts from every human being to prevent further extreme, harsh and devastating weather conditions experienced all over the world. Mitigation measures such as planting trees are critical among other measures identified as solutions to the greenhouse effect brought about by human activities.
- 6) Members of the public proposed an increase in the allocation of educational bursaries and other learners social support projects to benefit communities.
- 7) Creation of employment among the youths is a critical agenda for the government which requires taking advantage of technological advancements. Therefore, this requires leveraging on the digital economy agenda through providing technical capacity training among the youths.
- 8) That the proposed amendments will firmly entrench the fund to the provisions of the Constitution as well as help align the projects to respond to the Fourth Schedule of the Constitution on functional assignment to the two levels of government.

6.0 COMMITTEE RECOMMENDATIONS

331. Having considered the Bill, the Committee recommends that the National Assembly **Approves** the National Government Constituencies Development Fund (Amendment) Bill, 2023 with the following amendments to be considered in the committee stage of the Bill;

CLAUSE 5

(1) **THAT** clause 5 of the Bill be amended in the proposed new section 19A (9) by deleting the word ‘*Commission*’ appearing immediately before the words ‘*the Public Service Commission*’ and substituting therefor the word ‘*Board*’.

CLAUSE 7

(2) **THAT** clause 7 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) by deleting subsection (10) and substituting therefor the following new subsections—

(10) Climate change mitigation activities including afforestation, reforestation, community sensitization and tree seedling production may be considered as development projects for purposes of this Act provided that the allocation to such activities does not exceed five per centum of the total allocation to the constituency in that financial year.”

(10A.) The provisions of subsection (10) shall lapse ten years after the effective date of this Act.”

CLAUSE 8

(3) **THAT** clause 8 of the Bill be amended in the proposed new paragraph (c) by deleting the letter (c) and substituting therefor the letter (ba).

CLAUSE 9

(4) **THAT** clause 9 of the Bill be amended by deleting paragraph (c).

NEW CLAUSES

(5) (a) **THAT** the Bill be amended by inserting the following new Clause immediately after Clause 7—

“7A. Section 25 of the principal Act be amended by inserting the following new subsection immediately after subsection (2)—

“(2A) Notwithstanding subsection (2), a sum not exceeding three per centum of the total annual allocation to a constituency may be used for the payment of recurrent utilities costs and maintenance of constituency digital hubs.”

(6) (b) THAT the Bill be amended by inserting the following new Clauses immediately after Clause 9—

“**9A.** Section 48 of the principal Act be amended by deleting the words ‘*thirty- five*’ and substituting therefor the word ‘*forty*’.

(7) 9B. Section 48A of the principal Act be repealed and substituted therefor the following new section—

48A. (1) Despite section 48, a Constituency Committee shall, with the approval of the Board, allocate funds to cater for education bursary schemes and education days, teaching and learning activities and other learners’ social support programmes.

(2) The Board shall in consultation with the Committee provide guidelines on the implementation of this section. “

SIGNED:.......... DATE:.....19/10/2023.....

HON. MUSA CHERUTICH SIRMA

**CHAIRMAN, THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT
FUND COMMITTEE**

APPENDIX 1

INTERNAL M E M O

TO : DIRECTOR, AUDIT, APPROPRIATION AND
OTHER SELECT COMMITTEES' SERVICES (NA)

FROM : HEAD OF THE TABLE OFFICE DEPARTMENT

DATE : June 7, 2023

SUBJECT : BILL READ A FIRST TIME

The National Government Constituencies Development Fund (Amendment) Bill (National Assembly Bill No. 13 of 2023) was Read a First Time on Wednesday, June 7, 2023.

Enclosed herewith, please find the said Bill for onward forwarding to the relevant Committee.



WANJIRU NDINDIRI

Copy: Clerk of the National Assembly
Deputy Clerks
Chief Librarian/ Deputy Director, Information & Research Services

Encls.

(i) ERICK
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FAA
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NATIONAL ASSEMBLY
RECEIVED
08 JUN 2023
DIRECTOR
AUDIT/APPROPRIATIONS/SELECT COMMITTEES
Time:..... Sign:.....



SPECIAL ISSUE

Kenya Gazette Supplement No. 50 (National Assembly Bills No. 13)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2023

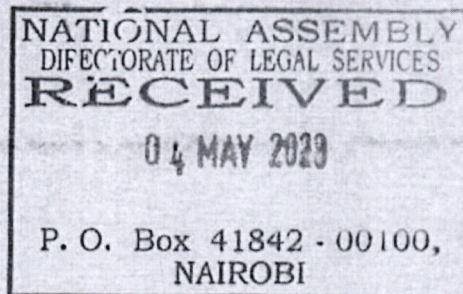
NAIROBI, 24th April, 2023

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(Amendment) Bill, 2023 203



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**THE NATIONAL GOVERNMENT CONSTITUENCIES
DEVELOPMENT FUND (AMENDMENT) BILL, 2023**

A Bill for

**AN ACT of Parliament to amend the National
Government Constituencies Development Fund
Act**

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the National Government Constituencies Development Fund (Amendment) Act, 2023.

Short title.

2. Section 3 of the National Government Constituencies Development Fund Act (hereinafter referred to as “the principal Act”) is amended—

Amendment of section 3 of No. 30 of 2015.

(a) in paragraph (h) by deleting the word “specified” and substituting therefor the word “exclusive”; and

(b) in paragraph (k) by inserting the word “exclusive” immediately after the words “matters falling within the”.

3. Section 4 of the principal Act is amended by deleting subsection (3).

Amendment of section 4 of No. 30 of 2015.

4. Section 15 of the principal Act is amended—

Amendment of section 15 of No.30 of 2015.

(a) in subsection (1) (e) by inserting the words “in accordance with the recommendations of the Public Service Commission and” immediately after the word “Cabinet Secretary”;

(b) in subsection (2) by inserting the words “the Public Service Commission” immediately after the words “Cabinet Secretary”;

(c) by deleting sub-section (4).

5. The principal Act is amended by repealing section 19 and substituting therefor the following sections—

Repeal and replacement of section 19 of No.30 of 2015.

Vacancy

19. The office of the chairperson or member of the Board falls vacant if the holder—

- (a) dies;
- (b) resigns in writing, by a notice addressed to the Cabinet Secretary;
- (c) is convicted of a felony and sentenced to imprisonment;
- (d) is absent from three consecutive meetings of the Board without good cause;
- (e) is removed from office in accordance with the procedure set out in any written law.

Filling of vacancy

19A. (1) Whenever a vacancy arises in the Board, the Public Service Commission shall, within fourteen days—

- (a) invite applications from persons who qualify for nomination and appointment by advertisement in at least two daily newspapers with nationwide circulation;
- (b) consider the applications received to determine their compliance with the requirements set out in this Act;
- (c) shortlist the applicants;
- (d) conduct interviews for the shortlisted persons;
- (e) recommended three qualified persons for each vacancy to the Cabinet Secretary for nomination for appointment.

(2) The Cabinet Secretary shall within fourteen days of the receipt of the names of the persons recommended for nomination under sub-section 1(e), nominate one person for each vacancy and forward the names to the National Assembly for approval.

(3) The National Assembly shall, within twenty-one days of the day it next sits after receipt of the name of an applicant under subsection (2), vet and consider the applicant, and may approve or reject applicants for any or all vacancies in the Board.

(4) Where the National Assembly Approves of an applicant, the Speaker of the National Assembly shall forward the name of the approved applicant to the Cabinet Secretary for appointment.

(5) The Cabinet Secretary shall, within seven days of receipt of the name of the approved applicant from the National Assembly, by notice in the Gazette appoint the applicant to the Board.

(6) Where the National Assembly rejects any nomination, the Speaker shall within three days communicate its decision to the Cabinet Secretary and request the Cabinet Secretary to submit fresh nominations.

(7) Where a nominee is rejected by the National Assembly under subsection (6), the Cabinet Secretary shall within seven days, submit to the National Assembly a fresh nomination from amongst the persons shortlisted and forwarded by the Public Service Commission under subsection (1)(e).

(8) If the National Assembly rejects any or all of the subsequent nominees submitted by the Cabinet Secretary for approval under subsection (1), the provisions of subsections (1) and (2) shall apply.

(9) In short listing, nominating or appointing persons to fill a vacancy in the Commission, the Public Service Commission, the National Assembly and the

Cabinet Secretary shall ensure that not more than two-thirds of the members are of the same gender.

6. The principal Act is amended by repealing section 24 and substituting therefor the following new section—

Repeal and replacement of section 24 of No. 30 of 2015.

Projects to be in respect of national government functions.

24. A project under this Act shall only be in respect of works and services falling within the exclusive functions of the national government as provided in the Constitution.

7. Section 25 of the principal Act is amended —

Amendment of section 25 of No. 30 of 2015.

(a) by deleting subsection (8); and

(b) by deleting subsection (10).

Amendment of section 34 of No. 30 of 2015.

8. Section 34 of the principal Act is amended in subsection (1) by inserting the following new paragraph immediately after paragraph (b)—

(c) an amount that ensures that the total allocation to a constituency is not less than the amount allocated to the constituency in the preceding financial year;

9. Section 43 of the principal Act is amended—

Amendment of section 43 of No. 30 of 2015.

(a) in subsection (2)—

(i) by deleting the word “two” appearing in paragraph (b) and substituting therefor the word “three”;

(ii) by deleting the word “two” appearing in paragraph (c) and substituting therefor the word “three”;

(iii) by deleting paragraph (e).

(b) by deleting sub-section (6) and substituting therefor the following new sub-section—

(6) The first meeting of the Constituency Committee shall be convened by the officer of the Board seconded to the constituency within one hundred and twenty days from the date of the holding of a general election as contemplated in Article 101(1) of the Constitution.

(c) in subsection (8) by deleting the words “two years” and substituting therefor the words “three years”.

52. 10. The principal Act is amended by repealing section

Repeal of section 52 of No. 30 of 2015.

53. 11. The principal Act is amended by repealing section

Repeal of section 53 of No. 30 of 2015

53A. 12. The principal Act is amended by repealing section

Repeal of section 53A of No. 30 of 2015

13. Section 54 of the principal Act is amended by deleting subsection (2).

Amendment of section 54 of No. 30 of 2015

14. The consequential amendments set out in the Schedule to the Act shall take effect on the commencement date of this Act.

Consequential amendments

SCHEDULE

CONSEQUENTIAL AMENDMENTS

Act

Provision Amendment

National Government
Co-ordination Act,
No. 1 of 2013.

s.14(1)

Insert the following new sub-section immediately after sub-section (1)-

(1A) Despite sub-section (1), all the constituencies established under Article 89 of the Constitution are hereby recognized and established as national government service delivery units.

s.14(4)

Insert the word “constituencies” immediately after the words “For purposes of this section, the”.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to amend the National Government Constituencies Development Fund Act, No. 30 of 2015 to provide that the projects that are to be undertaken under the Fund shall be projects that fall within the exclusive mandate of the national government. This is to align the Act with the Constitution on the distinct role and functions of the national and county governments and to avoid conflict between the two levels of government.

Clause 1 of the Bill provides for the short title of the Bill.

Clause 2 of the Bill provides for the amendment of section 3 of the Act to provide that the objects of the Fund shall be to facilitate the National Assembly to oversight and supplement infrastructure development over projects falling under the exclusive jurisdiction of the national government.

Clause 3 of the Bill provides for the deletion of section 4 subsection 3 to prevent situation where the collected government revenue is lower than the preceding year.

Clause 4 of the Bill provides for the amendment of section 15 of the Act to empower the Public Service Commission to make recommendations to the Cabinet Secretary on the persons to be appointed as members of the National Government Constituencies Development Fund Board established under section 14 of the Act.

Clause 5 of the Bill provides for the repeal of section 19 and replacing it with provisions that incorporate the Public Service Commission in the recruitment process of the Board members as contemplated under Article 234 of the Constitution.

Clause 6 of the Bill provides for the repeal and replacement of section 24 of the Act to provide that a project under this Act shall only be in respect of works and services falling within the exclusive functions of the national government under the Constitution and other enabling legislation.

Clause 7 of the Bill provides for deletion of section 25 subsections 8) and (10) of the Act to provide for the funding of projects falling under the exclusive jurisdiction of the national government.

Clause 8 of the Bill seeks to amend section 34(1) of the Act in order to ensure that the total amount of money allocated to a constituency is not less than the amount allocated to the constituency in the preceding financial year.

Clause 9 of the Bill provides for the amendment of section 43 subsection (2) to delete the provision enabling the constituency office to nominate two members of the National Government Constituencies Development Fund Committee and replace the same with two persons nominated in accordance with the Regulations in force.

Clause 10 of the Bill provides for the repeal of section 52 of the Act.

Clause 11 of the Bill provides for the repeal of section 53 of the Act.

Clause 12 of the Bill provides for repeal of section 53A of the Act, consequential to the repeal of section 52 of the Act.

Clause 13 of the Bill provides for deletion of section 54 subsection (2) of the Act to prevent duplication of subsection (1).

Clause 14 of the Bill provides for the Schedule which sets out the consequential amendments to the National Government Co-ordination Act, No. 1 of 2013 to ensure that constituencies are recognized as national government service delivery units.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill does not delegate legislative powers to the Cabinet Secretary. It also does not limit fundamental rights and freedoms.

Statement that the Bill concerns county governments

The Bill does not concern county governments in terms of Article 109(5) of the Constitution as it does not contain provisions that affect the functions and powers of the county governments as set out in the Fourth Schedule to the Constitution.

Statement that the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill shall not occasion additional expenditure of public funds.

Dated the 19th April, 2023.

KIMANI ICHUNGWAH,
Leader of the Majority Party.

OPIYO WANDAYI,
Leader of the Minority Party.

Section 3 of the Act which it is proposed to amend—

Objects of the Act

The objects of this Act are to—

- (a) provide for the establishment and administration of the Fund;
- (b) recognise the constituency as a platform for identification, performance and implementation of national government functions;
- (c) facilitate the performance and implementation of national government functions in all parts of the Republic pursuant to Article 6(3) of the Constitution;
- (d) provide for the participation of the people in the determination and implementation of identified national government development projects at the constituency level pursuant to Article 10(2)(a) of the Constitution;
- (e) promote the national values of human dignity, social justice, inclusiveness, equality, human rights, equity, non-discrimination and protection of the marginalized pursuant to Article 10 (2) (b) of the Constitution;
- (f) provide for the sustainable development of all parts of the Republic pursuant to Article 10(2) (d) of the Constitution;
- (g) provide a legislative and policy framework pursuant to Article 21 (2) of the Constitution for the progressive realization of the economic and social rights guaranteed under Article 43 of the Constitution;
- (h) provide mechanisms for the National Assembly to exercise oversight over the performance of specified national government functions at the constituency level as provided for under Article 95 of the Constitution;
- (i) deleted by Act No. 39 of 2016, s. 2;
- (j) authorize withdrawal of money from the Consolidated Fund as provided under Article 206 (2) (c) of the Constitution;
- (k) provide for mechanisms for supplementing infrastructure development at the constituency level in matters falling within the functions of the national government at that level in accordance with the Constitution;

- (l) provide a framework for citizens led development to assist the national government in planning and prioritizing the use of its resources;
- (m) create a harmonious relationship between citizens and the national government and its officers in local development;
- (n) provide a platform for citizens participation in service delivery;
- (o) build local accountability and transparency in the use of resources; and
- (p) provide for a public finance system that promotes an equitable society and in particular expenditure that promotes equitable development of the country by making special provisions for marginalized groups and areas pursuant to Article 201 (b) (iii) of the Constitution.

Section 4 of the Act which it is proposed to amend—

Establishment of the Fund

(1) There is established a fund to be known as the National Government Constituencies Development Fund which shall—

- (a) be a national government fund consisting of monies of an amount of not less than 2.5% (two and half percentum) of all the national government's share of revenue as divided by the annual Division of Revenue Act enacted pursuant to Article 218 of the Constitution
- (b) comprise of any monies accruing to or received by the Board from any other source; and
- (c) be administered by the Board.

(2) All monies allocated under this Act shall be considered as funds allocated to constituencies pursuant to Article 206 (2) (c) of the Constitution to be administered in accordance with the provisions of this Act.

(3) The monies appropriated to the Fund in any financial year under subsection (1) (a) shall not be less than the amount appropriated to the Fund in the preceding financial year unless as otherwise allowed by this Act.

Section 15 of the Act which it is proposed to Amend—

Composition of the Board

(1) The Fund shall be administered by a Board of Directors which shall consist of—

- (a) the principal secretary in the Ministry for the time being responsible for matters relating to national economic policy and planning or a designated alternate, not being below the level of Director of Planning;
- (b) the principal secretary in the Ministry for the time being responsible for matters relating to finance or a designated alternate not being below the level of Deputy Director of Budget;
- (c) the Attorney-General or a designated alternate not being below the level of Senior State Counsel;
- (d) the principal secretary in the Ministry responsible for matters relating to education or a designated alternate not being below the level of Director;
- (e) seven other persons, three of whom shall be of the opposite gender and at least one shall be a person with disability, qualified in matters relating to finance, accounting, engineering, economics, community development, public affairs, project management, education, security or law appointed by the Cabinet Secretary with the approval of the National Assembly; and
- (f) the chief executive officer who shall be an ex-officio member without a right to vote.

(2) In nominating or approving the appointment of a person as a member of the Board under sub-section (1), the Cabinet Secretary and the National Assembly shall take into account gender equity and the regional diversities of the people of Kenya.

(3) The Cabinet Secretary shall appoint the chairperson of the Board from amongst the seven persons appointed in accordance with paragraph (e) of subsection (1).

(4) The names and curriculum vitae of the persons nominated to be appointed as members of the Board pursuant to paragraph (e) of subsection (1) shall, before appointments are made, be submitted to the National Assembly for approval.

Section 19 of the Act which it is proposed to repeal—

Removal of a member of the Board

(1) The office of a member of the Board for a member appointed under paragraphs (e) and (f) of section 15(1) shall become vacant if the member—

- (a) resigns by giving written notice to the Cabinet Secretary; or

(b) is removed from office on any one or more of the following grounds –

- (i) serious violation of the Constitution or any other law;
- (ii) gross misconduct, whether in performance of the member's or office holder's functions or otherwise;
- (iii) physical or mental incapacity to perform the functions of office;
- (iv) incompetence;
- (v) bankruptcy;
- (vi) engaging in active politics; or
- (vii) absence from three consecutive meetings of the Board without the permission of the Chairperson.

(2) A person desiring the removal of a member of the Board under subsection (1) may present a petition to the National Assembly Committee setting out the alleged facts constituting that ground.

(3) A member sought to be removed under subsection (1) shall be given a fair hearing before a decision is made by the National Assembly Committee.

(4) The National Assembly Committee shall, upon receiving a petition under subsection (2), consider the petition and may recommend that the member be suspended pending the outcome of the complaint.

(5) The National Assembly Committee shall consider the petition and if it is satisfied that it discloses a ground under subsection (1), it shall make a determination that the member be removed from office and the member shall stand removed from office upon the making of that determination.

(6) A vacancy arising as a result of the removal of a member under subsection (5) shall be filled in the manner set out in section 15 within thirty days of the occurrence of the vacancy.

Section 24 of the Act which it is proposed to amend—

Projects to be in respect of national government functions

A Project under this Act shall—

- (a) only be in respect of works and services falling within the functions of the national government under the Constitution; and

- (b) be community based in order to ensure that the benefits are available to a widespread cross-section of the inhabitants of a particular area.

Section 25 of the Act which it is proposed to amend—

Funding of projects

(1) Any funding under this Act shall be for a complete project or a defined phase of a project and may include the acquisition of land and buildings.

(2) All projects shall be projects as defined under this Act and may include costs related to studies, planning and design or other technical input for the project but shall not include recurrent costs of a facility.

(3) Funds provided under this Act shall not be used for the purpose of supporting political bodies or political activities or for supporting religious bodies or religious activities.

(4) Notwithstanding the provisions of subsection (3), the Constituency Committee may identify a religious body or organization as an appropriate specialized agency for purposes of section 8 with regard to emergency support.

(5) Constituency Committee office project shall be considered as a development project for purposes of the Act and may include appropriate furniture and equipment for the office.

(6) Notwithstanding the provisions of subsection (2), up to a maximum of six per centum of the total annual allocation for the constituency may be used for administration, recurrent expenses of vehicles, equipment and machinery and such use shall be listed in the Third Schedule as a project.

(7) Projects may include the acquisition of vehicles, machinery and other equipment for the constituency.

(8) Sports activities shall be considered as development projects for purposes of this Act but shall exclude cash awards provided that the allocation to such activities does not exceed two per centum of the total allocation of the constituency in that financial year.

(9) Monitoring and evaluation of ongoing projects and capacity building of various operatives may be considered as a development project provided that not more than three per centum shall be allocated for this purpose.

(10) Environmental activities may be considered as development projects for purposes of this Act provided that the allocation to such

activities does not exceed two per centum of the total allocation of the constituency in that financial year.

(11) Each of the projects shall be listed in the Third Schedule including the emergency item under section 8 and, where applicable, the activities under subsections (5), (6), (7), (8), (9) and (10) of this section.

Section 34 of the Act which it is proposed to amend—

34. Basis for budget ceiling

(1) The budget ceiling for each constituency shall be—

- (a) three quarters of the amount specified in section 4 (1) divided equally among all constituencies;
- (b) an amount equal to a quarter of the amount specified in section 4 (1) divided among all constituencies taking into account the number of wards in each constituency; and
- (c) subject to the provisions of section 8 (1) and section 23 (1).

(2) The Chairperson of the National Assembly Committee shall table in the National Assembly a schedule showing the ceiling for each constituency, which shall be determined in accordance with subsection (1).

