THE SENATE
Directorate of Committee Services

INTERNAL MEMO

Rt. Hon Speaker
You may approve
for tabling.
01/12/21

TO: **The Speaker of the Senate**

THRO': **Clerk of the Senate**

THRO': **Deputy Clerk (EG)**

Recommended for approval and processing.

THRO': **Director, Committee Services** Recommended & Forwarded 01/12/2021

FROM: **Clerk Assistant 1**

DATE: **30TH November, 2021** EG 01/12/21

Approved
02/12/2021

SUBJECT: COMMITTEE STAGE AMENDMENTS AND REPORT OF THE STANDING COMMITTEE ON HEALTH ON THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT) BILL, 2021

.....

Reference is made to the above subject matter.

Kindly find attached for tabling, the Committee Stage Amendments and Report of the Standing Committee on Health on the National Hospital Insurance Fund (Amendment) Bill, 2021.

The purpose of this memo is to seek your approval for the tabling of the same.

THE SENATE
RECEIVED
01 DEC 2021
DEPUTY CLERK

DR. CHRISTINE SAGINI

REPUBLIC OF KENYA

PARLIAMENT OF KENYA

THE SENATE

TWELFTH PARLIAMENT

FIFTH SESSION

CAS
Recommended for approval for tabling.
EG 01/12/21

Rt. Hon Speaker
You may approve for tabling.
01/12/21

THE STANDING COMMITTEE ON HEALTH

REPORT ON THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT) BILL, 2021

(NATIONAL ASSEMBLY BILLS NO. 21 OF 2021)

Clerk's Chambers,
First Floor,
Parliament Buildings,
NAIROBI.
2021

NOVEMBER,

DC-EG
Recommended & Forwarded
01/12/2021

ABBREVIATIONS

NHIF - National Health Insurance Fund

LIST OF ANNEXURES

1. ***Annex 1*** - Advertisement for public participation on the Bill
2. ***Annex 2*** - Matrix of submissions received on the NHIF (Amendment) Bill, 2021
3. ***Annex 3*** - Minutes
4. ***Annex 4*** - Schedule for stakeholder engagement on the NHIF (Amendment) Bill, 2021
5. ***Annex 5*** - NHIF presentation on reimbursements healthcare providers

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PREFACE

Mr. Speaker Sir,

The Senate Standing Committee on Health is established under standing order 218(3) of the Senate Standing Orders and is mandated to, "*consider all matters relating to medical services, public health and sanitation.*"

Committee Membership

The Membership of the Committee is composed of the following:

1. Sen. (Dr.) Michael Mbito, MP. - Chairperson
2. Sen. Mary Seneta, MP. - Vice-Chairperson
3. Sen. Beth Mugo, EGH, MP.
4. Sen. Beatrice Kwamboka, MP.
5. Sen. (Prof.) Samson Ongeri, EGH, MP.
6. Sen. (Dr.) Abdullahi Ali Ibrahim, MP.
7. Sen. Fred Outa, MP.
8. Sen. Millicent Omanga, MP.
9. Sen. Ledama Olekina, MP.

Mr. Speaker,

The National Hospital Insurance Fund (Amendment) Bill (National Assembly Bills No. 21 of 2021) was published *vide* Kenya Gazette Supplement No. 91 on 11th May, 2021.

The National Assembly considered and passed the said Bill with amendments on Wednesday, 29th September 2021. The Bill was then forwarded to the Senate on Wednesday 13th October, 2021.

It was read a First Time in the Senate on Thursday, 14th October, 2021, and thereafter stood committed to the Standing Committee on Health for consideration and facilitation of public participation in accordance with standing order 140(5) of the Senate Standing Orders.

Mr. Speaker,

The principal object of the Bill is to amend the National Hospital Insurance Fund Act, 1998, to establish the National Health Scheme and to enhance the mandate and capacity of the National Hospital Insurance Fund to facilitate and deliver Universal Health Coverage.

Mr. Speaker,

Pursuant to the provisions of Article 118(1) (b) of the Constitution and standing order 140 (5), on Friday, 22nd October, 2021, *vide* an advertisement that was placed in two newspapers with national circulation, as well as on the Parliament website and social media platforms, the Committee invited interested members of the public and key stakeholders to submit written memoranda on the Bill.

In response to the call for the submission of memoranda, the Committee received at least **twenty-eight (28) written submissions** from various stakeholders and concerned citizens with regards to the Bill.

Mr. Speaker,

Further to the above, between 15th and 22nd November, 2021, the Committee held a series of **stakeholder engagement meetings** with more than **thirty-five (35) key stakeholders**, including, various government departments and agencies, health regulatory bodies, unions, private sector groups, health professional groups and associations and civil society groups.

Mr. Speaker,

The Committee's observations and recommendations arising from this process are contained within this report. The Committee has further proposed amendments to the Bill that have been duly annexed to this report.

Mr. Speaker,

The Committee thanks the Offices of the Speaker and Clerk of the Senate for their support during the process of considering this matter.

The Committee also wishes to thank the members of the public, and the various stakeholders who participated in the stakeholder meetings.

Mr. Speaker Sir,

It is now my pleasant duty and privilege to present this report of the Standing Committee on Health, for consideration and approval by the House pursuant to Standing Order No. 226(2) of the Senate Standing Orders.

Signed.....

Date.....30/11/2021.....

SEN. MBITO MICHAEL MALING'A, MP

CHAIRPERSON, STANDING COMMITTEE ON HEALTH

ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON HEALTH OF THE SENATE

We, the undersigned Members of the Standing Committee on Health of the Senate, do hereby append our signatures to adopt the Report-

1. Sen. (Dr.) Michael Mbito, MP .....
2. Sen. Mary Seneta, MP .....
3. Sen. Beth Mugo, EGH, MP .....
4. Sen. Beatrice Kwamboka, MP .....
5. Sen. (Prof) Samson Ongeri, EGH, MP .....
6. Sen. (Dr) Abdullahi Ali Ibrahim, MP .....
7. Sen. Fred Outa, MP .....
8. Sen. Millicent Omanga, MP .....
9. Sen. Ledama Olekina, MP .....

CHAPTER ONE

INTRODUCTION

1. Mandate of the Standing Committee on Health

The Senate Standing Committee on Health is established under standing order 218(3) of the Senate Standing Orders and is mandated to, "*consider all matters relating to medical services, public health and sanitation.*"

2. Committee Membership

The membership of the Standing Committee on Health is comprised of the following:

1) Sen. (Dr.) Michael Mbito, MP - Chairperson
2) Sen. Mary Seneta, MP
3) Sen. Beth Mugo, EGH, MP
4) Sen. Beatrice Kwamboka, MP
5) Sen. (Prof.) Samson Ongeri, EGH, MP
6) Sen. (Dr.) Abdullahi Ali Ibrahim, MP
7) Sen. Ledama Olekina, MP
8) Sen. Fred Outa, MP
9) Sen. Millicent Omanga, MP

3. Background of the National Hospital Insurance Fund (Amendment) Bill, 2021 (National Assembly Bills No. 21 of 2021)

The National Hospital Insurance Fund (Amendment) Bill (National Assembly Bill No. 21 of 2021) was published *vide* Kenya Gazette Supplement No. 91 of 11th May, 2021.

The National Assembly considered and passed the said Bill with amendments on Wednesday, 29th September 2021. It was then forwarded to the Senate on Wednesday 13th October, 2021.

Having been read a First Time in the Senate on Thursday, 14th October, 2021, the Bill thereafter stood committed to the Standing Committee on Health for consideration and facilitation of public participation in accordance with standing order 140(5) of the Senate Standing Orders.

The principal object of the Bill is to amend the National Hospital Insurance Fund Act, 1998, to establish the National Health Scheme and to enhance the mandate and capacity of the National Hospital Insurance Fund to facilitate and deliver the Universal Health Coverage.

4. Overview of the Bill

The Bill contained the following provisions:

A. Part I-Preliminary

Clause 1 of the Bill provided the short title as the National Health Insurance Fund (Amendment) Act, 2021.

Clause 2 of the Bill proposed to amend the Long Title of the Act to read -

> "An Act of Parliament to provide for the establishment of the National Health Insurance Fund; to establish the National Health Insurance Fund Management Board; to provide for mechanisms of contributions to and the payment of benefits out of the Fund; and for connected purposes."

Clause 7 of the Bill proposes to amend or delete the definitions of various terms contained in the Interpretation of the Act, including: 'Hospital', 'card', 'child', 'employer', 'Fund', 'hospital', 'Minister', ''register', 'stamp', 'inspector' etc.

Clause 8 of the Bill proposed the following sources of funds for the Fund —

i) contributions by the contributors. That is the employees, the national and county governments, the employers, the self employed persons over the age of eighteen and the unemployed persons over the age of eighteen (Clause 19 of the Bill);

ii) such monies as may be appropriated by the National Assembly, for indigent and vulnerable persons;

iii) gifts, grants or donations;

iv) funds from the national government, county government and their respective entities, or employers for the administration of employee benefits; and

v) funds from post retirement funds for provision of medical cover to retired employees, where the contributor has elected to do so.

Clause 9 of the Bill proposed that the Fund be managed by a Board that consisted of—

(a) a Chairperson appointed by the President by virtue of his or her knowledge and experience in matters relating to insurance, financial management, economics, health or business administration;

(b) the Principal Secretary in the Ministry for the time being responsible for matters relating to health or a representative appointed in writing;

(c) the Principal Secretary in the Ministry for the time being responsible for matters relating to finance or a representative appointed in writing;

(d) one person nominated by the Kenya Health Professions Oversight Authority;

(e) one person nominated by the Federation of Kenya Employers;

(f) one person nominated by the Central Organization of Trade Unions;

(g) one person, not being a Governor, nominated by the Council of County Governors;

(h) two persons, not being public officers, appointed by the Cabinet Secretary; and

(i) the Chief Executive Officer, who shall be an ex officio member of the Board.

The clause further set out the qualifications of the appointee of the Central Organization of Trade Unions and the nominee by the Council of Governors.

It further provided for the Cabinet Secretary to publish in the *Gazette* the names of the person nominated by the Kenya Health Professions Oversight Authority, the person nominated by the Federation of Kenya Employers, the person nominated by the Central Organization of Trade Unions and the nominee by the Council of Governors.

Clause 10 paragraph (b) of the Bill proposed to mandate the Board to set the criteria for the empanelment and contracting of health care providers in consultation with the Cabinet Secretary. In addition, under **paragraph (c)** the Bill proposed to mandate the Board to—

> (g) facilitate attainment of Universal Health Coverage with respect to health insurance;
>
> (ga) administer employee benefits as provided under the Act on behalf of employers in respect of their employees.

Clause 12 of the Bill proposed to insert a new provision to empower the Board to determine the contributions to be made by contributors to the Fund.

Clause 14 of the Bill provided the qualifications of the Chief Executive Officer. It proposed that a person be qualified for appointment as a Chief Executive Officer if the person—

a) has at least a Bachelor's degree from a university recognized in Kenya;

b) has at least ten years' experience at a senior management level with skills in health insurance, health financing, financial management, health economics, healthcare, administration, law or business administration; and

c) meets the requirements of Chapter Six of the Constitution.

Clause 15 of the Bill proposed to insert a new section 10A to provide for the appointment of a Corporation Secretary to comply with the *Mwongozo* code of conduct for state corporations.

Clause 18 of the Bill sought to require that any person who has attained the age of eighteen years and is not a beneficiary, register as a member of the Fund.

Clause 19 of the Bill proposed that the National Government and County Governments be contributors in respect to their respective employees. It further proposed under **paragraph (d)** that the National and County Governments equally match the contribution of their employees.

In addition, it proposed under a new subsection (1B) that the National Government be a contributor to the Fund on behalf of indigent and vulnerable persons.

It also proposed that all other employers top up their employees' contributions. Further, under **paragraph (d)** in a new proposed paragraph (e), it proposed that the employer's contribution should not exceed that prescribed for the categories of self-employed contributors.

It proposed that persons who are self-employed contribute a special contribution at a rate to be determined by the Board.

In respect to unemployed persons, the Bill sought to mandate the Board to determine the rate of contribution.

Clause 19 paragraph (h) of the Bill proposed to make it mandatory for the employee, the self-employed person and the unemployed person to make contributions to the Scheme. I

Clause 20 of the Bill proposed that a person liable to pay a matching contribution, shall pay such contribution in their capacity as an employer and shall not deduct such contribution from the salary or other remuneration of the employee.

Clause 20 paragraph (f) of the Bill proposed to increase the penalty for non-payment of contributions without lawful excuse and for making deductions other than those authorised by the Act from the current fine of fifty thousand Kenyan Shillings, to one million.

