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THE SENATE

STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND
HUMAN RIGHTS

REPORT ON CONSIDERATION OF THE CONSTITUTION OF
KENYA (AMENDMENT) BILL, 2025 (SENATE BILLS NO. 13 OF 2025)

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LIST OF ABBREVIATIONS AND ACRONYMS

AG	– Attorney-General
BUCEACC	– Busia County Empowerment and Accountability Champions Centre
CAF	– County Assemblies Forum
CAJ	– Commission on Administrative Justice
CARA	– County Allocation of Revenue Act
CDF	– Constituencies Development Fund
CECM	– County Executive Committee Member
COB	– Controller of Budget
COG	– Council of Governors
DORA	– Division of Revenue Act
DPP	– Director of Public Prosecution
ELGIA	– Electoral Law and Governance Institute for Africa
IEA	– Institute of Economic Affairs- Kenya
IPF	– Institute of Public Finance
KLRC	– Kenya Law Reform Commission
LSK	– Law Society of Kenya
NGAAF	– National Government Affirmative Action Fund
PBO	– Public Benefit Organizations
PFM	– Public Finance Management
TI Kenya	– Transparency International Kenya
UN	– United Nations

ESTABLISHMENT, MANDATE AND MEMBERSHIP OF THE COMMITTEE

Establishment and Mandate of the Committee

The Standing Committee on Justice, Legal Affairs and Human Rights is established under the Standing Orders of the Senate and is mandated *'to consider all matters relating to constitutional affairs, the organization and administration of law and justice, elections, promotion of principles of leadership, ethics, and integrity; agreements, treaties and conventions; and implementation of the provisions of the Constitution on human rights.*

Membership of the Committee

The Committee comprises -

- | | |
|--|--------------------|
| 1. Sen. Wakili Hillary Sigei, CBS, MP | - Chairperson |
| 2. Sen. Veronica W. Maina, CBS, MP | - Vice-chairperson |
| 3. Sen. Raphael Chimera Mwinzagu, MP | - Member |
| 4. Sen. Karen N. Nyamu, MP | - Member |
| 5. Sen. Andrew Omtatah Okoiti, MP | - Member |
| 6. Sen. (Prof.) Tom Ojienda, SC, MP | - Member |
| 7. Sen. Crystal Kegehi Asige, MP | - Member |
| 8. Sen. Daniel Kitonga Maanzo, EBS, MP | - Member |

Minutes of the Committee in considering the Constitution of Kenya (Amendment) Bill, 2025 (Senate Bills No. 13 of 2025) are attached to this Report as *Annex I*.

FOREWORD BY THE CHAIRPERSON

Honourable Speaker,

The report contains the proceedings of the Standing Committee of Justice, Legal Affairs and Human Rights on its consideration of the Constitution of Kenya (Amendment) Bill, 2025 (Senate Bills No. 13 of 2025). The Bill was published on 22nd July, 2025 and read a first time in the Senate on 7th August, 2025, whereupon it was committed to the Standing Committee on Justice, Legal Affairs and Human Rights for consideration.

Honourable Speaker,

The Constitution of Kenya (Amendment) Bill, 2025, comes before the nation at a pivotal moment in our constitutional and democratic journey. It has been fifteen years since we promulgated the Constitution. While the Constitution has anchored transformative governance, experience over the past decade has exposed gaps and ambiguities in the design of our bicameral legislature and in the operation of the devolved system of government. These shortcomings, if left unaddressed, risk eroding the clarity of roles between the National Assembly and the Senate, slowing legislative efficiency, and weakening the protections and accountability mechanisms that underpin devolution.

Honourable Speaker,

The Constitution of Kenya (Amendment) Bill, 2025 proposes reforms aimed at strengthening bicameralism, enhancing financial accountability, and securing the devolved system of government. Key amendments clarify the legislative roles of the National Assembly and the Senate, allowing both Houses to initiate and pass legislation, including financial Bills, with the exception of revenue-raising Bills, which remain the preserve of the National Assembly. Notably, the Bill repeals Articles 110 and 114 to eliminate ambiguity around Bills concerning counties and money Bills, thereby streamlining the legislative process and resolving long-standing institutional disputes. It also introduces a new framework for the passage of allocation and appropriation Bills, ensuring both Houses of Parliament play a substantive role in budget-making and oversight.

Beyond legislative procedure, the Bill expands the Senate's mandate to include representation of special interest groups and oversight of both nationally allocated and locally raised county revenue. It also proposes joint parliamentary approval for key state appointments, including the Director of Public Prosecutions, Auditor-General, Controller of Budget, and members of constitutional commissions, thereby reinforcing

checks and balances. Additionally, the Bill establishes a County Assembly Fund to provide financial autonomy for county assemblies, and requires enactment of legislation to guide the removal of state officers. Collectively, these amendments aim to entrench cooperative governance, promote institutional clarity, and safeguard the integrity of Kenya's constitutional architecture.

Honourable Speaker,

Pursuant to Articles 118 and 256 of the Constitution and Standing Order 145 (5) of the Senate Standing Orders, the Committee placed an advertisement in the *Daily Nation* and *Standard* newspapers on 15th August, 2025 inviting the public to submit comments on the Bill by way of written memoranda.

Following this call, the Committee received submissions from various stakeholders, including the Council of Governors (COG), County Assemblies Forum (CAF), Bajeti Hub, Law Society of Kenya (LSK), Kenya Law Reform Commission (KLRC), Institute of Economic Affairs (IEA), Institute of Public Finance (IPF), Commission on Revenue Allocation (CRA), County Government of Kitui, Transparency International (TI), and Electoral Law and Governance Institute for Africa (ELGIA).

The Committee also met with key stakeholders on 2nd and 3rd September, 2026 to deliberate on the Bill, and held a public hearing on the Bill at the Busia ATC Grounds, in Busia County, on 6th October, 2026, during the Senate *Mashinani* sittings held in Busia County that week. The public turned up in good numbers and gave their varied views on the Bill. The Committee further received written memoranda from Busia County Empowerment and Accountability Champions Centre (BCEACC) and Mau Mau Children Post Colonial Elites during the public participation exercise.

The Committee proceeded to consider the Bill, together with the submissions received from stakeholders and the public. An analysis of the submissions is set out at Chapters Two and Three of this Report.

Honourable Speaker,

The urgency of this Bill stems from the need to safeguard the gains of devolution and to restore harmony between our two Houses of Parliament. By refining legislative procedures, strengthening the Senate's role in budget-making, and ensuring that both Houses participate fully in oversight of public finance and state institutions, this Bill closes long-standing procedural and structural gaps that have led to costly intergovernmental disputes and even conflicting court rulings. Its timely passage will prevent further institutional gridlock, ensure the smooth flow of resources to both

national and county governments, and enhance the delivery of services to the Kenyan people.

For the country, this Bill represents a reaffirmation of Kenya's commitment to cooperative governance, equitable development, and accountable leadership. It anchors greater inclusivity by broadening representation, protects the financial and operational independence of county assemblies through the establishment of dedicated funds, and cements parliamentary oversight over critical appointments and expenditure at all levels. In doing so, it strengthens the constitutional guardrails that protect the public interest, promotes stability, and fosters national unity through respect for both the letter and spirit of devolution.

Honourable Speaker,

I wish to thank the Offices of the Speaker and the Clerk of the Senate for the support accorded to the Committee during the consideration of the Bill. The Committee also takes this opportunity to acknowledge and appreciate the stakeholders who honoured the Committee's invitations to meetings and submitted written memoranda, which greatly enriched the Committee's consideration of the Bill.

Lastly, I wish to acknowledge and commend the commitment and insights by the Members of the Committee, as well as the diligence and unfailing support of the Secretariat, whose combined efforts were integral to the successful adoption of this Report.

Honourable Speaker,

It is now my pleasant duty, pursuant to Standing Order 223 of the Senate Standing Orders, to present the Report of the Standing Committee on Justice, Legal Affairs and Human Rights on the Constitution of Kenya (Amendment) Bill, 2025 (Senate Bills No. 13 of 2025).

Signed

Date.....

SEN. WAKILI HILLARY SIGEI, CBS, MP
CHAIRPERSON, STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS
AND HUMAN RIGHTS

CHAPTER ONE: INTRODUCTION

1.0 Introduction

1. The Constitution of Kenya (Amendment) Bill, 2025 (Senate Bills No. 13 of 2025) was published on 22nd July, 2025, and was read a first time in the Senate on 7th August, 2025, whereupon it was committed to the Standing Committee on Justice, Legal Affairs and Human Rights for consideration. A copy of the Bill is attached to this Report as *Annex 2*.

1.1. Objective of the Bill

2. The principal object of the Bill is to strengthen bicameralism and secure devolution through targeted amendments to the Constitutional framework. It seeks to entrench a more balanced, accountable, and functional system of devolution within Kenya's constitutional framework, by-
 - a) reviewing the mandate of the Senate and the National Assembly in order to clarify the shared role of the Houses of Parliament and the special role assigned to each House of Parliament;
 - b) refining the legislative process set out in the Constitution in order to ensure that both Houses of Parliament play an effective role in legislation, representation and oversight; and
 - c) ensuring that the Senate and the National Assembly play an effective role in the budget making process in order to safeguard the implementation of the system of devolved government.

1.2. Overview of the Bill

3. The Bill proposes to amend **Article 94** of the Constitution to-
 - ii) insert a new clause (1A) which affirms that Parliament has a tripartite role of legislation, representation, and oversight;
 - iii) insert a new clause (1B) to provide clarity that legislative authority at the national level belongs to both the National Assembly and the Senate;
 - iv) insert a new clause (1C) to clarify that when making laws, Parliament is bound by the division of functions between the national and county governments under the Fourth Schedule and the national values and principles of governance in Article 10 of the Constitution; and
 - v) insert a new clause (2A) to provide that Parliament oversees how national revenue allocated to the national government is spent. The proposed new

clause also provides for the parliamentary role of overseeing the activities and decisions of State organs and other public entities.

4. In **Article 95**, the Bill proposes an amendment by deleting clause 4, which currently outlines the financial oversight and appropriation functions of the National Assembly, including determining revenue sharing, appropriating funds, and overseeing national revenue.
5. The Bill proposes an amendment of clause (1) of **Article 96** to expand the Senate's representation role to include special interest groups in addition to county governments. It also proposes to-
 - a) insert new clauses (1A) and (1B) to provide for the Senate's role in law-making, and deliberation and resolution of issues of public interest;
 - b) delete clause (2), which limits the Senate's role to Bills concerning counties only;
 - c) amend clause (3) to expand and clarify the Senate's oversight role over national revenue allocated to counties to also include revenue raised locally by counties;
 - d) delete and substitute clause (4) to give the Senate power to consider resolutions to remove the President and Deputy President as per Article 145 and other state officers at the national level (except those to whom Article 251 applies); and
 - e) enact a new clause (5) to require Parliament to enact a law detailing the procedure for the removal of state officers.
6. In **Article 108** of the Constitution, the Bill proposes an amendment to establish various offices in the leadership of the Senate by anchoring party leadership that ensures formal recognition and functional equality, as well as preventing constitutional interpretations that may exclude or diminish the Senate's leadership roles in terms of privileges, responsibilities, or public visibility.
7. Since **Article 109** limits who can introduce a Bill, where certain Bills originate, the process of passing and transmitting Bills between Houses, and the Senate's involvement in consideration of bills, the Bill proposes to delete clauses (2) to (5) and replace them with new clauses.
8. The Bill, proposes to repeal **Article 110** to-
 - a) eliminate structural bias against the Senate: Article 110(5) has been used to restrict the Senate from participating in numerous legislative processes by contesting the definition of a "*Bill concerning Counties*";

- b) harmonize with the proposed amendments to Article 109: The newly amended Article 109 makes both Houses equal participants in law-making, and with this new framework, Article 110 becomes redundant; and
 - c) simplify the legislative process: By requiring passage of all Bills by Houses, there's no need for classification of Bills into Bills concerning counties and Bills not concerning counties
9. Further, the Bill proposes an amendment to **Article 111** by repealing the current Article 111 and introducing a new structure that –
- a) enables either House of Parliament to originate certain fiscal legislation. In this case, the Senate may originate Allocation Bills (defined to be either a County Allocation of Revenue Bill or a County Governments Additional Allocation Bill) while the National Assembly may originate Appropriation Bills (defined to be either an Appropriation Bill or a Supplementary Appropriation Bill);
 - b) enables the receiving House to propose and pass amendments to fiscal Bills;
 - c) introduces a veto mechanism if one House disagrees with the amendments made by the other House. If a House disagrees with amendments from the other, it may veto them by a supermajority (two-thirds vote). In the Senate, two-thirds of all county delegations, while in the National Assembly, by a two-thirds of all members; and
 - d) clarifies when such a Bill proceeds to Presidential assent. A Bill is sent to the President if the originating House accepts the amendments or the originating House vetoes the amendments.
10. While the Bill proposes a consequential amendment of **Article 112** to align with the proposed legislative procedure under **Articles 109 and 111**, the proposal to amend **Article 113** seeks to align with the procedure proposed under the new **Article 109** in the Bill, to ensure that allocation and appropriation Bills, which are governed by a distinct dispute-resolution mechanism under **Article 111**, are excluded from the mediation process under **Article 113**.
11. The Bill proposes an amendment to **Article 114** by repealing this to align with the proposed amendments in **Articles 109-111**, allowing either House to initiate most types of Bills, including appropriation and allocation Bills under the new Article 111, as keeping **Article 114** would directly conflict with this proposed new legislative structure.
12. While the Bill proposes an amendment of **Article 115** to anchor the presidential assent process within the new proposed **Article 109**, to ensure consistency with

the bicameral legislative frameworks, and an amendment of **Article 116** proposes to account for situations where the president neither assents nor refuses to assent within the constitutionally provided timeframe under **Article 115**, to guarantee automatic progress of legislation without indefinite delays.

13. The Bill proposes to amend **Article 157(2)** by replacing the phrase “the National Assembly” with “Parliament,” meaning that the appointment of the Director of Public Prosecutions (DPP) will now require the approval of both the National Assembly and the Senate, rather than only the National Assembly.
14. To align with earlier amendments to **Article 109-115**, where both Houses play an equal role in legislative and budgetary processes, the Bill proposes to amend **Article 173** to ensure that the judiciary estimates are tabled in both the National Assembly and Senate and are approved by both Houses of Parliament.
15. In **Article 199** of the Constitution, the Bill proposes an amendment by inserting a new Article 199A, which establishes a County Assembly Fund for each county. This fund will be dedicated to financing the administrative operations and functions of county assemblies. The Bill also provides that each County Assembly shall prepare and provide its own budget estimates and that upon approval, the funds will be charged directly from the County Revenue Fund into the County Assembly Fund. The new Article also requires county assemblies to enact legislation providing for the fund’s regulation, to mitigate risks of budgetary manipulation by the county executive, which has often compromised the independence and efficiency of county assemblies.
16. The Bill proposes to amend **Article 215 (2)(a)** of the Constitution to replace the reference to “the National Assembly” with “Parliament” in the process of approving the Chairperson of the Commission on Revenue Allocation.
17. Regarding Public Finance, the Bill proposes to amend **Article 221** to provide for the consideration, review, adjustment, and approval of budget estimates by both Houses of Parliament. This proposed amendment aligns with the new Article 111, ensuring that Appropriation Bills follow a bicameral legislative process.
18. In **Article 222**, the Bill proposes an amendment to provide for bicameral approval of withdrawals from the Consolidated Fund in the event of a delay in the assenting of the Appropriations Act. The amendment reinforces bicameral oversight in government spending and aligns with amendments in **Articles 109, 111, and 221**, which entrench the Senate in budget and appropriation matters.

19. The Bill proposes an amendment to **Article 223** to provide for bicameral approval of spending under supplementary appropriation, i.e., where none is withdrawn from the Contingencies Fund or there is spending for a purpose that was not appropriated. The amendment reinforces bicameral oversight in government spending and aligns with amendments in Articles 109, 111, and 221.
20. In **Article 224** of the Constitution, the Bill proposes to repeal the Article and replace it with a new Article that –
 - a) clarifies the process for county governments to prepare and adopt their budgets based on the County Allocation of Revenue Bill and not the Division of Revenue Bill; and
 - b) introduces a contingency mechanism allowing Parliament to authorize temporary withdrawals from the Consolidated Fund if the Division of Revenue Bill or the County Allocation of Revenue Bill is delayed.
21. These proposed amendments anchor the process of enactment of County Appropriations Bills to the County Allocation of Revenue Bill in line with Article 218. The **new clause (2)** provides a fallback mechanism where counties can still function if the Division of Revenue Bill or the County Allocation of Revenue Bill is delayed.
22. Further, the Bill proposes to amend **Article 228** of the Constitution to change the approving authority of the Controller of Budget from the National Assembly to Parliament.
23. The Bill proposes to amend **Article 229** of the Constitution to change the approving authority of the Auditor General from the National Assembly to Parliament.
24. The Bill also proposes to amend **Article 233** of the Constitution to change the approving authority of the Chairperson of the Public Service Commission from the National Assembly to Parliament.
25. To strengthen the role of the Senate in oversight and appointments to public offices, the Bill proposes to amend **Article 250** of the Constitution to change the approving authority of the chairpersons and members of commissions and holders of independent offices from the National Assembly to Parliament.

26. The Bill also proposes to amend **Article 251** of the Constitution to replace references to “the National Assembly” with “Parliament” in the process of initiating and determining Petitions for the removal of members of constitutional commissions and holders of independent offices.

1.3. Consequences of the Bill

27. The Bill seeks to restructure the legislative process and the balance of power between the two Houses of Parliament. By allowing most Bills, except those on raising national revenue, to originate from either House, the Bill enhances bicameralism and ensures more equitable participation in lawmaking and oversight. It also expands the Senate's legislative and oversight roles, including on matters like allocations, appropriations, and approval of state officers, thereby elevating its constitutional role and promoting a more accountable system of governance.
28. Further, it harmonizes procedures on financial legislation across both Houses, eliminating the dominance of the National Assembly in financial matters. The repeal of Articles 110 and 114 redefines the procedures for budget estimates, appropriations, and presidential reservations. The Bill ensures that Parliament as a whole plays a joint role in public finance management, which gives the Senate a substantive voice in how national and county funds are allocated and spent, promoting better checks and balances within the legislature.
29. The bicameral approach reinforces the appointments to and oversight of key national institutions, such as the Director of Public Prosecution, the Public Service Commission, the Auditor General, the Controller of Budget, and the Commission on Revenue Allocation. The provision to include joint Parliamentary approval and oversight in these positions requires the Bill to enhance accountability, institutional integrity, independence of these institutions, and stronger checks and balances.
30. In the spirit of enhancing devolution, the Bill establishes a County Assembly Fund in each county assembly to enhance the operational independence and effectiveness of county assemblies. The Fund will be used to cover administrative expenses and other functions necessary for the discharge of county assembly functions, which will ensure financial autonomy at the county assembly and reinforce the principles of devolution by enabling county assemblies to function without undue interference from the executive arm of county governments.

31. Finally, the Bill enhances procedural clarity and promotes institutional collaboration. It addresses frequent disputes between the two Houses by clearly delineating the role of each House in the legislative process, mediation, and presidential assent. These changes collectively strengthen the principle of cooperative governance and create a more balanced and responsive Parliamentary system.

CHAPTER TWO: CONDUCT OF PUBLIC PARTICIPATION ON THE BILL

2.1. Introduction

32. Pursuant to Articles 118 (1) and 256 of the Constitution and standing order 145 (5) of the Senate Standing Orders, the Committee proceeded to undertake public participation on the Bill.
33. In this regard, the Committee –
 - a) placed an advertisement in the *Daily Nation* and the *Standard* newspapers on 15th August, 2025 inviting members of the public to submit comments by way of written memoranda on the Bill. A copy of the newspaper advertisement is attached to this Report as *Annex 3*;
 - b) held meetings with key stakeholders on 2nd and 3rd September, 2025 to deliberate on the Bill; and
 - c) held a public hearing on the Bill on 6th October, 2025 at the Busia ATC Grounds, in Busia County, during the *Senate Mashinani* sittings held in Busia County that week. A copy of the advertisement notifying the public of the date, time and venue for the public hearing is attached to this Report as *Annex 4*.
34. To facilitate public participation on the Bill, the Committee further published and disseminated the following documents-
 - i) A translation of the Bill in Kiswahili, namely, Mswada wa Katiba ya Kenya (Marekebisho), 2025 (Miswada ya Seneti Na. 13 ya 2025) – *Annex 5*;
 - ii) Bills Digest (*Annex 6a*);
 - iii) Simplified Explanation of the Bill (*Annex 6b*);
 - iv) Frequently Asked Questions (*Annex 6c*);
 - v) Receipt of Submissions Template (*Annex 6d*);
 - vi) Maelezo Yaliyorahisishwa (*Annex 6e*);
 - vii) Maswali Yanayoulizwa Mara kwa Mara (*Annex 6f*); and
 - viii) Fomu ya Maoni ya Umma (*Annex 6g*).
35. In response to the invitation for the submission of views, comments and input on the Bill, the Committee received written submissions from thirteen entities, in addition to the views received at the public hearing in Busia. The written submissions were from-
 - a) Commission on Revenue Allocation
 - b) Kenya Law Reform Commission
 - c) Council of Governors

- d) County Assemblies Forum
- e) County Government of Kitui
- f) Law Society of Kenya
- g) Bajeti Hub
- h) Institute of Economic Affairs
- i) Institute of Public Finance
- j) Transparency International
- k) Electoral Law and Governance Institute for Africa
- l) Busia County Empowerment and Accountability Champions Centre
- m) Mau Mau Children Post Colonial Elites

36. Copies of the said submissions are attached to this Report as *Annex 7*, while the matrix summarizing the submissions received with respect to each clause is attached to this Report as *Annex 8*.

2.2. Overview of the Submissions received on the Bill

37. The **Commission on Revenue Allocation (CRA)** proposed that the Bill be amended to incorporate an amendment to Article 203(3) of the Constitution on the equitable share and other financial laws. This would be by deleting the phrase “*as approved*” immediately after the word “*received*”, to ensure equitability in revenue sharing through use of recent accounts received as there are instances of delay by the National Assembly to approve the most recent audited accounts.
38. The Commission observed that the Bill generally expands the mandate of the Senate in various matters such as legislation, oversight and in appointment of state officers, and cautioned that this may create a lot of bureaucracy and duplication of roles between the two houses of Parliament.
39. The **Kenya Law Reform Commission (KLRC)** proposed that the Bill be amended to -
- i) retain the distinction of Money Bills, to be handled exclusively by the National Assembly;
 - ii) create an institutional framework (either constitutional or under the standing orders) to categorize which Bills “affects county functions/finances”;
 - iii) develop clear criteria of devolution-sensitive sectors drawn from the Fourth Schedule and Art. 203/205 criteria, including health, agriculture, early childhood education, county planning, and county public service;
 - iv) to protect the Senate's decisive voice on county-impact Bills, retain and spotlight the two-thirds threshold for the National Assembly to overturn

Senate-passed special county Bills (Art. 111(2)- (3)), and possibly extend a supermajority requirement (e.g. 3/5) in the National Assembly to reject Senate amendments on ordinary county Bills after failed mediation;

- v) to give the Senate structured influence in the budget cycle, retain the Senate concurrence decisive but add calendar certainty, for example by requiring that the Division of Revenue Bill be introduced by a fixed date; and
- vi) to streamline deadlock resolution, retain mediation (Art. 113) but add a joint-sitting possibility for ordinary county Bills if mediation fails (supermajority of members present and voting, excluding Money Bills).

40. The **Council of Governors (COG)** expressed support for the Bill, noting that various Bills that affected the resources and functions of county governments had been passed without the input of the Senate. Further, various Bills proposed to or established institutions meant to perform devolved functions contrary to the dictates of the Constitution. County governments had also been assigned certain responsibilities in legislation considered by the National Assembly without the involvement of the Senate.
41. To strengthen the Bill, COG proposed amendments to clause 4 of the Bill to require Parliament to enact legislation on the procedure for removal of state officers at both levels of government, to clarify the procedure when the two Houses do not agree on the text of an allocation or appropriation Bill, to clarify the procedure for submission and approval of the budgets for the county executives and county assemblies, and to provide for the disbursement of county equitable share in the event of delays in enacting the annual County Allocation of Revenue Bill.
42. **County Assemblies Forum (CAF)** proposed inclusion of a new clause 27 to amend Article 204 by introducing Article 204(A) to provide for a County Ward Development Fund.
43. The **County Government of Kitui** proposed amendments to clauses 2, 14, 17, 18, 22, 23, 24 and 25 of the Bill to clarify parliamentary oversight over the executive in a bicameral system and avoid duplication in the vetting of nominees for appointment to state offices.
44. The **Law Society of Kenya (LSK)** proposed a further amendment to Article 96(5) on the legislation for the removal of the state officers. The Stakeholder proposed for entrenchment of core principles on the due process for the removal of state officers. The Stakeholder observed that while the Bill mandates Parliament to

enact legislation for this purpose, anchoring core due process principles such as right to a fair hearing, independent investigation, clear grounds for removal in the Constitution would provide a stronger safeguard against arbitrary or political motivated removals; as this would ensure that then process is fair, transparent, and consistent with the rule of law.

45. **Bajeti Hub** proposed that the Bill be reviewed to provide more clarity on various sets of relationships that have faced persistent challenges in implementation of the Constitution, including the relationship between the Senate and the National Assembly, relationship between County assembly and County Executive, and the relationship between national Institutions and County Institutions.
46. The stakeholder further sought clarity on how the proposed replacement of the term 'National Assembly' and its replacement with the term 'Parliament' at various provisions as proposed in the Bill would improve the efficiency of Parliament in the execution of its mandate, roles and functions.
47. **Electoral Law and Governance Institute for Africa (ELGIA)** submitted that the Constitution of Kenya adopts a bicameral legislative system within a devolved system of governance, with the Senate's legislative mandate defined specifically to consider Bills concerning counties. ELGIA further submitted that the effectiveness of the Senate depends on how well it is designed and integrated into the governing structure, as was intended at Articles 94, 95, and 96 of the Constitution.
48. **Mau Mau Children Post-Colonial Elites** submitted that-
 - a) Parliament must provide a legal framework requiring all major constitutional amendments, including those touching on funds and rights, to go for a referendum, and further guarantee public education, facilitation and allowances for participants;
 - b) the Bill be amended to embed justice and equity safeguards, ensuring that vulnerable and marginalized groups are represented in decision-making and resource allocation; and
 - c) the Constitution ought to be amended to grant the Chief Justice authority to refer PBO-related and fund governing laws to a referendum, ensuring that critical changes cannot bypass citizens' approval.
49. **Transparency International Kenya** submitted that, despite the Bill's stated objective of seeking to make devolution work better, sufficient justification had not been provided for several of the proposed deletions and amendments. This

lack of clarity raised questions about the rationale and potential implications of the changes, particularly where substantive constitutional provisions were being repealed and reworded. The absence of a robust explanation directly interfered with transparency and made it difficult to assess whether the amendments served the public interest or institutional expediency.

50. **Busia County Empowerment and Accountability Champions Centre (BUCEACC)** acknowledged several positive provisions within the Bill, including strengthened bicameralism, the proposed establishment of the County Assembly Fund, joint budget oversight, enhanced voting and representation, and streamlined legislative processes. It further highlighted potential weaknesses in the proposed amendments, including the risk of legislative gridlock, ambiguity on financial Bills, weak accountability for the County Assembly Fund, budget and service delivery risks, inadequate public participation provisions, and transitional and legal alignment gaps.
51. To address these challenges, **BUCEACC** proposed that the Bill be amended to-
 - a) introduce timelines for concurrence or mediation between Houses to avoid delays in passing critical legislation;
 - b) define what constitutes a financial or appropriation Bill, after repeal of Article 114, to bring clarity on Financial Bills;
 - c) mandate the Controller of Budget and Auditor-General to oversee the County Assembly Fund, and provide for mandatory independent audits, expenditure ceilings, and public disclosure of fund utilization;
 - d) create a Joint Parliamentary Vetting Committee to prevent duplication and promote efficiency;
 - e) embed citizen consultation requirements in budget and legislative processes, including county-level public hearings and online access to reports; and
 - f) put in place transitional provisions including a section outlining how ongoing legislation and budget processes will transition under the amended framework.
52. While supporting the spirit and objectives of the Bill, **BUCEASS** urged the Senate to consider the identified gaps and recommendations to ensure that the final amendment strengthens good governance, enhances accountability, and protects the principles of devolution.

CHAPTER THREE: OBSERVATIONS

3.1 Committee Observations

53. Having considered the Constitution of Kenya (Amendment) Bill, 2025 (Senate Bills No. 13 of 2025) and the submissions received thereon, the Committee made observations on the respective amendments proposed in the Bill as set out below.

3.1.1 Proposed Amendment to clause 94 of the Constitution

54. The Committee reviewed the stakeholder submissions regarding the proposed amendment to clause 94 of the Constitution, which sought to insert new clauses into Article 94 to explicitly codify and expand the role of Parliament over national revenue oversight and other state organs.
55. The Committee observed that the Commission on Revenue Allocation acknowledged the Bill's intent to strengthen Parliament's supervisory role and ensure accountability. However, the Committee noted that the Commission opposed the insertion of clause (2A), raising concerns that explicitly empowering Parliament to oversee national revenue and expenditure risked duplicating functions already constitutionally distributed between the National Assembly and the Senate. The Committee further noted the Commission's warning that restating these responsibilities could blur the lines of responsibility, thereby leading to overlap, confusion, and potential conflict between the two Houses.
56. The Committee observed that the County Government of Kitui raised reservations concerning the proposed insertion of clause (1A), which dictated that Parliament perform its legislative, representation, and oversight roles over the executive and other state organs. The Committee noted the County's argument that the principle of separation of powers did not contemplate Parliament exercising a representation role over the executive or other state organs, as representation was fundamentally about embodying the voice of the people rather than duplicating the functions of other arms of government. Furthermore, the Committee observed that the County cautioned against the proposed wording due to the risk of triggering overlapping oversight processes between the two Houses, which could create institutional friction rather than clarity. The Committee observed Kitui's recommendation that Parliament's role over these organs be limited strictly to legislation and oversight, and that the Bill should either provide clarity or propose a guiding law to structure oversight.

57. The Committee observed that the Kenya Law Reform Commission noted how the proposed insertions (clauses 1A, 1B, 1C, and 2A) would expressly codify Parliament's legislative, representation, and oversight roles. The Committee noted that the Commission supported the provisions because they elevated the Senate to a full co-equal legislative chamber and removed the current hierarchy where the National Assembly served as the primary legislative body. The Committee further observed that, in the Commission's view, eliminating the "*Bills concerning counties*" test would reduce ambiguity and litigation over the Senate's role, strengthen bicameral symmetry, and enhance fiscal oversight. Finally, the Committee noted the Commission's cautionary note that the broad phrasing of oversight powers over "*State organs and other public entities*" could invite institutional overlaps unless clarified through precise Standing Orders.
58. Having considered the submissions received on this clause, the Committee observes as follows—
- (a) the insertion of a new clause (1A) is intended to affirm that Parliament has a tripartite role of legislation, representation, and oversight. This articulation of Parliament's oversight and representational mandate strengthens constitutional accountability;
 - (b) the insertion of a new clause (1B) is intended to provide clarity that legislative authority at the national level belongs to both the National Assembly and the Senate. The existing Article 94(1) refers generally to Parliament but does not explicitly delineate the dual role of both Houses in exercising legislative power. The proposed amendment helps cement bicameralism in law-making and enhances legal certainty, especially in the context of legislative role of the two Houses;
 - (c) the insertion of insert a new clause (1C) is intended to clarify that when making laws, Parliament is bound by the division of functions between the national and county governments under the Fourth Schedule and the national values and principles of governance in Article 10 of the Constitution. The amendment seeks to ensure constitutional fidelity in legislation by protecting the devolution framework from encroachment by national laws and helps prevent legal conflicts and duplication of roles between the two levels of government. The proposed amendment also emphasizes value-based law-making, pushing Parliament to factor in equity, inclusiveness, participation, human rights, transparency, and accountability when performing its functions; and

- (d) the insertion of a new clause (2A) provides for the parliamentary role of overseeing the activities and decisions of State organs and other public entities. The amendment seeks to bolster fiscal accountability by conferring on Parliament an express role in scrutinizing national revenue expenditure. While Parliament already performs these functions in practice, codifying them enhances transparency, clarifies institutional roles, and ensures budgetary discipline. The reference to state organs and public entities ensures wider oversight coverage beyond just the executive, addressing issues in state corporations, Semi-Autonomous Government Agencies and regulatory bodies.

3.1.2 Proposed amendment to Article 95

59. The Committee reviewed the stakeholder submissions regarding the proposed amendment of Article 95 of the Constitution, which sought to delete clause (4), thereby removing the National Assembly's exclusive powers to determine the allocation of national revenue between the levels of government, appropriate funds for expenditure by the national government and other state organs, and exercise oversight over national revenue and expenditure.
60. The Committee observed that the Institute of Public Finance (IPF) opposed the proposal to delete the clause. The Committee noted the Institute's argument that removing clause (4) would disrupt the constitutional balance in revenue allocation and weaken accountability mechanisms. It was further observed by the Committee that, in the Institute's view, deleting this clause would risk undermining the checks and balances that safeguard fiscal discipline, given the central role the National Assembly plays in ensuring public funds are allocated fairly and used responsibly.
61. The Committee observed that the Kenya Law Reform Commission (KLRC) noted the Bill's proposal to repeal Article 95(4). The Committee observed the Commission's explanation that the deletion was intended to avoid conflict with the new bicameral fiscal procedures introduced elsewhere in the Bill, under which fiscal authority, including budget estimates, appropriations, and supplementary appropriations, would be shared between both Houses of Parliament. The Committee further observed that the Commission viewed the deletion as an alignment with the broader restructuring of bicameralism, which removed the National Assembly's monopoly over fiscal oversight, established a co-equal bicameral framework, and ensured counties were represented in national fiscal decisions. However, the Committee noted the Commission's caution that this transformation required careful procedural alignment to prevent duplication or legislative gridlock.

62. The Committee observed that Transparency International recommended retaining the original provision and rejected the amendment. The Committee noted the stakeholder's reasoning that removing clause (4) would strip the National Assembly of its constitutional primacy in fiscal matters and shift too much fiscal power to the Senate. The Committee further observed Transparency International's view that retaining the clause would preserve the National Assembly's central role in fiscal legislation while still allowing meaningful Senate participation, thereby avoiding the outright usurpation of functions.
63. Having considered the submissions received on this clause, the Committee notes that Article 95(4) currently outlines the financial oversight and appropriation functions of the National Assembly, including determining revenue sharing, appropriating funds, and overseeing national revenue. The Committee notes that this clause has presented a challenge in the past and present where it has been interpreted to limit the role of the Senate in the allocation of national revenue between the levels of government and appropriation of funds for expenditure. Accordingly, the Committee notes that the proposed deletion of clause (4) is intended to —
- (a) eliminate redundancy. These functions are already proposed to be restructured and clarified under the amended Article 94, particularly in new clause (2A). Moving such fiscal oversight to Article 94 where Parliament's overarching roles are defined creates a coherent and centralized framework for legislative functions;
 - (b) strengthen bicameralism. Article 95 focuses specifically on the National Assembly, but oversight of revenue and state organs is a bicameral function. By deleting clause (4), the amendment aims to reassert the Senate's equal constitutional footing, especially where intergovernmental finance is concerned; and
 - (c) align with devolution. Financial matters such as the division of revenue between levels of government inherently involve the interests of counties, where the Senate has a constitutional role under Article 96. The amendment therefore ensures that the Senate participates in financial matters that ultimately affect the functioning of county governments.

3.1.3 Proposed amendment to Article 96

64. The Committee reviewed the stakeholder submissions regarding the proposed amendments to Article 96 of the Constitution, which aimed to expand the Senate's representation to include special interests, eliminate the "*Bills concerning counties*" test by deleting clause (2), expand the Senate's oversight mandate to cover locally raised county revenue, and mandate Parliament to legislate procedures for the removal of national state officers.
65. The Committee observed that the Commission on Revenue Allocation pointed out that the phrase "*special interests*" in clause 4(a) was undefined in the Constitution, including under Article 260. The Committee noted the Commission's caution that lacking a clear definition risked ambiguity and inconsistent interpretation, leading to their recommendation that the phrase be properly defined before inclusion. Regarding clause 4(e), the Committee observed that the Commission proposed the deletion and relocation of the clause to Article 94, arguing that the removal of state officers touched on the broader institutional role of Parliament rather than specifically the Senate, and that its current placement distorted the constitutional architecture.
66. The Committee observed that the Institute of Public Finance opposed the proposal to delete clause (2) under 4(c), arguing that its removal would erode the Senate's core function of legislating on county matters, weaken devolution, and undermine the constitutional balance between the two Houses. Conversely, the Committee noted that the Institute supported the insertion of the words "and revenue raised by" in clause 4(d). The Committee noted the Institute's reasoning that this expansion would strengthen the Senate's oversight role and enhance transparency and fiscal discipline by ensuring accountability for locally generated county revenue alongside national allocations.
67. The Committee observed that the Institute of Economic Affairs recommended amending the Bill to include a clear definition of "*special interests*" or requiring Parliament to enact implementing legislation for this purpose. The Committee noted the Institute's view that leaving the term undefined introduced ambiguity, risked politicization, and could create uncertainty that would weaken the Senate's legitimacy as a representative of the counties.
68. The Committee observed that the Kenya Law Reform Commission noted how the amendments would broaden the Senate's role by allowing it to enact legislation directly rather than merely participating in law-making, while expanding its

oversight to locally raised county revenue. The Committee observed the Commission's observation that these changes effectively transformed the Senate into a full legislative chamber and enhanced its guardianship of devolution. However, the Committee also noted the Commission's caution that such a broad expansion risked blurring the original bicameral bargain, potentially leading to a duplication of roles and turf contests over laws of national scope.

69. The Committee observed that the Law Society of Kenya noted that while expanding representation to include special interests broadened inclusivity, the term was vague and open to varied interpretations. The Committee observed the Society's concern that without a clear and exhaustive constitutional or statutory definition, the provision could be misused for political patronage instead of genuinely representing the youth, persons with disabilities, and marginalized communities. Regarding the proposed Article 96(5), the Committee observed that the Society recommended entrenching the core principles of due process, such as the right to a fair hearing and independent investigations, directly within the Constitution to provide stronger safeguards against arbitrary or politically motivated removals of state officers.
70. The Committee observed that Transparency International recommended retaining the original provision and rejected the deletion of clause (2), noting that no justification had been provided in the memorandum of objects and reasons for its removal. The Committee observed the stakeholder's warning that removing clause (2) eliminated a critical safeguard, leaving counties vulnerable to parliamentary encroachment and undermining devolution. Regarding the insertion of clause (5), the Committee observed that Transparency International found the provision vague and susceptible to abuse as a political weapon. The Committee noted their recommendation that the provision should explicitly set out the grounds for dismissal or removal, mirroring the thresholds already stipulated under Articles 150 and 158.
71. The Committee observed that the County Assemblies Forum and the Council of County Governors rejected the amendment expanding Senate oversight to locally raised revenue. The Committee noted the argument that County Assemblies held frontline oversight mandates under Article 185(3) and Section 8 of the County Governments Act, and that the Senate's expansion would encroach upon their constitutionally assigned functions, undermining the autonomy and legitimacy of devolved governance.

72. Regarding the proposed clause (5), the Committee observed that the Council of County Governors emphasized the need to expedite the separate County Governments (State Officers' Removal from Office) Procedure Bill. Furthermore, the Committee observed the Council of Governors' recommendation to amend the proposed clause (5) to explicitly mandate Parliament to enact legislation covering the removal procedure for state officers at both the national and county levels, ensuring consistency and fairness across both tiers of government.
73. Having considered the submissions received on this clause, the Committee notes that Bill proposes to amend clause (1) in Article 96 to expand the Senate's representation role to include special interest groups in addition to county governments. This proposed amendment recognizes the Senate as a protector of marginalized persons, including women, persons with disabilities, youth and minority groups, ensures inclusivity and equity in line with the national values in Article 10 and provides a constitutional anchor for the nomination of special interest Senators as provided in Article 98(1)(d).
74. The Bill also proposes to insert new clauses (1A) and (1B) to provide for the Senate's role in law making, and deliberation and resolution of issues of public interest. While the Senate already performs those roles in practice, codifying them in the Constitution clarifies and formalizes the Senate's core legislative, representation and oversight function and enables the Senate to initiate or shape laws, especially where counties and national interest intersect.
75. The Bill proposes to delete clause (2) which limited the Senate's role to Bills concerning counties only. By this deletion, the Bill frees the Senate to contribute meaningfully on all legislative matters.
76. The Bill proposes to amend clause (3) to expand and clarify the Senate's oversight role over national revenue allocated to counties to also include revenue raised locally by counties. This enables full-spectrum financial oversight, not just of allocations from the national pot but also own-source revenue at the county level. It is noted that this matter was subject to the decision of the Supreme Court in *Senate v Council of County Governors & 6 others (Petition 24 & 27 of 2019 (Consolidated))* [2022] KESC 57 (KLR), where the Court held that the Senate has oversight over all revenue raised by county governments, in addition to having oversight over nationally allocated revenue. In this matter, the Respondents had argued that the oversight role of the Senate does not extend to revenue raised locally by county governments. The proposed amendment will support better accountability and addresses misuse of local funds that may escape scrutiny under the current law.

77. The Bill proposes to delete and substitute clause (4) to give the Senate power to consider resolutions to remove the President and Deputy President as per Article 145 and other state officers at the national level (except those to whom Article 251 applies). This amendment gives the Senate a more robust oversight mandate, ensuring top State officers can be held accountable through a bicameral removal process.
78. The Bill also proposes to enact a new clause (5) to require Parliament to enact a law detailing the procedure for the removal of state officers. Grounding the process in a statutory framework will ensure due process, legal clarity, and fairness in removal proceedings and prevent *ad hoc* or politically motivated removals from office.

3.1.4 Proposed amendment of Article 108

79. The Committee reviewed the stakeholder submissions regarding the proposed amendment of Article 108 of the Constitution, which sought to extend the parliamentary leadership framework to the Senate, thereby constitutionally entrenching the offices of the Leader of the Majority and the Leader of the Minority rather than leaving them as creations of the Standing Orders.
80. The Committee observed that the Kenya Law Reform Commission (KLRC) supported the amendment, noting that it normalized the leadership architecture across both Houses of Parliament and provided the Senate with constitutionally recognized leadership positions. The Committee observed the Commission's reasoning that the amendment would strengthen the Senate's institutional identity, ensure a clearer order of precedence, and establish a uniform leadership structure. Additionally, the Committee observed that the Commission viewed this change as a practical step toward improving coordination between the two Houses, making bicameral negotiations, such as during budget mediation or joint committees, procedurally easier and more coherent by defining the official voices for each side.
81. The Committee further observed that the Electoral Law and Governance Institute for Africa (ELGIA) considered the amendment to be a reasonable proposal. The Committee noted the Institute's view that the amendment successfully cleared the ambiguity that currently existed regarding the recognition and structure of majority and minority leadership in the Senate. The Committee observed that, according to the stakeholder, this clarification would strengthen parliamentary organization and ensure consistency in leadership roles across both Houses.

82. Having considered the submissions received on this clause, the Committee notes that even though currently the Senate has party leaders, Article 108 only recognises party leaders in the National Assembly. Anchoring party leadership in the Senate in the Constitution affirms parity between both Houses, ensuring formal recognition and functional equality and prevents constitutional interpretations that may exclude or diminish the Senate's leadership roles in terms of privileges, responsibilities, or public visibility.

3.1.5 Proposed amendment of Article 109

83. The Committee reviewed the stakeholder submissions regarding the proposed amendment of Article 109 of the Constitution, which sought to fundamentally restructure Kenya's legislative framework by ending the current categorization of Bills into those "concerning counties" and those that do not. Under this proposed framework, any Bill could originate in either House of Parliament (except for revenue-raising Bills, which must originate in the National Assembly), and all Bills would require passage by both Houses and joint certification by both Speakers before being submitted for presidential assent.
84. The Committee observed that the Commission on Revenue Allocation acknowledged the intent of the amendment but raised a cautionary note regarding the repeal of existing clauses (2), (3), (4), and (5), which provided detailed guidance on the origination and consideration of Bills. The Committee observed the Commission's warning that unless the new provisions comprehensively covered all legislative scenarios handled by the current text, there was a significant risk of creating gaps in the legislative process that could undermine the clarity and predictability of law-making.
85. The Committee observed that the Institute of Public Finance strongly opposed the proposal to delete clauses (2), (3), (4), and (5). The Committee noted the Institute's argument that while the amendment would transform Parliament into a fully bicameral system with equal law-making powers, it simultaneously introduced a high risk of legislative deadlock. It was noted by the Committee that the Institute warned that contentious Bills could stall if both Houses disagreed, and that the absence of clear mechanisms for resolving such disputes could paralyze Parliament's ability to pass critical laws promptly, ultimately undermining legislative efficiency.
86. The Committee observed that the Kenya Law Reform Commission noted how the Bill reshaped Kenya's bicameralism from a differentiated model where the

National Assembly was dominant into a co-equal model requiring bicameral consideration for every Bill. The Committee noted the Commission's explanation that this shift would effectively remove the litigation-prone "*county test*" under Article 110, which had historically caused repeated disputes and divergent Supreme Court judicial pronouncements. While the Commission recognized that the reform resolved past ambiguities and strengthened bicameralism, the Committee observed its caution that it could also increase legislative costs, mediation demands, and workload pressures, particularly for the Senate, which would now have to process all Bills.

87. Having considered the submissions received on this clause, the Committee notes that the proposed amendment is intended to—
- (a) grant both Houses equal power to initiate legislation, either through individual members or committees. This would enable the Senate to play a more proactive legislative role and enable it to participate in the consideration of all legislation originating from the National Assembly. By eliminating barriers to the introduction of Bills, the Bill supports diversity and improves the legislative mandate of both Houses;
 - (b) allow for the origination of any Bill in any House with the exception of a Bill for raising national revenue, which may originate in the National Assembly. This is a departure from the current provision, whose wording limits money Bills (which have been defined very broadly) from being originated in the Senate. In the past, this broad definition has been applied to stifle Bills that are not money Bills from introduction in the Senate;
 - (c) formalise the two-step passage process of all Bills. In this proposal, both Houses must pass every Bill. This is an important proposal that solidifies bicameral consent, promoting collaboration, enhancing checks and balances within the legislature and enhances the national legitimacy of laws passed by Parliament;
 - (d) provide for the process of submission of a Bill for assent. Under the proposal, a Bill will only be referred for assent after it has been passed by both Houses. Further, a Bill shall be referred for assent by the Speaker of the originating House. The Bill referred for assent shall be accompanied by a certificate signed by both Speakers certifying that the Bill has been passed in accordance with the Constitution. These amendments are intended to enhance transparency and prevent unilateral passage of Bills,

as has been the case even on Bills where the Senate should have been involved. The requirement for certification also adds a layer of formal verification, ensuring both Houses are in recorded agreement before presidential assent.

3.1.6 Proposed amendment to Article 110

88. The Committee reviewed the stakeholder submissions regarding the proposed repeal of Article 110 of the Constitution in its entirety, which currently provides the framework for determining whether a Bill concerns county governments and sets out the procedure for such Bills.
89. The Committee observed that the Institute of Public Finance opposed the proposal to repeal Article 110. The Committee noted the Institute's argument that the repeal would effectively strip the Senate of its law-making role in relation to counties and shift legislative authority almost entirely to the National Assembly. It was further observed by the Committee that, in the Institute's view, removing this framework would undermine devolution by depriving counties of their legislative voice in Parliament and tilting the balance of bicameralism decisively toward the National Assembly.
90. The Committee observed that the Institute of Economic Affairs recommended retaining Article 110 with modifications rather than repealing it outright. The Committee noted the Institute's view that while the proposed new legislative process allowing non-money Bills to originate in either House could ease past conflicts, the complete repeal of Article 110 without a solid mediation mechanism risked leaving county interests unprotected. The Committee observed the Institute's proposal that a revised Article should instead eliminate past ambiguities by providing a clear, binding definition of county-related Bills and establishing a transparent dispute resolution process between the two Speakers or through a joint parliamentary mechanism.
91. The Committee observed that the Kenya Law Reform Commission noted the Bill's intent to remove the "*county test*" that had been a persistent source of litigation and institutional disputes. The Committee observed the Commission's explanation that the repeal would lock Kenya into a system where all Bills must pass through both Houses, thereby strengthening bicameralism and ensuring Senate involvement in all legislation. However, the Committee also noted the Commission's caution that entirely repealing Article 110 could inadvertently tilt the balance of power in favour of the National Assembly, as the Senate's

legislative role historically depended on whether a Bill concerned counties, meaning that without this categorization, the Senate's oversight of county interests could be weakened and devolution eroded.

92. The Committee observed that Transparency International recommended the retention of the original provision. The Committee noted the stakeholder's reasoning that repealing Article 110 would remove a critical safeguard for county interests by eliminating clear constitutional protection or procedural special treatment for matters affecting devolved units. The Committee further observed Transparency International's warning that this change would leave counties vulnerable to encroachment and interference by Parliament, ultimately undermining devolution and the balance of bicameralism.
93. The Committee observed that the County Assemblies Forum raised caution regarding the proposed amendment. The Committee observed the Forum's argument that while the amendment intended to reduce conflict between the two Houses, removing Article 110 would eliminate a crucial mechanism for resolving inter-chamber disputes.
94. Having considered the submissions received on this clause, the Committee notes that Article 110 currently defines what constitutes a Bill concerning county governments and requires joint concurrence of both Speakers in determining whether a Bill concerns counties. This decision has been left to the Speakers of both Houses to determine in a concurrence process. In the past, the National Assembly and the Senate have repeatedly arrived at different conclusions regarding whether certain bills concerned counties. The National Assembly has in the past argued that most bills do not concern counties, while the Senate has maintained the position that most bills indirectly or directly affected counties, and as such, ought to be considered by the Senate.
95. There have also been numerous instances where the concurrence of the Speakers is not sought, notwithstanding the clear provisions of Article 110(3) of the Constitution. The effect of this has been to deny the Senate the power to debate and consider Bills that are either directly or indirectly concerning to counties. The Courts have also issued conflicting judgments on the concurrence process and definitions on what Bills concerning counties are. Attention is hereby drawn to the following judgments—
 - (a) *Speaker of the Senate & another v Attorney-General & another; Law Society of Kenya & 2 others (Amicus Curiae) (Advisory Opinion*

Reference 2 of 2013) [2013] where the Supreme Court held that the Speakers of both Houses must jointly resolve whether a Bill concerns counties before a Bill is introduced in either House; and

- (b) *Senate & Others v The National Assembly & Another Supreme Court Petition No. 19 (E027) of 2021* where the Supreme Court departed from its long-established position and held that the mandatory process under Article 110(3) does not need to be applied to all Bills. The court stated that a determination by the two Speakers is only required if there is uncertainty or disagreement about the nature of the Bill. If there is no dispute or question, the need for joint resolution does not arise.

96. The Committee notes that the Bill proposes to eliminate this confusion by repealing Article 110. The proposed repeal will—

- (a) eliminate bias against the Senate: Article 110(3) has been used to restrict the Senate from participating in numerous legislative processes by contesting the definition of a “*Bill concerning counties*.” This wording has undermined bicameralism, leading to frequent legal and institutional battles, including conflicting Supreme Court interpretations on what qualifies as a “*Bill concerning counties*” and whether the concurrence process is a condition precedent before introduction of Bills in any House or an optional process;
- (b) harmonise with the proposed amendments to Article 109: The newly amended Article 109 makes both Houses equal participants in law-making and with this new framework, Article 110 becomes redundant; and
- (c) simplify the legislative process: By requiring passage of all Bills by both Houses, there's no need for classification of Bills into Bills concerning counties and Bills not concerning counties.

3.1.7 Proposed amendment to Article 111

97. The Committee reviewed the specific stakeholder submissions regarding the proposed amendment to Article 111 of the Constitution, which sought to restructure the budget framework by requiring Allocation Bills to originate in the Senate and Appropriation Bills to originate in the National Assembly, with each chamber possessing the power to amend the other's Bill.

98. The Committee observed that the Institute of Public Finance welcomed the proposed restructuring as a mechanism to enhance bicameral participation and consensus-building between the two Houses. However, the Committee noted the Institute's expression of significant concern regarding the complete removal of the mediation process in favour of a strict two-thirds veto threshold. The Committee observed the Institute's warning that this shift could induce severe legislative gridlock during politically polarized periods, thereby placing heavy pressure on the originating House and giving the amending House disproportionate leverage near critical budget deadlines. To safeguard county funding, the Committee observed that the Institute recommended implementing a fiscal fallback mechanism or a time-bound joint committee process to prevent budget paralysis.
99. The Committee observed that the Kenya Law Reform Commission supported the intent to elevate the Senate's participation in Appropriation Bills and the National Assembly's role in Allocation Bills. The Committee observed the Commission's observation that while this framework establishes a more balanced, co-equal relationship between the chambers, the introduction of a powerful bicameral veto without a corresponding dispute-resolution mechanism carries a profound risk of paralyzing the legislative process. Specifically, the Committee noted the Commission's warning that prolonged stalemates over allocation Bills could delay critical revenue transfers, ultimately depriving county governments of vital resources and threatening grassroots service delivery. Consequently, the Committee registered the Commission's recommendation to adopt a mandatory mediation process similar to Article 113 before a veto can be fully exercised.
100. The Committee observed that the Law Society of Kenya submitted that while the supermajority veto is intended to resolve disagreements between the two Houses, it could instead lead to legislative gridlock on critical financial Bills. Accordingly, to mitigate this risk, the LSK proposed the introduction of a mediation process similar to the one referred to in Article 113.
101. Having considered the submissions received on this clause, the Committee notes that the proposed amendment to Article 111 explicitly confers legislative authority over financial legislation to both Houses, correcting the current position where financial legislation is only considered in the National Assembly under the provisions of Articles 109 and 114. It also recognizes that allocation Bills (which affect counties) are best handled by the Senate, while appropriation Bills remain under the National Assembly's purview. The Committee also noted that the proposed amendments strengthen bicameral collaboration by providing that either House of Parliament can amend financial legislation originating from the other

House. The use of the supermajority for veto ensures that a House can only override amendments with a strong consensus, limiting arbitrary rejection.

3.1.8 Proposed amendment to Article 112

102. The Committee reviewed the specific stakeholder submissions regarding the proposed amendments to Article 112, which seek to modify the legislative procedures for Bills passed between the two Houses.
103. The Committee observed that the Institute of Public Finance (IPF) opposed and rejected the proposal to amend Article 112(2)(a). The Committee noted the IPF's explanation that the Bill proposed to delete the current requirement where the Speaker of the originating House referred a reconsidered Bill to the President within seven days for assent, substituting it with a new rule that referred the Bill directly to the President for assent in accordance with Article 109 once the originating House passed it as amended. The Committee observed the IPF's argument that this amendment would effectively strip the originating House of its veto power over changes made by the second House. Furthermore, the Committee observed the IPF's warning that eliminating this safeguard, which currently allowed the originating House to accept or reject amendments before assent, would tilt the balance of power toward the second House, thereby undermining Kenya's bicameral system and weakening the principle of equal participation by both Houses in law-making.
104. The Committee observed the KLRC's assessment that the proposals in the Bill were technically neat and provided a clear sequence for bicameral passage of Bills. Additionally, the Committee noted the KLRC's observation that this structure successfully distinguished between ordinary Bills following the standard mediation route and budget-related allocation and appropriation Bills handled under the stricter Article 111 two-thirds veto mechanism. Finally, the Committee observed the KLRC's observation that while this dual pathway created procedural clarity, it simultaneously placed heavier workload demands on the Senate, which would then be required to process all Bills instead of just county-related ones.
105. Having considered the submissions received on this clause, the Committee noted that the proposed amendments to Article 112 were consequential to align it with the proposed legislative procedure under Articles 109 and 111.

3.1.9 Proposed amendment to Article 113

106. The Committee notes that the proposed amendment to insert a new clause (5) into Article 113, thereby explicitly removing the mediation committee process for Allocation and Appropriation Bills, drew scrutiny and caution from key institutional stakeholders.
107. The Committee observed that the Institute of Public Finance (IPF) opposed the amendment and urged the Committee to reject it outright. The IPF stated that completely removing the mediation framework for fiscal legislation created a procedural lacuna. Because both Houses were constitutionally required to consider and approve these bills, the IPF maintained that the absence of a structured compromise mechanism could lead to total legislative gridlock, which would stall budget implementation and undermine national fiscal accountability.
108. Sharing this perspective, the Institute of Economic Affairs (IEA) advocated for the reintroduction of mediation for finance-related bills. The IEA observed that while the amendment sought to accelerate the budget process, it stripped Parliament of a tool for consensus. The institution noted that should the National Assembly and the Senate fail to reach the two-thirds supermajority threshold required to execute a veto under Article 111, the budget-making apparatus would stall.
109. The Committee also noted that the Kenya Law Reform Commission (KLRC) stated that while the amendment aligned with the new bicameral framework of Article 111, it posed a risk of hardening political standoffs within Parliament. The KLRC noted that in polarized environments, relying exclusively on a strict two-thirds rule made resolving complex budget disputes difficult. Consequently, the KLRC advised that Parliament should consider time-bound joint committees or alternative fallback measures to prevent fiscal paralysis and ensure continuity in the national budget process.
110. From the perspective of devolved governance, the Council of County Governors (COG) called for the complete deletion of the proposed clause. The COG argued that the amendment rested on the assumption that allocation and appropriation bills would not encounter political gridlock. Given that these fiscal bills were bound by rigid statutory timelines, the COG underscored that eliminating the mediation safety net threatened to paralyze county operations and disrupt national fiscal stability.

111. In evaluating these submissions, the Committee observed that the central concern regarding the proposed amendment lay in its reliance on a supermajority threshold. If an originating House lacked the votes to muster a two-thirds majority to override amendments, the legislative process offered no alternative path forward. The submissions indicated that this structural framework posed a direct threat to the timely disbursement of revenue to both the national government and county governments.
112. The Committee noted that the legislative intent in the amendment is to align it with the procedure proposed under the new Article 109 in the Bill. Notably, this amendment ensures that allocation and appropriation Bills, which are subject to a distinct dispute-resolution mechanism under Article 111, are excluded from the mediation process under Article 113. The Committee observed that while the proposed exemption of appropriation and allocation Bills from the mediation process aimed to streamline the fiscal cycle, it did not address what happens when there is a stalemate i.e. the originating House fails to either approve or raise the two-thirds supermajority to veto the amendments passed by the receiving House.
113. The Committee noted that although mediation committees under Article 113 can and do fail to reach a consensus, such a failure results in the immediate and legally clean termination of the Bill, allowing the sponsor to promptly introduce a revised version to break the deadlock. Conversely, under the proposed amendment, if the originating House fails to muster the high two-thirds supermajority required by Article 111 to override the other House's changes, the Bill is neither enacted nor explicitly dead. Instead, it enters an indefinite limbo with no clear legal mechanism to resolve the impasse, thereby exposing both the national and county governments to a protracted and dangerous threat of total fiscal paralysis.

3.1.10 Proposed amendment to Article 114

114. The Committee reviewed the specific stakeholder submissions regarding the proposed repeal of Article 114, which historically defined, introduced, and governed the consideration of Money Bills exclusively within the National Assembly.
115. The Committee observed that the Institute of Public Finance supported the proposed repeal of Article 114, with important operational caveats. The Committee noted the IPF's view that the repeal welcomed a progressive shift by explicitly assigning the Senate an oversight role over matters previously treated strictly as Money Bills, thereby strengthening bicameralism and ensuring county

governments had a voice in fiscal decisions affecting them. However, the Committee noted the IPF's warning that the amendment had to be accompanied by clear, definitive procedures to prevent legislative deadlocks between both Houses.

116. The Committee observed that the Institute of Economic Affairs recommended the retention of Article 114 with structural modifications rather than an outright repeal. The Committee noted the IEA's explanation that Article 114 historically acted as an essential gatekeeper by narrowly defining "*money Bills*" and positioning the Speaker of the National Assembly as the sole arbiter, which prevented the misclassification of ordinary Bills and protected the Senate from being sidelined.
117. The Committee further noted IEA's warning that repealing the article altogether created serious risks, including incentivizing the National Assembly to unilaterally classify ordinary legislation as financial Bills, increasing transaction and litigation costs over jurisdiction, and destabilizing predictable budget-making for county funding. To resolve past ambiguities, the Committee noted the IEA's proposals to either refine the definition to explicitly cover national taxes and loans while preserving county revenues for the Senate, or to share gatekeeping authority through a joint committee of both Speakers.
118. The Committee observed that the Kenya Law Reform Commission noted that the Bill proposed to repeal Article 114 to remove the exclusive procedural control and classification power previously held by the Speaker of the National Assembly, which had been a frequent source of inter-chamber litigation and disputes. The Committee recorded the Commission's acknowledgment that while the current provision had been problematic, any repeal had to be supplemented with new safeguards and procedural controls to protect fiscal accountability and prevent gridlock. Furthermore, the Committee noted the KLRC's warning that stripping the directly elected National Assembly of its traditional "*power of the purse*" risked weakening the clarity of institutional responsibility, as citizens expected that chamber to justify public revenue and expenditure.
119. The Committee observed that Transparency International recommended the complete retention of the original provision of Article 114. The Committee recorded the stakeholder's reasoning that repealing the article removed an established, predictable mechanism for managing money Bills without offering a superior legislative alternative. The Committee noted Transparency International's warning that the repeal risked creating confusion in the legislative process and

undermined the fiscal clarity and order required to maintain accountability in financial legislation.

120. In evaluating these submissions, the Committee observed that the current Article 114 of the Constitution sets out the definition of “a money Bill” to mean a Bill other than the Division and Allocation of Revenue Bills which contains provisions dealing with—
- (a) taxes;
 - (b) the imposition of charges on a public fund or the variation or repeal of any of those charges;
 - (c) the appropriation, receipt, custody, investment or issue of public money;
 - (d) the raising or guaranteeing of any loan or its repayment; or
 - (e) matters incidental to any of those matters.
121. The Committee further noted that Article 114(1) further provides that a money Bill may not deal with matters other than the ones specified above. The interpretation given to this provision has often been restrictive to include clauses to Bills whose overall objective does not include the items specified under Article 114(3) of the Constitution and are not incidental to the list. The determination of whether a Bill falls under the definition of a money Bill has been left to the unilateral exclusive determination of the Speaker of the National Assembly. The Committee observes that in practice, a significant number of Senate Bills have been deemed to be money Bills. The effect of this has been to restrict the legislative mandate of the Senate whereby, Bills that do not deal exclusively with the list in Article 114(3), are determined to be money bills.
122. The Bill therefore proposes to repeal Article 114. The proposed repeal aligns with the proposed amendments in Articles 109 - 111, allowing either House to initiate most types of Bills, including appropriation and allocation Bills under the new Article 111. Consequently, the Committee observed that from a drafting perspective, the removal of Article 114 was intended to erase a redundant legal category.

3.1.11 Proposed amendment to Article 115

123. The Committee reviewed the stakeholder submissions regarding the proposed amendment to Article 115, which governs presidential assent and the referral of Bills back to Parliament.

124. The Committee observed that the Institute of Economic Affairs noted the proposed framework under Article 115, which required both Houses to approve a presidential veto by a two-thirds majority regardless of the type of Bill. The Committee recorded the IEA's observation that while this requirement enhanced checks on executive authority and guarded against the abuse of power, the high threshold made overriding presidential vetoes extremely difficult. Furthermore, the Committee noted the IEA's warning that such a mechanism could slow down urgent legislation or create severe deadlocks if the President and one of the Houses were at odds. Consequently, the Committee registered the IEA's recommendation to maintain Senate involvement but adopt a more flexible override threshold, such as a simple majority in both Houses or a two-thirds majority in a single House.
125. The Committee observed that the Kenya Law Reform Commission noted that the Bill proposed to amend Article 115 to require that once a Bill was passed, it had to be certified jointly by both the Speaker of the National Assembly and the Speaker of the Senate before presentation to the President. Additionally, the Committee recorded the KLRC's note that if the President referred a Bill back with reservations, the override mechanism would demand a two-thirds majority in both Houses rather than just the National Assembly.
126. The Committee observed the KLRC's assessment that this amendment closed a loophole in the current framework where the Senate could be excluded at the final stage of assent, thereby symbolizing formal equality between the two Houses and ensuring mutual participation in the reconsideration process. However, the Committee also noted the KLRC's caution that raising the threshold for overriding presidential reservations significantly strengthened the bargaining power of the Executive, as mustering a two-thirds supermajority across both chambers would prove much harder for Parliament to achieve.
127. Having considered the submissions received, the Committee notes that the proposed amendment to Article 115 intends to anchor the presidential assent process within the proposed new Article 109, ensuring consistency with the bicameral legislative framework.
128. The Committee observed that the stakeholder concerns raised by the Institute of Economic Affairs (IEA) and the Kenya Law Reform Commission (KLRC) focused on the practical compounding effect of applying this existing threshold to a co-equal bicameral system. Under the proposed amendment, expanding this mechanism to require a concurrent two-thirds supermajority in both the National Assembly and the Senate simultaneously does increase the difficulty of achieving an override. However, the Committee noted that the requirement for a two-thirds

majority to override a presidential veto did not represent a novel constitutional standard, as it reflected both global practices and the existing threshold entrenched within the current framework of the Constitution of Kenya.