(3) Despite subsection (1), the National Government may, through the National Government Constituency Development Fund Committees established under section 43, where necessary, facilitate other projects or programmes falling within the purview of the National Government with funds other than the funds specified in section 4 (1).

Section 43 of the Act which it is proposed to amend—

National Government Constituency Development Fund Committee

(1) There is established a National Government Constituency Development Fund Committee for every constituency.

(2) Each Constituency Committee shall comprise of—

- (a) the national government official responsible for co-ordination of national government functions;
- (b) two men each nominated in accordance with subsection (3), one of whom shall be a youth at the date of appointment;
- (c) two women nominated in accordance with subsection (3), one of whom shall be a youth at the date of appointment;

- (d) one person with disability nominated by a registered group representing persons with disabilities in the constituency in accordance with subsection (3);
- (e) two persons nominated by the constituency office established under Regulations made pursuant to the Parliamentary Service Act;
- (f) the officer of the Board seconded to the Constituency Committee by the Board who shall be an ex officio member without a vote.
- (g) one member co-opted by the Board in accordance with Regulations made by the Board.

(3) The seven persons referred to in subsection (2)(b), (c), (d) and (e) shall be selected in such manner and shall have such qualifications as the Board may, by Regulations, prescribe.

(4) The names of the persons selected under subsection (3) shall be submitted by the Board to the National Assembly for approval before appointment and gazettelement by the Board.

(5) The Regulations made under subsection (3) shall be submitted to the National Assembly for approval before publication by the Board.

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

(7) The quorum of the Constituency Committee shall be one half of the total membership.

(8) The term of office of the members of the Constituency Committee shall be two years and shall be renewable but shall expire upon the appointment of a new Constituency Committee in the manner provided for in the Act, or as may be approved by the Board.

(9) The Fund account manager seconded by the Board to the constituency shall be the custodian of all records and equipment of the constituency during the term of Parliament and during transitions occasioned by general elections or a by-election.

(10) Whenever a vacancy occurs in the Constituency Committee by reason of resignation, incapacitation or demise of a member the vacancy shall be filled from the same category of persons where the vacancy has occurred within a period of one hundred and twenty days.

(11) The Constituency Committee shall meet at least six times in a year but the committee shall not hold more than twenty-four meetings in the same financial year, including sub-committee meetings.

(12) *deleted by Act No. 24 of 2022, s. 16 (c).*

(13) A member of the Constituency Committee may be removed from office on any one or more of the following grounds—

- (a) lack of integrity;
- (b) gross misconduct;
- (c) embezzlement of public funds;
- (d) bringing the committee into disrepute through unbecoming personal public conduct;
- (e) promoting unethical practices;
- (f) causing disharmony within the committee;
- (g) physical or mental infirmity.

(14) A decision to remove a member under subsection (13) shall be made through a resolution of at least five members of the Committee and the member sought to be removed shall be given a fair hearing before the resolution is made.

(15) A vacancy arising as a result of the removal of a member under subsection (13) shall be filled in the manner set out in subsection (10) and minutes of the meeting shall indicate the fact of the removal or appointment of a member.

Section 52 of the Act which it is proposed to amend—

Allocations under the Act are supplementary

The existence of another allocation by the national government to a project in the constituency or a neighboring Constituency shall not be used as a reason to deny either approval or funding of any project consistent with this Act.

Section 53 of the Act which it is proposed to repeal—

Constituency Oversight Committee

(1) There is established a Constituency Oversight Committee for projects undertaken under this Act.

(2) The Constituency Oversight Committee shall be comprised of the constituency member of the National Assembly and not more than four

other members, appointed by the Member of National Assembly for the constituency in consultation with other stakeholders.

(3) The constituency Member of National Assembly shall, in consultation with the Constituency Oversight Committee at least twice in every financial year, and upon giving notice of at least fourteen days, convene public forums for purposes of—

- (a) mobilizing and sensitizing the respective target groups on any matter related to the Fund; and
- (b) soliciting views, opinions and proposals from the public in regard to the Fund and presenting the views and opinions to the National Assembly.

(4) The public may in the public forums above—

- (a) make recommendations to the Constituency Committee for the better implementation of projects undertaken under the Act;
- (b) witness the commissioning of projects and issuance of cheques and other disbursements by the Constituency Committee; and
- (c) express their views on the implementation of the Fund.

(5) A member of the Constituency Oversight Committee may attend meetings of the Constituency Committee or its sub-committees, to ensure fair distribution of the fund.

Section 53A of the Act which it is proposed to repeal-

Facilitation of Constituency Oversight Committee

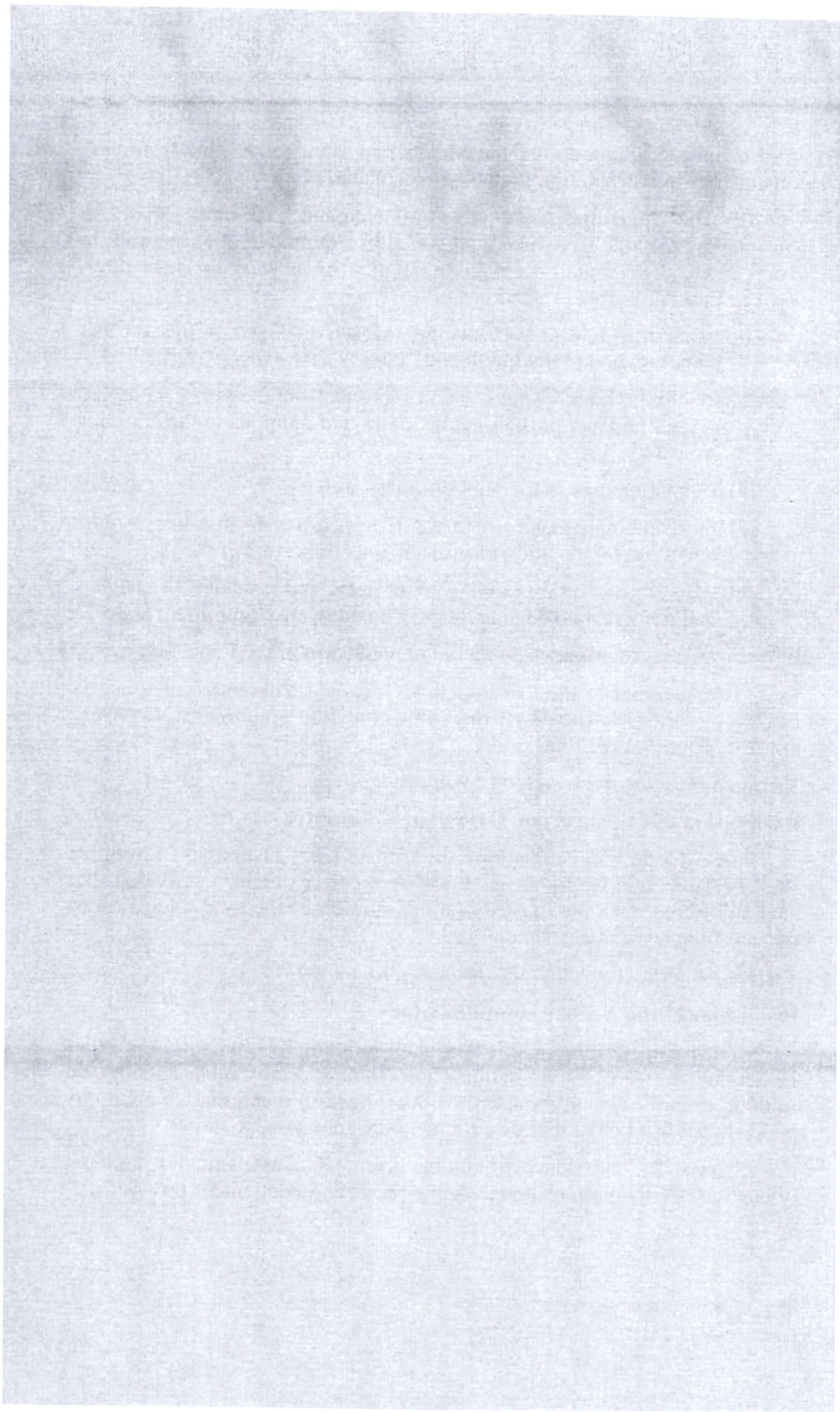
In discharging its obligations, the Constituency Oversight Committee shall be facilitated by funds set aside by the constituency, provided that such allocation does not exceed one per centum of the total allocation of the constituency in that financial year.

Section 54 of the Act which it is proposed to amend—

Provisions in the Act are complimentary

(1) The provisions of this Act shall be complimentary to any other development efforts by the national government or any other agency and nothing in this Act shall be taken or interpreted to mean that an area may be excluded from any other development programmes.

(2) For the avoidance of doubt, normal Government development allocations shall continue alongside the projects funded under this Act.



APPENDIX 2



**REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEEN PARLIAMENT – SECOND SESSION**

**IN THE MATTER OF ARTICLE 118(1) (b) OF THE CONSTITUTION
AND
IN THE MATTER OF CONSIDERATION BY NATIONAL ASSEMBLY OF:
THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND (AMENDMENT) BILL, 2023**

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 WHEREAS, The National Government Constituencies Development Fund (Amendment) Bill, 2023 (National Assembly Bill No. 13 of 2023) co-sponsored by the Leader of the Majority Party, the Hon. Kimani Ichung'wah, MGH, MP and the Leader of the Minority Party, the Hon. James Opiyo Wandayi, MGH, MP, was read a First Time on **Wednesday, 7th June, 2023** and pursuant to National Assembly Standing Order 127(1) committed to the Select Committee on National Government Constituencies Development Fund for consideration and reporting to the House;

FURTHER WHEREAS, the principal object of the Bill is to amend the National Government Constituencies Development Fund Act, No. 30 of 2015 to provide that projects undertaken under the Fund must fall within the exclusive mandate of the national government; and to align the Act with the Constitution on the distinct roles and functions of the national and county governments;

NOW THEREFORE, in compliance with Article 118(1) (b) of the Constitution and Standing Order 127(3), the Select Committee on National Government Constituencies Development Fund hereby invites members of the public to submit memoranda on the Bill.

A copy of the Bill is available at the National Assembly Table Office, or on www.parliament.go.ke/the-national-assembly/house-business/bills.

The memoranda may be addressed to the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi**; hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi**; or emailed to cna@parliament.go.ke; to be received **on or before Wednesday, 28th June, 2023 at 5.00 p.m.**

**S. NJOROGE
CLERK OF THE NATIONAL ASSEMBLY**

22nd June, 2023

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

APPENDIX 3



**NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND
BOARD**

**A MEMORANDUM TO THE NATIONAL ASSEMBLY
THIRTEEN PARLIAMENT- SECOND SESSION**

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

AND

**IN THE MATTER OF CONSIDERATION BY NATIONAL ASSEMBLY OF THE NATIONAL
GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND (AMENDMENT) BILL, 2023**

JUNE 26, 2023

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1. INTRODUCTION AND BACKGROUND

- A. The National Government Constituencies Development Fund (NG-CDF) is established under the NG-CDF Act, 2015 as amended in 2022 with objectives as set out under section 3 thereof. Those objectives, are achieved by dedicating not less than 2.5% of all the National Government's share of revenue [section 4 of the Act].
- B. Section 14 of the NG-CDF Act establishes the National Government Constituencies Development Fund Board, as a body corporate, mandated with the overall administration of the Fund as established under section 4 of the Act. Among the objects of the NG-CDF Act is to provide for mechanisms for supplementing infrastructural development at the Constituency level in areas falling within the functions of the National Government as provided under schedule 4 of the Constitution. To this end therefore the Board considers project proposals; approve projects for funding and disburse funds for implementation of such approved projects.
- C. It worth noting that the precursor of National Government Constituencies Development Fund [NG-CDF] was the Constituencies Development Fund [CDF], initially established in 2003 vide Constituencies Development Fund [CDF] Act, NO. 10 of 2003. The CDF Act of 2003 was amended in 2007 but the said Act was repealed by the Constituencies Development Fund Act No. 30 of 2013.
- D. The CDF Act of 2013

The CDF Act of 2013, like many other laws, was enacted with view to aligning it with the 2010 Constitution. However, as soon as this Act came into force, the same was challenged in High Court [Petition No. 71 of 2013], alleging that the Act was unconstitutional.

The petitioners were:

1. The Institute of Social Accountability [TISA]; and
2. Centre for Enhancing Democracy and Good Governance [CEDGG].

On the other hand, the Respondents were as follows:

- The National Assembly;
- The Senate;
- The Attorney General; and
- Constituencies Development Fund Board.

Upon considering the petition, the High Court [a bench of three judges] distilled four broad issues for determination and made findings as follows:

	Board Issues	High Court's Determination
1.	Whether the process leading to the enactment of the CDF was constitutional	The Court found that the CDF [Amendment] Bill concerned county government and consequently held that it was unconstitutional on the ground that the Senate was not involved in the enactment of the Bill. [Paragraph 139 (a) of the high court Judgment]
2.	Whether CDF Act of 2013 violated Principles of	The High Court found that the CDF Act of 2013 violated principles of public Finance and Division of Revenue in that Article 202 of the Constitution

B. Vide judgement delivered on November 24, 2017, the Appellate Court partially allowed the Appeal to the extent that the declaration that the Constituencies Development Fund Act, 2013 was unconstitutional in its entirety and invalid, setting the declaration aside and in lieu thereof, a declaration was issued that sections 24(3)(c), 24(3)(f) and S37(1)(a) of the said Act were unconstitutional and invalid for violating the principle of separation of powers and were struck down from the Act. Copies of the Act of 2013 and the Court of appeal judgments are respectively attached hereto as Annexures "2" and "3".

A. Being dissatisfied by the High Court return on the petition, both the National Assembly and the Board appealed against the entire judgment [Civil Appeal No. 92 of 2015]. In the meantime, the two Appellants commenced the process of enactment of a new Act, culminating to the National Government Constituencies Development Fund [NG-CDF] Act, No. 30 of 2015. The Act of 2015, which came into force on February 19, 2016 was enacted with view to addressing the concerns raised by the High Court, [Petition No. 71 of 2013].

2. THE APPEAL

A copy of the judgment is attached as annexure '1'

On account of the foregoing findings, the High Court found that the CDF Act of 2013 unconstitutional in its entirety and was declared as such. The judgment was however suspended for twelve months, allowing the National Government to remedy the defects within the said period.

Board Issues		High Courts Determination	
	Public Finance and Division of Revenue	envisaged equitable sharing of National Government Revenue between the national government and county governments while Section 4(1)(a) of the Act provided that, "There is established a Fund to be known as the Constituencies Development Fund which shall be a national fund consisting of moneys of an amount of not less than 2.5% (two and half per centum) of all the national government ordinary revenue collected in every financial year" [Paragraph 139 (b) of the Judgment]	
3.	Whether the CDF Act of 2013 violated the Division of Powers and Functions	The High Court found that by charging it with local projects under Section 22, the CDF Act of 2013 threatened to upset the division of functions between the national and county levels of governments and interfere with the county government autonomy. [Paragraph 139 (c) of the Judgment]	
4.	Whether the CDF Act of 2013 offended the Principle of Separation of powers	The Court found that by involving members of Parliament in the planning, approval and implementation of the CDF projects, the CDF Act of 2013 violated the doctrine of separation of powers between the executive and legislative functions. [Paragraph 139 (d) of the Judgment]	

C. Be that as it may, by the time the judgment was delivered, the National Government Constituencies Development Fund Act, No. 30 of 2015, had been assented to and in force. However, upon operationalization, two Petitioners, Ms. Wanjiru Gikonyo and Mr. Cornelius Oduor Opuot moved to High Court, Vide Constitutional Petition Number 178 of 2016, challenging the very constitutionality of the said Act. The issues raised in this petition largely mirror the Petition No. 71 of 2013. As at the time of submitting this Memoranda, the matter was pending before the High Court, awaiting reconstitution of a Bench to dispense with the petition.

3. THE SUPREME COURT PETITION NO. 1 OF 2018

A. The Respondents in the Court of Appeal [Civil Appeal No. 92 of 2015], The Institute of Social Accountability and Centre for Enhancing Democracy and Good Governance, who were the petitioners in Petition No. 71 of 2013, were dissatisfied with the Court of Appeal’s Decision and moved to the Supreme Court, vide petition No. 1 of 2018.

B. The Appellants had urged the Supreme Court to set aside the decision of the Court of Appeal, other than the finding on separation of powers and instead reinstate the High Court decision in respect of Petition No. 71 of 2013.

C. While considering the matter, the Supreme Court interrogated various Provisions of the NG-CDF Act of 2015, and made far reaching conclusions that would affect the very structure of the NG-CDF.

D. On August 08, 2022 the Supreme Court delivered its judgment on the matter.

E. The key issues considered by the Supreme Court are summarized in the following table:

SUPREME COURT FINDINGS/EXTRACTS FROM THE JUDGEMENT	
1.	<p>A. Was the Appeal to Supreme Court Moot?</p> <p>At paragraph [47] of the judgment, the Court stated that “the common thread from the above decisions is that a matter is moot when it has no practical significance or when the decision will not have the effect of resolving the controversy affecting the rights of the parties before it. If a decision of a court will have no such practical effect on the rights of the parties, a court will decline to decide on the case. Accordingly, there has to be a live controversy between the parties at all stages of the case when a court is rendering its decision. If after the commencement of the proceedings, events occur changing the facts or the law which deprive the parties of the pursued outcome or relief then, the matter becomes moot.”</p>
2.	<p>At paragraph [42] of the judgement, the Court noted that, “The question of mootness first arose at the Court of Appeal, where the court had to determine whether the enactment of the NGCDF Act, 2015 rendered the appeal moot, leaving no live controversy requiring adjudication. The Court of Appeal found that the enactment of the NGCDF Act, 2015 did not render the appeal moot for the reasons that: the NGCDF Act, 2015 did not contain an express repeal clause that would conclusively show that the Legislature intended to repeal the CDF Act 2013; and <u>the provisions of the statute which were declared violative of the Constitution in the CDF Act 2013 had been re-enacted on the NGCDF Act, 2015.</u> Moreover, the Court of Appeal emphasized that the appellants before that court had appealed against the declaration of invalidity and persisted in their assertion that the statute is constitutional”</p>

SUPREME COURT FINDINGS/EXTRACTS FROM THE JUDGEMENT	
3.	At paragraph [53] of the judgment, the Supreme Court observed that, "We further note that these declarations formed the basis of the grievances by the respondents at the Court of Appeal. The question we ask is, whether the NGCDF Act, 2015 unequivocally addressed these issues? A plain reading of Section 3 of the NGCDF Act, 2015 reveals that it recognizes a constituency as a unit for performance and implementation of national government functions including infrastructural development. We note this provision mirrors Section 3 of the CDF Act 2013 which provides that a section of the national annual budget is devoted to the constituencies for purposes of infrastructural development"
4.	At Paragraph [55] of the judgment, the Court noted thus: "The doctrine of separation of powers was one of the contentious issues both at the High Court and the Court of Appeal. We note that Section 53 of the NG-CDF Act, 2015 establishes a Constituency Oversight Committee consisting of the constituency member of the National Assembly, among others. This means that there is still a raging controversy over the separation of powers concerns regarding the role of Members of National Assembly in the Fund as structured in the CDF Act 2013 and replicated in the NGCDF Act, 2015."
5.	At paragraph [56], the Court indicated that, "To our minds, the highlighted provisions contain some of the pertinent issues that were still raging controversies before the Court of Appeal for determination even after the coming into force of the NGCDF Act, 2015. Moreover, given that the impugned provisions of the CDF Act 2013 had also been re-enacted in the NGCDF Act, 2015, it did not unequivocally settle the issues in dispute between the parties. As such, there was still live controversy between the parties and therefore it was in the public interest to have the questions that were still raging adjudicated and determined by the Court of Appeal.
6.	At paragraph [57] of the judgment, the Court observed as follows: "In light of the above, we agree with the reasoning of the Court of Appeal that the same violative provisions have been re-enacted into the NGCDF Act, 2015. Therefore, the intervening legislation did not render the appeal moot because the legislation did not unequivocally address the issues raised by the appellants. Consequently, we affirm the finding of the Court of Appeal that the appeal before that court was not moot"
Whether the process leading to the enactment of the CDF was constitutional	
7.	At Paragraph [63] of the judgment, the Supreme Court stated, "Applying a purposive interpretation, we are of the view that the amendment touched on the main object and purpose of the CDF Act 2013 which is to ensure that a specific portion of the national annual budget is devoted to the constituencies for inter alia community projects and infrastructural development. Essentially, the amendment had the effect of changing the constitutional basis for the Fund from being an additional revenue to the county governments from the national government under Article 202 (2) of the Constitution, to transforming the CDF into a fund of the national government under the Consolidated Fund established under Article 206(2) of the Constitution"
8.	At Paragraph [64] of the judgment, the Supreme Court was emphatic that, "Drawing from the above analysis, we fault the appellate court's restrictive approach in interpreting the law to hold that the Bill in its objects indicated that it did not concern county governments or affect the powers and functions of the county governments. It is our considered view, that the replacement of Article 202 (2) of the Constitution with Article 206 (2) had an effect on the allocation of revenue to the county governments. Consequently, we find that the CDF (Amendment) Act, 2013 had an effect on the functioning of county governments"

