



REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (SIXTH SESSION)
THE SENATE
SUPPLEMENTARY ORDER PAPER

WEDNESDAY, MARCH 30, 2022 AT 2.30 P.M.

PRAYER

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers (as listed in the Appendix)
6. Notices of Motion
7. Statements (as listed in the Appendix)
8. *****THE LANDLORD AND TENANT BILL (NATIONAL ASSEMBLY BILLS NO. 3 OF 2021)**
(The Senate Majority Leader)

(Second Reading)

***(Resumption of debate interrupted on Wednesday, 23rd February, 2022-
Morning Sitting)
(Division)***

9. ***THE PERSONS WITH DISABILITIES (AMENDMENT) BILL (SENATE BILLS NO. 29 OF 2020)**
(Sen. Aaron Cheruiyot, MP and Sen. (Dr) Isaac Mwaura, MP)

(Second Reading)

***(Resumption of debate interrupted on Thursday, 10th March, 2022)
(Division)***

- 10. ***THE ELECTION CAMPAIGN FINANCING (AMENDMENT) BILL (SENATE BILLS NO. 51 OF 2021)**
(Sen. Ledama Olekina, MP)

(Second Reading)

(Resumption of debate interrupted on Wednesday, 23rd March, 2022)

(Division)

- 11. **MOTION - ADOPTION OF REPORTS OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS ON CONSIDERATION OF THE REPORTS BY THE AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF VARIOUS COUNTY EXECUTIVES FOR FINANCIAL YEAR 2018/2019**

(Chairperson, Sessional Committee on County Public Accounts and Investments)

THAT, the Senate adopts the Report of the Sessional Committee on County Public Accounts and Investments on consideration of the Reports by the Auditor General on the Financial Statements of the following County Executives for the Financial Year 2018/2019- Embu; Homa-Bay; Kericho; Kilifi; Kirinyaga; Kisii; Kwale; Machakos; Mombasa; Nandi; Baringo; Bomet; Garissa; Kajiado; and West Pokot as contained in Volume 1 of the Report and the following County Executives- Isiolo; Kakamega; Kisumu; Laikipia; Mandera; Marsabit; Nakuru; Narok; Nyandarua; Samburu; Taita Taveta; Trans-Nzoia; Uasin-Gishu; Vihiga; and Wajir, as contained in Volume 2 of the Report , Laid on the Table of the Senate on Thursday 2nd December, 2021.

(Resumption of debate interrupted on Tuesday, 8th March, 2022)

(Division)

- 12. **MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON HEALTH ON THE SPECIAL AUDIT REPORT ON UTILIZATION OF COVID-19 FUNDS BY TWENTY EIGHT (28) COUNTY GOVERNMENTS**

(The Chairperson, Standing Committee on Health)

THAT, the Senate adopts the Report of the Standing Committee on Health on the special audit report on utilization of COVID-19 funds by twenty eight (28) county governments, laid on the Table of the Senate on Wednesday, 9th February, 2022.

(Resumption of debate interrupted on Wednesday, 23rd March, 2022)

(Division)

...../Motion

- 13. **COMMITTEE OF THE WHOLE**

****THE INTERGOVERNMENTAL RELATIONS (AMENDMENT) BILL (SENATE BILLS NO. 37 OF 2021)**

(The Chairperson, Standing Committee on Devolution and Intergovernmental Relations)

(Resumption of debate interrupted on Wednesday, 22nd December, 2021 – Morning Sitting)

(Division)

14. **COMMITTEE OF THE WHOLE**

***THE LAW OF SUCCESSION (AMENDMENT) BILL, (SENATE BILLS NO. 15 OF 2021)**

(Sen. Abshiro Halake, MP)

(Resumption of debate interrupted on Wednesday, 2nd March, 2022 – Morning Sitting)

(Division)

15. **COMMITTEE OF THE WHOLE**

***THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILLS NO. 21 OF 2021)**

(Sen. Abshiro Halake, MP)

(Resumption of debate interrupted on Wednesday, 2nd March, 2022 – Morning Sitting)

(Division)

16. **COMMITTEE OF THE WHOLE**

***THE LIFESTYLE AUDIT BILL (SENATE BILLS NO. 36 OF 2021)**

(Sen. (CPA). Farhiya Haji, MP)

(Resumption of debate interrupted on Tuesday, 1st March, 2022)

(Division)

17. **COMMITTEE OF THE WHOLE**

***THE SPECIAL NEEDS EDUCATION BILL (SENATE BILLS NO. 44 OF 2021)**

(Sen. (Dr.) Getrude Musuruve and Sen. (Prof.) Margaret Kamar, MP)

(Resumption of debate interrupted on Wednesday, 2nd March, 2022 – Morning Sitting)

(Division)

18. ****THE COTTON INDUSTRY DEVELOPMENT BILL (SENATE BILLS NO. 55 OF 2021)**

(Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)

(Second Reading)

...../Bills

19. ***THE EMPLOYMENT (AMENDMENT) BILL (SENATE BILLS NO. 54 OF 2021)**

(Sen. Samson Cherarkey, MP)

(Second Reading)

- 20. **COMMITTEE OF THE WHOLE**
*****THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILLS NO. 8 OF 2022)**
 (The Senate Majority Leader)

- 21. **COMMITTEE OF THE WHOLE**
***THE ELECTIONS (AMENDMENT) (NO. 3) BILL (SENATE BILLS NO. 48 OF 2021)**
 (Sen. (Eng.) Ephraim Maina, MP)

- 22. **COMMITTEE OF THE WHOLE**
*****THE IRRIGATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 12 OF 2021)**
 (The Senate Majority Leader)

- 23. **COMMITTEE OF THE WHOLE**
****THE STREET VENDORS (PROTECTION OF LIVELIHOOD) BILL (SENATE BILLS NO. 7 OF 2021)**
 (Chairperson, Standing Committee on Tourism, Trade and Industrialization)

- 24. **COMMITTEES OF THE WHOLE**
***THE KENYA MEDICAL SUPPLIES AUTHORITY (AMENDMENT) BILL (SENATE BILLS NO. 53 OF 2021)**
 (Sen. Naomi Shiyonga, MP)

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...../Notice

NOTICE

NOTICE is given that, pursuant to Standing Order 251A and 251B, the sitting will be a hybrid sitting consisting of Senators who are physically present in the Senate Chamber and Senators participating virtually from a remote location through **Zoom** online meeting platform, as per guidelines issued by the Speaker pursuant to Standing Order 251A (4).