3.1.12 Proposed amendment to Article 116

129. The Committee reviewed the specific stakeholder submissions regarding the proposed amendment to Article 116, which governs the coming into force of laws and the publication of Bills in the *Gazette*.
130. The Committee observed that the Institute of Economic Affairs noted that the amendment to Article 116 allowed up to seven days between presidential assent and the publication of a Bill in the *Gazette*. The Committee recorded the IEA's warning that this delay created several constitutional and practical risks. Specifically, the IEA stated that allowing a law to technically be in force but remain unpublished for several days undermined transparency, eroded legal certainty, and weakened the rule of law. The institution noted that this delay created a gap where individuals could unknowingly violate a law, exposing them to unfair liability. Furthermore, the IEA observed that in the digital age, publication is instantaneous, rendering administrative delays functionally purposeless, and pointed out that delaying critical or emergency legislation risked confusion and gaps in implementation. Consequently, the Committee observed the IEA's recommendation to amend the clause to mandate that a Bill passed by Parliament and assented to by the President be published on the day of assent, or within a maximum of 24 hours, to provide limited administrative flexibility without sacrificing transparency.
131. The Committee observed that the Kenya Law Reform Commission noted that the Bill proposed to amend Article 116 to require that when a Bill was deemed to have been assented to under the existing 14-day rule, it must be published in the *Gazette*. The Committee recorded the KLRC's assessment that this amendment enhanced clarity and eliminated existing ambiguity. The Commission explained that by making publication mandatory under instances of deemed assent, the amendment cured a lacuna in the current text, thereby strengthening transparency and ensuring that such assent was not left uncertain or invisible in practice.
132. Having considered the stakeholder submissions, the Committee noted that the primary legislative intent behind the amendment to Article 116 was specifically to cure a lacuna regarding Bills that achieved enactment through "*deemed assent*" under the 14-day rule, ensuring that such laws were explicitly brought within the mandatory publication framework to prevent them from remaining invisible or

uncertain in practice. As such, the concerns raised by the Institute of Economic Affairs (IEA), which focused on the potential risks of a seven-day administrative window, public transparency gaps, and immediate digital publishing, went beyond the narrow scope and objective of the proposed provision.

3.1.13 Proposed amendment to Article 157

133. The Committee reviewed the specific stakeholder submissions regarding the proposed amendment to Article 157, which seeks to expand the vetting and approval role for the appointment of the Director of Public Prosecutions (DPP) from the National Assembly alone to both Houses of Parliament.
134. The Committee observed that the County Government of Kitui raised concerns regarding the practical and procedural implications of the amendment. The Committee noted Kitui's observation that neither the Bill nor its Memorandum of Objects and Reasons provided a clear justification for the change, leaving it ambiguous whether the nominee would appear before a joint committee or face separate, successive hearings before committees of each House. The Committee noted the County's warning that separate hearings risked creating procedural duplication, unnecessary delays, and potentially conflicting outcomes, which would ultimately undermine the efficiency of the appointment process.
135. The Committee observed that the Kenya Law Reform Commission noted that the Bill proposed to introduce bicameral vetting for this key constitutional office, thereby ensuring that the DPP's appointment reflected the statutory consent of both chambers. The Committee observed the KLRC's assessment that this expansion broadened institutional accountability and enhanced the legitimacy and buy-in of the office. However, the Committee also observed the KLRC's caution that involving both Houses could lengthen appointment timelines and risked injecting political contestation into the process, which could potentially undermine the independence of the office.
136. Having considered the submissions, the Committee notes that the amendment enhances bicameral accountability and strengthens checks and balances by involving both Houses of Parliament in approving the appointment of such a critical state officer. Given that the Director of Public Prosecution plays a central role in upholding justice, public confidence in the office is vital. Including the Senate ensures broader representation in the approval process, fostering inclusivity and legitimacy in the office.

137. The Committee further noted that the concerns raised regarding potential duplication and delays were primarily procedural in nature and could be effectively managed through parliamentary standing orders rather than constitutional text. The Committee observed that the implementation of joint approval hearings does not require explicit entrenchment in the Constitution, as both Houses can seamlessly codify these mechanisms within their respective Standing Orders.
138. To reinforce this observation, the Committee highlighted existing legislative practice, specifically pointing to the appointment process of the Inspector-General of the National Police Service. In practice, the nominee for the Inspector-General appears before a joint committee comprising representatives from the relevant committees of both the National Assembly and the Senate.

3.1.14 Proposed amendment to Article 173

139. The Committee reviewed the stakeholder submissions regarding the proposed amendment to Article 173, which seeks to involve the Senate in the approval of the Judiciary Fund, a function that is currently the exclusive preserve of the National Assembly.
140. The Committee observed that the Kenya Law Reform Commission noted that the Bill proposed to enjoin the Senate in the approval process of the Judiciary Fund. The Committee recorded the KLRC's assessment that this amendment successfully enhanced judicial independence and aligned with the broader, co-equal bicameral framework envisioned in the Bill. Furthermore, the Committee noted the Commission's observation that including the Senate in the approval process reinforced critical checks and balances, thereby reducing the risk of unilateral control by the National Assembly. The KLRC concluded that this change remained entirely consistent with the principles of devolution and the overarching need for balanced parliamentary oversight of critical constitutional institutions.

3.1.15 Proposed amendment to Article 199

141. The Committee reviewed the specific stakeholder submissions regarding the proposed insertion of Article 199A, which seeks to constitutionally establish a County Assembly Fund for each of the forty-seven devolved units. The proposed clause introduces a financial mechanism to cover the administrative expenses and operational costs necessary for the discharge of county assembly functions. Under this framework, once a county assembly approves its annual expenditure

estimates, its allocation as approved by Parliament in the County Allocation of Revenue Act (CARA) for that respective year becomes a direct charge on the County Revenue Fund and must be paid directly into the County Assembly Fund.

142. In evaluating the merits of the amendment, several stakeholders expressed strong support for the entrenchment of the Fund as a means to secure financial autonomy. The County Assemblies Forum (CAF) welcomed the provision as a landmark advancement in strengthening the institutional independence of county assemblies against fiscal threats such as arbitrary budget ceilings. To further robustly resource the legislative arms, CAF proposed an additional safeguard requiring that not less than 15% of all ordinary county revenues be allocated to County Assemblies annually.
143. Similarly, the Institute of Public Finance (IPF) supported the proposal on the grounds that it guarantees essential financial independence from the county executive. However, the IPF stressed that the provision must be explicitly harmonized with recently amended county public finance laws to incorporate stringent reporting, fund management guidelines, and clear oversight roles for the Auditor-General and Controller of Budget.
144. The Kenya Law Reform Commission (KLRC) echoed these sentiments, noting that a dedicated Fund successfully enhances devolution by relieving the resource constraints that historically undermined assembly effectiveness, though it cautioned that clear accountability protocols must be embedded to prevent misuse.
145. The Institute of Economic Affairs (IEA) also adopted the proposal with amendments, acknowledging the progressive push for financial autonomy, but warned that the Fund could increase administrative costs, complicate fiscal consolidation, and create opportunities for embezzlement if standard national guidelines and complete transparency mechanisms are not strictly enforced.
146. From an operational standpoint, the Council of County Governors (COG) supported the establishment of the Fund but recommended modifying the procedural framework under clause (3) and introducing a new clause (4) to maintain consistency with Section 129 of the Public Finance Management Act. The COG proposed that the County Assembly Clerk prepare and submit expenditure estimates to the assembly while copying the County Executive Committee Member (CECM) for Finance for comments. The CECM for Finance would then officially submit the budget estimates to the county assembly for approval, thereby preserving the executive's statutory role in budget formulation while respecting the assembly's oversight mandate.

147. Conversely, several stakeholders raised fundamental objections and recommended the complete deletion of the proposed clause. The Commission on Revenue Allocation (CRA) argued that the proposal has been completely overtaken by events due to the enactment of the County Public Finance Laws Amendment Act, 2025, which already establishes a similar fund under the Public Finance Management (PFM) Act, making a constitutional insertion redundant and unnecessary.
148. The Law Society of Kenya (LSK) urged for the deletion or substantial amendment of the clause, raising concerns that direct control of funds by assemblies risks compromising their impartiality when overseeing county executives, while simultaneously creating risks of fiscal indiscipline due to a lack of express external supervision and auditing mechanisms.
149. Finally, Transparency International recommended deleting the proposal altogether, contending that subjecting county assembly budgets to spending limits approved by Parliament introduces an improper layer of national oversight that breaches devolved autonomy, violates the doctrine of separation of powers, and weakens the independence of county assemblies in managing their own financial affairs.
150. Having considered the submissions from stakeholders, the Committee observed that the amendment intended to strengthen the financial autonomy and operational independence of county assemblies to ensure that the assemblies have predictable resources to execute their legislative, oversight, and representative mandates effectively. The proposed amendment was intended to mitigate risks of budgetary manipulation by the county executive, which has often compromised the independence and efficiency of county assemblies.
151. However, the Committee observed that sub-clause (5) explicitly directs that each county assembly shall enact local legislation to regulate the use and management of its respective Fund. While this grants devolved legislative units the power to self-regulate, the Committee noted diverse stakeholder concerns regarding the risks of this decentralized drafting approach. Specifically, the Institute of Public Finance (IPF) and the Institute of Economic Affairs (IEA) warned that leaving the regulation entirely to forty-seven distinct pieces of county-level legislation could create parallel funding streams, muddle financial accountability, and complicate fiscal consolidation across the country.

152. Consequently, while the principle of leaving the administrative details to statutory law is constitutionally sound as has been done with other funds, the Committee observed that stakeholders favoured the enactment of overarching, standardized national guidelines, either through amendments to the Public Finance Management (PFM) Act or another Act of Parliament, to ensure uniform reporting, audit mechanisms by the Auditor-General, and strict financial controls across all forty-seven counties.

3.1.16 Proposed amendment to Article 215

153. The Committee reviewed the specific stakeholder submissions regarding the proposed amendment to Article 215, which seeks to expand the vetting and approval process for the appointment of commissioners to the Commission on Revenue Allocation (CRA) from the National Assembly alone to both Houses of Parliament.
154. The Committee observed that the Institute of Economic Affairs (IEA) recommended retaining the proposed amendment. The Committee noted the IEA's reasoning that because commissioners appointed to lead the Commission on Revenue Allocation previously were only approved by the National Assembly, allowing the approval to be done by both chambers will ensure county interests are adequately represented in decisions related to revenue allocation. Furthermore, the Committee noted the IEA's assessment that this adjustment ensures equitable legislative oversight, promotes inclusive governance, and serves as a progressive step toward fiscal soundness and strengthening devolution.
155. The Committee observed that the Kenya Law Reform Commission (KLRC) noted that the Bill proposes to restructure the CRA by requiring the appointment of commissioners to be approved by Parliament. The Committee recorded the KLRC's observation that the amendment enhances legitimacy, inclusivity, and accountability in the appointment process. The Commission highlighted that the CRA plays a pivotal role in determining equitable revenue sharing, and bicameral approval ensures broader accountability. However, the Committee also noted the KLRC's caution that requiring approval by both Houses could introduce procedural duplication or delays unless the vetting process is streamlined.
156. The Committee observed that the County Government of Kitui raised concerns regarding the practical and operational implementation of the expanded vetting process. The Committee noted the County's observation that the Bill does not specify whether nominees would appear before a joint committee composed of members from both Houses or be required to appear separately before committees

of each House. The Committee recorded County's warning that if nominees were subjected to separate hearings, the process could become duplicative, cumbersome, and potentially inconsistent, leading to conflicting outcomes or unnecessary delays. Consequently, the Committee registered County's recommendation that nominees for appointment as commissioners should appear before a joint committee comprising representatives of the appropriate committees from both Houses.

157. The Committee observed that the Commission on Revenue Allocation (CRA) recommended the complete deletion of the proposal. The Committee noted that while the Commission acknowledged the Bill's intent to strengthen accountability and bicameralism, it warned that the proposed changes could introduce unnecessary bureaucracy. The Committee noted the CRA's argument that requiring both Houses to participate in appointments and removals would make the process lengthier and more complex, meaning this duplication of roles between the National Assembly and the Senate may hinder efficiency rather than enhance oversight.
158. After considering the submissions, the Committee observed that the Commission of Revenue Allocation makes recommendations on the equitable sharing of national revenue between the national government and the county governments, and among the counties themselves. Specifically, the Commission—
 - (a) proposes the Revenue Sharing Formula for dividing nationally raised revenue between the national and county levels of government and among the 47 counties;
 - (b) advises Parliament, the national and county governments on financial matters that affect devolution, including marginalized areas and equalization funds;
 - (c) promotes fiscal responsibility and transparency in the management of public finances across both levels of government; and
 - (d) monitors how county governments use their allocated funds and advises on the sustainability of public finances.
159. The Committee notes that the Commission on Revenue Allocation is crucial to the success of devolution. It ensures that counties have the resources to provide services like healthcare, roads, water, sanitation and education, and that the revenue is distributed fairly and transparently. The proposed amendment that includes the Senate in the approval process ensures that the interests of counties are fairly represented in the leadership of the Commission.

160. On the issue of joint approval of the CRA, the Committee notes that this remains a purely procedural aspect of parliamentary business rather than a matter requiring explicit constitutional entrenchment. Consistent with the Committee's earlier determinations on joint approval mechanisms for other constitutional offices, the Committee reiterated that both Houses of Parliament can seamlessly codify joint vetting rules within their respective Standing Orders.

3.1.17 Proposed amendment to Article 221

161. The Committee reviewed the specific stakeholder submissions regarding the proposed amendment to Article 221, which seeks to mandate that the estimates of revenue and expenditure prepared by the national government be submitted to both the National Assembly and the Senate, rather than solely to the National Assembly.
162. The Committee observed that the Institute of Economic Affairs (IEA) recommended retaining the proposed amendment. The Committee noted the IEA's reasoning that involving the Senate reflects a deliberate effort to strengthen democratic oversight, promote inclusive governance, and ensure fiscal soundness. Furthermore, the Committee recorded the IEA's assessment that by including the Senate, county governments are adequately represented in national financial planning, which effectively promotes the equitable distribution of resources and enhances institutional accountability.
163. The Committee observed that the Kenya Law Reform Commission (KLRC) noted that the Bill proposes to amend Article 221 so that national revenue and expenditure estimates are submitted to both Houses of Parliament. The Committee recorded the KLRC's observation that this amendment successfully strengthens bicameral oversight of the budget process by ensuring that the Senate, which represents counties, has a direct role in scrutinizing national budget estimates. The Commission highlighted that this intervention is particularly important for devolution because county allocations are structurally embedded within the broader national budget framework. However, the Committee also noted the KLRC's caution that involving both Houses could muddle timelines and increase the risk of duplication unless clear procedures are established for joint consideration.
164. The Committee observed that the County Government of Kitui raised concerns regarding the potential for procedural confusion and duplication within the expanded framework. The Committee noted the County's observation that the Bill does not specify whether the Cabinet Secretary responsible for finance should

submit these estimates to a joint sitting of both Houses or separately to each chamber. The Committee recorded the County's warning that if the submission and subsequent deliberations were conducted separately, it might result in inconsistent deliberations or unnecessary delays, thereby undermining the efficiency of the budget process.

165. The Committee observed that the Institute of Public Finance (IPF) recommended the rejection of the proposed amendment. The Committee noted the IPF's concern that requiring both Houses to consider the budget estimates, alongside the Finance Bill and Appropriation or Allocation Bills, would unnecessarily lengthen and congest Kenya's budget-making process, which is already compressed into short timelines. The Committee noted the IPF's warning that adding another chamber risks forcing rushed, superficial scrutiny or delaying crucial approvals, thereby leaving little room for meaningful public participation.
166. The Committee evaluated the submissions and observed that the Bill proposes to amend Article 221 to provide for the consideration, review, adjustment, and approval of budget estimates by both Houses of Parliament. Currently, the National Assembly has sole control over budget matters, limiting the Senate's involvement despite its constitutional role in protecting devolution. This amendment recognizes the Senate's role in representing counties, which often bear the brunt of resource allocation decisions. Furthermore, the proposed amendment aligns with the new Article 111, ensuring that Appropriation Bills follow a bicameral legislative process.

3.1.18 Proposed amendment to Article 222

167. The Committee reviewed the specific stakeholder submissions regarding the proposed amendment to Article 222, which seeks to expand the authority to approve votes on account, temporary spending authorizations for up to half of the budget estimates when an Appropriation Act has not yet been passed, from the National Assembly alone to both Houses of Parliament.
168. The Committee observed that the Kenya Law Reform Commission (KLRC) noted that the Bill proposes to amend Article 222 so that votes on account must be approved by both the National Assembly and the Senate, rather than solely by the National Assembly. The Committee recorded the KLRC's observation that this amendment extends bicameral oversight into one of the crucial areas of fiscal governance. The Commission highlighted that the amendment ensures the Senate, representing counties, has a direct role in authorizing interim expenditure, thereby safeguarding devolution interests even in transitional budget periods. However,

the Committee also noted the KLRC's caution that requiring approval from both Houses could complicate urgent fiscal decisions, especially if political divisions delay consensus.

169. The Committee observed that the Institute of Public Finance (IPF) recommended the rejection of the proposed amendment. The Committee noted the IPF's reasoning that Senate involvement in this emergency authorization process would add unnecessary delay without delivering meaningful benefits to counties. The Committee recorded the IPF's assessment that Article 222 is explicitly designed to ensure the continuity of government services when appropriations are delayed, and requiring bicameral approval could muddle the process and slow down urgent spending decisions.
170. The Committee evaluated the submissions and observed that the proposed amendment to Article 222 is intended to provide for bicameral approval of withdrawals from the Consolidated Fund in the event of a delay in the assenting of the Appropriations Act. The amendment reinforces bicameral oversight in government spending and aligns with amendments in Articles 109, 111 and 221 which entrench the Senate in budget and appropriation matters.

3.1.19 Proposed amendment to Article 223

171. The Committee reviewed the specific stakeholder submissions regarding the proposed amendment to Article 223, which seeks to expand the authority to approve supplementary appropriations, where the national government spends money not previously appropriated or when funds are insufficient and subsequent approval is sought, from the National Assembly alone to both Houses of Parliament.
172. The Committee observed that the Kenya Law Reform Commission (KLRC) noted that the Bill proposes to amend Article 223 so that supplementary expenditure must now be authorized by both the National Assembly and the Senate, rather than solely by the National Assembly. The Committee noted the KLRC's observation that the amendment extends bicameral oversight into supplementary appropriations, which are often politically sensitive and fiscally significant. The Commission highlighted that by involving the Senate, the reform ensures that counties have a voice in approving unplanned expenditures, reinforcing the principle of devolution. However, the Committee also noted the KLRC's caution that requiring bicameral approval could complicate urgent fiscal adjustments, especially in times of crisis, since consensus across both Houses may be difficult to achieve quickly.

173. The Committee observed that the Institute of Public Finance (IPF) recommended the rejection of the proposed amendment. The Committee noted the IPF's reasoning that supplementary budgets primarily adjust national appropriations, which are squarely within the National Assembly's remit. The Committee noted the IPF's warning that requiring Senate concurrence for all supplementary appropriations would introduce unnecessary delays and complexity, especially when urgent adjustments are needed for national government operations. The Committee further noted the IPF's acknowledgment that while Senate involvement could be justified strictly when county financing is directly impacted, applying bicameral approval across the board would muddle responsibilities and risk slowing down fiscal responsiveness.

174. The Committee evaluated the submissions and observed that the proposed amendment to Article 223 is intended to provide for bicameral approval of spending under a supplementary appropriation i.e. where money is withdrawn from the Contingencies Fund, or there is spending for a purpose that was not appropriated. The amendment reinforces bicameral oversight in government spending and aligns with amendments in Articles 109, 111 and 221 which entrench the Senate in budget and appropriation matters.

3.1.20 Proposed amendment to Article 224

175. The Committee reviewed the specific stakeholder submissions regarding the proposed repeal and replacement of Article 224, which seeks to reconfigure the framework for County Appropriation Bills and introduce a parliamentary safeguard mechanism in the event of national revenue-sharing delays.

176. The Committee observed that the Institute of Public Finance (IPF) recommended the adoption of the proposal with operational safeguards. The Committee noted the IPF's reasoning that a bicameral role is appropriate because county appropriation Bills directly concern service delivery at the county level. The Committee noted the IPF's assessment that this framework balances the National Assembly's control over overall allocations under Article 95(4)(a) with the Senate's mandate to guard county operations, thereby ensuring that counties are not left vulnerable to delays in passing national revenue laws.

177. The Committee observed that the Institute of Economic Affairs (IEA) recommended retaining the amendment. The Committee noted the IEA's characterization of the proposal as progressive legislation that successfully provides a legal window for counties to continue functioning despite internal

differences or delays in resource allocation and priorities. Furthermore, the Committee registered the IEA's view that the proposal effectively secures a legal framework that safeguards citizens against service delivery disruptions during periods of national fiscal delays.

178. The Committee observed that the Kenya Law Reform Commission (KLRC) noted that the Bill proposes to amend Article 224 to introduce a safeguard mechanism allowing Parliament to authorize counties to withdraw money from the Consolidated Fund to meet expenditure needs if the Division of Revenue Bill (DORB) or the County Allocation of Revenue Bill (CARB) has not been assented to by the start of the financial year. The Committee recorded the KLRC's observation that this amendment is explicitly designed to prevent paralysis in county governments by mirroring the national government's temporary spending safeguards under Article 222. However, the Committee also noted the KLRC's caution that this interim mechanism must be tightly regulated and capped to prevent the erosion of fiscal discipline.
179. The Committee observed that Transparency International recommended retaining the original provision of Article 224. The Committee noted Transparency International's concern that the new version gives Parliament significantly more control over county appropriation processes, which risks directly interfering with devolved autonomy and breaching the doctrine of separation of powers. The Committee registered Transparency International's warning that replacing the existing framework, which allows each county government to independently prepare and adopt its own annual budget, with a structure that subjects county budgets directly to parliamentary control would ultimately weaken devolution and compromise the ability of counties to manage their own resources.
180. The Committee observed that the Council of County Governors (COG) supported the establishment of the safeguard but recommended specific amendments to clause (2) and clause (3)(b) of the proposal. The Committee noted the COG's recommendation that instead of Parliament authorizing the interim withdrawals, the Controller of Budget (COB) should be the entity empowered to authorize counties to withdraw money from the Consolidated Fund, as the COB already authorizes such withdrawals under existing Public Finance Management regulations. Additionally, the Committee recorded the COG's proposal that the withdrawal limit should be capped based on one-half of the allocation from the previous year's County Allocation of Revenue Act (CARA) rather than the current year's tabled estimates, aligning with Supreme Court advisory precedents to ensure counties receive predictable entitlements without relying on unapproved figures.

181. The Committee considered the submissions and noted that Bill proposes to repeal Article 224 of the Constitution and replace it with a new Article that —

- (a) clarifies the process for county governments to prepare and adopt their budgets based on the County Allocation of Revenue Bill and not the Division of Revenue Bill; and
- (b) introduces a contingency mechanism allowing Parliament to authorize temporary withdrawals from the Consolidated Fund if the Division of Revenue Bill or the County Allocation of Revenue Bill is delayed.

182. These proposed amendments anchor the process of enactment of county appropriations Bills to the County Allocation of Revenue Bill in line with Article 218. The new clause (2) provides a fall back mechanism where counties can still function if the Division of Revenue Bill or the County Allocation of Revenue Bill is delayed. This ensures continuity of essential services in counties while avoiding paralysis of critical functions.

183. The Committee observed that transferring the approval authority for temporary withdrawals from Parliament to the Controller of Budget (COB), as proposed by the Council of County Governors (COG), addresses the concerns raised by other stakeholders regarding parliamentary encroachment and the violation of devolved autonomy. This proposal utilises existing frameworks under Regulation 134(1) of the Public Finance Management (National Government) Regulations, aligns with the oversight function of the office, thereby ensuring continuity without creating new procedures.

184. Further, the Committee notes the COG submission that the withdrawal limit should be capped based on one-half of the allocation from the previous year's County Allocation of Revenue Act (CARA) rather than the current year's tabled estimates, aligning with Supreme Court advisory precedents (*In the Matter of Council of Governors & 47 others [2020] KESC 65 (KLR)*) to ensure counties receive predictable entitlements without relying on unapproved figures.

3.1.21 Proposed amendment to Article 228

185. The Committee reviewed the specific stakeholder submissions regarding the proposed amendment to Article 228, which seeks to expand the vetting and approval process for the appointment of the Controller of Budget from the National Assembly alone to both Houses of Parliament.

186. The Committee observed that the Commission on Revenue Allocation (CRA) recommended the complete deletion of the proposal. The Committee noted that while the Commission acknowledged the Bill's intent to strengthen accountability and bicameralism, it expressed caution regarding the expansion of bicameral oversight to the approval and removal of key constitutional offices. The Committee recorded the CRA's warning that requiring both Houses to participate would introduce unnecessary bureaucracy, making the process lengthier and more complex. Furthermore, the Committee noted the CRA's argument that this duplication of roles between the National Assembly and the Senate may ultimately hinder institutional efficiency rather than enhance oversight.
187. The Committee observed that the County Government of Kitui raised practical concerns regarding how the proposed amendment to Article 228(1), which replaces the approval of the National Assembly with the approval of Parliament, would be operationalized. The Committee noted Kitui's observation that the Bill remains ambiguous as to whether the nominee would appear before a joint committee composed of members from both Houses or face separate, consecutive hearings before committees of each House. The Committee noted Kitui's warning that separate hearings risk creating a duplicative and cumbersome vetting process that could lead to conflicting outcomes or unnecessary delays in filling this critical office.
188. The Committee observed that the Institute of Public Finance (IPF) recommended the adoption of the proposal. The Committee noted the IPF's reasoning that because the Controller of Budget's mandate spans both national and county levels, bicameral approval is highly appropriate.
189. The Committee observed that the Kenya Law Reform Commission (KLRC) noted that the Bill proposes to amend Article 228 to require approval by both the National Assembly and the Senate. The Committee recorded the KLRC's observation that this amendment successfully extends bicameral oversight to one of the most critical offices in Kenya's fiscal architecture, given the Controller of Budget's central role in authorizing withdrawals from public funds and ensuring compliance with the principles of public finance. The Commission highlighted that involving the Senate ensures that counties, through their representatives, are granted a formal voice in the appointment process. However, the Committee also noted the KLRC's caution that requiring approval by both Houses could introduce procedural duplication or delays unless the vetting process is streamlined.

190. The Committee considered the submissions and noted that Bill proposes to amend Article 228 of the Constitution to change the approving authority of the Controller of Budget from the National Assembly to Parliament. This proposed amendment enhances bicameral oversight and strengthens the role of the Senate in national financial governance. Since the Controller of Budget is a key player in overseeing budget implementation at both national and county levels, it is constitutionally sound to ensure that both Houses of Parliament participate in his or her approval.
191. On the issue of joint approval of the Controller of Budget, the Committee notes that this remains a purely procedural aspect of parliamentary business rather than a matter requiring explicit constitutional entrenchment. Consistent with the Committee's earlier determinations on joint approval mechanisms for other constitutional offices, the Committee reiterated that both Houses of Parliament can seamlessly codify joint vetting rules within their respective Standing Orders.

3.1.22 Proposed amendment to Article 229

192. The Committee reviewed the specific stakeholder submissions regarding the proposed amendment to Article 229, which seeks to expand the vetting and approval process for the appointment of the Auditor-General from the National Assembly alone to both Houses of Parliament.
193. The Committee observed that the Commission on Revenue Allocation (CRA) recommended the complete deletion of the proposal. The Committee noted that while the Commission acknowledged the Bill's intent to strengthen accountability and bicameralism, it expressed caution regarding the expansion of bicameral oversight to the approval and removal of key constitutional offices. The Committee recorded the CRA's warning that requiring both Houses to participate would introduce unnecessary bureaucracy, making the process lengthier and more complex. Furthermore, the Committee registered the CRA's argument that this duplication of roles between the National Assembly and the Senate may ultimately hinder institutional efficiency rather than enhance oversight.
194. The Committee observed that the County Government of Kitui raised practical concerns regarding the lack of clarity in how the proposed amendment to Article 229(1), which replaces the approval of the National Assembly with the approval of Parliament, would be conducted. The Committee noted the County's observation that the Bill does not indicate whether the nominee would appear before a joint committee composed of members from both Houses or be required to appear separately before committees of each House. The Committee recorded the County's warning that separate hearings risk creating a duplicative,

cumbersome, and potentially inconsistent vetting process, thereby undermining the efficiency of appointments to this critical oversight office.

195. The Committee observed that the Institute of Public Finance (IPF) recommended the adoption of the proposal. The Committee noted the IPF's reasoning that because the Auditor-General's mandate is cross-cutting, spanning both national and county governments, bicameral approval is highly appropriate. The Committee recorded the IPF's assessment that since the office audits the accounts of all public entities, including county governments, requiring approval from both Houses ensures that national and devolved interests participate in the appointment process, thereby strengthening legitimacy and accountability.
196. The Committee observed that the Kenya Law Reform Commission (KLRC) noted that the Bill proposes to amend Article 229 so that the appointment of the Auditor-General would require approval by both the National Assembly and the Senate. The Committee recorded the KLRC's observation that this amendment successfully extends bicameral oversight to another critical office in Kenya's public finance system, given the Auditor-General's responsibility for auditing all public accounts and ensuring compliance with the constitutional principles of accountability. The Commission highlighted that involving the Senate ensures that counties, through their representatives, participate in the appointment of the official who audits both national and county finances. However, the Committee also noted the KLRC's caution that requiring approval by both Houses could introduce procedural duplication or delays unless the vetting process is harmonized.
197. The Committee considered the submissions and noted that Bill proposes to amend Article 228 of the Constitution to change the approving authority of the Auditor General from the National Assembly to Parliament. The proposed amendment enhances transparency, legitimacy, and inclusivity in the appointment of the Auditor General, a critical office responsible for auditing public accounts at both the national and county levels. The inclusion of the Senate—
 - (a) ensures that there is balanced representation of both national and county interests in the approval process;
 - (b) strengthens bicameral checks and oversight over public financial management; and
 - (c) reinforces the Auditor-General's independence and mandate by reflecting a wider parliamentary consensus.

198. On the issue of joint approval of the Auditor General, the Committee notes that this remains a purely procedural aspect of parliamentary business rather than a matter requiring explicit constitutional entrenchment. Consistent with the Committee's earlier determinations on joint approval mechanisms for other constitutional offices, the Committee reiterated that both Houses of Parliament can seamlessly codify joint vetting rules within their respective Standing Orders.

3.1.23 Proposed amendment to Article 233

199. The Committee reviewed the specific stakeholder submissions regarding the proposed amendment to Article 233, which seeks to expand the vetting and approval process for the appointment of commissioners of the Public Service Commission (PSC) from the National Assembly alone to both Houses of Parliament.
200. The Committee observed that the County Government of Kitui raised practical concerns regarding the lack of clarity in how the proposed amendment to Article 233(2), which replaces the approval of the National Assembly with the approval of Parliament, would be conducted. The Committee noted the County's observation that the Bill does not specify whether nominees would appear before a joint committee composed of members from both Houses or be required to appear separately before committees of each House. The Committee recorded the County's warning that separate hearings risk creating a duplicative, cumbersome, and potentially inconsistent vetting process, thereby undermining the efficiency of appointments to the PSC. Consequently, the Committee registered Kitui's recommendation that nominees for appointment as commissioners of the PSC should explicitly be required to appear before a joint committee comprising representatives of the appropriate committees from both Houses.
201. The Committee observed that the Institute of Public Finance (IPF) recommended the rejection of the proposal. The Committee noted the IPF's reasoning that because the PSC is primarily a national institution, the role of the National Assembly should be retained, with the Senate's involvement limited to consultation rather than a determinative approval. The Committee recorded the IPF's assessment that making PSC appointments fully bicameral would muddle the personnel divide between national and county governments. Accordingly, the Committee registered the IPF's view that a consultative Senate hearing would successfully preserve devolution sensitivity without unnecessarily recasting institutional mandates.

202. The Committee observed that the Kenya Law Reform Commission (KLRC) noted that the Bill proposes to amend Article 233(2) so that the appointment of PSC commissioners would require approval by both the National Assembly and the Senate. The Committee recorded the KLRC's observation that this amendment enhances accountability and bicameral oversight for a critical commission. The Commission highlighted that the PSC's role in managing the public service is central to both national and devolved governance, which makes Senate involvement highly appropriate. However, to balance this inclusivity with operational clarity, the Committee also noted the KLRC's recommendation that Parliament adopt joint vetting procedures to completely avoid procedural duplication and ensure efficiency.
203. The Committee considered the submissions and noted that Bill proposes to amend Article 228 of the Constitution to change the approving authority of the Chairperson of the Public Service Commission from the National Assembly to Parliament. Though the Public Service Commission primarily works with the national government, it has an impact on how counties function. The Commission—
- (a) establishes norms and standards for public service management across Kenya requiring County Public Service Boards to align with these standards;
 - (b) evaluates the extent to which the values and principles in Article 10 and Article 232 are complied with in the public service, including in counties. It produces annual reports that evaluate the performance of county governments' human resource practices;
 - (c) hears and determine appeals in respect of county governments' public service in line with Article 234(2)(i) thereby giving the public an avenue of recourse outside the county structure; and
 - (d) supports capacity building for county public services, especially in cases where counties lack the resources or expertise to develop human resource systems.
204. Given the above roles played by the Public Service Commission, the involvement both Houses ensures that both national and county interests are represented in the Commission and enhances greater public confidence in the Commission.

205. On the issue of joint approval of the membership of the Public Service Commission, the Committee notes that this remains a purely procedural aspect of parliamentary business rather than a matter requiring explicit constitutional entrenchment. Consistent with the Committee's earlier determinations on joint approval mechanisms for other constitutional offices, the Committee reiterated that both Houses of Parliament can seamlessly codify joint vetting rules within their respective Standing Orders.

3.1.24 Proposed amendments of Articles 250 and 251

206. The Committee reviewed the specific stakeholder submissions regarding the proposed amendments to Articles 250 and 251, which jointly seek to expand the framework for both the appointment vetting and the removal procedures of members of constitutional commissions and holders of independent offices from the National Assembly alone to both Houses of Parliament.

207. The Committee observed that the Commission on Revenue Allocation (CRA) recommended the complete deletion of the proposals under both articles. The Committee noted that while the CRA acknowledged the Bill's intent to strengthen accountability and bicameralism, it expressed consistent caution regarding the expansion of bicameral oversight to the appointments and removals of key constitutional offices. The Committee recorded the CRA's warning that requiring both Houses to participate would introduce unnecessary bureaucracy, making the processes lengthier and more complex. Furthermore, the Committee registered the CRA's argument that this duplication of roles between the National Assembly and the Senate may ultimately hinder institutional efficiency rather than enhance oversight.

208. The Committee observed that the County Government of Kitui raised practical concerns regarding the lack of clarity in how the expanded vetting under Article 250(2) would be conducted. The Committee noted the County's observation that the Bill does not specify whether nominees would appear before a joint committee composed of members from both Houses or be required to appear separately before committees of each House. The Committee recorded the County's warning that separate hearings risk creating a duplicative, cumbersome, and potentially inconsistent vetting process, thereby undermining the efficiency of appointments to constitutional commissions.

209. The Committee observed that the Institute of Public Finance (IPF) recommended the rejection of the proposals for both articles. Regarding Article 250, the

Committee noted the IPF's reasoning that while bicameral approval may appear to strengthen oversight, it risks introducing unnecessary bureaucracy and duplication in practice. The Committee recorded the IPF's assessment that because commissions and independent offices already have clear constitutional mandates, requiring approval from both Houses could slow down appointments, politicize the process, and undermine efficiency. Regarding Article 251, the Committee registered the IPF's warning that expanding the removal process to both Houses risks duplicating procedures, politicizing oversight, and delaying accountability. The Committee noted the IPF's position that the current framework already provides an efficient mechanism through the National Assembly, which possesses the constitutional mandate to represent the people and exercise oversight over State organs, and that adding the Senate adds no substantive value since these commissions and offices are national in scope rather than county-specific.

210. The Committee observed that the Kenya Law Reform Commission (KLRC) noted that the Bill proposes to amend Article 250(2)(b) and Article 251 to extend bicameral vetting and removal determinations to both Houses of Parliament. Under Article 250, the Committee recorded the KLRC's observation that the amendment successfully enhances legitimacy, inclusivity, and accountability, thereby strengthening public trust in these institutions and aligning with the principle of devolution. Under Article 251, the Committee noted the KLRC's observation that bicameral involvement enhances legitimacy and inclusivity in the removal process, ensuring that removal decisions are not perceived as unilateral or politically motivated, which ultimately strengthens public confidence in the independence of these commissions and offices. However, to counter the risks of procedural duplication, delays, or prolonged disputes that could paralyze the functioning of these institutions, the Committee registered the KLRC's recommendation that Parliament adopt joint vetting mechanisms and harmonized frameworks to balance inclusivity with operational efficiency.
211. Having considered the submissions, the Committee notes that the Bill proposes to amend Article 250 of the Constitution to change the approving authority of the chairpersons and members of commissions and holders of independent offices from the National Assembly to Parliament. The proposed amendment strengthens the role of the Senate in oversight and appointments to public offices. The amendment also reflects the principle that matters of national importance, especially appointments to independent bodies tasked with oversight and governance, should be the domain of both Houses.

212. Additionally, the Bill proposes to amend Article 251 of the Constitution to replace references to “the National Assembly” with “Parliament” in the process of initiating and determining petitions for the removal of members of constitutional commissions and holders of independent offices. Allowing petitions for removal to be handled by both Houses of Parliament ensures a more inclusive, nationally representative process. It enhances checks and balances within the legislature, reduces the risk of unilateral action by one chamber, and increases the legitimacy of decisions involving the removal of members of constitutional commissions and holders of independent offices.

CHAPTER FOUR: RECOMMENDATIONS

4.1 Committee Recommendations

213. Having considered the Constitution of Kenya (Amendment) Bill (Senate Bills No. 13 of 2025) and the submissions received thereon, the Standing Committee on Justice, Legal Affairs and Human Rights recommends that the Senate **passes the Bill with amendments** proposed by the Committee, as follows—

No.	Clause	Committee Recommendation
1.	Proposed Amendment to Article 113 to exclude financial legislation from Mediation Committee	This clause be passed with amendments deleting paragraph (b). The effect of the amendment will be to subject financial legislation to mediation.
2.	Proposed Amendment to Article 199 to establish the County Assembly Fund	This clause be passed with amendments to explicitly mandate that national legislation shall provide for the regulation and management of the Fund instead of county legislation.
3.	Proposed Amendment to Article 224 to anchor the process of enactment of county appropriations Bills to the County Allocation of Revenue Bill in line with Article 218	This clause be passed with amendments to shift the authorization role from Parliament to the Controller of Budget and base the spending cap on the previous year's CARA allocations.

214. The text of the amendments proposed by the Committee is attached to this Report as *Annex 9*.

LIST OF ANNEXURES

- Annex 1** Minutes of the sittings of the Committee in considering the Bill
- Annex 2** Copy of the Constitution of Kenya (Amendment) Bill, 2025 (Senate Bills No. 13 of 2025)
- Annex 3** Copy of the advertisement published in the *Daily Nation* and *Standard* newspapers on 15th August, 2025 inviting members of the public to submit comments by way of written memoranda on the Bill
- Annex 4** Copy of the advertisement published in the *Daily Nation* and *Standard* newspapers notifying the public of the date, time and venue for public hearing held in Busia County
- Annex 5** Katiba ya Kenya (Marekebisho), 2025 (Miswada ya Seneti Na. 13 ya 2025)
- Annex 6**
- a) Bills Digest
 - b) Simplified Explanation of the Bill
 - c) Frequently Asked Questions
 - d) Receipt of Submissions Template
 - e) Maelezo Yaliyorahisishwa
 - f) Maswali Yanayoulizwa Mara kwa Mara
 - g) Fomu ya Maoni ya Umma
- Annex 7** Copies of public and stakeholder submissions on the Bill
- Annex 8** Matrix of submissions on the Bill
- Annex 9** Text of the Committee amendments to the Bill

***Annex 2: Copy of
the Constitution
of Kenya
(Amendment) Bill,
2025 (Senate
Bills No. 13 of
2025)***

SPECIAL ISSUE

Kenya Gazette Supplement No. 121 (Senate Bills No. 13)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2025

NAIROBI, 22nd July, 2025

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**THE CONSTITUTION OF KENYA (AMENDMENT)
BILL, 2025**

A Bill for

AN ACT of Parliament to amend the Constitution.

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Constitution of Kenya (Amendment) Act, 2025 and shall come into force after fourteen days following the official declaration of the results of a referendum conducted in accordance with Article 255 of the Constitution.

Short title and
commencement.

2. Article 94 of the Constitution is amended by—

Amendment of
Article 94 of the
Constitution.

(a) inserting the following new clauses immediately after clause 1—

(1A) Parliament shall perform its legislative, representation, and oversight role over the executive and other state organs in accordance with this Constitution.

(1B) All legislative authority at the national level, shall be exercised by the National Assembly and the Senate in accordance with Part 4 of this Chapter.

(1C) In exercising its legislative authority, Parliament shall ensure that all laws respect the functions and powers assigned under the Fourth Schedule to the national and county governments and take into account the national values and principles of governance set out in Article 10.

(b) inserting the following new clause immediately after clause (2)—

(2A) Parliament exercises oversight over—

(a) national revenue allocated to the national government and its expenditure; and

(b) State organs and other public entities.

3. Article 95 of the Constitution is amended by deleting clause (4).

Amendment of
Article 95 of the
Constitution.

4. Article 96 of the Constitution is amended by—

Amendment of
Article 96 of the
Constitution.

(a) inserting the words “and represents special interests in the Senate” at the end of clause (1);

- (b) inserting the following new clauses immediately after clause (1)—

(1A) The Senate deliberates on and resolves issues of concern to the people in counties.

(1B) The Senate enacts legislation in accordance with Part 4 of this Chapter.

- (c) deleting clause (2);
- (d) inserting the words “and revenue raised by” immediately after the words “revenue allocated to” in clause (3); and
- (e) inserting the following new clause immediately after clause (4)—

(5) Parliament shall enact legislation providing for the procedure of removal of state officers at the national level.

5. Article 108 of the Constitution is amended—

Amendment of
Article 108 of the
Constitution.

- (a) by inserting the words “for each House of Parliament” at the end of clause (1);
- (b) in clause (2) by deleting the words “National Assembly” appearing immediately after the words “who is a leader in the” and substituting therefor the words “respective House”;
- (c) in clause (3) by deleting the words “National Assembly” appearing immediately after the words “who is the leader in the” and substituting therefor the words “respective House”;
- (d) by inserting the following new clause immediately after clause (4)—

(5) The following order of precedence shall be observed in the Senate—

- (a) the Speaker;
- (b) the leader of the majority party; and
- (c) the leader of the minority party.

6. Article 109 of the Constitution is amended by deleting clauses (2), (3), (4) and (5) and substituting therefor the following new clauses—

Amendment of
Article 109 of the
Constitution.

(2) A Bill may be introduced by a member or committee in the National Assembly or the Senate.

(3) A Bill may originate in either House of Parliament, but a Bill on raising national revenue may be originated in the National Assembly.

(4) When a Bill has been passed by one House of Parliament, the Speaker of that House shall refer it to the Speaker of the other House for introduction, consideration and passage.

(5) A Bill shall be referred to the President for assent only after it has been passed by both Houses of Parliament.

(6) The Speaker of the originating House shall, within a period of seven days after a Bill has been passed by both Houses, submit to the President—

(a) the Bill, for assent and publication; and

(b) a certificate signed by both Speakers certifying that the Bill has been passed by both Houses in accordance with this Article.

7. The Constitution is amended by repealing Article 110.

Amendment of
Article 110 of the
Constitution.

8. The Constitution is amended by repealing Article 111 and replacing therefor with the following new Article—

Amendment of
Article 111 of the
Constitution.

Procedure for Allocation and Appropriation Bills

111. (1) An allocation Bill may originate in the Senate, but the National Assembly may propose and pass amendments to the Bill.

(2) An appropriation Bill may originate in the National Assembly, but the Senate may propose and pass amendments to the Bill.

(3) Subject to clauses (1) and (2), where a receiving House amends an allocation or an appropriation Bill, the originating House may veto the amendments by a resolution supported by at least—

(a) two thirds of all the county delegations in the Senate; or

- (b) two thirds of the membership in the National Assembly.

(4) An allocation or an appropriation Bill shall be referred to the President for assent in accordance with Article 109(5) if the originating House—

- (a) concurs with amendments passed by the receiving House; or
- (b) vetoes the amendments in accordance with clause (3).

(5) In this Article—

- (a) an allocation Bill means—
 - (i) a County Allocation of Revenue Bill; or
 - (ii) a County Governments Additional Allocations Bill; and
- (b) an appropriation Bill means—
 - (i) an Appropriation Bill; or
 - (ii) a Supplementary Appropriation Bill.

9. Article 112 of the Constitution is amended—

- (a) by deleting the heading and substituting therefor the following new heading—

Consideration of Bills

- (b) in clause (1) by deleting the introductory phrase and substituting therefor the following new phrase—

(1) Subject to Article 111, if one House passes a Bill and the second House—

- (c) in clause (2) by deleting paragraph (a) and substituting therefor the following new paragraph—

(a) passes the Bill as amended, the Bill shall be referred to the President for assent in accordance with Article 109; or

Amendment of
Article 112 of the
Constitution.

10. Article 113 of the Constitution is amended by—

Amendment of Article 113 of the Constitution.

- (a) deleting clause (3) and substituting therefor the following new clause—

(3) If both Houses approve the version of the Bill proposed by the mediation committee, the Bill shall be referred to the President for assent in accordance with Article 109.

- (b) inserting the following new clause immediately after clause (4) —

(5) This Article shall not apply to an allocation or an appropriation Bill under Article 111.

11. The Constitution is amended by repealing Article 114.

Repeal of Article 114 of the Constitution.

12. Article 115 of the Constitution is amended—

Amendment of Article 115 of the Constitution.

- (a) by deleting clause (3) and substituting therefor the following new clause—

(3) If Parliament amends the Bill fully accommodating the President's reservations, the Bill shall be referred to the President for assent in accordance with Article 109.

- (b) in clause (4) by deleting the words “if it is a Bill that requires the approval of the Senate” appearing at the end of paragraph (b); and

- (c) in clause (5) by deleting paragraph (a) and substituting therefor the following new paragraph—

- (a) the Bill shall be referred to the President for assent in accordance with Article 109.

13. Article 116 of the Constitution is amended by deleting clause (1) and replacing therefor the following new clause—

Amendment of Article 116 of the Constitution.

(1) A Bill passed by Parliament shall be published in the *Gazette* within seven days after assent or on the expiry of the period of assent under Article 115(6).

14. Article 157 of the Constitution is amended in clause (2) by deleting the words “the National Assembly”

Amendment of Article 157 of the Constitution.

appearing immediately after the words “with the approval of” and substituting therefor the word “Parliament”.

15. Article 173 of the Constitution is amended—

Amendment of
Article 173 of the
Constitution.

- (a) in clause (3) by deleting the words “the National Assembly” appearing immediately after the words “submit them to” and substituting therefor the word “Parliament”; and
- (b) in clause (4) by deleting the words “the National Assembly” appearing immediately after the words “approval of the estimates by” and substituting therefor the word “Parliament”.

16. The Constitution is amended by inserting the following new Article immediately after Article 199 —

Amendment of
Article 199 of the
Constitution.

County Assembly Fund

199A (1) There is established, for each county assembly, a County Assembly Fund.

(2) The Fund shall be used for administrative expenses of a county assembly and for such other purposes as may be necessary for the discharge of the functions of a county assembly.

(3) Each financial year, a county assembly shall prepare estimates of expenditure for the following year and submit them to a county assembly for approval.

(4) On approval of the estimates by a county assembly, the expenditure of a county assembly as approved by Parliament in the County Allocation of Revenue Act for the respective year, shall be a charge on a County Revenue Fund and the funds shall be paid directly into a County Assembly Fund.

(5) A county assembly in each county shall enact legislation to provide for the regulation of the Fund.

17. Article 215 of the Constitution is amended in clause (2) by deleting the words “the National Assembly” appearing immediately after the words “approved by” in paragraph (a) and substituting therefor the word “Parliament”.

Amendment of
Article 215 of the
Constitution.

18. Article 221 of the Constitution is amended—

Amendment of
Article 221 of the
Constitution.

- (a) by deleting clause (1) and replacing therefor the following new clause—

(1) At least two months before the end of each financial year, the Cabinet Secretary responsible for finance shall submit to Parliament estimates of the revenue and expenditure of the national government for the next financial year to be tabled in Parliament.

- (b) by deleting the words “The National Assembly” appearing at the beginning of clause (3) and substituting therefor the word “Parliament”;

- (c) by deleting clauses (4), (5) and (6) substituting therefor the following new clauses—

(4) Before Parliament considers the estimates of revenue and expenditure, committees of the respective Houses shall discuss and review the estimates and make recommendations to the Houses.

(5) In discussing and reviewing the estimates, the committees shall seek representations from the public and the recommendations shall be taken into account when the committees make their recommendations to the respective Houses.

(6) When the estimates of national government expenditure, and the estimates of expenditure for the Judiciary and Parliament have been approved by Parliament, they shall be included in an Appropriation Bill, which shall be introduced in Parliament in accordance with Article 111 to authorise the withdrawal from the Consolidated Fund of the money needed for the expenditure, and for the appropriation of that money for the purposes mentioned in the Bill.

19. Article 222 of the Constitution is amended in clause (2) by deleting the words “the National Assembly” in paragraph (b) and substituting therefor the word “Parliament”.

Amendment of
Article 222 of the
Constitution.

20. Article 223 of the Constitution is amended in clause (4) by deleting the words “the National Assembly”

Amendment of
Article 223 of the
Constitution.

appearing immediately after the word “When” and substituting therefor the word “Parliament”.

21. The Constitution is amended by repealing Article 224 of the Constitution and replacing therefor the following new Article—

Amendment of
Article 224 of the
Constitution.

County Appropriation Bills

224. (1) On the basis of the County Allocation of Revenue Bill passed by Parliament under Article 218, each county government shall prepare and adopt its own annual budget and appropriation Bill in the form, and according to the procedure, prescribed in an Act of Parliament.

(2) If the Division of Revenue Bill or the County Allocation of Revenue Bill for a financial year has not been assented to, or is not likely to be assented to, by the beginning of that financial year, Parliament may authorise counties to withdraw money from the Consolidated Fund.

(3) Money withdrawn under clause (2) shall—

- (a) be for the purpose of meeting expenditure necessary to carry on the services of the relevant county government during that year until such time as the Division of Revenue Bill or the County Allocation of Revenue Bill is assented to;
- (b) not exceed in total one-half of the amount included in the estimates of expenditure for that year that have been tabled in the County Assembly; and
- (c) be included, under separate votes for the several services in respect of which they were withdrawn.

22. Article 228 of the Constitution is amended in clause (1) by deleting the words “the National Assembly” appearing immediately after the words “with the approval of” and substituting therefor the word “Parliament”.

Amendment of
Article 228 of the
Constitution.

23. Article 229 of the Constitution is amended in clause (1) by deleting the words “the National Assembly”

Amendment of
Article 229 of the
Constitution.

appearing immediately after the words “with the approval of” and substituting therefor the word “Parliament”.

24. Article 233 of the Constitution is amended in clause (2) by deleting the words “the National Assembly” appearing immediately after the words “with the approval of” and substituting therefor the word “Parliament”.

Amendment of
Article 233 of the
Constitution.

25. Article 250 of the Constitution is amended in clause (2) by deleting the words “the National Assembly” appearing immediately after the words “approved by” in paragraph (b) and substituting therefor the word “Parliament”.

Amendment of
Article 250 of the
Constitution.

26. Article 251 of the Constitution is amended—

Amendment of
Article 251 of the
Constitution.

- (a) in clause (2) by deleting the words “the National Assembly” appearing immediately after the words “may present a petition to” and substituting therefor the word “Parliament”; and
- (b) by deleting the words “The National Assembly” at the beginning of clause (3) and substituting therefor the word “Parliament”.

MEMORANDUM OF OBJECTS AND REASONS

The operationalization of the Constitution, particularly devolved governance and bicameralism has seen many successes but has also brought to the fore a number of challenges of constitutional design and architecture that require reform so as to strengthen and secure the devolved system of government and for greater unity and harmony of the constitutional dispensation.

The principal object of the Bill is to strengthen and secure devolution. The draft Bill seeks to provide a framework to achieve this purpose by –

- (a) clarifying the role of various organs and institutions established by the Constitution in the process of devolution;
- (b) reviewing the mandate of the Senate and the National Assembly in order to clarify the shared role of the Houses of Parliament and the special roles assigned to each House of Parliament;
- (c) refining the legislative process set out in the Constitution in order to ensure that both Houses of Parliament play an effective role in the legislative process; and
- (d) ensuring that both the National Assembly and the Senate play an effective role in the budget making process in order to safeguard the implementation of devolution.

The Bill proposes to amend **Article 94, 95 and 96** of the Constitution to provide clarity on the role of Parliament as a whole and of each Houses. This amendment seeks to ensure that there is clarity in the role of each House so as to avoid the overlap and varied interpretations of the role of the respective Houses.

The Bill proposes to amend of **Article 108** of the Constitution to provide for the leadership and the order of precedence in the Senate. As currently worded, Article 108 of the Constitution only provides for the leadership and the order of precedence in the National Assembly, omitting that of the Senate.

The Bill proposes to amend **Article 109** of the Constitution to provide for the origination of any Bill in either House of Parliament, save for a Bill on raising national revenue which may only originate in the National Assembly.

The Bill further seeks to repeal **Article 110** to grant full legislative mandate to both Houses of parliament. The current state of affairs has

caused confusion in the legislative role of Parliament and the various Court decisions have not made the matter any better.

The Bill further seeks to amend **Articles 111 and 112** to provide for the procedure for the consideration of allocation Bills i.e. the County Allocation of Revenue Bill, the County Additional Allocation of Revenue Bill and appropriation Bills i.e. the Appropriation Bill and a Supplementary Appropriation Bill by both Houses of Parliament and to provide for the procedure for the consideration of Bills by both Houses of Parliament.

The proposed amendment to **Article 113** of the Constitution relates to referral of a Bill for assent after the mediation process and further excludes the allocation and appropriation Bills from the mediation process.

The Bill proposes to repeal **Article 114** of the Constitution which definition of the term “money Bill” has led to multiple interpretations and ultimately hindered legislative processes in the Senate.

The amendment to **Article 115** of the Constitution seeks to provide for the joint submission of a Bill passed by Parliament by the Speakers of both Houses of Parliament to the President for assent.

The amendment to **Article 116** seeks to provide clarity on the coming into force of Bills that are deemed to have been assented to under **Article 115(6)** of the Constitution.

The Bill proposes to amend **Article 173** of the Constitution as a consequential amendment to **Article 221** of the Constitution which requires the approval of the estimates of the Judicial Service Commission by the National Assembly and the Senate.

The Bill proposes to amend the Constitution to insert a new **Article 199A** to provide for the establishment of a County Assembly Fund with respect to each county assembly.

The Bill proposes to amend **Articles 221, 222 and 223** of the Constitution to provide for the procedure for the submission and consideration of estimates of revenue and expenditure of entities at the National level of Government by the Senate and the National Assembly.

The Bill proposes to amend **Article 224** of the Constitution to clarify that the basis for the preparation of budgets by county governments is a County Allocation of Revenue Bill. The Bill also proposes to insert new clauses in **Article 224** which will enable county governments access funding in the event there is a delay in the passage or assent of the Division of Revenue Bill or the County Allocation of Revenue Bill.

The Bill also proposes to amend Articles 157, 215, 228, 229, 233 and 250 of the Constitution to assign the responsibility of approving or vetting of various State officers to both Houses of Parliament. In line with the proposed amendment to Article 250 of the Constitution, the Bill proposes to amend Article 251 to assign the process of removing from office a member of a commission or of a holder of an independent office to both Houses of Parliament.

The Bill proposes to provide a framework that would strengthen the existing system of devolution. It aims to do this by aligning the roles and functions of Parliament in a manner that would promote the effective administration of the devolved system of government. In addition, the Bill proposes to provide a system of accountability at the national and county levels of government particularly with regard to the allocation and utilization of resources allocated by, and to, the respective levels of government.

Dated the 22nd July, 2025.

AARON CHERUIYOT,
Senate Majority Leader.

STEWART MADZAYO,
Senate Minority Leader.

Article 94 of the Constitution of which it is proposed to amend—

94. Role of Parliament

(1) The legislative authority of the Republic is derived from the people and, at the national level, is vested in and exercised by Parliament.

(2) Parliament manifests the diversity of the nation, represents the will of the people, and exercises their sovereignty.

(3) Parliament may consider and pass amendments to this Constitution, and alter county boundaries as provided for in this Constitution.

(4) Parliament shall protect this Constitution and promote the democratic governance of the Republic.

(5) No person or body, other than Parliament, has the power to make provision having the force of law in Kenya except under authority conferred by this Constitution or by legislation.

(6) An Act of Parliament, or legislation of a county, that confers on any State organ, State officer or person the authority to make provision having the force of law in Kenya, as contemplated in clause (5), shall expressly specify the purpose and objectives for which that authority is conferred, the limits of the authority, the nature and scope of the law that may be made, and the principles and standards applicable to the law made under the authority.

Article 95 of the Constitution of which it is proposed to amend—

95. Role of the National Assembly

(1) The National Assembly represents the people of the constituencies and special interests in the National Assembly.

(2) The National Assembly deliberates on and resolves issues of concern to the people.

(3) The National Assembly enacts legislation in accordance with Part 4 of this Chapter.

(4) The National Assembly—

(a) determines the allocation of national revenue between the levels of government, as provided in Part 4 of Chapter Twelve;

(b) appropriates funds for expenditure by the national government and other national State organs; and

(c) exercises oversight over national revenue and its expenditure.

(5) The National Assembly—

- (a) reviews the conduct in office of the President, the Deputy President and other State officers and initiates the process of removing them from office; and
- (b) exercises oversight of State organs.

(6) The National Assembly approves declarations of war and extensions of states of emergency.

Article 96 of the Constitution of which it is proposed to repeal—

96. Role of the Senate

(1) The Senate represents the counties, and serves to protect the interests of the counties and their governments.

(2) The Senate participates in the law-making function of Parliament by considering, debating and approving Bills concerning counties, as provided in Articles 109 to 113.

(3) The Senate determines the allocation of national revenue among counties, as provided in Article 217, and exercises oversight over national revenue allocated to the county governments.

(4) The Senate participates in the oversight of State officers by considering and determining any resolution to remove the President or Deputy President from office in accordance with Article 145.

Article 108 of the Constitution of which it is proposed to amend—

108. Party leaders

(1) There shall be a leader of the majority party and a leader of the minority party.

(2) The leader of the majority party shall be the person who is the leader in the National Assembly of the largest party or coalition of parties.

(3) The leader of the minority party shall be the person who is the leader in the National Assembly of the second largest party or coalition of parties.

(4) The following order of precedence shall be observed in the National Assembly—

- (a) the Speaker of the National Assembly;
- (b) the leader of the majority party; and
- (c) the leader of the minority party.

Article 109 of the Constitution of which it is proposed to amend—

109. Exercise of legislative powers

(1) Parliament shall exercise its legislative power through Bills passed by Parliament and assented to by the President.

(2) Any Bill may originate in the National Assembly.

(3) A Bill not concerning county government is considered only in the National Assembly, and passed in accordance with Article 122 and the Standing Orders of the Assembly.

(4) A Bill concerning county government may originate in the National Assembly or the Senate, and is passed in accordance with Articles 110 to 113, Articles 122 and 123 and the Standing Orders of the Houses.

(5) A Bill may be introduced by any member or committee of the relevant House of Parliament, but a money Bill may be introduced only in the National Assembly in accordance with Article 114.

Article 110 of the Constitution of which it is proposed to repeal—

110. Bills concerning county government

(1) In this Constitution, “a Bill concerning county government” means—

(a) a Bill containing provisions affecting the functions and powers of the county governments set out in the Fourth Schedule;

(b) a Bill relating to the election of members of a county assembly or a county executive; and

(c) a Bill referred to in Chapter Twelve affecting the finances of county governments.

(2) A Bill concerning county governments is—

(a) a special Bill, which shall be considered under Article 111, if it—

(i) relates to the election of members of a county assembly or a county executive; or

(ii) is the annual County Allocation of Revenue Bill referred to in Article 218; or

(b) an ordinary Bill, which shall be considered under Article 112, in any other case.

(3) Before either House considers a Bill, the Speakers of the National Assembly and Senate shall jointly resolve any question as to whether it is

a Bill concerning counties and, if it is, whether it is a special or an ordinary Bill.

(4) When any Bill concerning county government has been passed by one House of Parliament, the Speaker of that House shall refer it to the Speaker of the other House.

(5) If both Houses pass the Bill in the same form, the Speaker of the House in which the Bill originated shall, within seven days, refer the Bill to the President for assent.

Article 111 of the Constitution of which it is proposed to amend—

111. Special Bills concerning county governments

(1) A special Bill concerning a county government shall proceed in the same manner as an ordinary Bill concerning county government, subject to clauses (2) and (3).

(2) The National Assembly may amend or veto a special Bill that has been passed by the Senate only by a resolution supported by at least two-thirds of the members of the Assembly.

(3) If a resolution in the National Assembly to amend or veto a special Bill fails to pass, the Speaker of the Assembly shall, within seven days, refer the Bill, in the form adopted by the Senate, to the President for assent.

Article 112 of the Constitution of which it is proposed to amend—

112. Ordinary Bills concerning county governments

(1) If one House passes an ordinary Bill concerning counties, and the second House—

(a) rejects the Bill, it shall be referred to a mediation committee appointed under Article 113; or

(b) passes the Bill in an amended form, it shall be referred back to the originating House for reconsideration.

(2) If, after the originating House has reconsidered a Bill referred back to it under clause (1)(b), that House—

(a) passes the Bill as amended, the Speaker of that House shall refer the Bill to the President within seven days for assent; or

(b) rejects the Bill as amended, the Bill shall be referred to a mediation committee under Article 113.

Article 113 of the Constitution of which it is proposed to amend—

113. Mediation committees

(1) If a Bill is referred to a mediation committee under Article 112, the Speakers of both Houses shall appoint a mediation committee consisting of equal numbers of members of each House to attempt to develop a version of the Bill that both Houses will pass.

(2) If the mediation committee agrees on a version of the Bill, each House shall vote to approve or reject that version of the Bill.

(3) If both Houses approve the version of the Bill proposed by the mediation committee, the Speaker of the National Assembly shall refer the Bill to the President within seven days for assent.

(4) If the mediation committee fails to agree on a version of the Bill within thirty days, or if a version proposed by the committee is rejected by either House, the Bill is defeated.

Article 114 of the Constitution of which it is proposed to repeal—

114. Money Bills

(1) A money Bill may not deal with any matter other than those listed in the definition of “**a money Bill**” in clause (3).

(2) If, in the opinion of the Speaker of the National Assembly, a motion makes provision for a matter listed in the definition of “**a money Bill**”, the Assembly may proceed only in accordance with the recommendation of the relevant Committee of the Assembly after taking into account the views of the Cabinet Secretary responsible for finance.

(3) In this Constitution, “**a money Bill**” means a Bill, other than a Bill specified in Article 218, that contains provisions dealing with—

- (a) taxes;
- (b) the imposition of charges on a public fund or the variation or repeal of any of those charges;
- (c) the appropriation, receipt, custody, investment or issue of public money;
- (d) the raising or guaranteeing of any loan or its repayment; or
- (e) matters incidental to any of those matters.

(4) In clause (3), “tax”, “public money”, and “loan” do not include any tax, public money or loan raised by a county.

Article 115 of the Constitution of which it is proposed to amend—

115. Presidential assent and referral

(1) Within fourteen days after receipt of a Bill, the President shall—

- (a) assent to the Bill; or
- (b) refer the Bill back to Parliament for reconsideration by Parliament, noting any reservations that the President has concerning the Bill.

(2) If the President refers a Bill back for reconsideration, Parliament may, following the appropriate procedures under this Part—

- (a) amend the Bill in light of the President's reservations; or
- (b) pass the Bill a second time without amendment.

(3) If Parliament amends the Bill fully accommodating the President's reservations, the appropriate Speaker shall re-submit it to the President for assent.

(4) Parliament, after considering the President's reservations, may pass the Bill a second time, without amendment, or with amendments that do not fully accommodate the President's reservations, by a vote supported—

- (a) by two-thirds of members of the National Assembly; and
- (b) two-thirds of the delegations in the Senate, if it is a Bill that requires the approval of the Senate.

(5) If Parliament has passed a Bill under clause (4)—

- (a) the appropriate Speaker shall within seven days re-submit it to the President; and
- (b) the President shall within seven days assent to the Bill.

(6) If the President does not assent to a Bill or refer it back within the period prescribed in clause (1), or assent to it under clause (5)(b), the Bill shall be taken to have been assented to on the expiry of that period.