Clause 21 of the Bill provided that delays in remittance of the standard or matching contributions shall incur a penalty equal to the Central Bank of Kenya Lending Rate of Interest. It however, sought to exempt State agencies from the penalty cases delays were as a result of late exchequer releases by the National Treasury, or delays in disbursement of funds appropriated by the National Assembly.

In addition, **Clause 21 paragraph (c)** of the Bill proposed that where an employer fails to pay the standard contribution in respect to an employee, that the employer shall be liable to pay the penalty prescribed in subsection (1) and pay any costs incurred by the employee in seeking treatment from a contracted health care provider during the period when the contribution was due.

Clause 22 of the Bill proposed to reduce the penalty for delayed payment of special contributions from the current five times the amount of the contribution due, to fifty percent of the contribution due.

Clause 23 of the Bill proposed that the Board make regulations in respect to voluntary contributions by the youth.

Clause 24 of the Bill provided for the mode of identification of beneficiaries and payment of contributions. The clause further proposed to increase the penalty for making a false statement relating to remitting a standard or matching contribution or refusing to furnish information from the current fine of ten thousand shillings to one million shillings, and from the current penalty of six months imprisonment to twelve months imprisonment.

Clause 25 of the Bill provided for the establishment of the centralised healthcare provider management system.

Clause 26 of the Bill provided that the Board shall determine and approve the applicable tariffs payable to the Fund for enhanced benefits.

It further proposed under **Clause 19 paragraph (f)** that a person may receive the enhanced benefits subject to payment of additional voluntary contributions to the Scheme.

Clause 29 paragraph (a) of the Bill proposed to increase the penalty for making a false statement to obtain payment of any benefits under the Act from the current fine of five hundred thousand shillings to one million shillings, and from the current twenty four months imprisonment to sixty months imprisonment.

In addition, under **paragraph (b) (iii)** the clause also proposed to increase the penalty for impersonating a person with the intention to obtain the payment of any benefit under the Act from the current fine of five hundred thousand shillings to one million shillings.

Clause 35 of the Bill proposed to increase the penalty related to obstruction of an inspector or refusal to furnish information to an inspector from the current fine of ten thousand shillings to one million shillings and twenty four months imprisonment.

In addition, under **paragraph (d)** the clause proposed to increase the penalty in respect to an inspector who gives false information from the current ten thousand shillings to ten

million shillings, and from the current twelve months imprisonment to sixty months imprisonment.

Clause 43 of the Bill proposed to amend the general penalty clause to increase the fine from the current fifty thousand shillings to one million shillings.

CHAPTER TWO

PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT

As indicated in the previous chapter, the National Hospital Insurance Bill (National Assembly Bills No. 2 of 2019) was published *vide* Kenya Gazette Supplement No. 91 of 11th May, 2021.

The National Assembly considered and passed the said Bill with amendments on Wednesday, 29th September 2021. The Bill was then forwarded to the Senate on Wednesday 13th October, 2021, and read a First Time in the Senate on 18th February, 2020. Following this, it was committed to the Standing Committee on Health for facilitation of public participation as per standing order 140(1) and (5).

Accordingly, pursuant to the provisions of Article 118(1) (b) of the Constitution and standing order 140 (5) of the Senate Standing Orders, on Friday, 22nd October, 2021, *vide* an advertisement that was placed in two newspapers with national circulation, as well as on the Parliament website and social media platforms, the Committee invited interested members of the public and key stakeholders to submit written memoranda on the Bill ***(see Annex 1)***.

In response to the call for the submission of memoranda, the Committee received at least **twenty-eight (28) written submissions** from various stakeholders and concerned citizens with regards to the Bill. A matrix with a summary of the submissions from the various stakeholders has been attached to this report as ***Annex 2.***

Further to the above, between 15th and 22nd November, 2021, the Committee held a series of **stakeholder engagement meetings** with more than **thirty-five (35) key stakeholders**, including, various government departments and agencies, health regulatory bodies, unions, private sector groups, health professional groups and associations and civil society groups as indicated below:

a)Government Departments and Agencies

1. Ministry of Health (MOH)
2. Ministry of Finance and National Treasury (NT)
3. Council of Governors (COG)
4. Public Service Commission (PSC)
5. National Health Insurance Fund (NHIF)
6. Kenya Revenue Authority (KRA)

b) Regulatory Bodies

7. Insurance Regulatory Authority (IRA)
8. Kenya Health Professionals Oversight Authority (HPOA)
9. Kenya Medical Practitioners and Dentists Council (KMPDC)
10. Pharmacy and Poisons Board (PPB)
11. Kenya Council of Clinical Officers (KCOC)
12. Nursing Council of Kenya (NCK)
13. Kenya Medical Laboratory Technicians and Technologists Board (KMLTTB)
14. Council of Kenya Nutritionists and Dietitians Institute (CKNDI)

c) Professional Groups and Associations

15. Kenya Medical Association (KMA)
16. Pharmaceutical Society of Kenya (PSK)
17. Kenya Pharmaceutical Association (KPA)
18. National Nursing Association of Kenya (NNAK)
19. Kenya Progressive Nurses Association (KPNA)
20. Kenya Clinical Officers Association (KCOA)
21. Kenya Health Professionals Society (KHPS)

d) Unions

22. Central Organisation of Trade Unions (COTU)
23. Kenya Union of Post Primary Education Teachers (KUPPET)
24. Kenya Medical Practitioners and Dentists Union (KMPDU)
25. Kenya Union of Clinical Officers (KUCO)

26. Kenya National Union of Medical Laboratory Officers (KNUMLO)
27. Kenya National Union of Pharmaceutical Technologists (KNUPT)

e) Private Sector Groups

28. Federation of Kenyan Employers (FKE)
29. Kenya Private Sector Alliance (KEPSA)
30. Kenya Healthcare Federation (KHF)
31. Christian Health Association of Kenya (CHAK)
32. Kenya Association of Private Hospitals (KAPH)
33. Rural Private Hospitals Association of Kenya (RUPHA)
34. Association of Kenya Insurers (AKI)

f) Non-State Actors and Civil Society Groups

35. The National Coalition on Universal Health Coverage, Health Financing and Budget Advocacy.

The minutes of the above meetings have been attached to this report as ***Annex 3***. In addition, a schedule of the meetings held with the aforementioned stakeholders has been attached to this report as ***Annex 4.***

Further to the above, the Committee received written memoranda from **twenty-eight (28)** institutions and members of the public as per the schedule attached in ***Annex 2.***

The Committee proceeded to consider the Bill and the submissions received thereon as set out in the matrix attached to this report as ***Annex 2.***

CHAPTER THREE

COMMITTEE OBSERVATIONS

The Committee made the following observations:

1. ***Scope of services to be provided under the proposed UHC Scheme by NHIF:*** The Committee took note of concerns raised by some stakeholders regarding the need for NHIF to orient itself towards preventive and promotive health services in addition to facility-based curative services.

   In relation to this, the Committee observed that according to the World Health Organisation (WHO), UHC includes the full range of essential health services, including health promotion and prevention.

   In this regard, the Committee observed that preventive health services are already provided for under the definition of *'health care provider'* in clause 7 of the Bill. The Committee therefore noted that there was a need to amend the clause to include 'promotive' health services.

2. ***Recognised healthcare providers by NHIF:*** The Committee took note of concerns raised by some stakeholders that the definition of *'health care provider'* as proposed in the Bill was narrow and likely to result in the exclusion of some health facilities such as stand-alone diagnostic, therapeutic and imaging health facilities.

   However, it was the observation of the Committee that by broadly providing for *in-patient and out-patient services, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventive or other health services,* the Bill had adequately covered for the full range of service providers to be recognised by NHIF.

3. ***Constitution of the NHIF Board:*** The Committee took note of concerns raised by several stakeholders over alleged lack of representation and/or inclusion in the NHIF Board.

The Committee noted that the *Mwongozo* Code of Governance for State Corporations limits Board membership of all State Corporations to between seven and nine members. That notwithstanding, the Committee observed that there was a need to amend the Bill to provide for the reconstitution of the Board as follows:

a) Provide for the inclusion of the Director-General of Health (or his alternate) in the Board in view of his statutory mandate as *'technical advisor to the Government on all matters relating to health within the health sector'* as set out in section 17 of the Health Act, 2017;

b) Provide for increased representation of County Governments in the Board in recognition of the devolved system of governance, and in acknowledgement that the bulk of health services are provided at county level; and

c) Provide for the inclusion of an independent member(s) as stipulated under section 1.1(7) of the *Mwongozo* Code, preferably a health professional.

4. ***Governance structure of NHIF:*** The Committee took note of concerns raised by several stakeholders that the powers and functions assigned to the NHIF Board in the Bill were broad, unchecked and likely to result in conflicts of interest.

   Some of the powers and functions assigned to the Board in the Bill include: accreditation and empanelment of health facilities, setting of contributions, setting of reimbursement rates, making of payment of claims etc.

   The Committee further took note of proposals by stakeholders to provide for checks and balances through the establishment of different Boards within the Fund with separate and distinct powers and functions. It was, however, the observation of the Committee that such proposals to establish multiple Boards within the Fund were likely to result in fragmentation of the governance structure, increased bureaucracy, inefficiencies and conflicts amongst the proposed Boards thus hindering service delivery.

5. ***Strengthening transparency and accountability of the NHIF Board:*** However, having taken note of the concerns raised by several stakeholders regarding the need to increase accountability of the Board, the Committee observed that there was a need to amend the Bill to obligate the NHIF Board to provide periodic

financial and non-financial reports on its operations to Parliament through the office of the Cabinet Secretary.

In addition to the above, the Committee observed that for purposes of promoting transparency at the Fund, the Bill should be amended to ensure that the Board is obligated to make available contributors statements of their accounts.

Further, that the Bill should be amended to obligate the Board to seek the advice of Central Bank on reputable banks when seeking to invest monies of the Fund.

6. ***Stakeholder engagement and public participation in the decisions of the NHIF Board:*** Having taken note of several calls for greater stakeholder engagement and public participation in the decisions of the NHIF Board, the Committee observed that the Statutory Instruments Act, 2013, obligates all regulation-making authorities to facilitate public participation in the development of regulations.

   Further, the Committee observed that once regulations are approved and transmitted to Parliament for consideration through the Sessional Committee(s) of Delegated Legislation, the Statutory Instruments Act, 2013 mandates Parliament to satisfy itself that a regulation-making authority did in fact carry out adequate public participation. As such, the Committee observed that the requirements for stakeholder engagement and public participation were already implied in the regulation-making function of the Board.

   That notwithstanding, the Committee observed that it was necessary to obligate the Board to facilitate adequate stakeholder engagement and public participation in the carry out of its functions.

7. ***Qualifications and minimum requirements of Board Members:*** The Committee further observed that, for purposes of ensuring that only qualified, knowledgeable and experienced persons are appointed to the NHIF Board, there was a need to amend the Bill to strengthen the qualifications and minimum requirements for Board members nominated by the Central Organisation of Trade Unions, the Council of Governors and the Cabinet Secretary.

8. ***Qualifications and minimum requirements of the Chief Executive Officer:*** The Committee further observed that in view of the expanded role and mandate of NHIF in the realisation of UHC as envisaged in the Bill, there was a need to

ensure the appointment of a knowledgeable and experienced Chief Executive Officer(s). Accordingly, the Committee observed that there was a need to amend clause 10 (2) of the Bill to increase the minimum requirements for qualification as a CEO to at least a Masters' degree.

9. ***Qualifications and minimum requirements of the Corporation Secretary:*** Likewise, the Committee observed that in view of the expanded role and mandate of NHIF in the realisation of UHC as envisaged in the Bill, there was a need to ensure the appointment of a knowledgeable and experienced Corporation Secretary (s). Accordingly, the Committee observed that there was a need to amend clause 15 of the Bill to increase the minimum requirements for qualification as a Corporation Secretary to a certified public secretary with at least ten years experience.

10. ***Accreditation of healthcare service providers:*** The Committee observed that primacy over the accreditation function should be retained by the Fund for purposes of reducing bureaucracy and increasing efficiency.

11. ***Setting of the criteria for the Empanelment and Contracting of NHIF service providers:*** The Committee observed that for purposes of ensuring the maintenance of quality and standards care, as well as compliance of regulations by health care providers, the NHIF Board should conduct the function of setting the criteria for the empanelment and contracting of health care providers in consultation with the Cabinet Secretary and relevant regulatory bodies.

12. ***Application of the principles of fair administrative action in the removal of empaneled and contracted healthcare service providers:*** The Committee observed that in relation to the revocation from the register of empaneled and contracted health care providers as provided for under clause 29 of the Bill, the principles of fair administrative action must apply. Health care providers whose empanelment the Board wishes to revoke must be given adequate notification, and a fair chance to respond to the issues or reasons raised thereon.