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KEY

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

***- Denotes a National Assembly Bill

** - Denotes a Committee Bill

*- Denotes any other Bill

A. **THE INTERGOVERNMENTAL RELATIONS (AMENDMENT) BILL, 2021
(SENATE BILLS NO. 37 OF 2021)

(Chairperson, Standing Committee on Devolution and Intergovernmental Relations)

i.)NOTICE is given that the Chairperson, Standing Committee on Devolution and Intergovernmental Relations, intends to move the following amendments to the Intergovernmental Relations (Amendment) Bill, 2021, at the Committee Stage –

CLAUSE 2

THAT clause 2 of the Bill be amended by inserting the following new paragraph immediately after the proposed paragraph (n) –

(na) conditions for the termination of the agreement.

CLAUSE 3

THAT clause 3 of the Bill be amended by inserting the following new section immediately after the proposed section 26F –

Role of Technical Committee in transfer or delegation of powers, functions and competencies.	26G. The Technical Committee shall, in undertaking duties under this Part – (a) witness the execution of a transfer or delegation of a power, function or competency; (b) provide administrative support to the parties to the transfer agreement during the transfer process; and (c) prepare and maintain an inventory of assets and liabilities of the transferred functions.
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ii.)NOTICE is given that the Senator for Nyamira County (Sen. Erick Okong’o Mogeni,MP) intends to move the following amendments to the Intergovernmental Relations (Amendment) Bill, Senate Bills No. 37 of 2021, at the Committee Stage —

NEW CLAUSE 1A

THAT the Bill be amended by inserting the following new clause immediately after clause 1 –

Amendment of section 2 of No. 2 of 2012.	1A. Section 2 of the Intergovernmental Relations Act, hereinafter referred to as the “principal Act”, is amended by inserting the following new definition immediately after the definition of the word “Council” —
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...../Amendments

“Council Secretariat” means the Secretariat to the Council of County Governors established under section 23A.

NEW CLAUSE 1B

THAT the Bill be amended by inserting the following new clause immediately after new clause 1A –

Amendment of section 12 of No. 2 of 2012.

1B. The principal Act is amended by deleting section 12 and substituting therefor th following new section –

Functions of the Technical Committee.

12. The Technical Committee shall—

- (a) be responsible for the day-to-day administration of the Summit and in particular—
 - (i) facilitate the activities of the Summit; and
 - (ii) implement the decisions of the Summit;
- (b) take over the residual functions of the transition entity established under the law relating to transition to devolved government after dissolution of such entity; and
- (c) perform any other function as may be assigned to it by the Summit or any other law.

NEW CLAUSE 1C.

THAT the Bill be amended by inserting the following new clause immediately after new clause 1B –

Amendment of section 14 of No. 2 of 2012.

1C. Section 14 of the principal Act is amended in paragraph (b) by deleting the words “and to the Council” appearing immediately after the words “to the Summit”.

NEW CLAUSE 1D

THAT the Bill be amended by inserting the following new clause immediately after new clause 1C –

Amendment of section 15 of No. 2 of 2012.

1D. Section 15 of the principal Act is amended in subsection (5) by –

...../Amendments

- (a) deleting the words “the Council” appearing immediately after the words “of the Summit” in paragraph (a);
- (b) deleting the words “the Council” appearing immediately after the words “of the Summit” in paragraph (e); and
- (c) deleting the words “the Council” appearing immediately after the words “by the Summit” in paragraph (f).

NEW CLAUSE 1E

THAT the Bill be amended by inserting the following new clause immediately after new clause 1D –

Amendment of section 17 of No. 2 of 2012.

1E. Section 17 of the principal Act is amended by deleting the words “the Council” appearing immediately after the words “the Technical Committee”.

NEW CLAUSE 1F

THAT the Bill be amended by inserting the following new clause immediately after the new clause 1E –

Insertion of new section 23A in No. 2 of 2012.

1F. The principal Act is amended by inserting the following new section immediately after section 23 —

The Council Secretariat.

- 23A.** (1) There shall be a Secretariat of the Council of County Governors to be known as the Council Secretariat.
- (2) The Council Secretariat shall be headed by a chief executive officer and comprise such other staff as may be determined by the Council.
- (3) The chief executive officer shall be competitively recruited and appointed by the Council.
- (4) A person is qualified to be appointed as a chief executive officer if that person-
 - (a) holds a degree from a university recognised in Kenya;
 - (b) has at least five years relevant professional experience;

...../Amendments

- (c) has demonstrable competence of not less than five

years in an administrative position; and

(d) satisfies the requirements of leadership and integrity provided for under Chapter Six of the Constitution.

(5) The chief executive officer shall be –

(a) the secretary to the Council;

(b) the accounting officer of the Council Secretariat; and

(c) responsible to the Council for the day-to-day administration of the affairs of the Council Secretariat and the implementation of the decisions arising from the Council.

(6) Without prejudice to the generality of the provisions of subsection (5), the chief executive officer shall be responsible for-

(a) the implementation of the decisions of the Council;

(b) the establishment and development of an efficient administration of the Council Secretariat;

(c) the organisation, control and management of staff of the Council Secretariat;

(d) maintaining accurate records of all affairs of the Council, including records on financial matters and resource use;

(e) ensuring the preparation and approval of the budget for the required funding of the operational expenses of the Council;

(f) providing technical support to the sectoral working groups or committees of the Council; and

...../Amendments

(g) performing such other functions as may be assigned by the Council, this Act or any other legislation.