Article 116 of the Constitution of which it is proposed to amend—

116. Coming into force of laws

(1) A Bill passed by Parliament and assented to by the President shall be published in the Gazette as an Act of Parliament within seven days after assent.

(2) Subject to clause (3), an Act of Parliament comes into force on the fourteenth day after its publication in the Gazette, unless the Act stipulates a different date on or time at which it will come into force.

(3) An Act of Parliament that confers a direct pecuniary interest on members of Parliament shall not come into force until after the next general election of members of Parliament.

(4) Clause (3) does not apply to an interest that members of Parliament have as members of the public.

Article 157 of the Constitution of which it is proposed to amend—

157. Director of Public Prosecutions

(1) There is established the office of Director of Public Prosecutions.

(2) The Director of Public Prosecutions shall be nominated and, with the approval of the National Assembly, appointed by the President.

(3) The qualifications for appointment as Director of Public Prosecutions are the same as for the appointment as a judge of the High Court.

(4) The Director of Public Prosecutions shall have power to direct the Inspector-General of the National Police Service to investigate any information or allegation of criminal conduct and the Inspector-General shall comply with any such direction.

(5) The Director of Public Prosecutions shall hold office for a term of eight years and shall not be eligible for re-appointment.

(6) The Director of Public Prosecutions shall exercise State powers of prosecution and may—

(a) institute and undertake criminal proceedings against any person before any court (other than a court martial) in respect of any offence alleged to have been committed;

(b) take over and continue any criminal proceedings commenced in any court (other than a court martial) that have been instituted or undertaken by another person or authority, with the permission of the person or authority; and

(c) subject to clauses (7) and (8), discontinue at any stage before judgment is delivered any criminal proceedings instituted by the Director of Public Prosecutions or taken over by the Director of Public Prosecutions under paragraph (b).

(7) If the discontinuance of any proceedings under clause (6)(c) takes place after the close of the prosecution's case, the defendant shall be acquitted.

(8) The Director of Public Prosecutions may not discontinue a prosecution without the permission of the court.

(9) The powers of the Director of Public Prosecutions may be exercised in person or by subordinate officers acting in accordance with general or special instructions.

(10) The Director of Public Prosecutions shall not require the consent of any person or authority for the commencement of criminal proceedings and in the exercise of his or her powers or functions, shall not be under the direction or control of any person or authority.

(11) In exercising the powers conferred by this Article, the Director of Public Prosecutions shall have regard to the public interest, the interests of the administration of justice and the need to prevent and avoid abuse of the legal process.

(12) Parliament may enact legislation conferring powers of prosecution on authorities other than the Director of Public Prosecutions.

Article 173 of the Constitution of which it is proposed to amend—

173. Judiciary Fund

(1) There is established a fund to be known as the Judiciary Fund which shall be administered by the Chief Registrar of the Judiciary.

(2) The Fund shall be used for administrative expenses of the Judiciary and such other purposes as may be necessary for the discharge of the functions of the Judiciary.

(3) Each financial year, the Chief Registrar shall prepare estimates of expenditure for the following year, and submit them to the National Assembly for approval.

(4) On approval of the estimates by the National Assembly, the expenditure of the Judiciary shall be a charge on the Consolidated Fund and the funds shall be paid directly into the Judiciary Fund.

Article 215 of the Constitution of which it is proposed to amend—

215. Commission on Revenue Allocation

(1) There is established the Commission on Revenue Allocation.

(2) The Commission shall consist of the following persons appointed by the President—

- (a) a chairperson, who shall be nominated by the President and approved by the National Assembly;
 - (b) two persons nominated by the political parties represented in the National Assembly according to their proportion of members in the Assembly;
 - (c) five persons nominated by the political parties represented in the Senate according to their proportion of members in the Senate; and
 - (d) the Principal Secretary in the Ministry responsible for finance.
- (3) The persons nominated under clause (2) shall not be members of Parliament.
- (4) To be qualified to be a member of the Commission under clause (2)(a), (b) or (c), a person shall have extensive professional experience in financial and economic matters.

Article 221 of the Constitution of which it is proposed to amend—

221. Budget estimates and annual Appropriation Bill

(1) At least two months before the end of each financial year, the Cabinet Secretary responsible for finance shall submit to the National Assembly estimates of the revenue and expenditure of the national government for the next financial year to be tabled in the National Assembly.

(2) The estimates referred to in clause (1) shall—

- (a) include estimates for expenditure from the Equalisation Fund; and
- (b) be in the form, and according to the procedure, prescribed by an Act of Parliament.

(3) The National Assembly shall consider the estimates submitted under clause (1) together with the estimates submitted by the Parliamentary Service Commission and the Chief Registrar of the Judiciary under Articles 127 and 173 respectively.

(4) Before the National Assembly considers the estimates of revenue and expenditure, a committee of the Assembly shall discuss and review the estimates and make recommendations to the Assembly.

(5) In discussing and reviewing the estimates, the committee shall seek representations from the public and the recommendations shall be taken into account when the committee makes its recommendations to the National Assembly.

(6) When the estimates of national government expenditure, and the estimates of expenditure for the Judiciary and Parliament have been approved by the National Assembly, they shall be included in an Appropriation Bill, which shall be introduced into the National Assembly to authorise the withdrawal from the Consolidated Fund of the money needed for the expenditure, and for the appropriation of that money for the purposes mentioned in the Bill.

(7) The Appropriation Bill mentioned in clause (6) shall not include expenditures that are charged on the Consolidated Fund by this Constitution or an Act of Parliament.

Article 222 of the Constitution of which it is proposed to amend—

222. Expenditure before annual budget is passed

(1) If the Appropriation Act for a financial year has not been assented to, or is not likely to be assented to, by the beginning of that financial year, the National Assembly may authorise the withdrawal of money from the Consolidated Fund.

(2) Money withdrawn under clause (1) shall—

- (a) be for the purpose of meeting expenditure necessary to carry on the services of the national government during that year until such time as the Appropriation Act is assented to;
- (b) not exceed in total one-half of the amount included in the estimates of expenditure for that year that have been tabled in the National Assembly; and
- (c) be included, under separate votes for the several services in respect of which they were withdrawn, in the Appropriation Act.

Article 223 of the Constitution of which it is proposed to amend—

223. Supplementary appropriation

(1) Subject to clauses (2) to (4), the national government may spend money that has not been appropriated if—

- (a) the amount appropriated for any purpose under the Appropriation Act is insufficient or a need has arisen for expenditure for a purpose for which no amount has been appropriated by that Act; or
- (b) money has been withdrawn from the Contingencies Fund.

(2) The approval of Parliament for any spending under this Article shall be sought within two months after the first withdrawal of the money, subject to clause (3).

(3) If Parliament is not sitting during the time contemplated in clause (2), or is sitting but adjourns before the approval has been sought, the approval shall be sought within two weeks after it next sits.

(4) When the National Assembly has approved spending under clause (2), an appropriation Bill shall be introduced for the appropriation of the money spent.

(5) In any particular financial year, the national government may not spend under this Article more than ten per cent of the sum appropriated by Parliament for that financial year unless, in special circumstances, Parliament has approved a higher percentage.

Article 224 of the Constitution of which it is proposed to amend—

224. County appropriation Bills

On the basis of the Division of Revenue Bill passed by Parliament under Article 218, each county government shall prepare and adopt its own annual budget and appropriation Bill in the form, and according to the procedure, prescribed in an Act of Parliament.

Article 228 of the Constitution of which it is proposed to amend—

228. Controller of Budget

(1) There shall be a Controller of Budget who shall be nominated by the President and, with the approval of the National Assembly, appointed by the President.

(2) To be qualified to be the Controller, a person shall have extensive knowledge of public finance or at least ten years experience in auditing public finance management.

(3) The Controller shall, subject to Article 251, hold office for a term of eight years and shall not be eligible for re-appointment.

(4) The Controller of Budget shall oversee the implementation of the budgets of the national and county governments by authorising withdrawals from public funds under Articles 204, 206 and 207.

(5) The Controller shall not approve any withdrawal from a public fund unless satisfied that the withdrawal is authorised by law.

(6) Every four months, the Controller shall submit to each House of Parliament a report on the implementation of the budgets of the national and county governments.

Article 229 of the Constitution of which it is proposed to amend—

229. Auditor-General

(1) There shall be an Auditor-General who shall be nominated by the President and, with the approval of the National Assembly, appointed by the President.

(2) To be qualified to be the Auditor-General, a person shall have extensive knowledge of public finance or at least ten years experience in auditing or public finance management.

(3) The Auditor-General holds office, subject to Article 251, for a term of eight years and shall not be eligible for re-appointment.

(4) Within six months after the end of each financial year, the Auditor-General shall audit and report, in respect of that financial year, on—

- (a) the accounts of the national and county governments;
- (b) the accounts of all funds and authorities of the national and county governments;
- (c) the accounts of all courts;
- (d) the accounts of every commission and independent office established by this Constitution;
- (e) the accounts of the National Assembly, the Senate and the county assemblies;
- (f) the accounts of political parties funded from public funds;
- (g) the public debt; and
- (h) the accounts of any other entity that legislation requires the Auditor-General to audit.

(5) The Auditor-General may audit and report on the accounts of any entity that is funded from public funds.

(6) An audit report shall confirm whether or not public money has been applied lawfully and in an effective way.

(7) Audit reports shall be submitted to Parliament or the relevant county assembly.

(8) Within three months after receiving an audit report, Parliament or the county assembly shall debate and consider the report and take appropriate action.

Article 233 of the Constitution of which it is proposed to amend—

233. The Public Service Commission

- (1) There is established the Public Service Commission.
- (2) The Public Service Commission consists of a chairperson, a vice chairperson and seven other members appointed by the President with the approval of the National Assembly.
- (3) Subject to clause (4), a person is not eligible for appointment as a member of the Commission if the person—
 - (a) has, at any time within the preceding five years, held office, or stood for election as—
 - (i) a member of Parliament or of a county assembly; or
 - (ii) a member of the governing body of a political party; or
 - (b) holds any State office;
 - (c) is, or has at any time been, a candidate for election as a member of Parliament or of a county assembly; or
 - (d) is, or has at any time been, the holder of an office in any political organisation that sponsors or otherwise supports, or has at any time sponsored or otherwise supported, a candidate for election as a member of Parliament or of a county assembly.
- (4) Clause (3)(c) and (d) cease to apply to a person after two general elections for Parliament have been held since the person ceased to be such a candidate or office holder.
- (5) There shall be a secretary to the Commission.
- (6) The secretary—
 - (a) is the chief executive of the Commission; and
 - (b) shall be appointed by the Commission for a term of five years, and is eligible for re-appointment once.

Article 250 of the Constitution of which it is proposed to amend—

250. Composition, appointment and terms of office

- (1) Each commission shall consist of at least three, but not more than nine, members.
- (2) The chairperson and each member of a commission, and the holder of an independent office, shall be—

- (a) identified and recommended for appointment in a manner prescribed by national legislation;
- (b) approved by the National Assembly; and
- (c) appointed by the President.

(3) To be appointed, a person shall have the specific qualifications required by this Constitution or national legislation.

(4) Appointments to commissions and independent offices shall take into account the national values referred to in Article 10, and the principle that the composition of the commissions and offices, taken as a whole, shall reflect the regional and ethnic diversity of the people of Kenya.

(5) A member of a commission may serve on a part-time basis.

(6) A member of a commission, or the holder of an independent office—

- (a) unless *ex officio*, shall be appointed for a single term of six years and is not eligible for re-appointment; and
- (b) unless *ex officio* or part-time, shall not hold any other office or employment for profit, whether public or private.

(7) The remuneration and benefits payable to or in respect of a commissioner or the holder of an independent office shall be a charge on the Consolidated Fund.

(8) The remuneration and benefits payable to, or in respect of, a commissioner or the holder of an independent office shall not be varied to the disadvantage of that commissioner or holder of an independent office.

(9) A member of a commission, or the holder of an independent office, is not liable for anything done in good faith in the performance of a function of office.

(10) The members of a commission shall elect a vice-chairperson from among themselves—

- (a) at the first sitting of the commission; and
- (b) whenever it is necessary to fill a vacancy in the office of the vice-chairperson.

(11) The chairperson and vice-chairperson of a commission shall not be of the same gender.

(12) There shall be a Secretary to each commission who shall be—

- (a) appointed by the commission; and
- (b) the chief executive officer of the commission.

Article 251 of the Constitution of which it is proposed to amend—

251. Removal from office

(1) A member of a commission (other than an *ex officio* member), or the holder of an independent office, may be removed from office only for—

- (a) serious violation of this Constitution or any other law, including a contravention of Chapter Six;
- (b) gross misconduct, whether in the performance of the member's or office holder's functions or otherwise;
- (c) physical or mental incapacity to perform the functions of office;
- (d) incompetence; or
- (e) bankruptcy.

(2) A person desiring the removal of a member of a commission or of a holder of an independent office on any ground specified in clause (1) may present a petition to the National Assembly setting out the alleged facts constituting that ground.

(3) The National Assembly shall consider the petition and, if it is satisfied that it discloses a ground under clause (1), shall send the petition to the President.

***Annex 3:
Advertisement
published in the
Daily Nation and
Standard
Newspapers on 15th
August, 2025
inviting members of
the public to submit
comments by way of
written memoranda
on the Bill***



THIRTEENTH PARLIAMENT | FOURTH SESSION
THE SENATE

INVITATION FOR SUBMISSION OF MEMORANDA AND
PUBLIC HEARINGS

THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2025
[SENATE BILLS NO. 13 OF 2025]

The **Constitution of Kenya (Amendment) Bill, 2025 (Senate Bills No. 13 of 2025)** was read a First Time in the Senate on Thursday, 7th August, 2025 and thereafter stood committed to the Standing Committee on Justice, Legal Affairs and Human Rights for consideration. The Committee is required, under standing order 145(5) of the Senate Standing Orders, to facilitate public participation on the Bill and to take into account the views and recommendations of the public when the Committee makes its report to the Senate.

The Bill seeks to amend the Constitution to address challenges of constitutional design and architecture that require reform so as to strengthen and secure the devolved system of government and for greater unity and harmony of the constitutional dispensation. The Bill proposes to achieve this by –

- (a) clarifying the role of various organs and institutions established by the Constitution in the process of implementation of devolution;
- (b) reviewing the mandate of the National Assembly and the Senate in order to clarify the shared role of the Houses of Parliament and the special roles assigned to each House of Parliament;
- (c) refining the legislative process set out in the Constitution in order to ensure that both Houses of Parliament play an effective role in the legislative process; and
- (d) ensuring that both the National Assembly and the Senate play an effective role in the budget making process in order to safeguard the implementation of devolution.

The Bill proposes to –

- (i) ensure that there is clarity in the role of each House so as to avoid overlaps and varied interpretations of the role of the respective Houses;
- (ii) provide for the leadership and the order of precedence in the Senate;
- (iii) provide for the origination of any Bill in either House of Parliament, save for a Bill on raising national revenue which may only originate in the National Assembly;
- (iv) grant full legislative mandate to both Houses of Parliament and provide for the procedure for the consideration of Bills by both Houses of Parliament;
- (v) provide for the procedure for the consideration of allocation and appropriation Bills by both Houses of Parliament;
- (vi) provide the procedure for referral of a Bill for assent after the mediation process and further excludes the allocation and appropriation Bills from the mediation process;
- (vii) repeal the definition of the term "money Bill";
- (viii) provide for the joint submission of a Bill passed by Parliament by the Speakers of both Houses of Parliament to the President for assent;
- (ix) provide clarity on the coming into force of Bills that are deemed to have been assented to under Article 115(6) of the Constitution;
- (x) provide for the establishment of a County Assembly Fund with respect to each county assembly;
- (xi) provide the procedure for the submission and consideration of estimates of revenue and expenditure of entities at the National level of Government by both Houses of Parliament;
- (xii) clarify that the basis for the preparation of budgets by county governments is a County Allocation of Revenue Bill;
- (xiii) assign the responsibility of approving or vetting of various State officers to both Houses of Parliament; and
- (xiv) assign the process of removing from office a member of a commission or holder of an independent office to both Houses of Parliament.

In accordance with the provisions of Articles 118 and 256 of the Constitution and standing order 145 (5) of the Senate Standing Orders, the Standing Committee on Justice, Legal Affairs and Human Rights now invites members of the public to submit any representations that they may have on the Bill by way of written memoranda.

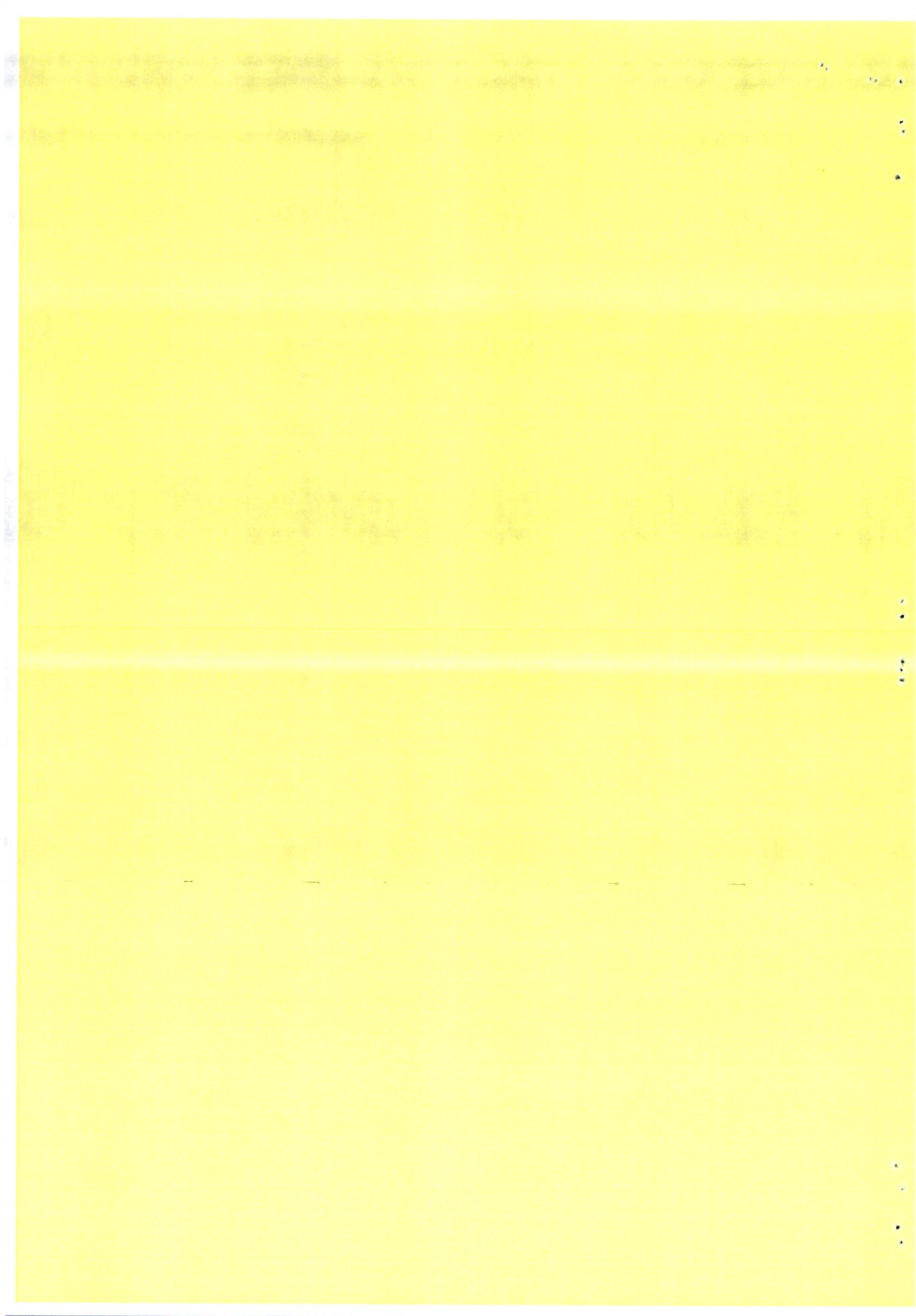
The memoranda may be submitted to the Clerk of the Senate, P. O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk of the Senate, Main Parliament Buildings, Nairobi or emailed to maoni@parliament.go.ke to be received on or before **Friday, 26th September, 2025 at 5.00 p.m.**

In addition, the Senate will hold public hearings on the Bill in the forty-seven counties, on dates and venues to be communicated.

The Bill and a digest that summarizes the contents and context of the Bill may be accessed on the Parliament website at <http://www.parliament.go.ke/the-senate/house-business/bills>.

J. M. NYEGENYE, CBS,
CLERK OF THE SENATE

Annex 4:
Advertisement
published in the
Daily Nation &
Standard
newspapers
notifying the public
of the date, time and
venue for public
hearing held in
Busia County





THIRTEENTH PARLIAMENT | FOURTH SESSION
THE SENATE

NOTIFICATION OF PUBLIC HEARING AND INVITATION TO SUBMIT VIEWS

**THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2025
(SENATE BILLS NO. 13 OF 2025)**

The **Constitution of Kenya (Amendment) Bill, 2025 (Senate Bills No. 13 of 2025)** was read a First Time in the Senate on Thursday, 7th August, 2025 and thereafter stood committed to the Standing Committee on Justice, Legal Affairs and Human Rights for consideration.

Under Articles 118(1)(b) and 256(2) of the Constitution and standing order 145(5) of the Senate Standing Orders, the Committee is required to facilitate public participation on the Bill and to take into account the views and recommendations of the public when the Committee makes its report to the Senate.

The Bill seeks to amend the Constitution to address challenges of constitutional design and architecture that require reform so as to strengthen and secure the devolved system of government and for greater unity and harmony of the constitutional dispensation.

Further to the advertisement published on Friday, 15th August, 2025, the Standing Committee on Justice, Legal Affairs and Human Rights is scheduled to hold a **Public Hearing** on the Bill on **Monday, 6th October, 2025 from 9.00 a.m., at Busia Agricultural Training Centre (ATC) in Busia County.**

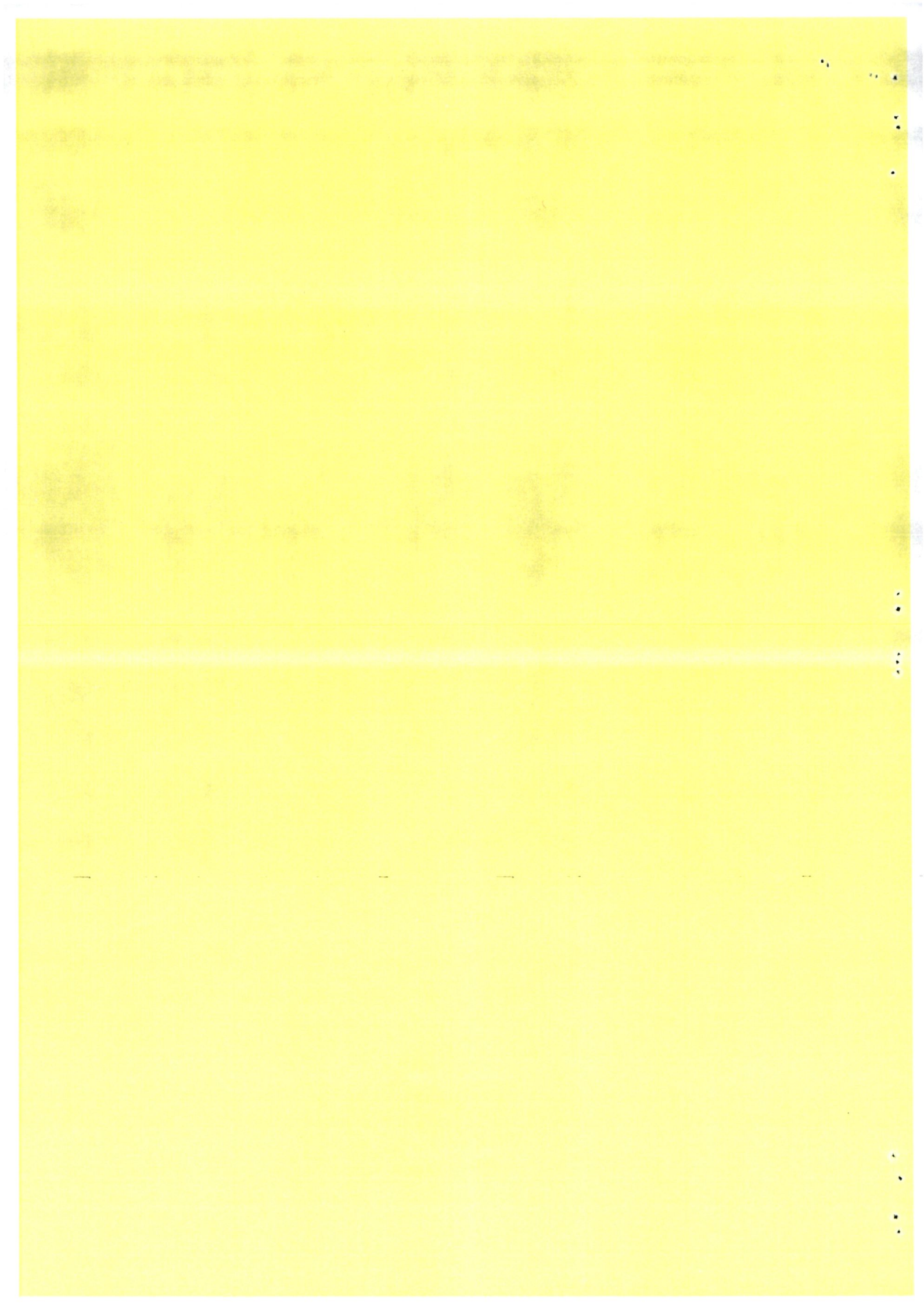
Members of the public and stakeholders are hereby invited to attend, make oral presentations or submit written memoranda on the Bill and discuss the Bill during the public hearing.

It is further notified that the public may also continue submitting written representations on the Bill to the Clerk of the Senate, P. O. Box 41842-00100, Nairobi, by hand delivery to the Office of the Clerk of the Senate, Main Parliament Buildings, Nairobi or by email to maoni@parliament.go.ke to be received on or before **Friday, 5th December, 2025 at 5.00 p.m.**

Copies of the Bill, the Simplified Version of the Bill, Frequently Asked Questions and a Public Views Template providing guidance on the form of submission to be received, may be accessed on the Parliament website at <http://www.parliament.go.ke/the-senate/house-business/bills>.

**J. M. NYEGENYE, CBS,
CLERK OF THE SENATE.**

***Annex 5: Katiba
ya Kenya
(Marekebisho)
2025 (Miswada
ya Seneti Na. 13
ya 2025)***



TOLEO MAALUM

Nyongeza ya Gazeti Rasmi la Serikali Na.121 (Miswada ya Seneti Na.13)



JAMHURI YA KENYA

NYONGEZA YA GAZETI RASMI LA SERIKALI

MISWADA YA SENETI, 2025

NAIROBI, 22 Julai, 2025

YALIYOMO

Mswada wa Kuwasilishwa katika Seneti—

UKURASA

Mswada wa Katiba ya Kenya (Marekebisho), 2025.....

179

**MSWADA WA KATIBA YA KENYA
(MAREKEBISHO), 2025**

Mswada wa

SHERIA ya Bunge wa kurekebisha Katiba

ULIYOTEKELEZWA na Bunge la Kenya, kama ifuatavyo —

1. Sheria hii inaweza kutajwa kama Sheria (Marekebisho) ya Katiba ya Kenya, 2025 na itaanza kutumika siku kumi na nne kufuatia matangazo rasmi ya matokeo ya kura ya maamuzi yaliyoendesha kwa mujibu wa Ibara ya 255 ya Katiba.

Anwani fupi na kuanza kutumika kwake

Rekebisho la Ibara ya 94 ya Katiba.

2. Ibara ya 94 ya Katiba inafanyiwa marekebisho kwa—

(a) kuingiza vifungu vipya vifuatavyo baada ya kifungu cha 1—

(1A) Bunge litatekeleza majukumu yake ya utungaji sheria, uwakilishi na uangalizi dhidi ya kitengo tekelezi cha Serikali na vyombo vingine vya serikali kwa mujibu wa Katiba hii.

(1B) Mamlaka yote ya utungaji sheria katika kiwango cha kitaifa, yatatekelezwa na Bunge la Taifa na Seneti kwa mujibu wa Sehemu ya 4 ya Sura hii.

(1C) Katika kutekeleza mamlaka yake ya kutunga sheria, Bunge litahakikisha kwamba sheria zote zinaheshimu majukumu na mamlaka yanayotolewa kulingana na Nyongeza ya Nne ya serikali ya kitaifa na za kaunti na kuzingatia maadili ya kitaifa na kaida za utawala zilizoелеzwa katika Ibara ya 10.

(b) Kuingiza kifungu kipya kifuatacho punde tu baada ya kifungu cha (2)—

(2A) Bunge linatekeleza jukumu lake la uangalizi dhidi ya—

(a) mapato ya taifa yanayotengwa kwa serikali ya kitaifa na matumizi yake; na

(b) vyombo vya Serikali na asasi nyingine za umma.

3. Ibara ya 95 ya Katiba inafanyiwa marekebisho kwa kufuta kifungu cha (4).

Rekebisho la Ibara ya 95 ya Katiba

4. Ibara ya 96 ya Katiba inafanyiwa marekebisho kwa—

Rekebisho la Ibara ya 96 ya Katiba

- (b) kuingiza vifungu vipya vifuatavyo punde tu baada tu ya kifungu cha (1)—

(1A) Seneti hujadili na kutoa uamuzi kuhusu masuala muhimu ya watu katika kaunti.

(1B) Seneti inapitisha sheria kwa mujibu wa Schemu ya 4 ya Sura hii.

- (c) kufuta kifungu cha (2);

- (d) kuingiza maneno “na mapato yaliyokusanywa na ” punde tu baada ya maneno “mapato yanayotokana na ugavi wa” katika kifungu cha (3); na

- (e) kuingiza kifungu kipya kifuatacho punde tu baada ya kifungu cha (4)—

(5) Bunge litapitisha sheria inayoelezea utaratibu wa kuwaondoa maafisa wa Serikali katika ngazi ya kitaifa.

5. Ibara ya 108 ya Katiba inarekebishwa—

Rekebisha la Ibara
ya 108 ya Katiba.

- (a) kwa kuingiza maneno “kwa Bunge la Taifa na Seneti” mwishoni mwa kifungu cha (1);

- (b) katika kifungu cha (2) kwa kufuta maneno “Bunge la Taifa” yanayojitokeza punde tu baada ya maneno “ambaye ni kiongozi katika” na kuyabadilisha kwa maneno “Bunge la Taifa au Seneti”;

- (c) katika kifungu cha (3) kwa kufuta maneno “Bunge la Taifa” yanayojitoza punde tu baada ya maneno “ambaye ni kiongozi katika” na kuyabadilisha kwa maneno “Bunge la Taifa au Seneti”;

- (d) kwa kuingiza kifungu kipya kifuatacho punde tu baada ya kifungu cha (4)—

(5) Mpangilio ufuatao wa ukuu ndio utazingatiwa katika Seneti —

- (a) Spika;

- (b) kiongozi wa Chama cha Walio Wengi; na

- (c) kiongozi wa Chama cha Walio Wachache.

6. Ibara ya 109 ya Katiba inafanyiwa marekebisha kwa kufuta vifungu vya (2), (3), (4) na (5) na kuvibadilisha na vifungu vipya vifuatavyo —

Rekebisha la Ibara
ya 109 ya Katiba.

(2) Mswada unaweza kuwasilishwa na mbunge au kamati katika Bunge la Taifa au Seneti.

(3) Mswada unaweza kuanzia katika Bunge la Taifa au Seneti, lakini Mswada wa kukusanya mapato ya kitaifa unaweza kuanzishwa katika Bunge la Taifa.

(4) Wakati Mswada umepitishwa na Bunge la Taifa au Seneti, Spika wa Bunge husika atawasilisha kwa Spika wa Bunge hilo lingine ili kuwasilishwa, kujadiliwa na kupitishwa.

(5) Mswada utawasilishwa tu kwa Rais ili kupatiwa kibali baada ya kupitishwa na Bunge la Taifa na Seneti.

(6) Katika muda usiozidi siku saba baada ya Mswada kupitishwa na Bunge la Taifa na Seneti, Spika wa Bunge linaloanzisha mswada, atawasilisha kwa Rais—

(a) Mswada huo, ili kupatiwa kibali na kuchapishwa; na

(b) Cheti kilichotiwa saina na Maspika wote wawili kinachoidhinisha kwamba Mswada huo umepitishwa na Bunge la Taifa na Seneti kuambatana na Ibara hii.

7. Katiba inafanyiwa marekebisho kwa kufutilia mbali Ibara ya 110.

Rekebisho la Ibara
ya 110 ya Katiba

8. Katiba inafanyiwa marekebisho kwa kufutilia mbali Ibara ya 111 na kuibadilisha na Ibara mpya ifuatayo—

Rekebisho la Ibara
ya 111 ya Katiba

Utaratibu wa Mswada ya Ugavi na ya Kuidhinisha Matumizi

111. (1) Mswada wa ugavi unaweza kuanzia katika Seneti lakini Bunge la Taifa linaweza kupendekeza na kupitisha marekebisho kwenye Mswada huo.

(2) Mswada wa kuidhinisha matumizi unaweza kuanzia katika Bunge la Taifa, lakini Seneti inaweza kupendekeza na kupitisha marekebisho kwenye Mswada huo.

(3) Kwa kuzingatia kifungu cha (1) na cha (2), pale ambapo Bunge linalopokea linapofanyia marekebisho Mswada wa ugavi au wa kuidhinisha matumizi, Bunge linaloanzisha linaweza kubatilisha marekebisho kwa uamuzi unaoungwa mkono na angalau—

- (b) thuluthi mbili ya wabunge katika Bunge la Taifa.

(4) Mswada wa ugavi au wa kuidhinisha matumizi utawasilishwa kwa Rais ili kupatiwa kibali kwa kuambatana na Ibara ya 109(5) iwapo Bunge linaloanzisha—

- (a) linakubaliana na marekebisho yaliyopitishwa na bunge linalopokea; au
- (b) linabatilisha marekebisho kwa kuambatana na kifungu cha (3).

(5) Katika Ibara hii—

- (a) Mswada wa ugavi una maana ya—
 - (i) Mswada wa Ugavi wa Mapato kwa Kaunti; au
 - (ii) Mswada wa Ugavi wa Mapato ya Ziada kwa Serikali za Kaunti; na
- (b) Mswada wa kuidhinisha matumizi una maana ya —
 - (i) Mswada wa Kuidhinisha Matumizi; au
 - (ii) Mswada wa Kuidhinisha Matumizi ya Ziada.

9. Ibara ya 112 ya Katiba inarekebishwa—

- (a) kwa kufuta kichwa na kukibadilisha na kichwa kipya kifuatacho—

Kushughulikia Mswada

- (b) katika kifungu cha (1) kwa kufuta usemi tangulizi na kuubadilisha kwa usemi upya ufuatao—

(1) Kwa kuzingatia Ibara ya 111, iwapo Bunge moja linapitisha Mswada na Bunge hilo lingine —

- (c) katika kifungu cha (2) kwa kufuta aya ya (a) na kuibadilisha na aya mpya ifuatayo—
 - (a) linapitisha Mswada kama ulivyorekebishwa, Mswada utawasilishwa kwa Rais ili kupatiwa kibali kwa kuambatana na Ibara ya 109; au

Rekebisho la Ibara
ya 112 ya Katiba

10. Ibara ya 113 ya Katiba inarekebishwa kwa—
(a) kufuta kifungu cha (3) na kukibadilisha na kifungu kipyaa kifuatacho—
(3) Iwapo Mswada unaopendekezwa na kamati ya usuluhishi utaidhinishwa na Bunge la Taifa na Seneti, Mswada huo utawasilishwa kwa Rais ili kupatiwa kibali kwa kuambatana na Ibara ya 109.
(b) Kuingiza kifungu kipyaa kifuatacho punde tu baada ya Kifungu cha (4) —
(5) Ibara hii haitatumika kwa Mswada wa ugavi au wa kuidhinisha matumizi kwa mujibu wa Ibara ya 111.
11. Katiba inarekebisha kwa kufutulia mbali Ibara ya 114.
Kufutulia mbali Ibara ya 114 ya Katiba.
12. Ibara ya 115 ya Katiba inarekebishwa—
(a) kwa kufuta kifungu cha (3) na kukibadilisha na kifungu kipyaa kifuatacho—
(3) Iwapo Bunge litarekebisha Mswada kwa kuzingatia kikamilifu pingamizi za Rais, Mswada utawasilishwa kwa Rais ili kupatiwa kibali kwa kuambatana na Ibara ya 109.
(b) katika kifungu cha (4) kwa kufuta maneno “iwapo ni mswada unaohitaji idhini ya Seneti” yanayojitokeza mwishoni mwa aya ya (b); na
(c) katika Kifungu cha (5) kwa kufuta aya ya (a) na kuibadilisha na aya mpya ifuatayo—
(a) mswada utawasilishwa kwa Rais ili kupatiwa kibali kwa kuambatana na Ibara ya 109.
13. Ibara ya 116 ya Katiba inarekebishwa kwa kufuta kifungu cha (1) na kukibadilisha na kifungu kipyaa kifuatacho—
(1) Mswada uliopitishwa na Bunge utachapishwa katika *Gazeti Rasmi la Serikali* katika muda wa siku saba baada ya kupatiwa kibali au katika kukamilika kwa kipindi cha kupatiwa kibali kwa mujibu wa Ibara ya 115(6).
14. Ibara ya 157 ya Katiba inarekebishwa katika kifungu cha (2) kwa kufuta maneno “Bunge la Taifa”
Rekebisho la Ibara ya 157 ya Katiba.

yanayojitokeza punde baada ya maneno “kwa idhini ya” na kuyabadilisha na neno “Bunge”.

15. Ibara ya 173 ya Katiba inarekebishwa—

Rekebisho la Ibara
ya 173 ya Katiba

- (a) katika kifungu cha (3) kwa kufuta maneno “Bunge la Taifa” yanayojitokeza punde tu baada ya maneno “kuyawasilisha kwa” na kuyabadilisha kwa neno “Bunge”; na
- (b) katika kifungu cha (4) kwa kufuta maneno “Bunge la Taifa” yanayojitokeza punde tu baada ya maneno “makadirio hayo kuidhinishwa na” na kuyabadilisha na neno “Bunge”.

16. Katiba inarekebishwa kwa kuingiza Ibara mpya ifuatayo punde tu baada ya Ibara ya 199 —

Rekebisho la Ibara
ya 199 ya Katiba.

Hazina ya Bunge la Kaunti

199A (1) Kumeanzishwa Hazina ya Bunge la Kaunti kwa kila bunge la kaunti.

(2) Hazina hii itatumika kwa usimamizi wa bunge la kaunti na kwa malengo mengine kama hayo yanayohitajika katika utekelezaji wa majukumu ya bunge la kaunti.

(3) Kila mwaka wa kifedha, bunge la kaunti litatayarisha makadirio ya bajeti ya matumizi ya mwaka unaofuata na kuyawasilisha kwa bunge la kaunti ili kuidhinishwa.

(4) Baada ya makadirio kuidhinishwa na bunge la kaunti, matumizi ya bunge la kaunti, kama yatakavyoidhinishwa na Bunge katika Sheria ya Ugavi Mapato kwa Kaunti kwa mwaka husika, yatatolewa kwenye Hazina ya Mapato ya Kaunti na fedha hizo zitalipwa moja kwa moja kwenye Hazina ya Bunge la Kaunti.

(5) Bunge la kaunti katika kila kaunti litatunga sheria ili kuelekeza uhibitaji wa Mfuko huo.

17. Ibara ya 215 ya Katiba inarekebishwa katika kifungu cha (2) kwa kufuta maneno “Bunge la Taifa” yanayojitokeza punde baada ya maneno “kuidhinishwa na” katika aya ya (a) na kuyabadilisha kwa neno “Bunge”.

Rekebisho la Ibara
ya 215 ya Katiba.

18. Ibara ya 221 ya Katiba inarekebishwa—Rekebisho la Ibara ya
221 ya Katiba.

- (a) Kwa kufuta kifungu cha (1) na kukibadilisha na kifungu kipya kifuatacho—

(1) Angalau miezi miwili kabla ya kukamilika kwa kila mwaka wa kifedha, Waziri anayehusika na masuala ya fedha atawasilisha kwa Bunge makadirio ya mapato na matumizi ya serikali ya kitaifa kwa mwaka wa kifedha ufuatao ili kuwasilishwa katika Bunge.

- (b) Kwa kufuta maneno “Bunge la Taifa” yanayojitokeza mwanzoni kwa kifungu cha (3) na kuyabadilisha kwa neno “Bunge”;

- (c) Kwa kufuta vifungu vya (4), (5) na (6) na kuvibadilisha na vifungu vipya vifuatavyo—

(4) Kabla ya Bunge kuzingatia makadirio ya mapato na matumizi, kamati za Bunge la Taifa na Seneti zitajadili na kuhakiki makadirio na kutoa mapendekezo kwa Bunge la Taifa na kwa Seneti.

(5) Katika kujadili na kuhakiki makadirio, kamati hizi zitahusisha uwakilishi wa umma na mapendekezo yao yatazingatiwa wakati kamati hizi zinapotoa mapendekezo yao kwa Bunge la Taifa na kwa Seneti.

(6) Wakati ambapo makadirio ya matumizi ya serikali ya kitaifa, na makadirio ya matumizi ya Mahakama na ya Bunge yatakapoidhinishwa na Bunge, yatajumuishwa katika Mswada wa Kuidhinisha Matumizi utakaowasilishwa katika Bunge kwa kuambatana na Ibara ya 111 ili kuruhusu pesa zinazohitajika kwa matumizi kutolewa kutoka kwenye Hazina Kuu, na kuidhinisha matumizi ya pesa hizo kwa nia zilizotajwa kwenye Mswada.

- 19. Ibara ya 222 ya Katiba inarekebishwa katika kifungu cha (2) kwa kufuta maneno “Bunge la Taifa” katika aya ya (b) na kuyabadilisha kwa neno “Bunge”.**

Rekebisho la Ibara
ya 222 ya Katiba.

- 20. Ibara ya 223 ya Katiba inarekebishwa katika kifungu cha (4) kwa kufuta maneno “Bunge la Taifa”**

Rerekebisho la
Ibara ya 123 ya
Katiba.

yanayojitokeza punde baada ya neno “Wakati” na kulibadilisha kwa neno “Bunge”.

21. Katiba inarekebisha kwa kufutulia mbali Ibara ya 224 ya Katiba na kuibadilisha kwa Ibara mpya ifuatayo—

Rekebisha la Ibara
ya 224 ya Katiba

Miswada ya Kuidhinisha Matumizi ya Kaunti

224. (1) Kwa msingi wa Mswada wa Ugavi wa Mapato kwa Kaunti uliopitishwa na Bunge kwa mujibu wa Ibara ya 218, kila serikali ya kaunti itatayarisha na kupitisha Mswada wake binafsi wa bajeti na wa kuidhinisha matumizi ya kila mwaka katika muundo na kwa kuambatana na utaratibu unaoelezwa katika Sheria ya Bunge.

(2) Iwapo Mswada wa Kugawa Mapato au Mswada wa Ugavi wa Mapato kwa Kaunti katika mwaka wa kifedha haujapatiwa kibali au huenda usipate kibali, mwanzoni mwa mwaka huo wa kifedha, Bunge linaweza kuruhusu kaunti kutoa fedha kutoka kwenye Hazina Kuu.

(3) Pesa zinazotolewa kwa mujibu wa kifungu cha (2)—

- (a) zitakuwa kwa malengo ya kushughulikia matumizi yaliyo muhimu katika kuendesha huduma za serikali ya kaunti husika katika mwaka huo hadi wakati ambapo Mswada wa Kugawa Mapato au Mswada wa Ugavi wa Mapato kwa Kaunti utakapopatiwa kibali;
- (b) zisizidi kwa ujumla nusu ya kiasi kilichojumuisha katika makadirio ya matumizi kwa mwaka huo ambayo yaliwasilishwa katika Bunge la Kaunti; na
- (c) zijumuishwe, kwenye migao tofauti ya huduma mbalimbali zinazohusiana na pesa zinazotolewa.

22. Ibara ya 228 ya Katiba inarekebisha katika kifungu cha (1) kwa kufuta maneno “Bunge la Taifa” yanayojitokeza punde baada ya maneno “kwa idhini ya” na kuyabadilisha kwa neno “Bunge”.

Rekebisha la Ibara
ya 228 ya Katiba

23. Ibara ya 229 ya Katiba inarekebisha katika kifungu cha (1) kwa kufuta maneno “Bunge la Taifa”

Rekebisha la Ibara
ya 229 ya Katiba

yanayojitokeza punde tu baada ya maneno “kwa idhini ya” na kuyabadilisha kwa neno “Bunge”.

24. Ibara ya 233 ya Katiba inarekebishwa katika kifungu cha (2) kwa kufuta maneno “Bunge la Taifa” yanayojitokeza punde tu baada ya maneno “kwa idhini ya” na kuyabadilisha kwa neno “Bunge”.

Rekebisho la Ibara
ya 233 ya Katiba

25. Ibara ya 250 ya Katiba inarekebishwa katika kifungu cha (2) kwa kufuta maneno “Bunge la Taifa” yanayojitokeza punde tu baada ya maneno “iliyoidhinishwa na” katika aya ya (b) na kuyabadilisha kwa neno “Bunge”.

Rekebisho la Ibara
ya 250 ya Katiba

26. Ibara ya 251 ya Katiba inarekebishwa—

- (a) katika kifungu cha (2) kwa kufuta maneno “Bunge la Taifa” yanayojitokeza punde baada ya maneno “anaweza kuwasilisha ardhi hali kwa” na kuyabadilisha kwa neno “Bunge”; na
- (b) kwa kufuta maneno “Bunge la Taifa” mwanzoni kwa kifungu cha (3) na kuyabadilisha kwa neno “Bunge”.

Rekebisho la Ibara
ya 251 ya Katiba

MAELEZO YA MADHUMUNI NA SABABU

Utekelezaji wa Katiba, hasa utawala wa ugatuzi na bunge la ngazi mbili umepata mafanikio mengi lakini pia umeibua changamoto kadhaa za muundo na mpangilio wa Katiba zinazohitaji mageuzi ili kuimarisha na kudhibiti mfumo wa ugatuzi wa serikali na ili kuwa na umoja na maelewano zaidi katika mfumo huu wa kikatiba.

Sababu kuu ya Mswada huu ni kuimarisha na kulinda ugatuzi. Rasimu ya Mswada huu inajaribu kueleza utaratibu wa kufikia lengo hili kwa–

- (a) kufafanua jukumu la vyombo na asasi mbalimbali zinazoanzishwa na Katiba katika mchakato wa ugatuzi;
- (b) kuhakiki wajibu wa Seneti na wa Bunge la Taifa ili kufafanua wajibu wa pamoja wa Bunge la Taifa na Bunge la Seneti na majukumu maalum yaliyotengewa kila Bunge;
- (c) kuboresha mchakato wa kutunga sheria kulingana na Katiba ili kuhakikisha kwamba Bunge la Taifa na Seneti inatekeleza jukumu fanisi katika mchakato wa kutunga sheria; na
- (d) kuhakikisha kwamba Bunge la Taifa na Seneti inatekeleza jukumu fanisi katika mchakato wa kutayarisha bajeti ili kulinda utekelezaji wa ugatuzi.

Mswada huu unapendekeza kurekebisha **Ibara za 94, 95 na ya 96** za Katiba ili kufafanua wazi jukumu la Bunge kwa ujumla na la Bunge la Taifa na la Seneti. Rekebisha hili linanuia kuweka uwazi jukumu la kila Bunge ili kuepuka mwingiliano na fasiri mbalimbali za majukumu ya Bunge la Taifa na ya Seneti.

Mswada huu unapendekeza kurekebisha **Ibara ya 108** ya Katiba ili kuonyesha uongozi na mpangilio wa nyadhifa katika Seneti. Kama ilivyo sasa, Ibara ya 108 ya Katiba inaeleza kuhusu uongozi na mpangilio wa nyadhifa katika Bunge la Taifa na kuacha nje ule wa Seneti.

Mswada huu unapendekeza kurekebisha **Ibara ya 109** ya Katiba ili kutoa nafasi ya kuanzishwa kwa Mswada wowote ama katika Bunge la Taifa au Seneti, isipokuwa Mswada wa kukusanya mapato ya kitaifa unaoweza tu kuanzia kwenye Bunge la Taifa.

Kadhalika, Mswada huu zaidi unaazimia kufutilia mbali **Ibara ya 110** ya Katiba ili kupatia Bunge la Taifa na pia Seneti wajibu kamili wa kutunga sheria. Hali iliyopo sasa imeleta utata kuhusu

jukumu la kutunga sheria la Bunge na maamuzi kadha ya Mahakama hayajaboresha hali hii.

Mswada huu pia unaazimia kurekebisha **Ibara ya 111 na 112** ili kuelezea utaratibu wa Bunge la Taifa na Seneti unaoshughulikia Miswada ya kutenga mapato yaani Mswada wa Ugavi wa Mapato kwa Kaunti, Mswada wa Ugavi wa Mapato ya Ziada kwa Kaunti na Miswada ya kuidhinisha matumizi yaani Mswada wa Kuidhinisha Matumizi na Mswada wa Kuidhinisha Matumizi ya Ziada na kutoa nafasi ya utaratibu wa kushughulikia Miswada katika Bunge la Taifa na Seneti.

Rekebisha lililopendekezwa kwa **Ibara ya 113** ya Katiba linahusiana na kuwasilishwa kwa Mswada ili kupatiwa kibali baada ya mchakato wa upatanisho na pia unaondoa Miswada ya ugavi na ya kuidhinisha matumizi kutokana na mchakato wa usuluhishi.

Mswada huu unapendekeza kufutilia mbali **Ibara ya 114** ya Katiba ambayo istilahi “Mswada wa Fedha” umesababisha maana mbali mbali na hatimaye kuzuia michakato ya kutunga sheria katika Seneti.

Rekebisha la **Ibara ya 115** ya Katiba linatoa nafasi ya uwasilishaji wa pamoja wa Mswada unaopitishwa na Bunge na Maspika wa Bunge la Taifa na wa Seneti kwa Rais ili kupata kibali.

Rekebisha la **Ibara ya 116** ya Katiba linatoa ufafanuzi kuhusu kutekelezwa kwa Miswada iliyopatiwa kibali kwa mujibu ya Ibara ya 115(6) ya Katiba.

Mswada huu unapendekeza kurekebisha **Ibara ya 173** ya Katiba kama rekebisha fuatili kwa rekebisha la **Ibara ya 221** ya Katiba linalohitaji idhinisho la Bunge la Taifa na Seneti kuhusu makadirio ya Tume ya Huduma za Mahakama.

Mswada huu unapendekeza kurekebisha Katiba ili kuingiza **Ibara mpya ya 199A** ya Katiba ili kutoa nafasi ya kuanzishwa kwa Hazina ya Bunge la Kaunti kwa kila bunge la kaunti.

Mswada huu unapendekeza kurekebisha **Ibara za, 221, 222 na 223** za Katiba ili kutoa nafasi ya utaratibu wa Seneti na Bunge la Taifa wa kuwasilisha na kushughulikia makadirio ya mapato na matumizi ya asasi zilizo katika kiwango cha Serikali ya Kitaifa.

Mswada huu unapendekeza kurekebisha **Ibara ya 224** ya Katiba ili kufafanua kwamba msingi wa utayarishaji wa bajeti wa serikali za kaunti ni Mswada wa Ugavi wa Mapato kwa Kaunti. Mswada huu pia unapendekeza kuingiza vifungu vipya katika Ibara ya 224 vitakavyowezesha serikali za kaunti kupata fedha endapo kutakuwa na uchelewewu katika kupitisha au kuupatia kibali Mswada wa Kugawa Mapato au Mswada wa Ugavi wa Mapato kwa Kaunti.

Mswada huu unapendekeza kurekebisha **Ibara za 157, 215, 228, 229, 233 na 250** za Katiba ili kupatia Bunge la Taifa na Seneti wajibu wa kuwaidhinisha au kuwachunguza Maafisa mbalimbali wa Serikali. Kwa kuambatana na rekebisha lililopendekezwa na **Ibara ya 250** ya Katiba, Mswada huu unapendekeza kurekebisha **Ibara ya 251** ili kupatia Bunge la Taifa na Seneti wajibu wa kumwondoa mamlakani mwanachama wa Tume au afisa wa ofisi huru.

Mswada huu unaelezea utaratibu utakaoimarisha mfumo uliopo wa ugatuzi. Inanuia kufanya hivi kwa kuoanisha majukumu na wajibu wa Bunge kwa njia itakayoendeleza usimamizi bora wa mfumo wa ugatuzi wa serikali. Isitoshe, Mswada huu unapendekeza kubainisha mfumo wa uwajibikaji katika serikali ya kitaifa na serikali za kaunti hasa kuhusiana na utengaji na matumizi ya rasilmali zinazogawiwa serikali ya kitaifa na serikali za kaunti.

Tarehe 22 Julai, 2025.

AARON CHERUIYOT,
Kiongozi wa Walio Wengi katika Seneti.

STEWART MADZAYO,
Kiongozi wa Walio Wachache katika Seneti.

Ibara ya 94 ya Katiba inayopendekeza kurekebisha—

94. Jukumu la Bunge

(1) Mamlaka ya kutunga sheria ya Jamhuri yanatokana na wananchi, na katika kiwango cha kitaifa yamo mikononi mwa na iyanatekeleza.

(2) Bunge linaonyesha uanuai wa taifa, linawakilisha matakwa ya wananchi na linatekeleza uhuru wao wa kujitawala.

(3) Bunge linaweza kuzingatia na kupitisha marekebisha kwa Katiba hii, na kubadilisha mipaka ya kaunti kama inavyoelezwa na Katiba hii.

(4) Bunge litalinda Katiba hii na kuendeleza utawala wa kidemokrasia wa Jamhuri.

(5) Isipokuwa Bunge, hakuna mtu wala chombo chenye mamlaka ya kutunga masharti ya kisheria nchini Kenya isipokuwa chini ya mamlaka yanayotolewa na Katiba hii au sheria.

(6) Sheria ya Bunge au sheria ya kaunti inayotoa mamlaka ya kutunga masharti ya kisheria nchini Kenya kwa chombo cha Kitaifa, Afisa wa Serikali au mtu yeyote, kama inavyoelekezwa na kifungu cha (5), itaeleza kwa uwazi nia na malengo yanayotoa mamlaka hayo, mipaka ya mamlaka hayo, aina na mawanda ambayo sheria kama hiyo inaweza kutungwa, na kaida na viwango vinavyohusika katika sheria inayotungwa chini ya mamlaka hayo.

Ibara ya 95 ya Katiba inayopendekezwa kurekebisha—

95. Jukumu la Bunge la Taifa

(1) Bunge la Taifa linawakilisha watu wa maeneo bunge na maslahi maalum katika Bunge la Taifa.

(2) Bunge la Taifa linajadili na kushughulikia masuala yanayowahusu wananchi.

(3) Bunge la Taifa linatunga sheria kwa kuambatana na Sehemu ya 4 ya Sura hii.

(4) Bunge la Taifa—

(a) linaamua ugavi wa mapato ya kitaifa baina ya serikali ya kitaifa na serikali za kaunti, kama inavyotekelezwa katika Sehemu ya 4 ya Sura ya Kumi na Mbili;

(b) linaidhinisha fedha za matumizi ya serikali ya kitaifa na vyombo vingine vya kitaifa; na

(c) linafanya uangalizi wa mapato ya kitaifa na matumizi yake.

(5) Bunge la Taifa—

- (a) hukagua mwenendo wa Rais , Naibu Rais na maafisa wengine wa Serikali kazini na kuanzisha mchakato wa kuwaondoa mamlakani; na
 - (b) kufanya uangalizi wa vyombo vya Serikali.
- (6) Bunge la Taifa huidhinisha matangazo ya vita na kuongeza muda wa hali za hatari.

Ibara ya 96 ya Katiba ambayo inapendekezwa kufutuliwa mbali—

96. Jukumu wa Seneti

(1) Seneti huwakilisha kaunti na hutumika kulinda maslahi ya kaunti na serikali zake.

(2) Seneti hushiriki katika kuunda sheria za Bunge kwa kuzingatia, kujadili na kuidhinisha Miswada kuhusu kaunti, kama ilivyoelezwa katika Ibara ya 109 hadi 113.

(3) Seneti huamua mgao wa mapato ya taifa kati ya kaunti, kama ilivyoelezwa katika Ibara ya 217 na husimamia mapato ya taifa yaliyotolewa kwa serikali za kaunti.

(4) Seneti hushiriki katika usimamizi wa maafisa wa Serikali kwa kuzingatia na kuamua maamuzi yoyote ya kumwondoa Rais au Naibu Rais mamlakani kulingana na Ibara ya 145.

Ibara ya 108 ya Katiba ambayo inapendekezwa kurekebisha—

108. Viongozi wa vyama

(1) Kutakuwa na kiongozi wa chama cha walio wengi na kiongozi wa chama cha walio wachache.

(2) Kiongozi wa chama cha walio wengi atakuwa mtu ambaye ni kiongozi katika Bunge la Taifa wa chama kikubwa zaidi au muungano mkubwa zaidi wa vyama.

(3) Kiongozi wa chama cha walio wachache atakuwa mtu ambaye ni kiongozi katika Bunge la Taifa wa chama cha pili kwa ukubwa au muungano wa pili kwa ukubwa wa vyama.

(4) Mpangilio ufuatao wa ukuu ndio utazingatiwa katika Bunge la Taifa—

- (a) Spika wa Bunge la Taifa;
- (b) kiongozi wa chama cha walio wengi; na
- (c) kiongozi wa chama cha walio wachache

Ibara ya 109 ya Katiba ambayo inapendekezwa kurekebishwa—

109. Matumizi ya mamlaka ya kutunga sheria

(1) Bunge litatumia mamlaka yake ya kutunga sheria kupitia Mswada inayopitishwa na Bunge na kupatiwa kibali na Rais.

(2) Mswada wowote unaweza kuanzishwa katika Bunge la Taifa.

(3) Mswada usiohusu serikali za kaunti huzingatiwa tu katika Bunge la Taifa na kupitishwa kulingana na Ibara ya 122 na Kanuni za Kudumu za Bunge la Taifa.

(4) Mswada unaohusu serikali za kaunti unaweza kuanzishwa katika Bunge la Taifa au Seneti na unapitishwa kulingana na Ibara ya 110 hadi 113, Ibara ya 122 na 123 na Kanuni za Kudumu za Mabunge hayo.

(5) Mswada unaweza kuwasilishwa na mbunge yeyote au kamati ya Bunge husika, lakini Mswada wa fedha unaweza kuwasilishwa tu kwenye Bunge la Taifa kulingana na Ibara ya 114.

Ibara ya 110 ya Katiba ambayo inapendekezwa kufutuliwa mbali—

110. Mswada kuhusu serikali ya kaunti

(1) Katika Katiba hii, “Mswada unaohusu serikali za kaunti” unamaanisha—

(a) Mswada wenye masharti yanayoathiri majukumu na mamlaka ya serikali za kaunti yaliyoainishwa katika Nyongeza ya Nne;

(b) Mswada unaohusiana na uchaguzi wa wajumbe wa bunge la kaunti au wa mamlaka kuu ya kaunti; na

(c) Mswada uliorejelewa katika Sura ya Kumi na Mbili unaoathiri fedha za serikali za kaunti.

(2) Mswada unaohusu serikali za kaunti ni—

(a) Mswada maalum, utakaozingatiwa chini ya Ibara ya 111, iwapo—

(i) unahusiana na uchaguzi wa wajumbe wa bunge la kaunti au wa kitengo tekelezi cha kaunti; au

(ii) ni Mswada wa kila mwaka wa Ugavi wa Mapato kwa Kaunti uliorejelewa katika Ibara ya 218; au

(b) Mswada wa kawaida, utakaozingatiwa chini ya Ibara ya 112, katika hali nyingine yoyote.

(3) Kabla ya Bunge lolote kuzingatia Mswada, Maspika wa Bunge la Taifa na Seneti wataamua kwa pamoja swali lolote iwapo ni

Mswada unaohusu kaunti, na, iwapo ni hivyo, kama ni Mswada maalum au wa kawaida.

(4) Iwapo Mswada wowote unaohusu serikali za kaunti unapitishwa na Bunge moja, Spika wa Bunge hilo atawasilisha Mswada huo kwa Spika wa Bunge hilo lingine.

(5) Ikiwa Mswada utapitishwa na Bunge la Taifa na Seneta kwa maafikiano, Spika wa Bunge ulipoanzishwa Mswada huo atawasilisha kwa Rais kwa muda usiozidi siku saba ili upate kibali.

Ibara ya 111 ya Katiba ambayo inapendekezwa kurekebisha—

111. Miswada maalum kuhusu serikali za kaunti

(1) Mswada maalum kuhusu serikali ya kaunti utashughulikiwa kwa namna ile ile kama Mswada wa kawaida kuhusu serikali za kaunti, kwa kuzingatia vifungu vya (2) na (3).

(2) Bunge la Taifa linaweza kurekebisha au kubatilisha Mswada maalum ambao umepitishwa na Seneti kwa uamuzi unaongwa mkono na angalau thuluthi mbili ya wabunge wa Bunge hilo pekee.

(3) Iwapo uamuzi katika Bunge la Taifa wa kurekebisha au kubatilisha Mswada maalum hautapitishwa, Spika wa Bunge la Taifa atawasilisha, ndani ya siku saba, Mswada huo jinsi ulivyopitishwa na Seneti, kwa Rais ili kupewa kibali.

Ibara ya 112 ya Katiba ambayo inapendekezwa kurekebisha—

112. Miswada ya kawaida kuhusu serikali za kaunti

(1) Iwapo Bunge moja litapitisha Mswada wa kawaida unaohusu kaunti, na Bunge la pili—

- (a) lipinge Mswada huo basi utawasilishwa kwa kamati ya usuluhishi iliyo kwa mujibu wa Ibara ya 113; au
- (b) lipitisha Mswada huo kwa kuurekebisha, basi utarejeshwa kwa Bunge lililouanzisha kwa ajili ya kushughulikiwa upya.

(2) Ikiwa, baada ya Bunge lililouanzisha Mswada huo kushughulikia upya baada ya kurudishwa kwa mujibu wa kifungu cha (1)(b), Bunge hilo—

- (a) litapitisha Mswada kama ulivyorekebisha, Spika wa Bunge hilo atawasilisha Mswada huo kwa Rais kwa muda usiozidi siku saba ili upate kibali; au
- (b) litapinga Mswada kama ulivyorekebisha, Mswada huo utawasilishwa kwa kamati ya usuluhishi kwa mujibu wa Ibara ya 113.

Ibara ya 113 ya Katiba ambayo inapendekezwa kurekebishwa—

113. Kamati za usuluhishi

(1) Iwapo Mswada utatumwa kwa kamati ya mapatanisho kwa mujibu wa Ibara ya 112, Maspika wa Mabunge yote mawili watateua kamati ya usuluhishi yenye idadi sawa ya wajumbe kutoka Bunge la Taifa na Seneti ili kujaribu kuandaa toleo la Mswada huo ambalo litapitishwa na Bunge la Taifa na Seneti.

(2) Iwapo kamati ya usuluhishi itakubaliana kuhusu toleo la Mswada, Bunge la Taifa na Seneti itapiga kura kuidhinisha au kukataa toleo hilo la Mswada.

(3) Iwapo Bunge la Taifa na Seneti itaidhinisha toleo la Mswada lililopendekezwa na kamati ya mapatanisho, Spika wa Bunge la Taifa atawasilisha Mswada huo kwa Rais kwa muda usiozidi siku saba ili upate kibali.

(4) Iwapo kamati ya mapatanisho itashindwa kukubaliana kuhusu toleo la Mswada kwa muda usiozidi siku thelathini, au iwapo toleo lililopendekezwa na kamati litakataliwa na Bunge la Taifa na Seneti, Mswada huo utakuwa umeanguka.

Ibara ya 114 ya Katiba ambayo inapendekezwa kufutuliwa mbali—

114. Miswaada ya Fedha

(1) Mswada wa fedha hauwezi kushughulika na jambo lolote isipokuwa yale yaliyoorodheshwa katika fasili ya “**Mswada wa fedha**” katika kifungu cha (3).

(2) Iwapo, kwa maoni ya Spika wa Bunge la Taifa, hoja inatoa masharti kwa jambo linalohusu “Mswada wa fedha”, Bunge la Taifa litaendelea tu kulingana na mapendekezo ya Kamati husika ya Bunge pekee baada ya kuzingatia maoni ya Waziri husika wa fedha.

(3) Katika Katiba hii, “**Mswada unaohusu masuala ya fedha**” unamaanisha Mswada, isipokuwa Mswada uliobainishwa katika Ibara ya 218, unaojumuisha masharti kuhusu—

- (a) ushuru;
- (b) uwekaji wa ada kwenye hazina ya umma au marekebisha au kufutuliwa mbali kwa ada hizo;
- (c) uidhinishaji, upokeaji, uhifadhi, uwekezaji au utoaji wa fedha za umma;
- (d) ukopaji au udhamini wa mkopo wowote au ulipaji wake; au
- (e) masuala yanayohusiana na yoyote kati ya masuala hayo.