13. ***Regulation of NHIF:*** The Committee observed that as a social health insurer, regulation of NHIF under the Insurance Act should only apply where the Fund seeks to engage in risk spreading, claims administration services and public service employees insurance benefit schemes such as Group Personal Accident,

Group Life and Disability Cover and compensation under the Work Injury Act, 2007 (WIBA).

Further to the above, the Committee observed that regulation of the Board by the Retirement Benefits Authority should only apply where the Fund seeks to engage in post-retirement medical schemes.

14. ***Compulsory Insurance Benefits Scheme for public servants:*** The Committee noted that under the Public Service Superannuation Scheme, public servants enjoy a compulsory insurance benefits scheme that includes Group Personal Accident, Group Life and Disability Cover and compensation under the Work Injury Act, 2007 (WIBA).

    Noting that NHIF is currently administering the Comprehensive Group Life, Last Expense, Enhanced Work Injury Benefits and Group Personal Accident Insurance Covers for civil servants and employees of the National Youth Service, the Committee observed that there was a need to amend clause 8 of the Bill for purposes of mandating the Fund to continue administering the same.

15. ***Matching contributions by employers:*** The Committee observed that section 34 of the Employment Act obligates employers to ensure the sufficient provision of proper medical care for their employees during illness.

    The Committee further observed that in order to attain UHC, and in order to ensure the sustainability of the Fund, it was necessary to ensure the requirement for matching contributions to employers in the national and county government is extended to employers in the private sector.

    That notwithstanding, the Committee observed that private employers should be exempted from making matching contributions to the Fund in cases where they have procured private insurance for their employees whose benefits match or exceed those being provided by NHIF.

16. ***Contributions by Unemployed Persons:*** The Committee observed that unemployed persons without any source of income should be exempted from making contributions to the Fund.

17. ***Punitive provisions of penalties:*** The Committee took note of, and supported concerns raised by several stakeholders that the penalties prescribed under the Bill for various offences were punitively high.

    Whilst the Committee acknowledged that the imposition of the penalties were aimed at deterring potential offenders, it observed that the proposed fines were out of reach for the majority of ordinary citizens, and small to medium enterprises.

18. ***Unfair exemption of National and County Government entities from penalties for delayed payment of contributions:*** The Committee observed that while the Bill seeks to make employers liable to pay penalties for failures or delays in remitting standard or matching contributions, it had sought to exempt state agencies from the imposition of such penalties provided that the delay or non-remittance was caused by delays in disbursement from the National Treasury or delays in the disbursement of any funds appropriated by the National Assembly.

    The Committee observed that such an exemption was unfair and prejudicial against other employers. Further, the Committee observed that as the largest employer of persons in the country, the Government should bear responsibility for ensuring that all its remittances due to NHIF are paid on time in order to ensure the sustainability of the Fund.

19. ***Personal liability of public officers in the non-remittance of contributions:*** The Committee observed that there was a need to hold public officers personally liable for the non-remittance of standard and matching contributions to the Fund in cases where it could be proven that they were neglectful or negligent in the carrying out of this duty.

20. ***Reverse subsidy of health services through NHIF reimbursements:*** The Committee took note that according to submissions by NHIF, the bulk of its reimbursements to health facilities go to private hospitals. For example, according to NHIF, reimbursements to healthcare providers per category in Nairobi County were distributed as follows in the last FY ***(see Annex 7):***

    i. Kenyatta National Hospital (KNH) (Public - General Ward): KShs. 1.57B (17%)

    ii. Nairobi West Hospital (Private): KShs. 1.49B (16%)

iii. Nairobi Hospital (Private): KShs. 979,476,857.00 (10%)

iv. Aga Khan Hospital (Private): KShs. 736,333,359 (8%)

v. Kenyatta National Hospital (Public - Amenity Wing): KShs. 533,766,890 (6%)

vi. S.S. League M. P. Shah Hospital Nairobi (Private): KShs. 518,784,714 (5%)

vii. St. Peter's Orthopaedics and Surgical (Private): KShs. 470,664,400 (5%)

viii. Coptic Hospital (Private): KShs. 468,319,612 (5%)

ix. Lions Sight First Eye Hospital (Private): KShs. 383,984,920 (4%)

x. Kenyatta University Teaching Referral Hospital (KUTRH) (Public): KShs. 300,520,050 (3%)

xi. Gertrudes Garden Children's Hospital (Private): KShs. 288,286,668 (3%)

xii. The Nairobi Hospital Limited (Private): KShs. 284,980,829 (3%)

xiii. Mater Misericordiae Hospital (Private): KShs. 241,510,603 (3%)

xiv. Ladnan Hospital Ltd (Private): KShs. 232,988,231 (2%)

xv. Mediheal Hospital Eastleigh (Private): KShs. 183,712,361 (2%)

xvi. Hospital Parklands (Private): KShs. 170,744,626 (2%)

xvii. Chiromo Lane Medical (Private): KShs. 152,209,248 (2)

xviii. Texas Cancer Centre Nairobi West (Private): KShs. 149,373,110 (2)

As indicated above, the Committee observed that out of a total disbursement of approximately KShs. 8.183B reimbursements to eighteen (18) major hospitals in Nairobi County, only two public hospitals (KNH and KUTRH) benefitted with a cumulative reimbursement of KShs. 2.4B (29%).

According to NHIF, a similar scenario was replicated in other counties with public hospitals in Kisumu getting only 7% of total reimbursements by NHIF, 33% in Trans Nzoia County, 14% in Kajiado County, 15% in Wajir County etc.

Conversely, the Committee observed that, according to NHIF, the public sector, indigents and the informal sector are set to contribute at least 75% of its revenue collection through contributions under the mandatory scheme envisaged by the Bill.

Considering that private health facilities benefit disproportionately from NHIF compared to public hospitals, and considering that the poor are more likely to access care at public health facilities, the Committee found that under the current scheme, there was a reverse subsidy of health services through NHIF reimbursements whereby the public sector, indigents and informal sector contributed up to 75% of the total revenue collection by NHIF, but public hospitals benefitted from only 7-30% of the total reimbursements by NHIF.

21. ***Need for improvement of standards and quality of care at public health facilities:*** Noting that the proportion of reimbursements received by hospitals was driven by demand, and further noting that a key goal of UHC is to ensure equity and access to health services, the Committee observed that National and County Governments must take deliberate action to improve the standards and quality of care at public health facilities in order to compete effectively with the private sector.

22. ***Ring-fencing of NHIF reimbursements to public health facilities:*** Noting that availing resources at facility level was likely to positively affect the performance of public health facilities, and to promote higher standards and quality of care, the Committee observed that there was a need to amend relevant provisions of the Public Finance Management Act to ring-fence NHIF reimbursements for purposes of facilitating direct financing of public health facilities.

The Committee further observed that in line with section 87 of the Health Act, 2017, the National Treasury should facilitate the opening and maintenance of special-purpose bank accounts by county treasuries for purposes of operationalising disbursements from NHIF to health facilities at county level, in

accordance with the provisions of the Constitution and the Public Finance Management Act.

23. ***Prevention of the arbitrary withdrawal of health benefits for patients with chronic illnesses by the NHIF Board:*** The Committee took note of concerns raised by the Kenya Renal Association and others on recent attempts made by the NHIF Board to reduce the reimbursement for patients undergoing haemodialysis under their new scheme. The Committee noted that patients with chronic illnesses such as kidney disease are reliant on lifelong costly treatment for their survival, the bulk of which is paid for by NHIF.

    The Committee further observed that any arbitrary changes to existing health benefits packages for patients with chronic illnesses by the NHIF Board was likely to expose patients and their families to suffering, catastrophic health expenditure, and increased morbidity and death. The Committee thus observed that provisions should be made to prevent the Board from arbitrarily withdrawing existing health benefits for patients with chronic illnesses.

24. ***Emergency Medical Treatment:*** The Committee took note that Article 43 (2) of the Constitution provides that "*a person shall not be denied emergency medical treatment*".

    The Committee further took note that section 7(1) of the Health Act, 2017 guarantees every person the right to emergency medical treatment, while section 15(x) of the Health Act, 2017 obligates the National Government to establish an emergency medical treatment fund.

    Noting that the Senate has previously called for the immediate roll-out of an emergency services benefit package under Universal Health Care (UHC) for purposes of ensuring universal access to emergency medical care services in the country, the Committee observed that an amendment to the Bill was necessary to provide for benefits in respect to emergency treatment. In particular, noting that cardiovascular events remain a leading cause of death and illness, the Committee observed the need for an amendment to the Bill obligating the Board and Cabinet Secretary to prescribe benefits available in respect to emergency treatment, including acute cardiovascular events.

25. ***Perverse incentive of the capitation method:*** The Committee noted that under the current scheme, beneficiaries are required to select a preferred hospital for purposes of accessing their benefits package under NHIF. Hospitals are then compensated through a capitation method for providing services to beneficiaries.

    While appreciating that the capitation method had enabled the Fund to compensate hospitals in an accountable and convenient manner, the Committee noted that it had served to hinder patients from accessing healthcare at their point of need regardless of location.

    The Committee further observed that, in order to maximise profits, there were reports of hospitals engaging in unscrupulous practices aimed at maximising their capitation numbers and minimising treatment costs. This had resulted in reports of patients receiving under-treatment and/or substandard care.

26. ***Delayed payments of, and lack of clear timelines for the empanelment and contracting of health care service providers:*** The Committee observed that delayed payments of, and lack of clear timelines for the empanelment and contracting of health care service providers by the Fund remained a key challenge hindering service delivery and the attainment of UHC.

    The Committee further noted that under its expanded role and mandate in the realisation of UHC, health care providers are set to become increasingly reliant on reimbursements by the Fund for the financing of their operations. As such, the Committee observed that there was a need for the Fund to take necessary policy and administrative actions to ensure the timely payment of reimbursements, and the timely empanelment and contracting of accredited health care providers.

CHAPTER FIVE

COMMITTEE RECOMMENDATIONS

The Committee therefore recommends that:

1. Clause 7 of the Bill be amended to align the definition of the term 'employer' to the definition under the Employment Act, and to provide for the inclusion of promotive health services in the list of health care services covered by the Fund.

2. Clause 8 of the Bill be amended to include the compulsory public service employees insurance benefit scheme in the matters covered by the Fund.

3. Clause 9 of the Bill be amended to clarify on the membership of the Board of the Fund: to remove the proposed representative of Kenya Health Professionals Oversight Authority and to substitute therefor with a representative from the Kenya Medical Association; and to increase the representative of the Council of Governors from one person to two persons.

4. Clause 10 of the Bill be amended to ensure the Board carries out public participation in the carrying out of its functions under the Act and to further set out that the Board shall be in-charge of accreditation in consultation with relevant regulatory bodies.

5. Clause 14 of the Bill be amended to increase the academic qualifications requirements of the CEO to the NHIF Board to at least a Master's Degree from a recognised university.

6. Clause 15 of the Bill be amended to increase the qualification requirements of the Corporation Secretary to a certified public secretary with at least ten years experience.

7. Clause 19 of the Bill be amended to: exempt unemployed persons from mandatory contributions under the Fund; extend the requirement for matching contributions to employers in the private sector in addition to employers in the national and

county government; and to require the Cabinet Secretary to consult with the Board in making of regulations for the better carrying out of the provisions of the section.

8. Clause 19 of the Bill to be further amended to provide for an instance where an employer other than the national or county government may make an application to the Board to be exempted from matching the contributions of their employees where such an employer has procured a private medical cover for their employees whose benefits are equal to or better than the employees benefits under the Fund.

9. Clause 20 of the Bill be amended to reduce the proposed penalty for non-remittance of standard and matching contributions from one million shillings to five hundred thousand shillings.

10. Clause 21 of the Bill be amended to remove the exemption applicable to national and county governments on the penalty for meeting of costs incurred by an employee for late remittance of contributions to the Fund; to ensure that an employee required to meet the costs incurred by an employee due to late remittance only extends to costs that would have been met by the Fund; and to provide that accounting officers shall be personally liable for meeting costs where the employer is a national or county government entity.

11. Clause 23 be amended to provide that unemployed persons may make voluntary contributions to the Fund.

12. Clause 26 be amended to ensure the Fund covers emergency treatment under the Third Schedule; that the Board carry out biennial reviews of the tariffs payable into and out the fund; and that the Board uses the approved risk spreading mechanism, approved claims administration services on benefits of outpatient, inpatient and on employees benefits scheme

13. Clause 27 be amended to ensure the Board makes regulations for making available to contributors statements of their accounts with the Fund.

14. Clause 29 of the Bill be amended to ensure that the Board applies the principles of Fair Administrative Action where the Board intends to revoke the empanelment of a health care provider. Further the amendment seeks to require the notification of a revocation for empanelment in the Kenya Gazette and at least three newspapers with nationwide circulation

15. Clause 33 be amended to set out that the Board shall consult with regulatory bodies in publishing in the gazette the list of empaneled health care providers.