(7) The chief executive officer shall be appointed for a single term of six years and shall not be eligible for reappointment.

CLAUSE 2

THAT clause 2 of the Bill be amended by deleting the introductory clause and substituting therefor the following new introductory clause

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2. Section 26 of the principal Act is amended —

...../Amendments

B. *THE LAW OF SUCCESSION (AMENDMENT) BILL, SENATE BILLS NO. 15 OF 2021

(Sen. Abshiro Halake, MP)

NOTICE is given that the Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights, intends to move the following amendments to the Law of Succession (Amendment) Bill, Senate Bills No. 15 of 2021, at the Committee Stage —

CLAUSE 2

THAT the Bill be amended by deleting clause 2 and substituting therefor the following new clause –

Amendment of section 3 of Cap 160.

2. Section 3 of the Law of Succession Act, hereinafter referred to as the “principal Act”, is amended —

(a) in subsection (1) by inserting the following new definitions in their proper alphabetical sequence —

“child” includes an adopted child and a child who is conceived during the lifetime of a deceased person and is subsequently born after the death of the deceased person;

“intermeddling” means —

(a) taking possession of, disposing off, charging, receiving, distributing, leasing or using property of a deceased without authority under this Act or any other applicable law;

(b) ejecting a surviving spouse or child from the matrimonial home; or

(c) any unlawful dealing with a deceased person’s estate;

“matrimonial home” means any property that is owned or leased by one or both spouses and occupied or utilized by the spouses as their family home, and includes any other attached property;

(b) by deleting subsection (2); and

(c) by deleting subsection (3).

(d)

CLAUSE 3

THAT the Bill be amended by deleting clause 3.

CLAUSE 4

THAT the Bill be amended by deleting clause 4 and substituting therefor the following new clause —

Repeal of section 32 of Cap 160.

4. The principal Act is amended by repealing section 32.

...../Amendments

CLAUSE 5

THAT the Bill be amended by deleting clause 5 and substituting therefor the following new clause —

Repeal of section 33 of Cap 160. **5.** The principal Act is amended by repealing section 33.

CLAUSE 6

THAT clause 6 of the Bill be amended —

- (a) by deleting paragraph (b) and substituting therefor the following new paragraph —
- (b) by inserting the following new subsections immediately after subsection (1)—

(1A) The interest of the surviving spouse under subsection (1)(b) shall determine upon remarriage.

(1B) Notwithstanding subsection (1), —

(a) where the surviving child is not a child of the surviving spouse—

(i) the surviving spouse shall be entitled to the personal and household effects of the deceased absolutely and a life interest in one-half of the whole residue of the net intestate estate; and

(ii) the surviving child shall be entitled to one-half of the whole residue of the net intestate estate which shall be held in accordance with section 41, and if there be more than one child they shall share equally;

(b) where the surviving children include a child who is not a child of the surviving spouse —

(i) the surviving spouse shall be entitled to the personal and household effects of the deceased absolutely;

(ii) the net intestate estate shall, in the first instance, be divided equally amongst the surviving spouse and all the surviving children;

(iii) the surviving spouse shall have a life interest in his or her share and that of his or her children under subsection (1B)(b)(ii); and

(iv) the share of the surviving child who is not a child of the surviving spouse under subsection (1B)(b)(ii) shall be held in accordance with section 41, and if there be more than one child they shall share equally.

(b) by inserting the following new paragraph immediately after paragraph (b) —

(c) by deleting subsection (5) and substituting therefor the following new subsection -

...../Amendments

(5) Subject to the provisions of sections 41 and 42 and to any appointment or award made under this section, the whole

residue of the net intestate estate shall, on the death or re-marriage of the surviving spouse, devolve upon the surviving child, if there be only one, or be equally divided among the surviving children.

CLAUSE 8

THAT clause 8 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph —

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

(a) father and mother in equal share; or, if either is dead;

CLAUSE 9

THAT the Bill be amended by deleting clause 9.

INSERTION OF NEW CLAUSE 8A

THAT the Bill be amended by inserting the following new clause immediately after clause 8 —

Amendment of section 40 of Cap 160.

8A. Section 40 of the principal Act be amended by inserting the following new subsection immediately after subsection (2) —

(3) Notwithstanding subsection (1), where any of the surviving children is not a child of any of the wives of the deceased, that child shall —

(a) be considered a house in determining the share of dependants in the net intestate estate under subsection (1); and

(b) the share of such child shall be held in accordance with section 41, and if there be more than one child they shall share equally.

C. *THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILLS NO. 21 OF 2021)

(Sen. Abshiro Halake, MP)

NOTICE is given that the Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights, intends to move the following amendments to the Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bills No. 21 of 2021), at the Committee Stage —

CLAUSE 3

THAT clause 3 of the Bill be amended –

- (a) by deleting paragraph (e); and
- (b) in paragraph (g) by deleting the word “for” appearing at the beginning of the paragraph and substituting therefor the word “the”.

CLAUSE 4

THAT clause 4 be amended in paragraph (c) by deleting the words “the marginalised” appearing immediately after the words “and in particular” and substituting therefor the word “vulnerable”.