SUPREME COURT FINDINGS/EXTRACTS FROM THE JUDGEMENT	
Separation of Powers	
9.	Regarding the doctrine of separation of powers, the Supreme Court, at paragraph [132] noted thus: “Before concluding on this part, it is important to point out that the longevity of a practice does not cloak the practice with constitutional legitimacy. It is only when the courts pronounce themselves on the constitutionality of a legislation or a conduct that their constitutionality can be established. Therefore, the fact that the CDF has been operational in this country since 2003 is not a good enough answer to the question on the constitutionality of the Fund in the post-2010 constitutional dispensation. <u><i>A Fund directed at service delivery mandate can only be constitutionally compliant if structured in a manner that does not entangle members of Legislative bodies and Legislative bodies in the discharge of the service delivery mandate however symbolic. Such funds ought to be integrated and subsumed within the structures of either the county executive or the national executive.</i></u> ”
Whether the CDF Act of 2013 violated the Division of powers and Functions	
10.	On this issue, the Supreme Court at paragraph [71] of the judgment noted, “.....Therefore, some of the functions contemplated under Section 3 of the CDF Act 2013 such as infrastructural development and the fight against poverty are also functions bestowed upon the county government under Part 2 of the Fourth Schedule to the Constitution.....” “[72] From the above, it is clear that some of the functions contemplated by Section 3 of the CDF Act 2013 concern county governments. Therefore, the CDF (Amendment) Act, 2013 should have been tabled before the Senate in accordance with Article 96 of the Constitution for consideration”
Separation of powers	
11.	The Court noted at paragraph [83] of the judgment that, “It is clear from the above provision that the Constitution does not grant the National Assembly the power to implement projects as a service delivery unit at the county level. Members of the National Assembly are granted the mandate to legislate and oversight the national revenue and its expenditure.
Whether the CDF Act of 2013 violated the Division of powers and Functions	
12.	At paragraph [88] of the judgment, the Supreme Court said, “A similarly important provision to the determination of this question is Section 3 of the CDF Act 2013 quoted in paragraph 71 of this Judgment. A look at the Fourth Schedule of the Constitution (pursuant to the terms of Article 186(1) of the Constitution) <i>that distributes functions between the national government and the county governments, shows that it is the county governments that are allocated most of the functions and powers that can be said to be “community” or “local” in orientation.It follows and we so find that the implementation of community-based projects envisaged under Section 22 and the infrastructural development projects envisaged under Section 3 of the CDF Act 2013 would inevitably cover and target the functions assigned to county governments.</i> <u><i>52. “.....charging CDF with local projects under Section 22 of the CDF Act 2013, upset the division of functions between the national and county governments; and that the involvement of the Members of the National Assembly violated the principle of separation of powers.</i></u>

SUPREME COURT FINDINGS/EXTRACTS FROM THE JUDGMENT	
Whether CDF Act of 2013 violated Principles of Public Finance and Division of Revenue	13.
<p>Addressing this issue, the Supreme Court at paragraph [98] of the judgment indicated that, "It follows that the national government and county governments are the only entities entitled to participate in the vertical division of the revenue raised nationally. To allow an agency of the national government or a "third" structure whose location within the constitutional system is unclear to participate in the sharing of the "revenue raised nationally" is a clear case of violation of not only Article 202(1) but also Article 218(1) (a) of the Constitution.</p> <p>[99] From the foregoing provisions, we find that Section 4 of the CDF Act 2013 violates the provisions of the Constitution as it seeks to disrupt the revenue sharing formula by directly allocating 2.5% of all the national revenue while the Constitution requires that the revenue raised shall be shared equitably among the national and county governments. <i>It is further our considered opinion that it at all any monies is to be deducted from the national revenue, the money should be granted from the national government revenue as a grant but not directly from the national revenue.</i></p>	
<p>Does the CDF Act 2013 offend the constitutional principle on public finance?</p>	14.
<p>At paragraph [104] of the judgment, the Court stated, "It is against this context, that we must determine the question posed as to whether Section 22(1) of the CDF Act 2013 allowing the CDF to fund "community-based projects" that veer to the functional competence of the county governments threatens or violates the principle of prudent and responsible management of public funds enshrined in Article 201 (d) of the Constitution. [105] Taking into account that we have already made a finding that the wide reach of the Fund under Section 22(1) of the CDF Act 2013 will inevitably involve the fund in the implementation of functions constitutionally assigned to the county governments, <i>we find that there is a real threat of the Fund creating confusion as to which project is being implemented by which level of government. In addition, it creates the prospect of duplication of funding for the same project leading to wastage of scarce public resources. Lastly, it creates a state of lack of clarity as to which level of government is responsible for which particular project therefore compromising on accountability.</i></p>	
<p>Separation of Powers</p>	15.
<p>At paragraph [120] of the judgment, the Supreme Court observed that, "The constitutional mandate of Parliament is provided for under Article 94 of the Constitution. Further, Article 95 as quoted in paragraph 82 of this judgment, stipulates the role of the National Assembly to include: representation of the people of the constituencies and special interest in the national assembly; determine the allocation of national revenue between the levels of government, as provided in Part 4 of Chapter Twelve; and exercise oversight over national revenue and its expenditure. It is clear to us that these are legislative functions in nature, that is, representation, legislation, and oversight over the national government. There is no service delivery mandate envisaged in these roles.</p> <p>[122] The impugned Section 22(3)(c) of the CDF Act 2013 envisages that the Member of the National Assembly is to appoint eight (8) of the ten (10) members of the Constituency Development Fund Committee. This is in addition to Section 24(3) (f) of the CDF Act 2013 which makes the Member of the National Assembly an ex-officio member of the Committee. We also endorse the finding by the Court of Appeal that:</p> <p>[123] It is the Constituency Development Fund Committee that is vested with the responsibility of initiating the process for identification and prioritization of the projects, employment of staff, allocation of funds to various projects, the tabling of</p>	

SUPREME COURT FINDINGS/EXTRACTS FROM THE JUDGEMENT	
	<p>reports, and monitoring the implementation of the projects. Two of its members are among the three signatories to the bank account. The Projects Implementation Committee which implements the projects works under its direction. These are typical service delivery mandates that fall within the constitutional mandate of the Executive branch.</p> <p>[124] The power of appointment of the Members of the Constituency Development Fund Committee and being an ex-officio member of the Committee leads to the inevitable conclusion that the Member of the National Assembly is in effective control of the Constituency Development Fund Committee and that means that he/she influences the selection, prioritization of projects, allocation of funds and also monitors the implementation of the projects. This means that the Fund, as conceived under the CDF Act 2013, vested in the Legislature and its personnel – being the Members of the National Assembly, functions that typically fall within the nucleus, core function, or pre-eminent domain of the Executive branch.</p> <p>[130] It will also naturally follow that given the constitutional scheme on separation of powers; Members of legislative bodies, being Members of the National Assembly, Senators, County Women Representatives, and Members of County Assemblies ought not to be involved in the implementation of any service-based mandates which are a preserve of the Executive branch. This is the only way to respect the constitutional scheme on separation of powers and ensure that the Legislators' oversight mandate is not compromised through conflict of interest. Tolerating a contrary position would harm the Constitution's value system, particularly the national values and principles of accountable and good governance.</p>
16.	<p>[132] Before concluding on this part, <u><i>it is important to point out that the longevity of a practice does not cloak the practice with constitutional legitimacy.</i></u> It is only when the courts pronounce themselves on the constitutionality of a legislation or a conduct that their constitutionality can be established. <u><i>Therefore, the fact that the CDF has been operational in this country since 2003 is not a good enough answer to the question on the constitutionality of the Fund in the post-2010 constitutional dispensation. A Fund directed at service delivery mandate can only be constitutionally complaint if structured in a manner that does not entangle members of Legislative bodies and Legislative bodies in the discharge of the service delivery mandate however symbolic.</i></u> Such funds ought to be integrated and subsumed within the structures of either the county executive or the national executive.</p>

Copies of the NGCDF Act of 2015 and the Supreme Court judgment are attached hereto as annexure "4" and "5" respectively.

4. EFFECT OF THE SUPREME COURT DECISION ON THE STRUCTURE OF THE NG-CDF

Based on the findings of the Supreme Court as noted above, the Board notes that:

- a. The CDF Act of 2013 cannot be revived and it is of no legal effect;
- b. That the operative Act is NG-CDF Act of 2015 and therefore the Fund and the Board remain operational; and

Section	Current provision	Proposed amendment as Per the Bill	Board's Comments
3 Objects of the Act	(h) Provide mechanism for the National Assembly to exercise oversight over the performance of specified national government functions at the constituency level as provided for under Article 95 of the Constitution	(h) Provide mechanism for the National Assembly to exercise oversight over the performance of exclusive national government functions at the constituency level as provided for under Article 95 of the Constitution	a. This amendment is timely as in addition to the memorandum of Objects and reasons, it shall also address the concerns regarding the separation of powers as raised by the High Court, Court of Appeal and the Supreme Court in aforementioned judgments. b. Further, it will restate the mandate of the Members of the National Assembly to legislate and oversee the national revenue and its expenditure.
(k) Provide for mechanism for supplementing infrastructure development at the constituency level in matters falling within the functions of the national government at that level in accordance with the constitution	(k) Provide for mechanism for supplementing infrastructure development at the constituency level in matters falling within the functions of the national government at that level in accordance with the constitution	(k) Provide for mechanism for supplementing infrastructure development at the constituency level in matters falling within the functions of the national government at that level in accordance with the constitution	in addition to the memorandum of Objects and reasons, the amendment will affirm the doctrine of separation of functions and powers as between the two levels of government.

The Board has considered the Bill, and makes the following observations:

[The National Government Constituencies Development Fund (Amendment) Bill, 2013 (National Assembly Bills No. 13)

5. PROPOSALS ON AMENDMENTS

- c. That the proposed amendments are timely for the following reasons:
 - i. Would address issues raised by the supreme Court; and
 - ii. Would largely deflate core issues in petition number 178 of 2016.

Section	Current provision	Proposed amendment as Per the Bill	Board's Comments
4(3) Establishment of the Fund	The monies appropriated to the Fund in any financial year under subsection (1) (a) shall not be less than the amount appropriated to the Fund in the preceding financial year unless as otherwise allowed by this Act	Delete	The amendment will improve on the implementation of the Act as there shall be greater certainty in projects implementation.
15 Composition of the Board	(1) (e) seven other persons, three of whom shall be of the opposite gender and at least one shall be a person with disability, qualified in matters relating to finance, accounting, engineering, economics, community development, public affairs, project management, education, security or law appointed by the Cabinet Secretary with the approval of the National Assembly	(1) (e) seven other persons, three of whom shall be of the opposite gender and at least one shall be a person with disability, qualified in matters relating to finance, accounting, engineering, economics, community development, public affairs, project management, education, security or law appointed by the Cabinet Secretary with the recommendations of the Public Service Commission.	The amendment to this section will enhance competition, public participation and address matters on separation of powers. Further, it is noted that the implementation of the Act is a function of the executive arm of government, hence participation by the Public Service Commission would amplify the National Government Role on the management of the Fund. In addition, the amendment will embrace National Values and Principles of Governance enshrined under Article 10 of the Constitution.
	(2) In nominating or approving the appointment of a person as a member of the Board under subsection (1), the Cabinet Secretary and the National Assembly shall take into account gender equity and the regional diversities of the people of Kenya	In nominating or approving the appointment of a person as a member of the Board under sub-section (1), the Cabinet Secretary in accordance with the recommendations of the Public Service Commission and the National Assembly shall take into account gender	

Section	Current provision	Proposed amendment as Per the Bill	Board's Comments
19	<p>(4) The name and curriculum vitae of the persons nominated to be appointed as members of the Board pursuant to paragraph (e) of subsection (1) shall, before appointments are made, be submitted to the National Assembly for approval</p>	Delete	<p>To absolve proposed amendments to Section 15(1) (e) & 2</p>
19	<p>(1) The office of a member of the Board for a member appointed under paragraphs (e) and (f) of section 15(1) shall become vacant if the member - (a) Resigns by giving written notice to the Cabinet Secretary; or (b) Is removed from office on any or more of the following grounds:- i. Serious violation of the constitution or any other law; ii. Gross misconduct, whether in performance of the member's or office holder's functions or otherwise iii. Physical or mental incapacity to perform the functions of office; iv. Incompetence v. Engaging in active politics; or</p>	<p>(a) Dies (b) Resigns in writing, by a notice addressed to the Cabinet Secretary; (c) Is convicted of a felony and sentenced to imprisonment; (d) Is absent from three consecutive meetings of the Board without good cause; (e) Is removed from office in accordance with the procedure set out in any written law.</p>	<p>In addition to the memorandum of Objects and reasons, the amendment would improve on the implementation of the Act and to cure any force-able gaps or scenario where the Act is silent on remedies.</p>

Section	Current provision	Proposed amendment as Per the Bill	Board's Comments
	vi. Absence from three consecutive meetings of the Board without the permission of the Chairperson	<p>Whenever a vacancy arises in the Board, the Public Service Commission shall, within fourteen days-</p> <p>a) Invite applications from persons who qualify for nomination and appointment by advertisement in at least two daily newspapers with nationwide circulation;</p> <p>b) Consider the applications received to determine their compliance with the requirements set out in this Act;</p> <p>c) Shortlist the applicants;</p> <p>d) Conduct interviews for the shortlisted persons;</p> <p>e) Recommended three qualified persons for each vacancy to the Cabinet Secretary for nomination for appointment.</p> <p>(2) The Cabinet Secretary shall within fourteen days of the receipt of the names of the persons recommended for nomination under sub-section 1(e), nominate one person for each vacancy and forward the names to the National</p>	

Section	Current provision	Proposed amendment as Per the Bill	Board's Comments
		<p>(3) The National Assembly shall, within twenty one days it next sits after receipt of the names of an applicant under subsection (2), vet and consider the applicant, and may approve or reject applicants for any or all vacancies in the Board.</p> <p>(4) Where the National Assembly Approves of an applicant, the Speaker of the National Assembly shall forward the name of the approved applicant to the Cabinet Secretary for appointment</p> <p>(5) The Cabinet Secretary shall within seven days of receipt of the name of the approved applicant from the National Assembly, by notice in the Gazette appoint the applicant to the Board.</p> <p>(6) Where the National Assembly rejects any nomination, the Speaker shall within three days communicate its</p>	

Section	Current provision	Proposed amendment as Per the Bill	Board's Comments
		<p>decision to the Cabinet Secretary and request the Cabinet Secretary to submit fresh nominations.</p> <p>(7) Where a nominee is rejected by the National Assembly under subsection (6), the Cabinet Secretary shall within seven days, submit to the National Assembly a fresh nomination from amongst the persons shortlisted and forwarded by the Public Service Commission under subsection (1) (e).</p> <p>(8) If the National Assembly rejects any or all of the subsequent nominees submitted by the Cabinet Secretary for approval under subsection (1), the provisions of subsections (1) and (2) shall apply.</p> <p>(9) In short listing, nominating or appointing persons to fill a vacancy in the Commission, the Public Service Commission, the National Assembly and the Cabinet Secretary shall ensure that not more</p>	

Section	Current provision	Proposed amendment as Per the Bill	Board's Comments
	<p>(2) A person desiring the removal of a member of the Board under subsection (1) may present a petition to the National Assembly Committee setting out the alleged facts constituting that ground.</p> <p>(2) A member sought to be removed under subsection (1) shall be given a fair hearing before a decision is made by the National Assembly Committee.</p> <p>(3) The National Assembly Committee shall, upon receiving a petition under subsection (2), consider the petition and may recommend that the member be suspended pending the outcome of the complaint.</p> <p>(4) The National Assembly Committee shall consider the petition and if it is satisfied that it discloses a ground under subsection (1), it shall make a determination that the member be removed from office and the member shall stand removed from office upon the making of that determination.</p>	<p>(2) Delete</p>	<p>In addition to the memorandum of Objects and reasons, the deletion of the section will enhance the national government role in the management of the Fund.</p>

Section	Current provision	Proposed amendment as Per the Bill	Board's Comments
	<p>(6) A vacancy arising as a result of the removal of a member under subsection (5) shall be filled in the manner set out in section 15 within thirty days of the occurrence of the vacancy</p>		
<p>24 Projects to be in respect of national Government functions</p>	<p>A project under this Act shall-</p> <p>(a) Only be in respect of works and services falling within the functions of the national government under the constitution; and</p> <p>(b) Be community based in order to ensure that the benefits are available to a widespread cross-section of the inhabitants of a particular area</p>	<p>A project under this Act shall only be in respect of works and services falling within the exclusive functions of the national government as provided in the constitution.</p>	<p>This amendment would ensure clarity on the projects to be implemented under the Act and in particular embrace the provisions of the Fourth schedule to the Constitution.</p>
<p>25 Funding of projects</p>	<p>(8) Sports activities shall be considered as development projects for purpose of this Act but shall exclude cash awards provided that the allocation to such activities does not exceed two per centum of the total allocation of the constituency in that financial year</p> <p>(10) Environmental activities may be considered as development projects for purposes of this Act provided that the</p>	<p>The two subsections deleted</p>	<p>The deletion of the two subsections would ensure consistency with other amendments such as proposed amendment of Section 24.</p>

Section	Current provision	Proposed amendment as Per the Bill	Board's Comments
34 Basis for budget ceiling	(1) The budget ceiling for each constituency shall be - (a) Three quarter of the amount specified in subsection 4(1) divided equally among all constituencies; (b) An amount equal to a quarter of the amount specified in section 4(1) divided among all constituencies taking into account the number of wards in each constituency;		The proposed clause would ensure that there is equity in allocation of funds to all constituencies as well as ensuring that there is continuous growth across all constituencies. allocated to the constituency in the preceding financial year
43(2)(b) National Government Constituency Development Fund Committee	two men each nominated in accordance with subsection (3), one of whom shall be a youth at the date of appointment	Three men each nominated in accordance with subsection (3), one of whom shall be a youth at the date of appointment	This proposed amendment would absorb the proposed deletion of 43(2)(e)
43(2)(c) National Government Constituency Development Fund Committee	two women nominated in accordance with subsection (3), one of whom shall be a youth at the date of appointment	three women nominated in accordance with subsection (3), one of whom shall be a youth at the date of appointment	This proposed amendment would absorb the proposed deletion of 43(2)(e)
43(2)(e) National Government Constituency	(2) Each Constituency Committee shall comprise of - (e) two persons nominated by	Delete	The following amendments and further defuse the perceived conflict in

Section	Current provision	Proposed amendment as Per the Bill	Board's Comments
Development Fund Committee	the constituency office established under Regulations made pursuant to the Parliamentary Service Act.		regards to separation of powers between the Executive and legislature.
43 (6) National Government Constituency Development Fund Committee	(6) The first meeting of the Constituency Committee shall be convened within one hundred and twenty days of the commencement of a new term of Parliament or the date of the holding of a by-election, by the national government official at the constituency or in his or her absence, by any officer of the Board seconded to the Constituency	(6) The first meeting of the Constituency Committee shall be convened by the Officer of the Board seconded to the constituency within one hundred and twenty days from the date of the holding of a general election as contemplated in Article 101(1) of the Constitution.	It is noted that this amendment would improve on the implementation of the Act, which will allow committees to have sufficient time to perform their obligations.
43 (8) National Government Constituency Development Fund Committee	The term of office of the members of the Constituency Committee shall be two years and shall be renewable but shall expire upon the appointment of a new Constituency Committee in the manner provided for in the Act, or as may be approved by the Board.	The term of office of the members of the Constituency Committee shall be three years and shall be renewable but shall expire upon the appointment of a new Constituency Committee in the manner provided for in the Act, or as may be approved by the Board.	For effective and efficient administration of the funds at constituency level, which would allow the committees to have efficient time to consider, approve and monitor implementation of projects within there year cycle.
52 Allocations under the Act are supplementary	The existence of another allocation by the national government to a project in the constituency or a neighbouring	Delete	The proposed deletion would clean up the Act and the section is outside the perceived scope of the Act.

Section	Current provision	Proposed amendment as Per the Bill	Board's Comments
53 and 53A Constituency Oversight Committee	(1) There is established a Constituency Oversight Committee for projects undertaken under this Act. (2) The Constituency Oversight Committee shall be comprised of the constituency member of the National Assembly and not more than four other members, appointed by the Member of National Assembly for the constituency in consultation with other stakeholders. (3) The constituency Member of National Assembly shall, in consultation with the Constituency Oversight Committee at least twice in every financial year, and upon giving notice of at least fourteen days, convene public forums for purposes of— (a) mobilizing and sensitizing the respective target groups on any matter related to the Fund; and (b) soliciting views, opinions and proposals from the public in regard to the Fund and presenting the views and opinions	Delete	The deletion of these two clauses would clean the Act. In addition, it would ensure that the legislative arm of the government would effectively discharge its oversight role. The doctrine of separation of powers would also be enhanced.
	constituency shall not be used as a reason to deny either approval or funding of any project consistent with this Act		

Section	Current provision	Proposed amendment as Per the Bill	Board's Comments
	<p>to the National Assembly.</p> <p>(4) The public may in the public forums above—</p> <p>(a) make recommendations to the Constituency Committee for the better implementation of projects undertaken under the Act;</p> <p>(b) witness the commissioning of projects and issuance of cheques and other disbursements by the Constituency Committee; and</p> <p>(c) express their views on the implementation of the Fund.</p> <p>(5) A member of the Constituency Oversight Committee may attend meetings of the Constituency Committee or its sub-committees, to ensure fair distribution of the fund.</p> <p>53A. Facilitation of Constituency Oversight Committee</p> <p>In discharging its obligations, the Constituency Oversight Committee shall be facilitated by funds set aside by the constituency, provided that such allocation does not exceed one per centum of the total allocation of the constituency in that financial year.</p>		
54(2)	For the avoidance of doubt, normal	Delete	The proposed deletion would clean up the Act

6. CONCLUSION

It is for the above stated reasons that the National Government Development Fund Board submit this memorandum in support on the proposed amendments as contained in the National Government Constituencies Development Fund (Amendment) Bill, 2023, National Assembly Bills No. 13.