16. Clause 35 of the Bill be amended to reduce the penalty prescribed for willful obstruction of an inspector appointed under the Act from one million shillings to one hundred thousand shillings, and the applicable term of imprisonment from twenty-four months to six months.

17. Clause 36 of the Bill be amended to ensure that the Board seeks the advice of the Central Bank on reputable banks for the purpose of investing the monies of the Fund.

18. Clause 39 of the Bill be amended to ensure that the reports prepared by the Board and transmitted to the Cabinet Secretary are submitted to Parliament as an additional measure of oversight.

19. Clause 44 of the Bill be amended to set out the extent of the application of the Insurance Act and the Retirement Benefits Act to the administration of the Fund.

REPUBLIC OF KENYA
TWELFTH PARLIAMENT | FOURTH SESSION
THE SENATE

INVITATION FOR SUBMISSION OF MEMORANDA

The National Hospital Insurance Fund (Amendment) Bill (National Assembly Bills No. 26 of 2021)

The National Hospital Insurance Fund (Amendment) Bill, National Assembly Bills No. 21 of 2021 was read a First Time in the Senate on Thursday, 14th October, 2021 and thereafter stood committed to the Standing Committee on Health.

Pursuant to the provisions of Article 118 of the Constitution and Standing Order 140(5) of the Senate Standing Orders, the Standing Committee on Health now invites interested members of the public to submit any representations that they may have on the Bill by way of written Memoranda.

The Memoranda may be sent by email to the Clerk of the Senate on the address – csenate@parliament.go.ke and copied to senatekehealth@gmail.com, so as to be received on or before **Friday, 29th October, 2021** at **5.00 pm.**

The Bill may be accessed on the Parliament website at http:/www.parliament.go.ke/senate.

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

MATRIX OF SUBMISSIONS RECEIVED ON THE NATIONAL HEALTH INSURANCE FUND (AMENDMENT) BILL 2021

Clause	Provision in the Bill	Proposed Amendment	Justification	Committee resolution
2 Long title	2. The National Hospital Insurance Fund Act in this Act referred to as the 'Principal Act' is amended by deleting the long title and inserting the following new long title— "An Act of Parliament to provide for the establishment of the National Health Insurance Fund; to establish the National Health Insurance Management Board; to provide for mechanisms of contributions to and the payment of benefits out of the Fund; and for connected purposes".	***Amend to read as follows:*** 2. The National Hospital Insurance Fund Act in this Act referred to as the 'Principal Act' is amended by deleting the long title and inserting the following new long title— "An Act of Parliament to align the national health insurance system to the devolved system of government; to provide for the establishment of the National Health Insurance Fund; to establish the National Health Insurance Management and Accountability structures; to provide for mechanisms of contributions to and the payment of benefits out of the Fund; to provide for mechanisms for internal and external accountability to the public for finances and other purchasing activities including contracting, service utilization, service quality, and efficiency of operations; and for connected purposes" **(COG)**	The proposed Amendments are necessary because of several reasons. First, the Amendments seek to align the system of national health insurance to the devolved system of government since county governments have the greater part of the health services delivery function. Secondly, the Expert Panel found that a major problem with the current National Hospital Insurance Fund is that the NHIF Board combines the functions of accreditation and empanelment of health facilities as providers of services; setting the premium rates for contributors; setting the reimbursement rates to be paid to service provides; and making of payment of claims. This combination creates a conflict of interest; and the Expert Panel in its Report recommended the separation of roles and establishment of more independent structures to be assigned different roles and act as checks and balances on each other. It is for this reason that the Amendments are proposing the establishment of several	Not accepted The long title as set out in the Bill is adequate as it sets out in a succinct manner the changes in the aw: a movement from simply covering hospital insurance and to a more holistic approach covering the umbrella healthcare financing.

			NHIF management and accountability structures, instead of just one NHIF Management Board. Thirdly, the Expert Panel found that the current NHIF system lacks adequate mechanisms for accountability and in its Report recommended the expansion of accountability beyond (1) internal and include external accountability to stakeholders and the public; (2) financial to include accountability for other purchasing activities. **(COG)**	
7 **Interpretation**	Section 2 of the Principal Act is amended by inserting the following new definitions in the proper alphabetical sequence— 'health care provider' means the whole or part of a public or private institution, building or place, duly registered healthcare professional, whether for profit or not, that is operated or designed to provide in-patient or	***Amend to read as follows:*** 7. Section 2 of the Principal Act is amended by inserting the following new definitions in the proper alphabetical sequence— 'health care provider' means the whole or part of a public or private institution, building or place, duly registered healthcare professional, whether for profit or not, that is operated or designed	The reason for the proposed Amendment is that while the replacement of the word 'Hospital' with the word 'Health' and the long title create the impression that the new law moves away from facility and curative orientation and focus, to health and preventive as well as promotive orientation and focus; the definition of 'health care provider' seems to go back to the emphasis on facility and curative	Accepted but only include e word "promotional" in the mendment but maintain the mendment as it is.

	out-patient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventative or other health service.	to provide (a) preventative and promotive health services; and/or (b) in-patient or out-patient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative convalescent, or other health service. **(COG)**	orientation. This is because most preventive and promotive health care is not facility based and may end up not being covered and therefore financed. This will continue the old approach of underfunding primary health care which will undermine UHC and which contradicts the health policy and the Community health Services Bill that is seeking to ensure adequate funding of the community health services. The proposed Amendment therefore seeks to separate preventive and promotive services from curative services and lists it first to give it prominence. This will ensure that in the process of accreditation, these services are specifically mentioned and included in the capitation budgets and claims. **(COG)**	

	" accreditation" means the formal recognition of a health care provider by the relevant body.	Insert the word "regulatory" immediately after the word "relevant" **(MoH, PHARMACY AND POISONS BOARD)**	Both the Health Act 2017 and the Pharmacy Act use the term "**regulatory body**". Section 60 of the Health Act 2017 provide a lists of the regulatory bodies to include; a) Clinical Officers Authority b) Nursing Council of Kenya c) The Kenya Medical Laboratory Technicians and Technologists Board d) Medical Practitioners and Dentist Council e) The Radiation Protection Board f) Pharmacy and Poisons Board g) Council of Institute of Technicians and Dieticians h) Public Health Officers and Technicians Council	Accepted for clarification
	" accreditation" means the formal recognition of a health care provider by the relevant body.	Proposed clause; "accreditation" means the formal recognition of a health care provider/ health facility by an independent body based on criteria established by the Cabinet Secretary responsible for Health. **(KHPOA)**	Regulatory bodies are mandated to register and license health care providers and health facilities and not to accredit them. There will be a conflict of interest if regulatory bodies are allowed to accredit health care providers and health facilities.	The proposed definition of ccreditation is vague as it does ot indicate which relevant ody should accredit healthcare roviders under the Act. The ause should be amended that oard should accredit poviders
	"child" means a child of a contributor including a posthumous child, a stepchild, an adopted child and any	Proposal	No justification provided.	Not accepted

	child to whom the contributor stands in loco parentis, and who has not attained the age of eighteen years.	The Bill to use the definition of "child" as defined by the Children's Act. **(NCDAK)**		
	"employer" includes the national government and the national entities, the county government and the county entities.	Adopt the definition of "employer" as provided for under the Employment Act, 2007. "Employer" means any person, public body, firm, corporation or company who or which has entered into a contract of service to employ any individual and includes the agent, foreman, manager or factor of such person, public body, firm, corporation or company. **(KRA)**	Adoption of the definition shall bring certainty and harmonize it with the Employment Act, 2007.	Accepted with modification: clude national government nd its entities as well as county overnments and its entities and elete reference to *"the agent, reman, manager or factor of ch person, public body, firm, rporation or company"* in RAs proposal
	"vulnerable person" means a person who is in need of special care, support or protection, including the orphaned and vulnerable children, widows or widowers, person with disability, elderly persons or indigent due to a risk of abuse or neglect and who has been identified as such by the relevant government body."	Define "Special Care" as included in the definition of "vulnerable person" Consider including Persons living with Non-Communicable Diseases (PLWNCDs) with special or social needs as a vulnerable population in the definition of "vulnerable person" **(NCDAK)**	No justification provided.	Accepted
	"health care provider" means the whole or part of a public or private institution,	Include stand-alone medical laboratories, X-Ray Centres, chemists and pharmacies	The definition of "health care provider" is narrow.	Not accepted

	building or place duly registered healthcare professional, whether for profit or not, that is operated or designed to provide in-patient or out-patient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventive or other health service.	within the definition of "health care provider" **(Dr Peter Kimuu)**	A health care provider is an individual health professional or a health facility organization licensed to provide health care diagnosis and treatment services, including medication, surgery and medical devices. These services should not necessarily be available within one setting. For example, a dispensary or medical clinic may refer a patient or sample to s stand-alone medical laboratory, X-Ray center etc. for diagnostic services. Also, a hospital or medical clinic may issues prescription for the patient to access prescribed medicines from a stand-alone pharmacy or chemist. One of the major challenges that Kenyans visiting public hospital face is being sent to pay for diagnostic tests, or even buying prescribed medicines outside. For insured / NHIF contributors, insurance has proved useless.	
New proposal	New proposal	Define "collector" to mean Commissioner General of Kenya Revenue Authority. The collector of the funds shall remit the funds by 15th of every month. **(KRA)**	This will provide efficiency, lower the cost of collection and ensure increased compliance by contributors.	Not accepted

8 **Establishment of the Fund**	Section 3 of the Principal Act is amended— (a) In subsection (1), by deleting the word "Hospital" and substituting therefor the word "Health"; (b) In subsection (2), by deleting paragraph (a) and substituting therefor the following new paragraph— (1) "Into the Fund— (i) Contributions under section 15; (ii) such monies as may be appropriated by the National Assembly, for indigent and vulnerable persons; (iii) gifts, grants or donations; (iv) funds from the national government, county governments and their respective entities, or employers for the administration of employee benefits; and (v) funds from post retirement funds for provision of medical cover to retired employees, where the contributor has elected to do so."	***Amend to read as follows:*** Section 3 of the Principal Act is amended— (a) by deleting subsection (1) and substituting therefor the following new subsection (1)— (1) There shall be established a Fund, to be known as the National Health Insurance Fund which shall vest in and be operated and managed by the following Boards— (i) The National Health Insurance Fund Board of Accreditation and Empanelment. (ii) The National Health Insurance Fund Board of Revenue Collection; and (iii) The National Health Insurance Fund Board of Claims and Payment. (b)In subsection (2), by deleting paragraph (a) and substituting therefor the following new paragraph— (a) Into the Fund— (i) Contributions under section 15;	As already noted, the Expert Panel found that a major problem with the current National Hospital Insurance Fund is that the NHIF Board combines the functions of accreditation and empanelment of health facilities as providers of services; determination of the benefits package; setting the premium rates for contributors; collection of revenue from the contributors; setting the reimbursement rates to be paid to service provides; and making of payment of claims. This combination creates a conflict of interest; and the Expert Panel in its Report recommended the separation of roles and establishment of more independent structures to be assigned different roles and act as checks and balances on each other and enhances accountability. It is for this reason that the Amendments are proposing the establishment of several NHIF management and accountability structures, instead of just one NHIF Management Board. Moreover, the Ministry of Health in its proposal for establishment of a Social Health Insurance Fund also recognized that such	Not accepted The creation of additional oards would create nnecessary bureaucratic yers. However the public is ncerned as to governance and ability would be amended to rovide of submissions of port in section 37 and 38 of e Act to Parliament. Further AG to make nancial and non-financial erformance of the Fund.