HEADING TO PART II

THAT the Bill be amended by deleting the heading to Part II and substituting therefor the following new heading –

PART II – OBLIGATIONS OF THE NATIONAL AND COUNTY GOVERNMENTS

CLAUSE 5

THAT clause 5 of the Bill be amended –

- (a) in subclause (1) –
 - (i) by deleting paragraph (e) and substituting therefor the following new paragraph –
 - (e) put in place measures that target vulnerable persons to ensure the realisation of their economic and social rights and that such persons have access to goods and services that are of acceptable standards;
 - (ii) by deleting paragraph (g) and substituting therefor the following new paragraph –
 - (g) create awareness and build capacity of citizens to enable them develop their understanding, skills and capacity for equitable and effective participation in the formulation, implementation and monitoring of policies, strategies or programmes aimed at realising their economic and social rights;

...../Amendments

(b) in subclause (2) by –

- (i) deleting paragraph (d) and substituting therefor the following new paragraph –
 - (d) prioritise the allocation of resources to ensure the realisation of economic and social rights while taking into account the special needs of vulnerable persons within the respective counties;
- (ii) deleting paragraph (g) and substituting therefor the following new paragraph –
 - (g) identify factors that impede the realisation of economic and social rights and their causes and institute corrective measures.

CLAUSE 6

THAT clause 6 of the Bill be amended –

- (a) in subclause (1) by deleting the word “oversee” appearing immediately after the words “The Commission shall” and substituting therefor the words “monitor and report on”; and
- (b) in subclause (2) by inserting the words “of governance” immediately after the words “national values and principles”.

CLAUSE 7

THAT clause 7 of the Bill be amended in subclause (1) –

- (a) by deleting paragraph (d) and substituting therefor the following new paragraph –
 - (d) identify factors that impede the economic development of, and access to, essential financial services by vulnerable persons and make recommendations to the Cabinet Secretary on policies and strategies necessary to address those factors;
- (b) by deleting paragraph (g) and substituting therefor the following new paragraph –
 - (g) make recommendations to State entities responsible for the delivery of social assistance programmes at the National and county level of government on measures necessary for the effective delivery of the programmes;
- (c) by deleting paragraph (h) and substituting therefor the following new paragraph –
 - (h) in collaboration with relevant stakeholders, create awareness on the realisation of economic and social rights.

CLAUSE 8

THAT clause 8 of the Bill be amended –

- (a) by deleting subclause (1) and substituting therefor the following new subclause –
 - (1) In preparing a county integrated development plan provided for under section 108 of the County Governments Act,

...../Amendments

each county government shall prepare a county strategic plan for the realisation of economic and social rights as a component of the county integrated development plan.

- (b) in subclause (2) by deleting paragraph (c) and substituting therefor the following new paragraph –
 - (c) programmes and policies aimed at social protection and the promotion of economic and social rights of vulnerable persons within the county;
- (c) in subclause (3) by –
 - (i) deleting paragraph (c) and substituting therefor the following new paragraph –
 - (c) adopt strategies and plans that enhance the availability, accessibility, acceptability and adaptability of goods and services aimed at facilitating the realisation of economic and social rights;
 - (ii) deleting paragraph (g); and
 - (iii) deleting paragraph (h) and substituting therefor the following new paragraph –
 - (h) formulate strategic plans that respond effectively to issues affecting the realisation of economic and social rights within the county and provide such safety nets as may be necessary.

CLAUSE 9

THAT the Bill be amended by deleting clause 9 and substituting therefor the following new clause –

Objectives of a county strategic plan.	9. The principal objective of a county strategic plan prepared under section 8 shall be to enhance the ability of a county government to secure access, availability, acceptability, adaptability and quality of goods and services necessary for the realisation of economic and social rights.
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CLAUSE 12

THAT the Bill be amended by deleting clause 12 and substituting therefor the following new clause –

Approval of county strategic plans by the county assembly.	12. (1) The respective county governor shall, within fourteen days of the preparation of a county strategic plan, submit a copy of the plan to the county assembly for approval. (2) The county governor shall, upon the approval of the county strategic plan, publish the plan in the respective county gazette and publicise it within the county through such means as provided for under section 95 of the County Governments Act.
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...../Amendments

CLAUSE 15

THAT clause 15 of the Bill be amended by deleting subclause (1) and substituting therefor the following new subclause –

(1) A person aggrieved by the decision to implement or refrain from implementing a recommendation under this Part may make an application to court in accordance with Article 22 of the Constitution.

CLAUSE 16

THAT clause 16 of the Bill be amended by deleting the expression “20(5)” appearing immediately after the words “right under Article” and substituting therefor the expression “22”.

CLAUSE 17

THAT the Bill be amended by deleting clause 17 and substituting therefor the following new clause –

County Fiscal Strategy Paper to contain measures on social economic rights.

17. The respective county treasury shall include in the County Fiscal Strategy Paper –
(a) measures aimed at ensuring the realisation of economic and social rights and associated activities for that year; and
(b) any progress made in the realisation of economic and social rights.

HEADING TO PART V

THAT the Bill be amended by deleting the heading to Part V.

CLAUSE 18

THAT the Bill be amended by deleting clause 18.

CLAUSE 19

THAT clause 19 of the Bill be amended in subclause (1) by inserting the word “annually” immediately after the words “section 13(2), prepare”.

CLAUSE 21

THAT clause 21 of the Bill be amended by –

- (a) deleting the marginal note and substituting therefor the following new marginal note –
Public awareness framework.
- (b) deleting paragraph (c) and substituting therefor the following new paragraph –

...../Amendments

- (c) collaborate with relevant agencies and stakeholders in each county in enhancing the capacity of residents to effectively participate in county affairs aimed at the delivery of goods and services for the realisation of economic and social rights.

CLAUSE 22

THAT clause 22 of the Bill be amended by inserting the following new paragraph immediately after paragraph (a) –

- (aa) in section 126(1) by inserting the words “including for the realisation of economic and social rights” immediately after the words “strategic priorities” in paragraph (a).

CLAUSE 24

THAT the Bill be amended by deleting clause 24.

CLAUSE 25

THAT the Bill be amended by deleting clause 25.

INSERTION OF NEW CLAUSE 21A

THAT the Bill be amended by inserting the following new clause immediately after clause 21 –

Regulations.