Section	Current provision	Proposed amendment as Per the Bill	Board's Comments
	Government development allocations shall continue alongside the projects funded under this Act		and the section is outside the perceived scope of the Act.



Slums Outreach Programme

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Date: 28th July, 2023

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30/6/23*

MEMORANDUM

**ON EDUCATION AND CONSTITUENCY DEVELOPMENT CONCERNS IBN
THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND
(AMMENDMENT) BILL 2023**

**SUBMITTED BY SLUMS OUTREACH PROGRAMME (S.O.P) AS A CIVIL
SOCIETY ORGANIZATION C.S.O**

**WE THE UNDERSIGNED CIVIL SOCIETY ORGANIZATION OPERATING IN
THE REPUBLIC OF KENYA SHALL DRAW the attention of the education and
development at constituency in the NATIONAL GOVERNMENT
CONSTITUENCIES DEVELOPMENT FUND (AMMENNDMENT)BILL 2023**

General Comments

The problem constituency development fund. CDF was established under CDF act 2003. Its primary objective was to address poverty at grassroots level by dedicating a minimum 2.5% of the national government Constituency Development Fund (NG. CDF ACT 2016) As per the stated National Government Constituency Development Fund (Amendment) Bill 2023, we reservations that we have to share with the committee for consideration and have the fund more benevolent to the society.

A case study in several constituencies on the working of the NGCDF we unveiled several inconsistencies that require immediate interventions in reference to section -3.

Objects of the Act d) provide for determination and implementation of identified national government projects of the constituencies in pursuant to article 10(2) (a) of the constitution.

- i. Provide a framework for citizens led development to assist the government in planning and prioritizing the use of its resources
- ii. Build local accountability and transparency in the use of resources

NATIONAL ASSEMBLY
RECEIVED
30 JUN 2023

DIRECTOR
29 JUN 2023
Directorate of Departmental Constituencies

Empowering Communities

NATIONAL ASSEMBLY
RECEIVED
29 JUN 2023
CLERK'S OFFICE
P O Box 41842, NAIROBI

The three clauses above if adhered to them will be no disapproval experienced in many constituencies sampled. That the member of parliament was running the fund like a personal property with putting into consideration of the existing NG-CDF Act. Ref: section 4, Establishment of the fund

- a)of an amount not less than 2.5% of all the national government share of revenue, based on what we have experienced on ground economic recession population growth we propose an increment to 3.5% to actuality real development at grassroots. Education as a project under NGCDF is allocated 24% which is an acceptable figure but the process is incurred by the beneficiaries is tedious and cumbersome.

We propose a clear mechanism to identify the bright and needy students in respective constituencies then wire the funds to their accounts

Key Messages

From the case study carried out in various constituencies we established most constituencies lack the civic knowledge on the running of the N.G.C.D.F or the projects entitled and they base much on bursary allocation alone.

Transparency and accountability has been mentioned and if emphasized there will be more change hence achieve competition of intended projects. N.G.C.D.F should be base at constructed premises that belong to the office or the constituency to avoid inconveniences currently being witnessed.

Signed on behalf of Slums Outreach Programme Society Organization based in Nairobi!

City County.

Erick Ambuche

Founder & Director.



(i) PDC-115
8/10/27
29/06/23

(ii) ERICK
Please
Signed
20/6/23

Eastern Africa Collaboration for Economic, Social and Cultural Rights (EACOR)
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www.eacornet.org



EASTERN AFRICA COLLABORATION ON ECONOMIC SOCIAL AND CULTURAL RIGHTS (EACOR) MEMORANDUM TO THE NATIONAL ASSEMBLY ON THE NATIONAL GOVERNMENT CONSTITUENCY DEVELOPMENT FUND (AMENDMENT) BILL 2023

Organisation

Eastern Africa Collaboration on Economic Social and Cultural Rights (EACOR) is a non-governmental organisation registered in Kenya in 2008 to address issues from a rights based perspective to challenge systemic issues that perpetuate abuse of human rights, shrinks the democratic space for meaningful civic engagement, and institutions that discriminate and excludes the most vulnerable groups.

Introduction

The NGCDF Bill, 2023 has been developed to amend the National Government Constituency Development Fund Act. Pursuant to the invitation for submission of memoranda on the Bill, EACOR wishes to make the following recommendations;

CLAUSE OF THE BILL	PROVISION OF THE BILL	PROVISION OF THE ACT	COMMENT
Clause 2	Amends s. 3(h) by deleting the word "specified" and substituting with the word "exclusive"	The objects of this Act are to; h) provide mechanisms for the National Assembly to exercise oversight over the performance of specified national government functions at the constituency level as provided for under Article 95 of the Constitution;	The proposed amendment is supported as it ensures the Act is in line with the constitution and court judgement in Petition 1 of 2018 ¹

¹ Institute for Social Accountability & another v National Assembly & 3 others & 5 others (Petition 1 of 2018) [2022] KESC 39 (KLR) (8 August 2022)

ESOS 1001 ▶ S

**NATIONAL GOVERNMENT CONSTITUENCY DEVELOPMENT
FUND (AMENDMENT BILL 2023)**

NO	ISSUE	SECTION	PROPOSAL	JUSTIFICATION
1	Increase Allocation	Section 4 (a) Be a National Government fund consisting of monies of an amount not less than 2.5 % of all the national governments share of revenue as divided by annual division of revenue Act enacted pursuant to Article 218 of the constitution.	Increase allocation to 3.5% of all the national government shares of revenue	With the current economic recession, population growth there is used to increase the allocation from the current 2.5% to 3.5% to realize actual development at the grassroots it initially intended.
2	Constituency Oversight	Section 53 there is established a constituency .Oversight committee for projects undertaken under this act.	Much emphasis to be directed here to avoid what is currently being witnessed at grassroots.	Transparency and accountability is the best tool to ensure projects benefit the intended people in any given constituency through the NG-CDP projects. This will avoid enormous embezzlement happening in various constituencies.

Signed on behalf of slums outreach programme at civil society organization based in Nairobi City County.

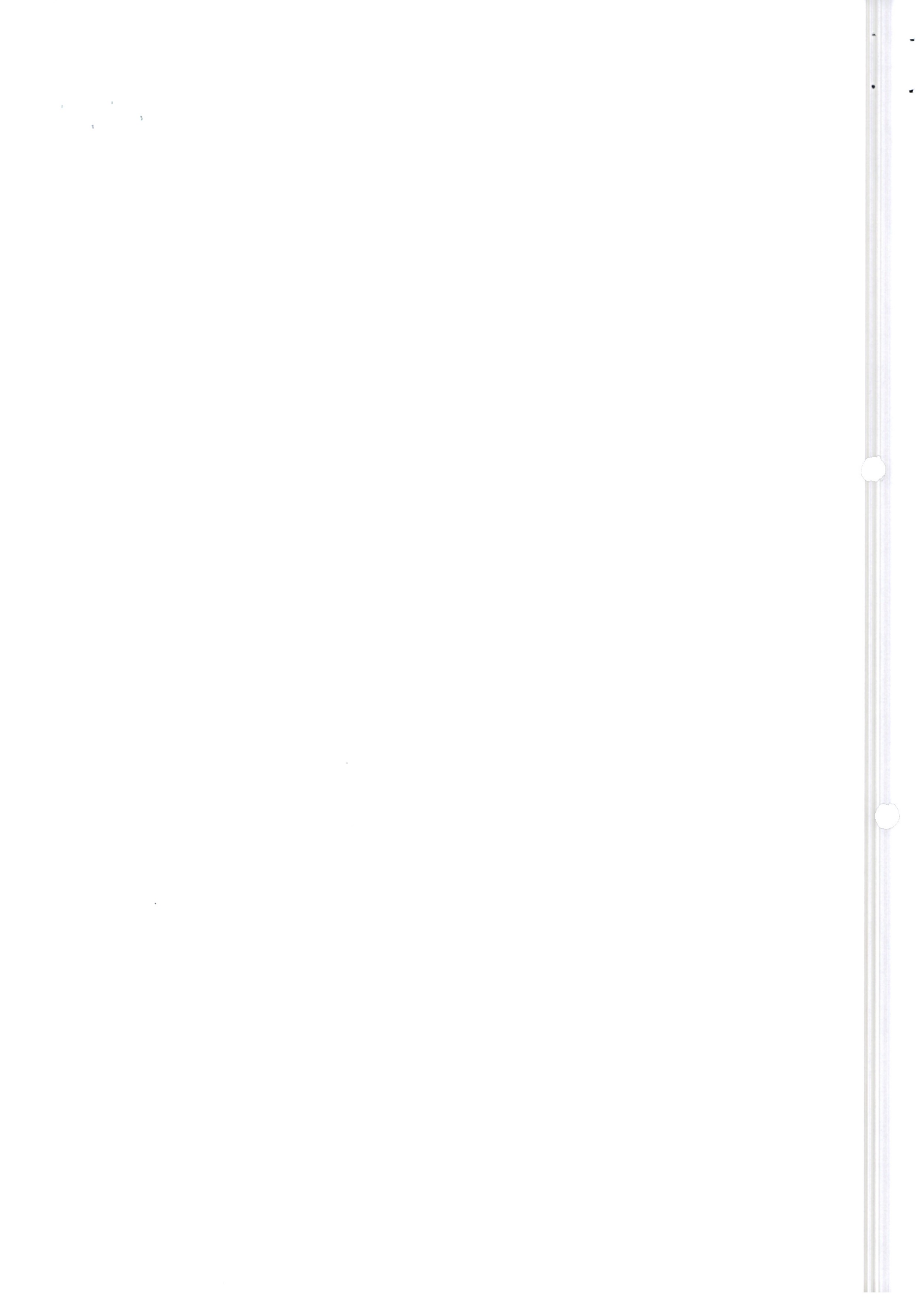
Yours faithfully,



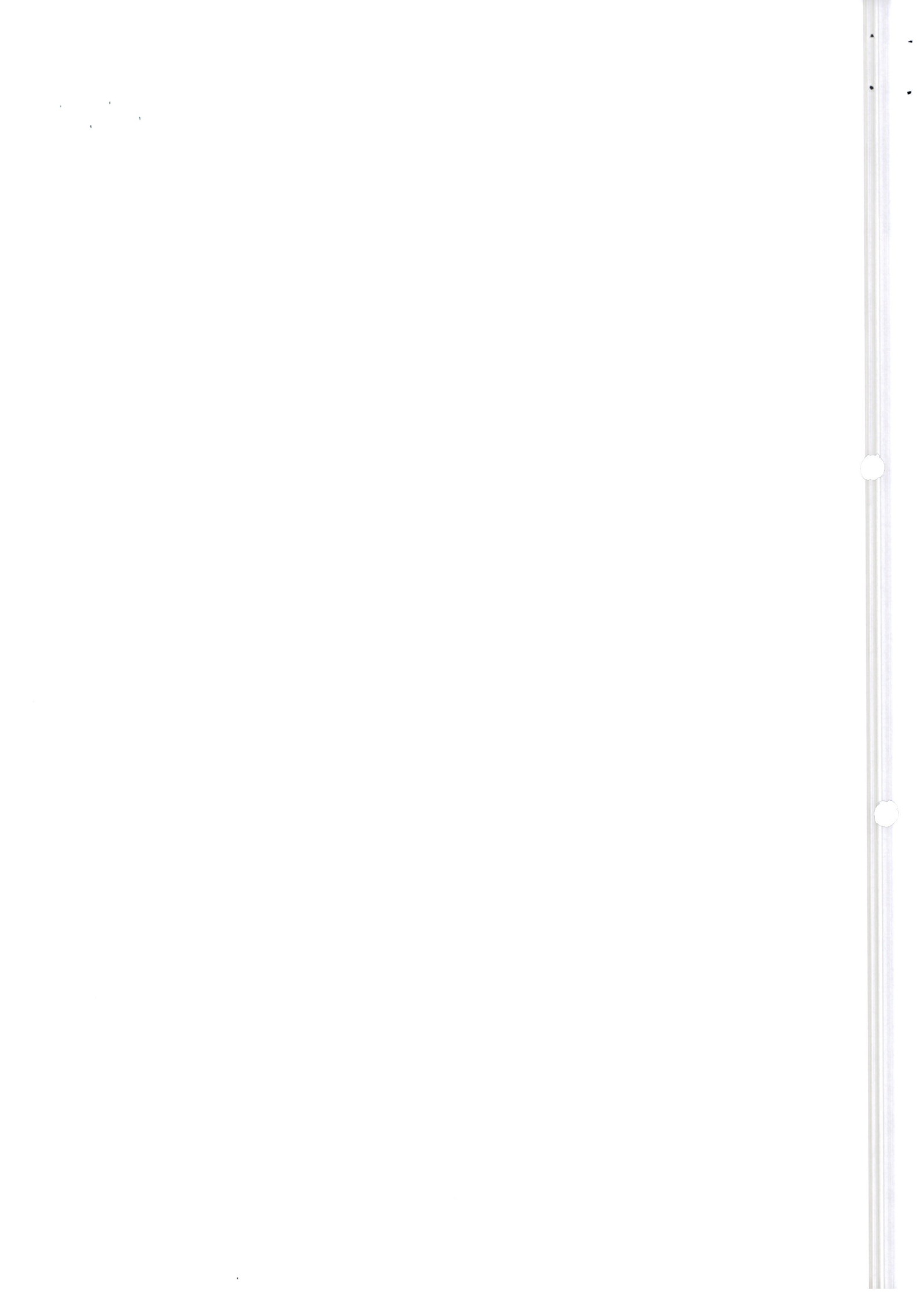
Eric Ambuche.
Director and Founder Slums Outreach Programme (CBO)



	Amends s.3(k) by inserting the word "exclusive" immediately after the words "matters falling within the"	k) provide for mechanisms for supplementing infrastructure development at the constituency level in matters falling within the functions of the national government at that level in accordance with the Constitution;	
Clause 3	Deletes S. 4(3)	There is established a fund to be known as the National Government Constituencies Development Fund.... (3) The monies appropriated to the Fund in any financial year under subsection (1) (a) shall not be less than the amount appropriated to the Fund in the preceding financial year unless as otherwise allowed by this Act.	The proposed amendment is supported as it is in line with the 2.5% computation. The current provision makes the inaccurate assumption that national revenue, and in extension national government share of revenue will always be on the increase. In the event that there is lesser revenue to share in a subsequent Financial Year, the 2.5% allocated would conflict with Section. 4(3) of the Act.
Clause 4	Amends S.15 by a. In subsection (1)(e) by inserting the words "in accordance with the recommendations of the Public Service Commission and" immediately after the word "Cabinet Secretary" b. In Subsection (2) by inserting the words "the Public Service Commission" immediately after the words "Cabinet Secretary" c. By deleting sub section 4	S 15(1)(e) seven other persons, three of whom shall be of the opposite gender and at least one shall be a person with disability, qualified in matters relating to finance, accounting, engineering. economics, community development, public affairs, project management, education, security or law appointed by the Cabinet Secretary with the approval of the National Assembly; S 15(2) In nominating or approving the appointment of a person as a member of the Board under sub-section (1), the Cabinet Secretary and the National Assembly shall take into account gender equity and the regional diversities of the people of Kenya. S 15(4) The names and curriculum vitae of the persons nominated to be appointed as members of the Board pursuant to paragraph (e) of subsection (1) shall, before appointments are made, be submitted to the National Assembly for approval.	The proposed amendment is supported. The involvement of the Public Service Commission makes the recruitment process more transparent, accountable and professional. It also limits potential negative political influence in the selection process.
Clause 5	Repeals Section 19 and replaces with more elaborate provisions on; Vacancy	(1) The office of a member...shall become vacant if the member— a. resigns by giving written notice to the Cabinet Secretary; or	The proposed amendment is NOT supported. The proposed amendment weakens the existing provisions on vacancy in the Board which are more elaborate thereby establishing more safeguards to the integrity of the office.

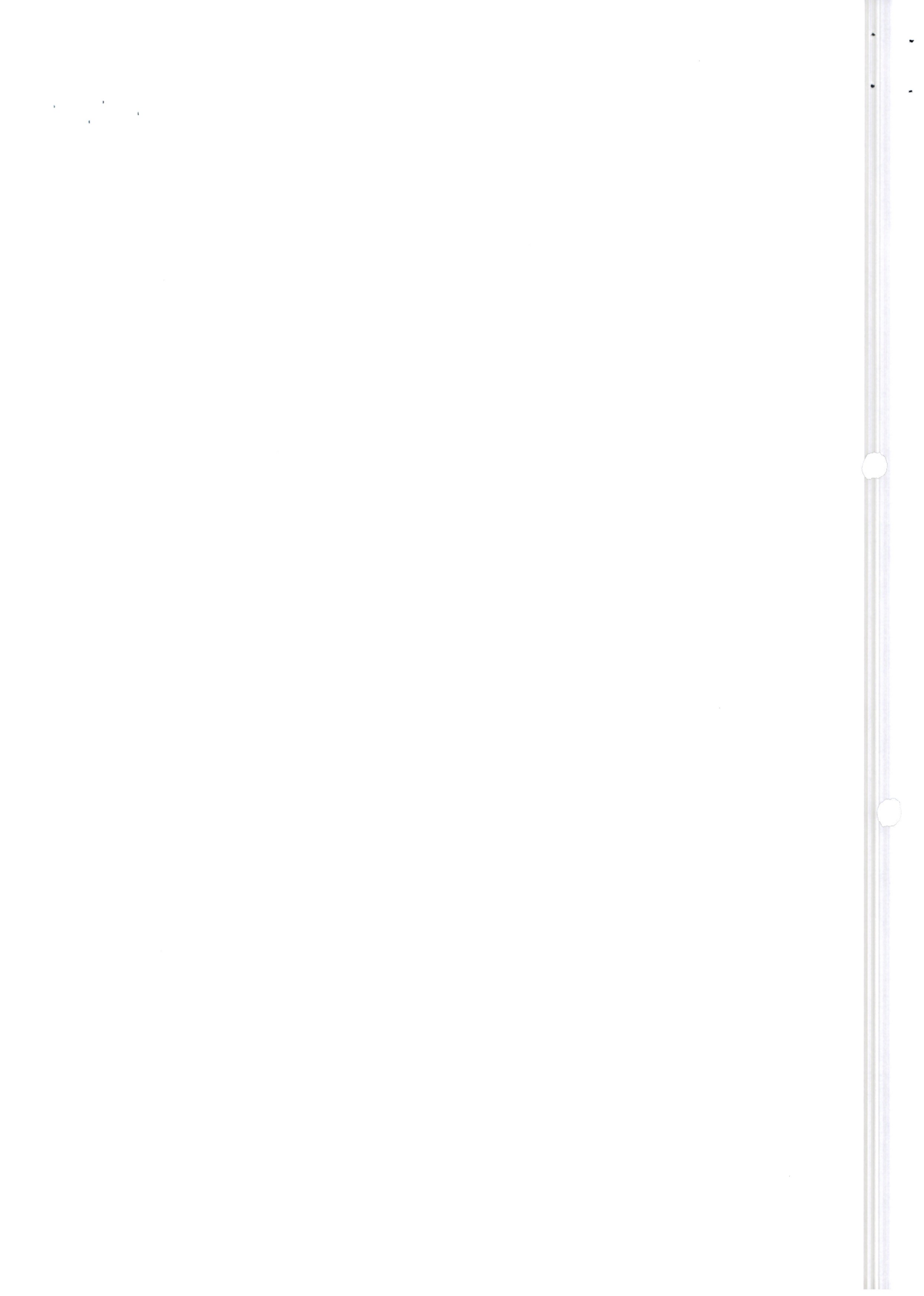


<p>19. The office of the chairperson or member of the Board falls vacant if the holder;</p> <ol style="list-style-type: none"> a. Dies b. Resigns in writing by a notice addressed to the CS c. Is convicted of a felony and sentenced to imprisonment d. Is absent from 3 consecutive meetings of the Board without good cause e. Is removed from office in accordance with the procedure set out in any written law 	<p>b. is removed from office on any one or more of the following grounds –</p> <ol style="list-style-type: none"> i. serious violation of the Constitution or any other law; ii. gross misconduct, whether in performance of the member's or office holder's functions or otherwise; iii. physical or mental incapacity to perform the functions of office; iv. incompetence; v. bankruptcy; vi. engaging in active politics; or vii. absence from three consecutive meetings of the Board without the permission of the Chairperson. 	<p>The proposal also does not provide for procedure for removal of a member of the Board which creates a legal vacuum. The reference to "procedure set out in any written law" is insufficient since most laws on removal are specific to the offices they create. The proposal under clause 19(b) also does not contemplate instances where a member might resign without written notice to the CS as has been witnessed in past instances in other offices.</p> <p>Our recommendations</p> <ol style="list-style-type: none"> 1. Retain the provisions of the Act and, 2. Include death as an additional ground for vacancy in the Act
	<p>(2) A person desiring the removal of a member of the Board under subsection (1) may present a petition to the National Assembly Committee setting out the alleged facts constituting that ground.</p> <p>(3) A member sought to be removed under subsection (1) shall be given a fair hearing before a decision is made by the National Assembly Committee.</p> <p>(4) The National Assembly Committee shall, upon receiving a petition under subsection (2), consider the petition and may recommend that the member be suspended pending the outcome of the complaint.</p> <p>(5) The National Assembly Committee shall consider the petition and if it is satisfied that it discloses a ground under subsection (1), it shall make a determination that the member be removed from office and the member shall stand removed from office upon the making of that determination.</p> <p>(6) A vacancy arising as a result of the removal of a member under subsection (5) shall be filled in the manner set out in section 15 within thirty days of the occurrence of the vacancy.</p>	