		(ii) such monies as may be appropriated by the National Assembly, for indigent and vulnerable persons; (iii) gifts, grants or donations; (iv) funds from the national government, county governments and their respective entities, or employers for the administration of employee benefits; and (v) funds from post retirement funds for provision of medical cover to retired employees, where the contributor has elected to do so.' **(COG)**	fund would need to be managed by several structures such as the Social Health Insurance Board of Management; Stakeholders Advisory Committee; Health Benefits and Tariffs Advisory Committee; Accreditation Body; Independent Medical Claims Review and Management Organization; and a Health Insurance Regulator.	
		Amend section 3 (iv) of the Principal Act by inserting the word '*medica*l' after the word 'employee' and immediately before the word 'benefits'.**(KFBHSC)**	For medical benefits agreed with the sponsor.	Accepted
		We propose to add the words – as a "Semi-Autonomous State Agency" so that the section reads; Establishment of the Fund (1) There shall be established a Fund, to be known	No justification given.	Not accepted Report on pension funds morrow How do we make retirees ay into the Fund

		as the National Health Insurance Fund operating as a Semi-Autonomous State Agency, and which shall vest in, and operated and managed by the Board. **(National Coalition on UHC)**		
		Delete "where the contributor has elected to do so" from the clause in the amendment to Section 3(a) (v) of the principal Act. **(Dr Peter Kimuu)**	Note that the spirit of this Bill is to have a make health insurance mandatory. However the amendment Clause is making it voluntary for retired employees.	Report on pension funds tomorrow How do we make retirees ay into the Fund
				Sen. Olekina's matter on compulsory
9 Establishment of the Board	Section 4 of the Principal Act is amended by deleting subsection (1) and substituting therefor the following new subsections— '(1) **The Management of the Fund shall vest in a Board which shall consist of—** (a) A Chairperson appointed by the President by virtue of his or her knowledge and experience in matters relating to insurance, financial management, economics, health or business administration;	***Amend to read as follows:*** Section 4 of the Principal Act is amended by deleting the marginal note and substituting therefor the following new title— "Establishment of the Accreditation and Empanelment, Revenue Collection, and Claims Payment Boards" Section 4 of the Principal Act is amended by deleting subsection (1) and substituting therefor the following new subsections (1), (1A) and (1B)— '(1) There is established a National	This proposed Amendment is justified on grounds that this part of the legislation seeks to establish three different entities as Boards of the National Health Insurance Fund. This provisions which constitutes the Kenya Health Professions Oversight Authority (KHPOA) into the NHIF Board of Accreditation and empanelment is in line with the recommendation of the	

	(b) The Principal Secretary in the Ministry for the time being responsible for matters relating to health or a representative appointed in writing; (c) The Principal Secretary in the Ministry for the time being responsible for matters relating to finance or a representative appointed in writing; (d) One person nominated by the Kenya Health Professions Oversight Authority; (e) One person nominated by the Federation of Employers; (f) One person nominated by the Central Organization of Trade Unions; (g) One person, not being a Governor, nominated by the Council of Governors; (h) Two persons, not being public officers appointed	Health Insurance Fund Board of Accreditation and Empanelment which shall consist of the Kenya Health Professions Oversight Authority established by sections 45 and 46 of the Health Act (1A)(1) There is established a National Health Insurance Fund Board of Revenue Collection which shall consist of— (a) A Chairperson appointed by the President in consultation with the Council of Governor, by virtue of his or her knowledge and experience in matters relating to financial management, revenue administration and collection, insurance, economics, health or business administration; (b) Two persons, not being public officers appointed by the Cabinet Secretary; (c) Two persons, not being Governors, nominated by the Council of Governors;	MOH in its proposal for establishment of a Social Health Insurance that the accreditation function should be assigned to KHPOA. Under the proposed Amendment, KHPOA with be an Oversight Authority for purposes of the health Act but an accreditation and empanelment Board for purposes of the National Health Insurance Fund. The proposed Amendments on the membership of the NHIF Revenue Collection Board and the NHIF Claims and Payment Board, are justified on two grounds. First, with devolution, county governments are key players in the delivery of health services and must therefore through the Council of Governors be give adequate representation in these boards. Secondly, with the making of health insurance compulsory, the contributors from the informal sector that are non- salaried and are not represented by the Federation of Employers as well as the Central Organization of Trade Unions will certainly be more members and need to	

		by the Cabinet Secretary; and (i) The Chief Executive Officer, who shall be an ex-officio member of the Board.	(d) One person nominated by the Federation of Employers; (e) One person nominated by the organized labour; (f) One person nominated by non-state health providers; and (g) The Chief Executive Officer, who shall be an ex-officio member of the Board. (1A)(2) The persons nominated or appointed under paragraphs (b) to (f) shall have knowledge and experience in matters relating to finance, revenue administration and collection, insurance, information, communication and technology, law, public health, business management, audit, economics or any other relevant field. (1A)(3) The nominating and appointing bodies under paragraphs (b) to (f) shall afford equal opportunity to men and women, youth, persons with disability and minorities and marginalized groups and ensure regional balance. (1A)(4) The Cabinet Secretary responsible for matters relating to health	be organized and given adequate representation in the NHIF boards.	

		shall publish the names of the persons nominated under paragraphs (b) to (f) in the Gazette. (1B)(1) There is established a National Health Insurance Fund Board of Claims and Payments which shall consist of— (a) A Chairperson appointed by the President in consultation with the Council of Governors, by virtue of his or her knowledge and experience in matters relating to insurance, financial management, economics, health or business administration; (b) The Principal Secretary in the Ministry for the time being responsible for matters relating to health or a representative appointed in writing; (c) The Principal Secretary in the Ministry for the time being responsible for matters relating to finance or a representative appointed in writing;		

		(d) Two persons, not being Governors, nominated by the Council of Governors; (e) One person nominated by the Kenya Health Professions Oversight Authority; (f) One person nominated by the Federation of Employers; (g) One person nominated by the Central Organization of Trade Unions; (h) Two persons, not being public officers appointed by the Cabinet Secretary to represent the informal sector and non-salaried contributors; (i) Two persons nominated by the Council of Governors to represent the informal sector and non-salaried contributors; and (j) The Chief Executive Officer, who shall be an ex-officio member of the Board. (1B)(2) The persons nominated or appointed under paragraphs (d) to (i) shall have knowledge and experience in matters relating to		

		finance, insurance, information, communication and technology, law, public health, business management, audit, economics or any other relevant field. (1B)(3) The nominating and appointing bodies shall afford equal opportunity to men and women, youth, persons with disability and minorities and marginalized groups and ensure regional balance. (1B)(4) The Cabinet Secretary responsible for matters relating to health shall publish the names of the persons nominated under paragraphs (d) to (i) in the Gazette. **(COG)**		

			Stakeholder analysis be undertaken and that the two-thirds gender rule is implemented in the NHIF Board.(**National Treasury**)	The NHIF Board must be revisited, with a view to enhancing its skills, diversity and effectiveness. For example, it is necessary to incorporate representation of key stakeholders such as community interest groups, Council of Governors, Kenya Pharmacy and Poisons Board, Kenya Pharmaceutical Association among others.	Remove the KHPOA and ld CoG nominees to two ersons. Also require CS ominee to have knowledge in surance, etc under 1A
			The Director General for Health should be represented in the Board to provide technical guidance. (**KMA**)	The DG for Health is the technical advisor to the Government on all matters relating to health within the health sector.	Not accepted
		(d) One person nominated by the Kenya Health Professions Oversight Authority	Replace Kenya Health Professions Oversight Authority with Kenya Medical Association. (**KMA**)	KMa is currently representing health service providers in the NHIF Act,1998 and it should be retained to ensure inclusion of key service providers in the Board. KHPOA cannot fit this role as: a) it is a government agency under the Ministry of Health that is yet to be operationalized through an Act of parliament, b) its mandate is to provide oversight over regulatory bodies and not represent service providers,	Not accepted

			c) and it will be procedural to have board members from other SAGAs as part of another board-for avoidance of creation of super-boards and potential conflict of interest.	
	(h) Two persons, not being public officers appointed by the Cabinet Secretary;	Include one person from faith based hospitals as persons appointed or nominated by the Cabinet Secretary. . **(Railway workers Union (K))**	They have a stake and should be nominated or appointed by the Cabinet Secretary on consultation with stakeholders.	Not accepted
		Service providers to be included in the Board**(KMPDU)**	No justification given	
		Duly registered healthcare societies and unions to nominate 2 representatives of Healthcare Service Providers.**(KUCO)**	While NHIF ensures health services are provided to Kenya, the providers are not represented on the Board.	
		One person nominated by the Kenya Association of Private Hospitals**(KAPH)**	They represent a majority of the private healthcare facilities.	
		Include one representative of the Faith Based Organization.**(KFBHSC)**	No justification given.	
		Insert the following new section immediately after (i); (j) Two persons nominated by registered professional associations in the health sector. **(COC,KNUPT, KCOA & KUCO)**	The fund is a health insurance whose sole aim is to facilitate access of quality health services to citizens. Healthcare workers who are the health services providers whom the fund will rely on have been left out of the board.	

			Retention of the Ministry responsible for public service as a member of the Board.(**PSC**)	The Ministry responsible for public service is required to negotiate on the terms and conditions of the comprehensive cover for public officers and provide advisory on related matters including negotiation on behalf of government on premiums payable. The role of the public service Unions as employee representatives has also not been taken into account.	
			Amendment to include a new subsection 4 (4) with respect to the Gender Rule: "(3) Board representation shall include a minimum of 30% of either gender. **(National Coalition on UHC)**	With respect to the Constitution of Kenya 2010, Article 27 (8) In addition to the measures contemplated in clause (6), the State shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender.	
			Reconstitute the Board and make it more inclusive. **Amend to read:** 4. (1) There is established a Board, known as the National Hospital Insurance Fund Board of Management, which shall comprise:	The State Corporations Act 2012 allows for a maximum of 16 members to Boards of State Corporations. We propose a restructuring of the board such that it reflects the evolved nature of NHIF from primarily a civil servant's and other employees' insurance in 1998 to a	

		a. A Chairman, appointed by the President, by virtue of his knowledge and experience in matters relating to insurance, financial management, economics, health, or business administration b. the Principal Secretary in the Ministry for the time being responsible for matters relating to Health or his representative. c. the Principal Secretary to the Treasury or his representative. d. a representative from the County Government, appointed by the Council of Governors e. the Attorney-General or his representative. f. the Director of Medical Services or his or her representative g. one person nominated by the Federation of Kenya Employers h. one person nominated by the Central Organization of Trade Unions. h. one person nominated by the Kenya National Union of Teachers and the Kenya Union of Post Primary Education	public insurance in 2021; and to include a county representative in line with the Constitution of Kenya 2010 provisions, since 90% of UHC will be delivered at county level, while more than 60% of contributions will emanate from communities and private citizens. Activities of its Finance and Budget committee should additionally be overseen by the Public Finance Committee/ Parliamentary budget committee on a quarterly basis while quarterly financial records are published. In addition, the NHIF is regulated by MOH which is both a purchaser of health services, a regulator, fixes the benefits package and pays. There is inherent conflict of interest in these roles. Instead of going the radical way and proposing that NHIF be placed under The National Treasury to separate the roles, which may occasion delays, we propose to strengthen the committees to independently perform their roles and report to the board for validation.	

			Teachers in such manner as may be prescribed. i. one person nominated by the Kenya Medical Association. j.one person nominated by faith-based healthcare organizations in such a manner as may be prescribed. k. not more than five other members not being employees of the state corporation, and not emanating from the public sector, who shall be non-state representatives, nominated by the sectors from private sector, including Kenya Private Sector Alliance, civil society representatives, people living with disease, vulnerable populations, informal sector worker-representatives, and Representatives of non-government organizations. **(National Coalition on UHC)**		
			Amendment to include minimum qualifications for board members: 4(2) Members of the Board appointed or nominated under Section 4(1) above shall have successful experience of 10 years or more at management level	The shift from voluntary to mandatory enrollment and obligatory payments by government, need for resource mobilization, need for strategic purchasing, value for money and defragmentation into a single pool,	Provide for five years xperience

		within the national and or international private and public sectors in: finance, resource mobilization, macroeconomic management, health systems management; accounting; medicine; information systems, law, business management, actuarial sciences; insurance management, community systems or other relevant qualifications. 2. (i) Every appointment under subsection (1) (a) to (f) shall be by name and by notice in the Gazette and shall be for a renewable period of 3years, but shall cease if the appointee: **(National Coalition on UHC)**	quality improvement to attract enrollment and use, timing for expansion of the benefits package especially in readiness for transition by 2030 and ensuring that no one is left behind and effective community engagement are complex issues which require a knowledgeable and experienced board that can guide NHIF successfully.	
	(h) Two persons, not being public officers appointed by the Cabinet Secretary;	A Representative of a Non-communicable Disease Civil Society Organization should be included as one of the non-public officers appointed by the Cabinet Secretary. **(NCDAK)**	Stating explicitly that the NHIF is established by law as a semi-autonomous state agency, among other clarifications, places it under the purview of the Code of Governance for State Corporations (Mwongozo), and hence offers a legal basis to address some of the governance issues.	
	New Proposal	Provide for stakeholder engagement in the Board's decision making. **(FKE)**	Public participation in decision making is a Constitutional Right. The Bill does not take into account stakeholder engagement	Accepted

				in decision making. The Board has been given wide unfettered discretion to make decision without consulting the contributors or ends users of the services.	
10 Objects and function of the Board	Section 5(1) of the Principal Act is amended— (a) In paragraph (b) by deleting the words 'declared Hospitals' and substituting therefor the words 'empaneled health care providers'; (b) by deleting paragraph (c) and substituting therefor the following new paragraph— (c) in consultation with the Cabinet Secretary, to set the criteria for the empanelment and contracting of health care providers for the purposes of this Act'; (c)by deleting paragraph (g) and substituting therefor the following new paragraph— (g)to facilitate attainment of Universal Health Coverage with respect to health insurance; (ga) to administer	Section 5 of the Principal Act is amended by deleting the title of the section and substituting therefor the following new title— **"Objects and Functions of the NHIF Boards"** ***Amend to read as follows:*** Section 5 of the Principal Act is amended by deleting the entire section and substituting therefor the following new section 5(1), 5(2) and 5(3)— '5(1) The objects and functions of the National Health Insurance Fund Board of Accreditation and Empanelment shall— (a)in respect of accreditation and empanelment of health care providers be to— i. determine the accreditation and empanelment criteria based on	The proposed Amendments and allocation of the functions to the three NHIF Boards is consistent with the Expert Panel's Report which recommended separation of roles and their allocation to different independent bodies to act as checks and balances. The allocation of functions has also partly drawn from MOH's suggested allocation of functions when the Ministry was proposing the establishment of a Social Health Insurance.	