21A. (1) The Cabinet Secretary shall, in consultation with the county executive committee members responsible for finance and the Commission and within twelve months from the commencement of this Act, make regulations generally for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may make regulations –

- (a) to provide a framework for collaboration between the National and county governments, and monitoring by the Commission on the implementation of this Act;
- (b) to provide for the procedures for the conduct of public participation under this Act; and
- (c) on the conduct of awareness programmes and the publication and dissemination of information under this Act.

(3) For the purposes of Article 94(6) of the Constitution –

...../Amendments

- (a) the power of the Cabinet Secretary to make regulations shall be limited to bringing into effect the provisions of this Act and the fulfilment of the objectives specified under subsection (1); and
- (b) the principles and standards set out under the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013

Cap. 2.
No. 23 of 2013.

in relation to subsidiary legislation shall
apply to regulations made under this Act.

INSERTION OF NEW CLAUSE 21B

THAT the Bill be amended by inserting the following new clause immediately after the new clause 21A –

Amendment to
No. 17 of 2012.

21B. The County Governments Act is amended in section 107(1) by inserting the following new paragraph immediately after paragraph (d) –

- (e) county strategic plans for the realization of economic and social rights under Part IV of the Economic and Social Rights Act.

SCHEDULE

THAT the Schedule to the Bill be amended –

- (a) in the introductory clause by inserting the words “the National Government and” immediately after the words “the effort of”;
- (b) in paragraph (a) by deleting the words “different levels of government” appearing immediately after the words “to the different” and substituting therefor the words “respective departments, agencies and institutions”;
- (c) by deleting paragraph (h) and substituting therefor the following new paragraph –
 - (h) whether or not it has put in place sufficient social safety nets such as cash transfers to vulnerable persons;
- (d) in paragraph (i) by deleting the words “and those in crisis situations” appearing immediately after the words “of the vulnerable” and substituting therefor the words “persons”.

CLAUSE 2

THAT clause 2 of the Bill be amended –

- (a) in the definition of the word “access” by deleting the words “persons in need” appearing immediately after the words “every person including” and substituting therefor the words “vulnerable persons”;

...../Amendments

- (b) in the definition of the word “Council of County Governors” by deleting the expression “18” appearing immediately after the words “established under section” and substituting therefor the expression “19”;
- (c) by inserting the following new definition immediately after the definition of the word “county executive committee member” –
 - “county integrated development plan” means the five-year plan developed by a county government in accordance with section 108 of the County Governments Act;
- (d) by deleting the definition of the word “Equalisation Fund”;

- (e) by deleting the definition of the word “subsidy programme”;
- (f) by deleting the definition of the word “person in need”;
- (g) by deleting the definition of the word “vulnerable persons” and substituting therefor the following new definition –

“vulnerable persons” include children, pregnant and nursing mothers, older members of society, internally displaced persons, persons with disability, the sick, persons with chronic illnesses, victims of conflict, persons living in marginalised areas, and members of marginalised communities or groups provided that such persons or groups are unable to meet their economic and social rights, and such other groups as may be identified by the Cabinet Secretary or the respective county governor from time to time.

THE TITLE

THAT Bill be amended by deleting the Long Title and substituting therefor the following new Long Title –

AN ACT of Parliament to establish a framework for the realisation of economic and social rights; for monitoring and reporting on the realisation of economic and social rights; and for connected purposes.

CLAUSE 1

THAT clause 1 of the Bill be amended by deleting the words “Preservation of Human Dignity and Enforcement of” appearing immediately after the words “be cited as the”.

...../Amendments

D. *THE LIFESTYLE AUDIT BILL (SENATE BILLS NO. 36 OF 2021)

(Sen. (CPA). Farhiya Haji, MP)

NOTICE is given that the Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights, intends to move the following amendments to the Lifestyle Audit Bill, Senate Bills No. 36 of 2021, at the Committee Stage—

CLAUSE 4

THAT clause 4 of the Bill be amended by inserting the following new subclause immediately after subclause (3)—

(3A) An accounting officer who fails to comply with the requirement under subsection (3) commits an offence and is liable, on conviction, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years, or to both.

CLAUSE 5

THAT clause 5 of the Bill be amended in subclause (1) by deleting paragraphs (a) and (b) and substituting therefor the following new paragraph (a)—

(a) there are reasons to believe that a public officer is living beyond the officer’s lawfully obtained and reported income and is unable to account for the source of their additional income;

CLAUSE 6

THAT clause 6 of the Bill be amended by deleting the words “apply for a search warrant to be issued against” appearing immediately after the words “by such officer” in the introductory clause and substituting therefor the words “issue a notice to explain for”.

CLAUSE 7

THAT clause 7 of the Bill be amended —

(a) in subclause (1) by —

(i) inserting the words “*ex parte*” immediately after the words “it may apply”; and

(ii) deleting the word “High” appearing immediately after the words “officer from the” and substituting therefor the word “Magistrates”;

(b) by deleting subclause (2) and substituting therefor the following new subclause—

(2) When making an application under subsection (1), the Commission shall—

(a) specify the grounds on which the application is made and if material relevant to the lifestyle audit is likely to be found on the premises specified in the application;

(b) specify the information and material being sought in the intended search; and

(c) substantiate to the Court that the material sought could not be reasonably obtained anywhere else other than in the premises specified in the application.

...../Amendments

(c) by inserting the following new subclauses immediately after subclause (4)—

(5) The Commission shall deposit the material obtained in the execution of a search warrant with the respective Court within three days of the execution.

(6) A person aggrieved by the issuance of a search warrant under this section may apply to the High Court for a review of the decision—

- (d) at any time before the execution of the search warrant; and
- (e) within thirty days after the execution of the search warrant.

CLAUSE 10

THAT the Bill be amended by deleting clause 10.

CLAUSE 11

THAT clause 11 of the Bill be amended—

- (a) in subclause (1) by inserting the words “*ex parte*” immediately after the words “make an application”; and
- (b) in subclause (3) deleting the word “three” appearing immediately after the words “shall not exceed” and substituting therefor the word “six”.