(4) Katika kifungu cha (3), “ushuru”, “fedha za umma” na “mkopo” hazijumuishi ushuru, fedha za umma au mkopo wa kaunti.

Ibara ya 115 ya Katiba ambayo inapendekezwa kurekebishwa—

115. Kupatiwa kibali au kurejeshwa kwa Mswada kwa Rais

- (1) Kwa muda usiozidi siku kumi na nne baada ya kupokea Mswada, Rais—
 - (a) atatoa kibali kwa Mswada; au
 - (b) atarejesha Mswada huo kwa Bunge ili ushughulukiwe upya na Bunge, akieleza kutoridhika kwake kuhusu Mswada huo.
- (2) Iwapo Rais atarejesha Mswada kwa ajili ya kushughulikiwa upya, kwa kufuata taratibu zinazofaa chini ya Sehemu hii, Bunge linaweza—
 - (a) kurekebisha Mswada kwa kuzingatia kikamilifu maoni ya Rais; au
 - (b) kupitisha Mswada kwa mara ya pili bila marekebisho.
- (3) Iwapo Bunge litarekebisha Mswada na kushughulikiwa kikamilifu kwa maoni ya Rais, Spika husika atawasilisha Mswada huo tena kwa Rais ili upate kibali.
- (4) Baada ya kuzingatia maoni ya Rais, Bunge linaweza kupitisha Mswada kwa mara ya pili, bila marekebisho, au kwa kufanya marekebisho ambayo hayajashughulikiwa kikamilifu maoni Rais, kwa kupiga kura inayoungwa mkono—
 - (a) na thuluthi mbili ya wabunge wa Bunge la Taifa; na
 - (b) thuluthi mbili ya vikoa vya Seneti, iwapo ni Mswada unaohitaji idhini ya Seneti.
- (5) Iwapo Bunge limepitisha Mswada chini ya kifungu cha (4)—
 - (a) Spika husika atawasilisha tena kwa Rais kwa muda usiozidio siku saba; na
 - (b) Rais atatoa kibali kwa Mswada huo katika muda usiozidi siku saba.
- (6) Iwapo Rais hatatoa kibali Mswada au kurejesha kwa Bunge katika kipindi kilichoainishwa kwenye kifungu cha (1), au kutoa kibali kwa mujibu wa kifungu cha (5)(b), Mswada huo utachukuliwa kuwa umepata kibali baada ya kumalizika kwa kipindi hicho.

Ibara ya 116 ya Katiba ambayo inapendekezwa kurekebishwa—

116. Kuanza kutumika kwa sheria

- (i) Mswada uliopitishwa na Bunge na kupata kibali cha Rais utachapishwa katika Gazeti Rasmi la Serikali kama Sheria ya Bunge kwa muda usiozidi saba baada ya kupata kibali.

Q Kwa kuzingatia kifungu cha (3), Sheria ya Bunge huanza kutumika siku ya kumi na nne baada ya kuchapishwa kwake kwenye Gazeti Ramsi ya Serikali, isipokuwa ikiwa Sheria hiyo itaje tarehe au wakati tofauti itakapoanza kutumika.

Q Sheria ya Bunge inayowapa wabunge nyongeza wa fedha ya moja kwa moja haitaanza kutumika hadi baada ya uchaguzi mkuu utakaofuata wa wabunge.

Q Kifungu cha (3) hakitumiki kwa mafao ambayo wabunge wanapata kama wananchi wa kawaida.

Ibara ya 157 ya Katiba ambayo inapendekezwa kurekebishwa—

157. Mkurugenzi wa Mashtaka ya Umma

(1) Kutakuwa ofisi ya Mkurugenzi wa Mashtaka ya Umma.

(2) Mkurugenzi wa Mashtaka ya Umma atapendekezwa na Raisi nakuteuliwa rasmi na kwa idhini ya Bunge la Taifa.

(3) Masharti ya kuteuliwa kuwa Mkurugenzi wa Mashtaka ya Umma ni sawa na yale ya kuteuliwa kuwa jaji wa Mahakama Kuu.

(4) Mkurugenzi wa Mashtaka ya Umma atakuwa na mamlaka ya kumuagiza Inspekta Jenerali wa Huduma ya Polisi ya Taifa kuchunguza taarifa au madai yoyote ya mwenendo wa uhalifu na Inspekta Jenerali sharti atii maagizo hayo.

(5) Mkurugenzi wa Mashtaka ya Umma atahudumu kwa kipindi cha miaka minane na hawezi kuteuliwa tena.

(6) Mkurugenzi wa Mashtaka ya Umma atatumia mamlaka ya Serikali ya kushtaki na anaweza—

Q kuanzisha na kuendesha mashtaka ya jinai dhidi ya mtu yeyote mbele ya mahakama yoyote (isipokuwa mahakama ya kijeshi) kuhusiana na kosa lolote analodaiwa kufanya;

Q kuchukua na kuendeleza mashtaka ya jinai yaliyoanzishwa katika mahakama yoyote (isipokuwa mahakama ya kijeshi) ambayo yameanzishwa au kuendesha na mtu au mamlaka nyingine, kwa idhini ya mtu au mamlaka hiyo; na

Q kwa kuzingatia vifungu vya (7) na (8), kusitisha hatua yoyote kabla ya hukumu kutolewa ya mashtaka yoyote ya jinai iliyoanzishwa na Mkurugenzi wa Mashtaka ya Umma au kuendelezwa na Mkurugenzi wa Mashtaka ya Umma chini ya kifungu cha (b).

(7) Iwapo mashtaka yatasitishwa chini ya kifungu cha (6)(c) baada ya upande wa mashtaka kufunga kesi yake, mshtakiwa ataachiliwa huru.

(8) Mkurugenzi wa Mashtaka ya Umma hatastitisha mashtaka bila idhini ya mahakama.

(9) Mamlaka ya Mkurugenzi wa Mashtaka ya Umma yanaweza kutekelezwa kibinafsi au kupitia maafisa wa ngazi za chini kulingana na maagizo ya jumla au maagizo maalum.

(10) Mkurugenzi wa Mashtaka ya Umma hatahitaji idhini ya mtu au mamlaka yoyote kuanzisha mashtaka ya jinai na katika utekelezaji wa mamlaka au majukumu yake, hatakuwa chini ya mwelekeo au udhibiti wa mtu au mamlaka yoyote.

(11) Katika kutekeleza mamlaka yaliyotolewa na Ibara hii, Mkurugenzi wa Mashtaka ya Umma atazingatia maslahi ya umma, maslahi ya uendeshaji wa haki na haja ya kuzuia na kuepuka matumizi mabaya ya mchakato wa kisheria.

(12) Bunge linaweza kuunda sheria za kuipatia taasisi zingine mamlaka ya kushtaki mbali na Mkurugenzi wa Mashtaka ya Umma.

Ibara ya 173 ya Katiba ambayo inapendekezwa kurekebishwa—

173. Hazina ya Mahakama

⓪ Kutakuwa hazina itakayojulikana kama Hazina ya Mahakama ambayo itasimamiwa na Msajili Mkuu wa Mahakama.

⓪ Hazina hii itatumika kugharimia usimamizi wa Mahakama na malengo mengine kama yanavyohitajika kwa utekelezaji wa majukumu ya Mahakama.

⓪ Kila mwaka wa kifedha, Msajili Mkuu ataandaa makadirio ya matumizi kwa mwaka unaofuata na kuyawasilisha kwa Bunge la Taifa ili yaidhinishwe.

⓪ Baada ya makadirio hayo kuidhinishwa na Bunge la Taifa, matumizi ya Mahakama yatatozwa kwa Hazina Kuu na fedha zitatumwa moja kwa moja kwenye Hazina ya Mahakama.

Ibara ya 215 ya Katiba ambayo inapendekezwa kurekebishwa—

215. Tume ya Ugavi wa Mapato

(1) Kutakuwa na tume itakayojulikana kama Tume ya Ugavi wa Mapato.

(2) Tume hii itakuwa na watu wafuatao walioteuliwa na Rais—

- (a) mwenyekiti, ambaye atateuliwa na Rais na kuidhinishwa na Bunge la Taifa;
 - (b) watu wawili walioteuliwa na vyama vya kisiasa vilivyowakilishwa katika Bunge la Taifa kulingana na idadi ya wabunge wao;
 - (c) watu watano walioteuliwa na vyama vya kisiasa vilivyowakilishwa katika Seneti kulingana na idadi ya maseneta wao; na
 - (d) Katibu Mkuu wa Wizara inayohusika na fedha.
- (3) Watu walioteuliwa kwa mujibu wa kifungu cha (2) wasio wabunge.
- (4) Ili kutimiza masharti ya kuteuliwa kuwa mwanachama wa Tume kwa mujibu kifungu cha (2)(a), (b) au (c), sharti mtu awe na uzoefu mkubwa wa kitaaluma katika masuala ya kifedha na kiuchumi.

Ibara ya 221 ya Katiba ambayo inapendekezwa kurekebishwa—

221. Makadirio ya bajeti na Mswada wa Kuidhinisha Matumizi ya Fedha wa Kila Mwaka

Ø Angalau miezi miwili kabla ya mwisho wa mwaka wa kifedha, Waziri anayehusika na masuala ya fedha atawasilisha kwa Bunge la Taifa makadirio ya mapato na matumizi ya serikali kuu kwa mwaka ufuatao wa kifedha ili yawasilishwe katika Bunge la Taifa.

Ø Makadirio yanayorejelewa katika kifungu cha (1)—

- (a) yatajumuisha makadirio ya matumizi kutoka Hazina ya Usawazishaji; na
- (b) yatakuwa katika muundo, na kulingana na utaratibu, uliowekwa na Sheria ya Bunge.

Ø Bunge la Taifa litazingatia makadirio yaliyowasilishwa kwa mujibu wa kifungu cha (1) pamoja na makadirio yaliyowasilishwa na Tume ya Huduma za Bunge na Msajili Mkuu wa Mahakama kwa mujibu wa Ibara ya 127 na 173 mtawalia.

Ø Kabla ya Bunge la Taifa kuzingatia makadirio ya mapato na matumizi, kamati ya Bunge hilo litajadili na kukagua makadirio hayo na kutoa mapendekezo kwa Bunge la Taifa.

Ø Katika kujadili na kukagua makadirio hayo, kamati itatafuta maoni kutoka kwa umma na mapendekezo hayo yatazingatiwa wakati kamati inawasilisha mapendekezo yake kwa Bunge la Taifa.

¶ Makadirio ya matumizi ya serikali kuu na makadirio ya matumizi ya Mahakama na Bunge yanapoidhinishwa na Bunge la Taifa, yatajumlishwa katika Mswada wa Kuidhinisha Matumizi ya Fedha, ambao utawasilishwa katika Bunge la Taifa ili kuidhinisha fedha kutolewa kutoka kwa Hazina Kuu na kugawa fedha hizo kulingana na majukumu yaliyoorodheshwa katika Mswada.

¶ Mswada wa Kuidhinisha Matumizi ya Fedha uliobainishwa katika kifungu cha (6) hautajumuisha matumizi yanayotozwa kutoka kwa Hazina Kuu kulingana na Katiba hii au Sheria ya Bunge.

Ibara ya 222 ya Katiba ambayo inapendekezwa kurekebishwa—

222. Matumizi kabla ya bajeti ya mwaka kupitishwa

(1) Iwapo Sheria ya Kuidhinisha Matumizi ya Fedha ya mwaka wa kifedha haijapata kibali, au huenda isipate kibali kufikia mwanzo wa mwaka huo wa kifedha, Bunge la Taifa linaweza kuidhinisha fedha kutolewa kutoka kwa Hazina Kuu.

(2) Fedha zilizotolewa kwa mujibu wa kifungu cha (1)—

- (a) zitatumika kwa malengo ya kugharimia matumizi yanayohitajika ili kuendeleza huduma za serikali kuu katika mwaka huo hadi wakati Sheria ya Kuidhinisha Matumizi ya Fedha itakapopata kibali;
- (b) zisizidi jumla ya nusu ya kiasi kilichojumuishwa katika makadirio ya matumizi ya mwaka huo yaliyowasilishwa kwenye Bunge la Taifa; na
- (c) zijumlishwe, chini ya migao tofauti kwa huduma mbalimbali ambazo fedha hizo zilitolewa, katika Sheria ya Kuidhinisha Matumizi ya Fedha.

Ibara ya 223 ya Katiba ambayo inapendekezwa kurekebishwa—

223. Kuidhinisha matumizi ya ziada ya fedha

(1) Kwa kuzingatia masharti ya vifungu vya (2) hadi (4), serikali kuu inaweza kutumia fedha ambazo hazijaidhinishwa iwapo—

- (a) kiasi kilichoidhinishwa kwa malengo fulani kwa mujibu wa Sheria ya Kuidhinisha Matumizi ya Fedha hakitoshi au mahitaji ya matumizi yamejitokeza kwa lengo ambalo halina kiasi kilichoidhinishwa na sheria hiyo; au
- (b) fedha zimetolewa kutoka Hazina ya Dharura.

(2) Idhini ya Bunge kwa matumizi yoyote chini ya Ibara hii itafutwe katika muda usizidi miezi miwili baada ya fedha kutolewa kwa mara ya kwanza, kwa kuzingatia masharti ya kifungu cha (3).

(3) Iwapo Bunge halina kikao katika kipindi kilichobainishwa kwa mujibu wa kifungu cha (2), au limekuwa na kikao lakini kikaahirishwa kabla ya idhini kuombwa, basi idhini itaombwa katika muda usiozidi ya wiki mbili baada ya vikao kurejea.

(4) Bunge la Taifa litakapoidhinisha matumizi chini ya kifungu cha (2), Mswada wa kuidhinisha matumizi ya fedha utawasilishwa kwa ajili ya kuidhinishwa kwa fedha zilizotumika.

(5) Katika mwaka wowote wa kifedha, serikali kuu haitatumia kwa mujibu wa ibara hii zaidi ya asilimia kumi ya jumla ya fedha zilizoidhinishwa na Bunge kwa mwaka huo wa kifedha, isipokuwa, kwa hali maalum, Bunge liidhinishhe asilimia ya juu zaidi.

Ibara ya 224 ya Katiba ambayo inapendekezwa kurekebishwa—

224. Mswada ya Kuidhinisha Matumizi ya Fedha za Kaunti

Kwa kuzingatia Mswada wa Kugawa Mapato uliopitishwa na Bunge chini ya Ibara ya 218, kila serikali ya kaunti itaandaa na kupitisha bajeti yake ya mwaka na Mswada wa kuidhinisha matumizi ya fedha kwa muundo, na kulingana na utaratibu, uliowekwa na sheria ya Bunge.

Ibara ya 228 ya Katiba ambayo inapendekezwa kurekebishwa—

228. Mdhibiti wa Bajeti

(1) Kutakuwa na Mdhibiti wa Bajeti ambaye atapendekezwa na Rais na, kwa idhini ya Bunge la Taifa, kuteuliwa rasmi na Rais.

(2) Ili mtu atimize masharti ya kuwa Mdhibiti wa Bajeti, sharti awe na ujuzi mpana wa fedha za umma au angalau uzoefu wa miaka kumi katika ukaguzi wa usimamizi wa fedha za umma.

(3) Mdhibiti wa Bajeti, kulingana na Ibara ya 251, atahudumu kwa kipindi cha miaka minane na hawezi kuteuliwa tena.

(4) Mdhibiti wa Bajeti atasimamia utekelezaji wa bajeti za serikali kuu na serikali za kaunti kwa kuidhinisha utoaji wa fedha za umma kwa mujibu wa Ibara za 204, 206 na 207.

(5) Mdhibiti wa Bajeti hataidhinisha utoaji wowote wa fedha za umma isipokuwa ikiwa ameridhika kuwa utoaji huo umeidhinishwa na sheria.

(6) Kila baada ya miezi minne, Mdhibiti wa Bajeti atawasilisha kwa ripoti kuhusu utekelezaji wa bajeti za serikali kuu na za kaunti Bunge la Taifa na Seneti.

Ibara ya 229 ya Katiba ambayo inapendekezwa kurekebishwa—

229. Mkaguzi Mkuu

(1) Kutakuwa na Mkaguzi Mkuu ambaye atapendekezwa na Rais na, kwa idhini ya Bunge la Taifa, kuteuliwa rasmi na Rais.

(2) Ili mtu atimize masharti ya kuwa Mkaguzi Mkuu, sharti awe na ujuzi mpana wa fedha za umma au angalau uzoefu wa miaka kumi katika ukaguzi au usimamizi wa fedha za umma.

(3) Mkaguzi Mkuu atahudumu, kulingana na Ibara ya 251, kwa kipindi cha miaka minane na hawezi kuteuliwa tena.

(4) Ndani ya miezi sita baada ya kukamilika kwa kila mwaka wa kifedha, Mkaguzi Mkuu atakagua na kuwasilisha ripoti, kuhusiana na mwaka huo wa kifedha, kuhusu—

- (a) hesabu za serikali kuu na za kaunti;
- (b) hesabu za hazina zote na mamlaka za serikali kuu na za kaunti;
- (c) hesabu za mahakama zote;
- (d) hesabu za tume na ofisi zote huru zilizoanzishwa na Katiba hii;
- (e) hesabu za Bunge la Taifa, Seneti na mabunge ya kaunti;
- (f) hesabu za vyama vya kisiasa vinavyofadhiliwa kwa kutumia fedha za umma;
- (g) deni la umma; na
- (h) hesabu za taasisi nyingine yoyote ambayo sheria inahitaji ikaguliwe na Mkaguzi Mkuu.

(5) Mkaguzi Mkuu anaweza kukagua na kuwasilisha ripoti kuhusu hesabu za taasisi yoyote inayofadhiliwa na fedha za umma.

(6) Ripoti ya ukaguzi itathibitisha iwapo fedha za umma zimetumika kihalali na kwa njia yenye ufanisi.

(7) Ripoti za ukaguzi zitawasilishwa Bunge au katika bunge la kaunti husika.

(8) Katika muda usiozidi miezi mitatu baada ya kupokea ripoti ya ukaguzi, Bunge au bunge la kaunti litajadili na kuzingatia ripoti hiyo na kuchukua hatua mwafaka.

Ibara ya 233 ya Katiba ambayo inapendekezwa kurekebishwa—

233. Tume ya Utumishi wa Umma

(1) Kutakuwa na Tume ya Utumishi wa Umma.

(2) Tume ya Utumishi wa Umma itakuwa na mwenyekiti, makamumwenyekiti na wajumbe wengine saba watakaoteuliwa na Rais kwa idhini ya Bunge la Taifa.

(3) Kulingana na kifungu cha (4), mtu hawezi kuteuliwa kuwa mjumbe wa Tume ikiwa—

❧ amewahi, kwa wakati wowote ndani ya miaka mitano iliyopita, kushikilia wadhifa, au kugombea nafasi kama—

(i) mbunge au wa mjumbe was bunge la kaunti; au

(ii) mjumbe wa baraza la uongozi la chama cha kisiasa; au

❧ anashikilia wadhifa wowote katika serikali;

❧ ni, au amewahi kuwa kwa wakati wowote, mgombea katika uchaguzi kama munge au mjumbe wa bunge la kaunti; au

❧ anashikilia, au amewahi kwa wakati wowote, kushikilia wadhifa katika shirika lolote la kisiasa linalofadhili au kusaidia, au limewahi kufadhili au kusaidia, mgombea wa uchaguzi kama Bunge au mjumbe wa bunge la kaunti.

(4) Kifungu cha (3)(c) na (d) kitaacha kutumika kwa mtu baada ya chaguzi kuu mbili za Bunge kufanyika tangu mtu huyo aache kuwa mgombea au mwenye wadhifa huo.

(5) Kutakuwa na katibu wa Tume hiyo.

(6) Katibu—

(a) ndiye mtendaji mkuu wa Tume; na

(b) atateuliwa na Tume kwa kipindi cha miaka mitano na anaweza kuteuliwa tena mara moja.

Ibara ya 250 ya Katiba ambayo inapendekezwa kurekebishwa—

250. Uanachama, uteuzi na masharti ya kuhudumu

(1) Kila tume itakuwa na angalau wanachama watatu, lakini hawatazidi wanachama tisa.

(2) Mwenyekiti na kila mjumbe wa tume, na anayeshikilia wadhifa wa ofisi huru—

- (a) atatambuliwa na kupendekezwa kuteuliwa kwa njia iliyoainishwa na sheria ya kitaifa;
- (b) ataidhinishwa na Bunge la Taifa; na
- (c) atateuliwa na Rais.

(3) Ili kuteuliwa, sharti mtu awe ametimiza masharti mahususi yanayohitajika na Katiba hii au sheria ya kitaifa.

(4) Uteuzi wa wajumbe wa tume na ofisi huru utazingatia maadili ya kitaifa yaliyoorodheshwa katika Ibara ya 10 na kanuni kwamba muundo wa tume na ofisi, kwa jumla, sharti uonyeshe maeneo na makabila mbalimbali ya watu wa Kenya.

(5) Kamishna anaweza kuhudumu akifanya kazi ya muda.

(6) Kamishna au anayeshikilia wadhifa wa ofisi huru,—

- (a) isipokuwa akiwa ni kutokana na wadhifa wake, atateuliwa kwa kipindi kimoja cha miaka sita na hawezi kuteuliwa tena; na
- (b) isipokuwa akiwa ni kutokana kutokana na wadhifa wake, au kamishna wa muda, hatashikilia ofisi nyingine yoyote au ajira yenye faida, iwe ya umma au kibinafsi.

(7) Malipo na mafao yanayolipwa Kamishna au kwa ajili yake au mtu anayeshikilia wadhifa wa ofisi huru yatatozwa kwa Hazina Kuu.

(8) Malipo na mafao yanayolipwa kamishna, au kwa ajili yake, au mtu anayeshikilia wadhifa wa ofisi huru hayatabadilishwa kwa njia isiyomfaa kamishna huyo au mtu anayeshikilia wadhifa wa ofisi huru.

(9) Mjumbe wa tume, au mtu anayeshikilia wadhifa wa ofisi huru, hatachukuliwa hatua ya kisheria na wajibu wa kisheria kuhusu jambo lolote alilofanya kwa nia njema katika utekelezaji wa jukumu la ofisi.

(10) Makamishna wataamchagua makamu mwenyekiti miongoni mwao—

- (a) katika kikao cha kwanza cha tume; na
- (b) kila inapohitajika kujaza nafasi katika wadhifa wa makamu mwenyekiti.

(11) Mwenyekiti na makamu mwenyekiti wa tume hawapaswi kuwa wa jinsia moja.

(12) Kutakuwa na Katibu kwa kila tume ambaye—

- (a) atateuliwa na makamishna; na
- (b) afisa mtendaji mkuu wa tume.

Ibara ya 251 ya Katiba ambayo inapendekezwa kurekebishwa—

251. Kuondolewa mamlakani

(1) Kamishna (isipokuwa akiwa ni kutokana na wadhifa wake), au anayeshikilia wadhifa wa ofisi huru, anaweza kuondolewa mamlakani tu kwa sababu za—

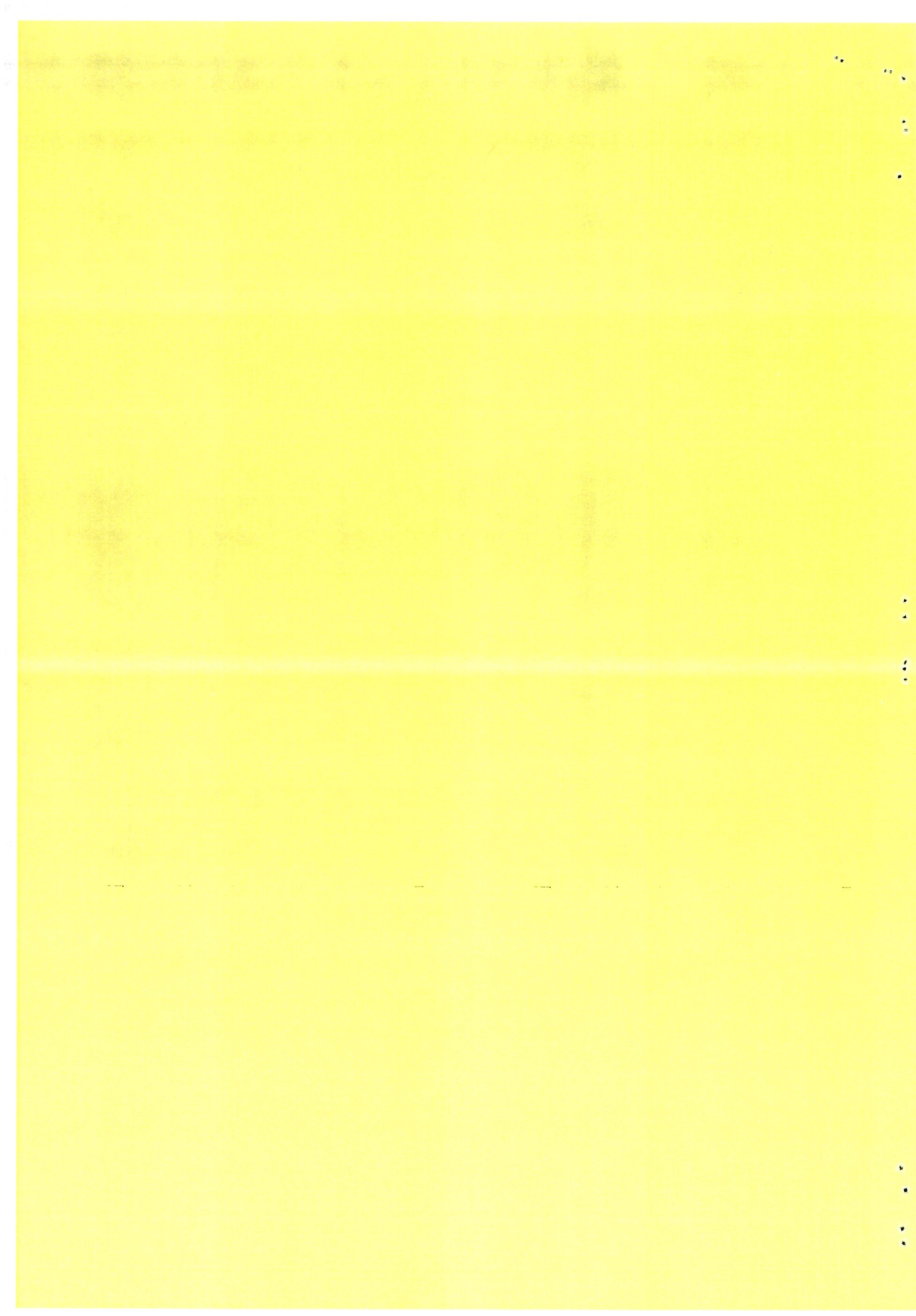
- (a) ukiukaji mkubwa wa Katiba hii au sheria nyingine yoyote, ikiwemo kukiuka Sura ya Sita;
- (b) utovu mkubwa wa nidhamu, katika utendaji wa majukumu ya kamishna au anayeshikilia wadhifa au vinginevyo;
- (c) udhaifu wa kimwili au kiakili wa kutekeleza majukumu ya kazi;
- (d) kutokuwa na uwezo; au
- (e) kufilisika.

(2) Mtu ambaye angependa mjumbe wa tume au mtu anayeshikilia wadhifa wa ofisi huru aondolewe kazini kwa misingi iliyoorodheshwa katika kifungu cha (1) anaweza kuwasilisha ardhilhali kwa Bunge la Taifa akionyesha ukweli unaodaiwa kuunda msingi huo.

(3) Bunge la Taifa litashughulikia ardhilhali hiyo na likiridhika kwamba lina misingi kwa mujibu wa kifungu cha (1), litatuma ardhilhali hiyo kwa Rais.

Annex 6:

- (a) Bills Digest***
- (b) Simplified Explanation
of the Bill***
- (c) Frequently Asked
Questions***
- (d) Receipt of Submissions
Template***
- (e) Maelezo
Yaliyorahisishwa***
- (f) Maswali Yanayoulizwa
Mara kwa Mara***
- (g) Fomu ya Maoni ya
Umma***



PARLIAMENT OF KENYA**THE SENATE****BILLS DIGEST****THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2025**

Sponsor: Senate Majority Leader & Senate Minority Leader

Type of Bill: Ordinary Bill

A. Background

The Constitution of Kenya (Amendment) Bill, 2025, seeks to enhance the devolved system of government by amending key constitutional provisions. The amendments are aimed at clarifying the roles of the National Assembly and the Senate and strengthening legislative processes. The Bill also expands the Senate's role in budget-making and provides for special procedures for passage of financial legislation. Through these reforms, the Bill aims to entrench a more balanced, accountable, and functional system of devolution in Kenya's constitutional framework.

B. Purpose of the Bill

The principal object of the Bill is to strengthen bicameralism and secure devolution. The Bill seeks to provide a framework to achieve this purpose by —

- (a) reviewing the mandate of the Senate and the National Assembly in order to clarify the shared role of the Houses of Parliament and the special role assigned to each House of Parliament;
- (b) refining the legislative process set out in the Constitution in order to ensure that both Houses of Parliament play an effective role in legislation, representation and oversight; and
- (c) ensuring that the Senate and the National Assembly play an effective role in the budget making process in order to safeguard the implementation of the system of devolved government.

C. Justification of the clauses in the Bill

(5)2

1. Proposed amendment to Article 94 of the Constitution

The Bill proposes to amend Article 94 to—

- (a) insert a new clause (1A) which affirms that Parliament has a tripartite role of legislation, representation, and oversight. This articulation of Parliament's oversight and representational mandate strengthens constitutional accountability;
- (b) insert a new clause (1B) to provide clarity that legislative authority at the national level belongs to both the National Assembly and the Senate. The existing Article 94(1) refers generally to Parliament but does not explicitly delineate the dual role of both Houses in exercising legislative power. The proposed amendment helps cement bicameralism in law-making and enhances legal certainty, especially in the context of legislative role of the two Houses;
- (c) insert a new clause (1C) to clarify that when making laws, Parliament is bound by the division of functions between the national and county governments under the Fourth Schedule and the national values and principles of governance in Article 10 of the Constitution. The amendment seeks to ensure constitutional fidelity in legislation by protecting the devolution framework from encroachment by national laws and helps prevent legal conflicts and duplication of roles between the two levels of government. The proposed amendment also emphasizes value-based law-making, pushing Parliament to factor in equity, inclusiveness, participation, human rights, transparency, and accountability when performing its functions; and
- (d) insert a new clause (2A) to provide that Parliament oversees how national revenue allocated to the national government is spent. The proposed new clause also provides for the parliamentary role of overseeing the activities and decisions of State organs and other public entities. The amendment seeks to bolster fiscal accountability by conferring on Parliament an express role in scrutinizing national revenue expenditure. While Parliament already performs these functions in practice, codifying them enhances transparency, clarifies institutional roles, and ensures budgetary discipline. The reference to state organs and public entities ensures wider oversight coverage beyond just the executive addressing issues in state corporations, Semi-Autonomous Government Agencies and regulatory bodies.

2. Proposed amendment to Article 95 of the Constitution

The Bill proposes to amend Article 95 by deleting clause (4). This clause currently outlines the financial oversight and appropriation functions of the National Assembly, including determining revenue sharing, appropriating funds, and overseeing national revenue. This clause has presented a challenge in the past and present where it has been interpreted to limit the role of the Senate in the allocation of national revenue between the levels of government and appropriation of funds for expenditure.

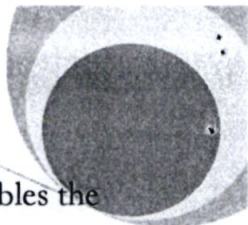
The proposed deletion of clause (4) is intended to —

- (a) eliminate redundancy. These functions are already proposed to be restructured and clarified under the amended Article 94, particularly in new clause (2A). Moving such fiscal oversight to Article 94 where Parliament's overarching roles are defined creates a coherent and centralized framework for legislative functions;
- (b) strengthen bicameralism. Article 95 focuses specifically on the National Assembly, but oversight of revenue and state organs is a bicameral function. By deleting clause (4), the amendment aims to reassert the Senate's equal constitutional footing, especially where intergovernmental finance is concerned; and
- (c) align with devolution. Financial matters such as the division of revenue between levels of government inherently involve the interests of counties, where the Senate has a constitutional role under Article 96. The amendment therefore ensures that the Senate participates in financial matters that ultimately affect the functioning of county governments.

3. Proposed amendment to Article 96 of the Constitution

This Bill proposes to amend clause (1) in Article 96 to expand the Senate's representation role to include special interest groups in addition to county governments. This proposed amendment recognizes the Senate as a protector of marginalized persons, including women, persons with disabilities, youth and minority groups, ensures inclusivity and equity in line with the national values in Article 10 and provides a constitutional anchor for the nomination of special interest Senators as provided in Article 98(1)(d).

The Bill also proposes to insert new clauses (1A) and (1B) to provide for the Senate's role in law making, and deliberation and resolution of issues of public interest. While the Senate already performs those roles in practice, codifying them in the Constitution clarifies and



formalizes the Senate's core legislative, representation and oversight function and enables the Senate to initiate or shape laws, especially where counties and national interest intersect.

The Bill proposes to delete clause (2) which limited the Senate's role to Bills concerning counties only. By this deletion, the Bill frees the Senate to contribute meaningfully on all legislative matters.

The Bill proposes to amend clause (3) to expand and clarify the Senate's oversight role over national revenue allocated to counties to also include revenue raised locally by counties. This enables full-spectrum financial oversight, not just of allocations from the national pot but also own-source revenue at the county level. It is noted that this matter was subject to the decision of the Supreme Court in *Senate v Council of County Governors & 6 others (Petition 24 & 27 of 2019 (Consolidated)) [2022] KESC 57 (KLR)* where the Court held that the Senate has oversight over all revenue raised by county governments, in addition to having oversight over nationally allocated revenue. In this matter, the Respondents had argued that the oversight role of the Senate does not extend to revenue raised locally by county governments. The proposed amendment will support better accountability and addresses misuse of local funds that may escape scrutiny under the current law.

The Bill proposes to delete and substitute clause (4) to give the Senate power to consider resolutions to remove the President and Deputy President as per Article 145 and other state officers at the national level (except those to whom Article 251 applies). This amendment gives the Senate a more robust oversight mandate, ensuring top State officers can be held accountable through a bicameral removal process.

The Bill also proposes to enact a new clause (5) to require Parliament to enact a law detailing the procedure for removal of state officers. Grounding the process in a statutory framework will ensure due process, legal clarity, and fairness in removal proceedings and prevents *ad hoc* or politically motivated removals from office.

4. Proposed amendment to Article 108 of the Constitution

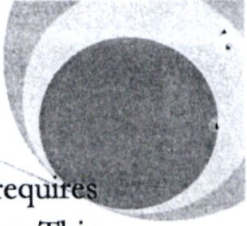
The Bill proposes to amend Article 108 to establish various offices in the leadership of the Senate. Even though currently the Senate has party leaders, Article 108 only recognises party leaders in the National Assembly. Anchoring party leadership in the Senate in the Constitution affirms parity between both Houses, ensuring formal recognition and functional equality and prevents constitutional interpretations that may exclude or diminish the Senate's leadership roles in terms of privileges, responsibilities, or public visibility.

5. Proposed amendment to Article 109 of the Constitution

Currently, Article 109 limits who can introduce a Bill, where certain Bills originate, the process of passing and transmitting Bills between Houses and the Senate's involvement in consideration of Bills. The Bill proposes to delete clauses (2) to (5) and replace with new clauses that —

- (a) grant both Houses equal power to initiate legislation, either through individual members or committees. This would enable the Senate to play a more proactive legislative role and enable it participate in the consideration of all legislation originating from the National Assembly. By eliminating barriers to introduction of Bills, the Bill supports diversity and improves legislative mandate of both Houses;
- (b) allow for origination of any Bill in any House with exception of a Bill for raising national revenue which may originate in the National Assembly. This is a departure from the current provision whose wording limits money Bills (which have been defined very broadly) from being originated in the Senate. In the past, this broad definition has been applied to stifle Bills that are not money Bills from introduction in the Senate;
- (c) formalise the two step passage process of all Bills. In this proposal, both Houses must pass every Bill. This is an important proposal that solidifies bicameral consent promoting collaboration, enhancing checks and balances within the legislature and enhances the national legitimacy of laws passed by Parliament;
- (d) provide for the process of submission of a Bill for assent. Under the proposal, a Bill will only be referred for assent after it has been passed by both Houses. Further, a Bill shall be referred for assent by the Speaker of the originating House. The Bill referred for assent shall be accompanied by a certificate signed by both Speakers certifying that the Bill has been passed in accordance with the Constitution. These amendments will enhance transparency and prevent unilateral passage of Bills, as has been the case even on Bills where the Senate should have been involved. The requirement for certification also adds a layer of formal verification, ensuring both Houses are in recorded agreement before presidential assent.

6. Proposed repeal of Article 110 of the Constitution



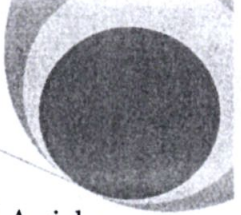
Article 110 currently defines what constitutes a Bill concerning county governments, requires joint concurrence of both Speakers in determining whether a Bill concerns counties. This decision has been left to the Speakers of both Houses to determine in a concurrence process. In the past, the National Assembly and the Senate have repeatedly arrived at different conclusions regarding whether certain bills concerned counties. The National Assembly has in the past argued that most bills do not concern counties while the Senate has maintained the position that most bills indirectly or directly affected counties, and as such, ought to be considered by the Senate.

There have also been numerous instances where the concurrence of the Speakers is not sought, notwithstanding the clear provisions of Article 110(3) of the Constitution. The effect of this has been to deny the Senate the power to debate and consider Bills that are either directly or indirectly concerning to counties. The Courts have also issued conflicting judgments on the concurrence process and definitions on what Bills concerning counties are. Attention is hereby drawn to the following judgments—

- (a) *Speaker of the Senate & another v Attorney-General & another; Law Society of Kenya & 2 others (Amicus Curiae) (Advisory Opinion Reference 2 of 2013) [2013]* where the Supreme Court held that the Speakers of both Houses must jointly resolve whether a Bill concerns counties before a Bill is introduced in either House;
- (b) *Senate & Others v The National Assembly & Another Supreme Court Petition No. 19 (E027) Of 2021* where the Supreme Court departed from its long established position and held that the mandatory process under Article 110(3) does not need to be applied to all Bills. The court stated that a determination by the two Speakers is only required if there is uncertainty or disagreement about the nature of the Bill. If there is no dispute or question, the need for joint resolution does not arise.

The Bill proposes to eliminate this confusion by repealing Article 110. The proposed repeal will—

- (a) eliminate structural bias against the Senate: Article 110(3) has been used to restrict the Senate from participating in numerous legislative processes by contesting the definition of a “*Bill concerning counties*.” This wording has undermined bicameralism leading to frequent legal and institutional battles, including conflicting Supreme Court interpretations on what qualifies as a “*Bill concerning counties*” and whether the concurrence process is a condition precedent before introduction of Bills in any House or an optional process;

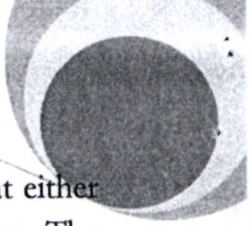
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- (b) harmonise with the proposed amendments to Article 109: The newly amended Article 109 makes both Houses equal participants in law-making and with this new framework, Article 110 becomes redundant; and
 - (c) simplify the legislative process: By requiring passage of all Bills by both Houses, there's no need for classification of Bills into Bills concerning counties and Bills not concerning counties.

7. Proposed amendment to Article 111 of the Constitution

The current Article provides for the procedure of consideration of special Bills concerning county governments. The proposed amendment repeals the current Article 111 and introduces a new structure that —

- (a) enables either House of Parliament to originate certain fiscal legislation. In this case, the Senate may originate Allocation Bills (defined to be either a County Allocation of Revenue Bill or a County Governments Additional Allocations Bill) while the National Assembly may originate Appropriation Bills (defined to be either an Appropriation Bill or a Supplementary Appropriation Bill);
- (b) enabling the receiving House to propose and pass amendments to fiscal Bills.
- (c) introducing a veto mechanism if one House disagrees with the amendments made by the other House. If a House disagrees with amendments from the other, it may veto them by a supermajority (two-thirds vote). In the Senate, by a two-thirds of all county delegations while in the National Assembly, by a two-thirds of all members; and
- (d) clarifying when such a Bill proceeds to Presidential assent. A Bill is sent to the President if the originating House accepts the amendments or the originating House vetoes the amendments.

The proposed amendment explicitly confers legislative authority over financial legislation to both Houses, correcting the current position where financial legislation is only considered in the National Assembly under the provisions of Articles 109 and 114. It also recognizes that allocation Bills (which affect counties) are best handled by the Senate, while appropriation Bills remain under the National Assembly's purview.



The proposed amendments also strengthen bicameral collaboration by providing that either House of Parliament can amend financial legislation originating from the other House. The use of the supermajority for veto ensures that a House can only override amendments with strong consensus, limiting arbitrary rejection.

8. Proposed amendment to Article 112 of the Constitution

The Bill proposes to amend Article 112 as a consequential amendment to align it with the proposed legislative procedure under Articles 109 and 111.

9. Proposed amendment to Article 113 of the Constitution

The Bill seeks to amend Article 113 to align it with the procedure proposed under the new Article 109 in the Bill. Of note is that this amendment ensures that allocation and appropriation Bills, which are governed by a distinct dispute-resolution mechanism under Article 111, are excluded from the mediation process under Article 113. The exclusion of financial legislation from the mediation process recognises their sensitive time bound nature, especially in terms of intergovernmental revenue, budgeting and appropriation.

10. Proposed repeal of Article 114 of the Constitution

Article 114 of the Constitution sets out the definition of “a money Bill” to mean a Bill other than the Division and Allocation of Revenue Bills which contains provisions dealing with—

- (a) taxes;
- (b) the imposition of charges on a public fund or the variation or repeal of any of those charge;
- (c) the appropriation, receipt, custody, investment or issue of public money;
- (d) the raising or guaranteeing of any loan or its repayment; or
- (e) matters incidental to any of those matters.

Article 114(1) further provides that a money Bill may not deal with matters other than the ones specified above. The interpretation given to this provision has often been restrictive to include clauses to Bills whose overall objective does not include the items specified under Article 114(3) of the Constitution and are not incidental to the list. The determination of whether a Bill falls under the definition of a money Bill has been left to the unilateral exclusive determination of the Speaker of the National Assembly.

In practice, a significant number of Senate Bills have been deemed to be money Bills. The effect of this has been to restrict the legislative mandate of the Senate whereby, Bills that do not deal exclusively with the list in Article 114(3), are determined to be money bills.

The Bill therefore proposes to repeal Article 114. The proposed repeal aligns with the proposed amendments in Articles 109 - 111 allowing either House to initiate most types of Bills, including appropriation and allocation Bills under the new Article 111. Keeping Article 114 would directly conflict with this proposed new legislative structure.

11. Proposed amendment to Article 115 of the Constitution

The Bill proposes to amend Article 115 to anchor the presidential assent process within the proposed new Article 109, ensuring consistency with the bicameral legislative framework.

12. Proposed amendment to Article 116 of the Constitution

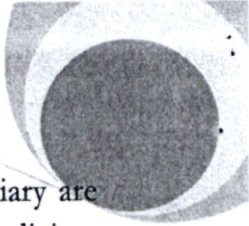
Currently, Article 116 of the Constitution provides the coming into force of laws after assent. The current provision does not provide for instances in which laws will come into force automatically (i.e. on lapse of the time for assent). The Bill therefore proposes to amend this to account for situations where the President neither assents nor refuses to assent within the constitutionally provided timeframe under Article 115. This guarantees automatic progress of legislation without indefinite delays.

13. Proposed amendment to Article 157 of the Constitution

The Bill proposes to amend Article 157(2) to replace the phrase “the National Assembly” with “Parliament,” meaning that the appointment of the Director of Public Prosecutions (DPP) will now require the approval of both the National Assembly and the Senate, rather than only the National Assembly.

This amendment enhances bicameral accountability and strengthens checks and balances by involving both Houses of Parliament in approving the appointment of such a critical state officer. Given that the Director of Public Prosecution plays a central role in upholding justice, public confidence in the office is vital. Including the Senate ensures broader representation in the approval process, fostering inclusivity and legitimacy in the office.

14. Proposed amendment to Article 173 of the Constitution



Article 173 focuses on the Judiciary Fund and how financial estimates for the judiciary are processed and approved. The proposed amendments to this Article ensure that judiciary estimates are—

- (a) tabled in both the National Assembly and the Senate;
- (b) approved by both Houses of Parliament.

The proposed amendments align with earlier amendments to Articles 109–115, where both Houses play an equal role in legislative and budgetary processes. Additionally, bicameral consideration of judicial estimates enhances the checks and balances in the process and safeguards judicial independence from being subject to one chamber.

15. Proposed amendment to Article 199 of the Constitution

The Bill proposes to insert a new Article 199A which establishes a County Assembly Fund for each county. This fund will be dedicated to financing the administrative operations and functions of county assemblies. Under this new Article, the Bill provides that each county assembly shall prepare and approve its own budget estimates and that upon approval, the funds will be charged directly from the County Revenue Fund into the County Assembly Fund. The Article also requires county assemblies to enact legislation providing for the fund's regulation.

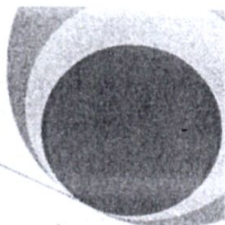
This amendment strengthens financial autonomy and operational independence of county assemblies, ensuring that the assemblies have predictable and dedicated resources to execute their legislative, oversight, and representative mandates effectively. It mitigates risks of budgetary manipulation by the county executive, which has often compromised the independence and efficiency of county assemblies.

16. Proposed amendment to Article 215 of the Constitution

The Bill proposes to amend Article 215(2)(a) of the Constitution to replace the reference to “the National Assembly” with “Parliament” in the process of approving the Chairperson of the Commission on Revenue Allocation.

The Commission of Revenue Allocation makes recommendations on the equitable sharing of national revenue between the national government and the county governments, and among the counties themselves. Specifically, the Commission—

- (a) proposes the Revenue Sharing Formula for dividing nationally raised revenue between the national and county levels of government and among the 47 counties;

- 
- (b) advises Parliament, the national and county governments on financial matters that affect devolution, including marginalized areas and equalization funds;
 - (c) promotes fiscal responsibility and transparency in the management of public finances across both levels of government; and
 - (d) monitors how county governments use their allocated funds and advises on the sustainability of public finances.

The Commission on Revenue Allocation is crucial to the success of devolution. It ensures that counties have the resources to provide services like healthcare, roads, water, sanitation and education, and that the revenue is distributed fairly and transparently. The proposed amendment that includes the Senate in the approval process ensures that the interests of counties are fairly represented in the leadership of the Commission.

17. Proposed amendment to Article 221 of the Constitution

Turning to public finance, the Bill proposes to amend Article 221 to provide for the consideration, reviewing, adjusting, and approving budget estimates by both Houses of Parliament. Currently, the National Assembly has sole control over budget matters limiting the Senate's involvement despite its constitutional role in protecting devolution. This amendment recognizes the Senate's role in representing counties, which often bear the brunt of resource allocation decisions. Furthermore, the proposed amendment aligns with the new Article 111 ensuring that Appropriation Bills follow a bicameral legislative process.

18. Proposed amendment to Article 222 of the Constitution

The Bill proposes to amend Article 222 to provide for bicameral approval of withdrawals from the Consolidated Fund in the event of a delay in the assenting of the Appropriations Act. The amendment reinforces bicameral oversight in government spending and aligns with amendments in Articles 109, 111 and 221 which entrench the Senate in budget and appropriation matters.

19. Proposed amendment to Article 223 of the Constitution

The Bill proposes to amend Article 223 to provide for bicameral approval of spending under a supplementary appropriation i.e. where money is withdrawn from the Contingencies Fund



or there is spending for a purpose that was not appropriated. The amendment reinforces bicameral oversight in government spending and aligns with amendments in Articles 109, 111 and 221 which entrench the Senate in budget and appropriation matters.

20. Proposed amendment to Article 224 of the Constitution

The Bill proposes to repeal Article 224 of the Constitution and replace it with a new Article that —

- (a) clarifies the process for county governments to prepare and adopt their budgets based on the County Allocation of Revenue Bill and not the Division of Revenue Bill; and
- (b) introduces a contingency mechanism allowing Parliament to authorize temporary withdrawals from the Consolidated Fund if the Division of Revenue Bill or the County Allocation of Revenue Bill is delayed.

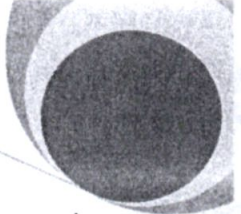
These proposed amendments anchor the process of enactment of county appropriations Bills to the County Allocation of Revenue Bill in line with Article 218. The new clause (2) provides a fall back mechanism where counties can still function if the Division of Revenue Bill or the County Allocation of Revenue Bill is delayed. This ensures continuity of essential services in counties while avoiding paralysis of critical functions.

21. Proposed amendment to Article 228 of the Constitution

The Bill proposes to amend Article 228 of the Constitution to change the approving authority of the Controller of Budget from the National Assembly to Parliament. This proposed amendment enhances bicameral oversight and strengthens the role of the Senate in national financial governance. Since the Controller of Budget is a key player in overseeing budget implementation at both national and county levels, it is constitutionally sound to ensure that both Houses of Parliament participate in his or her approval.

22. Proposed amendment to Article 229 of the Constitution

The Bill proposes to amend Article 228 of the Constitution to change the approving authority of the Auditor General from the National Assembly to Parliament. The proposed amendment enhances transparency, legitimacy, and inclusivity in the appointment of the Auditor General, a critical office responsible for auditing public accounts at both the national and county levels. The inclusion of the Senate—

- 
- (a) ensures that there is balanced representation of both national and county interests in the approval process;
 - (b) strengthens bicameral checks and oversight over public financial management; and
 - (c) reinforces the Auditor-General's independence and mandate by reflecting a wider parliamentary consensus.

23. Proposed amendment to Article 233 of the Constitution

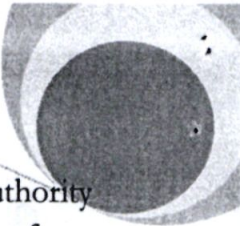
The Bill proposes to amend Article 228 of the Constitution to change the approving authority of the Chairperson of the Public Service Commission from the National Assembly to Parliament.

Though the Public Service Commission is primarily works with the national government, it has an impact on how counties function. The Commission—

- (a) establishes norms and standards for public service management across Kenya requiring County Public Service Boards to align with these standards;
- (b) evaluates the extent to which the values and principles in Article 10 and Article 232 are complied with in the public service, including in counties. It produces annual reports that evaluate the performance of county governments' human resource practices;
- (c) hears and determine appeals in respect of county governments' public service in line with Article 234(2)(i) thereby giving the public an avenue of recourse outside the county structure; and
- (d) supports capacity building for county public services, especially in cases where counties lack the resources or expertise to develop human resource systems.

Given the above roles played by the Public Service Commission, the involvement both Houses ensures that both national and county interests are represented in the Commission and enhances greater public confidence in the Commission.

24. Proposed amendment to Article 250 of the Constitution



The Bill proposes to amend Article 250 of the Constitution to change the approving authority of the chairpersons and members of commissions and holders of independent offices from the National Assembly to Parliament. The proposed amendment strengthens the role of the Senate in oversight and appointments to public offices. The amendment also reflects the principle that matters of national importance, especially appointments to independent bodies tasked with oversight and governance, should be the domain of both Houses.

25. Proposed amendment to Article 251 of the Constitution

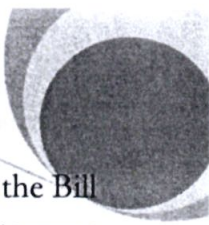
The Bill proposes to amend Article 251 of the Constitution to replace references to “the National Assembly” with “Parliament” in the process of initiating and determining petitions for the removal of members of constitutional commissions and holders of independent offices. Allowing petitions for removal to be handled by both Houses of Parliament ensures a more inclusive, nationally representative process. It enhances checks and balances within the legislature, reduces the risk of unilateral action by one chamber and increases the legitimacy of decisions involving removals of members of constitutional commissions and holders of independent offices.

D. Consequences of the Bill

This Bill significantly restructures the legislative process and the balance of power between the two Houses of Parliament. By allowing most Bills, except those on raising national revenue, to originate in either House, the Bill enhances bicameralism and ensures more equitable participation in law making and oversight. It also expands the Senate’s legislative and oversight roles, including on matters like allocations, appropriations, and approval of state officers, thereby elevating its constitutional role and promoting a more accountable system of governance.

The Bill also harmonizes procedures on financial legislation across both Houses, eliminating the dominance of the National Assembly in financial matters. The repeal of Articles 110 and 114 and redefining the procedures for budget estimates, appropriations, and presidential reservations, the Bill ensures that Parliament as a whole plays a joint role in public finance management. This gives the Senate a substantive voice in how national and county funds are allocated and spent, promoting better checks and balances within the legislature.

Additionally, the Bill reinforces the bicameral approach in appointments to and oversight of key national institutions, such as the Director of Public Prosecution, the Public Service Commission, the Auditor General, the Controller of Budget, and the Commission on Revenue



Allocation. By requiring joint parliamentary approval and oversight in these positions, the Bill enhances accountability, institutional integrity, independence of these institutions and stronger checks and balances.

In the spirit of enhancing devolution, the Bill establishes a County Assembly Fund in each county assembly to enhance the operational independence and effectiveness of county assemblies. The Fund will be used to cover administrative expenses and other functions necessary for the discharge of county assembly functions. This ensures financial autonomy at the county assembly and reinforces the principles of devolution by enabling county assemblies to function without undue interference from the executive arm of county governments.

Finally, the Bill enhances procedural clarity and promotes institutional collaboration. It addresses frequent disputes between the two Houses by clearly delineating the role of each House in the legislative process, mediation and presidential assent. These changes collectively strengthen the principle of cooperative governance and create a more balanced and responsive parliamentary system.



13TH PARLIAMENT | 4TH SESSION
THE SENATE

IN THE MATTER OF CONSIDERATION OF THE CONSTITUTION OF KENYA
(AMENDMENT) BILL, 2025 (SENATE BILLS NO. 13 OF 2025)

SIMPLIFIED EXPLANATION OF THE BILL

Sponsor: Senate Majority Leader & Senate Minority Leader

Type of Bill: Ordinary Bill

A. Background

The Constitution of Kenya (Amendment) Bill, 2025 is meant to make devolution work better. It proposes changes to the Constitution to clarify the roles of the National Assembly and the Senate. It also strengthens how laws are made by ensuring that both Houses are involved in the passage of legislation. The Bill introduces special steps for handling financial laws. Overall, these changes are meant to create a clear, accountable, and more effective system of government at both the national and county levels.

B. Summary of the Clauses

1. Strengthening the Role of the Senate

The Constitution of Kenya (Amendment) Bill, 2025 proposes to give the Senate more power and a bigger role in how the country is governed. Right now, the Senate mainly deals with laws that concern counties. But with this Bill, the Senate will take part in making all laws, not just those about county governments.

The Bill also says that the Senate should represent special interest groups, such as women, youth, and persons with disabilities, in addition to counties. This will ensure that the voices of all Kenyans are heard in the law-making process.

Another important change is that the Senate will participate in removing state officers who contravene the Constitution and other laws, and approving people appointed to important public positions. This means that the Senate will play a stronger role in ensuring that public officials are accountable.

The Bill also introduces a clear leadership structure in the Senate, just like the structure in the National Assembly. In this new structure, the order of seniority in the Senate will be the Speaker, the Majority Leader, and the Minority Leader in that order.

Why does this matter?

Strengthening the Senate matters because it brings a better balance between the two Houses of Parliament. Today, many important decisions, especially about money and national laws, are made mostly in the National Assembly. This leaves counties and ordinary Kenyans underrepresented in national decisions.

By giving the Senate a stronger role, the Bill ensures that every county has a louder voice in Parliament. Senators, who represent counties, will now take part in making all laws, approving top government officials, and deciding how money is shared and used across the country. This means more accountability in government decisions, fairer distribution of resources between national and county governments, stronger protection for counties and devolution, and better oversight of public officials to ensure that they serve the people, and when they don't, there are clear procedures to remove them from office.

In simpler terms, when the Senate is stronger, counties will be better placed to deliver critical services to all Kenyans.

2. Reforming How Laws are Made

The Bill changes how laws are made in Kenya. Right now, some laws can only be introduced in one House, and there are often disagreements about which House has the final say.

The new Bill allows all Bills to start in either the National Assembly or the Senate, except for laws about raising taxes or revenue, which will still begin in the National Assembly, and thereafter be considered by the Senate. This change gives both Houses a fair and equal role in creating laws.

The Bill also removes Articles 110 and 114, which previously caused confusion over which Bills affected counties and whether the Senate should be involved in the passage of certain Bills. By removing these articles, the process of lawmaking becomes clearer, faster, and fairer. Now, as proposed, when a Bill is passed in one House, it must be sent to the other House for review and approval. Both Houses must agree before the Bill goes to the President for signing. If there's a disagreement, a mediation process will be followed to find a solution.

The Bill also gives Parliament (both Houses) a joint role in dealing with the President's reservations when he returns a Bill to Parliament for reconsideration.

Why does this matter?

These changes reduce conflict between the National Assembly and the Senate, which has been a problem in the past. They also make the law-making process more efficient and respectful of the Constitution's vision of a bicameral Parliament.

With these reforms—

- no House will dominate the other;
- laws will be made through consultation and cooperation; and
- the process will become more transparent and easier to understand.

These changes will create public trust that both Houses are working together to pass laws that respond to real needs across the country.

3. Promoting Clarity, Cooperation, and a Stronger Parliament

The Bill introduces reforms to help clarify the roles of the National Assembly and the Senate, reduce conflicts, and improve how Parliament works as a whole. In recent years, there have been disagreements between the two Houses, especially over which Bills should involve the Senate, how financial laws are passed, and who has final authority in certain processes. These disputes have ended up in a long, drawn-out judicial process, sometimes delaying legislation and weakening the overall functioning of Parliament.

This Bill proposes to—

- remove unclear provisions that have caused overlap or confusion (like Articles 110 and 114);
- refine how Bills should be introduced, debated, amended, and approved;
- set out clear steps for handling presidential assent, including timelines; and
- strengthen the process of mediation, so that when the two Houses disagree on a Bill, there is a structured way to resolve it.

Why does this matter?

When Parliament works well, laws are passed on time, resources are shared fairly, and the needs of Kenyans are addressed efficiently. These reforms help Parliament—

- avoid unnecessary conflict;
- work more smoothly and respectfully between the two Houses;
- focus more on serving the public than debating technicalities; and
- build trust by showing unity and clarity in law-making.

These changes help Parliament function as one strong, cooperative body in making laws that are clear, fair, and timely for the benefit of all Kenyans.

4. Budget Process and Oversight

This Bill makes important changes to how the national budget is prepared, discussed, and approved. Currently, the National Assembly plays the biggest role in the budget-making process, while the Senate has a limited say, even though counties rely on that money to serve the people.

The new Bill allows both the Senate and the National Assembly to take part in reviewing and approving the national budget, estimates of revenue and spending, and appropriation and allocation laws, which decide how money is shared and used. The Bill removes old rules that made the National Assembly the final decision-maker on public finance.

The Constitution, under Article 249(3), requires Parliament to allocate adequate funds to each commission and independent office to enable them to perform their functions. It also states that the budget of each commission and independent office must be presented as a separate vote,

giving visibility and protection to these institutions in the national budget process. Despite this provision, the practice has often seen the Senate left out of reviewing and approving national budget estimates and appropriation Bills, even in cases where the Senate has a constitutional duty in overseeing the institutions concerned.

The Bill addresses this gap by formally involving the Senate in the entire budget process. This includes the review of estimates, public participation, committee recommendations, and the passage of appropriation laws. By doing so, the Bill harmonises Articles 221 and 249(3), ensuring that both Houses of Parliament, acting jointly, play their full role in public finance management.

The Senate's participation also brings a broader, more representative perspective to budgeting, especially on matters touching on devolution and institutions with mandates across both levels of government. It also ensures greater transparency, accountability, and alignment with constitutional principles, including equity and inclusivity in resource allocation. Harmonising the process not only strengthens the role of Parliament as a whole, but also gives effect to Article 249(3) in a way that reflects the spirit of bicameralism and respect for independent institutions.

Additionally, if there's a delay in passing the laws that allow money to be shared with counties, the Bill allows Parliament to approve temporary access to funds so that counties can keep running basic services.

Why does this matter?

Money is power and how it's shared affects all Kenyans. These changes mean that—

- counties will no longer have to wait or struggle with funding because of delays in Parliament;
- the Senate will now help protect your devolved county allocations;
- there will be stronger checks and balances so that funds are not misused; and
- both Houses will have to listen to the public when reviewing budget estimates.

This reform ensures that your money is better planned, better managed, and better protected, both at the national level and in your county.

5. Strengthening of Counties

The Bill proposes key changes to make counties stronger, more independent, and better able to serve their people. One of the main proposals is the creation of a County Assembly Fund in every county. This Fund will support the administration and day-to-day work of the county assembly, including paying staff, running offices, and carrying out oversight duties.

Right now, many county assemblies depend on county executives (governors) to access money. This can lead to delays, interference, or pressure on MCAs. With this new Fund, county assemblies will receive their funds directly, making them more independent and able to do their job without fear or favour.

Each county assembly will be required to pass its own law to guide the management and use of the Fund. The money will come from the county's share of national revenue, and once approved, it will be a direct charge, meaning it cannot be denied or withheld by the county executive.

Why does this matter?

Strong counties need strong, independent county assemblies. These reforms mean that—

- county assemblies will be able to oversight county executives more effectively;
- MCAs can work without interference, helping to fight corruption and misuse of funds;
- counties will be more responsive to local needs and better deliver services; and
- the principle of separation of powers will be respected at the county level.

These changes help protect the voice of the people at the local level by making county assemblies financially independent, transparent, and effective.

6. Joint Approval of State Officers

The Bill proposes that the approval and oversight of key public officials be carried out jointly by both the National Assembly and the Senate, rather than by one House alone. This means that Parliament will act as a united institution when vetting and approving certain high-level appointments. This change will apply to the following positions—

- The Director of Public Prosecutions (DPP);
- The Controller of Budget;
- The Auditor General;
- The Chairperson and members of the Public Service Commission;
- Chairperson of the Commission on Revenue Allocation; and
- Chairpersons and members of other constitutional commissions.

Under the proposed amendment, the two Houses will also have a shared role in removal processes for these offices, following constitutional grounds such as misconduct, incapacity, or breach of public trust.

Why does this matter?

This reform ensures that both Houses of Parliament take part in important national decisions. It encourages broader consultation, promotes consensus, and reflects the spirit of a bicameral system. With joint vetting—

- there will be balanced input from across the country;
- appointments will benefit from diverse perspectives;
- the role of Parliament as a whole will be strengthened and unified; and
- institutions will gain greater legitimacy through inclusive processes.

Sharing this responsibility between the Senate and the National Assembly ensures that top public appointments are considered from both a national and regional viewpoint, helping to build a more accountable and representative government.

C. Conclusion

The Constitution of Kenya (Amendment) Bill, 2025 proposes important changes to how laws are made and how power is shared between the National Assembly and the Senate. It allows most Bills, except those related to raising national revenue, to be introduced in either House. This means both Houses will now have a more equal say in making laws and overseeing government activities. The Bill also gives the Senate a stronger role in decisions about the national budget, how funds are shared between national and county governments, and in approving key state officers. This creates a more balanced and fair system of governance.

The Bill goes further to ensure that both Houses play an equal role in financial matters. It removes old rules that gave the National Assembly more power over the national budget and spending. This change gives the Senate a real voice in how money is raised, shared, and spent across the country, leading to better oversight and accountability. By changing how financial Bills are handled, including how budgets are prepared and how presidential reservations are addressed, the Bill makes Parliament work as a cohesive unit.

It also improves how senior public officials are appointed. Positions like the Director of Public Prosecutions, the Auditor General, the Controller of Budget, and chairpersons and members of key constitutional commissions will now be approved by both Houses of Parliament. This helps protect the independence of these offices and strengthens public trust in the process.

To support devolution, the Bill creates a County Assembly Fund in each county. This Fund will help county assemblies manage their daily operations and perform their duties independently. It ensures that MCAs can work without relying too much on county executives, making county governments more accountable and efficient.

Finally, the Bill clears up confusion about the roles of the two Houses in the law-making process. It outlines how Bills should move between the Houses, how mediation should work when there is a disagreement, and how the President should give assent. These changes aim to reduce conflicts and promote cooperation in Parliament, leading to a stronger, more responsive legislative system.

D. What We are Asking from You

As a citizen, your voice matters. This Bill proposes changes that will affect how our country is governed, from how laws are made, to how public money is spent, to how county governments operate.