	employee benefits as provided under this	the optimal and achievable standards of quality health care the health care providers must meet; ii. advance high quality of patient care and safety through objective application of recognized standards; iii. promote a single shared view of quality through working with stakeholders in defining and institutionalizing a consistent approach to quality of care; iv. set and continuously review health care providers and facilities conformity assessment tools; v. regularly assess health care providers and facilities for accreditation and assign them their appropriate level of health care delivery as per the Kenya Essential Package for Health, norms and standards; vi. continuously monitor		

			the quality of the provision of health services to ensure compliance with evidence-based practices and accreditation standards and guidelines; vii. collaborate with the Ministry of Health and the county governments through the Council of Governors in grading of health facilities and award systems to incentivize the facilities in promotion of quality health care; viii. Designate centres of excellence for specialized services to promote quality of care; ix. publish accreditation reports, summaries and performance ratings on their website to assist the public to choose health care services; (b) in respect of benefits and tariffs be to— i. to regulate the		

		contributions payable to the Fund and the benefits and other payments to be made out of the Fund; ii. enhance financial stability and affordability of health services including containment of costs for health services; iii. Carry out an evidence-based benefits package development process that includes conducting and disseminating Health Technology Assessment results; iv. determine a unified benefits package of health services covered by the insurance that should progressively be attained for all Kenyans; v. determine the premiums payable by contributors of different categories; vi. determine uniform		

		tariffs for all the items included in the health benefits package that are reimbursable to all the health facilities whether public or private, under the NHIF contract, and that are standardized for same services anywhere; vii. conduct costing of health services to determine the cost of delivering health services and seek to close the gap between the established Kenyan Essential Health services Package and the NHIF benefits package; viii. facilitate the improvement of quality of healthcare services under the universal health coverage through devising service provider's incentives and or disincentives to avoid over-or-under provision of necessary services; ix. ensure that funds are being spent on services that		

		create the maximum benefit for the population; x. empower the population especially the poor and marginalized groups, by making them aware of their specific entitlements. 5(2) The objects and functions of the National Health Insurance Fund Board of Revenue Collection shall be— (a) to establish efficient systems for collection of Funds due to NHIF including outsourcing of independent contracts to collect the funds on behalf of the NHIF Board of Revenue collection; (b) to ensure equitable distribution of the established collection systems across the country; (c) to receive from the National Health Insurance Board of Claims and Payments and maintain the register of all citizens registered NHIF coverage; (d) to receive all contributions and other payments required by this Act to be		

			made to the Fund; (e) to use the list of citizens registered for NHIF coverage to collect and enforce payment of premiums from all those registered; (f) To remit the funds collected to the National Health Insurance Fund Board of Claims and Payments as the custodian of the Funds; (g) to protect the interests of contributors to the Funds; (h) to protect the collected funds while still in the custody of the Board of Revenue Collection; (i) to maintain proper books of account of all funds collected and to account for the same to the Board of Claims and Payments and to the citizens through Parliament and County Assemblies; (j) to prepare and submit annual records of all collected funds to the two houses of Parliament and all county assemblies. 5(3) The objects and functions of the National Health Insurance Fund Board of Claims and Payments shall		

		be— (a) to register all citizens against specific facility catchment areas for coverage under the NHIF; (b) to submit a copy of the entire register of the registered citizens to the NHIF Board of Revenue Collection for purposes of collection of the premiums due; (c) to submit to every public health facility, copies of the register of all persons registered under that facility for purposes of payment of capitation; (c) to continuously update the register of registered citizens and update the NHIF Board of Revenue Collection to enforce payment by contributors or any other entities that pay on behalf of the contributors; (d) to contract health care providers for purposes of the objects of NHIF upon successful accreditation by the Accreditation and Empanelment Board: (e) to pay annual capitation to all public health facilities based on the number		

			of persons registered under the facility; (f) to receive, consider, verify and approve disbursements to health care providers making claims under the NHIF; (g) to make payments out of the Fund to accredited and empaneled health providers in accordance with the provisions of this Act; (h) to ensure equitable distribution of resources to the health care provider; (i)to consider and approve funding for preventive and promotive health services; (j)to prepare an annual report on the operations and performance Fund and submit to the both Houses of Parliament and all County Assemblies. **(COG)**		
	10	**New proposal**	Consider and provide for a monitoring and evaluation framework for the Board and also providing for reporting to Parliament or to the President on quarterly basis given the public	The Board needs to be held to a higher level of accountability.	

		resources under the management of NHIF. **(PSC)** Consider splitting the Board to have the public service sector and the social scheme. **(PSC)**		
10	a) by deleting paragraph (c) and substituting therefor the following new paragraph— (b) in consultation with the Cabinet Secretary, to set the criteria for the empanelment and contracting of health care providers for the purposes of this Act';	To be amended to explicitly spell out the **statutory health regulatory bodies.** "c" in consultation with the Cabinet Secretary and relevant ***statutory health regulatory bodies***, to set the criteria for the empanelment and contracting of health care providers for the purposes of this Act'. **(KHPOA)**	This is to capture standards set by respective statutory health regulatory bodies. This also promotes inclusivity of all statutory professional bodies.	Accepted
10		Introduce Section 5(g) to Section 5: Objects and Functions of the Board "5(g) To facilitate transformation of the National Health Insurance Scheme into a single, defragmented public health insurance pool, with uniform benefits package for all." **(National Coalition on UHC)**	Currently the different classes of insured persons, packages and types of cover means that the NHIF is discriminatory, running more than 90 different pools, negating its role as a sustainable public health insurance and financing mechanism. The costs paid for someone in Isiolo County at the same level health facility for a particular illness may not be like those paid in Makueni constituency, or for an employee in Job Group S.	Not accepted Make room in the *ex gratia* nount Establish in each county a und into which shall be paid l monies from the NHIF and oney Consult Gitonga on this rovision on reimbursement

				Global best practice requires a gradual shift towards a single pooled health financing mechanism. This will ensure that members' contributions to the scheme are standardized and maximized, ensure that all persons are eligible to receive the highest quality health care services are considered for health services, without discrimination of any kind, regardless of class, position, skin colour, county, employment status, county of residence, ethnic group and or any other bias.	
	10		Amendment to include a new clauses to subsection 5(1) on roles/functions of the board— (e) to oversee the functions of NHIF committees; CEO and it's the entire staff, make recommendations and act on any issue as the constitution and state corporations Act? SAGAs Law? will allow them to. (g) to oversee the functions of NHIF committees, the CEO, and	Public and Internal Oversight of NHIF activities on a continuous basis is yet suboptimal. According to the National State Corporations Act 2012, Oversight is typically the role of the board in collaboration with other external public financial oversight mechanisms.	Not accepted

		the staff and employees of the Board. (h) to perform such other functions as are conferred on it by this Act or by any other written law. **(National Coalition on UHC)**		
10		Introduce section 5(2) to provide; "5 (2) The Board shall ensure that appropriate, adequate, and comprehensive information is disseminated on the functions for which they are responsible being cognizant of the provisions of Article 35(1)(b) of the Constitution, and in particular, the Board. a) Shall compile and publish reports on the operations of the Fund, every three months, which reports shall be made publicly accessible b) Shall put in place modalities for dissemination and access to information concerning the workings and operations of the National Health Insurance Fund by the public. **(National Coalition on UHC)**	Article 43 (1) (a) of the Constitution of Kenya 2010 provides that every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care. Article 43 (2) of the Constitution of Kenya 2010 provides that a person shall not be denied emergency medical treatment. The United Nations charter on the right to health must be enjoyed without discrimination on any grounds and states must redress any discriminatory law, practice, or policy. The 1948 Universal Declaration of Human Rights mentions health as part of the right to an adequate standard of living (art. 25). The 1966 International Covenant on Economic, Social and Cultural Rights recognizes	

				health as a human right. The United Nations has recognized Kenya's President (2019) as a champion for Universal Health Coverage and H.E The President has since 2018 allocated about Ksh. 50 billion annually to cater for UHC for the indigent, mostly through NHIF. However, a rapid survey of the indigent, including the extremely poor, street children, some orphans, the elderly, people living with chronic diseases and those living with disabilities shows that less than 50% have NHIF cover and where covered, receive substandard benefits that discourage even the average willing-to-pay citizen from voluntary enrollment.	
	11 **Powers of the Board**	Section 6 of the Principal Act is amended in paragraph (a) by deleting the word "Minister" appearing in the proviso and substituting therefor the words 'Cabinet Secretary'.	***Amend to read as follows:*** Section 6 of the Principal Act is amended by deleting the title of the section and substituting therefor the following new title— "**Powers of the NHIF Boards"** Section 6 of the Principal Act is amended by deleting the entire section and substituting therefor the following new section 6(1), 6(2) and 6(3)—	The proposed Amendments are necessary as part of ensuring separation of roles, functions and powers among the three NHIF Boards as recommended by the Expert Panel and the MOH.	

		"6(1) The National Health Insurance Fund Board of Accreditation and Empanelment shall have all the powers necessary for the performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Board of Accreditation and Empanelment shall have power to— (a) enter and inspect the premises of any health care provider for purposes of accreditation, review of accreditation or review of the quality of services being rendered; (b) issue Accreditation and Empanelment Certificates to qualified health care providers; (c) Cancel the Accreditation and Empanelment Certificate of any health care provider that ceases		

		to meet the accreditation and empanelment criteria; (d) determine and enforce sanctions against accredited health care providers that do not comply with the prescribed quality standards and any other requirements of the Act. 6(2) The National Health Insurance Fund Board of Revenue Collection shall have all the powers necessary for the performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Board of Revenue Collection shall have power to— (a) pending remittance of the funds collected to the NHIF Board of Claims and Payment, manage, control, administer and account for funds in such			

		manner as is prescribed by the Act; 6(3) The National Health Insurance Fund Board of Claims and Payments shall have all the powers necessary for the performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Board of Claims and Payments shall have power to— (a) manage, control, supervise and administer the assets of the Fund in such manner and for such purpose as best promotes the objects for which the Fund is established: Provided that the Board shall not charge or dispose of any immovable property of the Fund without the prior joint approval of the Cabinet Secretary and the Council		

		of Governors; (b) receive any gifts, grants, donations or endowments made to the Fund or any other monies in respect of the Fund and make disbursements therefrom in accordance with the provisions of this Act; (c) subject to the regulatory framework established by the Insurance Regulatory Authority for all insurance companies, determine the provisions to be made for capital and recurrent expenditure and for reserves of the Board: Provided that the administration costs of NHIF Fund including those of all the Boards shall not be more than 5% of the total cross collections of the premiums;		

		(d) open a banking account or banking accounts for the Fund; and subject to the regulatory framework established by the Insurance Regulatory Authority for all insurance companies prudently invest any monies of the Fund not immediately required for the purposes of this Act in the manner provided in section 34.**(COG)**		
12	Section 6 of the Principal Act is amended by inserting the following new paragraph immediately after paragraph (a)— "(aa) to determine the contributions to made by contributors to the Fund."	Delete the proposed Amendment as it is not necessary. **(COG)**	No justification given.	Not accepted
		The contributors' fund rates should be approved by the Cabinet Secretary through a gazette notice. **(KRA)**	Unregulated/unstructured determination of contribution by the Board will not guarantee consistency in the standards.	Not accepted
New proposal	Section 7 of the principal Act Conduct of business and affairs of the Board	***Repeal and replacement of Section 8 of the principal Act.*** The Principal Act is amended in section 7 by deleting the title of the section and	The amendments are necessary to provide for procedural matters of each Board.	

		substituting therefor the following new title— **'Conduct of business and affairs of each of the Boards'.** The Principal Act is amended in section 7 by deleting the entire section and substituting therefor the following new section— "7. The conduct and regulation of the business and affairs of each Board shall be as provided in the Second Schedule, but subject thereto, each Board may regulate its own procedure." **(COG)**		
New Proposal	Section 8 of the principal Act Delegation by the Board	***Repeal and replacement of Section 8 of the principal Act.*** The Principal Act is amended in section 8 by deleting the title of the section and substituting therefor the following new title— **'Delegation by the Boards'** The Principal Act is amended in section 8 by deleting the entire section and substituting therefor the following new section—	The proposed amendment is necessary to empower each Board to delegate some of its functions.	