CLAUSE 14

THAT clause 14 of the Bill be amended—

- (a) in subclause (1) by inserting the words “*ex parte*” immediately after the words “Commission may apply”; and
- (b) in subclause (4) deleting the word “three” appearing immediately after the words “shall not exceed” and substituting therefor the word “six”.

CLAUSE 21

THAT the Bill be amended by deleting clause 21.

CLAUSE 23

THAT clause 23 of the Bill be amended in subclause (3) by deleting the words “Director of Public Prosecutions may, in consultation with the Commission” appearing immediately after the word “The” and substituting therefor the words “Commission may”.

CLAUSE 25

THAT the Bill be amended by deleting clause 25.

NEW CLAUSE

THAT the Bill be amended by inserting the following new clause immediately after clause 2 —

Application
of the Act.

2A. This Act shall apply —

- (a) to public officers; and
- (b) in the case of a person who has ceased being a public officer, the period of ten years immediately after the person has ceased to be a public officer.

...../Amendments

CLAUSE 2

THAT clause 2 be amended in the definition of the word “Commission” by inserting the word “Commission” immediately after the words “Ethics and Anti-Corruption”.

...../Amendments

E. *THE SPECIAL NEEDS EDUCATION BILL (SENATE BILLS NO. 44 OF 2021)
(Sen. (Dr.) Getrude Musuruve and Sen. (Prof.) Margaret Kamar, MP)

NOTICE is given that the Chairperson, Standing Committee on Education, intends to move the following amendments to the Special Needs Education Bill, (Senate Bills No. 44 of 2021), at the Committee Stage—

CLAUSE 3

THAT clause 3 be amended—

- (a) in paragraph (a) by deleting the words “in Kenya” appearing immediately after the words “all learners”; and
- (b) by inserting the following new paragraphs immediately after paragraph (e)—
- (f) ensure the transition of all learners with special needs through all levels of education; and
- (g) provide a framework for accountability in the delivery of quality special needs education and related services.

CLAUSE 4

THAT clause 4 be amended—

- (a) in paragraph (a) by deleting the words “and compulsory” appearing immediately after the words “right to free” and substituting therefor the words “compulsory and affirmative”; and
- (b) in paragraph (d) by inserting the words “and the county governments” immediately after the words “role of the community”.

CLAUSE 5

THAT clause 5 of the Bill be amended by —

- (a) deleting paragraph (c) and substituting therefor the following new paragraph —
- (c) use Kenyan sign language, braille and other specialized medium of instruction commensurate with the learner’s educational needs in every level of education;
- (b) inserting the following new paragraphs immediately after paragraph (d) —

...../Amendments

- (e) admission to any institution of learning and access to an inclusive, quality and free basic education on an equal basis with others;
- (f) equal access to play, recreation, leisure and sporting and other activities undertaken in the school system;
- (g) equal treatment with other learners; and

(h) reasonable accommodation within the institution providing special education.

CLAUSE 6

THAT clause 6 of the Bill be amended in subclause (2) by—

(a) inserting the words “at every level of education” immediately after the words “learners with special needs” in paragraph (a);

(b) inserting the words “at each level of education” immediately after the words “census of learners” in paragraph (d);

(c) inserting the word “online” immediately after the words “adult continuing alternative” in paragraph (j); and

(d) inserting the following new paragraphs immediately after paragraph (k)—

(ka) ensure adequate funding of special needs education;

(kb) put in place strategies for the delivery of quality education for learners with special needs;

(kc) put in place mechanisms to facilitate the registration of learners with disabilities are registered with the National Council for Persons with Disability;

(kd) ensure that the learners’ transition from one level of education to the next including to institutions of higher learning;

(ke) collaborate with educational institutions to establish appropriate programs for the attachment, apprenticeship and internships of learners with special needs; and

(kf) ensure that boarding facilities in education institutions accommodate the needs of for learners with special needs.

CLAUSE 7

THAT clause 7 of the Bill be amended in subclause (2) by inserting the following new paragraphs immediately after paragraph (k)—

...../Amendments

(l) liaise with the Council to maintain a database of learners with disability in respective counties;

(m) work in collaboration with special education resource centres in the identification of children with special needs for registration and access to essential services; and

(n) provide incentives for and facilitate the development and management of special needs education institutions.

CLAUSE 8

THAT clause 8 of the Bill be amended in subclause (1) by inserting the following new paragraph immediately after paragraph (c)—

(d) such other information as the committee member may consider necessary for the management of special needs institutions in the respective county.

CLAUSE 9

THAT clause 9 of the Bill be amended in subclause (1) by deleting the expression “2013” appearing immediately after the words “the Basic Education Act” and substituting therefor the words “the Technical and Vocational Education and Training Act and the Universities Act”.

CLAUSE 11

THAT clause 11 of the Bill be amended —

(a) by renumbering the existing provision as subclause (1); and

(b) by inserting the following new subclause immediately after the new subclause (1) –

(2) The principal manager or head of an education institution may require a person attending the special educational institution or applying for admission to the institution to undergo an assessment by a licensed medical practitioner or an educational assessment centre to determine the nature and the severity of the disabilities for the purpose of appropriate educational placement.

(3) An assessment report prepared pursuant to subsection (2) shall be used, together with such other information as may be available, as the basis for placement of a learner to an educational programme or institution which may not be congruent to the learner’s special needs along with any other relevant information pertaining to the learner.