We invite you to read and understand the proposed changes, ask questions where things are unclear, and share your honest views. Whether you support the changes, oppose them, or have suggestions to improve them, your opinion counts. Please attend public forums, submit your views in writing, join community discussions, or engage through available online and social media platforms. As a citizen, you have the right to influence the Constitution. Your views will help strengthen our democracy.

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



**13TH PARLIAMENT | 4TH SESSION
THE SENATE**

**IN THE MATTER OF CONSIDERATION OF THE CONSTITUTION OF KENYA
(AMENDMENT) BILL, 2025 (SENATE BILLS NO. 13 OF 2025)**

FREQUENTLY ASKED QUESTIONS

1. What is the purpose of this Constitution of Kenya (Amendment), Bill, 2025?

The Bill seeks to streamline the bicameral system of Parliament and enhance devolution. It aims to harmonize the legislative functions of the National Assembly and the Senate by streamlining the law-making function to ensure that both Houses of Parliament participate fully in the legislative process.

2. Why is strengthening devolution a priority in this Bill?

Devolution is central to Kenya's constitutional framework as it brings services closer to the people and promotes equitable development. However, conflicting interpretations of roles between the National Assembly, the Senate, and the County Assemblies have undermined its full realization. This Bill seeks to address these concerns.

3. How will Kenyans benefit from this strengthened devolution framework?

Kenyans will benefit through ensured continuity of county government services even where there may be a delay in approving budget related bills. Kenyans will also benefit because there will be improved accountability and oversight on how funds are used at the county level.

4. What practical challenges in devolution does the Bill aim to resolve?

The Bill addresses ambiguity in legislative roles that previously stalled or invalidated laws. Furthermore, the Bill aims to provide clarity in the law-making function at the national level, ensuring that legislation enacted at the national level does not undermine devolution.

5. Which specific Articles of the Constitution are being amended or repealed?

The Bill proposes changes to over 20 Articles, including 94, 95, 96, 108–116, 157, 173, 215, 221–224, 228–229, 233, 250–251. Notably, it repeals Articles 110 and 114 in their entirety.

6. How does the Bill affect the role of the Senate?

The Senate will be empowered with—

- full legislative authority, including introducing and passing Bills (except for those on raising national revenue);
- participation in budget processes to ensure that at the point of allocation of resources, counties are protected by ensuring that the revenue raised is shared equitably and that resources follow functions;
- a clear order of precedence and leadership roles under Article 108; and
- representation of special interests and deliberation on matters concerning people in counties.

7. Does the National Assembly lose any powers under this Bill?

No. Instead, the Bill clarifies overlapping functions and promotes collaboration between the two Houses of Parliament.

8. What happens to the classification of “Money Bills”?

The Bill repeals Article 114, which defined “Money Bills,” removing the ambiguity that often led to disagreements over whether a Bill required Senate input. This change aims to reduce legislative gridlock and promote inclusivity in decision making.

9. Can both Houses now originate Bills?

Yes. Under the proposed amendments to Article 109, any Bill may be introduced in either House, except for Bills that raise national revenue, which may originate in the National Assembly.

10. What are “allocation” and “appropriation” Bills, and how are they handled under the Bill?

- Allocation Bills (like the County Allocation of Revenue Bill) may now originate in the Senate, with the National Assembly proposing amendments.
- Appropriation Bills (national government expenditure) may originate in the National Assembly, with the Senate proposing amendments.
- If one House disagrees with amendments by the other, a two-thirds majority from the originating House can veto them.

11. Is the Mediation process affected?

Yes. Article 113 is amended to exclude allocation and appropriation Bills from mediation, thereby simplifying the consideration and enactment of budget-related legislation, including the Budget Policy Statement, Division of Revenue Act, County Allocation of Revenue Act, Appropriation Acts, etc.

12. Does the Bill create any new constitutional provisions?

Yes. It introduces Article 199A, which establishes a County Assembly Fund for each county, to support the administrative and operational expenses of county assemblies.

13. Why was the County Assembly Fund introduced?

To ensure county assemblies function independently and efficiently, especially in carrying out oversight over county executives. This institutionalizes their funding and enhances financial autonomy and accountability at the local level.

14. How does the Bill affect the budget process at the national and county levels?

Under the Bill—

- both Houses of Parliament will review and approve budget estimates;
- committees of both Houses will involve the public in reviewing estimates; and
- where delays occur in passing revenue allocation Bills, Parliament may authorize interim withdrawals to sustain both national and county operations.

15. Does this Bill promote better coordination between national and county governments?

Yes. By clarifying the roles of each House of Parliament and streamlining how revenue and legislation flow, the Bill promotes cooperation, reduces legal conflicts between the National Assembly and the Senate, and ensures timely service delivery to Kenyans.

16. What changes are made to the appointment of constitutional office holders?

Approval powers previously held solely by the National Assembly (e.g., for the Auditor General, Controller of Budget, Director of Public Prosecution, chairpersons and members of constitutional commissions) are now extended to Parliament as a whole, meaning that both Houses must be involved in their vetting and approval.

17. Will there be public participation before this Bill is enacted?

Yes. Articles 10 and 118 of the Constitution mandate public participation in the legislative process. Since this is a constitutional amendment, it requires a national referendum under Article 255. That means public views will be considered at multiple stages: after tabling in Parliament, during committee hearings, and in the referendum itself.

18. Why is public participation important in amending the Constitution?

The Constitution is the supreme law of the land. Public participation ensures that amendments reflect the will of the people, protect the public interest, and uphold democratic values. It also promotes transparency and trust in government decisions.

19. How can Kenyans be sure that their views will be taken seriously?

The Constitution obligates Parliament to seek and consider public views in lawmaking (Article 118). In addition, Parliamentary committees must prepare reports showing how public submissions were received and factored into the final Bill. These reports become part of the official legislative record.

20. Are there legal safeguards to ensure public participation is not just a formality?

Yes. The courts have ruled that public participation must be meaningful, not cosmetic. In key cases such as the *BBJ Judgment*, the Courts emphasized that any law passed without adequate public input can be declared unconstitutional and invalid.

21. Can citizens challenge the process if they feel ignored?

Yes. If any citizen or group believes the public participation process was inadequate or bypassed, they have the right to seek redress in court under Articles 22 and Article 258 of the Constitution.

22. How can members of the public give their views on this Bill?

Kenyans can participate by—

- submitting written memoranda to the relevant Parliamentary Committees;
- attending public hearings or stakeholder forums organized by Parliament or county governments;
- engaging through media, civil society, and public barazas; and
- voting during the national referendum, which is mandatory for certain constitutional changes.

23. What happens to the feedback given during public forums?

All oral and written submissions will be—

- documented by the relevant committee;
- reviewed alongside expert input;
- reflected in the committee's report and possible amendments to the bill; and
- made available to the public upon request, thereby increasing transparency.

24. How can Kenyans track whether their views influenced the Bill?

You can—

- read the committee reports that will be tabled in Parliament;
- follow plenary debates where members refer to public submissions;
- access summaries from Parliament's website, civil society organizations, or media; and
- attend town hall debriefs organized after public hearings.

25. When will this Bill come into effect if passed?

It will come into force on the 14th day after the official declaration of the results of a national referendum, as per Article 255 of the Constitution.

26. Why is a referendum required for this Bill?

Under Article 255(1) of the Constitution, any amendment that touches on critical areas such as the structure of devolution, the role of Parliament, or the independence of constitutional commissions and independent offices must be approved by the people through a referendum.

27. Which parts of the Bill require a referendum?

Any proposed amendment affecting the structure of devolution, the functions of Parliament, the functions of the counties, or constitutional commissions and independent offices must be subjected to a referendum, as outlined in Article 255(1) of the Constitution.

28. Who is eligible to vote in the referendum?

Any Kenyan citizen registered as a voter is eligible to vote in the referendum.

29. Who will organise the referendum?

The Independent Electoral and Boundaries Commission (IEBC) is responsible for organising and conducting the referendum, just like it does for general elections.

30. What happens if the public rejects the proposed amendments in the referendum?

If the majority of voters reject the Bill during the referendum, it will not come into force, and the Constitution will remain unchanged. Parliament cannot override a referendum result. This underscores the sovereign power of the people, which is central to constitutional reform in Kenya.

6(d)



13TH PARLIAMENT | 4TH SESSION
THE SENATE

IN THE MATTER OF CONSIDERATION OF THE CONSTITUTION OF KENYA
(AMENDMENT) BILL, 2025 (SENATE BILLS NO. 13 OF 2025)

PUBLIC VIEWS FORM

(Pursuant to Articles 118 and 256 of the Constitution and standing order 145 (5)
of the Senate Standing Orders)

Section A — Personal Information

1. Full Name: _____
2. Gender: _____
3. Age: _____
4. County: _____
5. Identification No. (National ID/Passport/Kenyan Driving Licence): _____

Section B — Views on the proposed Amendments to the Constitution

What are your views on the proposed Amendments? (Tick appropriate and give reasons)

1. Proposed amendment to Article 94 of the Constitution to clarify that legislation, representation and oversight is a role of both Houses of Parliament.

☐ I support	Reason: _____
☐ I do not support	Reason: _____
☐ Other	Specify: _____

2. Proposed amendment to Article 95 to clarify that determination of revenue sharing, appropriation of funds, and oversight over national revenue is a function of both Houses of Parliament.

☐ I support	Reason: _____
☐ I do not support	Reason: _____
☐ Other	Specify: _____

3. Proposed amendment of Article 96 to codify the Senate's representation role for special groups, provide for the Senate's role in lawmaking, deliberation and resolution of issues of public interest and clarify that the oversight role of the Senate extends to both national revenue allocated to counties and own source revenue raised locally by counties.

☐ I support	Reason: _____
☐ I do not support	Reason: _____
☐ Other	Specify: _____

(b)2

4. Proposed amendment of Article 108 to provide for the leadership and order of precedence in the Senate. Currently, the Constitution provides only for the leadership and order of precedence in the National Assembly.

☐ I support	Reason:
☐ I do not support	Reason:
☐ Other	Specify:

5. Proposed amendment of Article 109 to provide for the origination of any Bill in either House of Parliament, save for a Bill on raising national revenue which may originate only in the National Assembly. Currently, the Senate may only originate and consider Bills concerning county governments.

☐ I support	Reason:
☐ I do not support	Reason:
☐ Other	Specify:

6. Proposed repeal of Article 110 of the Constitution. Currently, the Article 110 of the Constitution defines what a "bill concerning county governments is", which has been the subject of multiple interpretations.

☐ I support	Reason:
☐ I do not support	Reason:
☐ Other	Specify:

7. Proposed amendment of Article 111 to clarify that allocation Bills (County Allocation of Revenue Bill or County Governments Additional Allocations Bill) may originate in the Senate and that appropriation Bills (Appropriation or Supplementary Appropriation Bill) may originate from the National Assembly. Currently, Article 111 provides for the procedure of consideration of special Bills concerning county governments.

☐ I support	Reason:
☐ I do not support	Reason:
☐ Other	Specify:

8. Proposed amendment to Article 113 to align the mediation process with the proposed new framework under Article 109 and to exempt allocation and appropriation Bills from the mediation process.

☐ I support	Reason:
☐ I do not support	Reason:
☐ Other	Specify:

9. Proposed amendment to repeal Article 114 which defines "money Bills". Currently, the definition has been the subject of multiple varying interpretations.

☐ I support	Reason:
☐ I do not support	Reason:
☐ Other	Specify:

10. Proposed amendment to Article 115 to align with the proposed amendments to Article 109 and ensure consistency.

☐ I support	<i>Reason:</i>
☐ I do not support	<i>Reason:</i>
☐ Other	<i>Specify:</i>

11. Proposed amendment to Article 116 to provide clarity on the coming into force of laws where the President neither assents to a Bill nor returns it back to Parliament.

☐ I support	<i>Reason:</i>
☐ I do not support	<i>Reason:</i>
☐ Other	<i>Specify:</i>

12. Proposed amendment of various Articles to assign the responsibility for approval for appointment and removal from office of various State officers namely the Director of Public Prosecutions, Chairperson of the Commission on Revenue Allocation, the Controller of Budget, the Auditor General, and Chairpersons and members of constitutional commissions to both Houses of Parliament. Currently, most approvals of members to State offices are done by the National Assembly.

☐ I support	<i>Reason:</i>
☐ I do not support	<i>Reason:</i>
☐ Other	<i>Specify:</i>

13. Proposed amendment to introduce a new Article 199A to establish a county assembly fund for each county assembly.

☐ I support	<i>Reason:</i>
☐ I do not support	<i>Reason:</i>
☐ Other	<i>Specify:</i>

14. Proposed amendment to Article 221 to streamline the budget process by providing for the consideration and approval of budget estimates by both Houses of Parliament. Currently, this role is limited to the National Assembly.

☐ I support	<i>Reason:</i>
☐ I do not support	<i>Reason:</i>
☐ Other	<i>Specify:</i>

15. Proposed amendment to Article 222 to provide that where there are delays in the passage of the Appropriation Act, withdrawals from the Consolidated Fund shall be approved by both Houses of Parliament. Currently, this approval is only sought from the National Assembly.

☐ I support	<i>Reason:</i>
☐ I do not support	<i>Reason:</i>
☐ Other	<i>Specify:</i>

16. Proposed amendment to Article 223 to provide that the approval of both Houses of Parliament will be sought where money is spent for a purpose that was not appropriated. Currently, this approval is only sought from the National Assembly.

☐ I support	Reason:
☐ I do not support	Reason:
☐ Other	Specify:

17. Proposed amendment to Article 224 to clarify that the basis for the preparation of budgets by county governments is the County Allocation of Revenue Bill and not the Division of Revenue Bill and to introduce a mechanism allowing Parliament to authorise temporary withdrawals from the Consolidated Fund to support counties if there is delay in passage of the Division of Revenue Bill or the County Allocation of Revenue Bill.

☐ I support	Reason:
☐ I do not support	Reason:
☐ Other	Specify:

18. Proposed amendment to Articles 250 and 251 to provide clarity that a petition for the removal of a member of a constitutional commission or holder of an independent office will be lodged and considered by both Houses of Parliament. Currently, this mandate is vested in the National Assembly.

☐ I support	Reason:
☐ I do not support	Reason:
☐ Other	Specify:

19. Any other comments on the Bill.

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.....

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SIGNED _____ DATE: _____, 2025

Note:

Filled Templates may be submitted to the Clerk of the Senate, P. O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk of the Senate, Main Parliament Buildings, Nairobi or emailed to maoni@parliament.go.ke and copied to senatejlahrc@parliament.go.ke.

Appreciation: The Senate appreciates your participation in this process.

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



**BUNGE LA 13 | KIPINDI CHA 4
SENETI**

**KWA KANUNI YA MSWADA WA KATIBA YA KENYA (MAREKEBISHO), 2025
(MSWADA YA SENETI NAMBARI 13 YA 2025)**

MAELEZO YALIYORAHISISHWA YA MSWADA

Wadhamini: Kiongozi wa Walio Wengi na Kiongozi wa Walio Wachache katika Seneti

Aina ya Mswada: Mswada wa Kawaida

A. Maelezo kwa ufupi

Mswada wa Katiba ya Kenya (Marekebisho), 2025 unalenga kuufanya ugatuzi kuimarika zaidi. Unapendekeza mabadiliko ya Katiba ili kufafanua kwa uwazi majukumu ya Bunge la Taifa na Seneti. Aidha unaimarisha jinsi sheria zinavyotungwa kwa kuhakikisha kwamba Bunge la Taifa na Seneti inahusika katika kuidhinisha sheria. Mswada huu unaanzisha hatua maalum za kushughulikia sheria za kifedha. Kwa ujumla, mabadiliko haya yanalenga mfumo wenye uwazi, uwajibikaji na ulio na ufanisi zaidi katika ngazi za kitaifa na za kaunti.

B. Muhtasari wa Vifungu

1. Kuimarisha jukumu la Seneti

Mswada wa Katiba ya Kenya (Marekebisho), 2025 unapendekeza kuipatia Seneti mamlaka zaidi na jukumu kubwa kuhusu jinsi nchi inavyotawaliwa. Kwa sasa, Seneti inahusika pakubwa na sheria zinazoshughulikia masuala ya kaunti. Kupitia kwa mswada huu, Seneti itakuwa ikihusika katika kutunga sheria zote, na sio tu zile zinazohusu serikali za kaunti.

Kadhalika, mbali na kuwakilisha kaunti, Mswada huu unaeleza kwamba Seneti inapaswa kuwakilisha vikundi vyenye maslahi maalum kama vile wanawake, vijana na watu wanaoishi na ulemavu. Hii itahakikisha kwamba sauti za Wakenya wote zinasikika katika mchakato wa kutunga sheria.

Badiliko lingine muhimu ni kwamba sasa Seneti itasaidia katika kutayarisha masharti ya kuondolewa kwa maafisa wa serikali na kuidhinisha watu wanaoteuliwa katika nafasi muhimu za umma. Hii inamaanisha kwamba Seneti itakuwa na jukumu thabiti zaidi katika kuhakikisha kwamba maafisa wa umma wanawajibika.

Kadhalika, Mswada huu unaanzisha muundo wazi wa uongozi katika Seneti, kama ule muundo ulio katika Bunge la Taifa. Katika muundo huu mpya, utaratibu wa ukuu katika Seneti utakuwa Spika, Kiongozi wa Walio Wengi, na Kiongozi wa Walio Wachache kwa usanjari huo.

Hatua hii ina umuhimu gani?

Hatua ya kuimarisha Seneti ni muhimu sana kwa sababu inaleta uwiano bora baina ya Bunge la Taifa na Seneti. Kwa sasa, maamuzi mengi muhimu, hususan kuhusu fedha na sheria za kitaifa, hutungiwa katika Bunge la Taifa. Hali hii husababisha kaunti na Wakenya wa kawaida kukosa uwakilishi wa kutosha kwenye maamuzi ya kitaifa.

Kwa kuipatia Seneti jukumu thabiti zaidi, Mswada huu unahakikisha kuwa kila kaunti ina sauti imara katika Bunge. Maseneta wanaowakilisha kaunti sasa watahusika katika kutunga sheria zote na kuidhinisha maafisa wa ngazi za juu serikalini na kuamua jinsi fedha zinavyogawanywa na kutumika katika nchi nzima. Hii inamaanisha kwamba kutakuwa na uwajibikaji zaidi katika maamuzi ya serikali, ugavi wa haki wa rasilmali baina ya serikali kuu na serikali za kaunti, ulinzi bora wa kaunti na ugatuzi na uangalizi bora wa maafisa wa umma ili kuhakikisha kwamba wanawahudumia wananchi na wakati wasipofanya hivyo, kwamba kuna taratibu wazi za kuwaondoa mamlakani.

Kwa maelezo rahisi, wakati Seneti inapokuwa na nguvu zaidi, kaunti zitakuwa na uwezo bora wa kutoa huduma muhimu kwa Wakenya wote.

2. Kufanyia mabadiliko jinsi sheria zinavyotungwa

Mswada huu unabadilisha jinsi sheria zinavyotungwa nchini Kenya. Kwa sasa, baadhi ya sheria zinaweza kuwasilishwa katika Bunge moja na mara nyingi kuna ukosefu wa makubaliano kuhusu ni Bunge lipi lina maamuzi ya mwisho.

Mswada huu mpya unaruhusu Miswada kuanza ama katika Bunge la Taifa au Seneti, isipokuwa sheria za kukusanya ushuru au mapato, ambayo bado itaanzia kwenye Bunge la Taifa na baada ya hapo kushughulikiwa na Seneti. Badiliko hili linapatia Bunge la Taifa na Seneti jukumu sawa na la haki ya kutunga sheria.

Aidha, Mswada huu unaondoa Ibara ya 110 na ya 114, ambazo awali zilileta mtafaruku kuhusu Miswada ipi iliathiri kaunti na iwapo Seneti ingehusika katika kupitisha Miswada fulani. Kwa kuondoa Ibara hizo, mchakato wa kutunga sheria unakuwa wazi, wa haraka na wenye haki zaidi. Inavyopendekezwa sasa, wakati Mswada unapopitishwa kwenye Bunge moja, lazima utumwe kwa Bunge lile lingine ili kuhakikiwa na kuidhinishwa. Lazima pawe na makubaliano baina ya Bunge la Taifa na Seneti kabla ya Mswada kuwasilishwa kwa Rais ili kupata kibali. Iwapo kuna ukosefu wa makubaliano, mchakato wa usuluhishi utatumiwa ili kupata suluhu.

Kadhalika, Mswada huu unapatia Bunge (Bunge la Taifa na Seneti) jukumu la pamoja katika kushughulikia maoni ya Rais mswada unaporejeshwa ili kushughulikiwa tena.

Hatua hii ina umuhimu gani?

Mabadiliko haya yanapunguza mgogoro baina ya Bunge la Taifa na Seneti, ambao umekuwa tatizo hapo awali. Kadhalika, yanafanya mchakato wa kutunga sheria kuwa na ufanisi na wenye kuheshimu dhamira ya Katiba ya kuwa na Bunge la Taifa na Seneti.

Kupitia kwa mageuzi haya—

- hakuna Bunge litakalotawala Bunge jingine;
- sheria zitatungwa kwa mashauriano na ushirikiano; na
- mchakato utakuwa wazi zaidi na rahisi kueleweka.

Mabadiliko haya yatapatia umma imani kwamba Bunge la Taifa na Seneti inafanya kazi kwa pamoja ili kupitisha sheria zinazoshughulikia mahitaji halisi katika nchi nzima.

3. Kuendeleza Uwazi, Ushirikiano na Bunge lenye Nguvu zaidi

Mswada huu unaleta mageuzi ili kusaidia kufafanua majukumu ya Bunge la Taifa na ya Seneti, kupunguza migogoro na kuimarisha jinsi Bunge linavyofanya kazi kwa ujumla. Katika miaka ya hivi karibuni, kumekuwa na ukosefu wa maelewano baina ya Bunge la Taifa na Seneti, hasa kuhusu ni Mswada ipi itahusisha Seneti, jinsi sheria za fedha zinavyopitishwa, na nani ana mamlaka ya mwisho katika michakato fulani. Migogoro hii imeishia katika michakato ya mahakama ya muda mrefu, wakati mwingine ikichelewesha utungaji wa sheria na kudhoofisha utendakazi wa kijumla wa Bunge.

Mswada huu unapendekeza—

- kuondoa sheria zisizo wazi ambazo zimeleta mwingiliano au mkanganyiko (kama Ibara ya 110 na ya 114);
- kuboresha jinsi Mswada inavyopaswa kuwasilishwa, kujadiliwa, kurekebisha na kuidhinishwa;
- kuonyesha hatua wazi za kushughulikia kibali cha Rais, ikiwa ni pamoja na muda; na
- kuimarisha mchakato wa maridhiano, ili wakati Bunge la Taifa na Seneti zinapokosa kukubaliana kuhusu Mswada, kuna njia iliyowekwa ya kuushughulikia.

Hatua hii ina umuhimu gani?

Bunge linapofanya kazi kwa njia bora, huwa sheria zinapitishwa kwa wakati, rasilmali zinagawanywa kwa njia ya haki na mahitaji ya Wakenya yanashughulikiwa kwa ufanisi.

Marekebisho haya yanalisaidia Bunge—

- kuepuka migogoro isiyofaa;
- kufanya kazi kwa utaratibu na kwa heshima baina ya Bunge la Taifa na Seneti;
- kulenga zaidi katika kuhudumia umma na wala sio kujadili kuhusu mambo ya kiufundi; na
- kuimarisha uaminifu kwa kuonyesha umoja na uwazi katika kutunga sheria.

Mabadiliko haya yanalisaidia Bunge kufanya kazi kama chombo kimoja chenye nguvu na ushirikiano katika kutunga sheria zilizo wazi, zenye haki na za kiwakati kwa faida ya Wakenya wote.

4. Mchakato wa Bajeti na Uangalizi

Mswada huu unafanya mabadiliko muhimu katika jinsi bajeti ya kitaifa inavyotayarishwa, kujadiliwa na kuidhinishwa. Kwa wakati huu, Bunge la Taifa lina jukumu kubwa kwenye mchakato wa kutayarisha bajeti huku Seneti ikiwa na nafasi finyu, hata ingawa kaunti zinategemea fedha hizo katika kuwahudumia wananchi.

Mswada huu mpya unaruhusu Seneti na Bunge la Taifa kushiriki katika kuhakiki na kuidhinisha bajeti ya kitaifa, makadirio ya mapato na matumizi yake, sheria za kugawa na za kuidhinisha matumizi, zinazoamua jinsi fedha zinavyogawanywa na kutumika. Mswada huu unaondoa sheria za zamani zilizolifanya Bunge la Taifa kuwa mwamuzi wa mwisho kuhusiana na fedha za umma.

Kwa mujibu wa Ibara ya 249(3) ya Katiba, Bunge linahitaji kugawa fedha za kutosha kwa kila tume na ofisi huru ili kuziwezesha kutekeleza majukumu yao. Kadhalika, inataja kwamba bajeti ya kila tume na ofisi huru sharti ziwasilishwe kama mgao tenge ili kuzipatia utambuzi na ulinzi asasi hizi katika mchakato wa bajeti ya kitaifa. Pamoja na sheria hii, hali ilivyo sasa imeiacha Seneti nje katika kuhakiki na kuidhinisha makadiro ya bajeti na miswada ya kuidhinisha matumizi, hata katika hali ambapo Seneti inawajibu wa kikatiba wa kusimamia asasi husika.

Mswada huu unashughulikia pengo hili kwa urasmi kwa kuihusa Seneti katika mchakato wote wa bajeti. Hii inajumuisha uhakiki wa makadirio, ushiriki wa umma, mapendekezo ya kamati na kupitisha sheria za kuidhinisha matumizi. Kwa kufanya hivyo, Mswada huu unasawazisha Ibara ya 221 na ya 249(3) na kuhakikisha kwamba Bunge la Taifa na Seneti, kwa kufanya kazi kwa pamoja, zinatekeleza wajibu wao kamalifu katika usimamizi wa fedha za umma.

Aidha, ushiriki wa Seneti unaleta mtazamo mpana, wenye uwakilishi zaidi kwenye utayarishaji wa bajeti, hasa kuhusiana na mambo yanayogusia ugatuzi na asasi zenye wajibu katika ngazi zote mbili za serikali. Unahakikisha kuwepo kwa uwazi zaidi, uwajibikaji na mwambatano na kaida za kikatiba, ukiwemo usawa na ujumuishaji katika ugavi wa rasilimali. Kusawazisha mchakato huu hauimarishi tu jukumu la Bunge kama chombo kimoja, bali inatekeleza Ibara ya 249(3) kwa njia inayoonyesha dhamira ya ngazi mbili za bunge na kuheshimu asasi huru.

Isitoshe, endapo kuna ucheleweshwaji katika kupitisha sheria zinazoruhusu fedha kugawanywa kwa kaunti, Mswada huu unaliruhusu Bunge kuidhinisha upataji wa kimuda wa fedha ili kaunti ziweze kuendeleza huduma zao za kimsingi.

Hatua hii ina umuhimu gani?

Pesa ni uwezo, na jinsi zinavyogawanywa huathiri Wakenya wote. Mabadiliko haya yanamaanisha kwamba—

- kaunti hazitasubiri tena au kutatizika kupata fedha kwa sababu ya kucheleweshwa katika Bunge;
- Seneti sasa itasaidia katika kulinda mgao wenu wa ugatuzi wa kaunti;
- kutakuwa na udhibiti zaidi ili kuhakikisha kwamba fedha hazitumiwi vibaya; na
- ni sharti Bunge la Taifa na Seneti kusikiliza umma wakati wa kuhakiki makadirio ya bajeti.

Mageuzi haya yanahakikisha kwamba pesa zako zinapangiwa vyema zaidi, zinasimamiwa vyema zaidi na zinalindwa vyema zaidi katika kiwango cha kitaifa na cha kaunti yako.

5. Kuimarishwa kwa Kaunti

Mswada huu unapendekeza mabadiliko makuu ya kuimarisha kaunti, kuzifanya kuwa huru zaidi na ziwe na uwezo bora wa kuwahudumia wananchi wao. Mojawapo ya mapendekezo

makuu ni kuundwa kwa Hazina ya Bunge la Kaunti katika kila kaunti. Hazina hii itasaidia katika utawala na shughuli za kila siku za bunge la kaunti, ikiwemo kulipa wafanyakazi, kuendesha ofisi, na kutekeleza majukumu ya uangalizi.

Kwa sasa, mabunge mengi ya kaunti hutegemea mamlaka kuu ya kaunti (magavana) ili kupata fedha. Hii inaweza kusababisha ucheleweshwaji, usumbufu, au shinikizo kwa wajumbe wa mabunge ya kaunti. Kupitia Hazina hii mpya, mabunge ya kaunti yatapokea fedha zao moja kwa moja, jambo linaloyafanya kuwa huru zaidi na kuwa na uwezo wa kutekeleza majukumu yao bila woga au mapendeleo.

Kila bunge la kaunti litahitajika kupitisha sheria yake kuhusu jinsi Hazina hiyo itakavyosimamiwa na kutumika. Fedha hizo zitatoka kwa mgao wa mapato ya taifa kwa kaunti, na zikiidhinishwa, zitatolewa moja kwa moja, kumaanisha kuwa hazitaweza kuzuiwa na mamlaka kuu ya kaunti.

Hatua hii ina umuhimu gani?

Kaunti imara zinahitaji mabunge ya kaunti yaliyo imara na huru. Mabadiliko haya yanamaanisha kwamba—

- Mabunge ya kaunti yataweza kufanya uangalizi kwa ufanisi zaidi;
- Wajumbe wa mabunge ya kaunti wataweza kufanya kazi bila vizuizi, jambo litakalosaaidia kupambana na ufisadi na matumizi mabaya ya fedha;
- kaunti zitaitikia kwa haraka zaidi mahitaji ya wenyeji na kutoa huduma bora; na
- kanuni ya mgawanyo wa madaraka itaheshimiwa katika ngazi ya kaunti.

Mabadiliko haya yanasaidia kulinda sauti ya wananchi katika ngazi ya kieneo kwa kuyafanya mabunge ya kaunti kuwa huru kifedha, yenye uwazi na yenye ufanisi.

6. Idhini ya Pamoja ya Maafisa wa Serikali

Mswada huu unapendekeza kwamba uidhinishaji na uangalizi wa maafisa wakuu wa umma ufanywe kwa pamoja na Bunge la Taifa na Seneti, badala ya Bunge moja pekee. Hii inamaanisha kuwa Bunge litafanya kazi kama taasisi moja iliyoungana wakati wa kuchunguza na kuidhinisha uteuzi fulani wa ngazi za juu. Mabadiliko haya yatatumika kwa nyadhifa zifuatazo—

- Mkurugenzi wa Mashtaka ya Umma;
- Mdhhibiti wa Bajeti;
- Mkaguzi Mkuu wa Hesabu za Umma;
- Makamishna wa Tume ya Utumishi wa Umma;
- Mwenyekiti wa Tume ya Ugavi wa Mapato;
- Wenyekiti na makamishna wa tume nyingine za kikatiba.

Katika mabadiliko yaliyopendekezwa, jukumu la kuondoa maafisa hawa, kwa kuzingatia misingi ya kikatiba kama vile utovu wa nidhamu, kushindwa kutekeleza majukumu, au kupoteza uaminifu wa umma, kwa pamoja limepewa Bunge la Taifa na Seneti.

Hatua hii ina umuhimu gani?

Mabadiliko haya yanahakikisha kuwa Bunge la Taifa na Seneti inashiriki katika maamuzi muhimu ya kitaifa. Huchochea mashauriano mapana, hukuza maafikiano na huonyesha kanuni ya mfumo wa Bunge la Taifa na Seneti. Kupitia uchunguzi wa pamoja—

- kutakuwa na maoni yenye uwiano kote nchini;
- watu walioteuliwa watakuwa kutoka kote nchini na wenye mitazamo mbalimbali;
- jukumu la Bunge kwa ujumla litaimarishwa na kuunganishwa; na
- taasisi zitapata uhalali mkubwa zaidi kupitia michakato jumuishi.

Kushirikiana katika jukumu hili kwa Bunge la Taifa na Seneti huhakikisha kwamba uteuzi wa ofisi za juu za umma unazingatiwa kutoka mtazamo wa kitaifa na wa kieneo na hivyo basi kusaidia kujenga serikali yenye uwajibikaji zaidi na inayowakilisha wananchi wote.

C. Hitimisho

Mswada wa Katiba ya Kenya (Marekebisho), 2025 unapendekeza mabadiliko muhimu kuhusu jinsi sheria zinavyoundwa na jinsi mamlaka yanavyogawanywa kati ya Bunge la Taifa na Seneti. Huruhusu Mswada mingi, isipokuwa ile inayohusiana na ukusanyaji wa mapato ya taifa, kuwasilishwa katika Bunge lolote kati ya Bunge la Taifa na Seneti. Hii inamaanisha kwamba Mabunge yote mawili sasa yatakuwa na nafasi iliyo sawa zaidi katika kuunda sheria na kusimamia shughuli za serikali. Mswada huu pia unaipa Seneti jukumu kubwa zaidi katika kufanya maamuzi kuhusu bajeti ya taifa, jinsi fedha zinavyogawanywa kati ya serikali kuu na serikali za kaunti na katika kuidhinisha maafisa wakuu wa serikali. Hii inaunda mfumo wa utawala ulio na uwiano na haki zaidi.

Mswada huu pia unahakikisha kwamba Mabunge yote mawili yanashiriki jukumu sawa katika masuala ya kifedha. Unaondoa kanuni za zamani zilizoipa Bunge la Taifa mamlaka makubwa zaidi kuhusu bajeti ya taifa na matumizi ya fedha. Kwa kubadilisha jinsi Mswada ya kifedha inavyoshughulikiwa, ikiwemo jinsi bajeti zinavyoandaliwa na jinsi maoni ya Rais yanavyoshughulikiwa, Mswada huu unafanya Bunge lifanye kazi kama chombo kimoja. Mabadiliko haya yanaipa Seneti mamlaka halisi katika jinsi fedha zinavyokusanywa, kugawanywa na kutumika kote nchini, jambo linaloleta uungalizi bora zaidi na uwajibikaji.

Kadhalika, yanaboresha jinsi maafisa wakuu wa umma wanavyoteuliwa. Nafasi kama vile Mkurugenzi wa Mashtaka ya Umma, Mkaguzi Mkuu wa Hesabu za Umma, Mdhhibiti wa Bajeti, na wenyekiti na makamishna wa tume muhimu, sasa zitaidhinishwa na Bunge la Taifa na Seneti. Hii inasaidia kulinda uhuru wa ofisi hizi na kuimarisha imani ya umma katika mchakato huo.

Ili kusaidia ugatuzi, Mswada huu unaanzisha Hazina ya Bunge la Kaunti katika kila kaunti. Hazina hii itasaidia mabunge ya kaunti kusimamia shughuli zao za kila siku na kutekeleza majukumu yao kwa uhuru. Inahakikisha kwamba wajumbe wa mabunge ya kaunti wanaweza kufanya kazi bila kutegemea sana mamlaka tekelezi ya kaunti na hivyo kufanya serikali za kaunti ziwe na uwajibikaji na ufanisi zaidi.

Hatimaye, Mswada huu unaondoa mkanganyiko kuhusu majukumu ya Bunge la Taifa na Seneti katika mchakato wa uundaji sheria. Unabainisha jinsi miswada inavyopaswa kupelekwa kati

ya Mabunge hayo wawili, jinsi usuluhishi unavyopaswa kufanyika iwapo kutakuwa na mgogoro na jinsi Rais anavyopaswa kutoa kibali. Mabadiliko haya yanalenga kupunguza migogoro na kukuza ushirikiano katika Bunge na hivyo kuunda mfumo wa kutunga sheria ulio imara na unaoyashughulikia mahitaji kwa haraka.

D. Kinachotarajiwa Kutoka Kwako

Kama raia, sauti yako ni muhimu. Mswada huu unapendekeza mabadiliko yatakayoathiri jinsi nchi yetu inavyotawaliwa, kuanzia jinsi sheria zinavyoundwa, jinsi fedha za umma zinavyotumika, hadi jinsi serikali za kaunti zinavyofanya kazi.

Unaombwa usome na uelewe mabadiliko yaliyopendekezwa, uulize maswali pale huelewi, na utoe maoni yako ya dhati. Iwapo unaunga mkono mabadiliko haya, unayapinga, au una mapendekezo ya kuboresha, maoni yako ni muhimu sana. Tafadhali hudhuria mikutano ya umma, wasilisha maoni yako kwa njia ya maandishi, shiriki katika majadiliano ya kijamii, au ushiriki kupitia majukwaa ya mtandaoni na mitandao ya kijamii. Kama mwananchi, una haki ya kuathiri Katiba.

Maoni yako yatasaidia kuimarisha demokrasia yetu.

"Kwa Ustawi wa Jamii na Utawala wa Haki kwa Wananchi"



**BUNGE LA 13 | KIPINDI CHA 4
SENETI**

**KWA KANUNI YA MSWADA WA KATIBA YA KENYA (MAREKEBISHO), 2025
(MISWADA YA SENETI NAMBARI 13 YA 2025)**

MASWALI YANAYOULIZWA MARA KWA MARA

1. Madhumuni ya Mswada huu wa Katiba ya Kenya (Marekebisho), 2025 ni yapi?

Mswada huu unalenga kurahisisha mfumo wa Bunge la Taifa na Seneti na kuimarisha ugatuji. Unalenga kuoanisha majukumu ya kisheria ya Bunge la Taifa na Seneti kwa kurahisisha jukumu la utungaji wa sheria ili kuhakikisha kuwa kuna ushiriki wa kikamilifu katika mchakato wa kutunga sheria Bunge la Taifa na Seneti.

2. Kwa nini kuimarisha ugatuji ni kipaumbele katika Mswada huu?

Ugatuji ni kiini cha mfumo wa kikatiba wa Kenya kwa kuwa unapeleka huduma karibu na wananchi na kuendeleza usawa wa kimaendeleo. Hata hivyo, maoni yanayokinzana kuhusu majukumu kati ya Bunge la Taifa, Seneti, na Mabunge ya Kaunti yamedhoofisha utekelezaji wake kikamilifu. Mswada huu unalenga kushughulikia masuala hayo.

3. Je, Wakenya watanufaika vipi kutokana na kuimarishwa kwa mfumo huu wa ugatuji?

Wakenya watanufaika kupitia uhakikisho wa mwendelezo wa huduma za serikali ya kaunti hata pale ambapo kunaweza kuwa na ucheleweshwaji wa kuidhinishwa kwa miswada inayohusiana na bajeti. Wakenya pia watanufaika kwa sababu kutakuwa na uwajibikaji na uangalizi ulioboreshwa kuhusu jinsi fedha zinavyotumika katika ngazi ya kaunti.

4. Mswada unalenga kutatua changamoto zipi za kiutendaji katika ugatuji?

Mswada unashughulikia utata katika majukumu ya kutunga sheria ambao hapo awali ulisitisha au kubatilisha sheria. Zaidi ya hayo, Mswada unalenga kutoa ufafanuzi kuhusu jukumu la utungaji wa sheria katika ngazi ya kitaifa, ili kuhakikisha kuwa sheria zinazoidhinishwa katika ngazi ya kitaifa hazidhoofishi ugatuji.

5. Ni Ibara vipi mahususi za Katiba zinazorekebisha au kubatilishwa?

Mswada unapendekeza mabadiliko katika zaidi ya Ibara 20, zikiwemo 94, 95, 96, 108–116, 157, 173, 215, 221–224, 228–229, 233, 250–251. Hasa, unafutilia mbali Ibara 110 na 114.

(7)2

6. Mswada unaathiri vipi jukumu la Seneti?

Seneti itapewa mamlaka ya—

- uhuru wa kutunga sheria, pamoja na kuwasilisha na kupitisha Mswada (isipokuwa ile inayohusu kukusanya mapato ya kitaifa);
- ushiriki katika michakato ya bajeti ili kuhakikisha kwamba wakati wa kugawa fedha, kaunti zinalindwa kwa kuhakikisha kuwa mapato yaliyokusanywa yanagawanywa kwa usawa na kwamba rasilimali zinaambatana na majukumu;
- utaratibu wa ukuu na uongozi kwa mujibu wa Ibara ya 108; na
- uwakilishi wa maslahi maalum na mashauriano kuhusu masuala yanayowahusu watu katika kaunti.

7. Je, Bunge la Taifa litapoteza mamlaka yoyote kwenye Mswada huu?

Hapana. Kwa hakika, Mswada huu unaweka wazi majukumu yanayoingiliana na kukuza ushirikiano kati Bunge la Taifa na Seneti.

8. Ni nini kinachotokea katika upambanuzi wa “Mswada ya Fedha”?

Mswada unafuta Ibara ya 114, inayofafanua “Mswada ya Fedha,” kuondoa kutoeleweka kwa mara kwa mara kulikosababisha mgongano iwapo Mswada unahitaji maoni ya Seneti. Mabadiliko haya yanakusudia kupunguza ukwamishaji wa kisheria na kukuza ushirikishwaji katika kufanya maamuzi.

9. Je, sasa Mswada inaweza kuanzishwa na Bunge la Taifa na pia Seneti?

Ndio. Kwa mujibu wa mapendekezo ya marekebisho ya Ibara ya 109, Mswada wowote unaweza kuwasilishwa katika Bunge la Taifa au Seneti, isipokuwa Mswada ya kukusanya mapato ya kitaifa, ambayo inaweza kuanzishwa katika Bunge la Taifa.

10. Mswada ya “ugavi” na ya “kuidhinisha matumizi ya fedha” ni nini, na inashughulikiwa vipi chini ya Mswada huu?

- Mswada ya Ugavi (kama Mswada wa Ugavi Mapato ya Kaunti) sasa inaweza kuanzia Seneti, huku Bunge la Taifa likipendekeza marekebisho.
- Mswada ya Kuidhinisha Matumizi ya Fedha (matumizi ya serikali ya kitaifa) inaweza kuanzia katika Bunge la Taifa, huku Seneti likipendekeza marekebisho.
- Ikiwa Bunge moja halikubaliani na marekebisho ya lile lingine, theluthi mbili ya wabunge wengi kutoka kwa Bunge lililouanzisha mswada inaweza kutoyakubali.

11. Je, mchakato wa usuluhishi unaathiriwa?

Ndio. Ibara ya 113 imefanywa marekebisho ili kuondoa Mswada ya Ugavi na Mswada ya Kuidhinisha Matumizi ya Fedha katika usuluhishi, hivyo kurahisisha kule kuzingatia na kupitisha

sheria zinazohusiana na bajeti, ikiwa ni pamoja na Taarifa ya Sera ya Bajeti, Sheria ya Kugawa Mapato, Sheria ya Ugavi wa Mapato ya Kaunti, Sheria za Kuidhinisha Matumizi ya Fedha, n.k.

12. Je, Mswada huu unaunda ibara mpya ya kikatiba?

Ndio. Mswada huu unaanzisha Ibara ya 199A, inayounda Hazina ya Bunge la Kaunti kwa kila kaunti, kusaidia gharama za utawala na uendesaji wa mabunge ya kaunti.

13. Kwa nini Hazina ya Bunge la Kaunti ilianzishwa?

Ili kuhakikisha kwamba mabunge ya kaunti yanafanya kazi kwa uhuru na ufanisi, hasa katika kushughulikia uangalizi kwa serikali tekelezi za kaunti. Hii inafanya ufadhili wao kuwa rasmi na inakuza uhuru wa kifedha na uwajibikaji katika ngazi ya mashinani.

14. Mswada huu unaathiri vipi mchakato wa bajeti katika ngazi za kitaifa na kaunti?

Katika mswada huu—

- Makadirio ya bajeti yatakaguliwa na kuidhinishwa na Bunge la Taifa na Seneti;
- kamati za Bunge la Taifa na Seneti zitahusisha umma katika kuhakiki makadirio; na
- Bunge linaweza kuidhinisha utoaji wa muda wa fedha ili kuendeleza shughuli za kitaifa na za kaunti, endapo Bunge litachelewa kupitisha miswada ya ugavi wa mapato.

15. Je, Mswada huu unakuza uratibu bora kati ya serikali ya kitaifa na serikali za kaunti?

Ndio. Kwa kubainisha majukumu ya Bunge la Taifa na Seneti na kulainisha jinsi mapato na sheria zinavyosawazishwa, Mswada huu unakuza ushirikiano, unapunguza migongano ya kisheria kati ya Bunge la Taifa na Seneti, na unahakikisha utoaji wa huduma kwa Wakenya kwa wakati.

16. Ni mabadiliko gani yanayofanywa katika uteuzi wa wanaoshikilia nyadhifa za ofisi za kikatiba?

Mamlaka ya kuchunguza na kuidhinisha uteuzi wa wanaoshikilia nyadhifa za ofisi za kikatiba, (kwa mfano Mkaguzi Mkuu wa Hesabu za Serikali, Mdhambi wa Bajeti, Mkurugenzi wa Mashtaka ya Umma, wenyekiti na makamishna wa tume za kikatiba), ambayo hapo awali yalikuwa ya Bunge la Taifa pekee, sasa yamekabidhiwa Seneti pia.

17. Je, kutakuwa na ushirikishwaji wa umma kabla ya Mswada huu kupitishwa kuwa sheria?

Ndio. Ibara ya 10 na ya 118 za Katiba zinawapa wananchi mamlaka ya kushirikishwa katika mchakato wa kutunga sheria. Kwa kuwa huu ni mchakato wa kurekebisha Katiba, unahitaji kura ya maoni ya kitaifa kwa mujibu wa Ibara ya 255. Hii inamaanisha kuwa maoni ya wananchi yatazingatiwa katika hatua mbalimbali: baada ya kuwasilishwa katika Bunge, wakati wa vikao vya kamati, na katika kura ya maoni yenyewe.

18. Kwa nini ushirikishwaji wa umma ni muhimu katika kurekebisha Katiba?

Katiba ndiyo sheria kuu ya nchi. Ushirikishwaji wa umma unahakikisha kuwa marekebisho yanawakilisha matakwa ya wananchi, yanalinda maslahi ya umma, na yanadumisha thamani za kidemokrasia. Kadhalika, unaimarisha uwazi na uaminifu katika maamuzi ya serikali.

19. Je, Wakenya wanaweza vipi kuwa na uhakika kwamba maoni yao yatachukuliwa kwa uzito?

Katiba inawajibisha Bunge kutafuta na kuzingatia maoni ya umma katika utungaji wa sheria (Ibara ya 118). Zaidi ya hayo, kamati za Bunge lazima ziandae ripoti zinazoonyesha jinsi mawasilisho ya umma yalivyopokewa na kuzingatiwa katika Mswada wa mwisho. Ripoti hizi zinakuwa sehemu ya kumbukumbu rasmi za kisheria.

20. Je, kuna kinga za kisheria zinazohakikisha kuwa ushirikishwaji wa umma si jambo la kutimiza mahitaji ya sheria tu?

Ndio. Mahakama zimeamua kuwa ushirikishwaji wa umma lazima uwe wa maana na si wa kijuujuu. Katika kesi kama vile *Hukumu ya BBI*, Mahakama zilisitiza kwamba sheria yoyote itakayopitishwa bila ushiriki wa kutosha wa umma inaweza kutangazwa kuwa kinyume cha katiba na hivyo kuwa batili.

21. Je, wananchi wanaweza kupinga mchakato huu wakihisi kupuuzwa?

Ndio. Iwapo raia au kundi lolote litaamini kuwa mchakato wa ushiriki wa umma haukutosha au ulipuuzwa, basi linaweza kutafuta haki mahakamani kwa mujibu wa Ibara ya 22 na ya 258 za Katiba.

22. Je, wananchi wanaweza kutoa maoni yao kuhusu Mswada huu kwa njia gani?

Wakenya wanaweza kushiriki kwa —

- kuwasilisha hati za maandishi kwa Kamati za Bunge zinazohusika;
- kuhudhuria vikao vya hadhara au majukwaa ya wadau yanayoandaliwa na Bunge au serikali za kaunti;
- kujihusisha kupitia vyombo vya habari, mashirika ya kiraia, na mabaraza ya umma; na
- kupiga kura wakati wa kura ya maoni ya kitaifa, ambayo ni ya lazima kwa mabadiliko fulani ya kikatiba.

23. Ni nini kitatokea kwa maoni yanayotolewa wakati wa mikutano ya hadhara?

Mawasilisho ya kimazungumzo na ya kimaandishi yatakuwa —

- yanarekodiwa na kamati husika;
- yanahakikiwa pamoja na maoni ya wataalamu;
- yanaakisiwa katika ripoti ya kamati na marekebisho yanayoweza kufanywa katika mswada; na
- yanatolewa kwa umma iwapo yataombwa, hivyo kuongeza uwazi.

24. Je, Wakenya wanaweza kufuatilia vipi ili kuona iwapo maoni yao yaliathiri Mswada?

Unaweza—

- kusoma ripoti za kamati zitakazowasilishwa katika Bunge;
- kufuatilia mijadala ya pamoja ambapo wajumbe hurejelea mawasilisho ya umma;
- kupata muhtasari kutoka katika tovuti ya Bunge, mashirika ya kiraia, au vyombo vya habari; na
- kuhudhuria mikutano ya hadhara ya kujadili yaliyojiri baada ya vikao vya umma.

25. Mswada huu utanza kutumika lini ikiwa utapitishwa?

Uanza kutumika siku ya 14 baada ya kutangazwa rasmi kwa matokeo ya kura ya maoni ya kitaifa, kulingana na Ibara ya 255 ya Katiba.

26. Kwa nini kura ya maoni inahitajika kwa ajili ya Mswada huu?

Kwa mujibu wa Ibara ya 255(1) ya Katiba, marekebisho yoyote yanayogusia maeneo muhimu kama vile muundo wa ugatuzi, jukumu la Bunge, au uhuru wa tume za kikatiba na ofisi huru lazima yaidhinishwe na wananchi kupitia kwa kura ya maoni.

27. Ni sehemu gani za Mswada zinazohitaji kura ya maoni?

Marekebisho yoyote yanayopendekezwa na yanayoathiri muundo wa ugatuzi, majukumu ya Bunge, majukumu ya kaunti, au tume za kikatiba na ofisi huru lazima yapigiwe kura ya maoni, kama ilivyobainishwa katika Ibara ya 255(1) ya Katiba.

28. Ni nani anayestahiki kupiga kura katika kura ya maoni?

Mkenya yeyote aliyesajiliwa kama mpiga kura anastahiki kupiga kura katika kura ya maoni.

29. Ni nani atakayeandaa kura ya maoni?

Tume Huru ya Uchaguzi na Mipaka (IEBC) ina jukumu la kupanga na kuendesha kura ya maoni, kama inavyofanya katika uchaguzi mkuu.

30. Ni nini kitatokea ikiwa umma utakataa marekebisho yaliyopendekezwa katika kura ya maoni?

Iwapo wapiga kura wengi wataukataa Mswada huo wakati wa kura ya maoni, basi hautanza kutumika na Katiba itasalia bila kubadilishwa. Bunge haliwezi kuenda kinyume cha matokeo ya kura ya maoni. Hii inasisitiza mamlaka makuu ya wananchi, ambayo ni kiini cha mageuzi ya kikatiba nchini Kenya.

"Kwa Ustawi wa Jamii na Utawala wa Haki kwa Wananchi"



66)



**BUNGE LA 13 | KIPINDI CHA 4
SENETI**

**KWA KANUNI YA MSWADA WA KATIBA YA KENYA (MAREKEBISHO), 2025 (MISWADA
YA SENETI NAMBARI 13 YA 2025)**

FOMU YA MAONI YA UMMA

(Kwa mujibu wa Ibara za 118 na 256 za Katiba na kanuni ya kudumu 145(5)
ya Kanuni za Kudumu za Seneti).

Sehemu ya A — Taarifa ya Kibinafsi

1. Jina kamili: _____
2. Jinsia: _____
3. Umri: _____
4. Kaunti: _____
5. Nambari ya Utambulisho (Kitambulisho cha Taifa/Pasipoti/Leseni ya Udereva ya Kenya): _____

Sehemu ya B — Maoni kuhusu Marekebisho Yanayopendekezwa katika Katiba

Je, maoni yako ni yapi kuhusu Marekebisho yanayopendekezwa? (Weka alama sahihi na utoe sababu)

1. Rekebisho linalopendekezwa kwa Ibara ya 94 ya Katiba ili kubainisha kwamba utungaji wa sheria, uwakilishi na uangalizi ni jukumu la Bunge la Taifa na Seneti.

☐ Ninaunga mkono	Sababu: _____
☐ Siungi mkono	Sababu: _____
☐ Mengine	Eleza: _____

2. Rekebisho linalopendekezwa kwa Ibara ya 95 ili kubainisha kwamba uamuzi wa mgao wa mapato, uidhinishaji wa matumizi ya fedha, na uangalizi wa mapato ya taifa ni jukumu la Bunge la Taifa na Seneti.

☐ Ninaunga mkono	Sababu: _____
☐ Siungi mkono	Sababu: _____
☐ Mengine	Eleza: _____

3. Rekebisho linalopendekezwa kwa Ibara ya 96 ili kuweka kisheria jukumu la uwakilishi wa Seneti kwa makundi maalum, kutoa nafasi kwa Seneti katika utungaji wa sheria, majadiliano na utatuzi wa masuala ya maslahi ya umma na kubainisha kwamba jukumu la uangalizi la Seneti linahusisha mapato ya taifa yanayogawanywa kwa kaunti pamoja na mapato yanayokusanywa na kaunti zenye.

☐ Ninaunga mkono	Sababu: _____
☐ Siungi mkono	Sababu: _____
☐ Mengine	Eleza: _____

4. Rekebisho linalopendekezwa kwa Ibara ya 108 ili kutoa utaratibu wa ukuu na uongozi katika Seneti. Kwa sasa, Katiba inatoa tu utaratibu wa vyeo na uongozi katika Bunge la Taifa.

☐ Ninaunga mkono	Sababu:
☐ Siungi mkono	Sababu:
☐ Mengine	Eleza:

5. Rekebisho linalopendekezwa kwa Ibara ya 109 ili kuweka utaratibu wa kuanzisha Mswada wowote katika Bunge la Taifa au Seneti, isipokuwa Mswada wa kukusanya mapato ya kitaifa ambao unaweza kuanza tu katika Bunge la Taifa. Kwa sasa, Seneti inaweza kuanzisha na kushughulikia Miswada inayohusu serikali za kaunti pekee.

☐ Ninaunga mkono	Sababu:
☐ Siungi mkono	Sababu:
☐ Mengine	Eleza:

6. Kufutuliwa mbali kwa Ibara ya 110 ya Katiba. Kwa sasa, Ibara ya 110 ya Katiba inafafanua “mswada unaohusu serikali za kaunti ni nini”, jambo ambalo limekuwa likieleweka kwa njia nyingi tofauti.

☐ Ninaunga mkono	Sababu:
☐ Siungi mkono	Sababu:
☐ Mengine	Eleza:

7. Rekebisho linalopendekezwa kwa Ibara ya 111 ili kubainisha kwamba Miswada ya ugavi (Mswada wa Ugavi wa Mapato kwa Kaunti au Mswada wa Ugavi wa Ziada wa Mapato kwa Serikali za Kaunti) inaweza kuanzishwa katika Seneti na miswada ya kuidhinisha matumizi ya fedha (Mswada wa Kuidhinisha Matumizi ya Fedha au Mswada wa Kuidhinisha Matumizi ya Ziada ya Fedha) inaweza kuanzishwa na Bunge la Taifa. Kwa sasa, Ibara ya 111 inaweza utaratibu wa kushughulikia Miswada Maalum inayohusu serikali za kaunti.

☐ Ninaunga mkono	Sababu:
☐ Siungi mkono	Sababu:
☐ Mengine	Eleza:

8. Rekebisho linalopendekezwa kwa Ibara ya 113 ili kuoanisha mchakato wa usuluhishi na mfumo mpya unaopendekezwa chini ya Ibara ya 109 na kuondoa Miswada ya Ugavi na Matumizi ya Fedha kutoka katika mchakato wa usuluhishi.

☐ Ninaunga mkono	Sababu:
☐ Siungi mkono	Sababu:
☐ Mengine	Eleza:

9. Rekebisho linalopendekezwa kwa Ibara ya 114 ambayo inafafanua “Miswada ya Fedha.” Kwa sasa, ufafanuzi huo umekuwa ukieleweka kwa njia tofauti.

☐ Ninaunga mkono	Sababu:
☐ Siungi mkono	Sababu:
☐ Mengine	Eleza:

10. Rekebisho linalopendekezwa kwa Ibara ya 115 ili kuoana na rekebisho linalopendekezwa kwa Ibara ya 109 na kuhakikisha uthabiti.

☐ Ninaunga mkono	Sababu:
☐ Siungi mkono	Sababu:
☐ Mengine	Eleza:

11. Rekebisho linalopendekezwa kwa Ibara ya 116 ili kutoa ufafanuzi ulio wazi kuhusu kuanza kutumika kwa sheria pale ambapo Rais hakutoa kibali kwa Mswada wala kuurejesha kwa Bunge.

☐ Ninaunga mkono	Sababu:
☐ Siungi mkono	Sababu:
☐ Mengine	Eleza:

12. Rekebisho linalopendekezwa kwa Ibara mbalimbali ili kugawa jukumu la kuidhinisha uteuzi na kuondolewa mamlakani kwa Maafisa mbalimbali wa serikali ambao ni Mkurugenzi wa Mashtaka ya Umma, Mwenyekiti wa Tume ya Ugavi wa Mapato, Mdhibiti wa Bajeti, Mkaguzi Mkuu wa Hesabu za Serikali, pamoja na Wenyekiti na makamishna wa tume za kikatiba kwa Bunge la Taifa na Seneti. Kwa sasa, idadi kubwa ya uidhinishaji wa maafisa wa serikali hufanywa na Bunge la Taifa.

☐ Ninaunga mkono	Sababu:
☐ Siungi mkono	Sababu:
☐ Mengine	Eleza:

13. Rekebisho linalopendekezwa ili kutunga Ibara mpya ya 199A ili kuunda Hazina ya Bunge la Kaunti kwa kila bunge la kaunti.

☐ Ninaunga mkono	Sababu:
☐ Siungi mkono	Sababu:
☐ Mengine	Eleza:

14. Rekebisho linalopendekezwa kwa Ibara ya 221 ili kuweka sawa mchakato wa bajeti kwa kuweka utaratibu wa kushughulikia na kuidhinisha makadirio ya bajeti katika Bunge la Taifa na Seneti. Kwa sasa, jukumu hili ni la Bunge la Taifa.

☐ Ninaunga mkono	Sababu:
☐ Siungi mkono	Sababu:
☐ Mengine	Eleza:

15. Rekebisho linalopendekezwa kwa Ibara ya 222 ili kutoa utaratibu kwamba iwapo kupitishwa kwa Sheria ya Kuidhinisha Matumizi ya Fedha kutachelewa, utowaji wa fedha kutoka Hazina Kuu utaidhinishwa na Bunge la Taifa na Seneti. Kwa sasa, idhini hii inahitajika tu kutoka kwa Bunge la Taifa.

☐ Ninaunga mkono	Sababu:
☐ Siungi mkono	Sababu:
☐ Mengine	Eleza:

16. Rekebisho linalopendekezwa kwa Ibara ya 223 inayoeleza kwamba idhini ya Bunge la Taifa na Seneti itahitajika pale ambapo fedha zinatumiwa kwa malengo ambayo hayakuidhinishwa. Kwa sasa, idhini hii inahitajika tu kutoka kwa Bunge la Taifa.

☐ Ninaunga mkono	Sababu:
☐ Siungi mkono	Sababu:
☐ Mengine	Eleza:

17. Rekebisho linalopendekezwa kwa Ibara ya 224 ili kubainisha kwamba msingi wa maandalizi ya bajeti na serikali za kaunti ni Mswada wa Ugavi wa Mapato ya Kaunti na sio Mswada wa Kugawa Mapato, na kuanzisha mfumo unaoruhusu Bunge kuidhinisha utoaji wa muda wa fedha kutoka kwa Hazina Kuu kusaidia kaunti endapo kupitishwa kwa Mswada wa Kugawa au Mswada wa Ugavi wa Mapato ya Kaunti kutachelewa.

☐ Ninaunga mkono	Sababu:
☐ Siungi mkono	Sababu:
☐ Mengine	Eleza:

18. Rekebisho linalopendekezwa kwa Ibara ya 250 ili kutoa ufafanuzi kwamba uidhinishaji wa uteuzi wa kamishna wa tume ya kikatiba au anayeshikilia wadhifa wa ofisi huru utashughulikiwa na Bunge la Taifa na Seneti. Kwa sasa, jukumu hili limepewa Bunge la Taifa.

☐ Ninaunga mkono	Sababu:
☐ Siungi mkono	Sababu:
☐ Mengine	Eleza:

19. Rekebisho linalopendekezwa kwa Ibara ya 251 ili kutoa ufafanuzi kwamba kuondolewa mamkalani kwa kamishna wa tume ya kikatiba au anayeshikilia wadhifa wa ofisi huru kutashughulikiwa na Bunge la Taifa na Seneti. Kwa sasa, jukumu hili limepewa Bunge la Taifa.

☐ Ninaunga mkono	Sababu:
☐ Siungi mkono	Sababu:
☐ Mengine	Eleza:

20. Maoni mengine yoyote kuhusu Mswada.

.....

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IMETIWA SAINI _____ TAREHE: _____, 2025

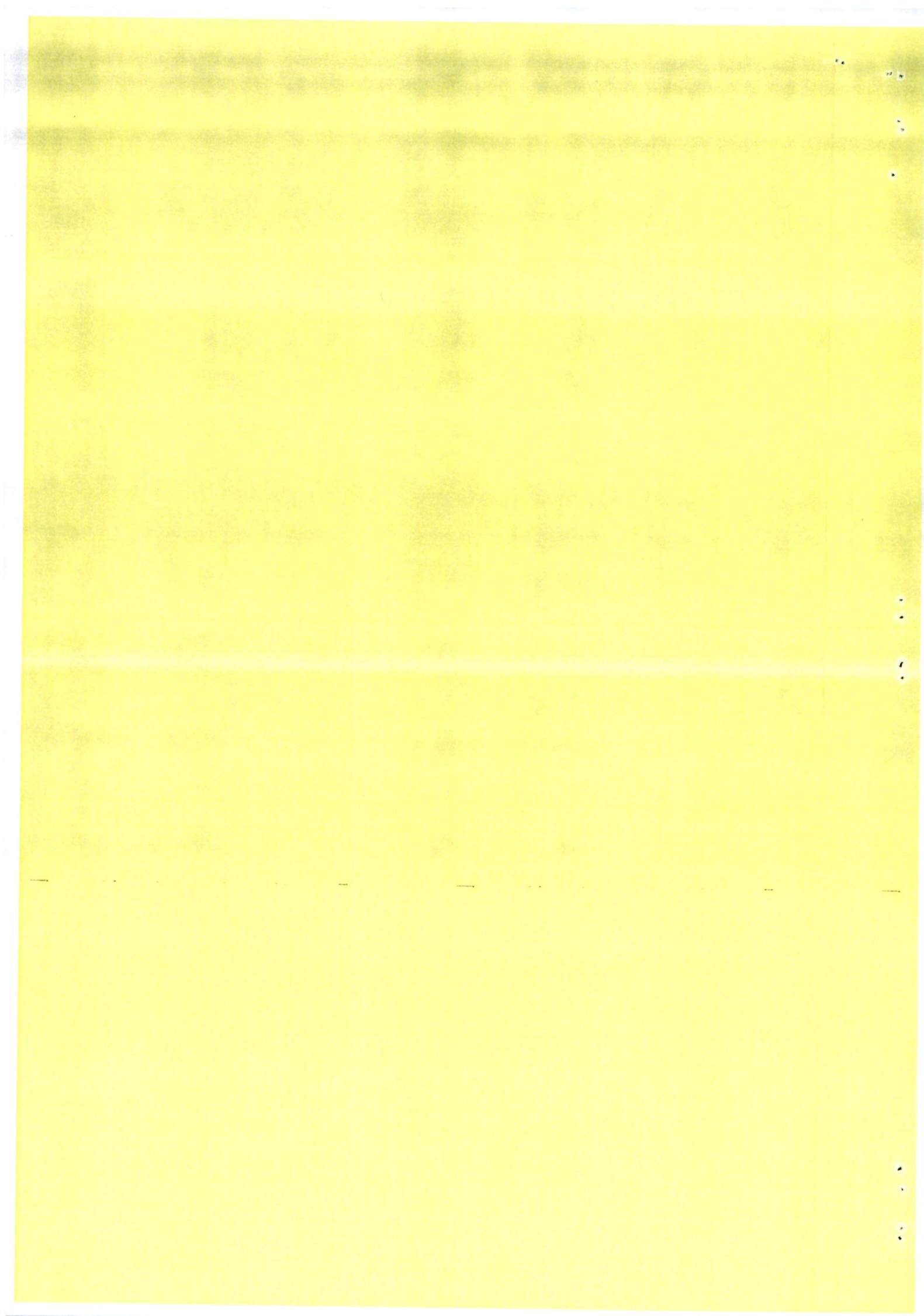
Zingatia:

Fomu zilizojazwa zinaweza kutumwa kwa Katibu wa Seneti, S.L.P 41842-00100, Nairobi, kuwasilishwa moja kwa moja kwa Ofisi ya Katibu wa Seneti, Majengo ya Bunge, Nairobi au kutumwa kwa barua pepe kupitia maoni@parliament.go.ke na nakala kwa senatejlahrc@parliament.go.ke

Shukrani: Seneti inathamini ushiriki wako katika mchakato huu.