		"Each of the three NHIF Boards may, by resolution either generally or in any particular case, delegate to any committee of the Board or to any member, officer, employee or agent of the Board the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act." **(COG)**		
13 Remuneration of members of the Board	The Principal Act is amended by deleting section 9 and substituting therefor the following new section— Remuneration of members of the Board 9. The Chairman and members of the Board, other than the Chief Executive Officer, shall be paid out of the moneys of the Fund such sitting allowances or other remuneration as the Board may, in consultation with the Salaries and Remuneration Commission, determine.	***Amend to read as follows:*** The Principal Act is amended by deleting section 9 and substituting therefor the following new section— **Remuneration of members of the Boards** "9. The Chairpersons and members of the Boards, other than the Chief Executive Officers, shall be paid out of the moneys of the Fund such sitting allowances or other remuneration as the Boards may, in consultation with the Salaries and Remuneration Commission, determine." **(COG)**	The proposed Amendments are necessary to provide for remuneration for members of all the Boards established under the proposed amendments.	

		Delete the words "other remuneration" from the amendment clause. **(Pwani GBV Network, CWID, JUHUDI and MCHANE)**	We are concerned on the meaning of "other remunerations" it gives room for distortion of the article phrase because it doesn't specify the meaning of other. The word "other remuneration" can lead to distortion and even lead to paying members per every word they pronounce in a sitting.	
14 Chief Executive Officer	The Principal Act is amended by deleting section 10 and substituting therefor the following new section— Chief Executive Officer 10(1) There shall be a Chief Executive Officer of the Fund who shall be appointed by the Board, through a competitive process, on such terms and conditions as the Board may, with the advice of the Salaries and Remuneration Commission, determine. (2) A person is qualified for appointment as a chief executive officer if the person— (a) has a Bachelor's degree from a university recognized in Kenya;	***Amend to read as follows:*** The Principal Act is amended by deleting section 10 and substituting therefor the following new section— **Chief Executive Officers** 10(1) There shall be a Chief Executive Officer for each of the NHIF Boards who shall be appointed by the respective Board, through a competitive process, on such terms and conditions as the respective Board may, with the advice of the Salaries and Remuneration Commission, determine. 2)A person is qualified for appointment as a chief executive officer of any of the Boards if the person— (a) has a Bachelor's degree from a university recognized in Kenya;	The proposed amendments are necessary to provide for a chief executive officer for each of the three NHIF Boards.	Masters degree for CEO. mend

	(b) has at least ten years' experience at a senior management level with skills in health insurance, health financing, financial management, health economics, healthcare, administration, law or business administration; and (c) meets the requirements of Chapter Six of the Constitution. 3) The chief executive officer shall, subject to the directions of the Board, be responsible for the day to day management of the affairs and staff of the Board. 4) The chief executive officer shall serve for a term of three years and shall be eligible for reappointment for a further and final term of three years. The chief executive officer shall be an ex officio member of the Board.	(b) has at least ten years' experience at a senior management level with skills in health insurance, health financing, financial management, health economics, healthcare, administration, law or business administration; and (c) meets the requirements of Chapter Six of the Constitution. (3) A chief executive officer of any of the Boards shall, subject to the directions of the respective Board, be responsible for the day-to-day management of the affairs and staff of the Board. (4) A chief executive officer of any of the Boards shall serve for a term of three years and shall be eligible for reappointment for a further and final term of three years. (5)A chief executive officer shall be an ex-officio member of the respective Board.		
15 Cooperation Secretary	Corporation Secretary 10A. (1) The Board shall competitively recruit a person	***Amend to read as follows:*** Corporation Secretary 10A. (1) Each NHIF Board shall	The proposed amendments are necessary to provide for a corporation Secretary for each of the three NHIF Boards.	Introduce qualifications of e corporate secretary in terms f CPS admission, 10 years'

	qualified in terms of the law governing the practice of certified secretaries in Kenya, to serve as the Corporation Secretary of the Board. (2) The Corporation Secretary shall be the Secretary to the Board and shall— (a) in consultation with the Chairperson of the Board, issue notices of the meetings of the Board; (b) keep in custody, the records of the deliberations, decisions and resolutions of the Board; (c) transmit decisions and resolution of the Board to the Chief Executive Officer for execution, implementation and other relevant action; (d) provide guidance to the Board on their duties and responsibilities on matters relating to governance; and (e) perform such other duties as the Board may direct.	competitively recruit a person qualified in terms of the law governing the practice of certified secretaries in Kenya, to serve as the Corporation Secretary of the respective Board. (2) The Corporation Secretary shall be the Secretary to the respective Board and shall— (a) in consultation with the Chairperson of the respective Board, issue notices of the meetings of the respective Board; (b) keep in custody, the records of the deliberations, decisions and resolutions of the respective Board; (c) transmit decisions and resolution of the respective Board to the Chief Executive Officer for execution, implementation and other relevant action; (d) provide guidance to the respective Board on their duties and responsibilities on matters relating to governance; and (e) perform such other duties as		kperience in the relevant odies

		the respective Board may direct. **(COG)**		
		Provide for term limits of the Corporation Secretary**(KMPDU)**	No justification provided.	Not accepted
16 **Staff of the Board**	Section 11 of the Principal Act is amended by deleting the words "officers", inspectors and servants' and substituting therefor the word "staff".	***Amend to read as follows:*** Section 11 of the Principal Act is amended by deleting the title of the section and substituting therefor the following new title— **Staff of the Boards** Section 11 of the Principal Act is amended by deleting the entire section and substituting therefor the following new section— 11. Each of the three NHIF Boards may appoint such staff as are necessary for the proper discharge of its functions under this Act or any other written law, upon such terms and conditions of service as the respective Board may determine. **(COG)**	The proposed amendment is necessary to provide for staff of each board	
		Define the word "staff" in the definitions under section 2 and section 9 to bring an understanding of word staff. **(Pwani GBV Network, CWID, JUHUDI and MCHANE)**	The word "staff" if not well elaborated then it implies that rogue citizens will use the opportunity to distort NHIF funds by bringing in third parties who are not	Not accepted

			employees of the NHIF to acquire money from genuine citizens.	
17 **Common seal of the Board**	The Principal Act is amended by deleting section 12 and substituting therefor the following new section— 'Common seal of the Board 12(1) There shall be a common seal of the Board which shall be kept in the custody of the Corporation Secretary and shall not be used except on the direction of the Board. 2)The affixing of the common seal of the Board shall be authenticated by the signatures of the Chairperson and the Chief Executive Officer and any document required by the law to be made under seal and all decisions of the Board may be authenticated by the signatures of the Chairperson and the Chief Executive Officer. The Board shall in the absence of either the Chairperson or the Chief Executive Officer, in any particular matter, nominate one member to authenticate the seal of the Board on behalf of either the Chairperson or the Chief Executive Officer.	***Amend to read as follows:*** The Principal Act is amended by deleting section 12 and substituting therefor the following new section— 'Common seals of the Boards 12(1) There shall be a common seal for each of the three NHIF Boards which shall be kept in the custody of the Corporation Secretary of the respective Board and shall not be used except on the direction of the respective Board. (2) The affixing of the common seal each Board shall be authenticated by the signatures of the Chairperson and the Chief Executive Officer of the respective Board and any document required by the law to be made under seal and all decisions of the respective Board may be authenticated by the signatures of the Chairperson and the Chief Executive Officer of the respective Board. (3) Each Board shall in the absence of either the Chairperson or the Chief Executive Officer, in any particular	As our proposal introduces three boards, there is need for the provision on the seals of the board to be aligned to the introduction.	Not accepted

		matter, nominate one member to authenticate the seal of the Board on behalf of either the Chairperson or the Chief Executive Officer. **(COG)**		
New Proposal	Bill to include clause 17A	***Repeal and replacement of section 13:*** The Principal Act is amended in section 13 by deleting the entire section and substituting therefor the following new section— "13. Subject to section 14, no matter or thing done by a member of each of the three NHIF Boards or any officer, employee or agent of that Board shall, if the matter or thing is done *bona fide* for executing the functions, powers or duties of that Board under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever." **(COG)**		Not accepted
	Bill to include amendment 17B	***Repeal and replacement of Section 14:*** The Principal Act is amended in section 14 by deleting the title of the section and substituting therefor the following new		Not accepted

		title— **'Liability of each Board for damages'** The Principal Act is amended in section 14 by deleting the entire section and substituting therefor the following new section— "14. The provisions of section 13 shall not relieve the any of the three NHIF Boards of the liability to pay compensation or damages to any person for any injury to him, his property or any of his interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, whether wholly or partially, of any works." **(COG)**		
18 Registration as a member of the Fund.	The Principal Act is amended by inserting the following new section immediately before section 15 under Part III— **Registration as a member of the Fund** 14A. (1) A person who has attained the age of eighteen years and is not a beneficiary shall register as a member of the Fund.	***Amend to read as follows:*** The Principal Act is amended by inserting the following new section immediately before section 15 under Part III— **Registration as a member of the Fund** "14A. (1) A person who has attained the age of eighteen	The proposed amendments are necessary to involve the Council of Governors in the making of the registration regulations since most of the public health facilities against which members will be registered are facilities of county governments. Moreover, all the three Boards established	Not accepted

	(2)The Cabinet Secretary may, in consultation with the Board, make regulations for the better carrying out of subsection (1).	years and is not a beneficiary shall register as a member of the Fund. (2) The Cabinet Secretary jointly with the Council of Governors may, in consultation with the three NHIF Boards, make regulations for the better carrying out of subsection (1)." **(COG)**	under this Act ought to be consulted when making such regulations.	
19 Contributions to the Fund	Section 15 of the Principal Act is amended— (c)in subsection (2), by— (i) deleting paragraph (b) and substituting therefor the following new paragraph— "(b) (i)… (ii) in case of a contributor who is not a sole beneficiary, a special contribution at such respective rates as may be determined by the Board." (ii)inserting the following new paragraph immediately after paragraph (b)— "(c) in the case of an unemployed person, such rate as may be determined by the Board". (d)in subsection (2) by inserting the	***Amend to read as follows:*** Section 15 of the Principal Act is amended— (c)in subsection (2), by— (ii) in case of a contributor who is not a sole beneficiary, a special contribution at such respective rates as may be determined by the NHIF Board of Accreditation and Empanelment. (ii)inserting the following new paragraph immediately after paragraph (b)— "(c)in the case of an unemployed person, such rate as may be determined by the NHIF Board of Accreditation and Empanelment" (d) in subsection (2) by inserting the following new paragraphs	The proposed amendments are necessary to identify the correct Board that has responsibility for determining the matters provided for. The deletion of the provision for enhanced benefits is necessary to avoid persons with enhanced benefits passing additional costs of managing their enhanced benefits to the rest of the contributors	Delete provision on nemployed persons as ontributors to the fund

	following new paragraphs immediately after paragraph (b)— (c) (d) (e) in the case of any other employer under subsection (1A) (c), such amount as will be required to top up the employee's contribution at such rate as may be determined under subsection (3): Provided that the amount contributed by an employer under this paragraph shall not exceed the highest rate of special contribution prescribed for any of the categories of contributors under subsection (2)(b); and (d) in the case of national government under subsection (1B), a special contribution as the Board, in consultation with the Cabinet Secretary, may	immediately after paragraph (b)— (c).... (d) .... (e) in the case of any other employer under subsection (1A) (c), such amount as will be required to top up the employee's contribution at such rate as may be determined under subsection (3): Provided that the amount contributed by an employer under this paragraph shall not exceed the highest rate of special contribution prescribed for any of the categories of contributors under subsection (2)(B); and (f) in the case of national government under subsection (1B), a special contribution as the NHIF Board of Accreditation and Empanelment, in consultation with the Cabinet Secretary, may determine.		