	<p>19A (1) Whenever a vacancy arises in the Board, the PSC shall within 14 days;</p> <ol style="list-style-type: none"> a. Invite applications from persons who qualify for nomination and appointment by advertisement in at least 2 daily newspapers of nationwide circulation b. Consider the applications received and determine their compliance with requirements set out in this Act c. Shortlist the applicants d. Conduct interviews for the shortlisted persons e. Recommend 3 qualified persons for each vacancy to the CS for nomination for appointment <p>(2) The CS shall within 14 days of receipt of the names of the persons recommended for nomination under subsection (1)(e), nominate one person for each vacancy and forward the names to the National Assembly for approval</p> <p>(3) The National Assembly shall, within 21 days of the day it next sits after receipt of the name of an applicant under subsection (2), vet and consider the applicant and may approve or reject applicants for any or all vacancies in the Board</p> <p>Subsequent provisions on process upon approval/rejection. If parliament approves, the CS appoints a nominee by Gazette notice. If</p>	<p>Filling of vacancies is provided for under s. 15 which requires CS to appoint subject to approval of the National Assembly. Process of appointment not clear</p>	<p><u>The proposed amendment is supported.</u></p> <p>The involvement of the Public Service Commission makes the recruitment ensure more transparency, accountability and professionalism. It also limits potential negative political influence in the selection process.</p> <p>The introduction of a clear process for selection of the members of the Board also contributes to the transparency and clarity in the process of selection of the members.</p>
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	parliament rejects, the recruitment process begins afresh.	Gender considerations covered by S 15(2) which provides; In nominating or approving the appointment of a person as a member of the Board under sub-section (1), the Cabinet Secretary and the National Assembly shall take into account gender equity and the regional diversities of the people of Kenya.	<u>The proposed amendment is supported</u> It ensures the constitutional two-third gender rule is adhered to. We however recommend additional amendments to ensure other special interest groups are also represented in the Board
Clause 6	Repeals s 24 and substituting with; A project under this Act shall only be in respect of works and services falling within the exclusive functions of the national government as provided in the Constitution	24. Projects to be in respect of national government functions A Project under this Act shall— (a) only be in respect of works and services falling within the functions of the national government under the Constitution; and (b) be community based in order to ensure that the benefits are available to a widespread cross-section of the inhabitants of a particular area.	<u>The proposed amendment is supported</u> as it ensures the Act is in line with the constitution and court judgement in Petition 1 of 2018
Clause 7	Amends s 25 by a. Deleting subsection 8 b. Deleting subsection 10	Funding of projects; (8) Sports activities shall be considered as development projects for purposes of this Act but shall exclude cash awards provided that the allocation to such activities does not exceed two per centum of the total allocation of the constituency in that financial year. (10) Environmental activities may be considered as development projects for purposes of this Act provided that the allocation to such activities does not exceed two per centum of the total allocation of the constituency in that financial year	<u>The proposed amendment is supported</u> as it ensures the Act is in line with the constitution and court judgement in Petition 1 of 2018
Clause 8	Amends s 34 (1) by inserting a new paragraph immediately after para (b) – (c) an amount that ensures that the total allocation to a constituency is not less than the amount allocated to the constituency in the preceding financial year	34. Basis for budget ceiling (1) The budget ceiling for each constituency shall be- a. three quarters of the amount specified in section 4 (1) divided equally among all constituencies; b. an amount equal to a quarter of the amount specified in section 4 (1) divided among all	<u>The proposed amendment is NOT supported.</u> It is in contradiction with Clause 3. Since the fund is based on a fixed percentage of national revenue, there is a likelihood of lesser allocation in the subsequent year in the event of lesser sharable revenue.



<p>Clause 9</p>	<p>Amends s43 by; In subsection 2</p> <ul style="list-style-type: none"> i. by deleting the word "two" appearing in paragraph (b) and substituting with "three" ii. by deleting the word "two" appearing in paragraph (c) and substituting with "three" iii. by deleting paragraph (e) 	<p>constituencies taking into account the number of wards in each constituency; and</p> <p>c. subject to the provisions of section 8 (1) and section 23 (1).</p>	<p><u>The proposed amendment is supported</u> as it ensures the Act is in line with the constitution and court judgement in Petition 1 of 2018. The deletion of paragraph (e) protects the principle of separation of powers between the legislature and executive.</p>
<p>43. National Government Constituency Development Fund Committee</p> <p>(1) There is established a National Government Constituency Development Fund Committee for every constituency.</p> <p>(2) Each Constituency Committee shall comprise of—</p> <ul style="list-style-type: none"> b) two men each nominated in accordance with subsection (3), one of whom shall be a youth at the date of appointment; c) two women nominated in accordance with subsection (3). one of whom shall be a youth at the date of appointment; e) two persons nominated by the constituency office established under Regulations made pursuant to the Parliamentary Service Act 	<p>by deleting subsection 6 and substituting with; "The first meeting of the Constituency Committee shall be convened by the officer of the Board seconded to the constituency within 120 days from the date of the holding of a general election..."</p>	<p>(6) The first meeting of the Constituency Committee shall be convened within one hundred and twenty days of the commencement of a new term of Parliament or the date of the holding of a by-election, by the national government official at the constituency or in his or her absence, by an officer of the Board seconded to the constituency.</p>	<p><u>The proposed amendment is supported.</u> The Board representative is better placed to initiate the meeting due to the Board's more detailed information on NGCDF.</p>
<p>8) The term of office of the members of the Constituency Committee shall be two years and shall be renewable but shall expire upon the appointment of a new Constituency Committee in the manner provided for in the Act, or as may be approved by the Board.</p>	<p>by deleting subsection 8 by deleting the words "two years" and substituting with "three years"</p>	<p>8) The term of office of the members of the Constituency Committee shall be two years and shall be renewable but shall expire upon the appointment of a new Constituency Committee in the manner provided for in the Act, or as may be approved by the Board.</p>	<p><u>The proposed amendment is NOT supported.</u> The two/three year term limits are in conflict with the term of the Committee which, according to the NGCDF Regulation, is 5 years. This causes overlaps between the life of the Committee(5 years) and the contractual terms of the members (3 or 2 years).</p>

Clause 10	Repeals section 52	<p>52. Allocations under the Act are supplementary The existence of another allocation by the national government to a project in the constituency or a neighbouring Constituency shall not be used as a reason to deny either approval or funding of any project consistent with this Act.</p>	<p>We propose a term period for membership of the Committees which is in tandem with the term period of the Committee.</p> <p><u>The proposed amendment is NOT supported</u> NGCDF funds are oftentimes instrumental in supplementing underfunded projects or projects which require additional support. It is our proposal that this provision be retained.</p>
Clause 11	Repeals section 53	<p>53. Constituency Oversight Committee (1) There is established a Constituency Oversight Committee for projects undertaken under this Act. (2) The Constituency Oversight Committee shall be comprised of the constituency member of the National Assembly and not more than four other members, appointed by the Member of National Assembly for the constituency in consultation with other stakeholders.</p>	<p><u>The proposed amendment is NOT fully supported.</u> There is a need to set up an oversight organ to ensure the committee and projects are handled properly. The lack of an oversight body limits oversight and participation of the people in decisions of the Committee. We recommend the establishment of an impartial community based oversight organ that is not selected by the Member of National Assembly. We propose the Board, in consultation with the public, to come up with regulations on this proposition. One possible intervention could be the establishment of a constituency level multi-stakeholder group composed of CBOs at constituency level, representative groups, Faith Based Organizations, a national government representative, etc.</p>
Clause 12	Repeals section 53 A	<p>53A. Facilitation of Constituency Oversight Committee In discharging its obligations, the Constituency Oversight Committee shall be facilitated by funds set aside by the constituency, provided that such allocation does not exceed one per centum of the total allocation of the constituency in that financial year.</p>	<p><u>The proposed amendment NOT supported</u> courtesy of the above recommendation. We recommend the provision to be retained.</p>

Clause 13	Deletes Section 54 (2)	(2) For the avoidance of doubt, normal Government development allocations shall continue alongside the projects funded under this Act.	<u>The proposed amendment is supported</u> as it is not contentious
Clause 14	Consequential amendments Inserts a new subsection under s.14 (1) of the National Government Co-ordination Act; 1A: Despite sub-section (1), all the constituencies established under A.89 of the Constitution are hereby recognized and established as national government service delivery units Inserts the word "constituencies" after the words "For purposes of this section, the"	Service delivery co-ordination units. 14. (1) The Cabinet Secretary may, with the approval of the President and by a notice in the Gazette, establish national government service delivery co-ordination units.	<u>The proposed amendment is supported</u> as it resolves one of the findings in Petition 1 of 2018 which found the constituency to be an electoral unit and not a service delivery unit. In absence of any legislation declaring the constituency a service delivery unit, there would be no basis to allocate resources and carry out development at constituency level. However, we recommend The proposed amendment specifies "it is for purposes of NGCDF so as to prevent overlaps and potential confusion between constituencies and other service delivery units established through the National Government Co-ordination Act"

Sincerely,



Bether Juma Kokach
Regional Director

Eastern Africa Collaboration on Economic Social and Cultural Rights

On behalf of;

1. Eastern Africa Collaboration on Economic Social and Cultural Rights
2. Usalama Reforms Forum
3. Daraja Civic Initiative Forum
4. Gifted Community Center
5. Social Justice Center Working Group
6. Nairobi Peoples Settlement Network
7. Kwangware Youth Paralegal Trust
8. Pamoja Trust
9. Maridadi Foundation

CONTACT INFORMATION

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HONASS RIARA APARTMENTS - D1,

JUNCTION OF OLE ODUME & RIARA RD, OFF NGONG RD

P.O BOX 3917-00100

NAIROBI, KENYA



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

OUR REF: NG-CDFB/CEO-KNA/VOL V (62)

June 27, 2023

Mr. Samuel Njoroge
Clerk of the National Assembly,
Parliament Buildings,
Parliament Road,
P O Box 41842-00200,
NAIROBI

*(i) D D Committee
To be which committee
was this Bill committed
to?
27/6/23*

Dear *Sir,*

RE: SUBMISSION OF MEMORANDUM IN RESPECT OF THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND (AMENDMENT) BILL, 2023

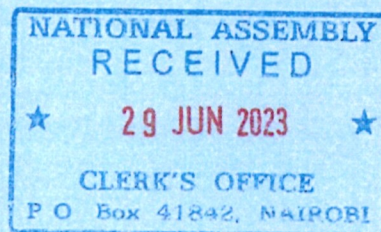
Reference is made to the above matter and your advertisement in print media on June 22, 2023, inviting members of public to submit memoranda in respect of the National Government Constituencies Development Fund (Amendment) Bill, 2023.

The National Government Constituencies Development Fund Board has considered the Bill and herewith submit the enclosed Memorandum for your further necessary action.

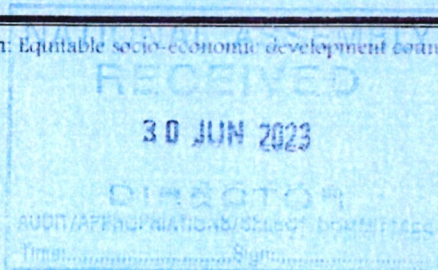
Yours

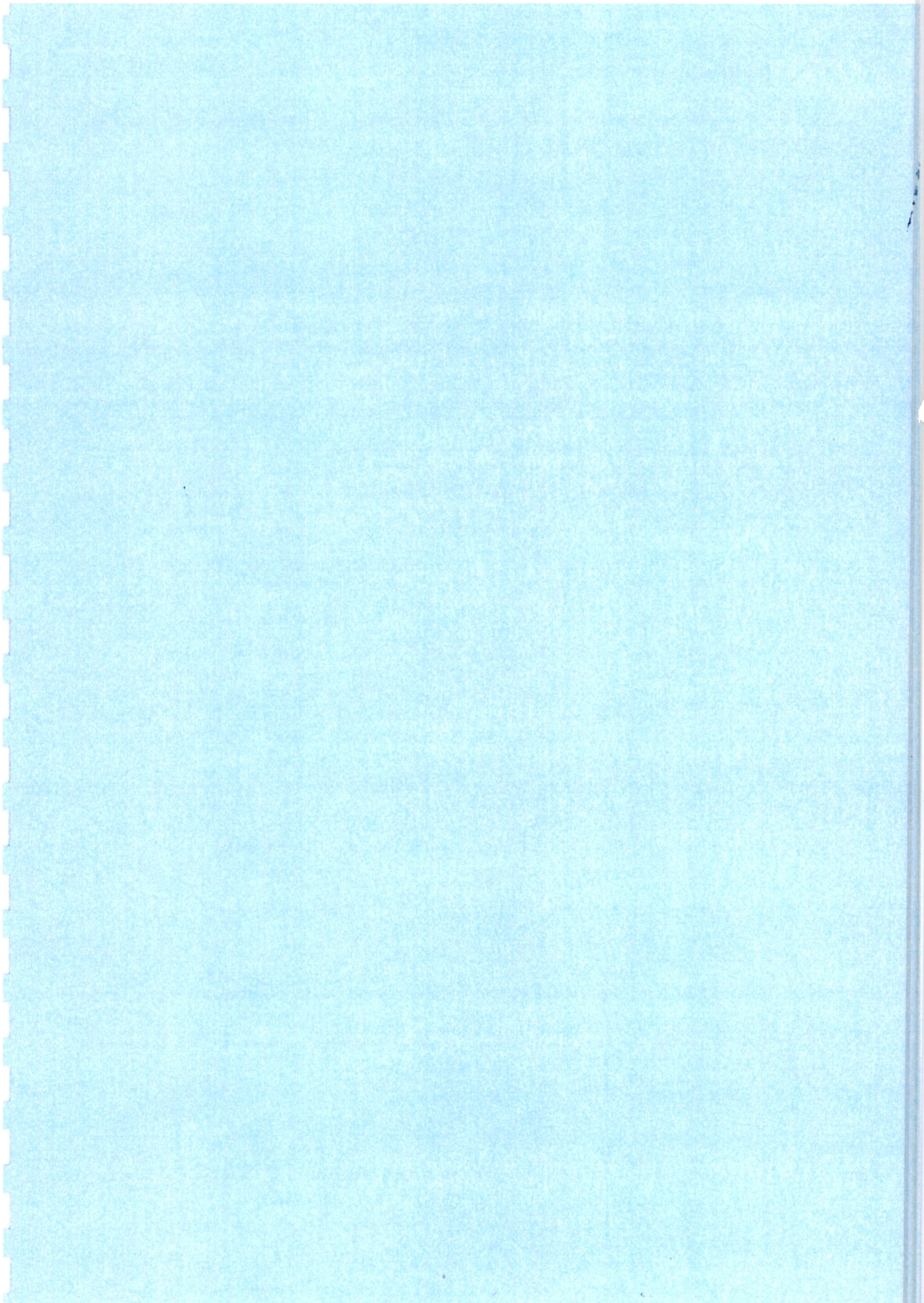
*(ii) ERICK
Please deep
for
30/6/30*

Simon Ndweka – Corporation Secretary
FOR: CHIEF EXECUTIVE OFFICER
Encl.



Vision: Equitable socio-economic development countrywide







National Government Constituencies Development Fund Board
 Ukulima Co-op house, 5th and 6th Floor
 Harambee Co-op Plaza, 5th, 6th & 10th Floor
 Junction of Haile Selassie Avenue & Uhuru Highway
 P.O Box 46682-00100
 Nairobi, Kenya
 Tel: 0709894000
 Email: info@ngcdf.go.ke | Website: www.ngcdf.go.ke

OUR REF: NG-CDFB-CEO/KNA/VOL.003(62B)

September 11, 2023

Mr. Samuel Njoroge
 Clerk of the National Assembly,
 Parliament Buildings,
 Parliament Road,
 P O Box 41842-00200,
NAIROBI

Dear Sir,

RE: SUBMISSION OF MEMORANDUM IN RESPECT OF THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND (AMENDMENT) BILL, 2023

Reference is made to the above matter and our letter Ref: NG-CDFB/CEO-KNA/VOL.V(62) dated June 27, 2023. Further to the contents of our memoranda, we wish to make additional presentations as follows:

Bill	Proposition	Recommendations	Comments
Section 4 of the Bill	This section proposes to amend section 15(1)(e) of the principal Act. It is proposed that the cabinet Secretary shall appoint members of the Board with recommendations of the Public Service Commission (PSC)	We further propose that the appointment of members of the Board should be a reserve of the Cabinet Secretary. Thus, PSC should be dropped.	<ol style="list-style-type: none"> This will mirror the provisions of the State Corporations Act [Section 6], the Board being body corporate established under section 14 of the Act. Expeditious appointments of members thereby securing efficient management of the Fund
	The section further proposes to amend section 15(2) of the principal Act. It is proposed that the Cabinet Secretary, in accordance with the recommendations of the Public service Commission and the National Assembly shall take into account gender, equity and the regional diversities of the people of Kenya	The clause should delete, " National Assembly "	<ol style="list-style-type: none"> The Bill has proposed deletion of Section 15(4) of the principal Act. Section 15(4) requires submission of names and CVs of the persons nominated to be appointed as members of the Board to the National Assembly for approval. With the proposed deletion of Section 15(4), the role of the National Assembly in the approval process will be extinguished, hence our recommendations.

Simon Ndweka - Corporation Secretary
 FRO: CHIEF EXECUTIVE OFFICER



Yours

Section	Proposed amendment	Comments/Reasons
23 Finances of the Board	To delete the following words appearing under section 23(1), "With the concurrence of the national Assembly Committee"	1. This role is already covered under Article 95[4][b] of the Constitution; 2. Address the challenges brought about by the principle of separation of powers; 3. In line with the proposed amendments of Sections 15, 19 and 43 [National Assembly Bills No. 13]
	To create new sub-Section 23(3), as follows, "Any unexpended money, for whatever reason, in the Board's Accounts at the end of a particular financial year, or at any other time, shall be cumulative and shall be carried forward from one year to the next, for use in accordance with this section.	1. To ensure that the Board remains operational and is able to execute its continuing programmes 2. To enable the Board meet maturing obligations; 3. To ensure legislative consistency and uniformity [See S. 7(2)]

Further to the foregoing, we wish to propose additional amendments as follows:

Bill	Proposition	Recommendations	Comments
5 of the Bill	The Proposed Section 19A deals with the filling of a vacancy in the Board.	The same should be dropped.	This is in line with our foregoing proposed amendments under section 15(1)(e) [Section 4 of the Bill.
		There should be a new Section 19A as follows: "Whenever a vacancy arises in the Board, the Cabinet Secretary shall, within sixty days, fill the position as appropriate"	1. To be align with proposed amendment of Section 15; 2. To ensure consultations and expeditious appointment thereby securing efficient management of the Fund.

APPENDIX 4

MINUTES OF THE 24TH SITTING OF THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND COMMITTEE HELD AT WESTON HOTEL ON FRIDAY, 6TH OCTOBER 2023 AT 11.00 AM.

PRESENT

1. Hon. Musa Sirma Cherutich, EGH, MP
2. Hon. Eng. Tandaza Kassim Sawa, MP
3. Hon Elachi Beatrice Kadeversia, MP
4. Hon. Nduyo Susan Ngugi, MP
5. Hon. Wainaina Anthony Njoroge, MP
6. Hon. Alfred Mutai Kiprono, MP
7. Hon. Owuor Joshua Aduma, MP
8. Hon. Joshua Mbithi Mwalyo, MP
9. Hon. Owino John Walter, MP
10. Hon. Gisairo Clive Ombane, MP
11. Hon. Maina Jane Njeri, MP

Chairperson
Vice-Chairperson

APOLOGY

12. Hon. Wambilianga Catherine Nanjala, MP
13. Hon. Machele Mohamed Soud, MP
14. Hon. Protus Ewesit Akuja, MP
15. Hon (Dr) Ogolla Gideon Ochanda, MP
16. Hon. Nyamita Mark Ogolla, MP
17. Hon. Oyula Joseph H. Maero, MP
18. Hon. Mukhwana Titus Khamala, MP

IN-ATTENDANCE

- | | |
|-------------------------|---------------------|
| 1. Mr. Erick Nyambati | Clerk Assistant I |
| 2. Ms. Sharon Koskei | Clerk Assistant III |
| 3. Mr. Mohamed Jelle | Clerk Assistant III |
| 4. Ms. Peninnah Naisiae | Legal counsel |

MIN NO. NA/DAAOSC/NG-CDF/2023/84

PRELIMINARIES

The chairperson Hon. Musa Sirma Cherutich, EGH, MP called the meeting to order at 11:20 p.m. followed by a word of prayer.

MIN NO. NA/DAAOSC/NG-CDF/21/2023/85 ADOPTION OF THE AGENDA

The agenda of the meeting to deliberate and adopt the report on the National Government Constituencies Development Fund (Amendment) Bill,2023 was adopted as proposed by Hon. Eng. Tandaza Kassim Sawa, MP, and seconded by Hon. Gisairo Clive Ombane, MP.

MIN NO. NA/ DAAOSC/NG-CDF/2023/86

CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

Confirmation of minutes of the previous meeting was differed to the next meeting.

Confirmation of minutes having been differed, there were no matters arising from the previous meeting.

MIN NO. NA/DAAOSC/NG-CDF/2023/88

CONSIDERATION OF THE
REPORT ON THE NATIONAL
GOVERNMENT
CONSTITUENCIES
DEVELOPMENT FUND
(AMENDMENT) BILL, NATIONAL
ASSEMBLY BILL NO. 13 OF 2023

The Committee went through the bill analysis of the various proposed amendments as follows;

Clause 1 of the Bill provides for the short title of the Bill.