"Kwa Ustawi wa Jamii na Utawala wa Haki kwa Wananchi"

***Annex 7: Copies
of public and
stakeholder
submissions on
the Bill***



Tel: 254 (20) 4298000
Email: info@cra.go.ke
Website: www.cra.go.ke



Prism Towers
3rd Ngong Avenue
28th Floor
P.O. Box 1310 – 00200
NAIROBI

COMMISSION ON REVENUE ALLOCATION

OUR REF: CRA/ADM/SEN/02 VOL1(64)

DATE: 2nd September 2025

J. M. Nyegenye, CBS
Clerk of the Senate
Clerk's Chambers
Parliament Buildings
P. O. Box 41842-00100
NAIROBI

Dear *Nyegenye*

**RE: INVITATION TO SUBIT COMMENTS ON THE CONSTITUTION OF KENYA
(AMMENDMENT) BILL, 2025 (SENATE BILLS NO.13 OF 2025)**

We refer to your letter Ref.No. SEN/DGAC/DGC/JLAHRC/2025/28(i) dated 22nd August 2025 inviting us to submit comments on the Constitution of Kenya (Amendment) Bill, 2025 (Senate Bills No. 13 of 2025) and your email dated 2nd September 2025.

Attached herewith please find comments from the Commission on Revenue Allocation for your action.

We also confirm our availability and participation tomorrow.

Yours sincerely,

CPA Roble Nuno
COMMISSION SECRETARY/CEO



COMMENTARY ON THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2025

A. Introduction

This Bill as per its memorandum of objects and reasons seeks to strengthen and secure devolution by –

- (a) clarifying the role of various organs and institutions established by the Constitution in the process of devolution;
- (b) reviewing the mandate of the Senate and the National Assembly in order to clarify the shared role of the Houses of Parliament and the special roles assigned to each House of Parliament;
- (c) refining the legislative process set out in the Constitution in order to ensure that both Houses of Parliament play an effective role in the legislative process; and
- (d) ensuring that both the National Assembly and the Senate play an effective role in the budget making process in order to safeguard the implementation of devolution.

B. Clause by Clause Analysis

The following issues are noted on review of the Bill-

Serial No.	Clause	Issue/ Recommendation	Justification for CRA position
1.	Clause 2 Amendment of Article 94 of the Constitution	Under sub clause 2(b) which reads- <i>(b) inserting the following new clause immediately after clause (2)–</i> <i>(2A) Parliament exercises oversight over–</i> <i>(a) national revenue allocated to the national government and its expenditure; and</i> <i>(b) State organs and other public entities.</i>	To avoid duplication of functions between the two houses of Parliament.



		Recommendation: Delete to retain current provision	
2.	Clause 4 Amendment of Article 96 of the Constitution	i. Amendment provides as follows under paragraph (a) - Article 96 of the Constitution is amended by— (a) inserting the words “and represents special interests in the Senate” at the end of clause (1); Recommendation: Define the phrase “special interests” which is not defined under Article 260 of the Constitution. ii. Amendment provides a new provision as follows under paragraph (e) - (e) inserting the following new clause immediately after clause (4)— (5) proposes Parliament shall enact legislation providing for the procedure of removal of state officers at the national level. Recommendation: this proposal to be made under Article 94 of the Constitution on the Role of Parliament.	For clarity The provision will be misplaced under Article 96
3.	Clauses 6	The amendments repeal various Bill provisions under Articles 109 of the Constitution.	To curtail any legislative gaps



	Amendment of Article 109 of the Constitution	Recommendation: Ensure that all the deleted Bills catered for by the current constitutional provisions are comprehensively covered in the proposed amendments	
4.	Clause 16 Amendment of Article 199 of the Constitution	Provides as follows- <i>16. The Constitution is amended by inserting the following new Article immediately after Article 199 –</i> County Assembly Fund <i>199A (1) There is established, for each county assembly, a County Assembly Fund.</i> <i>(2) The Fund shall be used for administrative expenses of a county assembly and for such other purposes as may be necessary for the discharge of the functions of a county assembly.</i> <i>(3) Each financial year, a county assembly shall prepare estimates of expenditure for the following year and submit them to a county assembly for approval.</i> <i>(4) On approval of the estimates by a county assembly, the expenditure of a county assembly as approved by Parliament in the County Allocation of Revenue Act for the respective year, shall be a</i>	This proposal has been overtaken by events with the enactment of the County Public Finance Laws Amendment Act, 2025 which establishes a similar Fund under the PFM Act.



		<i>charge on a County Revenue Fund and the funds shall be paid directly into a County Assembly Fund.</i> <i>(5) A county assembly in each county shall enact legislation to provide for the regulation of the Fund.</i> Recommendation: Delete	
5.	Clauses 17,22, 23, 24, 25 and 26 Amendments to Article 215, 228, 229, 233, 250 and 251 of the Constitution	The provisions provide for appointment and removal from office of various chairpersons and members of constitutional Commissions and Independent Offices Recommendation: Delete	To avoid unnecessary bureaucracy

C. Additional Recommendation:

The Commission proposes for future consideration an amendment to Article 203(3) of the Constitution on equitable share and other financial laws which reads-

203(3) *The amount referred to in clause (2) shall be calculated on the basis of the most recent audited accounts of revenue as received, **as approved** by the National Assembly.*

Recommendation: Delete the phrase "**as approved**" immediately after the word "**received**"

Justification: to ensure equitability in revenue sharing through use of recent accounts received as there are instances of delay by the National Assembly to approve the most recent audited accounts

D. General Comment:



This Bill generally expands the mandate of the Senate in matters various matters such as legislation, oversight and in appointment of state officers such as the Auditor General, Controller of Budget and the Commission Chairperson. This in some instances as highlighted above may however create a lot of bureaucracy and duplication of roles between the two houses of Parliament.

KENYA LAW REFORM COMMISSION



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Ref. No. KLRC/8/86 (49)
and Date



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2nd September 2025

Mr. J M Nyegenye, CBS
Clerk of the Senate
Clerks Chambers
The Senate
Parliament Buildings
P O Box 41842 - 00100
NAIROBI

Dear Sir,

RE: INVITATION TO SUBMIT COMMENTS ON THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2025 (SENATE BILL NO. 13 OF 2025) AND TO ATTEND A MEETING OF THE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS TO DELIBERATE ON THE BILL

Your letter Ref SEN/DGAC/DGC/JLAHRC/2025/28(C) dated 22nd August, 2025 on the above subject refers.

The Kenya Law Reform Commission (KLRC) is established under the Kenya Law Reform Commission Act Cap 3 of the Laws of Kenya with the mandate of keeping the law under review and recommending its reform to ensure among other things that the law conforms to the Constitution, is consistent, harmonized, just, simple, accessible, modern and cost-effective in application.

The KLRC has studied the Constitution of Kenya (Amendment) Bill, 2025 and makes the comments in the attached memorandum.

As always, we thank you for your continued cooperation.

Yours faithfully,

Christine A. Agimba
CHAIRPERSON



MEMORANDUM OF COMMENTS ON THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2025 (SENATE BILL NO. 13 OF 2025)

Introduction

The Constitution of Kenya sets out two main tracks for law-making.

- i. First, Bills that do not concern county governments are considered and passed only by the National Assembly (Article 109(3)).
- ii. Second, Bills that concern county governments must go through both the National Assembly and the Senate (Articles 110–113). Within this second category, the Constitution makes a further distinction between ordinary Bills and special Bills. For example, the County Allocation of Revenue Bill is a special Bill. Once passed by the Senate, it can only be amended or vetoed by the National Assembly if supported by at least two-thirds of its members (Article 111). If the National Assembly fails to reach that threshold, the version passed by the Senate automatically proceeds to the President for assent.

When the two Houses disagree on any Bill concerning counties, the Constitution provides for a mediation process (Articles 112–113). A joint mediation committee is appointed, and if it proposes a compromise, both Houses must pass the Bill in its revised form. However, if mediation fails, the Bill is defeated.

The Constitution also gives the National Assembly primary control over Money Bills. According to *Article 114*, all Money Bills must originate in the National Assembly.

The annual budget process is constitutionally anchored through two key laws: The Division of Revenue Bill and the County Allocation of Revenue Bill, both required under Article 218. The Division of Revenue Bill divides nationally raised revenue between the national and county levels, while the County Allocation of Revenue Bill distributes the county share among the 47 counties. In addition, Article 221 requires the Cabinet Secretary for Finance to present budget estimates to the National Assembly for approval. Finally, Article 205 requires that the Commission on Revenue Allocation be consulted on any financial legislation that affects county governments, ensuring that county interests are safeguarded in revenue-sharing.

Core problems the Amendment Bill should address

The proposed amendment should address the following:

- i. First, Article 110(1) and (2) creates uncertainty on what counts as “Bills concerning counties” and how to distinguish between a “*special*” and an “*ordinary*” Bill. This ambiguity has led to inconsistent handling of legislation and even forum shopping between the two Houses, weakening the coherence of the law-making process.
- ii. Second, there is a clear imbalance in the budget process. While the Senate has a strong constitutional role in reviewing the Division of Revenue Bill and the County Allocation of Revenue Bill (Articles 218–219), its role in other parts of the budget cycle, such as the Budget Policy Statement (Article 218), estimates of revenue and expenditure (Article 221), and the Appropriation Bill (Article 223) is much weaker. This asymmetry undermines the Senate’s mandate to represent counties in financial matters.
- iii. Third, the process for considering Bills concerning counties lacks a firm joint-sitting requirement or clear and enforceable timelines that are open to the public. As a result, deadlocks can be prolonged and costly, especially where time-bound financial legislation is involved.

Clause by clause Analysis

Clause	Comments	Rationale
1. Short title and commencement	The Bill comes into force after a referendum is conducted under Article 255,	Properly recognizes that the amendments relate to the functions of Parliament hence must be subjected to a referendum pursuant to Article 255.
2. Amendment of Article 94 of the Constitution by inserting new Clauses 1A, 1B, 1C and 2A	The proposal to insert new Clauses 1A, 1B, 1C and 2A expressly codifies Parliament’s legislative, representation and oversight roles. States that both the National Assembly and the Senate shall exercise legislative authority; Requires legislation to respect the Fourth Schedule, national values and principles of governance; and Expressly frames oversight over national revenue, State organs and	By stating that both Houses exercise legislative authority, the Bill makes the Senate to a full, co-equal legislative chamber and enhances its fiscal oversight powers. The proposals elevate bicameral symmetry in legislation (both Houses hold legislative authority), reducing ambiguity seen under the current “Bills concerning counties” gateway. All Bills will now require bicameral consideration

	public entities. Clause 2A explicitly requires oversight powers of Parliament to include national revenue, State organs, and other public entities. Currently, the Constitution implies a hierarchy where the National Assembly is the primary legislative chamber (Art. 95), while the Senate is confined mainly to county-related matters (Art. 96 + Art. 110 on "Bills concerning counties"). In effect, this removes the "Bills concerning counties" test that has been a source of litigation (e.g., Advisory Opinion Reference No. 2 of 2013, Supreme Court, on Senate's role).	unless explicitly exempted (as spelled out later in Article 109 amendments). Promotes functional alignment with the Fourth Schedule and Article 10, thus strengthening devolution. Broad phrasing on oversight of "State organs and other public entities" under 2A could invite institutional overlaps unless supported by precise amendments to the Standing Orders.
3. Amendment of Article 95 of the Constitution by repealing Clause (4)	Clause (4) provides that the National Assembly— - determines the allocation of national revenue between the levels of government, as provided in Part 4 of Chapter 12 (Public Finance); - appropriates funds for the national government and other State organs; and - exercises oversight over national revenue and its expenditure. Clause (4) makes the NA the	It is appreciated that Article 95(4) is deleted to avoid conflict with the new bicameral fiscal procedures contained in the proposed subsequent amendments in Articles 109 (all Bills pass through both Houses, save for origination of revenue-raising Bills), 111–113 (special bicameral procedure for allocation and appropriation Bills) and 221–223 (budget estimates and supplementary appropriations now approved by Parliament

	exclusive chamber for budgetary authority and oversight over national revenue.	rather than NA alone). The implications of deleting Article 95(4) are that it shifts the NA monopoly to shared fiscal authority. Fiscal power (including fiscal policy consideration) becomes bicameral.
4. Amendment of Article 96 of the Constitution by including representation of 'special interests'" as an additional role of the Senate, providing explicitly that Senate shall enact legislation, not just "participate in law-making concerning counties, and deleting Clause (2) thereby removing the "Bills concerning counties" tether— meaning Senate no longer has to pass the Article 110 gate-keeping test before legislating. The amendment also expands Clause (3) to widen Senate's oversight to cover revenue raised by counties not just the national revenue allocated to counties. Further a new Clause (5) requires Parliament to legislate procedures for	The implication of this amendment is that Senate assumes full legislative chamber status beyond county-only lens.	This will result in stronger county revenue oversight (both allocated and raised). This greater parity enhances devolution guardianship on the one hand, but it blurs the original bicameral bargain on the other, unless carefully delimited, risking duplication and turf contests over national-scope laws.

removal of national State officers.		
5. Amendment of Article 108 of the Constitution by extending its application to the Senate, effectively providing for Majority and Minority Leaders in the Senate as constitutional offices (not just Standing Orders creations). It also provides for order of precedence in the Senate – similar to the National Assembly's list.	The amendment normalizes Leadership Architecture with both Houses having constitutionally entrenched Leader of Majority and Leader of Minority roles.	The Article 108 amendment standardizes party leadership structures across both Houses, strengthens the Senate's institutional identity, and improves clarity in parliamentary protocol. It provides clearer Protocol in the Senate by constitutionalizing order of precedence (e.g., Speaker → Majority Leader → Minority Leader), the Senate gets a uniform protocol for business and official representation. This helps protocol for things like joint sittings (Art. 132(1)), State functions, or handling of bicameral business under Articles 109–113 (as amended). It promotes institutional balance with both Houses now having constitutionally recognized leadership positions, bicameral negotiations (e.g., during budget mediation or joint committees) become procedurally easier, since

		the “official voices” of each side are clearly defined.
6. Amendment of Article 109 of the Constitution by deleting the default origination of Bills in the National Assembly, conditional participation of the Senate depending on whether it is a Bill concerning counties and substituting with provisions requiring that any Bill may originate in either House, except a revenue-raising Bill must start in the NA; all Bills require passage by both Houses before assent; and joint certification by both Speakers is required.	The proposed amendments will end the categorization of Bills (“concerning counties”) and adopt a universal bicameral passage rule (save for origination rule on tax/revenue).	The proposed amendment of Article 109 reshapes Kenya’s bicameralism from a differentiated model (NA dominant, Senate county-focused) to a co-equal model (all Bills must pass both Houses). This will resolve the litigation-prone categorization but risks increasing legislative process costs (time, negotiation, mediation demand). Ref. Supreme Court Advisory Opinions (notably Advisory Opinion No. 2 of 2013, and Senate v National Assembly cases).
7. Amendment of Article 110 of the Constitution by repealing it.	Article 110 (Bills concerning county government) is the provision that determines when the Senate has a role in law-making: It defines a Bill concerning county government and provides that it may originate in either House and further requires that a Bill not concerning county government is considered only in the National Assembly.	Repealing Article 110 removes the “county test” and locks Kenya into permanent dual-House passage of every Bill. While the reform strengthens devolution, but could also slow governance if institutional coordination is weak. It is appreciated that in light of the past litigation, Article 110 creates uncertainty on what

		counts as "Bills concerning counties" and how to distinguish between a "special" and an "ordinary" Bill. This ambiguity has led to inconsistent handling of legislation and even forum shopping between the two Houses, weakening the coherence of the law-making process. However, repealing Article 110 entirely would tilt the balance of bicameralism in favor of the National Assembly, erode the Senate's oversight of county interests, and weaken the constitutional principle of devolution. This is because the Senate's legislative role depends on whether a Bill is "concerning counties." If not, the Bill stays entirely in the National Assembly. This categorization has been hugely contentious (e.g. Supreme Court Advisory Opinion No. 2 of 2013, Speaker of Senate v AG, Council of Governors v National Assembly).
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8. Amendment of Article 111 of the Constitution by repealing it and substituting therefore a new procedure for Allocation and Appropriation Bills	The new procedure proposes that an allocation Bill may originate from the Senate and an appropriation Bill may originate from the NA but in each case, the other House may amend the Bill. The originating House may veto the amendments by two-thirds majority. The Bill retains mediation for ordinary Bills but removes it for allocation/appropriation Bills, substituting a two-thirds veto mechanism under Article 111. In practice, this tilts the balance in favour of the amending House, since it is easier to insert amendments than to muster two-thirds to reject them.	It encourages negotiation and consensus-building in advance. Strengthens Senate's participation on Appropriation Bills and NA's participation on Allocation Bills. Risks: In a polarized Parliament, the two-thirds rule may lead to gridlock, especially close to budget deadlines. It puts heavy pressure on the originating House since it must either accept or secure a supermajority to veto, which could be very difficult. This could slow down the budget cycle if one chamber strategically uses its amending power to force concessions.
9. Amendment of Article 112 of the Constitution by modifying it to align with the new bicameral rule in Article 109 (all Bills must pass both Houses), and the special procedure for allocation and appropriation Bills in Article 111.	Bills originating in either House must be considered by the other House. If the other House passes the Bill without amendments, it is sent for assent (after certification by both Speakers under Article 109). If the other House amends the Bill, and the originating House agrees, it goes for assent. If the originating House rejects the amendments, the Bill goes to mediation under	This arrangement is technically neat but its efficient implementation depends on mediation discipline to avoid ping-pong delays and subject to workload pressures. Senate workload: When the Senate transforms from a chamber with selective oversight of county-related Bills into a full co-legislature alongside the National Assembly, the Senate capacity will need scaling up, since it now has to

	Article 113. <i>Note:</i> Article 112 makes it clear that allocation and appropriation Bills are treated differently. Instead of going through the normal mediation process in Articles 112 and 113, these budget-related Bills are handled under Article 111. In their case, the key rule is the two-thirds veto requirement. This creates two separate paths: ordinary Bills follow the standard mediation route, while budget Bills follow the stricter Article 111 process.	process all Bills, not just county-related ones.
10. Amendment of Article 113 of the Constitution by explicitly providing that mediation no longer applies to allocation/appropriation Bills under Article 111.	The implication is that for core budget Bills, no mediation fallback—the two-thirds veto mechanism governs deadlocks. Under the current architecture, a mediation committee provides a neutral reconciling forum and a 30-day cooling/consensus period. The amendment removes that neutral reconciliation step for the most sensitive fiscal Bills (CARB, Appropriation, Supplementary). Instead, it proposes that conflicts be resolved inside the Houses via the two-thirds rule.	This proposal removes the mediation safety valve; the two-thirds rule could harden standoffs; consider adding time-bound joint committees as a fall back position.
11. Amendment of Article 114 of the Constitution by repealing it.	Article 114 defines a “money Bill” and gives the National Assembly a procedural monopoly to treat motions and Bills that fall within that	Repealing Article 114 raises serious risks of legislative gridlock and blurred accountability in public finance. If pursued, the

	definition as money Bills (Speaker of the NA has a role in determining and enforcing the procedure). It imposes special procedural limits when the NA considers such measures (to protect the NA's fiscal policy). Because of this, disputes about whether a Bill was a "money Bill" (or "money Bill" in part) were a frequent source of procedural litigation and House disputes.	amendment must be accompanied by other procedural safeguards to prevent paralysis of the budget process. Secondly, repeal of Article 114 is likely to undermine the "Power of the Purse" Principle under which, the House most directly elected by the people (National Assembly) traditionally controls taxation and expenditure. Diluting this could weaken the clarity of accountability, since citizens expect the National Assembly to justify how money is raised and spent.
12. Amendment of Article 115 of the Constitution by providing that once a Bill is passed, it must be certified by both the Speaker of the National Assembly and the Speaker of the Senate before being presented to the President. Reservation process: If the President refers a Bill back with reservations, the Bill must again be dealt with by both Houses, not just the National Assembly. References to submission "by the Speaker of the	The implications of these proposals are: The requirement to override Presidential reservations is now a two-thirds majority of both Houses (not just NA). Equal Bicameral Role in Assent-both Speakers must act jointly, symbolizing formal equality of the Houses. Strengthened Override Safeguard- Currently, the NA alone can override Presidential reservations with a two-thirds vote. Under the amendment, both Houses must muster two-	Since all Bills must now pass both Houses (per amended Art. 109), it makes sense that the reconsideration and assent stage must also involve both Houses. The amendment to Article 115 introduces joint bicameral certification and requires two-thirds of both Houses to override Presidential reservations. It's a neat alignment with the new bicameral framework, improves legitimacy, and strengthens Senate involvement, but at the cost of making it

National Assembly” are replaced with “by the Speakers of both Houses in accordance with Article 109.” Deemed assent: The 14-day deemed assent rule still applies, but publication of such assent is now tied to the joint certification process.	thirds. This raises the threshold for overriding the President, effectively strengthening the Executive’s bargaining power in legislative disputes. Consistency with Bicameral Passage-This closes a loophole where previously the Senate could be excluded at the final stage.	significantly harder for Parliament to override the President.
13. Amendment of Article 116 of the Constitution by providing that a Bill deemed to have been assented shall be published in the Gazette	This cures an existing lacuna in the current Article 116	Enhances clarity and eliminate ambiguity.
14. Amendment of Article 157 of the Constitution by providing that the DPP shall be subject to approval of Parliament.	Currently the appointment is only subject to the NA	Bicameral vetting of DPP enhances cross-chamber legitimacy but may lengthen timelines and risks introducing politics in key public service positions.
15. Amendment of Article 173 of the Constitution by enjoining the Senate in approval of the Judiciary Fund.	Currently a preserve of the NA	Enhances judicial independence and is line with Bicameralism
16. Amendment of the Constitution by inserting a new Article 199A to establish a County Assembly Fund for each county assembly.	The implication is that the Fund insulates county legislatures’ operations and reduces executive leverage over assembly budgets.	While this supports separation of powers at county level, it requires tight PFM controls to avoid fragmentation, duplication with County Treasury operations, and audit gaps.

17. Amendment of Article 215 of the Constitution by enjoining the Senate in the approval of appointment of the Chairperson of the Commission on Revenue Allocation	Currently a preserve of the NA	While it broadens legitimacy for revenue-sharing office, it is likely result in slower appointments process.
18. Amendment of Article 221 of the Constitution by enjoining the Senate in the consideration of Budget Estimates and the Annual Appropriation Bill	Currently a preserve of the NA	While this is in tandem with dual-House and strengthens transparency and devolution, there is likely to be a lot of pressure managing the calendar of events unless a joint timetable is provided for.
19. Amendment of Article 222 of the Constitution by enjoining the Senate approve expenditure before budget	Currently a preserve of the NA	Extends vote-on-account powers to a bicameral act safer and more legitimate, but must guard against procedural delays that could disrupt the start-of-year cash flows.
20. Amendment of Article 223 of the Constitution by enjoining the Senate to approve spending up to 10% of the appropriated by national government before appropriation.	Currently a preserve of the NA	Enhances oversight but risks politicization of mid-year reallocations. There is need to set evidence thresholds and time limits
21. Amendment of Article 224 of the Constitution by repealing it and substituting therefore a new Article.	The new Article provides that if the Division of Revenue Bill or County Allocation of Revenue Bill has not been assented to or is	While this is a pragmatic tool of ensuring continuity, there should be objective trigger of the criteria to avoid moral

	not likely to be assented, Parliament may authorize counties to withdraw up to one half of the amount included in the estimates for meeting expenditures necessary to carry out their services.	hazard at national level.
22. Amendment of Article 228 of the Constitution by enjoining the Senate in the approval of appointment of Controller of Budget.	Currently a preserve of the NA	While it creates a stronger institutional buy-in and improves independence of the vacancy risks should be managed through an Act of Parliament with clear deadlines.
23. Amendment of Article 229 of the Constitution by enjoining the Senate in the approval of appointment of Auditor General.	Currently a preserve of the NA	While it creates a stronger institutional buy-in and improves independence of the vacancy risks should be managed through an Act of Parliament with clear deadlines.
24. Amendment of Article 233 of the Constitution by enjoining the Senate in the approval of appointment of the Chairperson of the Public Service Commission	Currently a preserve of the NA	While this widens accountability, it may require joint vetting frameworks to save on time and cost.
25. Amendment of Article 250 of the Constitution by enjoining the Senate in the approval of appointment of the Chairpersons of Constitutional Commissions and Independent offices	Currently a preserve of the NA	While this widens accountability, it may require joint vetting frameworks to save on time and cost.

26. Amendment of Article 251 of the Constitution by enjoining the Senate in the approval of removal from office of the members of Constitutional Commissions and Independent offices	Currently a preserve of the NA	While this widens accountability, it may require joint vetting frameworks to save on time and cost.
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Lessons from Comparative Jurisdictions:

1. South Africa has adopted a transparent, time-bound formal tagging system known as Joint Tagging Mechanism (JTM) to determine which process a Bill should take. Bills are "tagged" as s75 (not affecting provinces), s76 (affecting provinces), or s77 (Money Bills).
2. Both Houses should equally have meaningful budget influence (SA's Money Bills Amendment framework).
3. Deadlock resolution through joint sittings and mediation: In India, if the two Houses cannot agree on an ordinary Bill, the matter is resolved through a joint sitting of both Houses (Article 108). By contrast, in Kenya, the Constitution (Articles 112–113) only provides for a mediation committee drawn from both Houses. If the mediation process fails to yield agreement, the Bill is defeated outright, with no joint-sitting fallback. This creates a higher risk of legislative paralysis, especially for time-bound Bills such as those on budget and revenue sharing.
4. Narrow definition of Money Bills: India's Constitution Art. 110 defines money Bill to include only tax, government borrowing, and consolidated Fund. It is important because it determines when a Bill can only be exclusively introduced in the *Lok Sabha* (House of the People) and where the *Rajya Sabha* (Council of States) has only a limited, advisory role.

KLRC recommendations to the Senate JLAHR Committee

1. Retain the distinction of Money Bills to be handled exclusively by the National Assembly.
2. Create an institutional framework (either constitutional or under the standing-orders) to categorize which Bills "affects county functions/finances". Develop clear criteria of devolution-sensitive sectors devolution (drawn from the Fourth Schedule and Art. 203/205 criteria) including (health, agriculture, early childhood education, county planning, and county public service).
3. To protect Senate's decisive voice on county-impact Bills retain and spotlight the two-thirds NA threshold to overturn Senate-passed special county Bills (Art. 111(2)–(3)), and possibly extend a supermajority requirement (e.g. 3/5) in the NA to reject

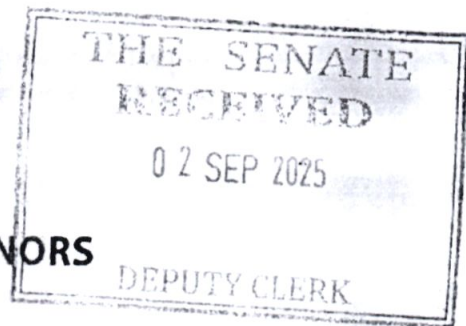
Senate amendments on ordinary county Bills after failed mediation (mirroring South Africa's higher override for province-affecting laws).

4. To give the Senate structured influence in the budget cycle keep the Senate concurrence decisive (as is), but add calendar certainty—e.g. DoRB introduced by a fixed date; mediation window 14–21 days; automatic reversion rules to avoid county fiscal uncertainty.
5. To streamline deadlock resolution, keep mediation (Art. 113) but add a joint-sitting possibility for ordinary county Bills if mediation fails (supermajority of members present and voting, excluding Money Bills) Resonates with India's Art. 108 logic while honouring the spirit of our Art. 114).



COUNCIL OF GOVERNORS

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Our Ref: COG/6/10 Vol. 13 (66)

1st September, 2025

Jeremiah Nyegenye, CBS
Clerk of the Senate
Parliament Buildings
NAIROBI

02 SEP 2025

Dear Mr. Nyegenye,

**LEGISLATIVE MEMORANDUM ON THE CONSTITUTION OF KENYA (AMENDMENT) BILL
(SENATE BILL NO. 13 OF 2025) CURRENTLY BEFORE THE SENATE STANDING COMMITTEE
ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS (JLAHR)**

Greetings.

We refer to a letter from the Senate dated 22nd August, 2025 Ref. No. SEN/DGAC/DGC/JLAHRC/225/28 (a) inviting the Council to submit its comments on the Constitution of Kenya (Amendment) Bill (Senate Bill No. 13 of 2025) (hereinafter "the Bill") and appear before the JLAHR Committee on Tuesday, 2nd September, 2025 at 10.00am in Machakos County at a venue to be communicated.

The Council of Governors has reviewed **The Constitution of Kenya (Amendment) Bill (Senate Bills No. 13 Of 2025)** and hereby forwards its legislative memorandum attached herewith for your consideration.

Please accept the assurance of our highest esteem and consideration.

Yours sincerely,

Mary Mwiti, EBS
Chief Executive Officer

① DGAC
DLG

Copy: All Excellency Governors

All County Attorneys

Kindly deal

② HOD - Governance
PTA - JLAHR

Kindly deal

02/09/2025

03/09/2025

03 SEP 2025



LEGISLATIVE MEMORANDUM ON THE CONSTITUTION OF KENYA (AMENDMENT) BILL (SENATE BILL NO. 13 OF 2025)

TO

THE SENATE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS

FROM

THE COUNCIL OF GOVERNORS

The Council of Governors (The Council),

In recognition of Article 1(4) of the Constitution of Kenya, that sovereign power of the people is exercised at the national level and the county level;

In further recognition of Article 6 (2) that governments at the national and county levels are distinct; and

Aware of the need for coordination and consultation between the National Government and County Governments to ensure that legislation responds to the key issues facing devolution, and further reflects the spirit and objects of devolution;

Hereby notes as follows on the **Constitution of Kenya (Amendment) Bill (Senate Bills No. 13 of 2025) (the “Bill”)**;

A. GENERAL COMMENTS;

The Council lauds the amendments requiring consideration and passage of all Bills by both Houses of Parliament before assent as it will reinforce the Senate’s role in protection of the interests of Counties in lawmaking. Often, there has been unilateral passage of Bills that affect the resources and functions of County Governments without the input of the Senate. Various Bills have also created institutions meant to perform devolved functions, contrary to the dictates of the Constitution. County Governments have also been assigned certain responsibilities in legislation considered by the National Assembly only, yet the Senate does not consider the said Bills.

B. SPECIFIC COMMENTS;

Specifically, the Council recommends the following with respect to the clauses in the Bill for consideration:

USE OF BILL	PROVISION IN THE BILL	THE COUNCIL'S PROPOSED AMENDMENTS	JUSTIFICATION
ie 4- ndment of le 96 of tution.	4. Article 96 of the Constitution is amended by— (e) inserting the following new clause immediately after clause (4)— (5) Parliament shall enact legislation providing for the procedure of removal of state officers at the national level.	Amend proposed clause (5) as follows: (5) Parliament shall enact legislation providing for the procedure of removal of state officers at the national and county level.	There is need to expedite the enactment of The County Governments (State Officers' Removal From Office) Procedure Bill (Senate Bills No. 34 Of 2024) to codify the procedure for removal of Excellency Governors, County Executive Committee Members and other state officers at the county level.
e 10- ndment of le 113 of the tution.	10. Article 113 of the Constitution is amended by— (a) ... (b) inserting the following new clause immediately after clause (4) — (5) This Article shall not apply to an allocation or an appropriation Bill under Article 111.	Delete the proposed clause (5) entirely	This clause presupposes that the allocation and appropriation Bills will not be submitted to mediation whenever the two Houses fail to agree on one version of the Bill. This creates a lacuna on what happens in the event of disagreement considering the enactment of these Bills often has strict timelines in law.
e 16 – Amendment rticle 199 of the tution.	16. The Constitution is amended by inserting the following new Article immediately after Article 199 —	Amend the proposed clause (3) and introduce a clause (4) as follows:	Submission of budget estimates to the legislature is a preserve of the executive at the National and County levels. Under

	199A. County Assembly Fund 199A (1) There is established, for each county assembly, a County Assembly Fund. (2) ... (3) Each financial year, a county assembly shall prepare estimates of expenditure for the following year and submit them to a county assembly for approval.	(3) Each financial year, a county assembly clerk shall prepare and submit to the county assembly estimates of expenditure for the following year and copy the County Executive Committee Member for Finance who shall give his or her comments on the estimates. (4) The County Executive Committee member for finance shall submit the budget estimates to the county assembly for approval.	Section 129 of the Public Finance Management Act, Cap 412A, the county assembly clerk upon preparation of budget estimates submits the same to the county assembly and a copy to the County Executive Committee member (CECM) for finance. The CECM finance is then required to prepare his or her comments on the budget estimates presented by the county assembly clerk and submit the same to the County Executive Committee and later the County Assembly for approval.
e 21- Amendment Article 224 of the Constitution.	21. The Constitution is amended by repealing Article 224 of the Constitution and replacing therefor the following new Article— County Appropriation Bills 224. (1) On the basis of the County Allocation of Revenue Bill passed by Parliament under	Amend the proposed clause (2) and 3 (b) to read as follows: (2) If the Division of Revenue Bill or the County Allocation of	i. The requirement for approval by Parliament of one-half of the amount included in the estimates of expenditure for that year is unnecessary as the Controller of Budget (COB) already authorises such withdrawals under Regulation 134 of

Article 218, each county government shall prepare and adopt its own annual budget and appropriation Bill in the form, and according to the procedure, prescribed in an Act of Parliament. (2) If the Division of Revenue Bill or the County Allocation of Revenue Bill for a financial year has not been assented to, or is not likely to be assented to, by the beginning of that financial year, Parliament may authorise counties to withdraw money from the Consolidated Fund. (3) Money withdrawn under clause (2) shall— (a) be for the purpose of meeting expenditure necessary to carry on the services of the relevant county government during that year until such time as the Division of Revenue Bill or the County Allocation of Revenue Bill is assented to; (b) not exceed in total one-half of the amount included in the estimates of expenditure for that year that have been tabled in the County Assembly; and	Revenue Bill for a financial year has not been assented to, or is not likely to be assented to, by the beginning of that financial year, the Controller of Budget may authorise counties to withdraw money from the Consolidated Fund. (3) (b) not exceed in total one-half of the amount included in the last County Allocation of Revenue Act approved by Parliament; and	the The Public Finance Management (National Government) Regulations, 2015. The COB offers sufficient safeguards to ensure Counties comply with Constitutional safeguards for withdrawals and do not exceed the specified amount. ii. As per the Attorney General's (AG) legal opinion on disbursement of county equitable share in the absence of a County Allocation of Revenue Act (CARA) dated 20th September, 2024, the AG cited Supreme Court Advisory No. 3 of 2019. The Supreme Court held that since the estimates of a given year do not reflect the equitable share of revenue due to Counties in the absence of a DORA/CARA, the 50% withdrawal ought to be based on the previous year's CARA. We recommend this position for the present amendment.
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	(c) be included, under separate votes for the several services in respect of which they were withdrawn.		
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C. CONCLUSION;

The Council requests the Committee to consider our proposals to enrich the Bill and devolution generally in line with the objects of the Bill.



COUNTY ASSEMBLIES FORUM (CAF)

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CAF MEMORANDUM ON THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2025 (SENATE BILL NO. 13 OF 2025)

TO: Mr. Jeremiah Nyegenye, CBS
Clerk of the Senate, Parliament of Kenya.

FROM: The County Assemblies Forum.

DATE: 2nd September 2025

SUBJECT: CAF Memorandum on the Constitution of Kenya (Amendment) Bill, 2025

1.0 INTRODUCTION

1. The County Assemblies Forum (CAF) is the coordinating body of the 47 County Assemblies in Kenya. The primary mandate of CAF is to promote networking and synergy among the 47 County Assemblies, coordinate intergovernmental relations and enhance good practice in legislative development. Our Mission is to provide effective leadership and coordination of the 47 County Assemblies and through policy and legislative action, promote a conducive working environment for all its members, and in that way deliver quality services to the people.
2. As one of the pillars of the devolved government system, CAF is committed to engage in processes that lead to the further strengthening of Kenya's constitutional architecture, particularly with regard to devolved governance and bicameral legislative cooperation.

2.0. BACKGROUND

- 2.1. The Constitution of Kenya (Amendment) Bill, 2025 (Senate Bill No. 13 of 2025) seeks to amend various provisions of the Constitution relating to the legislative functions of Parliament, the role and powers of the Senate, and the process of law-making.
- 2.2. Further, the principal object of the bill is to strengthen bicameralism and secure devolution by providing a framework that will :-
 - a) reviewing the mandate of the Senate and the National Assembly in order to clarify the shared role of the Houses of Parliament and the special role assigned to each House of Parliament;
 - b) refining the legislative process set out in the Constitution in order to ensure that both Houses of Parliament play an effective role in legislation, representation and oversight; and
 - c) ensuring that the Senate and the National Assembly play an effective role in the budget making process in order to safeguard the implementation of the system of devolved government.

- 2.3. Additionally, the Bill proposes to amend **Article 94, 95 and 96** of the Constitution to provide clarity on the role of Parliament as a whole and of each Houses. This amendment seeks to ensure that there is clarity in the role of each House so as to avoid the overlap and varied interpretations of the role of the respective Houses.
- 2.4. The Bill proposes to amend of **Article 108** of the Constitution to provide for the leadership and the order of precedence in the Senate. As currently worded, Article 108 of the Constitution only provides for the leadership and the order of precedence in the National Assembly, omitting that of the Senate.
- 2.5. The Bill proposes to amend Article 109 of the Constitution to provide for the origination of any Bill in either House of Parliament, save for a Bill on raising national revenue which may only originate in the National Assembly.
- 2.6. The Bill further seeks to repeal Article 110 to grant full legislative mandate to both Houses of parliament. The current state of affairs has caused confusion in the legislative role of Parliament and the various Court decisions have not made the matter any better.
- 2.7. The Bill further seeks to amend Articles 111 and 112 to provide for the procedure for the consideration of allocation Bills i.e. the County Allocation of Revenue Bill, the County Additional Allocation of Revenue Bill and appropriation Bills i.e. the Appropriation Bill and a Supplementary Appropriation Bill by both Houses of Parliament and to provide for the procedure for the consideration of Bills by both Houses of Parliament.
- 2.8. The proposed amendment to Article 113 of the Constitution relates to referral of a Bill for assent after the mediation process and further excludes the allocation and appropriation Bills from the mediation process.
- 2.9. The Bill proposes to repeal Article 114 of the Constitution which definition of the term "money Bill" has led to multiple interpretations and ultimately hindered legislative processes in the Senate.
- 2.10. The amendment to Article 115 of the Constitution seeks to provide for the joint submission of a Bill passed by Parliament by the Speakers of both Houses of Parliament

to the President for assent.

- 2.11. The amendment to Article 116 seeks to provide clarity on the coming into force of Bills that are deemed to have been assented to under Article 115(6) of the Constitution.
- 2.12. The Bill proposes to amend Article 173 of the Constitution as a consequential amendment to Article 221 of the Constitution which requires the approval of the estimates of the Judicial Service Commission by the National Assembly and the Senate.
- 2.13. The Bill proposes to amend the Constitution to insert a new Article 199A to provide for the establishment of a County Assembly Fund with respect to each county assembly.
- 2.14. The Bill proposes to amend Articles 221, 222 and 223 of the Constitution to provide for the procedure for the submission and consideration of estimates of revenue and expenditure of entities at the National level of Government by the Senate and the National Assembly.
- 2.15. The Bill proposes to amend Article 224 of the Constitution to clarify that the basis for the preparation of budgets by county governments is a County Allocation of Revenue Bill.
- 2.16. The Bill also proposes to insert new clauses in Article 224 which will enable county governments access funding in the event there is a delay in the passage or assent of the Division of Revenue Bill or the County Allocation of Revenue Bill.
- 2.17. The Bill also proposes to amend Articles 157, 215, 228, 229, 233 and 250 of the Constitution to assign the responsibility of approving or vetting of various State officers to both Houses of Parliament. In line with the proposed amendment to Article 250 of the Constitution, the Bill proposes to amend Article 251 to assign the process of removing from office a member of a commission or of a holder of an independent office to both Houses of Parliament.
- 2.18. The Bill proposes to provide a framework that would strengthen the existing system of devolution. It aims to do this by aligning the roles and functions of Parliament in a manner that would promote the effective administration of the devolved system of government.

- 2.19. In addition, the Bill proposes to provide a system of accountability at the national and county levels of government particularly with regard to the allocation and utilization of resources allocated by, and to, the respective levels of government.

3.0. GENERAL COMMENTS.

- 3.1. CAF appreciates the sponsors and proponents of the Bill for their dedication in developing the Bill and understands that the proposed amendments are intended to enhance constitutional clarity, strengthen the role of the Senate, and promote a more balanced and effective bicameral legislative framework in line with the spirit of devolution.
- 3.2. CAF recognises that the Constitution of Kenya (Amendment) Bill, 2025 proposes far-reaching reforms that seek to recalibrate the institutional balance between the Senate and the National Assembly. By repealing Articles 110 and 114 and expanding the Senate's legislative and oversight roles, the Bill aims to elevate the Senate to a co-equal chamber in shaping fiscal policy and key appointments.
- 3.3. Further, CAF notes, while the Bill seeks to strengthen bicameralism and correct legislative imbalances, its far-reaching changes such as repealing core articles and expanding Senate powers raises constitutional legal questions. Judicial precedent, especially from the *David Ndii & Others v Attorney General & Others (BBI judgment)*, affirms that amendments which alter the fundamental structure of the Constitution may require a higher threshold beyond Article 256. CAF urges the Senate to ensure that the Bill's substance does not amount to a constitutional dismemberment requiring exercise of primary constituent power.
- 3.4. While the Bill seeks to strengthen bicameralism and rectify historical imbalances, CAF notes with concern that the removal of the Speaker's concurrence mechanism under Article 110 and the expansion of bicameral veto powers may inadvertently heighten the risk of legislative deadlock. Without robust inter-chamber cooperation and political goodwill, these changes could paralyse the law-making process particularly in



contentious budget cycles and undermine the efficient functioning of Parliament. CAF therefore urges caution and the development of complementary dispute-resolution mechanisms to safeguard legislative continuity.

- 3.5. CAF welcomes the entrenchment of the County Assembly Fund in the Constitution as one of the most innovative and impactful provisions of the proposed amendments. This measure responds directly to fiscal threats experienced by county assemblies, such as the reduction of budget ceilings under the County Allocation of Revenue Act, 2024, which was the subject of active litigation in *CAF v Attorney General & Others* (Petition E001 of 2025).
- 3.6. However, CAF notes with concern that the proposed Constitution of Kenya (Amendment) Bill, 2025 particularly the expansion of the Senate's oversight to include revenue collected at the county level mirrors provisions of the County Oversight and Accountability Bill, 2024, which similarly seek to broaden the Senate's mandate. This cumulative expansion threatens to encroach on the constitutionally assigned oversight functions of County Assemblies under Article 185(3) of the Constitution and Section 8 of the County Governments Act.
- 3.7. The Supreme Court in *Senate v Council of Governors & Others* (Petitions 24 & 27 of 2019, consolidated) decisively affirmed that County Assemblies are the primary oversight organs over both national allocations to counties and locally generated revenue. The Court held that the Senate cannot supervise the county executive directly, and any attempt to do so would violate the separation of powers and the autonomy of devolved units.
- 3.8. CAF appreciates the opportunity to contribute to this Bill and, based on the foregoing comments, notes the following; -

4.0 SUMMARY MATRIX OF THE PROPOSED AMENDMENTS.

NO.	CLAUSE	PROPOSED AMENDMENT	JUSTIFICATION
1.	Clause 4(d): "inserting the words "and revenue raised by" immediately after the words "revenue allocated to" in clause (3); and."	We refuse the proposed amendment	➤ CAF strongly urges that any constitutional or legislative reforms must respect this constitutional structure, avoid jurisdictional duplication, and uphold the autonomy and legitimacy of County Assemblies as the frontline oversight institutions in the devolved governance framework
2.	Clause 7: "The Constitution is amended by repealing Article 110."	We are raising caution on the proposed amendment	➤ The elimination of the Speaker's concurrence process under Article 110, while intended to reduce

			conflict, removes a crucial mechanism for resolving inter-chamber disputes. ➤ The introduction of a powerful bicameral veto over budgetary legislation, coupled with the Senate's expanded agenda, could easily paralyze the legislative process, especially during periods of political polarization. ➤ Without a strong culture of cooperation and a mature political consensus on the values of devolution, the new constitutional framework could instead
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			become a battleground, hindering the passage of critical legislation and undermining good governance.
	Clause 16 The Constitution is amended by inserting the following new Article immediately after Article 199 – County Assembly Fund 199A (1) There is established, for each county assembly, a County Assembly Fund. (2) The Fund shall be used for administrative expenses of a county assembly and for such other purposes as may be necessary for the discharge of the functions of a county assembly. (3) Each financial year, a county	Amend the clause to by adding a new sub clause after sub clause 199A (5) to state as follows :- 199A (1) <i>There is established, for each county assembly, a County Assembly Fund.</i> (2) <i>The Fund shall be used for administrative expenses of a county assembly and for such other purposes as may be necessary for the discharge of the functions of a county assembly.</i> (3) <i>Each financial year, a county assembly shall prepare estimates of expenditure for the following year and submit them to a county assembly for approval.</i> (4) <i>On approval of the estimates by a county</i>	➤ The County Assemblies Forum (CAF) welcomes the Senate's inclusion of Article 199A establishing the County Assembly Fund in the Constitution as a landmark advancement in strengthening the institutional independence and operational autonomy of County Assemblies. ➤ CAF proposes an amendment to Article 199A to provide that the expenditure estimates of County Assemblies shall not

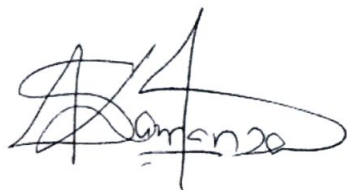
	assembly shall prepare estimates of expenditure for the following year and submit them to a county assembly for approval. (4) On approval of the estimates by a county assembly, the expenditure of a county assembly as approved by Parliament in the County Allocation of Revenue Act for the respective year, shall be a charge on a County Revenue Fund and the funds shall be paid directly into a County Assembly Fund. (5) A county assembly in each county shall enact legislation to provide for the regulation of the Fund.	<i>assembly, the expenditure of a county assembly as approved by Parliament in the County Allocation of Revenue Act for the respective year, shall be a charge on a County Revenue Fund and the funds shall be paid directly into a County Assembly Fund.</i> <i>(5) A county assembly in each county shall enact legislation to provide for the regulation of the Fund.</i> <i>(6) For every financial year, the amount of the County equitable share of revenue that is allocated to County Assemblies shall be not less than fifteen per cent of all revenue allocated to the County Government.</i>	be less than 15% of the total revenues of the county government. ➤ This minimum threshold is vital to ensure that County Assemblies are adequately resourced to fulfil their constitutional mandate under Article 185(3), protect against arbitrary budget ceilings cuts.
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ADDITIONAL PROPOSED AMENDMENTS THAT ARE NOT INCLUDED IN THE BILL

	Article 204 of the Constitution of Kenya	Include a new clause 27 that states:- Article 204 is amended by introducing Article 204 (A) to state as follows: - <i>"204A – County Ward Development Fund</i> <i>(1) There is established, for every county, a fund to be known as the County Ward Development Fund. (2) The Fund shall be used exclusively for development projects identified through public participation at the ward level in accordance with this Constitution and an Act of Parliament. (3) The County Ward Development Fund shall be a</i> <i>County Government Fund consisting of:-</i> <i>a) an amount of not less than ten percent of all the ordinary revenue of the County Government in every financial year based on latest audited accounts by the Auditor General;</i> <i>b) comprise of any monies accruing to or</i>	a) As NG-CDF, NGAAF and the Senate Oversight Fund get entrenched in the Constitution this amendment guarantees Ward Development Fund is entrenched in the Constitution of Kenya.
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		<i>received by the Fund from any other source.</i> <i>(4) All monies allocated under this Article shall be considered as funds allocated to Wards to be administered in accordance with provisions of an Act of Parliament.</i> <i>Parliament shall enact legislation to make further provisions for the operations of this Article. "</i>	
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Yours sincerely,



HON. SETH KAMANZA,
CHAIRPERSON.

MEMORANDUM ON

THE CONSTITUTION OF KENYA (AMENDMENT)
BILL, 2025
(SENATE BILLS NO.13 OF 2025)

Submitted to:

Office of the Clerk of the Senate

Submitted by:

The County Government of Kitui

29 August 2025

Clause No.	Provision	Issue/Concern	Proposal/Recommendation	Justification
2 (a) (1A)	Parliament shall perform its legislative, representation, and oversight role over the executive and other state organs in accordance with this Constitution	- Owing to the principle of separation of powers the Constitution does not contemplate parliament exercising its representation role over the executive and other state organs. - There is a risk of duplicating oversight processes in respective houses	- Parliaments roles over the executive and other state organs to be limited to legislation and oversight. - The proposed amendment Bill should provide clarity or propose a law to be enacted to guide oversight.	- Parliament's representation role is about representing the people of the counties, constituencies & special interests in the respective houses. - Duplicated oversight process run the risk of the respective houses undermining each other in their discharge of the oversight role
14	Article 157 of the Constitution is amended in clause (2) by deleting the words "the National Assembly" appearing immediately after the words "with the approval of" and substituting therefor the word "Parliament".	- It's not clear whether the nominee for the position of Director of public persecutions will be vetted by a joint committee of the respective houses or appear separately before the respective committees of two houses. - The memorandum of Objects	The Nominee to appear before a joint committee comprising of the representatives of the appropriate committee of the respective houses	This will avoid duplication in the vetting process of the nominee for the position of Director of Public Prosecution

		and Reasons does not provide a justification for this amendment.		
17	Article 215 of the Constitution is amended in clause (2) by deleting the words "the National Assembly" appearing immediately after the words "approved by" in paragraph (a) and substituting therefor the word "Parliament".	It's not clear whether the nominees for appointment as commissioners of the Commission on revenue Allocation will be vetted by a joint committee of the respective houses or appear separately before the respective committees of two houses.	The Nominees to appear before a joint committee comprising of the representatives of the appropriate committee of the respective houses	This will avoid duplication in the vetting process nominees for appointment as commissioners of the Commission on revenue Allocation
18	At least two months before the end of each financial year, the Cabinet Secretary responsible for finance shall submit to Parliament estimates of the revenue and expenditure of the national government for the next financial year to be tabled in Parliament.	It is not specified whether the Cabinet Secretary responsible for finance shall submit estimates of the revenue and expenditure of the national government to a joint sitting of the two houses or at separate sittings.	The submission of the estimates of the revenue and expenditure of the national Government to be made before a joint sitting of both houses.	This will provide clarity on the submission of the estimates of the revenue and expenditure of the national government
22	Article 228 of the Constitution is amended in clause (1) by deleting the words "the National Assembly"	It's not clear whether the nominee for the position of Controller of Budget will be vetted by a joint committee of the respective houses or appear separately	The Nominee to appear before a joint committee comprising of the representatives of the appropriate committee of the respective houses	This will avoid duplication in the vetting process of the nominee for the position of Controller of Budget

	appearing immediately after the words "with the approval of" and substituting therefor the word "Parliament".	before the respective committees of two houses.		
23	Article 229 of the Constitution is amended in clause (1) by deleting the words "the National Assembly" appearing immediately after the words "with the approval of" and substituting therefor the word "Parliament".	It's not clear whether the nominee for the position of Auditor – General will be vetted by a joint committee of the respective houses or appear separately before the respective committees of two houses.	The Nominee to appear before a joint committee comprising of the representatives of the appropriate committee of the respective houses	This will avoid duplication in the vetting process of the nominee for the position of Auditor General
24	Article 233 of the Constitution is amended in clause (2) by deleting the words "the National Assembly" appearing immediately after the words "with the approval of" and substituting therefor the word "Parliament".	It's not clear whether the nominees for appointment as commissioners of the Public Service Commission will be vetted by a joint committee of the respective houses or appear separately before the respective committees of two houses.	The Nominees to appear before a joint committee comprising of the representatives of the appropriate committee of the respective houses	This will avoid duplication in the vetting process.
25	Article 250 of the Constitution is amended in clause (2) by deleting the words "the National Assembly"	It's not clear whether the nominees for the appointment as commissioners will be vetted by a joint committee of the respective houses or	The Nominees to appear before a joint committee comprising of the representatives of the appropriate committee of the respective houses	This will avoid duplication in the vetting process.

	appearing immediately after the words "approved by" in paragraph (b) and substituting therefor the word "Parliament".	appear separately before the respective committees of two houses.		



LAW SOCIETY OF KENYA

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NAIROBI

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MEMORANDUM

TO

THE SENATE

ON

THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2025 (SENATE BILLS NO. 13
OF 2025)

SEPTEMBER, 2025

Faith Mony Odhiambo, President Law Society of Kenya

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Introduction.

The Law Society of Kenya is a professional statutory body established under the Law Society of Kenya Act, No. 21 of 2014 with a mandatory membership of all Advocates in Kenya.

The organs of the Society are the General Membership, the Council, the Branches and the Secretariat. The Council is the governing body of the Law Society of Kenya. It comprises a President, a Vice- President and eleven other members, all of whom must be members of the Law Society of Kenya. Council members are elected every two years by the members of the Society by means of a secret ballot conducted in accordance with the Law Society of Kenya Act.

Currently, the Council is comprised of The President, The Vice-president and 11 Council members namely:

- President, Faith Mony Odhiambo
- Vice President, Mwaura Kabata
- General Membership Representatives, Tom K'opere, Teresia Wavinya, Hosea Manwa
- Nairobi Representatives, Gloria Kimani, Irene Otto, Stephen Mbugua
- Up-country Representatives, Vincent Githaiga, Linda Kiome, Hezekiah Aseso, Zulfa Roble
- Coast Representative, Elizabeth Wanjeri
- Secretary/CEO, Florence W. Muturi

One of the Law Society of Kenya statutory objects as provided in section 4(a) of the Act is to assist the Government and the courts in all matters affecting legislation and the administration and practice of law in Kenya. Pursuant to this statutory mandate, the Law Society of Kenya makes a presentation on the **Constitution of Kenya (Amendment) Bill, 2025 (Senate Bills No. 13 of 2025).**

A. GENERAL COMMENTS

The Constitution of Kenya (Amendment) Bill, 2025 (Senate Bills No. 13 of 2025) seeks to improve devolved government by amending the Constitution to address challenges that have emerged in the operationalization of the 2010 Constitution, particularly concerning the bicameral Parliament and the implementation of devolution. The Bill's primary objectives are to clarify the roles of the National Assembly and the Senate, refine the legislative process, and strengthen the financial autonomy of devolved units.

The Bill proposes to achieve this by: -

- a) Clarifying the role of various organs and institutions established by the Constitution in the process of implementation of devolution;
- b) Reviewing the mandates of the National Assembly and the Senate in order to clarify the shared role of the Houses of Parliament and the special roles assigned to each House of Parliament;
- c) Refining the legislative process set out in the Constitution in order to ensure that both Houses of Parliament play an effective role in the legislative process; and
- d) Ensuring that both the National Assembly and the Senate play an effective role in the budget making process in order to safeguard the implementation of devolution.

B. BACKGROUND AND CONTEXT.

The Constitution of Kenya, 2010, adopts a bicameral legislative structure (National Assembly and the Senate) and entrenches a devolved system of governance. Article 96 (3 & 4) provides that the National Assembly enacts legislation in accordance with Part 4 of this Chapter. Further, it determines the allocation of national revenue between the levels of government, as provided in Part 4 of Chapter Twelve and appropriates funds for expenditure by the national government and other national State organs and exercises oversight over national revenue and its expenditure. The Senate's legislative mandate is confined to considering, debating and approving the Bill concerning

counties including the determination of the allocation of national revenue among counties and providing oversight over the national revenue allocated to the 47 county governments.

Over the years, there have been notable tensions and disagreements between the Senate and the National Assembly within Kenya's bicameral legislative framework. These frictions have occasionally challenged the spirit of cooperation and mutual respect essential for effective bicameralism. Such inter-cameral differences, while part of the evolving democratic process, have posed challenges to the seamless implementation of devolution and the broader constitutional mandate. It is important to address these issues constructively to uphold the principles of constitutionalism and ensure that both Houses contribute positively to Kenya's governance and development.

Notably, what has been perceived as concentration of power in the National Assembly has, at times, necessitated judicial intervention by the Senate to resolve constitutional ambiguities and uphold its legislative mandate. A good example was in 2013, when the Senate sought the Supreme Court's Advisory Opinion in the case of Speaker of the Senate & another v Attorney-General & another; Law Society of Kenya & 2 others (Amicus Curiae) (Advisory Opinion Reference 2 of 2013) [2013] KESC 7 (KLR) (1 November 2013) (Advisory Opinion) (with dissent - NS Ndungu, SCJ) following the enactment of the Division of Revenue Bill by the National Assembly without the concurrence of the Speaker of the Senate. Court held that, *"The Senate plays a crucial role in the Division of Revenue Bill, because such a Bill "concerning the equitable allocation of revenue between the national and county levels of government" directly affects counties. Excluding the Senate from this process would defeat the design of bicameralism under the Constitution. The Court emphasized that the Senate is the institutional protector of devolution, and must not be reduced to an irrelevant bystander in fiscal legislation. The Supreme Court held that 'neither Speaker may to the exclusion of the other, determine the nature of the bill' for that would inevitably result in usurpations of jurisdictions, to the prejudice of the constitutional principle of harmonious interplay of state organs. Further, the Supreme Court concluded that the enactment of the DORB and the County Allocation of Revenue Bill was a shared mandate between the two chambers. In order for devolution to be realized there is*

need for cooperation and consultation between the two chambers. The Supreme Court held that the DORB 2013 was an instrument essential to the functioning of the county government, hence, was a bill concerning the county government."

This marked a pivotal moment in affirming the constitutional roles of both Houses and highlighted the importance of dialogue and judicial recourse in maintaining the balance of powers within Kenya's legislature.

Similarly, in 2019, another significant constitutional conflict arose when the National Assembly passed several laws without obtaining the concurrence of the Senate, contrary to Article 110(3) of the Kenyan Constitution. The Senate challenged this process in the High Court, expressing concerns over legislative procedure and constitutional compliance. Dissatisfied with the High Court's decision, the Senate appealed the matter through the Court of Appeal, ultimately reaching the Supreme Court in the case **Senate & 3 others v Speaker of the National Assembly & 10 others (Petition 19 (E027) of 2021) KESC 11.**

The Supreme Court affirmed the obligation of the Speaker of the National Assembly to notify the Speaker of the Senate regarding the classification of a Bill, especially whether it concerns county interests. This notification is essential to facilitate the Senate's role in determining the nature of the Bill and to enable the concurrence process if there is a dispute about the Bill's classification. Significantly, the Court ruled that the eight contested statutes were money Bills, which, under the Constitution, do not require the Senate's involvement in their enactment. This judgment attempted to provide clarity on procedural requirements and effectively delineated the legislative and oversight roles of the two Houses within Kenya's bicameral system.

In yet another case of the **Senate v Council of County Governors & 6 others (Petition 24 & 27 of 2019 (Consolidated)) KESC 57 (KLR)**, the Court held that the Senate has constitutional oversight over all revenues raised by county governments, in addition to its oversight of nationally allocated revenues.

C. ANALYSIS OF THE BILL

It is clear, flowing from the following case and consistent practice, that the recurring inter-cameral conflicts indicate persistent disagreements between the Houses of Parliament on the question of concurrence, thereby frustrating the smooth operation of bicameralism. Additionally, these disagreements have undermined critical legislation central to the advancement of devolution.

The LSK acknowledges the Bill's laudable intention to foster a more balanced, accountable, and functional system of governance. The proposed amendments, if enacted, have the potential to resolve long-standing jurisdictional disputes between the two Houses of Parliament, enhance legislative efficiency, and bolster the principles of devolution. Against this backdrop, we advance the following grounds in support of the Bill where its advancing important reforms to: —

i. Broaden the Senate's Legislative Role

The Bill removes restrictions limiting the Senate to only county-related Bills, allowing most Bills (except those raising national revenue) to originate in either House, promoting a more balanced legislative process.

ii. Strengthening fiscal oversight

The Bill empowers the Senate to play an effective role in the budget-making process, particularly in relation to allocation of revenue (vertical sharing between national and county governments). This is critical to enhancing counties' fiscal autonomy and ensuring equitable development.

iii. Resolution of legislative ambiguities

By repealing Articles 110 and 114, which have been sources of conflict regarding "Bills concerning counties" and "money Bills" the Bill simplifies legislative classification and affirms joint parliamentary participation in law-making.

iv. Enhance Parliamentary Oversight and Representation

Proposed amendments clearly define Parliament's role in legislation, representation, and oversight, expanding the Senate's oversight to include locally raised county revenues and state officers' appointments, thereby strengthening checks and balances.

v. Promote Transparent and Inclusive Appointments

The Bill requires joint parliamentary approval for key state officers and commissions, ensuring inclusivity, accountability, and legitimacy in governance.

D. SPECIFICS COMMENTS.

However, a thorough review of the Bill reveals certain areas that would benefit from further refinement to avoid ambiguity, mitigate potential risks, and ensure that the amendments fully achieve their intended purpose.

No.	Provision/Issue	Proposal	Justification
1.	Article 96(1) - Expansion of Senate's representation to include "special interests"	We propose that the Bill or subsequent <u>legislation</u> provide a clear and exhaustive definition of what constitutes "special interests."	The term "special interests" is broad and susceptible to varied interpretations. A clear definition is necessary to prevent ambiguity and potential misuse of this provision for political patronage. It will ensure that the intended beneficiaries (e.g., youth, persons with disabilities, marginalized communities) are the ones who are actually represented.
2.	Article 96(5) - Legislation for the removal of state officers	We propose that the Constitution itself should entrench the core principles of <u>due process for the removal of state officers</u> .	While the Bill mandates Parliament to enact legislation for this purpose, entrenching core <u>due process</u> principles (e.g.,

			right to a fair hearing, independent investigation, clear grounds for removal) in the Constitution would provide a stronger safeguard against arbitrary or politically motivated removals. This would ensure that the process is fair, transparent, and consistent with the rule of law.
3.	<u>Article 111</u> - <u>Supermajority</u> veto for Allocation and Appropriation Bills	We propose the inclusion of a <u>mandatory mediation process</u>, similar to the one in <u>Article 113</u>, before the veto can be exercised.	The <u>supermajority veto</u>, while intended to resolve disagreements, could lead to <u>legislative gridlock</u> on critical <u>financial Bills</u>. A <u>mandatory mediation process</u> would provide a structured platform for the two Houses to negotiate and find common ground, reducing the likelihood of a stalemate that could paralyze government operations.
	<u>199A</u> (1) established, for each county assembly, a County Assembly Fund.	While <u>Clause 16</u> of the Bill aims to enhance the financial autonomy of <u>county assemblies</u> by establishing a <u>dedicated County Assembly Fund</u>, several <u>constitutional</u> and practical concerns arise that warrant careful <u>reconsideration</u>	LSK proposes that <u>Clause 16</u> be deleted or substantially revised to incorporate clear, enforceable oversight mechanisms that ensure financial autonomy does not come at the expense of accountability, transparency,

i. It risks undermining the principle of separation of powers, which is a cornerstone of Kenya's constitutional framework. Article 185(3) mandates county assemblies to exercise oversight over county executives. However, by creating a fund directly under the control of county assemblies, it blurs the oversight function. Compromises their impartiality and weakens their ability to effectively discharge their oversight mandate.

ii. it brings about oversight vacuum. The Controller of Budget authorizes withdrawals and the Auditor-General provides independent audits. clause 16 does not clearly stipulate who would supervise, audit, and report on the use of the County Assembly Fund. The absence of express external oversight mechanisms may result in assemblies policing themselves, a situation that is inconsistent with the constitutional principles of accountability and transparency.

iii. Risk of fiscal indiscipline. Article 201 and Chapter 12 of the Constitution envisage the principles of prudent use of public finances. Without stringent safeguards, the County Assembly Fund could become susceptible to misuse

and constitutional integrity. We propose a phased implementation of financial autonomy for County Assemblies, with initial oversight mechanisms.

	and misallocation. Given these concerns, Clause 16 poses a significant risk of weakening devolution's financial governance framework and compromising constitutional checks and balances.	
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E. CONCLUSION

We humbly submit that our comments be considered before the enactment of the Bill. The Law Society of Kenya is confident that with these proposed refinements, the Constitution of Kenya (Amendment) Bill, 2025, will be better positioned to achieve its noble objectives of strengthening bicameralism, enhancing devolution, and fostering a more accountable and effective system of governance for the Republic of Kenya.

Yours faithfully,



Faith Odhiambo
President Law Society of Kenya.