...../Amendments

CLAUSE 12

THAT clause 12 be amended by deleting subclause (1) and substituting therefor the following new subclause—

(1) The following categories of learners shall be represented on the Board of management of an institute for learners with special education needs—

(a) six persons elected from amongst parents of the learners at the education institution to represent parents of the learners in the school or local community;

- (b) two persons with experience in matters of special needs education and social work relating to special needs nominated by the respective County Governor on the recommendation of the County Education Board;
- (c) two representatives of the staff in the school elected by the teachers and non-teaching staff;
- (d) one public officer nominated by the county executive committee member within the county;
- (e) in the case of a sponsored education centre, one representative of the sponsor of the education centre; and
- (f) the head teacher or the most senior teaching staff of the education centre, who shall be an *ex officio* member.

CLAUSE 22

THAT the Bill be amended in subclause (1) by inserting the word “Needs” immediately after the words “the Special Education”.

CLAUSE 28

THAT the Bill be amended by deleting clause 28.

CLAUSE 29

THAT the Bill be amended by deleting clause 29.

NEW CLAUSE 5A

THAT the Bill be amended by inserting the following new clause immediately after clause 5—

Responsibility
of parents

5A. (1) Every parent or guardian of a learner with special needs shall –

...../Amendments

(a) admit or cause to be admitted their child to a school as the case maybe, for the purposes of completion of the child’s basic education; and

(b) ensure that the leaner attends school regularly as a pupil for the purposes of physical, mental, intellectual or social development of the child.

(2) A parent or guardian who fails, without reasonable cause submitted to the institution and County Director of Education, to admit, cause to be admitted or ensure the attendance of the leaner in school commits an offence and shall be liable, on conviction, to a warning in the first instance and a fine

not exceeding five thousand shillings for any subsequence offence.

(3) Where a parent or a guardian is unable to meet the obligations specified under subsection (1) such parent and guardian shall submit, within the prescribed time, the reason for the absence of the learner at a school or institution of basic education.

CLAUSE 2

THAT clause 2 of the Bill be amended—

(a) in the definition of the word “learner with special needs” by inserting the words, “and includes learners with disability and gifted or talented learners” immediately after the words “Basic Education Act, 2013”;

(b) deleting the word “20” and substituting therefor the following new definition-

“Advisory Board” means the Special Needs Education Advisory Board established under section 22;

(c) deleting the definition of the word “cabinet secretary” and substituting therefor the following new definition-

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to education;

(d) deleting the definition of the word “continuing education”;

(e) deleting the definition of the word “progreskelli Williams sive inclusion”;

...../Amendments

(f) deleting the definition of the word “resource centre”; and

(g) inserting the following new definitions in their proper alphabetical sequence-

“county executive committee member” means the county executive committee member responsible for matters relating to education within each county; and

“education assessment and research centre” means a county special education resource centre established pursuant to section 18 of this Act; and

CLAUSE 1

THAT the Bill be amended by deleting clause 1 and substituting therefor the following new clause —

Short title. **1.** This Act may be cited as the Learners with Disabilities Act, 2021.

...../Amendments

F. *THE ELECTIONS (AMENDMENT) (NO. 3) BILL, SENATE BILLS NO. 48 OF 2021

(Sen. (Eng.) Ephraim Maina, MP)

NOTICE is given that the Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights, intends to move the following amendments to the Elections (Amendment) (No. 3) Bill (Senate Bills No. 48 of 2021) at the Committee Stage —

CLAUSE 2

THAT clause 2 of the Bill be amended by deleting the definition of the word “party primary”.

CLAUSE 3

THAT clause 3 of the Bill be amended in the proposed new section 32A(1) by deleting the words “a party primary” appearing immediately after the words “for purposes of” and substituting therefor the words “party nominations”.

CLAUSE 4

THAT clause 4 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph –

(b) in subsection (3) by –

- (i) inserting the words “and the Senate” immediately after the words “the National Assembly”; and
- (ii) deleting the proviso.

...../Amendments

G. *THE IRRIGATION (AMENDMENT) BILL, (NATIONAL ASSEMBLY BILLS NO. 12 OF 2021)**

(The Senate Majority Leader)

NOTICE is given that the Chairperson, Standing Committee on Agriculture, Livestock and Fisheries intends to move the following amendments to the Irrigation (Amendment) Bill, (National Assembly Bills No. 12 of 202, at the Committee Stage—

NEW CLAUSE 8A

THAT the Bill be amended by inserting the following new clause immediately after clause 8—

8A. Section 14 of the principal Act is amended—

Amendment of section 14 of No. 14 of 2019.

(a) by inserting the following new subsection immediately after subsection (2) —

(2A) Each county executive committee member shall, in ensuring that the county government fulfils its obligations under subsection (1) –

- (a) formulate a county irrigation strategy in collaboration with the relevant stake holders, in line with national policies and strategies;
- (b) delineate by notice in the gazette, strategic smallholder irrigation schemes;
- (c) promote the use of efficient irrigation systems in the respective county;
- (d) put in place measures for adaptation to, and mitigation against the effects of climate change and the enhanced sustainable environmental management in the county; and
- (e) report to the county assembly annually, and at such other time as may be necessary, on the state of irrigation development and management in the county.

(b) in subsection (3) by—

(a) deleting the words “formulate and” appearing at the beginning of the paragraph (a);

...../Amendments

(b) inserting the following new paragraph immediately after paragraph (a) –

(aa) put in place the irrigation infrastructure in smallholder schemes;

(c) deleting paragraph (f) and substituting therefor the following new paragraph—

(f) prepare and submit to the respective county executive committee member such periodic reports on the performance of its functions as the committee member shall determine; and

(d) inserting the following new paragraph immediately after paragraph (f)—

- (g) advise the respective county executive committee member on the development, maintenance, expansion and availability of irrigation support services in the respective county.

CLAUSE 2

THAT clause 2 of the Bill be amended by inserting the following new definition immediately after the definition of the term “commercial irrigation farmer” —

“county executive committee member” means the county executive committee member responsible for matters relating to irrigation.