Clause 2 of the Bill provides for the amendment of Section 3 (h) and (k) of the Act to provide that the objects of the Fund shall be to facilitate the National Assembly to exercise oversight over exclusive national government projects and supplement infrastructure development over projects falling under the exclusive functions of the national government at the constituency level as set out in the Constitution.

Clause 3 of the Bill provides for the deletion of Section 4 (3) to cater for situations where the collected government revenue is lower than the preceding year and which may necessitate lower allocation to the Fund than the previous financial year.

Clause 4 of the Bill provides for the amendment of Section 15 of the Act to empower the Public Service Commission to make recommendations to the Cabinet Secretary on the persons to be appointed as members of the National Government Constituencies Development Fund Board established under section 14 of the Act.

Clause 5 of the Bill provides for the repealing of Section 19 and substituting it with elaborate provisions that incorporate the Public Service Commission in the

recruitment process of the Board members as contemplated under Article 234 of the Constitution.

Clause 6 of the Bill provides for the repeal and replacement of Section 24 of the Act to provide that a project under this Act shall only be in respect of works and services falling within the exclusive functions of the national government under the Constitution. It seeks to remove funding of community-based projects that benefit widespread cross-section of inhabitants of a particular area.

Clause 7 of the Bill provides for deletion of Section 25 (8) and (10) of the Act which empower the NGCDF to fund sports activities and environmental activities within the constituencies provided those activities do not exceed 2% respectively of the total allocations to the constituency in every financial year.

Clause 8 of the Bill provides for the amendment of Section 34 by inserting a new paragraph to provide that the total allocation to a constituency shall not be less than the amount allocated to the constituency in the preceding financial year.

Clause 9 of the Bill provides for the amendment of Section 43 (2) by increasing the number of male and female members nominated to the Constituency Committee from two to three.

Clause 9 (a) (iii) of the Bill provides for the amendment of Section 43 (2) by proposing to delete paragraph (e) that provides for the nomination of two persons by the constituency office.

Clause 9 (b) of the Bill provides for the amendment of Section 43 (6) by providing that the first meeting of the Constituency Committee shall be convened within 120 days of the holding of a general election.

Clause 9 (c) of the Bill provides for the amendment of Section 43 (8) by increasing the term of office of a member of the Constituency Committee from two years to three years, renewable.

Clause 10 of the Bill seeks to repeal Section 52 of the Act which provides that allocations to the Fund are supplementary.

Clause 11 of the Bill seeks to repeal Section 53 of the Act which establishes the Constituency Oversight Committee which comprises of the Member of the National Assembly and four other persons appointed by the Member of Parliament in consultation with other stakeholders.

Clause 12 of the Bill seeks to repeal Section 53A of the Act, which provides for facilitation of the Constituency Oversight Committee which is consequential to the repeal of section 52 of the Act.

Clause 13 of the Bill provides for deletion of Section 54(2) of the Act which provides that normal government development allocations shall continue alongside projects funded under the Act.

Clause 14 of the Bill provides for consequential amendments to Section 14 of the National Government Co-ordination Act, No. 1 of 2013 to ensure that constituencies are recognized as national government service delivery units.

MIN NO. NA/DAAOSC/NG-CDF/2023/89 **PUBLIC PARTICIPATION**

1. Pursuant to Article 118(1) (b) of the Constitution and Standing Order 127(3) of the National Assembly , the Clerk of the National Assembly invited members of the public and relevant stakeholders to submit memoranda on the National Government Constituencies Development Fund (Amendment) Bill , 2023 through placement of advertisements in the print media on 22nd June, 2023. By 28th June, 2023, the committee had received three memoranda from the NG-CDF Board, East Africa Collaboration on Economic Social and Cultural Rights(EACOR) and Slum Outreach Programme.
2. Further, the Committee conducted public hearings in Nyamira, Kisumu, Vihiga, Kakamega, Busia, Bungoma, Homabay, Tana River, Kilifi, Kwale, Mombasa, Nakuru, Kericho, Baringo, Eligeyo Marakwet, Uasin Gishu, Tharaka Nithi, Meru, Kitui, Machakos, Makeni, Isiolo, Kiambu and Nairobi counties regarding the bill and submitted as follows;

SUBMISSIONS BY RESIDENTS OF TANA RIVER COUNTY.

3. The public participation forum was held in Maridhiano Hall Minjila at Garsen Constituency in Tana River County on 9th August, 2023.
4. It was attended by a population of over 300 people comprising of men, women, the elderly, youth, opinion leaders from education and security sectors and persons living with disabilities drawn from different parties of Tana River County. In attendance were also members of the National Government administrative offices who had done the mobilization of participants.

They submitted as follows;

5. They were concerned about the Supreme Court ruling which had declared NG-CDF unconstitutional since they had interpreted it to mean that NG-CDF was going to be abolished. They therefore appreciated the effort by Parliament to amend the law to ensure that NG-CDF complies with the Constitution.
6. Having a clear strategy that will ensure that there will be no conflict in funding NG-CDF projects and County government projects. The strategy should ensure that the two levels of government compliment each other in development projects as opposed to competing with one another.
7. The provision limiting NG-CDF funds from being applied for environmental protection purposes elicited mixed reactions as a majority of the participants expressed concern over climate change and felt that NG-CDF should be used to also support efforts to conserve the environment.
8. Amending the NG-CDF Act, 2015 to be constitutional as per the Supreme Court ruling was timely since its nullification would have adverse effects to the public who benefit from the Fund immensely.
9. They did not support deletion of Section 25 (8) of the NG-CDF Act, 2015 which provides for funding of sport activities as part of development projects. They instead sought for an increase in funding towards sports activities and nurturing talents.
10. Nurturing talents through sports and art is critical especially in tackling the issue of unemployment among the youth and therefore requires concerted efforts from the National Government, the County Government and NG-CDF.

11. Further, there is need to increase funding toward sports due to the fact that population has increased with increased interest in sports.
12. Participants did not support deletion of section 25 (10) which provides for funding of environmental activities as part of development projects.
13. Residents expressed concern over the existing effects of climate change and felt that the NG-CDF should be used to also support efforts to conserve the environment to mitigate climate changes.
14. The participants proposed an increment of the percentage allocation of the total revenue towards the Fund to meet the high demand for bursary, infrastructure and be commensurate with increase in population.
15. Further, the residents proposed an increase of the percentage that provides for educational bursary due to increased demand of the same.
16. There is need to increase allocation towards sports and environmental activities that has proved insufficient due to the increase of sporting activities in constituencies.
17. Digital innovation is emerging as the next frontier for employment, economic, political and social development thus there is need to establish sustainable digital hubs, digital awareness and innovation programmes at the constituency level. ICT hubs domiciled at the NGCDF offices are necessary in creating online jobs for the youth at the constituency level.
18. The residents applauded the role NGCDF has played in ensuring that educational infrastructure like classes are well built providing a good environment for learning.
19. They however requested if the existing legislation would be reviewed to enable funding of feeding programmes in schools. This would be of great help especially in Arid and Semi-Arid regions where hunger has led to low enrolment in schools and high dropping out of schools.

SUBMISSIONS BY RESIDENTS OF KILIFI COUNTY

20. The public forum was held at Nidhamia Hall at Malindi in Kilifi County on 9th August, 2023.

21. Members of the public were concerned about the Supreme Court ruling which had declared NG-CDF Act, 2013 unconstitutional. They appreciated the effort by Parliament to amend the law to ensure that the Act complies with the Constitution.
22. The Residents agreed with the proposed amendments and submitted as follows in regard to the Bill. That;
23. They supported the proposal to have the Public Service Commission involved in the recruitment process of Board Members of the NG-CDF board through a competitive process.
24. This will ensure only competent people are nominated and approved to be Board of Directors of the Fund
25. Did not support deletion of section 25 (8) which provides for funding of sport activities as part of development projects.
26. Nurturing talents through sports and art is critical especially in tackling the issue of unemployment among the youth and therefore requires concerted efforts from the National Government, the County Government and NG-CDF. Further, the youth engaged in sports refrain from indulging in crimes.
27. They did not support deletion of section 25 (10) which provides for funding of environmental activities as part of development projects.
28. Members expressed concern over deforestation and its adverse effects of climate change and felt that the status quo should remain and NG-CDF should be used to support efforts to conserve the environment.
29. Clause 10 of the Bill be deleted because there is need to guarantee sustained funding for constituency projects to ensure maximum benefits to residents of different areas within a constituency.
30. Clause 11 of the Bill be deleted because Members of Parliaments are constitutionally mandated to carry out oversight role.
31. The Constituency Oversight Committee (COC) comprises of the Member of the National Assembly and not more than four (4) other persons whose role is to mobilize and sensitize target groups on matters related to the Fund and soliciting views, opinions and proposals from the public in regard to the Fund

and presenting the views and opinions to the Board and to the National Assembly.

32. COCs provide critical functions which strengthen the prevailing check and balance mechanisms for proper implementation of constituency projects.
33. The COC also ensure that constituents obtain value for money by monitoring prudent expenditure of funds and resources for the benefit of the constituents.
34. NG-CDF has had a huge impact especially on the education sector as evidenced by construction of school infrastructure, support of students with bursaries and purchase of stationery and other equipment that support other learning programme yet the money is insufficient.
35. While appreciating the huge role the NG-CDF has played regarding infrastructure in schools, the residents observed that Kilifi County is usually hit by drought and there is food insecurity in the region.
36. They noted that lack of food has led to children dropping out of school leaving classrooms empty.

SUBMISSIONS BY RESIDENTS OF TAITA TAVETA COUNTY

- 62 The public participation forum was held at Voi Constituency in Dan Maanzo Social Hall on 10th August, 2023. Members of the public were happy to have such a forum to discuss about NGCDF and their concerns about the Supreme Court ruling which had declared NG- CDF Act, 2013 unconstitutional. They appreciated the effort by the National Assembly to amend the law to ensure that the Act complies with the Constitution.
- 63 The residents agreed with the amendments and submitted as follows in regard to the Bill. That
- 64 Clause 7(a) and (b) be deleted and be amended further to increase allocation towards environment by 5%.
- 65 The provision for allocation on sports has enabled sponsorship of tournaments, access to sports equipment and promotion of talent in constituencies. Sports has kept youth busy thus reducing youth vices leading to decrease in crime. The residents also noted that the National Government has a role in promoting sports.

- 66 Increase allocation of the National Government's share of revenue from not less than 2.5% to 5%. This is because the demand for the Fund is ever on the rise. This is due to increase in population thus increased demand for bursary, educational and security infrastructure.
- 67 The provision for allocation towards environmental protection is key in mitigating climate change which is a global concern.
- 68 The limit of not more than 2% will hinder the realization of talents among the youth and further protection of the environment in as far climate change is concerned.
- 69 Notwithstanding the achievements that NG-CDF has made in the education sector ranging from bursary allocation, scholarship and construction of education infrastructure like lavatories, classes and laboratories, the current Act should be amended to provide for funding of school feeding programme. The feeding programme will promote school enrollment and encourage school completion of children in Arid and Semi- Arid Areas prone to hunger.
- 70 The residents further underscored the need to leverage technology by ensuring the youth have access to WIFI at the constituency level. This will enable them access online job and business opportunities.

SUBMISSIONS BY RESIDENTS OF MOMBASA COUNTY

- 71 The public forum was held at Mvita Constituency CDF offices in Mombasa County on 11th August, 2023. Members of the public were concerned about the Supreme Court ruling which had declared NG- CDF Act, 2013 unconstitutional. The residents appreciated the effort by Parliament to amend the law to ensure that the Act complies with the Constitution.

The Residents submitted as follows in regard to the Bill. That

- 72 They supported Clause 5 that proposes to have the Public Service Commission involved in the recruitment process of Board Members and Chairperson of the NG-CDF Board through a competitive process. This will ensure competitive recruitment of NG-CDF Board Members.

- 73 There is need to increase allocation of the National Government's share of revenue from not less than 2.5% to 5% towards NG-CDF. This will enhance development in the constituencies, access to better services and try to match the demand of the Fund towards infrastructure and bursaries funding.
- 74 They did not support deletion of section 25 (8) as proposed in Clause 7(a) which provides for funding of sport activities as part of development projects. Nurturing talents through sports and art is critical especially in tackling the issue of unemployment among the youths and therefore requires concerted efforts from the National Government, the County Government and NG-CDF.
- 75 They were opposed to deletion of section 25 (10) as proposed in 7(b) which provides for funding of environmental activities as part of development projects. Members expressed concern over global climate change and felt that the NG-CDF should be used to support efforts to conserve the environment.
- 76 Additionally, the residents proposed that NGCDF should Fund ICT hubs in every ward to enable the youth access WIFI. This will enable them access online jobs thus creating employment opportunities for the youths and access business opportunities.
- 77 There is need to change the existing legislation to provide for funding of school feeding programmes and more allocation towards bursary to meet the high demand of the same.

SUBMISSIONS BY RESIDENTS OF KWALE COUNTY

- 78 Public Hearing was held at Matuga Primary School in Matuga Constituency, Kwale County on Saturday 12th August, 2023. Members of the public were concerned about the Supreme Court ruling which had declared NG- CDF Act, 2013 unconstitutional. They appreciated the effort by Parliament to amend the law to ensure that the Act complies with the Constitution.
- 79 The residents submitted as follows in regard to the Bill. That
- 80 The percentage allocation towards NG-CDF of the total revenue collected be increased. This is due to inadequacy of the Fund to meet needs of constituents

ranging from inadequate bursary and those funds towards infrastructure development.

- 81 There should be an annual increment regardless of the total revenue collected.
- 82 NG-CDF has had a huge impact on the education sector as evidenced by construction of school infrastructure, support of students with bursaries and purchase of stationery and other equipment that support other learning programmes yet the Fund is significantly insufficient.
- 83 Clause 5 be deleted. Contrary to the provision of recruitment of NG-CDF Board members through the Public Service Commission, they advocated for the idea of allowing Members of Parliament to play an active role in recruiting NG-CDF Board members on account that they have a better understanding of persons who are likely to deliver.
- 84 They were opposed to Clause 7 (a) that proposes for deletion of section 25 (8) which provides for funding of sport activities as part of development projects.
- 85 Nurturing talents through sports and art is critical especially in tackling the issue of unemployment among the youth and therefore requires concerted efforts from the National Government, the County Government and NG-CDF. Further, the youth engaged in sports to refrain from indulging in crimes.
- 86 They did not support deletion of section 25 (10) which provides for funding of environmental activities as part of development projects.
- 87 Members expressed concern over deforestation and its adverse effects of climate change and felt that the status quo should remain and NG-CDF should be used to support efforts to conserve the environment.
- 88 Clause 10 of the Bill be deleted to guarantee sustained funding for constituency projects to ensure maximal benefits to residents of different areas with a constituency.
- 89 Clause 11 of the Bill be deleted since Members of Parliaments are constitutionally mandated to an oversight role.
- 90 COCs are critical functions which strengthen the prevailing check and balance mechanisms for proper implementation of constituency projects.
- 91 The COCs also ensure that constituents obtain value for money by monitoring prudent expenditure of funds and resources for the benefit of the constituents.

- 92 Since the country is going digital and most Government services are accessed on online platforms like e-citizen platform, the Government should connect fiber to various markets in constituencies and have ICT centers. This will enable youth to access information including but not limited to job advertisements, online jobs, tenders among others.
- 93 NG-CDF to consider funding school feeding programmes to prevent children from dropping out of school due to hunger.

SUBMISSIONS BY RESIDENTS OF NAKURU COUNTY

- 94 The public participation forum was held at Amani ACK Social Hall in Nakuru West Constituency on 9th August, 2023. Members of the public were happy to have such a forum to discuss about NGCDF and their concerns about the Supreme Court ruling which had declared NG- CDF Act, 2013 unconstitutional. They appreciated the effort by the National Assembly to amend the law to ensure that the Act complies with the Constitution.
- 95 The residents submitted as follows in regard to the Bill. That
- 96 Increase allocation of NG-CDF from the National Government's share of revenue from not less than 2.5% to 5%. This will match with the ever rising in demand for the Fund. This is due to increase in population thus increased demand for bursary, educational and security infrastructure.
- 97 Delete clause 7(a) and (b) of the bill and further amend it to increase allocation to sport and environment activities to 5%.
- 98 The provision for allocation on sports has enabled sponsorship of tournaments, access to sports equipment and promotion of talent in constituencies. Sports has kept youth busy thus reducing youth vices leading to decrease in crime.
- 99 Further the National Government has a role in promoting sports. Additionally, the provision for allocation towards environmental protection is key in mitigating climate change that is a global concern.
- 100 The limit of not more than 2% will hinder the realization of talents among the youth and further protection of the environment in as far as climate change is concerned.

- 101 Notwithstanding the achievements that NG-CDF has made in the education sector ranging from bursary allocation, scholarship and construction of education infrastructure like lavatories, classes and laboratories, as the residents, they proposed that the current Act be amended to provide for funding of school feeding programmes.
- 102 The feeding programmes will promote school enrollment and increase school completion of children in Arid and Semi- Arid areas that are prone to hunger.
- 103 As residents, they further underscore the need to leverage on technology by ensuring the youth have access to WIFI at constituency level. This will enable them to access online jobs and business opportunities.

SUBMISSIONS BY RESIDENTS OF KERICHO COUNTY

104 The public participation forum was held at Kipkelion East Constituency in Londiani NG-CDF offices on 9th August,2023. Members of the public were concerned about the Supreme Court ruling which had declared NG- CDF Act, 2013 unconstitutional. They appreciated the effort by the National Assembly to amend the law to align with the Constitution.

The residents submitted as follows; That

- 105 Clause 7(a) and (b) be deleted but further amend section 25 (8) and (10) of the NG-CDF Act by deleting the word ‘two’ and substitute with the word ‘five’ to increase allocation to these projects.
- 106 There is need to increase allocation of the National Government’s share of revenue from not less than 2.5% to 5% towards NG-CDF. This will enhance development in the constituencies, access to better services and try to match the demand of the Fund towards infrastructure and bursaries funding.
- 107 The proposed amendment will facilitate promotion of talent and protection of the environment. sports and environmental protection are key issues and that the limit of not more than 2% hinders the realization and promotion of talents among the youth and further protection of the environment in as far climate change is concerned.

- 108 The fund has positively impacted the lives of needy students who would have gone without education if the fund was not available. The number of needy learners who require bursary allocation has increased and therefore the allocation to the Fund should be increased.
- 109 There is a need for an enhancement of the Fund on grounds that increased population has brought about the need for more school infrastructure and with limited land for expansion this has led to increased cost of infrastructure in schools due to the need to develop modern buildings.
- 110 NG-CDF should ensure that they have ICT centers where they can access free WIFI in order to access online jobs and business opportunities.

SUBMISSIONS BY RESIDENTS OF ELGEYO MARAKWET COUNTY

- 111 The public participation forum was held at Keiyo South in Nyaru NG-CDF offices on 10th August 2023. Members of the public submitted as follows;
- 112 NG-CDF is a Fund with the greatest achievements than any other devolved fund.
- 113 They appreciated the effort by the National Assembly to amend the law to ensure that the Act complies with the Constitution.
- 114 There is a need to increase the allocation of the National Government's share of revenue from not less than 2.5% to 5% towards NG-CDF. This will enhance development in the constituencies, access to better services and try to match the demand of the Fund towards infrastructure and bursaries funding.
- 115 Clause 11 be deleted on grounds that it was important for the Member of Parliament to nominate members of the COC to ensure oversight of the projects and that the Constitution mandates Members of Parliament with an oversight role.
- 116 Delete clause 7(a) and (b) of the bill and further increase allocation to 5%. Sports and environmental protection are key issues and the limit of not more than 2% will hinder the realization of talents among the youth and further protection of the environment in as far climate change is concerned.
- 117 There is a need to increase the Fund to match with the rising need for more infrastructure, cost of infrastructure in schools, demand for bursary and security infrastructure.

- 118 The residents proposed increment of the Fund and recommended that the mandate of the Fund be expanded to include paying for utilities like electricity to compliment the efforts of other government projects like constituency ICT hubs that are crucial in addressing unemployment among the youth.
- 119 The residents underscored the need to address the high school dropout rate which is witnessed in Arid and Semi- Arid regions due to hunger. They sought to amend the Act to provide for school feeding programmes.

SUBMISSIONS BY RESIDENTS OF UASIN GISHU COUNTY

120 The public participation forum was held in Wounofour Peace Center at Ainabkoi NG-CDF offices on 10th August,2023. Members of the public were concerned about the Supreme Court ruling which had declared NG- CDF Act, 2013 unconstitutional. They appreciated the effort by Parliament to amend the law to ensure that the Act complies with the Constitution.

The residents submitted as follows in regard to the Bill. That

- 121 Section 34 of NG-CDF Act 2015 that provides on allocation formula for sharing the fund which is currently based on number of wards be amended to consider population in allocating funds thus per capita allocation. This is because some constituencies have less number of constituencies but higher population and as such allocating funds using the current formula is unfair on such constituencies.
- 122 Increase NG-CDF allocation of the National Government's share of revenue from not less than 2.5% to 5%. This will assist in achieving the objectives set out under the Act and further avail services from the National Government to the lowest level within the county thus there is need to amend Section 4 of the Act.

- 123 There is a need for NG-CDF to start school feeding program in the current society to avoid learners breaking to their homes for lunch which may not be available in some homes.
- 124 Clause 7(a) and (b) be deleted and further amended to increase allocation to 5% towards sports and environment.
- 125 That the proposal is necessary in nurturing youth talents within constituencies and promote environmental protection thus mitigating climate change.