Memorandum to Senate Standing Committee on Justice, Legal Affairs and Human Rights on the Constitution Amendment Bill, 2025

(Senate Bills No. 13 of 2025)

Submitted on Thursday, September 4, 2025

Contact Person:

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Introduction

Bajeti Hub is a Kenyan non-profit organization working to advance transparency, accountability, participation, and equity in national and county budgeting processes. Bajeti Hub's work is focused on strengthening the impact of civil society advocacy and citizens on budget policies and outcomes at both levels of governance in Kenya. Through deep and sustained engagement, Bajeti Hub provides support to build the expertise and skills of civil society actors and citizens involved in budget advocacy. Citizen advocacy, generation of evidence, technical assistance, learning, and networking are all integral components of Bajeti Hub's work.

In response to your letter dated August 22, 2025, with reference *SEN/DGAC/DGC/JLAHRC/2025/28(j)*, we have reviewed the Bill and are pleased to submit our views as highlighted below.

Submissions:

1. **This is a Constitutional amendment that requires a referendum.** Therefore, having gone through the first reading in the Senate, it will be important to highlight the anticipated timelines and avenues that will be taken to ensure adequate and meaningful public participation in the process.

We submit to this honourable committee to outline how the public will be engaged on the Bill in its current form while highlighting the following to the public:

- i. What the Constitution provides
- ii. What is working in the current form
- iii. What is not working in the current form
- iv. How the amendments proposed in this Bill will solve the challenges

We believe that with this information out in the public domain, it will give the public an opportunity to be informed of the process that they would be required to participate in eventually through the referendum. Public participation requires that the public are adequately educated on the process throughout and not only at the tail end through the referendum.

- 2. Whereas we see the amendments aimed at clarifying the role of various organs and institutions established by the Constitution in the process of implementation of devolution, we would like to see a bit more clarity on the following relationships that have faced persistent challenges.**

a. Relationship between Senate and National Assembly

- i. Which house of Parliament has what power and over which functions as outlined in Schedule Four of the Constitution and subsequent laws and policies.
- ii. Clarity
 1. Every Bill will be subjected to a discussion by the Speakers of both houses who will determine which house handles it. Does this head to a mediation team if there is no concurrence?
 2. Is it concurrent and logical?

b. Relationship between County Assembly and County Executive

- i. Who has the final say on matters of the county in terms of implementation and oversight of county budget?
- ii. The County Executive seems to play a significant role in decisions made by counties. Does this change with the approved law on the independence of County Assemblies in budgets?
- iii. The County Assembly which plays an oversight role seems to play a back seat role.
- iv. Hence, it would be important to provide greater clarity on this relationship.

c. Relationship between National Institutions and County Institutions

- i. National Executive and County Executive
 1. Which institution is responsible for which functions across the various sectors? This is particularly important in light of the Inter-Governmental Relations Technical Committee (IGRTC) Gazette notice on the pending unbundling of functions.

2. Does the law provide an opportunity to shape the relationship between national and government agencies especially in concurrent functions including the development of policies that affect the delivery of county functions.
- ii. Senate and County Executive
 1. The County Executive is clear that the County Assembly is the oversight body responsible for overseeing the operations of the County while the Senate also plays an oversight role over the County Executive.
 2. Therefore, would the amendments provide outright clarity on these oversight relationships and the sequence where there is possibility of a chain of events?
3. **With the proposed amendments by deletion of National Assembly and replacing with Parliament**, we pose the following questions:
 - a. Does the proposal extend to all functions currently undertaken by the National Assembly? For example, in the vetting of Cabinet Secretaries, what role is envisioned for the Senate, and what informs this thinking?
 - b. What potential shortcomings might arise from the Senate's expanded engagement? Could this lead to added bureaucracy that unnecessarily delays decision-making processes and affect service delivery in devolution?
 - c. Conversely, what becomes of the roles that the Senate has been exercising exclusively? Will these now be shared with the National Assembly? For instance, how will this affect impeachment proceedings of Governors?
 - d. In terms of capacity, does the Senate have the capacity to handle everything the National Assembly carries out? We refer to both technical and financial capacity.
 - e. How does this improve efficiency of Parliament in the execution of the roles?



Institute of
Economic Affairs

**Memorandum on The Constitution of Kenya (Amendment) Bill, 2025
(Senate Bills No. 13 of 2025)**

**Submitted to the Senate Standing Committee on Justice, Legal Affairs and Human
Rights**

September 01, 2025

Introduction

The Institute of Economic Affairs (IEA-Kenya) is a think tank that provides a platform for informed discussions aimed at influencing public policy in Kenya. Its mission is to promote pluralism of ideas through open, active, and informed debate on public policy issues. The IEA undertakes research and conducts public education on key economic and topical issues in Kenya and the region, and utilizes the outcomes as the basis for policy dialogue to advocate for evidence-based policy formulation.

The Constitution of Kenya (Amendment) Bill, 2025 is presented as a means of strengthening devolution. It seeks to clarify the roles of Parliament, refine legislative processes, and enhance accountability in the use of public resources. The Bill proposes to redistribute responsibility for law-making and budget oversight and to establish a County Assembly Fund to facilitate the work of county assemblies. It similarly seeks to streamline procedures for allocation and appropriation laws, and extend joint approval and oversight powers to both Houses, with the stated goal of improving efficiency and accountability. While the Bill addresses genuine ambiguities in the current constitutional framework, it introduces new risks that should be considered carefully. The similarity in the roles of the National Assembly and the Senate may heighten the likelihood of legislative stalemates, and the creation of additional funds and overlapping oversight mandates may weaken institutional independence and escalate administrative costs. Against this background, IEA's detailed assessment of the proposed amendments is presented in the table below:

Clause No.	Amendment	IEA's Comments	Proposed Action
4.	Amendment of Article 96 of the Constitution inserting the words "and represents special interests in the Senate" at the end of clause (1)	The term "special interests in the Senate" introduces ambiguity if left undefined. The amendment risks politicization and inconsistent application, which could weaken the Senate's legitimacy as the representative of counties. Any expansion of the Senate's role should be anchored in a transparent definition to prevent misuse. Otherwise this provision may create more uncertainty rather than strengthen representation.	Amend the Bill to include a clear definition of "special interests" or require Parliament to enact implementing legislation that provides this definition.
7.	Repeal of Article 110 on Bills concerning county government.	Repeal of Article 110 and the implementation of a new legislative process that allows bills other than those that raise money to originate in either house introduces an important transition. While the proposed approach may ease past conflicts, the absence of a solid mediation mechanism risks leaving county interests unprotected and exposes devolution to unchecked dominance by the National Assembly.	Retain Article 110 but amend it to eliminate past ambiguities rather than repealing it. A revised Article should provide a clear, binding definition of county-related Bills and establish a transparent dispute resolution process between the two Speakers or through a joint parliamentary mechanism.
8.	Repeal and replacement of Article 111 on 'Procedure for Allocation and Appropriation Bills'	Appropriation Bills will originate in the National Assembly, while Allocation Bills will originate in the Senate. Each House may amend the other's Bill. If the receiving House amends a Bill, the originating House can override those changes by a two-thirds vote. Once concurrence or the override occurs, the Bill proceeds for Presidential assent.	A more balanced approach would preserve the Senate's primacy over allocation Bills and the National Assembly's primacy over appropriation Bills, while still recognizing the role of both Houses. Allocation Bills should originate in the Senate, with the National Assembly allowed to propose amendments, but the Senate's version should prevail unless

		The difficulty with this new arrangement is that it risks creating deadlocks. Since both Houses are granted override powers without any mediation mechanism, each House can insist on its own version of a Bill, potentially stalling the passage of crucial financial legislation. This is particularly dangerous in relation to allocation Bills, because counties depend on predictable and timely revenue transfers to function. By reducing the Senate's decisive role in allocation Bills, the amendment undermines the principle of fiscal federalism and weakens the Senate's constitutional mandate under Article 96 to represent and protect the interests of the counties. If prolonged stalemates occur, counties could be deprived of resources, threatening service delivery and violating the spirit of Articles 6(2), 174, 175, and 203 of the Constitution, which emphasize distinct but interdependent levels of government and the equitable sharing of resources. • This gives the Senate a stronger role in budget-making by allowing it to originate allocation Bills and exercise veto power thereby strengthening devolution. • Replacing mediation with the override mechanism removes the possibility of negotiated compromise. • The two-thirds threshold makes it harder to resolve disputes and may cause delays if the Houses are controlled by opposing coalitions.	the Assembly overturns it with a two-thirds majority. Appropriation Bills should originate in the National Assembly, with the Senate empowered to propose amendments, but the Assembly's version should stand unless the Senate secures a two-thirds override. To prevent legislative paralysis, a fallback mediation mechanism, similar to that under Article 113, should be included so that a deadlock between the two Houses does not delay critical budget processes. This solution balances the dignity and authority of both Houses while respecting their constitutionally distinct mandates: The Senate as guardian of county finances and the National Assembly as steward of national expenditure.
10.	Article 113 on Mediation committees	Mediation remains for ordinary Bills, but no longer applies to allocation or Appropriation Bills. • This speeds up the budget process by removing lengthy negotiations. However, it also eliminates a key compromise tool in the event of disagreement. If the Houses fail to reach the two-thirds threshold required for a veto under Article 111, budget-making could stall.	Reintroduce mediation for finance bills to reduce the risk of stalemates.
11.	Article 114	Article 114 acted as a gatekeeper by narrowly defining "money Bills" to taxes, appropriations, public funds, loans, and related matters, with the Speaker of the National Assembly as arbiter. This prevented the Assembly from expanding its jurisdiction by misclassifying ordinary Bills and ensured the Senate was not excluded from broader legislative matters. • Repealing Article 114 removes these safeguards, creating serious risks. It	A more balanced approach is to retain Article 114 with modifications rather than repealing it outright. One option is to maintain a clear definition of money Bills, but refine it to remove past ambiguities that caused disputes. For example, the definition could explicitly cover national taxes and loans, while clarifying that Bills affecting county revenues remain within Senate's jurisdiction. Another solution is to share gatekeeping authority. Instead of

		incentivizes the National Assembly to strategically classify more Bills as financial, sidelining the Senate and weakening fiscal federalism. It increases transaction costs by inviting litigation over jurisdiction, delaying budget processes and county funding. It undermines bicameral efficiency by eroding the Senate's constitutional role in protecting counties, destabilizing predictable budget-making and raising Kenya's governance and borrowing costs	leaving the Speaker of the National Assembly as sole arbiter, disputes on whether a Bill qualifies as a money Bill could be resolved jointly by the two Speakers or by a joint parliamentary committee. This reduces the incentive for unilateral classification and balances incentives between the two Houses
12.	Article 115 on 'Presidential assent and referral'	To override a Presidential veto, both Houses must approve by a two-thirds majority, regardless of the type of Bill. • This enhances checks on the President's powers, which is important to avoid abuse of power but the high threshold makes overrides extremely difficult. • Could slow urgent legislation or create deadlocks if the President and one House are at odds.	Maintain Senate involvement but consider a more flexible override threshold. This could be a simple majority in both Houses or a two-thirds majority in one House.
13.	Article 116 Coming into force of laws	The amendment to Article 116 allows up to seven days between presidential assent and publication of a Bill in the Gazette. This delay creates several constitutional and practical risks. • It undermines transparency by keeping new laws out of public view for several days, despite being technically in force, it erodes legal certainty and the rule of law. If a law is effective from the moment of assent but unpublished, there is a gap where individuals could unknowingly violate the law, exposing them to unfair liability. It also reduces administrative efficiency. • In the digital age, publication is instantaneous, and delays serve no functional purpose. Critical laws such as budget Acts or emergency measures may require immediate effect; delaying publication risks confusion or gaps in implementation.	To resolve these issues, Article 116 should require same-day publication upon assent. This ensures that the law's enforceability and public notification happen simultaneously, to safeguard legal certainty. A practical formula would be to amend the clause to read: "A Bill passed by Parliament and assented to by the President shall be published in the Gazette as an Act of Parliament on the day of assent." To provide limited administrative flexibility without sacrificing transparency, the Constitution could allow publication within 24 hours of assent, ensuring that laws do not remain unpublished for days while in force. This approach promotes transparency, aligns with best global practice, and guarantees that citizens and institutions are never governed by unseen laws.
16.	Inserting of a new Article 199A to provide for the establishment of a County Assembly Fund with respect to each county assembly.	Establishes a fund for each county assembly, used for administrative expenses and related functions. Its expenditure is approved by the assembly and directly charged to the County Revenue Fund. • Marks a push for financial autonomy and accountability in county governance and a shift in the country's devolution framework where on approval of the estimates by a county assembly, the expenditure of a county assembly as	The fund will allow county assemblies to receive their approved budgets directly from the County Revenue Fund and will end the long-standing dependence of MCAs on governors for financial disbursements, which often led to delays and political interferences. However, accountability mechanisms to prevent corruption and ensure that the autonomy granted is not abused should be put in place. Implementation laws should clearly define accountability and reporting

		approved by Parliament in the County Allocation of Revenue Act for the respective year shall be a charge on a County Revenue Fund and the funds shall be paid directly into a County Assembly Fund. • May increase administrative costs and create parallel funding streams, thereby complicating fiscal consolidation. • How do counties intend to harmonize and standardize the management and utilization of the county assembly fund? This opens a window for embezzlement and mismanagement of public funds.	procedures to prevent misuse and ensure alignment with PFM frameworks. Complete transparency mechanisms must accompany this reform to avoid misappropriation. There should be standard guidelines across the country.
17.	Amendment of Article 215(2) (a) by substituting the phrase approved by the 'National Assembly' with approved by 'Parliament'	The commissioners appointed to lead the Commission on Revenue Allocation previously were only approved by the National Assembly. This amendment will allow the approval to be done by both the National Assembly and the Senate which will ensure county interests are adequately represented in decisions related to revenue allocation.	This adjustment ensures equitable legislative oversight by involving both houses of parliament in approving key decisions on revenue allocation thereby strengthening devolution and promoting inclusive governance. Retain the amendment.
18.	Amendment of Article 221 by substituting the phrase 'National Assembly' with the word 'Parliament'	This reflects a deliberate effort to strengthen democratic oversight and ensure equitable resource allocation. Senate inclusion will be a progressive step towards inclusive governance and fiscal soundness.	By involving the senate, county governments are adequately represented in financial planning, promoting equitable distribution of resources and enhance accountability. This dual oversight strengthens fiscal government and aligns with the principles of inclusivity and devolution. Retain the amendment.
21.	Repeal and replacement of Article 224 of the Constitution on 'County Appropriation Bills'	This is progressive legislation which provides a window for counties to continue functioning despite internal differences in resource allocation and priorities. The proposal secures a legal framework that enables counties to function during periods of fiscal delays, and safeguards citizens against service delivery disruptions.	Retain the amendment

Our Ref: IPF/SBM/02/-09-2025

1st September 2025

MR. J.M NYEGENYE, CBS

Clerk of the Senate

Parliament Building

P.O Box 41842-00200

NAIROBI, KENYA.

Dear Sir,

**RE: MEMORANDUM ON THE CONSTITUTION OF KENYA (AMENDMENT) BILL,
2025 (SENATE BILLS NO.13 OF 2025)**

Greetings from the Institute of Public Finance (IPF).

The Institute of Public Finance (IPF) is an independent, non-political, and non-religious think tank based in Nairobi, which aspires to further the ideas of open Public Finance Management systems through research, training, and technical assistance.

In this note, and pursuant to the invitation by the Standing Committee on Justice, Legal Affairs, and Human Rights as communicated through the letter dated 22nd August 2025, the Institute of Public Finance submits its views on the Constitution of Kenya (Amendment) Bill 2025 (Senate Bills No.13 of 2025). We commend the Committee for providing stakeholders and the public with an opportunity to participate in this important legislative process.

The Bill introduces significant reforms, notably by granting the Senate an expanded role in considering Money Bills, including the Appropriation Act, the Finance Act, and the Budget Estimates. This development is commendable as it strengthens accountability in the administration of public resources and ensures greater inclusivity of the Senate in fiscal oversight.

However, the Bill presents certain gaps that warrant careful consideration. First, the proposed dual consideration of budget documents by both Houses of Parliament, without clear recourse to mediation in case of a deadlock, raises the risk of legislative stalemate between the two Houses. This concern is heightened by the high veto thresholds currently provided, which may not always be practical in resolving disputes. Second, the additional involvement of the Senate, while important, will inevitably



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lengthen the budget-making process. Given that the current budget cycle is already congested and often criticized for insufficient public participation, the proposed system may either delay approvals or force hurried processes, undermining inclusivity and accountability. To address this, IPF respectfully recommends that the timelines for submission and consideration of budget estimates be extended to **at least four months before the end of the financial year**. This adjustment will allow adequate space for thorough parliamentary scrutiny, meaningful public engagement, and timely resolution of disagreements between the two Houses.

Additionally, while the Bill provides for the establishment of the **County Assembly Fund**, this provision must be harmonized with the recently enacted **County Public Finance Management (Amendment) Act, 2025**, to ensure consistency, clarity, and effective operationalization at the county level.

In conclusion, IPF urges the Committee to adopt the proposed reforms with the above refinements to strengthen fiscal accountability, safeguard legislative efficiency, and enhance public participation in the budget process.

We thank you for the opportunity to submit these views and reaffirm our continued commitment to supporting Parliament in promoting transparent, accountable, and inclusive public finance management in Kenya.

Yours sincerely,

James Muraguri,
Chief Executive Officer,
Institute of Public Finance.
jmuraguri@ipfglobal.or.ke

IPF ANALYSIS/MEMORANDUM ON THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2025 (SENATE BILLS NO. 13 OF 2025)

Item/Clause	Previous Provision	Description of the Clause	Proposal	Justification
Clause 3 Amendment of Article 95	Article 95 Clause (4) of the Constitution is a provision that spells out the role of the National Assembly in this right: (a) determines the allocation of national revenue between the levels of government, as provided in Part 4 of Chapter Twelve. (b) appropriates funds for expenditure by the national government and other national State organs; and (c) exercises oversight over national revenue and its expenditure.	The bill proposes amending Article 95 by deleting clause (4) in its entirety.	Reject this proposal.	The proposal would disrupt revenue allocation between governments. Parliament would lose appropriation power, causing a weakening of checks and balances. Further, the proposal would weaken oversight and accountability in the use of public funds.
Clause 4 (c) Amendment of Article 96	Article 96 clause (2) of the constitution defines the role of the senate as: The Senate participates in the law-making function of Parliament by considering, debating, and	The bill proposes amendment of article 96 by deleting clause (2) in its entirety.	Reject the proposal.	This proposal would erode the Senates' core function which is to consider, debate and approve bills considering counties. Further it would weaken devolution as if the senate

	approving Bills concerning counties, as provided in Articles 109 to 113.			cannot legislate on county issues, they lose a direct voice in law-making.
Clause 4 (d) Amendment of Article 96	Article 96 clause (3) of the constitution defines the role of the senate in determining the allocation of national revenue among counties, as provided in Article 217, and exercises oversight over national revenue allocated to the county governments.	The bill proposes an amendment of article 96 by inserting the words "and revenue raised by" immediately after the words "revenue allocated to" in clause (3)	Adopt the proposal.	The proposal seeks to expand the oversight capabilities of the Senate to include revenue raised by the county governments. This would ensure that transparency and accountability standards are met in the county governments.
Clause 6 Amendment of Article 109	Article 109 clauses (2), (3), (4), and (5) of the constitution define the exercise of legislative powers as follows: (2) Any bill may originate in the National Assembly. (3) A Bill not concerning county government is considered only in the National Assembly and passed in accordance with Article 122 and the Standing Orders of the Assembly.	The bill proposes the amendment of article 109 by deletion of clauses (2), (3), (4) and (5). The bill further proposes the substitution of these deleted clauses with the following new clauses: (2) A Bill may be introduced by a member or committee in the National Assembly or the Senate. (3) A Bill may originate in either House of Parliament, but a Bill on raising national revenue may originate in the National Assembly.	Reject the proposal.	The proposal would transform Kenya's parliament into a bicameral system where both houses have equal law-making power except for initiating revenue bills. While this would ensure stronger checks and balances, the potential legislative deadlock, especially on contentious issues, wouldn't be ideal to say the least.

	(4) A Bill concerning county government may originate in the National Assembly or the Senate and is passed in accordance with Articles 110 to 113, Articles 122 and 123, and the Standing Orders of the Houses. (5) A Bill may be introduced by any member or committee of the relevant House of Parliament, but a money Bill may be introduced only in the National Assembly in accordance with Article 114.	(4) When a Bill has been passed by one House of Parliament, the Speaker of that House shall refer it to the Speaker of the other House for introduction, consideration, and passage. (5) A Bill shall be referred to the President for assent only after it has been passed by both Houses of Parliament. (6) The Speaker of the originating House shall, within a period of seven days after a Bill has been passed by both Houses, submit to the President- (a) the Bill, for assent and publication; and (b) a certificate signed by both Speakers certifying that the Bill has been passed by both Houses in accordance with this Article.		
Clause 7 Amendment of Article 110	Article 110 of the Constitution provides legislation on bills concerning the county government.	The bill proposes an amendment to Article 110 by repealing the entire article.	Reject the proposal.	Repealing Article 110 of the constitution would mean the Senate would be stripped of its law-making role, shift power to the national assembly, and undermine devolution since counties would lose their legislative voice.

Clause 8 Amendment of Article 111	Article 111 of the Constitution defines legislation on special bills concerning county government as follows: (1) A special Bill concerning a county government shall proceed in the same manner as an ordinary Bill concerning county government, subject to clauses (2) and (3). (2) The National Assembly may amend or veto a special Bill that has been passed by the Senate only by a resolution supported by at least two-thirds of the Assembly. (3) If a resolution in the National Assembly to amend or veto a special Bill fails to pass, the Speaker of the Assembly shall, within seven days, refer the Bill, in the form adopted by the Senate, to the President for assent.	The bill proposes an amendment of Article 111 by repealing the article and replacing it with a new article as follows: 111. (1) An allocation Bill may originate in the Senate, but the National Assembly may propose and pass amendments to the Bill. (2) An appropriation Bill may originate in the National Assembly, but the Senate may propose and pass amendments to the Bill. (3) Subject to clauses (1) and (2), where a receiving House amends an allocation or an appropriation Bill, the originating House may veto the amendments by a resolution supported by at least- (a) two thirds of all the county delegations in the Senate; or (b) two thirds of the membership in the National Assembly. (4) An allocation or an appropriation Bill shall be referred to the President for assent in accordance with Article 109(5) if the originating House-	Adopt the proposal.	This proposal in essence elevates the Senate's role in budget making, giving it power over allocation and appropriation processes. It would also ensure protection of devolution, since if the senate can originate allocation bills and amend appropriation bills, counties gain a stronger defender in budget making.
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		(a) concurs with amendments passed by the receiving House; or (b) vetoes the amendments in accordance with clause (3). (5) In this Article- (a) an allocation Bill means- (i) a County Allocation of Revenue Bill; or (ii) a County Governments Additional Allocations Bill; and (b) an appropriation Bill means- (i) an Appropriation Bill; or (ii) a Supplementary Appropriation Bill.		
Clause 9 (c) Amendment of Article 112	Article 112, clause 2 (a) of the constitution dictates that after the originating house has reconsidered a bill, the Speaker of that House shall refer the Bill to the President within seven days for assent.	The bill proposes amendment of article 112 in Clause (2) by deleting paragraph (a) and substituting therefore the following new paragraph- (a) passes the Bill as amended, the Bill shall be referred to the President for assent in accordance with Article 109.	Reject the proposal.	The proposal would remove the originating house's veto power over amendments from the second house, making the second house's decision final sending the bill straight to the president. This amendment would tilt the balance of power in law-making, potentially undermining Kenya's current model of bicameralism.
Clause 10 (b) Amendment of Article 113	Article 113 provides for the formation of a mediation committee if there is no	The Bill proposes that the provisions of the Mediation Committee shall not	Delete the proposal and maintain the	Despite the new law outlining what should happen if the Appropriation Bill or the

	consensus on the Bills to be considered by both Houses.	apply to an Allocation or an Appropriation Bill.	current structure of the Mediation Committee.	Allocation Bill is not passed within the prescribed timelines, there remains an urgent need to establish a clear procedure for situations where both Houses fail to reach consensus. This gap is particularly critical given that both Bills must now be considered and approved by both Houses before they can take effect, and their repeal is subject to a very high threshold under the new Act. Without a well-defined mechanism to address such deadlocks, the legislative process risks paralysis, potentially undermining budget implementation and the broader principles of fiscal accountability.
Clause 11	Article 114 of the Constitution provides for the definition, introduction, and consideration of the Money Bill by the National Assembly.	The Bill amends the Constitution by repealing Article 114 on the Money Bill.	Adopt the proposal, but there is a need to define a clear procedure in the event of a	Although the proposal is valuable as it assigns the Senate an explicit oversight role over matters previously treated as money bills, namely Bills on taxation, appropriation,

			deadlock between the two Houses. imposition of charges, and loan repayment, it is imperative that the procedures for these considerations are clearly set out. This is particularly significant given the constitutional and statutory timelines within which such instruments must be approved. For instance, the Finance Act is required to be enacted by 30th June each year, while both the Allocation Bill and the Appropriation Bill are equally time-bound and the new thresholds for veto in case of a deadlock are too high and may lead to an even further deadlock. In the absence of a well-defined mechanism to address potential deadlocks between the two Houses, the legislative process risks paralysis, with far-reaching consequences for fiscal discipline, budget implementation, and constitutional order.
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Clause 16 – Insertion of a new clause	-	The Bill establishes a County Assembly Fund in every county to cater for administrative costs and other functions of the assembly. Each year, the Assembly is required to prepare and approve its expenditure estimates, which, once appropriated under the County Allocation of Revenue Act, shall be charged on the County Revenue Fund and transferred directly into the County Assembly Fund. Further, each county assembly must enact legislation to regulate, manage, and oversee the Fund.	Adopt the proposal; however, ensure that there is clarity and alignment with the recently amended County Public Finance Laws	This proposal is crucial as it guarantees the County Assemblies financial independence from the County Executive. This autonomy is important because, in the past, dependence on the executive for funding weakened the oversight role of assemblies and hindered their ability to hold leaders accountable. With a well-regulated County Assembly Fund, assemblies will now be empowered to operate independently and strengthen democratic governance at the county level. However, the provision should be strengthened to ensure alignment with the recently amended County Public Finance Laws, by explicitly providing for: • Clear reporting, audit, and accountability
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				mechanisms for the use of the Fund; • Guidelines on fund management, including disbursement procedures, financial controls, and oversight roles of the Auditor-General and Controller of Budget; • Safeguards against misuse, including penalties for misapplication of funds; and • Integration with county budget processes, to avoid duplication or conflict with broader fiscal frameworks.
Clause 18		The Bill proposes to amend the Constitution to require the Cabinet Secretary for Finance to submit to Parliament, at least two months before the end of each financial year,	Reject the proposal because it risks unnecessarily lengthening the	By requiring the Senate to also consider the budget estimates, the Finance Bill, and the Appropriation and Allocation Bills, the process will either be

		estimates of national revenue and expenditure for the following year. The amendment also introduces a new process where committees of both Houses review the estimates, seek public input, and make recommendations before Parliament considers them. Once approved, the estimates for the national government, Judiciary, and Parliament are to be incorporated into an Appropriation Bill authorizing withdrawals from the Consolidated Fund.	budget-making process.	significantly delayed or forced into a rushed and superficial exercise. Already, under the current framework, stakeholders have raised concerns that the budget cycle is congested, with multiple steps compressed into short timelines, often at the expense of meaningful public participation. Adding another House into the process without adjusting timelines would only worsen this problem, increasing the likelihood of deadlock between the two Houses, as has been observed in past disputes over the Division of Revenue Act (DORA) and the County Allocation of Revenue Act (CARA). If the proposal is to be retained at all, the only viable solution would be to extend the timelines to at least four months before the end of the
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				financial year. This adjustment would create adequate space for thorough parliamentary consideration, effective public engagement, and timely resolution of any inter-house disagreements.
Clause 19	not exceed in total one-half of the amount included in the estimates of expenditure for that year that have been tabled in the National Assembly; and	The Bill proposes to amend Article 222 of the Constitution (2) by deleting the words "the National Assembly" in paragraph (b) and substituting therefore the word "Parliament". 20.	Reject the proposal	No, keep it in the NA, but tighten caps and transparency. Senate involvement here adds delay without material county benefit. Requiring Senate concurrence could delay urgent continuity spending unrelated to county revenues
Clause 20	Supplementary appropriation. 223. (1) Subject to clauses (2) to (4), the national government may spend money that has not been appropriated if— (a) the amount appropriated for any purpose under the Appropriation Act is insufficient or a need has arisen for expenditure for a purpose	The bill proposes to amend Article 223 of the Constitution by deleting the words "the National Assembly" appearing immediately after the word "When" and substituting therefore the word "Parliament".	Reject the proposal	Reject the proposal, oppose blanket parliament introduce the Senate concurrence only when county financing is impacted. Further, Supplementary budgets primarily adjust national appropriations.

	for which no amount has been appropriated by that Act; or (b) money has been withdrawn from the Contingencies Fund. (2) The approval of Parliament for any spending under this Article shall be sought within two months after the first withdrawal of the money, subject to clause (3). (3) If Parliament is not sitting during the time contemplated in clause (2) or is sitting but adjourns before the approval has been sought, the approval shall be sought within two weeks after it next sits. (4) When the National Assembly has approved spending under clause (2), an appropriation Bill shall be introduced for the appropriation of the money spent. (5) In any particular financial year, the national government may not spend under this Article more than			
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	ten per cent of the sum appropriated by Parliament for that financial year unless, in special circumstances, Parliament has approved a higher percentage.			
Clause 21	County appropriation Bills. 224. On the basis of the Division of Revenue Bill passed by Parliament under Article 218, each county government shall prepare and adopt its own annual budget and appropriation Bill in the form and according to the procedure prescribed in an Act of Parliament.	The bill proposes repealing Article 224 of the Constitution and replacing therefor the following new Article County Appropriation Bills 224, (1) based on the County Allocation of Revenue Bill passed by Parliament under Article 218, each county government shall prepare and adopt its own annual budget and appropriation Bill in the form, and according to the procedure, prescribed in an Act of Parliament. (2) If the Division of Revenue Bill or the County Allocation of Revenue Bill for a financial year has not been assented to, or is not likely to be assented to, by the beginning of that financial year, Parliament may authorize counties to withdraw money from the Consolidated Fund.	Accept the proposal	Yes, with operational safeguards. Bicameral role is appropriate because this is squarely about county service delivery. NA controls overall allocations (Art. 95(4)(a)), Senate guards county operations.

		(3) Money withdrawn under clause (2) shall- (a) be for the purpose of meeting expenditure necessary to carry on the services of the relevant county government during that year until such time as the Division of Revenue Bill or the County Allocation of Revenue Bill is assented to; (b) not exceed in total one-half of the amount included in the estimates of expenditure for that year that have been tabled in the County Assembly; and (c) be included, under separate votes for the several services		
Clause 22	Controller of Budget. 228. (1) There shall be a Controller of Budget who shall be nominated by the President and, with the approval of the National Assembly, appointed by the President.	The bill proposes amending article 228 of the Constitution (1) by deleting the words "the National Assembly" appearing immediately after the words "with the approval of" and substituting therefore the word "Parliament".	Accept the proposal	Yes, Controller of Budget's remit spans both levels of parliament approval and time bound processes fit the Constitution of Kenya scheme. Bicameral approval and reporting reflect the office's cross cutting mandate.
Clause 23	Auditor-General. 229. (1) There shall be an Auditor-General who shall be nominated by the President	The bill proposes amending article 229 of the Constitution (1) by deleting the words "the National Assembly" appearing immediately	Accept the proposal	Yes, cross level audit function justifies bicameral approval and joint follow up. Enhanced follow through strengthens

	and, with the approval of the National Assembly, appointed by the President.	after the words "with the approval of" and substituting therefore the word "Parliament".		oversight without altering the constitutional audit mandate.
Clause 24	The Public Service Commission consists of a chairperson, a vice chairperson and seven other members appointed by the President with the approval of the National Assembly.	The bill proposes amending article 233 of the Constitution (2) by deleting the words "the National Assembly" appearing immediately after the words "with the approval of" and substituting therefore the word "Parliament".	Reject the proposal	No, retain NA approval, add Senate consultation. PSC is national; Senate's role should be advisory rather than determinative. Making PSC appointments bicameral would muddle the national/county personnel divide; a consultative Senate hearing preserves devolution sensitivity without recasting mandates.
Clause 25	(2) The chairperson and each member of a commission, and the holder of an independent office, shall be— (a) identified and recommended for appointment in a manner prescribed by national legislation; (b) approved by the National Assembly; and (c) appointed by the President.	The bill proposes amending article 250 of the Constitution clause (2) by deleting the words "the National Assembly" appearing immediately after the words "approved by" in paragraph (b) and substituting therefore the word "Parliament."	Reject the proposal	No, adopt a differentiated approval rule. Bicameralism should track whether a body's mandate substantively engages counties. A criteria schedule-based approach keeps the Senate decisive where counties are directly affected and avoids unnecessary duplication elsewhere.
Clause 26	(2) A person desiring the removal of a member of a	The bill proposes amending article 251 of the (a) in clause (2) by deleting	Reject the proposal	No, match removal thresholds to the appointment pathway,

	commission or of a holder of an independent office on any ground specified in clause (1) may present a petition to the National Assembly setting out the alleged facts constituting that ground. (3) The National Assembly shall consider the petition and, if it is satisfied that it discloses a ground under clause (1), shall send the petition to the President.	the words "the National Assembly" appearing immediately after the words "may present a petition to" and substituting therefore the word "Parliament"; and (b) by deleting the words "The National Assembly" at the beginning of clause (3) and substituting therefore the word "Parliament".		with a two-thirds supermajority. A blanket "Parliament" removal at simple majorities would politicize independent offices.
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**A MEMORANDUM ON THE CONSTITUTION OF KENYA (AMENDMENT) BILL
(SENATE BILLS NO. 13 OF 2025)**

NAME OF ENTITY/PERSON: TRANSPARENCY INTERNATIONAL KENYA

DATE: 26th SEPTEMBER 2025

INTRODUCTION:

Transparency International Kenya is a not-for-profit organization with the aim of developing a transparent and corruption-free society through good governance and social justice initiatives. TI-Kenya contributes to development of effective legal, policy, and legislative frameworks as well as the promotion of national values that support transparency and accountability. It is on this background that TI-Kenya submits this memorandum. As T.I-Kenya our mandate is to promote integrity, transparency, and accountability, and we affirm this as our core mandate to the commitment to integrity and constitutionalism. We advocate for the adherence to the Constitution of Kenya and to the spirit of devolution, transparency, and separation of powers. As a result, we need to check on the constitutionality and legality of these funds, as well as address the oversight gaps that have existed before.

PART A: GENERAL COMMENTS

“At its heart, the Constitution of Kenya (Amendment) Bill is designed to make devolution work better. It seeks to clarify the respective roles of the National Assembly and the Senate, thereby reducing the turf wars that have characterised inter-parliamentary relations since the promulgation of the Constitution¹”.

Despite this stated intention, as outlined on the Parliamentary website, the *Memorandum of Objects and Reasons* attached to the Bill does not provide sufficient justification for several of the proposed deletions and amendments. This lack of clarity raises questions about the rationale and potential implications of these changes, particularly where substantive constitutional provisions are being repealed or reworded. The absence of a robust explanation directly interferes with transparency and makes it difficult to assess whether the amendments serve the public interest or institutional expediency.

PART B: COMMENTS ON THE DRAFT PROVISIONS

Clause	Comment/Proposal	Rationale/ Justification
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¹ <https://www.parliament.go.ke/node/24555>



TRANSPARENCY
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KENYA

3. Article 95 of the Constitution is amended by deleting clause (4).	Retain the original provision	Removing clause (4) strips the National Assembly of its sole origination and control over appropriation and allocation bills. This shifts too much fiscal power to the Senate. Hence, retaining it preserves the National Assembly's constitutional primacy in fiscal matters while enabling meaningful Senate participation and avoiding outright usurpation of functions.
4. Article 96 of the Constitution is amended by deleting clause (2)	Retain the original provision	No justification has been given in the memorandum regarding its deletion.
4. Article 96 of the Constitution is amended by inserting; (5) Parliament shall enact legislation providing for the procedure of removal of state officers at the national level.	The provision needs to create some grounds for dismissal/ removal same as those stipulated under Article 150 on removal of a deputy president; Article 158 on removal of DPP etc	Empowering Parliament to create a law for removing state officers at the national level, as drafted, is vague. It could lead to abuse of power if used as a political weapon, especially without clear thresholds or protections for independence of state offices.
7. The Constitution is amended by repealing Article 110.	Retain the original provision	The repeal of Article 110, which defines "Bills concerning county governments," removes a critical safeguard for county interests.



		Without Article 110, there is no clear constitutional protection or procedural special treatment for county matters, thus counties become vulnerable to encroachment; and open to interference by the Parliament.
11. The Constitution is amended by repealing Article 114.	Retain the original provision	Article 114, which outlined procedure for money Bills, is also repealed without a clearly superior alternative mechanism under the memorandum of objects and reasons, risking confusion in legislative process.
16. The Constitution is amended by inserting the following new Article immediately after Article 199 — County Assembly Fund 199A (1) There is established, for each county assembly, a County Assembly Fund.	Delete the proposed insertion	The County Assembly Fund introduces legislative and financial oversight by Parliament. The county assembly cannot spend outside what Parliament approves and this risks breaching the devolved autonomy in budgeting and expenditure priorities. Thus, requiring Parliament to approve and supervise the Fund may give national legislators undue control over county legislative budgets.
The Constitution is amended by repealing Article 224 of the Constitution and replacing therefor the following new Article— County Appropriation Bills	Retain the original provision	The new version gives Parliament more control over county appropriation processes, possibly interfering with the devolved autonomy; and breaching the doctrine of separation of powers.



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KENYA

224. (1) On the basis of the County Allocation of Revenue Bill passed by Parliament under Article 218, each county government shall prepare and adopt its own annual budget and appropriation Bill in the form, and according to the procedure, prescribed in an Act of Parliament.

(2) If the Division of Revenue Bill or the County Allocation of Revenue Bill for a financial year has not been assented to, or is not likely to be assented to, by the beginning of that financial year, Parliament may authorise counties to withdraw money from the Consolidated Fund.

(3) Money withdrawn under clause (2) shall—

(a) be for the purpose of meeting expenditure necessary to carry on the services of the relevant county government during that year until such time as the Division of Revenue Bill or the County Allocation of Revenue Bill is assented to;

(b) not exceed in total one-half of the amount included in the estimates of expenditure for that year that have been tabled in the County Assembly; and

(c) be included, under separate votes for the several services in respect of which they were withdrawn.

CONTACT INFORMATION:

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P.O. Box 198-00200, Nairobi
Tel: +254 (0) 202 727 763/5 Mobile: +254 (0) 722 296 589

MEMORANDUM

From : Electoral Law and Governance Institute for Africa
To : The Clerk of the Senate
Date: 23rd September, 2025
RE : The Constitution of Kenya (Amendment) Bill, 2025

Background

The Standing Committee on Justice and Legal Affairs and Human Rights in Senate, in line with Article 118 of the Constitution and standing order number 145(5) of the Senate Standing Orders, invited Electoral Law and Governance Institute for Africa (ELGIA) to submit representations/Comments on the Constitutional (Amendment) (No. 2) Bill, (Senate Bills No. 52 of 2023). The Bill proposes amendments to several provisions of the Constitution. The principal object of the Bill is to strengthen and secure devolution by amending the Constitution, thereby strengthening the role of the Senate by making the Senate a coequal to the National Assembly and requiring that most bills be considered and passed by both houses. The Bill further proposes protection for the County Assembly by establishing a constitutionally protected County Assembly Fund to ensure financial independence for the County Legislature.

Electoral Law and Governance Institute for Africa (ELGIA), a continental organization, headquartered in Nairobi, Kenya, working to strengthen and consolidate constitutional democracy, good governance, and electoral processes in African dialogue, electoral reforms, and advocacy. Through this, the institution seeks to strengthen governance and political institutions through technical assistance, capacity building, advocacy, and research.

ELGIA has developed this Memorandum to highlight the main considerations that will inform the Committee on the proposed constitutional amendments. The Presentation focuses mostly on the Constitutionality of the Bill, by making an analysis of the legislative role of the two houses of Parliament as set out currently in the Constitution.

Amendment Proposals, Recommendations, and Justification

Proposed Amendment Clauses	Recommendation and Remarks	Justification
Clauses 2, 3, 4, 6, and 7 of the Bill The Clause proposes the amendment to Articles 94, 95, and 96 of the Constitution, which provide the roles of the Parliament, the National Assembly, and the Senate.	The proposed amendment ought not originate from the Senate. Article 96(2) of the Constitution provides how the Senate participates in the law-making function of parliament by exclusively considering a Bill concerning counties. Art 109 provides clearance on how bills originate from either house.	- The Constitution currently provides the legislative role of each house and requires that the legislation originate from a specific house of Parliament. To have this amendment Bill originate from the Senate violates parliamentary procedures and offends Article 94(3) of the Constitution, which provides that any amendment to the Constitution has to be made in line with the Constitutional provisions and from a specific House. - Having the Bill originate from the Senate undermines the separation of powers, as the Senate will be seen to usurp the legislative role of the National Assembly. - To that extent, the constitutional amendment, although reasonable in content, faces the risk of being declared an unconstitutional amendment under the doctrine of unconstitutional constitutional amendment on procedural grounds.
Clause 5 of the Bill The Clause proposes an amendment of Article 108 of the Constitution that provides for the majority and minority leadership in the House.	Reasonable Proposal	The proposal clears the ambiguity that currently exists over the provision of House minority and majority leadership in the Senate.
Clause 8 of the Bill The Clause provides and introduces the Office of the Prime Minister.	The proposal should be harmonized with the proposal under Clause 18 in the Constitution of	This will avoid duplication in the legislation process.

	Kenya (Amendment) Bill, which has a closely similar proposal	
Clauses 17,22, 23,24,25 and 26, The clauses propose amendment of the Constitution to assign the responsibility of appointment and removal from office of various state officers to the Senate and the National Assembly.	The proposed amendment cannot originate from the Senate. Article 96(2) of the Constitution. The Constitution provides how the Senate participates in the law-making functions of parliament. It provides that the Senate shall participate in the law-making function of parliament by exclusively considering a Bill concerning counties. Additionally, Art 109 provides how a bill can originate in the two houses.	- In a bicameral system, any specific Bill has to be introduced in an appropriate chamber/ house of parliament for consideration. The introduction of such a bill from the Senate will violate Article 94(3) of the Constitution, which provides that the amendments to the Constitution have to be made as provided for in the Constitution. - To avoid the doctrine of non-constitutional amendment to the Constitution, which is a concept in judicial review. The amendment would conflict with some constitutional values.

Conclusion

The Constitution of Kenya adopts a bicameral legislative system within a devolved system of governance to keep to its structure; the Senate's legislative mandate is defined specifically to consider Bills concerning counties. In a Bicameral system, the effectiveness of the Senate depends on how well it is designed and integrated into the governing structure. This has been addressed in countries like **Ireland and Australia**, which have a similar system. The same was the intention of Art. 94, 95, and 96 of the Constitution that spell out clearly the specific and separate legislative roles of the two houses of the Kenyan system.

Felix Odhiambo Owuor
Executive Director,
Electoral Law and Governance Institute for Africa (ELGIA)





Busia County Empowerment
And Accountability Champions
Centre -CBO

**BUSIA COUNTY EMPOWERMENT &
ACCOUNTABILITY CHAMPIONS CENTRE-
CBO.**

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**MEMORANDUM ON THE CONSTITUTION OF KENYA (AMENDMENT)
BILL NO.13 OF 2025**

Submitted by:

Busia County Empowerment and Accountability Champions Centre (BUCEACC)

Date: 6th October, 2025

Venue: Busia County Agricultural Centre-Senate Public Participation Forum

1. Introduction

The Busia County Empowerment and Accountability Champions Centre (BUCEACC) appreciates the opportunity to participate in the public consultations on the Constitution of Kenya (Amendment) Bill No.13 of 2025.

As a community-based organization working across all sub-counties of Busia County, BUCEACC focuses on civic education, governance, human rights, and accountability. We recognize the importance of this Bill in shaping Kenya's legislative, fiscal, and devolved governance frameworks.

2. Aim of the Bill

The Bill seeks to strengthen devolution and balance the roles of the National Assembly and the Senate by:

- Enhancing coordination between both Houses of Parliament;
- Promoting accountability and inclusivity in law-making and budget processes; and
- Safeguarding counties' fiscal independence through mechanisms such as the County Assembly Fund.

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3. Strengths of the Bill

BUCEACC acknowledges and supports several positive provisions within the Bill:

(a) Strengthened Bicameralism

The Bill provides both Houses of Parliament with a more balanced legislative and oversight role, promoting inclusivity and cooperation.

(b) County Assembly Fund

Establishing a County Assembly Fund enhances the financial independence of county assemblies, promoting stronger devolution and local accountability.

(c) Joint Budget Oversight

Involving both Houses in the budget-making process strengthens fiscal transparency and aligns national and county priorities.

(d) Enhanced Vetting and Representation

Expanding the vetting of key state officers to both Houses broadens representation and checks executive appointments.

(e) Streamlined Legislative Process

Allowing Bills to originate in either House (except revenue Bills) helps reduce unnecessary procedural disputes.

4. Gaps and Weaknesses in the Bill

(a) Risk of Legislative Gridlock

Equal powers without a clear dispute-resolution mechanism may lead to delays or standoffs between the two Houses, especially for budget or allocation Bills.

(b) Ambiguity on Financial Bills

The repeal of the definition of money Bills (Article 114) removes clarity without a replacement, creating room for legal uncertainty.

(c) Weak Accountability for County Assembly Fund

The Bill lacks explicit provisions for auditing, expenditure ceilings, and citizen oversight of the new Fund.

(d) Budget and Service Delivery Risks

Involving both Houses in every stage of budget-making could slow approval and delay service delivery.

(e) Inadequate Citizen Participation Provisions

The Bill does not institutionalize public participation or community oversight in the legislative and budgetary processes.

(f) Transitional and Legal Alignment Gaps

There is no guidance on how existing laws (Public Finance Management Act, County Governments Act) will be harmonized with the amendments.

5. BUCEACC Recommendations

(a) Safeguards Against Legislative Paralysis

Introduce timelines for concurrence or mediation between Houses to avoid delays in passing critical legislation.

(b) Clarity on Financial Bills

Enact a supplementary law defining what constitutes a financial or appropriation Bill after repeal of Article 114.

(c) Accountability in County Assembly Fund

Provide for mandatory independent audits, expenditure ceilings, and public disclosure of Fund utilization.

Empower the Controller of Budget and Auditor-General to oversee the Fund.

(d) Streamlined Vetting Process

Create a Joint Parliamentary Vetting Committee to prevent duplication and promote efficiency.

(e) Strengthen Citizen Participation

Embed citizen consultation requirements in budget and legislative processes, including county-level public hearings and online access to reports.

(f) Transitional Provisions

Include a section outlining how ongoing legislation and budget processes will transition under the amended framework.

6. Conclusion

BUCEACC supports the spirit and objectives of the Constitution of Kenya (Amendment) Bill No.13 of 2025 as a progressive step towards a stronger devolved system and balanced bicameralism.

However, we urge the Senate to consider the identified gaps and recommendations to ensure that the final amendment strengthens good governance, enhances accountability, and protects the principles of devolution.

Submitted by:

**Busia County Empowerment and Accountability Champions Centre (BUCEACC)-CBO
Promoting Accountability, Inclusion, and Empowerment in Busia County**



Julius Mulase

Director,

Busia County Empowerment and Accountability Champions Centre (BUCEACC)-CBO

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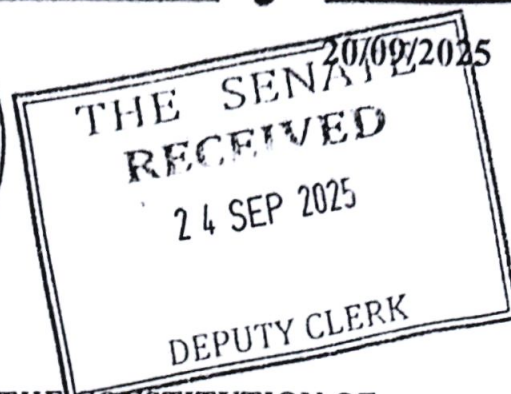


MAU MAU CHILDREN POST COLONIAL ELITES

PARTNERS:

- * MAU MAU WAR VETERANS ASSOCIATES
- * MAU MAU INDIGENOUS KNOWLEDGE
- * JEREMIAH MUGI FOUNDATION
- * MMV ASSOCIATES CLG

TO:
THE CLERK OF SENATE
P.O. BOX 4182-00100
NAIROBI.



Dear Sir/Madam,

REF: MEMORANDUM AND PUBLIC HEARING ON THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2025 – SENATE BILL NO. 13 OF 2025

We, MMV Associates CLG, kindly submit our memorandum on the above subject matter for your consideration during the ongoing public hearings.

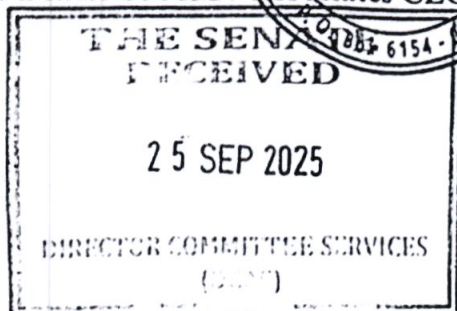
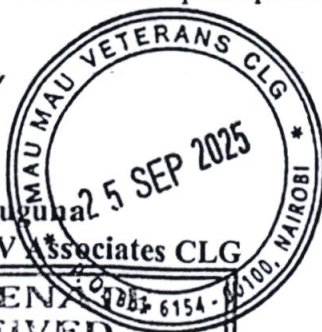
We respectfully request that our recommendations be received and considered, and further seek your assistance where possible both through legal guidance and financial support in ensuring implementation across all 47 counties, 290 constituencies, and 1,450 wards, through the framework of the National Administration Village Policy, 2025.

Since 2025, we have actively supported and participated in all public participation forums. Our contributions have also been recognized through the efforts of our heroes and heroines, led by Hon. Gitu wa Kahengeri, OGW. In line with this recognition, we hereby attach a proposed list of heroes and heroines for 2025 for your kind review.

We trust that the Committee will give due consideration to our memorandum and recommendations in line with the principles of constitutionalism, justice, and inclusivity.

Yours faithfully,

James Mahuria Njuguna
On Behalf Of MMV Associates CLG



① DGAC; DKG

Kindly deal.

② HDD-Governance
PCA - JIATRL

Kindly deal

25/09/2025

24/09/2025



MAU MAU CHILDREN POST COLONIAL ELITES

PARTNERS:

- * MAU MAU WAR VETERANS ASSOCIATES
 - * MAU MAU INDIGENOUS KNOWLEDGE
 - * JEREMIAH MUGI FOUNDATION
 - * MMV ASSOCIATES CLG
-

MEMORANDUM AND PUBLIC HEARING ON CONSTITUTION OF KENYA (AMENDMENT) BILL, 2025 (SENATE BILLS NO. 13 OF 2025)

TO:

**HON. J. M. NYEGENYE, CBS
CLERK OF THE SENATE
P.O. BOX 41842 – 00100
NAIROBI.**

SUBMISSION

1. Public Participation and Referendum

Explanation: Constitutional amendments must never bypass the will of the people. Public participation is a constitutional imperative, and in matters affecting governance structures, devolution, and funding, a referendum must be mandatory rather than optional. Compensation and facilitation for public participation ensures inclusivity of marginalized groups, the elderly, and war veterans.

Recommendation: Parliament must provide a legal framework requiring all major constitutional amendments, including those touching on funds and rights, to go for a referendum. Public education, facilitation, and allowances for participants should be a guaranteed part of the process.

2. Senate Bill No. 13 of 2025 and Multi-level Dissemination

Explanation: The Bill must be communicated at national, county, sub-county, ward, and village levels. The National Administration Village Policy of 2024 has established clear communication channels through chiefs, assistant chiefs, and elders, which should be used for effective sensitization.

Recommendation: Senate should ensure structured dissemination, using National Administration structures, to guarantee all Kenyans understand the content and implications of the Bill.

3. Veterans' Submissions Since 21st December 2023

Explanation: War veterans have repeatedly provided views on governance reforms but these views face neglect due to political conflicts of interest. Veterans played a decisive role in Kenya's liberation, and their voices must be preserved in constitutional amendments.

Recommendation: Senate and relevant committees must create a dedicated veterans' desk to incorporate and safeguard views from liberation heroes and their organizations.

Coalition of Heritage and Veteran Organizations

Explanation: This memorandum is presented by Mau Mau Associations, MMV Associations CLG, Dedan Kimathi Foundation, Mau Mau Trustees, Musambwa Dini, Magusa Poa, J.M. Foundation, and others. Collectively, these groups safeguard heritage, justice, and cultural identity, giving this submission legitimacy and weight.

Recommendation: Parliament and Senate must recognize this coalition as a legitimate stakeholder in constitutional reform processes and engage them directly in future hearings.

4. Oversight of NGAAF through CDF, PBO Acts, and UN Charity Frameworks

Explanation: NGAAF requires transparent oversight. Entrusting CDF structures, aligned with the Public Benefit Organizations (PBO) Act, and anchored in UN-recognized charity frameworks, will promote accountability, equity, and efficient use of funds. The involvement of the World Bank adds international credibility and strengthens compliance with development standards.

Recommendation: Mandate CDF oversight of NGAAF allocations, tied to PBO principles and UN charity trust frameworks, with World Bank co-signature to reinforce credibility and transparency.

5. Justice and Human Rights Perspectives on Senate Bill No. 13 of 2025

Explanation: Human rights organizations stress that justice and equality must underpin Senate Bill No. 13 of 2025. Any amendment that touches on public resources, governance, or rights must protect marginalized communities and ensure gender equity, fairness, and dignity. Justice delayed or ignored undermines public trust in constitutional reforms.

Recommendation: Embed justice and equity safeguards within the Bill, ensuring that vulnerable and marginalized groups are represented in decision-making and resource allocation.

6. Role of the Chief Justice in Referendum Oversight

Explanation: Laws touching on PBOs, justice, or community funds cannot be passed by Parliament alone. The Chief Justice should be constitutionally mandated to review such laws and direct them to referendum where public consent is required. This protects sovereignty of the people and prevents misuse of parliamentary majorities.

Recommendation: Amend the Constitution to grant the Chief Justice authority to refer PBO-related and fund-governing laws to a referendum, ensuring that critical changes cannot bypass citizens' approval.

7. Court Ruling on CDF and Absence of Referendum

Explanation: Courts have previously halted attempts to entrench CDF into law, citing the absence of a referendum. This precedent highlights the judiciary's role in protecting constitutionalism and ensuring that major changes affecting resource allocation must go back to the people for approval.

Recommendation: Parliament and Senate should respect judicial pronouncements, harmonize CDF within constitutional frameworks, and ensure any entrenchment efforts are approved through a national referendum.

Conclusion and Call to Action

We, the undersigned organizations, affirm our commitment to justice, transparency, and inclusivity in constitutional reforms. Senate Bill No. 13 of 2025 must be subjected to wide public participation, referendum oversight, judicial safeguards, and international credibility measures such as World Bank involvement. Only through such broad guarantees can the people of Kenya own and trust the amendment process.

ON BEHALF OF

JAMES MAHURIA NJUGUNA
MMV ASSOCIATES CLG - DIRECTOR



Cc:

COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS
P.O. BOX 41842 – 00100
NAIROBI

***Annex 8: Matrix
of submissions
on the Bill***

THE SENATE



MATRIX

THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2025 (SENATE BILLS NO. 13 OF 2025)

Stakeholders:

- 1.
2. Commission on Revenue Allocation
3. County Government of Kitui
4. Institute of Public Finance
5. Institute of Economic Affairs
6. Bajeti Hub
7. Kenya Law Reform Commission
8. Law Society of Kenya
9. ELGIA
10. Mau Mau Children Post Colonial Elites and partner organizations
11. Transparency International
12. County Assemblies Forum
13. Council of County Governors

CLAUSE	STAKEHOLDER	PROPOSAL/ISSUE/ OBSERVATION	REASONS
1	Kenya Law Reform	The Kenya Law Reform Commission (KLRC)	They observe that this is appropriate because

Short title	Commission	notes that the Bill will only come into force after a referendum conducted under Article 255 of the Constitution.	the amendments directly affect the functions of Parliament, which are among the matters expressly listed in Article 255 as requiring approval by referendum.
2 Amendment to clause 94 of the Constitution Role of Parliament.	CRA	Delete proposed amendment to clause 94 and retain the original provision.	The Bill proposes to amend Article 94 by inserting a new clause (2A), which would explicitly empower Parliament to exercise oversight over national revenue allocated to the national government and its expenditure, as well as over state organs and other public entities. The intention, as framed in the Bill, is to strengthen Parliament's supervisory role and ensure accountability in the use of public resources. The Commission on Revenue Allocation, however, raises a concern with this proposal. In their submission, they argue that the insertion of clause (2A) risks duplicating functions already distributed between the two Houses of Parliament. Oversight of revenue and expenditure is not a novel responsibility—it is already embedded within the constitutional mandates of both the National Assembly and the Senate. By restating it in Article 94, CRA warns that the amendment could blur the lines of responsibility, leading to overlap, confusion, and potential conflict between the Houses.
	County Government of Kitui	Parliament's roles over The executive and other state organs to be limited to legislation and oversight.	The Bill proposes to expand Article 94 by inserting a new clause (1A), which states that <i>'Parliament shall perform its legislative, representation, and oversight role over the executive and other state organs in accordance with this</i>

		The proposed amendment should provide clarity or propose a law to be enacted to guide oversight.	<i>Constitution.”</i> The intention is to clarify Parliament’s functions and reinforce its supervisory authority over the executive and other state organs. The County Government of Kitui, however, raises reservations about this formulation. They argue that the Constitution, grounded in the principle of separation of powers, does not contemplate Parliament exercising its representation role over the executive and other state organs. Representation, in their view, is about Parliament embodying the voice of the people—whether through constituencies, counties, or special interests—not about representing or duplicating the functions of other arms of government. Kitui further cautions that the proposed wording could lead to duplication of oversight processes between the two Houses of Parliament. If both Houses interpret their roles expansively, they may undermine each other in discharging oversight, creating institutional friction rather than clarity. They recommend that Parliament’s role over the executive and state organs be limited strictly to legislation and oversight, and that the amendment Bill should either provide clarity or propose a guiding law to structure oversight.
	KLRC	The Kenya Law Reform Commission (KLRC)	KLRC notes that these provisions elevate the

		observes that the proposed insertion of new clauses 1A, 1B, 1C, and 2A into Article 94 would expressly codify Parliament's legislative, representation, and oversight roles. The amendments state that both the National Assembly and the Senate shall exercise legislative authority, require legislation to respect the Fourth Schedule and national values, and explicitly frame oversight powers to include national revenue, State organs, and other public entities.	Senate to a full co-equal legislative chamber, removing the current hierarchy where the National Assembly is the primary legislative body and the Senate is confined mainly to county-related matters. By eliminating the "Bills concerning counties" test, the amendment reduces ambiguity and litigation over the Senate's role, ensuring that all Bills require bicameral consideration unless explicitly exempted. KLRC supports the amendment because it strengthens bicameral symmetry and enhances fiscal oversight, aligning legislative authority with the Fourth Schedule and Article 10 values. They point out that the current framework has led to disputes and forum shopping between the two Houses, weakening coherence in law-making. However, they caution that the broad phrasing of oversight powers over "State organs and other public entities" could invite institutional overlaps unless clarified through precise Standing Orders.
3 Amendment of Article 95 (Role of the National Assembly)	Institute of Public Finance	Reject the proposal.	The Bill proposes to amend Article 95 by deleting clause (4), which currently assigns the National Assembly three critical functions: determining the allocation of national revenue between the levels of government, appropriating funds for expenditure by the national government and other state organs, and exercising oversight over national revenue and its expenditure. In effect, this deletion would strip the National Assembly of its

			explicit appropriation and oversight powers, redistributing or redefining these functions under the broader framework of Parliament. The Institute of Public Finance (IPF) opposes this proposal. They argue that removing clause (4) would disrupt the constitutional balance in revenue allocation and weaken accountability mechanisms. Parliament, and specifically the National Assembly, plays a central role in ensuring that public funds are allocated fairly and used responsibly. By deleting this clause, the Bill risks undermining the checks and balances that safeguard fiscal discipline.
	KLRC	The Kenya Law Reform Commission (KLRC) notes that the Bill proposes to repeal Article 95(4), which currently grants the National Assembly exclusive authority to determine the allocation of national revenue between levels of government, appropriate funds for the national government and other State organs, and exercise oversight over national revenue and its expenditure.	KLRC explains that deleting this clause is intended to avoid conflict with the new bicameral fiscal procedures introduced elsewhere in the Bill. Under the proposed amendments, fiscal authority—including consideration of budget estimates, appropriations, and supplementary appropriations—would be shared between both Houses of Parliament. This change removes the National Assembly's monopoly over fiscal oversight and establishes a co-equal bicameral framework. KLRC observes the deletion because it aligns with the broader restructuring of bicameralism envisioned in the Bill. By shifting fiscal power from the National Assembly alone to both Houses, the

			amendment strengthens the Senate's role in financial matters and ensures that counties are represented in national fiscal decisions. However, they note that this transformation requires careful procedural alignment to prevent duplication or legislative gridlock.
	Transparency International	Retain the original provision.	Removing clause (4) would strip the National Assembly of its constitutional primacy in fiscal matters and shift too much fiscal power to the Senate. Retaining the clause preserves the National Assembly's central role in fiscal legislation while still allowing meaningful Senate participation, thereby avoiding outright usurpation of functions.
4 Proposed amendment to Article 96	CRA	Define the term "special interests" in clause 4(a)	On the proposed insertion of "special interests," CRA points out that the term is undefined in the Constitution, including in Article 260, which provides definitions of key constitutional terms. Without a clear definition, the amendment risks ambiguity and inconsistent interpretation. CRA therefore recommends that the phrase be properly defined before inclusion, stressing the need for clarity in constitutional drafting: <i>"Define the phrase 'special interests' which is not defined under Article 260 of the Constitution."</i>
	CRA	On clause 4(e), CRA proposes that the clause be deleted and relocated as an amendment of clause 94 of the Constitution.	CRA argues that the provision is misplaced. The removal of state officers is a matter that touches on the broader role of Parliament as an institution, not specifically the Senate. Placing such a clause under Article 96, which is dedicated to the Senate's role, would distort the architecture of the Constitution. CRA recommends relocating this provision to

			Article 94, which sets out the general role of Parliament.
	Institute of Public Finance	Reject this proposal to delete clause (2) in 4(c).	On the deletion of clause (2): IPF opposes this move. They argue that removing clause (2) would erode the Senate's core function of legislating on matters concerning counties. Without this provision, the Senate would lose its direct voice in law-making, weakening devolution and undermining the constitutional balance between the two Houses. Their recommendation is to reject the proposal.
	Institute of Public Finance	Adopt the proposal in clause 4(d).	IPF supports the insertion of the words "and revenue raised by" after "revenue allocated to." They argue that this expansion strengthens the Senate's oversight role by ensuring accountability not only for funds allocated from the national government but also for revenue generated locally by counties. This would enhance transparency and fiscal discipline at the county level.
	Institute of Economic Affairs	Amend the Bill to include a clear definition of "special interests" or require Parliament to enact implementing legislation that provides this definition.	The term "special interests in the Senate" introduces ambiguity if left undefined. The amendment risks politicization and inconsistent application, which could weaken the Senate's legitimacy as the representative of counties. Any expansion of the Senate's role should be anchored in a transparent definition to prevent misuse. Otherwise this provision may create more uncertainty rather than strengthen representation.
	KLRC	The Kenya Law Reform Commission (KLRC) notes that the Bill proposes to broaden the	KLRC observes that these changes effectively transform the Senate into a full legislative

		Senate's role by explicitly providing that it shall enact legislation, not merely "participate in law-making concerning counties." The amendment also deletes Clause (2), thereby removing the "Bills concerning counties" test that currently limits the Senate's legislative authority. In addition, the Senate's oversight mandate is expanded to cover revenue raised by counties, not just the national revenue allocated to them. A new clause further requires Parliament to legislate procedures for the removal of national State officers.	chamber, no longer tethered to county-related matters alone. This greater parity enhances the Senate's guardianship of devolution and strengthens its oversight of both national and county revenue streams. However, they caution that such broad expansion risks blurring the original bicameral bargain, potentially leading to duplication of roles and turf contests over laws of national scope.
	LSK	The proposed amendment to Article 96 expands the Senate's representation to include special interests. The Law Society of Kenya notes that while this broadens inclusivity, the term special interests is vague and open to varied interpretations.	The Constitution or subsequent legislation should provide a clear and exhaustive definition of what constitutes special interests. The justification is that without such clarity, the provision could be misused for political patronage. A precise definition would safeguard against ambiguity and ensure that the intended beneficiaries, such as youth, persons with disabilities, and marginalized communities, are genuinely represented.
	LSK	The proposed amendment to Article 96(5) introduces provisions for the removal of state officers through legislation enacted by Parliament. The Law Society of Kenya observes that while the Bill mandates Parliament to enact such legislation, the Constitution itself should entrench the core principles of due process for the removal of state officers. These principles include the right to a fair hearing, independent investigation, and clear grounds for removal.	The justification is that embedding these safeguards directly in the Constitution would provide stronger protection against arbitrary or politically motivated removals. It would ensure that the process remains fair, transparent, and consistent with the rule of law, rather than leaving such critical guarantees solely to ordinary legislation.
	Transparency International	The Bill seeks to amend Article 96 by deleting clause (2), which currently defines the Senate's legislative role as considering Bills concerning counties.. They recommend tthat the Bill retains the original provision.	No justification has been provided in the memorandum of objects and reasons for deleting this clause

	Transparency International	The Bill proposes inserting a new clause (5) requiring Parliament to enact legislation providing for the procedure of removal of state officers at the national level. Transparency International recommends that this provision should explicitly set out grounds for dismissal or removal, similar to those already stipulated under Article 150 (removal of the Deputy President) and Article 158 (removal of the Director of Public Prosecutions).	As currently drafted, the provision is vague and could be abused as a political weapon. Without clear thresholds or protections, it risks undermining the independence of state offices and weakening constitutional safeguards.
	CAF	Reject the amendment.	They argue that constitutional and legislative reforms must respect the existing constitutional structure, avoid jurisdictional duplication, and uphold the autonomy of County Assemblies. County Assemblies are the frontline oversight institutions under Article 185(3) of the Constitution and Section 8 of the County Governments Act. Expanding the Senate's oversight to locally raised revenue would encroach on the constitutionally assigned oversight functions of County Assemblies, undermining their legitimacy and independence in devolved governance.
	COG	The Bill seeks to insert a new clause (5) into Article 96, stating: "Parliament shall enact legislation providing for the procedure of removal of state officers at the national level." The Council recommends amending the proposed clause (5) to read: <i>'Parliament shall enact legislation providing for the</i>	They emphasize the need to expedite the enactment of the County Governments (State Officers' Removal from Office) Procedure Bill (Senate Bills No. 34 of 2024). This would codify the procedure for removing Governors, County Executive Committee Members, and other state officers at the county level. The Council argues that

		<i>procedure of removal of state officers at the national and county level.”</i>	including county officers ensures consistency and fairness across both levels of government, aligning with the principles of devolution and accountability.
5 Amendment of Article 108 (Parliament ary leadership)	KLRC	The Kenya Law Reform Commission (KLRC) notes that the Bill proposes to extend Article 108, which currently applies only to the National Assembly, so that it also covers the Senate. This would constitutionally entrench the offices of Leader of Majority and Leader of Minority in the Senate, rather than leaving them as creations of Standing Orders. It also provides for a clear order of precedence in the Senate, similar to that of the National Assembly.	KLRC observes that this amendment normalizes the leadership architecture across both Houses, giving the Senate constitutionally recognized leadership positions. It strengthens the Senate’s institutional identity and ensures clearer protocol for business, joint sittings, and official representation. By defining the “official voices” of each side, bicameral negotiations—such as during budget mediation or joint committees—become procedurally easier and more coherent. KLRC supports the amendment because it promotes institutional balance and clarity. It provides the Senate with a uniform leadership structure, enhances its visibility in parliamentary protocol, and improves coordination between the two Houses. This alignment is seen as a practical step toward strengthening bicameralism and reducing ambiguity in joint parliamentary processes.
	ELGIA	Bill proposes an amendment to Article 108 of the Constitution, which deals with majority and minority leadership in the Houses of Parliament. ELGIA considers this a reasonable proposal.	They note that the amendment clears the ambiguity that currently exists regarding the recognition and structure of majority and minority leadership in the Senate. This clarification would strengthen parliamentary organization and ensure consistency in leadership roles across both Houses.
6	CRA	Ensure that all the deleted Bills catered for by	The Commission on Revenue Allocation

Amendment of Article 109 (Exercise of Legislative Powers)		the current constitutional provisions are comprehensively covered in the proposed amendments.	(CRA) acknowledges the intent of this amendment but raises a cautionary note. They observe that the Bill repeals several existing clauses—specifically clauses (2), (3), (4), and (5)—which currently provide detailed guidance on the origination and consideration of Bills. CRA warns that unless the new provisions comprehensively cover all the legislative scenarios catered for under the current text, there is a risk of creating gaps in the legislative process. Such gaps could undermine the clarity and predictability of law-making.
	Institute of Public Finance	Reject the proposal.	The Bill proposes to amend Article 109 by deleting clauses (2), (3), (4), and (5), which currently define the origination and consideration of Bills. In their place, the Bill introduces new provisions allowing Bills to originate in either House of Parliament, except for those raising national revenue, which must originate in the National Assembly. It also sets out a process for referral between the two Houses and certification by both Speakers before submission to the President for assent. The Institute of Public Finance (IPF) strongly opposes this proposal. They argue that while the amendment would transform Kenya's Parliament into a fully bicameral system with equal law-making powers (except for revenue Bills), it risks creating legislative deadlock. Contentious Bills could stall if both Houses disagree, and the absence of clear mechanisms

			for resolving disputes would undermine legislative efficiency. IPF warns that this change, though intended to strengthen checks and balances, could instead paralyze Parliament's ability to pass laws in a timely manner.
	KLRC	The Kenya Law Reform Commission (KLRC) notes that the Bill proposes to fundamentally restructure Article 109 by ending the current categorization of Bills into those "concerning counties" and those that do not. Under the amendment, any Bill may originate in either House, except revenue-raising Bills which must still begin in the National Assembly. Crucially, all Bills would require passage by both Houses before assent, with joint certification by both Speakers.	KLRC explains that this change reshapes Kenya's bicameralism from a differentiated model—where the National Assembly is dominant and the Senate is confined mainly to county-related matters—into a co-equal model where both Houses must consider every Bill. This removes the litigation-prone "county test" under Article 110, which has been the subject of repeated disputes and Supreme Court advisory opinions. While the reform resolves ambiguity and strengthens bicameralism, KLRC cautions that it may also increase legislative costs, mediation demands, and workload pressures, particularly for the Senate, which would now process all Bills.
7 Amendment of Article 110 (Bills Concerning County Governme nts)	Institute of Public Finance	Reject the proposal.	The Bill proposes to repeal Article 110 of the Constitution in its entirety. Article 110 currently provides the framework for determining whether a Bill concerns county governments and sets out the procedure for such Bills. Its repeal would effectively strip the Senate of its law-making role in relation to counties, shifting legislative authority almost entirely to the National Assembly. The Institute of Public Finance (IPF) opposes this proposal. They argue that repealing Article 110 would undermine devolution by

			removing the Senate's constitutional mandate to legislate on matters affecting counties. Without Article 110, counties would lose their legislative voice in Parliament, and the balance of bicameralism would tilt decisively toward the National Assembly.
	Institute of Economic Affairs	Retain Article 110 but amend it to eliminate past ambiguities rather than repealing it. A revised Article should provide a clear, binding definition of county-related Bills and establish a transparent dispute resolution process between the two Speakers or through a joint parliamentary mechanism.	Repeal of Article 110 and the implementation of a new legislative process that allows bills other than those that raise money to originate in either house introduces an important transition. While the proposed approach may ease past conflicts, the absence of a solid mediation mechanism risks leaving county interests unprotected and exposes devolution to unchecked dominance by the National Assembly.
	KLRC	The Kenya Law Reform Commission (KLRC) notes that the Bill proposes to repeal Article 110, which currently defines what constitutes a Bill concerning county government and sets out the procedure for such Bills. At present, Article 110 requires that Bills concerning counties may originate in either House, while Bills not concerning counties are considered only in the National Assembly.	KLRC explains that repealing Article 110 would remove the "county test" that has been the source of repeated litigation and institutional disputes. This would lock Kenya into a system where all Bills must pass through both Houses, thereby strengthening bicameralism and ensuring Senate involvement in all legislation. However, they caution that repealing Article 110 entirely could tilt the balance of bicameralism in favour of the National Assembly, since the Senate's legislative role has historically depended on whether a Bill is deemed to concern counties. Without this categorization, the Senate's oversight of county interests could be weakened, and the principle of

			devolution eroded.
	Transparency International	Retain the original provision.	Repealing Article 110 removes a critical safeguard for county interests. Without it, there would be no clear constitutional protection or procedural special treatment for matters affecting counties. This would leave counties vulnerable to encroachment and interference by Parliament, undermining devolution and the balance of bicameralism.
	CAF	CAF raises caution on this proposed amendment.	They argue that while the intention is to reduce conflict between the two Houses, removing Article 110 eliminates a crucial mechanism for resolving inter-chamber disputes. The introduction of a powerful bicameral veto over budgetary legislation, combined with the Senate's expanded agenda, could paralyze the legislative process during politically polarized periods. Without strong cooperation and consensus, the new framework risks turning Parliament into a battleground, hindering the passage of critical legislation and undermining good governance.
8 Amendment of Article 111 (Special Bills Concerning County Governments)	Institute of Public Finance	Adopt the proposal.	The Institute of Public Finance (IPF) supports this proposal. They argue that it elevates the Senate's role in budget-making by giving it power to originate allocation Bills and amend appropriation Bills. This, in their view, strengthens devolution by ensuring counties have a stronger defender in fiscal processes. It also embeds bicameralism more firmly in Kenya's budgetary framework, balancing the National Assembly's control over national appropriations with the Senate's mandate to safeguard county interests.