...../Amendments

H. **THE STREET VENDORS (PROTECTION OF LIVELIHOOD) BILL (SENATE BILLS NO. 7 OF 2021)

(Chairperson, Standing Committee on Tourism, Trade and Industrialization)

NOTICE is given that the Chairperson, Standing Committee on Tourism, Trade and Industrialization, intends to move the following amendments to the Street Vendors (Protection of Livelihood) Bill, (Senate Bills No. 7 of 2021), at the Committee Stage—

CLAUSE 8

THAT clause 8 of the Bill be amended-

- (a) by deleting subclause (2) and substituting therefor the following new subclause-

(2) The county executive committee member shall, in designating vending zones under subsection (1), take into account -

- (a) the commercial viability of an area proposed to be designated as a street vending zone; and
- (b) the need for access by persons living with a disability.

(c) in subclause (7) by deleting the words “ten thousand” appearing immediately after the words “fine not exceeding” and substituting therefor the words “two thousand”.

CLAUSE 10

THAT clause 10 of the Bill be amended by deleting subclause (2) and substituting therefor the following new subclause –

- (2) The county executive committee member shall, for purposes of subsection (1), prepare a county vending plan, and shall in preparing the plan, -
 - (a) set out the location and optimal structure of vending centres to accommodate street vendors in the respective county; and
 - (b) take into account the need to ensure accessibility to vending zones for persons living with a disability.

CLAUSE 20

THAT clause 20 of the Bill be amended in subsection (1) by inserting the following new paragraphs immediately after paragraph (g)-

- (ga) ensure shop windows and traffic signs within the vending zone are not obscured;
-/Amendments
- (gb) not light an open fire on a public road or public area within the vending zone.

CLAUSE 23

THAT clause 23 of the Bill be amended in subclause (3) by –

- (a) inserting the words “a person” immediately after the words “confiscate goods where” in the introductory clause”;
- (b) deleting the word “one” appearing immediately before the words “carries out street vending” at the beginning of paragraph (a); and
- (c) inserting the following new paragraph immediately after paragraph (b). –
 - (ba) trades in goods or services that are prohibited under this Act or any other written law.

...../Amendments

I. *THE KENYA MEDICAL SUPPLIES AUTHORITY (AMENDMENT) BILL (SENATE BILLS NO. 53 OF 2021)

(Sen. Naomi Shiyonga, MP)

NOTICE is given that the Chairperson of the Standing Committee on Health, intends to move the following amendments to the Kenya Medical Supplies Authority (Amendment) Bill, (Senate Bills No. 53 of 2021), at the Committee Stage

—

CLAUSE 2

THAT clause 2 of the Bill be deleted and substituted with the following new clause—

Amendment **2.** The Kenya Medical Supplies Authority Act, 2013, of section 4 hereinafter referred to as the principal Act is amended in section of No. 20 of 4 by—
2013.

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

No. 21 of
2017.

(3) A national and county public health facility shall, in the procurement of drugs and medical supplies listed in the national government guidelines for essential medicines under section 67(4) of the Health Act, obtain all drugs and medical supplies from the Authority subject to the —

(a) drug being registered by the Board; and

(b) drugs and medical supplies—

- (i) meeting the standards of quality;
- (ii) being efficacious as authorised by the Board.

J. *THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILLS NO. 8 OF 2022)**

(The Senate Majority Leader)

NOTICE is given that the Chairperson of the Standing Committee on Finance and Budget, intends to move the following amendment to the Division of Revenue Bill, (National Assembly Bills No. 8 of 2022), at the Committee Stage-

SCHEDULE

THAT the Bill be amended by deleting the schedule and substituting therefor the following new schedule-

ALLOCATION OF REVENUE RAISED NATIONALLY AMONG THE NATIONAL AND COUNTY GOVERNMENTS FOR THE FINANCIAL YEAR 2022/23		
Type/level of allocation	Amount in Kshs.	Percentage (%) of 2017/18 audited and approved revenue of Kshs. 1,413,694 Million
A. Total Sharable Revenue	2,141,584,412,556	
B. National Government	1,639,515,938,345	
C. Equalization Fund	7,068,474,211	0.50%
D. County equitable share	495,000,000,000	35%

...../Appendix

APPENDIX

1. PAPER

Report of the Standing Committee on Health on the Kenya Medical Supplies Authority (Amendment) Bill, (Senate Bills No. 53 of 2021).

(The Chairperson, Standing Committee on Health)

2. STATEMENTS

a) Pursuant to Standing Order 47 (1)

- i) Nominated Senator, (Sen. (Dr.) Gertrude Musuruve, MP) to make a statement regarding the World Water Day.
- ii) The Senate Majority Leader (Sen. Samuel Poghio, MP) to make a statement concerning the Twelfth Ordinary Session of the Plenary

Assembly of the Forum of Parliaments of the International Conference on the Great Lakes Region (FP-ICGLR).

b) Pursuant to Standing Order 48 (1)

- i) The Senator for Taita Taveta County (Sen. Johnes Mwaruma, MP) to seek a statement from the Standing Committee on Labour and Social Welfare regarding the unfair dismissal from employment of Mr. Levince M. Mwanyalo.
- ii) The Senator for Taita Taveta County (Sen. Johnes Mwaruma, MP) to seek a statement from the Standing Committee on Land, Environment and Natural Resources regarding the status of Nyangoro water project in Taita Taveta County.

...../Notice Paper

NOTICE PAPER

Tentative Business for

Thursday, March 31, 2022

(Published pursuant to Standing Order 38 (1))

It is notified that the Senate Business Committee has approved the following **tentative** business to appear in the Order Paper for Thursday, March 31, 2022.

COMMITTEES OF THE WHOLE

- i) *THE COUNTY RESOURCE DEVELOPMENT BILL (SENATE BILLS NO. 45 OF 2021)
(Sen. Rose Nyamunga, MP)

- ii) ***THE COMMUNITY GROUPS REGISTRATION BILL (NATIONAL ASSEMBLY BILLS NO. 20 OF 2021)
(The Senate Majority Leader)