SUBMISSIONS BY RESIDENTS OF BARINGO COUNTY

- 126 The public participation forum was held at Eldama Ravine Constituency NG-CDF offices on 11th August,2023. Members of the public were concerned about the Supreme Court ruling which had declared NG- CDF Act, 2013 unconstitutional. They appreciated the effort by the National Assembly to amend the law to ensure that the Act complies with the Constitution and submitted as follows; That
- 127 The amendments were necessary to align the NG-CDF Act with the Constitution.
- 128 Clause 7 (a) & (b) be deleted and further amend it to increase allocation to both sports and environmental activities to 10% to assist in nurturing talent among the youth and enhance protection of environment.
- 129 Section 34 of the Act be amended to provide that allocation of the Fund to constituencies be based on population of the constituency and not the number of wards.
- 130 The current allocation formula is unfair to the constituencies with high population but less wards.
- 131 Amend Section 4 of the NG-CDF Act to increase allocation to the Fund. This will enhance development and support those in need of the Fund and match with the rising need for more infrastructure, cost of infrastructure in schools, demand for bursary funding and security infrastructure.
- 132 They appreciated bursary allocation but sought for a provision to ensure that more funds are allocated towards bursary thus constituency bursary allocation be increased up to 40% from 35%.

- 133 The residents proposed increment of the fund and recommended that the mandate of the Fund be expanded to include paying for utilities like electricity to compliment the efforts of other government projects like constituency ICT hubs that are crucial in addressing unemployment among the youth.
- 134 The residents underscored the need to address the high school drop-out that is witnessed in Arid and Semi- Arid regions due to hunger. They sought to amend the Act to provide for school feeding program.

SUBMISSIONS BY RESIDENTS OF NYAMIRA COUNTY

- 135 The public participation forum was held at Kitutu Masaba NG-CDF offices on 9th August ,2023. Members of the public were concerned about the Supreme Court ruling which had declared NG- CDF Act, 2013 unconstitutional. They appreciated the effort by the National Assembly to amend the law to ensure that the Act complies with the Constitution.
- 136 The residents supported the amendments on grounds that they were meant to align the NGCDF Act 2015, with the Constitution and prevent further court cases challenging the NG-CDF Act, 2015 and submitted as follows in regard to the Bill.
That
- 137 Constituency Oversight Committee led by the area Member of Parliament is critical in offering checks and balance mechanisms for proper implementation of constituency projects. Further, it ensures that constituents get value for money by monitoring and ensuring prudent expenditure of funds. Thus Clause 11 of the bill be deleted.
- 138 The provision for allocation on sports has enabled sponsorship of tournaments, access to sports equipment and promotion of talents among the youth in constituencies. Sports has kept the youth busy thus reducing youth vices leading to decrease in crime. Further, the National Government has a role in promoting sports.
- 139 The provision for fund allocation towards environmental protection is key in mitigating climate change that is a global concern thus there is need to retain sports and Environment as a function funded by the Fund. Consequently, Clause 7(a) and (b) should be deleted

- 140 There is need to increase NG-CDF allocation by amending Section 4 to increase allocation from 2.5% to 5%.
- 141 There is a need to increase the National Government share of revenue to 5% so as to match with the development needs in constituencies. Due to population increase, there is need for increased education and security infrastructure. Further, fund allocation towards bursary is required to meet the demand of needy learners.
- 142 The residents underpinned the importance of leveraging technology in addressing unemployment of the youth. They proposed that the Act be reviewed to cater for security, electricity, and other utilities in Constituency ICT centres.
- 143 They further proposed that there is need for NG-CDF to start school feeding programme in the modern time and society to avoid learners from taking lunch breaks to go to their homes for lunch which may not be available in some homes.
- 144 School feeding programme will level the learning conditions, ensure increased enrollment of learners in schools and encourage school completion since it will motivate learners to attend school and provide for those who may not have.

SUBMISSIONS BY RESIDENTS OF KISUMU COUNTY

- 145 The public participation forum was held at Job Omino Secondary School, Kisumu Central Constituency on 9th August, 2023. Members of the public were concerned about the Supreme Court ruling which had declared NG- CDF Act, 2013 unconstitutional. They appreciated the effort by Parliament to amend the law to ensure that the Act complies with the Constitution. The Residents submitted as follows in regard to the Bill.
- 146 Section 43 of NG-CDF Act be amended to provide for nomination of the National Government Constituency Development Fund Committee by the public and approved by the National Assembly. This will enhance public participation and improve transparency while strengthening efficiency and effectiveness in the implementation of the Fund.
- 147 That the Fund has increased the economic wellbeing of persons and as such should be increased to impact the society further positively thus there is need to amend section 4 (1) (a) by increasing the allocation to 5% from 2.5%.

148 Further, it's time the Act is amended to provide for Funding of school feeding programme to motivate learners and meet the cost of utilities like water and electricity for constituency ICT hubs to ensure that the hubs are operational and address unemployment among the youth.

SUBMISSIONS BY RESIDENTS OF VIHIGA COUNTY

149 The public participation forum was held in Friends Church, Chango, at Vihiga Constituency Vihiga County on 10th August,2023. Members of the public were concerned about the Supreme Court ruling which had declared NG- CDF Act, 2013 unconstitutional. They appreciated the effort by Parliament to amend the law to ensure that the Act complies with the Constitution. The Residents submitted as follows in regard to the Bill.

150 Clause 7 (a) & (b) be deleted to retain funding of sports and environment. Amend the clause further by renaming sports to talent development whereas environment should be renamed to climate change adaptation to continue nurturing talents and mitigating climate change

151 Stopping CDF from funding sports and environment is not a well thought idea given that through the Fund, a lot of talents have been nurtured and developed while tree planting is key in mitigating climate change

152 NG-CDF has great impact on constituency development and has increased the economic wellbeing of persons. This has been achieved through employment opportunities it has created, bursary allocation etc. As such it should be increased to impact more to the society positively. Consequently Section 4 (1) (a) to be amended by increasing the NG-CDF allocation to 10% from 2.5%.

153 While appreciating the role NG-CDF has done in educating children in constituencies, the residents called for more allocation towards bursary to ensure that all needy learners benefit from the kitty.

154 The residents further sought amendment to the existing NG-CDF law to provide for school feeding programme. This will ensure that learners from poor backgrounds do not drop out of school due to hunger.

155 There is need for the youth to access WIFI at constituency level so as to access online jobs and business opportunities. Subsequently the NG-CDF Act should be reviewed to provide for the same.

SUBMISSIONS BY RESIDENTS OF KAKAMEGA COUNTY

156 The public participation forum was held in Kakamega Muslim Primary School, Lurambi Constituency in Kakamega County on 10th August,2023. Members of the public were concerned about the Supreme Court ruling which had declared NG-CDF Act, 2013 unconstitutional.

157 The Residents submitted as follows;

They accepted the amendments and appreciated the effort by the National Assembly to amend the law to ensure that the Act complies with the Constitution.

158 NG-CDF Should continue funding sports and environment because through the fund, a lot of grassroot talent development has been witnessed and that tree planting is necessary in this era of global warming.

159 That the proposal is necessary in nurturing youth talents within constituencies and to promote environmental protection thus mitigating climate change.

160 Section 4 (1) of the NG-CDF Act be amended to increase NG-CDF allocation to 10% from 2.5% from the share of Government revenue. The impact of the Fund in terms of development in education and security is enormous. The Fund has increased the economic wellbeing of persons and as such should be increased to impact the society further positively.

161 This will enable an increase in bursary allocation to 40% without affecting allocation towards development and enable payment of current utilities, costs and maintenance of constituency digital hubs.

SUBMISSIONS BY RESIDENTS OF BUNGOMA COUNTY

162 The public participation forum was held at St. Teresa Sio High School in Kanduyi constituency, Bungoma County on 11th August,2023. Members of the public were concerned about the Supreme Court ruling which had declared NG- CDF Act, 2013

unconstitutional. They appreciated the effort by Parliament to amend the law to ensure that the Act complies with the Constitution.

- 163 The residents submitted as follows in regard to the Bill. That
- 164 They supported the amendments that are aimed at aligning the NGCDF Act with the Constitution.
- 165 Enormous development has been witnessed in various constituencies that are funded by NG-CDF more than any other devolved funds
- 166 Various households have benefited from bursary allocation that has enabled several learners to attend classes and complete schooling without which they would be drop outs.
- 167 Police stations have been erected in insecure areas thus the public is enjoying security courtesy of CDF.
- 168 Notwithstanding the success of N-GCDF, the Fund remain to be inadequate in satisfy the bursary and infrastructure demand thus need for enhancement of the fund.
- 169 Constituency Oversight Committee led by the area Member of Parliament is critical in offering checks and balance mechanisms for proper implementation of constituency projects.
- 170 They opined that it will also ensures that constituents get value for money by monitoring and ensuring prudent expenditure of funds.
- 171 Sports and environment be retained as functions funded by the Fund. The provision for allocation on sports has enabled sponsorship of tournaments, access to sports equipment and promotion of talents among the youth in constituencies.

Sports has kept youth busy thus reducing youth vices leading to a decrease in crime. Further, the National Government has a role in promoting sports.

- 172 The provision for allocation towards environmental protection is key in mitigating climate change that is a global concern.
- 173 There is a need to increase the National Government share of revenue to 5% to match with the development needs in constituencies. Due to population increase, there is need for increased education and security infrastructure. Further, more money towards bursary is required to meet the demand of needy learners.
- 174 The residents underpinned the importance of leveraging technology in addressing the unemployment of the youth. They proposed that the Act be reviewed to cater for security, electricity and other utilities in constituency ICT centres .
- 175 They further proposed that there is need for NG-CDF to start school feeding programme to ensure all students have access to lunch for proper learning. This will level the learning conditions, ensure increased enrollment of learners in schools and encourage school completion as this will motivate learners to attend school and provide for those who may not have.

SUBMISSIONS BY RESIDENTS OF BUSIA COUNTY

- 176 The public participation forum was held at Farm View Hotel grounds, Matayos constituency in Busia County on 11th August,2023. Members of the public were concerned about the Supreme Court ruling which had declared NG- CDF Act, 2013 unconstitutional. The Residents submitted as follows in regard to the Bill.
- 177 They appreciated the effort by the National Assembly to amend the law to ensure that the Act complies with the Constitution.
- 178 They supported clause 2 that proposes to designate NG-CDF resources to functions exclusive to the National Government pursuant to Schedule 4 of the Constitution

- 179 They Further supported Clause 5 to provide for competitive recruitment of NG-CDF Board members. This will ensure competitive recruitment of Board members.
- 180 They support the proposed amendment in Clause 14 to provide that the sub-county/ constituency as a service delivery unit. This will align the Act with the Constitution.
- 181 They proposed deletion of proposed amendment under Clause 7 (a) and (b) so as to retain sports and environment while enhancing the allocation to meet the demands by youth and mitigate climate change
- 182 They proposed an increase in the fund allocation from the current 2.5% to 10% from the share of national revenue. This will ensure availability of funds towards school feeding programme, meeting operational and maintenance costs of constituency digital hubs, bursaries and other development needs.
- 183 With increased population and high enrollment in schools, the demand for bursary is not met. Section 48A therefore needs to be amended to provide for an increase in the allocation to education bursary from 35% to 40%.
- 184 Increasing funding towards bursary will meet the high demand and benefit many needy learners.

SUBMISSIONS BY RESIDENTS OF HOMA BAY COUNTY

- 185 The public participation forum was held at Homa Bay Town Constituency NG-CDF Office, Homa Bay county on 12th August,2023. The stakeholders submitted as follows; That
- 186 They supported the proposed amendment to the National Government Co-ordination Act, 2013 to provide for the sub-county/ Constituency as a service delivery unit.
- 187 Digital innovation is emerging as the next frontier for economic, political and social development, thus, the need to establish digital hubs, supportive digital awareness and innovation programme at the constituency level.
- 188 Approvals or funding of project consistent with the Act, should not be denied on the ground of existence of allocations to other projects because different

communities in the constituencies have varying needs with unique project requirements

SUBMISSIONS BY RESIDENTS OF MACHAKOS COUNTY

- 189 The residents of Machakos County met the Committee in Masii High school on 9th August, 2023 and observed that;
- 190 They support the object of the Bill is to amend the principal Act to provide that the object of the Fund shall be to implement infrastructure development over projects falling under the exclusive functions and powers of the National Government as set out in the Constitution. This would enhance service delivery by the National Government to the constituencies.
- 191 Clause 4 be Deleted in its entirety to retain the current procedure for appointment and approval of appointment of members of the Board which involves appointment by the Cabinet Secretary with the approval of the National Assembly.
- 192 The Bill seeks to align the principal Act with Constitution on the distinct roles and functions of the National Government and the County Governments to avoid conflict between the two levels of government, thus, the need to retain the current provision on appointment of Board members by the Cabinet Secretary and approval of the appointment by the National Assembly.
- 193 Delete clause 5 in its entirety to retain the current provision for filling of a vacancy in the Board by the National Assembly Committee because Members of Parliament are better placed to know people who can serve the board better
- 194 Increase funds allocated for sports and environmental activities; and environment. The current allocation of an amount that does not exceed 2% of the total allocation of a constituency in a financial year for sports and environmental activity has proved to be insufficient due to the increase in sporting and environment activities in the constituency.
- 195 Expand the scope of activities that may be funded by the allocated funds to include talent promotion; promotion of digital innovations; and other innovations among other.

- 196 Digital innovation is emerging as the next frontier for economic, political and social development, thus, the need to establish digital hubs, supportive digital awareness and innovation programme at the constituency level.
- 197 Approvals or funding of project consistent with the Act, should not be denied on the ground of existence of allocations to other projects because different communities in the constituencies have varying needs with unique project requirements.
- 198 The Constituency Oversight Committee comprises of the Member of the National Assembly and not more than four (4) other persons who mobilize and sensitize target groups on matter related to the Fund and solicit views, opinions and proposals from the public in regard to the Fund and present the views and opinions to the National Assembly.
- 199 These are critical functions which strengthen the prevailing check and balance mechanisms for proper implementation of constituency projects.
- 200 The Constituency Oversight Committee also ensures that constituents obtain value for money by monitoring prudent expenditure of funds and resources for the benefit of the constituents.
- 201 National Government Constituency Development Fund allocations to projects funded under the principal Act should continue to ensure adequate funding, and ultimately timely completion of projects.
- 202 Allocation to the Fund to be increased to meet the demands for bursary and other infrastructure development

SUBMISSIONS BY RESIDENTS OF MAKUENI COUNTY

- 203 In a meeting held in Wote Green Park, the residents of Makueni County on 9th August,2023 and observed that amending the principal Act to align it with the exclusive functions and powers of the National Government as set out in the Constitution would promote certainty over which level of government is responsible for specific projects in the constituencies, and thus submitted as follows. That
- 204 Delete the clause 4 in its entirety and preserve the current procedure for appointment and approval of appointment of members of the Board which

provides for appointment by the Cabinet Secretary with the approval of the National Assembly.

- 205 Providing for appointment of Board Members by the Cabinet Secretary and approval of the appointment by the National Assembly will promote better implementation of the object of the Act which is to align the Fund to the exclusive functions and powers of the National Government as set out in the Constitution.
- 206 Restricting the mandate for filling of a vacancy in the Board to the National Assembly Committee will provide a more inclusive and deliberative mechanism on suitability of candidates for appointment to vacancies that fall vacant.
- 207 Clause 7 be deleted and amend the Bill further by inserting a new Clause 7 to provide for increment of the funds allocated for sports and environmental activities; and expand the scope of activities that may be funded by the allocated funds to include talent promotion; promotion of digital innovations; and other innovations among others.
- 208 The prevailing allocations and funding for sports and environmental activities are insufficient due to emerging developments such as sports and climate change.
- 209 Global digital innovation trends and opportunities necessitate deliberate action by government to enable our youth to compete for global digital space and derive the benefits associated therewith thus creation of digital hubs.
- 210 There is a need to guarantee sustained funding for constituency projects to ensure maximum benefits to residents of different areas within a constituency.
- 211 The Constituency Oversight Committee creates awareness in the constituencies on matters related to the Fund and serves as a focal point between the leadership in a constituency and the National Assembly.
- 212 It is necessary to retain funding for the Constituency Oversight Committee subsequent to the amendment proposed to Clause 11.
- 213 To ensure continuity of adequate funding for normal national government development allocations to projects funded under the principal Act.
- 214 The residents proposed for a provision for increased allocation towards bursary and school feeding programme.

SUBMISSIONS BY RESIDENTS OF KITUI COUNTY

215 The residents of Kitui County met the Committee in Kitui Multi- Purpose Centre on 10th August,2023 and supported the proposed amendments that the principal Act to provide that the object of the Fund shall be to implement infrastructure development over projects falling under the exclusive functions and powers of the National Government as set out in the Constitution.

The residents submitted as follows—

216 Clause 4 of the Bill be deleted in its entirety and preserve the current procedure for appointment and approval of appointment of members of the Board which provides for appointment by the Cabinet Secretary with the approval of the National Assembly.

217 Providing for appointment of Board Members by the Cabinet Secretary and approval of the appointment by the National Assembly will promote the object of the proposed legislation which is to align the Fund to the exclusive functions and powers of the national government as set out in the Constitution.

218 Restricting the mandate of filling a vacancy in the Board to the National Assembly Committee will provide a more functional mechanism for verification and assessment of candidates for suitability for appointment as Board members.

219 Funding for sports and environmental activities are insufficient due to emerging developments such as talent development in sports and arts and climate change resulting to global warming.

220 Global digital innovation trends and opportunities necessitate deliberate action by government to enable our youth to compete for global digital space and derive the benefits associated therewith.

SUBMISSIONS BY RESIDENTS OF THARAKA NITHI COUNTY

221 In a meeting with the Committee held at Kathwana Municipality, Kathwana Stadium on 10th August,2023. The residents of Tharaka Nithi County submitted that;

222 The Fund had transformed the lives of county's residents because they could approach their Members of Parliament for intervention on various issues through

the Fund since most government services are unavailable in most regions in the county.

- 223 The residents agreed to the amendments aimed at aligning the Act with the Constitution.
- 224 Clause 4 of the Bill be deleted to retain the current procedure which provides for appointment of Board Members by the Cabinet Secretary and approval of the appointments by the National Assembly.
- 225 Providing for appointment of Board Members by the Cabinet Secretary and approval of their appointment by the National Assembly will provide for a coordinated approach between the Cabinet Secretary and the National Assembly on matters relating to the Fund.
- 226 Restricting the mandate for filling of a vacancy in the Board to the National Assembly Committee will provide a more inclusive mechanism for assessment of suitability of candidates for appointment to the subject vacancy.
- 227 Increase allocation of NG-CDF from the National Government's share of revenue from not less than 2.5% to 5%. This will match with the ever rising in demand for the Fund. This is due to increase in population thus increased demand for bursary, educational and security infrastructure.
- 228 Delete clause 7(a) and (b) of the bill and further amend it to increase allocation to sport and environment activities to 5%.
- 229 The provision for allocation on sports has enabled sponsorship of tournaments, access to sports equipment and promotion of talent in constituencies. Sports has kept youth busy thus reducing youth vices leading to decrease in crime.
- 230 Further the National Government has a role in promoting sports. Additionally, the provision for allocation towards environmental protection is key in mitigating climate change that is a global concern.
- 231 The limit of not more than 2% will hinder the realization of talents among the youth and further protection of the environment in as far as climate change is concerned.
- 232 Notwithstanding the achievements that NG-CDF has made in the education sector ranging from bursary allocation, scholarship and construction of education infrastructure like lavatories, classes and laboratories, as the residents, they

proposed that the current Act be amended to provide for funding of school feeding programme.

233 The feeding programme will promote school enrollment and increase school completion of children in Arid and Semi- Arid areas that are prone to hunger.

234 As residents, they further underscore the need to leverage on technology by ensuring the youth have access to WIFI at constituency level. This will enable them to access online jobs and business opportunities.

SUBMISSIONS BY RESIDENTS OF MERU COUNTY

235 In a meeting with the Committee held at Meru TTC on 11th August,2013, the residents of Meru County supported the Bill and submitted that

236 The Fund provides a platform for direct interactions between the government, individual constituents and community groups based in the constituencies. They also submitted that persons living with disability and vulnerable members of the community were some of the primary beneficiaries of the Fund.

237 Delete clause 4 of the Bill in its entirety to retain the current procedure for appointment and approval of appointment of members of the Board which involves appointment by the Cabinet Secretary with the approval of the National Assembly.

238 The Bill seeks to align the principal Act with the Constitution on the distinct roles and functions of the National Government and the County Governments to avoid conflict between the two levels of government, thus, the need to retain the current provision on appointment of Board members by the Cabinet Secretary and approval of the appointment by the National Assembly.

239 Delete the clause 5 in its entirety. The Bill seeks to align the principal Act with the Constitution by mandating the Fund to oversee and implement infrastructure development over projects falling under the exclusive functions and powers of the National Government as set out in the Constitution. Thus, the need to retain the current provision for filling of a vacancy in the Board by the National Assembly Committee to enable enhanced coordination between the relevant National Government agencies.