	Institute of Public Finance.	Introduce mediation process to resolve gridlocks that may delay critical budget processes.	Appropriation Bills will originate in the National Assembly, while Allocation Bills will originate in the Senate. Each House may amend the other's Bill. If the receiving House amends a Bill, the originating House can override those changes by a two-thirds vote. Once concurrence or the override occurs, the Bill proceeds for Presidential assent. The difficulty with this new arrangement is that it risks creating deadlocks. Since both Houses are granted override powers without any mediation mechanism, each House can insist on its own version of a Bill, potentially stalling the passage of crucial financial legislation. This is particularly dangerous in relation to allocation Bills, because counties depend on predictable and timely revenue transfers to function. By reducing the Senate's decisive role in allocation Bills, the amendment undermines the principle of fiscal federalism and weakens the Senate's constitutional mandate under Article 96 to represent and protect the interests of the counties. If prolonged stalemates occur, counties could be deprived of resources, threatening service delivery and violating the spirit of Articles 6(2), 174, 175, and 203 of the Constitution, which emphasize distinct but interdependent levels of government and the equitable sharing of resources.
	KLRC	The Kenya Law Reform Commission (KLRC) notes that the Bill proposes to replace the current Article 111 procedure with a new	KLRC explains that this arrangement strengthens the Senate's participation in Appropriation Bills and the National

		framework. Under the amendment, Allocation Bills may originate in the Senate and Appropriation Bills in the National Assembly, but in each case the other House may amend the Bill. If the originating House disagrees with the amendments, it may veto them only by securing a two-thirds majority. Mediation is retained for ordinary Bills but removed for allocation and appropriation Bills, which would now be governed solely by the two-thirds veto mechanism.	Assembly's participation in Allocation Bills, encouraging negotiation and consensus-building. However, they caution that the two-thirds veto requirement places heavy pressure on the originating House. In a polarized Parliament, securing such a supermajority could be very difficult, especially close to budget deadlines. This could lead to gridlock in the budget cycle, since the amending House has significant leverage to insert changes, while the originating House faces a high threshold to reject them.
	LSK	The proposed amendment to Article 111 introduces a supermajority veto mechanism for Allocation and Appropriation Bills. The Law Society of Kenya observes that while the supermajority veto is intended to resolve disagreements between the two Houses, it could instead lead to legislative gridlock on critical financial Bills.	To mitigate this risk, the LSK proposes the inclusion of a mandatory mediation process, similar to the one provided under Article 113, before the veto can be exercised.
9 Amendment of Article 112 (Reconsideration of Bills and Referral for Assent)	Institute of Public Finance	Reject the proposal.	The Bill proposes to amend Article 112(2)(a), which currently requires that after the originating House has reconsidered a Bill, the Speaker of that House shall refer it to the President within seven days for assent. The amendment would delete this provision and substitute it with a new rule: <i>once the originating House passes the Bill as amended, it shall be referred directly to the President for assent in accordance with Article 109.</i> The Institute of Public Finance (IPF) strongly

			opposes this proposal. They argue that it would remove the originating House's veto power over amendments made by the second House. Under the current framework, the originating House retains the authority to accept or reject changes before a Bill is sent to the President. By eliminating this safeguard, the amendment would tilt the balance of power toward the second House, undermining Kenya's bicameral system and weakening the principle of equal participation by both Houses in law-making.
	KLRC	The Kenya Law Reform Commission (KLRC) notes that the Bill proposes to modify Article 112 to reflect the new bicameral framework under Article 109, where all Bills must pass through both Houses. Under the amendment, a Bill originating in either House must be considered by the other. If the second House passes the Bill without amendments, it proceeds to assent after joint certification by both Speakers. If the second House amends the Bill and the originating House agrees, it also proceeds to assent. If the originating House rejects the amendments, the Bill is referred to mediation under Article 113.	KLRC observes that this arrangement is technically neat and provides a clear sequence for bicameral passage. It distinguishes between ordinary Bills, which follow the standard mediation route, and budget-related Bills (allocation and appropriation), which are handled under the stricter Article 111 two-thirds veto mechanism. They note that this dual pathway creates procedural clarity but also places heavier workload demands on the Senate, which would now process all Bills, not just county-related ones.
10 Amendment of Article 113 (Mediation Committee s in Case of Deadlock)	Institute of Finance of Public	Reject the proposal.	The Bill proposes to amend Article 113 by excluding Allocation Bills and Appropriation Bills from the mediation committee process. Under the current framework, if the two Houses fail to agree on a Bill, a mediation committee is formed to reconcile differences. The proposed change would mean that for these critical budget Bills, mediation would

			not apply, leaving no clear mechanism for resolving disputes between the National Assembly and the Senate. The Institute of Public Finance (IPF) opposes this proposal. They argue that removing mediation for Allocation and Appropriation Bills creates a dangerous gap in the legislative process. Since both Houses must now consider and approve these Bills, the absence of a mediation mechanism risks legislative paralysis. IPF warns that this could stall budget implementation, undermine fiscal accountability, and destabilize constitutional order.
	Institute of Economic Affairs	Mediation remains for ordinary Bills, but no longer applies to allocation or Appropriation Bills. Reintroduce mediation for finance bills to reduce the risk of stalemates.	This speeds up the budget process by removing lengthy negotiations. However, it also eliminates a key compromise tool in the event of disagreement. If the Houses fail to reach the two-thirds threshold required for a veto under Article 111, budget-making could stall.
	KLRC	The Kenya Law Reform Commission (KLRC) notes that the Bill proposes to amend Article 113 so that mediation no longer applies to allocation and appropriation Bills. Instead, these fiscal Bills would be governed solely by the two-thirds veto mechanism introduced under Article 111.	KLRC cautions that while the amendment aligns with the new bicameral framework, it risks hardening standoffs in Parliament. The two-thirds rule could make resolution of budget disputes more difficult, especially in a polarized political environment. They suggest that time-bound joint committees or other fallback mechanisms should be considered to prevent fiscal paralysis and ensure continuity in budget processes.
	COG	The Bill seeks to insert a new clause (5) into	They argue that the clause presupposes

		Article 113, stating: <i>‘This Article shall not apply to an allocation or an appropriation Bill under Article 111.’</i> The Council recommends deleting the proposed clause (5) entirely.	allocation and appropriation Bills will not be submitted to mediation whenever the two Houses fail to agree on one version of the Bill. This creates a lacuna in the event of disagreement, especially since the enactment of allocation and appropriation Bills is subject to strict timelines in law. Removing the mediation safeguard could therefore paralyze the legislative process and undermine fiscal stability.
11 Amendment of Article 114 (Money Bills)	Institute of Public Finance	Adopt the proposal with a need to define a clear procedure in the event of a deadlock between both houses.	The Bill proposes to repeal Article 114, which currently defines, introduces, and governs the consideration of Money Bills exclusively in the National Assembly. Article 114 has historically confined taxation, appropriation, imposition of charges, and loan repayment Bills to the National Assembly, excluding the Senate from direct involvement. The Institute of Public Finance (IPF) supports the repeal, but with important caveats. They welcome the change because it explicitly assigns the Senate an oversight role over matters previously treated as Money Bills. This strengthens bicameralism and ensures that counties, through the Senate, have a voice in fiscal decisions that affect them. However, IPF warns that the amendment must be accompanied by clear procedures to prevent legislative deadlock.
	Institute of Economic Affairs	Retain Article 114 with modifications rather than repealing it outright.	Article 114 acted as a gatekeeper by narrowly defining “money Bills” to taxes,

		One option is to maintain a clear definition of money Bills, but refine it to remove past ambiguities that caused disputes. For example, the definition could explicitly cover national taxes and loans, while clarifying that Bills affecting county revenues remain within Senate's jurisdiction. Another solution is to share gatekeeping authority. Instead of leaving the Speaker of the National Assembly as sole arbiter, disputes on whether a Bill qualifies as a money Bill could be resolved jointly by the two Speakers or by a joint parliamentary committee. This reduces the incentive for unilateral classification and balances incentives between the two Houses.	appropriations, public funds, loans, and related matters, with the Speaker of the National Assembly as arbiter. This prevented the Assembly from expanding its jurisdiction by misclassifying ordinary Bills and ensured the Senate was not excluded from broader legislative matters. Repealing Article 114 removes these safeguards, creating serious risks. It incentivizes the National Assembly to strategically classify more Bills as financial, sidelining the Senate and weakening fiscal federalism. It increases transaction costs by inviting litigation over jurisdiction, delaying budget processes and county funding. It undermines bicameral efficiency by eroding the Senate's constitutional role in protecting counties, destabilizing predictable budget-making and raising Kenya's governance and borrowing costs.
	KLRC	The Kenya Law Reform Commission (KLRC) notes that the Bill proposes to repeal Article 114, which currently defines a "money Bill" and gives the National Assembly exclusive procedural control over such Bills. At present, the Speaker of the National Assembly determines whether a Bill qualifies as a money Bill, and this classification has been a frequent source of litigation and disputes between the Houses.	KLRC acknowledges that the current money Bill provision has been problematic, leading to procedural conflicts and litigation. Yet, they emphasize that repeal must be accompanied by new safeguards to prevent gridlock and protect fiscal accountability. They warn that removing the National Assembly's traditional "power of the purse" could weaken clarity of responsibility, since citizens expect the directly elected chamber to justify how money is raised and spent. In their view, while the amendment promotes bicameralism, it risks undermining fiscal

			discipline unless carefully supplemented with procedural controls.
	Transparency International	Retain the original provision.	Repealing Article 114 removes an established mechanism for managing money Bills without providing a clearly superior alternative. This risks creating confusion in the legislative process and undermines fiscal clarity. The existing provision ensures proper classification and treatment of money Bills, which is critical for maintaining order and accountability in financial legislation.
12 Amendment of Article 115 (Presidential assent and referral)	Institute of Economic Affairs	Maintain Senate involvement but consider a more flexible override threshold. This could be a simple majority in both Houses or a two-thirds majority in one House.	To override a Presidential veto, both Houses must approve by a two-thirds majority, regardless of the type of Bill. This enhances checks on the President's powers, which is important to avoid abuse of power, but the high threshold makes overrides extremely difficult. Could slow urgent legislation or create deadlocks if the President and one House are at odds.
	KLRC	The Kenya Law Reform Commission (KLRC) notes that the Bill proposes to amend Article 115 so that once a Bill is passed, it must be certified jointly by both the Speaker of the National Assembly and the Speaker of the Senate before being presented to the President. In addition, if the President refers a Bill back with reservations, the override mechanism would now require a two-thirds majority in both Houses, rather than just in the National Assembly.	KLRC observes that this amendment closes a loophole in the current framework, where the Senate could be excluded at the final stage of assent. It symbolizes formal equality between the two Houses and ensures that both are involved in the reconsideration process. However, they note that raising the threshold for overriding presidential reservations significantly strengthens the Executive's bargaining power, since it is harder for Parliament to muster two-thirds in both

			chambers.
13 Amendment of Article 116 (Coming into force of laws)	Institute of Economic Affairs	Amend the clause to read: <i>"A Bill passed by Parliament and assented to by the President shall be published in the Gazette as an Act of Parliament on the day of assent."</i> To provide limited administrative flexibility without sacrificing transparency, the Constitution could allow publication within 24 hours of assent, ensuring that laws do not remain unpublished for days while in force.	The amendment to Article 116 allows up to seven days between presidential assent and publication of a Bill in the Gazette. This delay creates several constitutional and practical risks. It undermines transparency by keeping new laws out of public view for several days, despite being technically in force, it erodes legal certainty and the rule of law. If a law is effective from the moment of assent but unpublished, there is a gap where individuals could unknowingly violate the law, exposing them to unfair liability. It also reduces administrative efficiency. In the digital age, publication is instantaneous, and delays serve no functional purpose. Critical laws such as budget Acts or emergency measures may require immediate effect; delaying publication risks confusion or gaps in implementation.
	KLRC	The Kenya Law Reform Commission (KLRC) notes that the Bill proposes to amend Article 116 so that when a Bill is deemed to have been assented to—under the existing 14-day rule—it must be published in the Gazette.	KLRC explains that this amendment enhances clarity and eliminates ambiguity. It cures a lacuna in the current text by making publication mandatory, thereby strengthening transparency and ensuring that deemed assent is not left uncertain or invisible in practice.
14 Amendment of Article 157	County Government of Kitui	The Nominee to appear before a joint committee comprising of the representatives of the appropriate committee of the	The Bill proposes to amend Article 157(2) by replacing the phrase "with the approval of the National Assembly" with "with the approval

(Approval of the Director of Public Prosecutions)		respective houses.	of Parliament.” This change would expand the vetting role from the National Assembly alone to both Houses of Parliament, thereby giving the Senate a formal role in approving the appointment of the Director of Public Prosecutions (DPP). The County Government of Kitui raises concerns about the practical implications of this amendment. They note that the Bill and its Memorandum of Objects and Reasons do not provide a clear justification for this change, nor do they specify how the vetting process would be conducted. The ambiguity lies in whether the nominee for DPP would appear before a joint committee composed of members from both Houses, or whether they would be required to appear separately before committees of each House. Kitui warns that without clarity, the amendment risks creating duplication in the vetting process. If both Houses conduct separate hearings, nominees could face conflicting outcomes or unnecessary delays, undermining the efficiency of appointments. To resolve this, Kitui recommends that nominees for the position of DPP should appear before a joint committee comprising representatives of the appropriate committees from both Houses.
	KLRC	The Kenya Law Reform Commission (KLRC) notes that the Bill proposes to amend Article 157 so that the appointment of the Director	KLRC observes that this change introduces bicameral vetting for a key constitutional office. It enhances legitimacy by ensuring that

		of Public Prosecutions (DPP) would be subject to approval by both Houses of Parliament, rather than only by the National Assembly as is currently the case.	the DPP's appointment reflects the consent of both chambers, thereby broadening accountability and strengthening institutional buy-in. However, they caution that involving both Houses may lengthen timelines and risks injecting political contestation into the appointment process, potentially undermining the independence of the office.
15 Judiciary Fund	KLRC	The Kenya Law Reform Commission (KLRC) notes that the Bill proposes to amend Article 173 so that the Senate is enjoined in the approval of the Judiciary Fund, which is currently the preserve of the National Assembly.	KLRC notes that the amendment enhances judicial independence and aligns with the broader bicameral framework. They highlight that including the Senate in approval processes reinforces checks and balances and reduces the risk of unilateral control by the National Assembly. This change is consistent with the principle of devolution and the need for balanced oversight of critical constitutional institutions.
16 Establishment of the County Assembly Fund.	CRA	This proposal has been overtaken by events with the enactment of the County Public Finance Laws Amendment Act, 2025 which establishes a similar Fund under the PFM Act.	The Bill introduces a new Article 199A to establish a County Assembly Fund for each county assembly. The proposed Fund would be dedicated to covering administrative expenses and other costs necessary for the discharge of county assembly functions. The Bill further outlines a process whereby each county assembly prepares annual expenditure estimates, submits them for approval, and upon approval, the expenditure is charged on the County Revenue Fund. Funds would then be paid directly into the County Assembly Fund, with each county assembly enacting legislation to regulate its use. This amendment appears to strengthen the financial autonomy of county assemblies,

			ensuring they have a dedicated mechanism for funding their operations. However, the Commission on Revenue Allocation (CRA) points out that this proposal has already been overtaken by legislative developments. Specifically, the County Public Finance Laws Amendment Act, 2025 has already established a similar fund under the Public Finance Management (PFM) Act. As such, CRA argues that inserting Article 199A into the Constitution would be redundant and unnecessary.
	Institute of Public Finance	Adopt the proposal; however, ensure that there is clarity and alignment with the recently amended County Public Finance Laws.	The Institute of Public Finance (IPF) supports this proposal to create a County Assembly Fund, but with important refinements. They argue that the Fund is crucial because it guarantees the financial independence of county assemblies from the county executive. Historically, assemblies have depended on the executive for funding, which weakened their oversight role and limited their ability to hold leaders accountable. With a dedicated and well-regulated Fund, assemblies would be empowered to operate independently, thereby strengthening democratic governance at the county level. However, IPF stresses that the provision must be harmonized with the recently amended County Public Finance Laws to ensure clarity and consistency. They recommend strengthening the clause by explicitly providing for—

			○ Clear reporting, audit, and accountability mechanisms for the use of the Fund. ○ Guidelines on fund management, including disbursement procedures, financial controls, and oversight roles of the Auditor-General and Controller of Budget. ○ Safeguards against misuse, including penalties for misapplication of funds. ○ Integration with county budget processes, to avoid duplication or conflict with broader fiscal framework.
	Institute of Economic Affairs	Adopt with amendments.	Establishes a fund for each county assembly, used for administrative expenses and related functions. Its expenditure is approved by the assembly and directly charged to the County Revenue Fund. Marks a push for financial autonomy and accountability in county governance and a shift in the country's devolution framework where on approval of the estimates by a county assembly, the expenditure of a county assembly as approved by Parliament in the County Allocation of Revenue Act for the respective year shall be a charge on a County Revenue Fund and the funds shall be paid directly into a County Assembly Fund.

			Of note is that the Fund may increase administrative costs and create parallel funding streams, thereby complicating fiscal consolidation. How do counties intend to harmonize and standardize the management and utilization of the county assembly fund? This creates an opportunity for embezzlement and mismanagement of public funds. However, accountability mechanisms to prevent corruption and ensure that the autonomy granted is not abused should be put in place. Implementation laws should clearly define accountability and reporting procedures to prevent misuse and ensure alignment with PFM frameworks. Complete transparency mechanisms must accompany this reform to avoid misappropriation. There should be standard guidelines across the country.
	KLRC	The Kenya Law Reform Commission (KLRC) notes that the Bill proposes to insert a new Article 199A to establish a County Assembly Fund, intended to provide financial autonomy to county assemblies. This Fund would be drawn directly from the Consolidated Fund and disbursed to county assemblies to support their operations, oversight, and legislative	KLRC notes that the Fund enhances devolution by empowering county assemblies with financial autonomy. They highlight that assemblies often face resource constraints that undermine their independence and effectiveness. By guaranteeing a dedicated Fund, the amendment strengthens checks and balances at the county level. Still, KLRC

		functions.	warns that clear accountability mechanisms must be embedded to prevent misuse and ensure sustainability.
	LSK	Delete or substantially amend the clause to incorporate phased implementation with strong accountability safeguards, ensuring that autonomy does not come at the expense of transparency and fiscal discipline.	The Law Society of Kenya raises several concerns with this proposal. First, they note that creating a fund directly under the control of county assemblies risks undermining the principle of separation of powers. County assemblies are constitutionally mandated to exercise oversight over county executives, and direct control of funds could compromise their impartiality and weaken their oversight role. Second, the amendment does not clearly stipulate who would supervise, audit, and report on the use of the County Assembly Fund. Without express external oversight mechanisms, assemblies could end up policing themselves, which is inconsistent with constitutional principles of accountability and transparency. Third, there is a risk of fiscal indiscipline. Article 201 and Chapter 12 of the Constitution emphasize prudent use of public finances. Without stringent safeguards, the County Assembly Fund could become susceptible to misuse and misallocation.
	Transparency International	Delete this proposal.	The County Assembly Fund introduces legislative and financial oversight by Parliament over county assemblies, which risks breaching devolved autonomy in budgeting and expenditure priorities. County

			assemblies would not be able to spend outside what Parliament approves, giving national legislators undue control over county legislative budgets. This undermines the principle of devolution and the doctrine of separation of powers, weakening the independence of county assemblies in managing their own financial affairs.
	CAF	CAF welcomes the inclusion of Article 199A as a landmark advancement in strengthening the institutional independence and operational autonomy of County Assemblies.	Entrenching the County Assembly Fund in the Constitution responds directly to fiscal threats faced by assemblies, such as arbitrary budget ceilings. CAF proposes an additional safeguard: a new sub-clause requiring that not less than 15% of all county revenues be allocated to County Assemblies annually. This minimum threshold is seen as vital to ensure assemblies are adequately resourced to fulfil their constitutional mandate under Article 185(3) and to protect against cuts that undermine their oversight role.
	COG	The Bill introduces a new Article 199A establishing a County Assembly Fund for each county assembly, to be used for administrative expenses and other functions. It requires each county assembly to prepare annual expenditure estimates and submit them for approval. The Council supports the establishment of the Fund but recommends amending clause (3) and introducing a new clause (4). The proposed amendment would be as follows—	The Council explains that this aligns with Section 129 of the Public Finance Management Act (Cap 412A). Under this framework, the county assembly clerk prepares estimates, the CECM Finance reviews and comments, and then submits them to the County Executive Committee and later to the County Assembly for approval. This preserves the executive's role in budget submission while ensuring assemblies retain their oversight function

		Clause (3): Each financial year, the county assembly clerk should prepare and submit expenditure estimates to the county assembly, and copy the County Executive Committee Member (CECM) for Finance, who would provide comments. Clause (4): The CECM for Finance should then submit the budget estimates to the county assembly for approval.	
17 Amendment of Article 215 (Commission on Revenue Allocation)	CRA	Delete this proposal.	This amendment seeks to broaden bicameral oversight by giving the Senate a role in approving appointments and removals of key constitutional offices. The Commission on Revenue Allocation (CRA) is cautious about this expansion. While acknowledging the Bill's intent to strengthen accountability and bicameralism, CRA warns that the proposed changes could introduce unnecessary bureaucracy. By requiring both Houses to participate in appointments and removals, the process could become lengthier and more complex. CRA argues that this duplication of roles between the National Assembly and the Senate may hinder efficiency rather than enhance oversight.
	County Government of Kitui	The Nominee to appear before a joint committee comprising of the representatives of the appropriate committee of the respective houses.	The Bill proposes to amend Article 215(2) by replacing the phrase "approved by the National Assembly" with "approved by Parliament." This change would extend the vetting and approval of nominees for appointment as commissioners of the

			Commission on Revenue Allocation (CRA) to both Houses of Parliament, thereby giving the Senate a formal role in the process. The County Government of Kitui raises concerns about the practical implementation of this amendment. They note that the Bill does not specify whether nominees would appear before a joint committee composed of members from both Houses, or whether they would be required to appear separately before committees of each House. This lack of clarity, they argue, risks creating duplication in the vetting process. If nominees were subjected to separate hearings, the process could become cumbersome, potentially leading to conflicting outcomes or unnecessary delays.
	Institute of Economic Affairs	Retain the amendment.	The commissioners appointed to lead the Commission on Revenue Allocation previously were only approved by the National Assembly. This amendment will allow the approval to be done by both the National Assembly and the Senate which will ensure county interests are adequately represented in decisions related to revenue allocation. This adjustment ensures equitable legislative oversight by involving both houses of parliament in approving key decisions on revenue allocation, thereby strengthening devolution and promoting inclusive governance.

	KLRC	The Kenya Law Reform Commission (KLRC) notes that the Bill proposes to amend Article 215 to restructure the Commission on Revenue Allocation (CRA). The key change is that the appointment of commissioners would now require approval by Parliament (both Houses) rather than only the National Assembly.	KLRC notes that the amendment enhances legitimacy and inclusivity in the appointment of CRA commissioners. They highlight that the CRA plays a pivotal role in determining equitable revenue sharing, and bicameral approval ensures broader accountability. However, they caution that requiring approval by both Houses could introduce procedural duplication unless the process is clearly defined.
18 Amendment of Article 221 (Submission of Revenue and Expenditure Estimates)	County Government of Kitui	The submission of the estimates of the revenue and expenditure of the national Government to be made before a joint sitting of both houses.	The Bill proposes to amend Article 221(1) so that the Cabinet Secretary responsible for finance must submit to Parliament, at least two months before the end of each financial year, the estimates of revenue and expenditure of the national government for the next financial year. The amendment replaces the reference to the National Assembly with Parliament, thereby extending the process to both Houses. The County Government of Kitui notes that the Bill does not specify whether the Cabinet Secretary should submit these estimates to a joint sitting of both Houses or separately to each House. This ambiguity, they argue, could lead to procedural confusion and duplication. If the submission were made separately, it might result in inconsistent deliberations or unnecessary delays, undermining the efficiency of the budget process.
	Institute of Public	Reject this proposal.	The Institute of Public Finance (IPF) rejects

	Finance		this proposal. Their concern is that requiring both Houses to consider the budget estimates, alongside the Finance Bill and Appropriation/Allocation Bills, would unnecessarily lengthen the budget-making process. Kenya's budget cycle is already congested, with multiple steps compressed into short timelines. Stakeholders have repeatedly raised concerns that this leaves little room for meaningful public participation. Adding another House without adjusting timelines risks either delaying approvals or forcing rushed, superficial scrutiny. IPF warns that this could also increase the likelihood of deadlock between the two Houses, citing past disputes over the Division of Revenue Act (DORA) and the County Allocation of Revenue Act (CARA) as examples of how inter-house disagreements can stall fiscal processes.
	Institute of Economic Affairs	Retain the amendment.	This reflects a deliberate effort to strengthen democratic oversight and ensure equitable resource allocation. Senate inclusion will be a progressive step towards inclusive governance and fiscal soundness. By involving the Senate, county governments are adequately represented in financial planning, promoting equitable distribution of resources and enhance accountability. This dual oversight strengthens fiscal government and aligns with the principles of inclusivity

			and devolution.
	KLRC	The Kenya Law Reform Commission (KLRC) notes that the Bill proposes to amend Article 221 so that the estimates of revenue and expenditure prepared by the national government are submitted to both the National Assembly and the Senate, rather than only to the National Assembly as is currently the case.	KLRC notes that the amendment strengthens bicameral oversight of the budget process. It ensures that the Senate, which represents counties, has a direct role in scrutinizing national revenue and expenditure estimates. This is particularly important for devolution, since county allocations are embedded within the national budget framework. However, they caution that involving both Houses could complicate timelines and increase the risk of duplication unless clear procedures are established for joint consideration.
19 Amendment of Article 222 (Authorizat ion of Expenditur e Before Appropriati on)	Institute of Public Finance	Reject this proposal.	The Bill proposes to amend Article 222(2)(b) by replacing the words “the National Assembly” with “Parliament.” Currently, Article 222 allows the National Assembly to authorize withdrawals from the Consolidated Fund for up to half of the estimates of expenditure when an Appropriation Act has not yet been passed. The amendment would extend this authority to both Houses of Parliament. The Institute of Public Finance (IPF) rejects this proposal. They argue that Senate involvement in this emergency authorization process would add unnecessary delay without delivering meaningful benefits to counties. Article 222 is designed to ensure continuity of government services when appropriations are delayed, and requiring bicameral approval could slow down urgent spending decisions.

			IPF's recommendation is to retain the authority in the National Assembly, but strengthen safeguards by tightening expenditure caps and enhancing transparency.
	KLRC	The Kenya Law Reform Commission (KLRC) notes that the Bill proposes to amend Article 222 so that votes on account—temporary authorizations for government expenditure when the Appropriation Bill has not yet been passed—must be approved by both the National Assembly and the Senate, rather than solely by the National Assembly.	KLRC notes that this amendment extends bicameral oversight into one of the crucial areas of fiscal governance. It ensures that the Senate, representing counties, has a direct role in authorizing interim expenditure, thereby safeguarding devolution interests even in transitional budget periods. However, they caution that requiring approval from both Houses could complicate urgent fiscal decisions, especially if political divisions delay consensus.
20 Amendment of Article 223 (Suppleme ntary Appropriati ons)	Institute of Public Finance	Reject this proposal.	The Bill proposes to amend Article 223 by replacing the words “the National Assembly” with “Parliament.” Currently, Article 223 allows the national government to spend money not appropriated under the Appropriation Act in cases of urgent need, insufficiency of appropriated funds, or withdrawals from the Contingencies Fund. Approval for such spending must be sought from the National Assembly within two months, after which an appropriation Bill is introduced. The amendment would extend this approval role to both Houses of Parliament. The Institute of Public Finance (IPF) rejects this proposal. They argue that supplementary budgets primarily adjust national appropriations, which are squarely within the

			National Assembly's remit. Requiring Senate concurrence for all supplementary appropriations would introduce unnecessary delays and complexity, especially when urgent adjustments are needed for national government operations. IPF does acknowledge that Senate involvement could be justified only when county financing is directly impacted. In such cases, consultation or concurrence by the Senate would align with its constitutional role of safeguarding devolution. However, applying bicameral approval across the board would muddle responsibilities and risk slowing down fiscal responsiveness.
	KLRC	The Kenya Law Reform Commission (KLRC) notes that the Bill proposes to amend Article 223 so that supplementary expenditure—where the national government spends money not appropriated by Parliament and seeks subsequent approval—must now be authorized by both the National Assembly and the Senate, rather than solely by the National Assembly.	The KLRC notes that the amendment extends bicameral oversight into supplementary appropriations, which are often politically sensitive and fiscally significant. By involving the Senate, the reform ensures that counties have a voice in approving unplanned expenditures, reinforcing the principle of devolution. However, they caution that requiring bicameral approval could complicate urgent fiscal adjustments, especially in times of crisis, since consensus across both Houses may be difficult to achieve quickly.
21 Amendment of Article 224 (County	Institute of Public Finance	Adopt this proposal.	The Bill proposes to repeal Article 224 and replace it with a new framework. Currently, Article 224 requires each county government to prepare and adopt its own annual budget and appropriation Bill based on the Division

Appropriation Bills)			of Revenue Act. The proposed amendment shifts this basis to the County Allocation of Revenue Bill passed by Parliament. It also introduces a safeguard: if the Division of Revenue Bill or County Allocation of Revenue Bill has not been assented to by the beginning of the financial year, Parliament may authorize counties to withdraw money from the Consolidated Fund to keep services running. The Institute of Public Finance (IPF) supports this proposal, but with operational safeguards. They argue that the bicameral role is appropriate because county appropriation Bills directly concern service delivery at the county level. The National Assembly controls overall allocations under Article 95(4)(a), while the Senate's role is to guard county operations. This balance ensures that counties are not left vulnerable in the event of delays in passing national revenue laws.
	Institute of Economic Affairs.	Retain the amendment.	This is progressive legislation which provides a window for counties to continue functioning despite internal differences in resource allocation and priorities. The proposal secures a legal framework that enables counties to function during periods of fiscal delays, and safeguards citizens against service delivery disruptions.
	KLRC	The Kenya Law Reform Commission (KLRC) notes that the Bill proposes to amend Article 224 to introduce a safeguard mechanism: if the Division of Revenue Bill (DORB) or the	KLRC notes that this amendment is designed to prevent paralysis in county governments when national revenue-sharing laws are delayed. It mirrors the national government's

		County Allocation of Revenue Bill (CARB) has not been assented to by the beginning of the financial year, Parliament may authorize counties to withdraw money from the Consolidated Fund to meet their expenditure needs.	safeguard under Article 222 (votes on account), extending continuity provisions to counties. However, they caution that the safeguard must be tightly regulated to prevent abuse, since interim withdrawals could undermine fiscal discipline if not capped or time-bound.
	Transparency International	Retain the original provision	The new version gives Parliament more control over county appropriation processes, which risks interfering with devolved autonomy and breaching the doctrine of separation of powers. The existing Article 224 allows each county government to prepare and adopt its own annual budget and appropriation Bill, ensuring independence in financial planning. Replacing it with a framework that subjects county budgets more directly to parliamentary control would weaken devolution and compromise counties' ability to manage their own resources.
	COG	The Bill seeks to repeal Article 224 and replace it with a new provision on County Appropriation Bills. It allows Parliament to authorize counties to withdraw money from the Consolidated Fund if the Division of Revenue Bill or County Allocation of Revenue Bill has not been assented to at the start of a financial year. Withdrawals would be capped at one-half of the amount included in the estimates of expenditure for that year tabled in the County Assembly. The Council recommends amending clause (2) and clause (3)(b) as follows—	The Council explains that COB already authorizes such withdrawals under Regulation 134 of the Public Finance Management (National Government) Regulations, 2015, providing sufficient safeguards. They also cite the Attorney General's legal opinion (20th September 2024) and Supreme Court Advisory No. 3 of 2019, which held that in the absence of a Division of Revenue Act or CARA, the 50% withdrawal should be based on the previous year's CARA. This ensures counties receive equitable share allocations without disruption and avoids reliance on estimates that may not reflect actual

		Clause (2): Instead of Parliament authorizing withdrawals, the Controller of Budget (COB) should be empowered to authorize counties to withdraw money from the Consolidated Fund. Clause (3)(b): The withdrawal limit should be based on one-half of the amount in the last County Allocation of Revenue Act (CARA) approved by Parliament, rather than the current year's estimates.	entitlements.
22 Amendment of Article 228 (Controller of Budget)	CRA	Delete this proposal.	This amendment seeks to broaden bicameral oversight by giving the Senate a role in approving appointments and removals of key constitutional offices. The Commission on Revenue Allocation (CRA) is cautious about this expansion. While acknowledging the Bill's intent to strengthen accountability and bicameralism, CRA warns that the proposed changes could introduce unnecessary bureaucracy. By requiring both Houses to participate in appointments and removals, the process could become more lengthy and complex. CRA argues that this duplication of roles between the National Assembly and the Senate may hinder efficiency rather than enhance oversight.
	County Government of Kitui	The Nominee to appear before a joint committee comprising of the representatives of the appropriate committee of the respective houses.	The Bill proposes to amend Article 228(1) by replacing the phrase "with the approval of the National Assembly" with "with the approval of Parliament." This change would extend the

			vetting of the nominee for the position of Controller of Budget to both Houses of Parliament, thereby giving the Senate a formal role in the process. The County Government of Kitui raises concerns about how this amendment would be operationalized. They note that the Bill does not clarify whether the nominee would appear before a joint committee composed of members from both Houses, or whether they would be required to appear separately before committees of each House. This ambiguity, they argue, risks creating duplication in the vetting process. If nominees were subjected to separate hearings, the process could become cumbersome, potentially leading to conflicting outcomes or unnecessary delays in filling this critical office. Kitui therefore recommends that nominees for the position of Controller of Budget should appear before a joint committee comprising representatives of the appropriate committees from both Houses.
	Institute of Public Finance	Adopt this proposal.	The Bill proposes to amend Article 228(1) by replacing the words "<i>with the approval of the National Assembly</i>" with "<i>with the approval of Parliament.</i>" Currently, the Controller of Budget is nominated by the President and appointed with the approval of the National Assembly. The amendment would extend this approval role to both Houses of Parliament.

			The Institute of Public Finance (IPF) supports this proposal. They argue that the Controller of Budget's mandate spans both national and county levels, making bicameral approval appropriate. Since the office oversees withdrawals from the Consolidated Fund and monitors budget implementation across all levels of government, requiring approval from both Houses reflects its crosscutting constitutional role.
	KLRC	The Kenya Law Reform Commission (KLRC) notes that the Bill proposes to amend Article 228 so that the appointment of the Controller of Budget would require approval by both the National Assembly and the Senate, rather than only the National Assembly.	KLRC notes that this amendment extends bicameral oversight to one of the most critical offices in Kenya's fiscal architecture. The Controller of Budget plays a central role in authorizing withdrawals from public funds and ensuring compliance with constitutional principles of public finance. By involving the Senate, the reform ensures that counties—through their representatives—have a voice in the appointment process. However, KLRC cautions that requiring approval by both Houses could introduce procedural duplication or delays unless the vetting process is streamlined.
23 Amendment of Article 229 (Auditor- General)	CRA	Delete this proposal.	This amendment seeks to broaden bicameral oversight by giving the Senate a role in approving appointments and removals of key constitutional offices. The Commission on Revenue Allocation (CRA) is cautious about this expansion. While acknowledging the Bill's

			intent to strengthen accountability and bicameralism, CRA warns that the proposed changes could introduce unnecessary bureaucracy. By requiring both Houses to participate in appointments and removals, the process could become lengthier and more complex. CRA argues that this duplication of roles between the National Assembly and the Senate may hinder efficiency rather than enhance oversight.
	County Government of Kitui	The Nominee to appear before a joint committee comprising of the representatives of the appropriate committee of the respective houses.	The Bill proposes to amend Article 229(1) by replacing the phrase “with the approval of the National Assembly” with “with the approval of Parliament.” This change would extend the vetting of the nominee for the position of Auditor-General to both Houses of Parliament, thereby giving the Senate a formal role in the process. The County Government of Kitui raises concerns about the lack of clarity in how this expanded vetting would be conducted. Specifically, they note that the Bill does not indicate whether the nominee would appear before a joint committee composed of members from both Houses, or whether they would be required to appear separately before committees of each House. Kitui warns that if nominees were subjected to separate hearings, the process could become duplicative, cumbersome, and potentially inconsistent, undermining the efficiency of appointments to this critical oversight office.

			To address this, Kitui recommends that nominees for the position of Auditor-General should appear before a joint committee comprising representatives of the appropriate committees from both Houses.
	Institute of Public Finance	Adopt the proposal.	The Bill proposes to amend Article 229(1) by replacing the words “<i>with the approval of the National Assembly</i>” with “<i>with the approval of Parliament</i>.” At present, the AuditorGeneral is nominated by the President and appointed with the approval of the National Assembly. The amendment would extend this approval role to both Houses of Parliament. The Institute of Public Finance (IPF) supports this proposal. They argue that the AuditorGeneral’s mandate is crosscutting, spanning both national and county governments. Because the office audits accounts of all public entities—including county governments—bicameral approval is appropriate. It ensures that both Houses, representing national and devolved interests, participate in the appointment process, thereby strengthening legitimacy and accountability.
	KLRC	The Kenya Law Reform Commission (KLRC) notes that the Bill proposes to amend Article 229 so that the appointment of the Auditor-General would require approval by both the National Assembly and the Senate, rather than only the National Assembly.	KLRC notes that this amendment extends bicameral oversight to another critical office in Kenya’s public finance system. The Auditor-General is responsible for auditing all public accounts and ensuring compliance with constitutional principles of accountability. By involving the Senate, the reform ensures that

			counties—through their representatives—participate in the appointment of the official who audits both national and county finances. However, KLRC cautions that requiring approval by both Houses could introduce procedural duplication or delays unless the vetting process is harmonized.
24 Article 233 – Public Service Commission n appointme nts	County Government of Kitui	The Nominee to appear before a joint committee comprising of the representatives of the appropriate committee of the respective houses.	The Bill proposes to amend Article 233(2) by replacing the phrase “approved by the National Assembly” with “approved by Parliament.” This change would extend the vetting of nominees for appointment as commissioners of the Public Service Commission (PSC) to both Houses of Parliament, thereby giving the Senate a formal role in the process. The County Government of Kitui raises concerns about the lack of clarity in how this expanded vetting would be conducted. They note that the Bill does not specify whether nominees would appear before a joint committee composed of members from both Houses, or whether they would be required to appear separately before committees of each House. Kitui warns that if nominees were subjected to separate hearings, the process could become duplicative, cumbersome, and potentially inconsistent, undermining the efficiency of appointments to the PSC. To address this, Kitui recommends that

			nominees for appointment as commissioners of the PSC should appear before a joint committee comprising representatives of the appropriate committees from both Houses.
	Institute of Public Finance	Reject the proposal.	Retain NA role but add Senate consultation. PSC is national; Senate's role should be advisory rather than determinative. Making PSC appointments bicameral would muddle the national/county personnel divide; a consultative Senate hearing preserves devolution sensitivity without recasting mandates.
	KLRC	The Kenya Law Reform Commission (KLRC) notes that the Bill proposes to amend Article 233(2) by replacing the phrase "approved by the National Assembly" with "approved by Parliament." This change would extend the vetting of nominees for appointment as commissioners of the Public Service Commission (PSC) to both Houses of Parliament.	KLRC notes that the amendment enhances accountability and bicameral oversight in appointments to a critical commission. They emphasize that the PSC's role in managing public service is central to both national and devolved governance, making Senate involvement appropriate. At the same time, they recommend that Parliament adopt joint vetting procedures to avoid duplication and ensure efficiency, thereby balancing inclusivity with operational clarity.
25 Amendment of Article 250 (Appointm ents to Constitutio nal Commissio ns)	CRA	Delete this proposal.	This amendment seeks to broaden bicameral oversight by giving the Senate a role in approving appointments and removals of key constitutional offices. The Commission on Revenue Allocation (CRA) is cautious about this expansion. While acknowledging the Bill's intent to strengthen accountability and bicameralism, CRA warns that the proposed changes could introduce unnecessary bureaucracy. By requiring both Houses to

			participate in appointments and removals, the process could become lengthier and more complex. CRA argues that this duplication of roles between the National Assembly and the Senate may hinder efficiency rather than enhance oversight.
	County Government of Kitui	The Nominee to appear before a joint committee comprising of the representatives of the appropriate committee of the respective houses.	The Bill proposes to amend Article 250(2) by replacing the phrase “approved by the National Assembly” with “approved by Parliament.” This change would extend the vetting of nominees for appointment as commissioners of constitutional commissions to both Houses of Parliament, thereby giving the Senate a formal role in the process. The County Government of Kitui raises concerns about the lack of clarity in how this expanded vetting would be conducted. They note that the Bill does not specify whether nominees would appear before a joint committee composed of members from both Houses, or whether they would be required to appear separately before committees of each House. Kitui warns that if nominees were subjected to separate hearings, the process could become duplicative, cumbersome, and potentially inconsistent, undermining the efficiency of appointments to constitutional commissions. To address this, Kitui recommends that nominees for appointment as commissioners should appear before a joint committee comprising representatives of the appropriate

			committees from both Houses.
	Institute of Public Finance	Reject the proposal.	The Bill proposes to amend Article 250(2)(b) by deleting the words “<i>the National Assembly</i>” and substituting them with “<i>Parliament</i>.” At present, members of constitutional commissions and holders of independent offices are nominated by the President and appointed with the approval of the National Assembly. The amendment would extend this approval role to both Houses of Parliament. The Institute of Public Finance (IPF) rejects this proposal. Their reasoning is that while bicameral approval may appear to strengthen oversight, in practice it risks introducing unnecessary bureaucracy and duplication. Commissions and independent offices already have clear constitutional mandates, and requiring approval from both Houses could slow down appointments, politicize the process, and undermine efficiency.
	KLRC	The Kenya Law Reform Commission (KLRC) notes that the Bill proposes to amend Article 250(2)(b) by replacing the phrase “approved by the National Assembly” with “approved by Parliament.” This change would extend bicameral vetting to the appointment of members of constitutional commissions and holders of independent offices.	KLRC notes that the amendment enhances legitimacy, inclusivity, and accountability in appointments to constitutional commissions and independent offices. They emphasize that bicameral approval strengthens public trust in these institutions and aligns with the principle of devolution. At the same time, they recommend that Parliament adopt joint vetting mechanisms to streamline the process, balancing inclusivity with efficiency.
26	CRA	Delete this proposal.	This amendment seeks to broaden bicameral

			oversight by giving the Senate a role in approving appointments and removals of key constitutional offices. The Commission on Revenue Allocation (CRA) is cautious about this expansion. While acknowledging the Bill's intent to strengthen accountability and bicameralism, CRA warns that the proposed changes could introduce unnecessary bureaucracy. By requiring both Houses to participate in appointments and removals, the process could become lengthier and more complex. CRA argues that this duplication of roles between the National Assembly and the Senate may hinder efficiency rather than enhance oversight.
	Institute of Public Finance	Reject the proposal.	The Bill proposes to amend Article 251(6)(b) by deleting the words "<i>the National Assembly</i>" and substituting them with "<i>Parliament</i>." Currently, the process for removing members of commissions and holders of independent offices involves a petition to the National Assembly, which then considers and recommends to the President whether a tribunal should be appointed. The amendment would extend this role to both Houses of Parliament. The Institute of Public Finance (IPF) rejects this proposal. They argue that expanding the removal process to both Houses risks duplicating procedures, politicizing oversight, and delaying accountability. The current framework already provides a clear and efficient mechanism: petitions are considered

			by the National Assembly, which has the constitutional mandate to represent the people and exercise oversight over State organs. Adding the Senate would not add substantive value, since commissions and independent offices are national in scope, not county specific.
	KLRC	The Kenya Law Reform Commission (KLRC) notes that the Bill proposes to amend Article 251 to require that the removal of members of constitutional commissions and holders of independent offices be considered and determined by both Houses of Parliament, rather than only the National Assembly.	KLRC notes that the amendment enhances legitimacy and inclusivity in the removal process. They emphasize that bicameral involvement strengthens public confidence in the independence of commissions and offices, ensuring that removal decisions are not perceived as unilateral or politically motivated. At the same time, they recommend that Parliament adopt joint procedures or harmonized frameworks to avoid duplication and ensure efficiency, since prolonged disputes could paralyze the functioning of these institutions.
STAKEHOLDER	ISSUE/PROPOSAL		REASONS
CRA	Delete the word " <i>as approved</i> " in clause 203(3) of the Constitution.		The Commission on Revenue Allocation (CRA) makes a proposal regarding Article 203(3) of the Constitution, which governs the calculation of the equitable share of revenue. The current text requires that the amount be calculated on the basis of the most recent audited accounts of revenue " <i>as approved by the National Assembly.</i> "

		CRA recommends deleting the phrase “<i>as approved</i>” immediately after the word “<i>received</i>.” Their reasoning is rooted in practical experience: delays by the National Assembly in approving audited accounts have, in some instances, stalled the equitable sharing of revenue. This has created inequities, as counties are forced to rely on outdated figures rather than the most recent revenue data. By removing the requirement for National Assembly approval, CRA argues that the equitable share would be calculated more promptly and fairly, based directly on the most recent audited accounts received.
Bajeti Hub	Their submissions can be distilled into three main strands— First, they stress the centrality of public participation. Because the Bill requires a referendum, they argue that citizens must be engaged throughout the process, not just at the end. They recommend that the public be educated on what the Constitution currently provides, what is working, what is not, and how the proposed amendments are intended to address those gaps. This, they say, will ensure informed participation when the referendum eventually takes place. Second, they highlight the need for clarity in institutional relationships. They point to persistent ambiguities between the Senate and National Assembly, particularly around which House has authority over which functions and how disputes between Speakers will be resolved. They also raise questions about the balance of power between County Assemblies and County Executives, especially in budget oversight, and about overlaps between national and county institutions in concurrent functions. They urge that the amendments provide explicit guidance on these relationships to avoid duplication, confusion, or weakened oversight.	

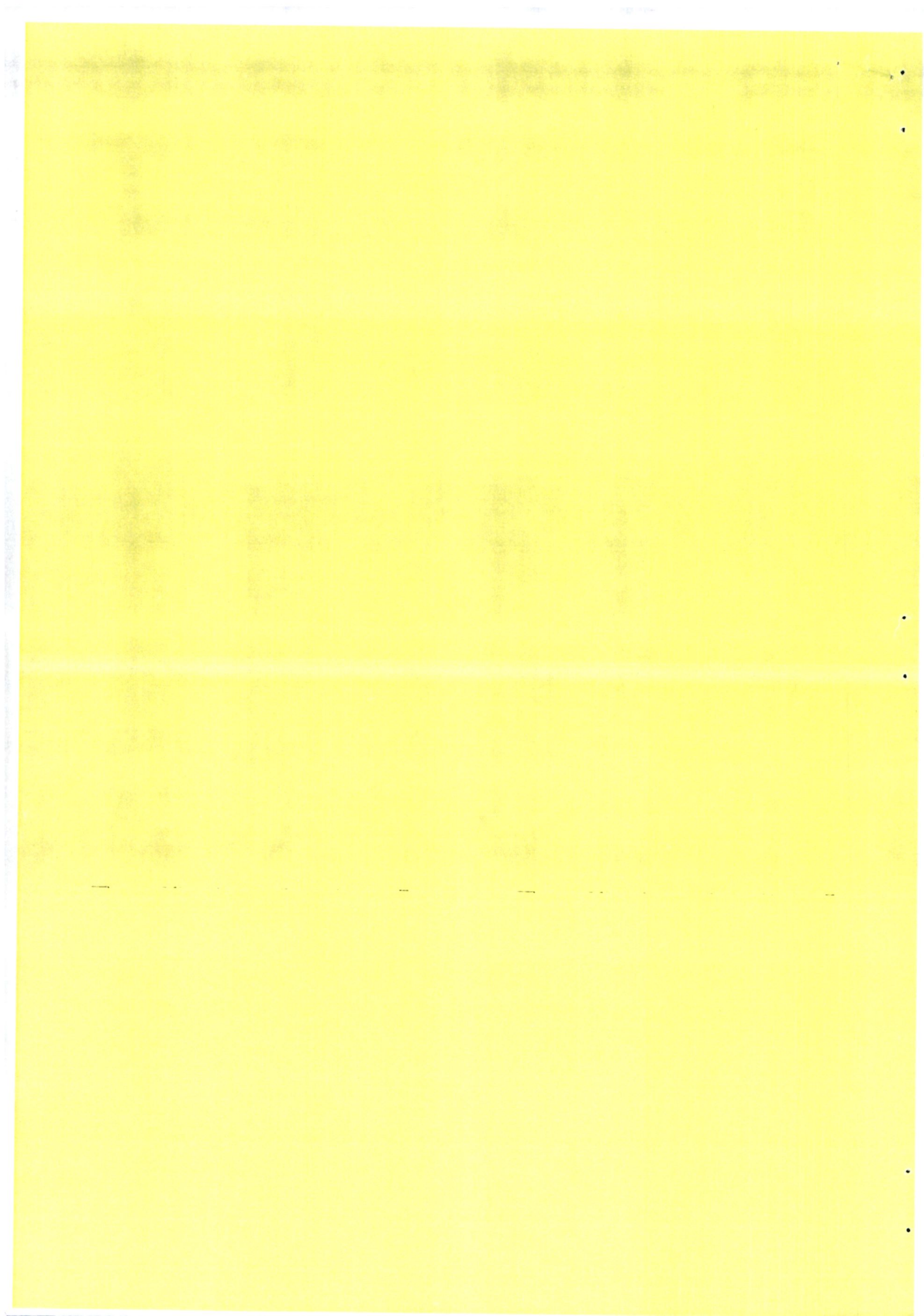
	Third, they raise concerns about the replacement of “National Assembly” with “Parliament” across the Constitution. Bajeti Hub questions whether this change extends to all functions currently exercised by the National Assembly, such as vetting Cabinet Secretaries. They caution that expanding the Senate’s role could introduce bureaucracy and delays, potentially undermining efficiency. They also ask what happens to functions the Senate currently exercises exclusively, such as impeachment of Governors, and whether the Senate has the technical and financial capacity to absorb expanded responsibilities.	
ELGIA	In the Electoral Law and Governance Institute for Africa (ELGIA) memorandum, Clauses 2, 3, 4, 6, and 7 of the Bill propose amendments to Articles 94, 95, and 96 of the Constitution, which define the roles of Parliament, the National Assembly, and the Senate. These clauses seek to broaden the legislative role of the Senate, making it a coequal chamber with the National Assembly and allowing most Bills (except those raising national revenue) to originate in either House. ELGIA argues that such amendments ought not to originate from the Senate. They point to Article 96(2), which restricts the Senate’s legislative function to Bills concerning counties, and Article 109, which sets out how Bills originate in either House.	ELGIA warns that having this amendment Bill originate from the Senate risks violating Article 94(3) of the Constitution, which requires amendments to follow constitutional procedures and originate from the appropriate House. They caution that this could be declared an unconstitutional constitutional amendment on procedural grounds, as it undermines separation of powers and may be seen as the Senate usurping the legislative role of the National Assembly.
ELGIA	In the Electoral Law and Governance Institute for Africa (ELGIA) memorandum, Clauses 17, 22, 23, 24, 25, and 26 of the Bill propose amendments to the Constitution to assign the responsibility of appointment and removal of various state officers jointly to the Senate and the National Assembly. These clauses extend bicameral involvement in the appointment and removal of key state officers, commissions, and independent offices, requiring approval or action by both Houses of Parliament. ELGIA argues that such amendments cannot originate from the Senate. They cite Article 96(2), which restricts the Senate’s legislative role to Bills	ELGIA warns that introducing these amendments from the Senate violates Article 94(3), which requires constitutional amendments to follow prescribed procedures. They caution that this risks being declared an unconstitutional constitutional amendment under the doctrine of unconstitutional constitutional amendment, since it conflicts with constitutional values and undermines the separation of roles between the two Houses.

	concerning counties, and Article 109, which sets out how Bills originate in either House.	
Mau Mau Children Post Colonial Elites and partner organizations	They emphasize that public participation and referenda must be mandatory for constitutional amendments, especially those affecting governance structures, devolution, and funding. They recommend a legal framework requiring all major amendments to go to a referendum, with facilitation and allowances to ensure inclusivity for marginalized groups, the elderly, and war veterans. They call for multi-level dissemination of the Bill, from national to village level, using the National Administration Village Policy structures such as chiefs, assistant chiefs, and elders, to guarantee effective sensitization. They highlight that veterans' submissions since December 2023 have often been neglected due to political conflicts of interest, despite their role in Kenya's liberation. They recommend establishing a dedicated veterans' desk in the Senate to safeguard their views. They present themselves as part of a coalition of heritage and veteran organizations—including Mau Mau Associations, Dedan Kimathi Foundation, Mau Mau Trustees, Musambwa Dini, and others—and urge Parliament to recognize this coalition as a legitimate stakeholder in constitutional reform. They raise concerns about oversight of NGAAF, recommending that allocations be monitored through CDF structures aligned with the Public Benefit Organizations Act and UN charity frameworks, with World Bank co-signature to reinforce credibility and transparency. They stress that justice and human rights safeguards must be embedded in the Bill, ensuring protection of marginalized communities, gender equity, and fairness in resource allocation. They propose that the Chief Justice be constitutionally mandated to	

	review laws touching on PBOs, justice, or community funds, and direct them to referendum where public consent is required. Finally, they reference court rulings on CDF, noting that attempts to entrench CDF into law were halted due to the absence of a referendum. They recommend harmonizing CDF within constitutional frameworks and ensuring any entrenchment efforts are approved through a national referendum. In conclusion, they affirm that Senate Bill No. 13 of 2025 must be subjected to wide public participation, referendum oversight, judicial safeguards, and international credibility measures to secure public trust in the amendment process.	
CAF	CAF recommends introducing a new Article 204A to establish a County Ward Development Fund. The Fund would exist in every county and be used exclusively for development projects identified through public participation at the ward level. It would consist of— (i) Not less than 10% of all ordinary revenue of the County Government each financial year, based on the latest audited accounts by the Auditor General. (ii) Any monies accruing to or received by the Fund from other sources. All monies allocated under this Article would be considered ward-level funds, administered in accordance with an Act of Parliament. Parliament would be required to enact legislation to provide for the operations of the Fund.	CAF explains that as the NG-CDF, NGAAF, and Senate Oversight Fund are being entrenched in the Constitution, this amendment would guarantee that a Ward Development Fund is similarly entrenched. It ensures equitable distribution of resources at the grassroots level and secures ward-specific development through constitutional protection.



***Annex 9: Text of
the Committee
amendments to
the Bill***



1st July, 2026

The Clerk of the Senate,
Parliament Buildings,
NAIROBI.

**RE: COMMITTEE STAGE AMENDMENTS TO THE CONSTITUTION OF
KENYA (AMENDMENT) BILL, 2025 (SENATE BILLS NO. 13 OF 2025)**

NOTICE is given that Sen. Wakili Hillary Kiprotich Sigei, Chairperson of the Standing Committee on Justice, Legal Affairs and Human Rights, intends to move the following amendments to the Constitution of Kenya (Amendment) Bill, 2025 (Senate Bills No. 13 of 2025), at the Committee Stage—

CLAUSE 10

THAT clause 10 of the Bill be amended by deleting paragraph (b).

CLAUSE 16

THAT clause 16 of the Bill be amended in the proposed new Article 199A by deleting clause (5) and substituting therefor the following new clause—

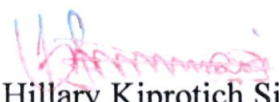
(5) Parliament shall enact legislation to provide for the regulation of the Fund.

CLAUSE 21

THAT clause 21 of the Bill be amended in the proposed new Article 224 by—

- (a) deleting the word “Parliament” in clause (2) and substituting therefor the words “Controller of Budget”; and
- (b) deleting paragraph (b) in clause (3) and substituting therefor the following new paragraph—
 - (b) not exceed in total one-half of the amount included in the County Allocation of Revenue Act of the previous year.

Dated28/07/2026....., 2026.


Wakili Hillary Kiprotich Sigei,
Chairperson,
Standing Committee on Justice, Legal Affairs and Human Rights.