- 240 The current provision for allocation of an amount that does not exceed two per centum of the total allocation to a constituency in a financial year for sports and environmental activities is insufficient due to the emergence of modern sporting activities for all ages gaps; and
- 241 The need to promote digital innovation establishing digital hubs and encouraging digital innovation amongst the youth.
- 242 Existence of other projects in different areas or allocations to the projects should not be used as a ground to deny subsequent approvals or funding of project projects in the constituencies because varying projects have unique requirements.
- 243 The Constituency Oversight Committee comprised of the Member of the National Assembly and other members mobilizes and sensitizes target groups on matters related to the Fund and also solicit views, opinions and proposals from the public in regard to the Fund and present those views and opinions to the National Assembly.
- 244 There is need to provide funding for the Constituency Oversight Committee subsequent to the amendment proposed to Clause 11 for quality oversight
- 245 Normal National Government development allocations to projects funded under the principal Act should continue to ensure that projects do not stall due to lack of funding.

SUBMISSIONS BY RESIDENTS OF ISIOLO COUNTY

- 246 In a meeting with the Committee held at Isiolo Catholic Parish Hall, the residents of Isiolo County supported the Bill and observed that mandating the Fund to deal with the exclusive functions and powers of the national government as set out in the Constitution would promote up scaling of National Government services in the constituencies including services such security and provision of services designed for arid and semi-arid areas (ASALs), and thus submitted as follows—
- 247 The percentage allocation towards NG-CDF of the total revenue collected be increased. This is due to inadequacy of the Fund to meet needs of constituents ranging from inadequate bursary and those funds towards infrastructure development. There should be an annual increment regardless of the total revenue collected.

- 248 NG-CDF has had a huge impact on the education sector as evidenced by construction of school infrastructure, support of students with bursaries and purchase of stationery and other equipment that support other learning programme yet the Fund is significantly insufficient.
- 249 Clause 5 be deleted. Contrary to the provision of recruitment of NG-CDF Board members through the Public Service Commission, they advocated for the idea of allowing Members of Parliament to play an active role in recruiting NG-CDF Board members on account that they have a better understanding of persons who are likely to deliver.
- 250 They were opposed to Clause 7 (a) that proposes for deletion of section 25 (8) which provides for funding of sport activities as part of development projects.
- 251 Nurturing talents through sports and art is critical especially in tackling the issue of unemployment among the youth and therefore requires concerted efforts from the National Government, the County Government and NG-CDF. Further, the youth engaged in sports to refrain from indulging in crimes.
- 252 They did not support deletion of section 25 (10) which provides for funding of environmental activities as part of development projects.
- 253 Members expressed concern over deforestation and its adverse effects of climate change and felt that the status quo should remain and NG-CDF should be used to support efforts to conserve the environment.
- 254 Clause 10 of the Bill be deleted to guarantee sustained funding for constituency projects to ensure maximal benefits to residents of different areas with a constituency.
- 255 Clause 11 of the Bill be deleted since Members of Parliaments are constitutionally mandated to an oversight role. COCs are critical functions which strengthen the prevailing check and balance mechanisms for proper implementation of constituency projects.
- 256 The COCs also ensure that constituents obtain value for money by monitoring prudent expenditure of funds and resources for the benefit of the constituents.
- 257 The youths present opined that since the country is going digital and most Government services are accessed on online platforms like e-citizen platform, the Government should connect fiber to various markets in constituencies and have

ICT centers. This will enable youth to access information including but not limited to job advertisements, online jobs, tenders among others.

258 NG-CDF to consider funding school feeding programme to prevent children from dropping out of school due to hunger.

SUBMISSIONS BY RESIDENTS OF KIAMBU COUNTY

259 The public participation forum was held at Eldama Ravine Constituency NG-CDF offices on 11th September, 2023. Members of the public were concerned about the Supreme Court ruling which had declared NG- CDF Act, 2013 unconstitutional. They appreciated the effort by National Assembly to amend the law to ensure that the Act complies with the Constitution and submitted as follows; That

260 The amendments were necessary to align the NG-CDF Act with the Constitution.

261 Section 34 of the Act be amended to provide that allocation of the Fund to constituencies be based on population of the constituency and not the number of wards since the current Constituency Fund allocation formula is unfair to the constituencies with high population but less wards.

262 Clause 7 (a) & (b) be deleted and further amend it to increase allocation to both sports and environmental activities to 10% to assist in nurturing talent among the youth and enhance protection of environment.

263 Amend Section 4 of the NG-CDF Act to increase allocation to the Fund. This will enhance development and support those in need of the Fund and match with the rising need for more infrastructure, cost of infrastructure in schools, demand for bursary funding and security infrastructure.

264 They appreciated bursary allocation but sought for a provision to ensure that more funds are allocated towards bursary. Thus constituency bursary allocation be increased up to 40% from 35%.

265 The residents proposed increment of the fund and recommended that the mandate of the Fund be expanded to include paying for utilities like electricity to compliment the efforts of other government projects like constituency ICT hubs that are crucial in addressing unemployment among the youth.

- 266 The residents underscored the need to address the high school drop-out that is witnessed in Arid and Semi- Arid regions due to hunger. They sought to amend the Act to provide for school feeding program.
- 267 The Act to be reviewed to provide that people living with disability should be involved in NG-CDF matters.

SUBMISSION BY RESIDENTS OF NAIROBI COUNTY

- 268 The Nairobi County Public Participation was held at Weston Hotel on 12th September, 2023. Residents from all constituencies of Nairobi County constituencies appeared before the Committee and submitted as follows. That,
- 269 The Government need to increase its annual allocation to NG-CDF from 2.5% to 10% of its share of revenue to enable greater realization of development in Nairobi.
- 270 Bursary allocation be increased to up to 50% of the total allocation to be able to meet the demand of needy learners.
- 271 NG-CDF is the only devolved fund whose development can be witnessed in Nairobi and that with an enhanced amount, a lot of development can be realized.
- 272 The Current Act need to be amended to provide for sustainable school feeding programme. This will help learners from less privileged families have access to food while in school. This will not only motivate them to attend school but also motivate them to complete school.
- 273 Existing digital Hubs have played a useful role to the communities in which they are located. Youths from Dagoreti North Constituency have been able to access jobs online and earn through content creation.
- 274 For sustainable digital hubs, NG-CDF Act needs to be amended to provide for paying utilities like electricity and for security. This will ensure there is no disconnection of WIFI due to lack of electricity.
- 275 Consequently, Section 25 of the NG-CDF Act should be amended to provide for recurrent expenditure on utilities for Constituency digital hubs Constituency

digital hubs will create online job employment, promote innovation and enable access to online business.

276 Nothing is wrong with existing provisions on nomination and approval of the NG-CDF Board of Directors hence there is no need for the proposed amendment.

277 For reasonable funding of sports and environmental activities there is need to increase allocation towards the same to 5% to ensure adequate nurturing of talent and climate change mitigation measures.

NATIONAL GOVERNMENT CONSTITUENCY DEVELOPMENT FUND BOARD

278 Led by the Board Secretary Mr Simeon Ndweka, the NGCDF Board Directors appeared before the Committee at Weston Hotel on .The NGCDF Board Secretary submitted on behalf of the NG-CDF Board as follows; That

279 NG-CDF Board appreciated the amendments to the Act noting that it was important for the proposed provisions of the Bill to align with the Constitution and prevent further court cases challenging the constitutionality of the Act.

280 Ensuring exclusivity of national government function addresses the concerns regarding separation of powers raised by the Courts of Law and affirms the doctrine of separation of functions between the two levels of government.

281 The proposals provide greater certainty in project implementation.

282 On the elaborate proposals on appointment of chairperson and members of the Board this will provide remedy for any foreseeable gaps and scenario where the Act is silent on remedies.

283 The proposed provisions will ensure equity in allocation of funds to constituencies as well as ensuring continuous growth across all constituencies.

Clause 4 (a)

284 Amend clause 4 (a) by deleting the proposed provision on recommendation from the Public Service Commission in the appointment of members and chairperson of the Board.

Justification

Appointment of members of the Board should be a reserve of the Cabinet Secretary to ensure expeditious appointments of members thereby securing efficient management of the Fund.

Clause 4 (b)

285 Amend clause 4 (b) by deleting the words '**National Assembly**'.

Justification

The Bill proposes deletion of section 15 (4) of the Act. Therefore, the role of the National Assembly in the approval process will have been extinguished.

Amend clause 5 by deleting the new proposed section 19A.

Justification

The appointment of members of the Board should be a reserve of the Cabinet Secretary as this will mirror the provisions of section 6 of the State Corporations Act, the Board being a body corporate established under section 14 of the Act.

New Amendment

Clause 5

286 Further amend clause 5 by inserting a new clause 19A to reads as follows:

Whenever a vacancy arises in the Board, the Cabinet Secretary shall, within sixty days, fill the position as appropriate.

Justification

To ensure consultations and expeditious appointment thereby securing efficient management of the Fund.

Clause 6

287 Support the amendment.

Justification

This would ensure clarity on the projects to be implemented under the Act.

Clause 7 (a)

288 Support the amendment.

Justification

This would ensure consistency with other amendments such as clause 6.

Clause 7 (b)

289 Support the amendment.

Justification

This would ensure consistency with other amendments such as clause 6.

Clause 8

290 Support the amendment.

Justification

This would ensure equity in allocation of funds to constituencies as well as ensuring continuous growth across all constituencies.

Clause 9 (a) (i) & (ii)

291 Support the amendment.

Justification

This would absolve proposed deletion of 43 (2) (e).

Clause 9 (iii)

292 Support the amendment.

Justification

This would diffuse the perceived conflict in regards to separation of powers between the Executive and Legislature.

Clause 9 (b)

293 Support the amendment.

Justification

This would improve the implementation of the Act, which will allow committees to have sufficient time to perform their obligations.

Clause 9 (c)

294 Support the amendment.

Justification

For effective and efficient administration of the Funds at constituency level which would allow the committees to have efficient time to consider, approve and monitor implementation of projects within there year cycle.

Clause 10

295 Support the amendment.

Justification

This would clean up the Act and the section is outside the perceived scope of the Act.

Clause 11

296 Support the amendment.

Justification

This would clean up the Act and ensure that the legislative arm of the government would effectively discharge its oversight role.

Clause 12

297 Support the amendment.

Justification

This would clean the Act and ensure that the legislative arm of the government would effectively discharge its oversight role.

Clause 13

298 Support the amendment.

Justification

This would clean the Act and ensure that the legislative arm of the government would effectively discharge its oversight role.

New proposed Amendments

Section 23

299 Amend section 23 of the Act by deleting the words '*with the concurrence of the National Assembly Committee*'.

Justification

This will address the challenges brought about by the principle of separation of powers and align with the proposed amendments of section 15, 19 and 43 of the Act.

EAST AFRICA COLLABORATION FOR ECONOMIC, SOCIAL AND CULTURAL RIGHTS (EACOR)

300 The Committee considered the written submissions by EACOR who submitted as follows on the Bill:

Clause 2(a) & (b)

301 Supports the amendment as it ensures alignment of the NGCDF Act with the Constitution.

Clause 3

302 Supports the proposed amendment as it aligns with the 2.5% computation. The current provision makes the inaccurate assumption that national revenue, and in extension national government share of revenue will always be on the increase.

Clause 4(a) (b) and (c)

303 Supports the proposed amendments.

Justification

The involvement of the Public Service Commission makes the recruitment process more transparent, accountable, and professional. It also limits potential negative political influence in the selection process.

Clause 5

304 Delete the proposed amendment of Section 19.

Justification

This weakens the existing provisions on vacancy in the Board which are more elaborate thus establishing more safeguards to the integrity of the office.

New Amendment

Section 19

305 Include death as an additional ground for vacancy in the Act.

Justification

The proposal does not provide for the procedure for removal of a Member of the Board creating a legal vacuum. Reference to 'procedure set out in any written law' is insufficient.

Clause 5

306 Supports the new proposed section 19A on filling of a vacancy in the Board.

Justification

Involvement of the Public Service Commission makes the recruitment transparent, accountable, and professional. It limits potential negative political influence in the selection process.

Clause 6

307 Supports the amendment of repealing and substitution of Section 24.

Justification

This ensures alignment of the Act with the Constitution.

Clause 7 (a)

308 Supports deletion of allocation of funds for sports activities.

Justification

This ensures alignment of the Act with the Constitution.

Clause 7 (b)

309 Supports deletion of allocation of funds for environment activities.

Justification

This ensures alignment of the Act with the Constitution.

Clause 8

- 310 Does not support the provision on allocation of funds in a given financial year `being less than what was allocated in the previous year.

Justification

This contradicts the proposed deletion in clause 3 of the Bill as this is a Fund based on a fixed percentage of national revenue. There is a likelihood of a lesser allocation in the event of a lesser sharable revenue.

Clause 9 (a) (i) & (ii)

- 311 Supports the deletion of 'two' and substitution of 'three'.

Justification

This ensures alignment of the Act with the Constitution.

Clause 9 (a) (iii)

- 312 Supports deletion of paragraph (e).

Justification

This protects the principle of separation of powers between the legislature and executive.

Clause 9 (b)

- 313 Supports the proposal on convening of the first meeting of the Constituency Committee.

Justification

The Board representative is better placed to initiate the meeting due to the Board's detailed information on NGCDF.

This conflicts with the term of the Committee, which according to the NGCDF Regulations is 5 years. This causes an overlap between the life of the Committee and the contractual terms of the members.

Clause 10

314 Delete the proposed amendment and retain section 52.

Justification

The NGCDF funds are instrumental in supplementing underfunded projects which require additional support.

Clause 11

315 Does not support deletion of Section 53.

Justification

Repealing of Section 53 limits oversight and participation of the people in the decisions of the Committee.

Clause 12

316 Delete the proposed amendment.

Justification

Based on the need for an oversight organ proposes retaining of the current provision.

Clause 13

317 Supports the amendment.

Justification

The deletion does not raise any contentious matters.

Clause 14

318 Supports the consequential amendment under the National Government Co-ordination Act.

Justification

In the absence of legislation declaring constituencies as service delivery units, there would be no basis for allocation of resources and carrying out of development at the constituency level.

SLUM OUTREACH PROGRAMME

Slum Outreach Programme made a written submission as follows-

Clause 11

319 Delete the proposed amendment.

Justification

Transparency and accountability are the best tools to ensure projects benefit the intended people in any given constituency through the NG-CDF projects. This will avoid embezzlement happening in constituencies.

New Amendment

Section 4

320 Increase the allocation from 2.5% to 3.5%.

Justification

There is need to increase allocation from the current 2.5% to 3.5% to reflect increase in population growth and the current economic recession for actual realization of development in the grassroots as initially intended.

Clause 5

320 Further amend section 23 by introducing new subsection (3) to read as follows:

(3) Any unexpended money, for whatever reason in the Board's Accounts at the end of a particular financial year, or at any other time, shall be cumulative and shall be carried forward from one year to the next, for use in accordance with this section.

Justification

This will ensure that the Board remains operational and is able to execute its continuing programmes and enable the Board to meet its maturing obligations. Additionally, this will ensure legislative consistency and uniformity.

STEPHEN MUHINDI

The Stakeholder appeared before the Committee on 11th September 2023 at Kiambu County and made the following proposals to the Bill.

New Amendment

Section 4

321 Increase the allocation from 2.5% to 3.5%.

Justification

The extra 1% should be shared among the constituencies in accordance with population quota.

New Clause

321 Provide a clause to initiate and sustain collaboration and cooperation with state and non-state actors.

Justification

This provision should seek to eliminate duplication of roles, double allocation of funds, and conflict of interest.

WACHIRA MUTHEE & WAMBUI ADVOCATES

The stakeholders submitted a written memorandum to the Committee and made the following proposals to the Bill.

New Amendment

Section 25

322 (a) Inserting a new subsection immediately after subsection (2)—

‘(2A) Notwithstanding the provisions of subsection (2), up to a maximum of three percent of the total annual allocation for the constituency may be used for recurrent utilities, costs and maintenance of Constituency Digital Hubs and such use shall be listed in the Third Schedule as a project.’

(b) Amending subsection (10) by deleting the word ‘two’ appearing immediately after the word exceed and substituting it therefor with the word ‘five’.

Justification

The proposed amendments will ensure that ICT hubs established at the constituency level can be maintained and operational expenses met through NG-CDF. The ICT hubs are important for the creation of online jobs to the youth at the constituency level, by providing an income-generating infrastructure as a digital economy.

The Committee having considered and analyzed submissions from various stakeholders, made the following observations—

The Committee noted that it is important to ensure the NG-CDF Act is compliant with the Constitution of Kenya and specifically in relation to separation of functions. The Committee noted that the Supreme Court of Kenya (SCOK) Judgment held that the NG-CDF Act, 2013 violated the vertical division of powers between the National Government and the County Governments.

The inclusion of the Public Service Commission in the recruitment of NG-CDF Board Members and the Chairperson will ensure NG-CDF Board vacancies are filled in an efficient and competitive manner.

There is a need to consider the economic realities where national revenue collected in the current financial year could be less than what was collected in the previous financial year.

There is a need to align with the principles of public finance management which calls for prudent use of public resources through avoiding double allocation of funds to align with Article 201 of the Constitution of Kenya. This will prevent imprudent use of public resources created by unnecessary, parallel and duplicative offices, bodies and structures.

Climate change mitigation requires concerted efforts from every human being to prevent further extreme, harsh and devastating weather conditions experienced all over the world. Mitigation measures such as planting trees are critical among other measures identified as solutions to the greenhouse effect brought about by human activities.

Members of the public proposed an increase in the allocation of educational bursaries and other learners social support projects to benefit communities.

Creation of employment among the youths is a critical agenda for the government which requires taking advantage of technological advancements. Therefore, this requires leveraging on the digital economy agenda through providing technical capacity training among the youths.

That the proposed amendments will firmly entrench the fund to the provisions of the Constitution as well as help align the projects to respond to the Fourth Schedule of the Constitution on functional assignment to the two levels of government.

MIN NO. NA/DAAOSC/NG-CDF/2023/91 **COMMITTEE RECOMMENDATIONS**

Having considered the Bill, the Committee recommends that the National Assembly **Approves** the National Government Constituencies Development Fund (Amendment) Bill, 2023 with the following amendments to be considered in the committee stage of the Bill;

CLAUSE 5

THAT clause 5 of the Bill be amended in the proposed new section 19A (9) by deleting the word '*Commission*' appearing immediately before the words '*the Public Service Commission*' and substituting therefor the word '*Board*'.

CLAUSE 7

THAT clause 7 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) by deleting subsection (10) and substituting therefor the following new subsections—

Climate change mitigation activities including afforestation, reforestation, community sensitization and tree seedling production may be considered as development projects for purposes of this Act provided that the allocation to such activities does not exceed five per centum of the total allocation to the constituency in that financial year.”

The provisions of subsection (10) shall lapse ten years after the effective date of this Act.”

CLAUSE 8

THAT clause 8 of the Bill be amended in the proposed new paragraph (c) by deleting the letter (c) and substituting therefor the letter (ba).

CLAUSE 9

THAT clause 9 of the Bill be amended by deleting paragraph (c).

NEW CLAUSES

THAT the Bill be amended by inserting the following new Clause immediately after Clause 7—

Section 25 of the principal Act be amended by inserting the following new subsection immediately after subsection (2)—

“(2A) Notwithstanding subsection (2), a sum not exceeding three per centum of the total annual allocation to a constituency may be used for the payment of recurrent utilities costs and maintenance of constituency digital hubs.”

(b)THAT the Bill be amended by inserting the following new Clauses immediately after Clause 9—

“**9A.** Section 48 of the principal Act be amended by deleting the words ‘*thirty-five*’ and substituting therefor the word ‘*forty*’.

9B. Section 48A of the principal Act be repealed and substituted therefor the following new section—

48A. (1) Despite section 48, a Constituency Committee shall, with the approval of the Board, allocate funds to cater for education bursary schemes and education days, teaching and learning activities and other learners' social support programmes.

(2) The Board shall in consultation with the Committee provide guidelines on the implementation of this section. “

MIN NO. NA/DAAOSC/NG-CDF/2023/92

ADOPTION OF REPORT

The report was unanimously adopted as proposed Hon Tanadaza Sawa,MP and Seconded by Hon. Clive Gesairo, MP.

MIN NO. NA/DAAOSC/NG-CDF/2023/93

ADJOURNMENT

The Chairperson adjourned the meeting at 5:00 p.m.

DATE..........SIGN..........

HON. MUSA CHERUTICH SIRMA, MP

**CHAIRMAN OF SELECT COMMITTEE ON NATIONAL GOVERNMENT
CONSTITUENCIES DEVELOPMENT FUND**

APPENDIX 7

APPENDIX 5

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND
COMMITTEE

Agenda: REPORT ON NG-CDF AMENDMENT 2023.

Venue: WESTON HOTEL. 11.10.23

ADOPTION LIST

NO.	NAME	SIGNATURE
1	The Hon. Musa Sirma Cherutich, E.G.H, MP (Chairperson)	
2	The Hon. Eng. Tandaza Kassim Sawa, MP (Vice-Chairperson)	
3	The Hon. (Dr.) Ogolla Gideon Ochanda MP	
4	The Hon. Owuor Joshua Aduma, MP	
5	The Hon Akuja Protus Ewesit, MP	
6	The Hon Elachi Beatrice Kadeversia CBS, MP	
7	The Hon. Mukhwana Titus Khamala, MP	
8	The Hon. Mwalyo Joshua Mbithi, MP	
9	The Hon. Nyamita Mark Ogolla, MP	
10	The Hon. Owino John Walter, MP	
11	The Hon Oyula Joseph H. Maero, MP	
12	The Hon. Wambilianga Catherine Nanjala, MP	
13	The Hon. Gisairo Clive Ombane, MP	
14	The Hon. Kiprono Mutai Alfred, MP	
15	The Hon. Machele Mohamed Soud, MP	
16	The Hon. Maina Jane Njeri, MP	
17	The Hon. Nduyo Susan Ngugi, MP	
18	The Hon Wainaina Antony Njoroge, MP	