	determine. e) by deleting subsection (3) and inserting the following new subsection— '(3) a contribution under subsection (2)(a) and (b) shall be at such rate, depending on the person's income, as the Board in consultation with the Cabinet Secretary, may determine.' f) by inserting the following subsection immediately after subsection (3)— (3A) subject to such guidelines as the Board may, from time to time issue, a person who wishes to receive an enhanced benefit under subsection 22(3) may make additional voluntary contribution to the scheme'. (g)… (h)… (i)by inserting the following new subsection immediately after subsection (5)— '(6)The Cabinet Secretary may, in consultation with the Board, make regulations for	(e) by deleting subsection (3) and inserting the following new subsection— '(3) a contribution under subsection (2)(ʌ) and (b) shall be at such rate, depending on the person's income, as the NHIF Board of Accreditation consultation with the Cabinet Secretary, may determine.' (f)by deleting the inserted section (g)… (h)… (i)by inserting the following new subsection immediately after subsection (5)— '(6) The Cabinet Secretary may, in consultation with the three NHIF Boards, make regulations for the better carrying out of this section and Empanelment in consultation with the Cabinet Secretary, may determine.' (f)by deleting the inserted section (g)… (h)… (i)by inserting the following new subsection immediately after		

	the better carrying out of this section.	subsection (5)— '(6) The Cabinet Secretary may, in consultation with the three NHIF Boards, make regulations for the better carrying out of this section. **(COG)**		
		Amendment to Section 15 to provide for public participation. **(FKE)**	Clause 19(1A) (b)(c) of the Bill amends section 15 of the Principal Act. The proposed Bill seems to give wide discretionary powers to the Board to unilaterally decide the rates of contributions without public participation. This is contrary to the Constitution. In labour intensive sectors like agriculture and the hospitality industry, the proposed top-up on the standard rates by an employer will have a huge impact on labour cost. It is against the policy of the Government which is currently riding on the clarion call **'ease of doing business'**. It will negate all the efforts the Government has put in place to attract investors and create jobs for millions of Kenyan youth and women of this country who are vulnerable. On the same note, the special rate of top up has been left to the discretion of the Board. The wide	

			discretionary powers are likely to be abused and oppressive now that the contribution is mandatory.	
	New proposal	The NHIF Amendment Bill should provide a clause that allows for Social Cover to contributors and dependents to benefit from the scheme. We also recommend for the fund to provide for regular contributors to enjoy funds maturity by accessing the enhanced benefits or rather receive dividends from the funds as well. **(Pwani GBV Network, CWID, JUHUDI and MCHANE)**	Mandatory contributions will lead to an increase of poverty level since most citizens struggle to make ends meet and enforcing mandatory contributions to services that are not enhanced is a breach of the constitution 2010. Mandatory contribution while services are not enhanced as per what the constitution requires in the Article 43(1) (a) of the Constitution provides that every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care. Article 43 (2) also provides that a person shall not be denied emergency medical treatment will be leading to denial of citizens' rights.	Not accepted
	(1B) Subject to this Act the national government shall be liable as a contributor to the fund on behalf of the indigent and vulnerable persons	Specify the kind of vulnerability that is catered for by the inserted Section 15 (1B) of the Act. **(Pwani GBV Network, CWID, JUHUDI and**	The word "Vulnerable", is most likely to be misinterpreted since the various government bodies identify different categories and groupings to be vulnerable	Not accepted

	identified as such by the relevant government body.	**MCHANE)**	such as Marginalized, women, widows, orphans, TB Patients, HIV Patients and elderly.	
		Amend to as read as follows: Section 15 of the principal Act is amended— i)By deleting the proposed new section 1A and replacing therefor with the following provision; 1A) Subject to this Act, an employer whose employee is liable as a contributor to the Fund under subsection (1) may opt to be a contributor to the Fund. ii)By deleting the proposed new subsection 2(c) in its entirety.**(KHF)**	Cost of doing business; All employers will be saddled with the cost of matching their employees' contributions which will increase the cost of doing business. Effect on doing business; Due to the high cost of labour, employers who have supplemented their employees' medical insurance cover with private insurance companies may cease to do so or considerably reduce the benefits available to employees in a bid to mitigate the rise in labour related costs. Quality of services by NHIF; The proposed amendments in the bill do not assure employers of reliable services and transparency in the fund management. Impact on insurance business; This will lead to a heavy reduction in premiums, commissions paid to agents and generally increase the level of unemployment, as employers may prefer casual or contractual employment contracts over permanent employment.	Not accepted

			Loss of revenue to the government Increase in public wage bill**(KHF)**.	
	(i)by inserting the following new subsection immediately after subsection (5)— "(6) The Cabinet Secretary may, in consultation with the Board, make regulations for the better carrying out of this section."	The new subsection 6 needs to specify the tangible strategies for enforcing contributions from the informal sector players. **(KENCO)**	Specifying the strategies will help the Cabinet Secretary carry out better provisions in this section. This will ensure that the fund grows gradually and can benefit the insured.	Not accepted
		Substitute May with Shall to obligate the Cabinet Secretary to develop the regulations. **(KNHCR)**	The Clause makes provision for indigent and vulnerable persons to have their contributions paid for by the government. The regulations will go a long way towards operationalizing this provision and ensuring all persons have access to healthcare services in line with Article 27 and 43(1)(a) of the Constitution.	Accepted that consultation to e mandatory. Ues the word shall"
19(d)	(d) in subsection (2) by inserting the following new paragraphs immediately after paragraph (b)— "(c) in the case of an employer who is the national government or national government entity, a matching contribution, equal to	This will cause an additional administrative cost to employers who contribute to: (a) existing in-house medical cover; (b) group life insurance covers as	There is need to cushion employers by reducing rates of contributions where an employer has existing in-house medical cover, Group life Insurance covers as per WIBA and NSSF shared contribution against the burden of additional statutory	Not accepted

	that which their employee is liable to contribute under subsection 1(c)."	per WIBA; and (c) NSSF which is both provident fund and a pension scheme shared contribution. **(KRA)**	contributions which ultimately add to administrative cost.	
	(f) Introduction of voluntary contribution from members into the scheme who wish to have an enhanced cover	The Board to provide specific Benefits of enhanced Voluntary Contribution to the members, subject to approval of the Cabinet Secretary through a gazette notice. **(KRA)**	The decision by members to register for voluntary contribution will be informed by the benefits to be enjoyed.	Not accepted
19(e)	(e) by deleting subsection (3) and inserting the following new subsection— "(3) a contribution under subsection (2)(a) and (b) shall be at such rate, depending on the person's income, as the Board in consultation with the Cabinet Secretary, may determine."	Introduce the definition of "total income" in respect of salaried and self-employed persons in Section 2 of the Act. The definition to read: **"Total income"** in the case; (a) salaried/waged persons means wages, salary, fees, commission, bonus and any amount regularly received in respect of employment or services rendered but excludes leave pay, sick pay, payment in lieu of leave, gratuity, subsistence, travelling, entertainment or any other one-off allowances.	The definition of total income in case of a salaried and self-employed person is necessary for purposes of establishing the contribution days to avoid ambiguities with respect to the income days. This will also enhance equity and harmony.	Not accepted

		(b) Self-employed persons means income as determined for purposes of taxation under the Income Tax Act, Cap.470 and in case of a loss income subject to standard contribution as may be determined by the Board. **(KRA)**		
20. Amendment of section 16	Section 16 of the Principal Act is amended – f) in subsection (6) – i)by inserting the words 'or matching' immediately after the word 'standard' appearing in paragraph (a); ii)by deleting the words 'fifty thousand' and substituting therefore the words 'one million' in the closing statement.	Relook at the amendment**(KAPH)**	The increment is exorbitant, unreasonable and punitive.	
		It should be amended as follows; By deleting the proposed amendments to section 16 of the Act in its entirety. By deleting all and any reference to the word 'and matching contribution' wherever used.**(KHF)**	No justification provided.	
	ii)by deleting the words 'fifty thousand' and substituting therefore the words	***Amend to read as follows:*** ii) by deleting the words "fifty	The fine is punitive and beyond the reach of most SMEs. Although the fine may be	Accepted. The penalty roposed in the Bill should be

		'one million' in the closing statement.	thousand" and substituting therefor the words "to a fine of 20% of the monthly contributions" **(KRA)**	too insignificant for large corporations or businesses, there is need to note that NHIF contribution applies to businesses with capital or stocks less than the proposed or even existing penalty. Pegging the fine to a percentage of contribution would be equitable and fair, thereby distributing the fine in proportion to ability to pay and amount of contribution. The percentage basis benchmarks well with the basis of fines imposed under tax laws.	duced from 1 million shillings 500,000 Ksh NHIF shall notify the ember when their ntributions have been mitted or not

21	Section 18 of the principal Act is amended— b) by deleting subsection (1) and substituting therefor the following new subsection— "(1) If a standard or matching contribution which a person is liable to remit under section 16, has not been remitted by the day on which the payment is due, the person shall be liable to pay a penalty equal to the lending rate of interest, of the amount of the contribution, as may be published by the Central Bank of Kenya from time to time;…"	The Clause should not base the penalty on the CBK lending rates. **(FKE)**	Basing the penalty on the lending rates of CBK will amount to converting the social and human contract to a commercial contract. The lending rate based on CBK rates is a concept that applies in the banking sector but cannot be applied and expected to work in Employment and human relations/resource matters. We should avoid mixing the common commercial transaction concepts with employment and labour relations issues.	Not accepted However delete proviso xemption the national or unty government from enalty for late payment
	c)In subsection (2) by deleting paragraph (a) and substituting therefor the following new paragraph- "a)that employer shall be liable to pay the penalty prescribed in subsection (1) and pay the costs incurred by the employee when seeking treatment from a contracted health care provider	Insert the following phrase immediately after 'contribution is due' – "for the costs that would have been covered by NHIF."**(KFBHSC)**	No justification provided.	Contributor liable to what HIF would have covered Personal responsibility for te payment

	during the period when the contribution is due."	The amendment amounts to double jeopardy to the contributors.**(FKE)**	The amendment suggests that a contributor who has delayed making the contributions to the Fund will pay a penalty equal to the lending rates of CBK and at the same time meet the medical costs of the beneficiary. This is a severe double punishment and goes against the Constitutional rights of the Contributor. The penalties imposed by the proposed amendments are more inclined to punishing employers than ensuring voluntary compliance. They are geared towards closing businesses rather than making it easy for enterprises to conduct business. This is open to abuse during implementation as it is a fertile ground for possible extortion by the officers.	Not accepted
22. Amendment of section 19	Section 19 of the Principal Act is amended – a)by deleting the words 'five times' appearing immediately after the words 'penalty equal to' and substituting therefor the words 'fifty percent of'	The amendment is rejected without a proposal.**(KAPH)**	The increment is unjust and punitive and contravenes the values of the constitution of Kenya as provided for under article 10.	Not accepted
23	Section 20 of the Principal Act is amended by inserting the words 'by the youth' immediately after the	Section 20 of the Principal Act is amended by repealing the entire section. **(COG)**	This is justified by the fact the while the marginal note talks of repealing the section, the amendment for some	Unemployed persons to ake voluntary contributions

Voluntary Contributions	words 'voluntary contributions'		unexplained reasons does not repeal the section. Furthermore, having provided for compulsory contributions, it is not clear why we should again be providing for voluntary contributions by the youth.	
24 Mode of identification of beneficiaries and payment of contributions	The Principal Act is amended by deleting section 21 and substituting therefor the following new section— **Mode of identification of beneficiaries and payment of contributions** 21. (1) The Board shall prescribe the mode of identification of a beneficiary, taking into account the legal framework national registration. (2) The Board may require a person who is liable to remit a payment for a standard and matching contribution under section 16 to furnish such information or particulars or to produce such documents, as the Board deems necessary for that purpose. 3)A person who- (a) knowingly · makes any false statement relating to a matter affecting his or her liability to	21. (1) The NHIF Board Revenue Collection shall prescribe the mode of identification of a beneficiary, taking into account the legal framework for national registration and the registers prepared by the NHIF Board Claims and Payments when registering contributors. (2) The NHIF Board of Revenue Collection may require a person who is liable to remit a payment for a standard and matching contribution under section 16 to furnish such information or particulars, or to produce such documents, as the Board deems necessary for that purpose. (3) A person who- (a) knowingly makes any false statement relating to a matter affecting his or her liability to remit a standard or matching contribution under		Not accepted

	remit a standard or matching contribution under section 16; or (b) being required under subsection (2) to furnish information or particulars, or produce a document, refuses or neglects to do so without reasonable cause, commits an offence and shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding twelve months, or to both. 4) Evidence of the payment of contribution shall be deemed conclusive if the person liable to pay the contribution has- (a) a record of remittance of the contributions; or (b) in the case of a standard contribution, a record of the contributor' s monthly pay-slip that the contribution has been deducted from his or her salary	section 1 6; or (b) being required under subsection (2) to furnish information or particulars, or produce a document, refuses or neglects to do so without reasonable cause, commits an offence and shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding twelve months, or to both. (4) Evidence of the payment of contribution shall be deemed conclusive if the person liable to pay the contribution has- (a) a record of remittance of the contributions; or (b) in the case of a standard contribution, a record of the contributor' s monthly pay-slip that the contribution has been deducted from his or her salary. **(COG)**		

		The penalty should be lowered to 500,000 from 1 million.**(KPMDU)**	No justification provided.	Not accepted
25 Establishment of a centralized health care provider management system	The Principal Act is amended by inserting the following new section immediately after section 21- **21A**. The Board shall cause to be developed a centralized healthcare provider management system. (2) The centralized healthcare provider management system shall be installed and used by all empanelled providers for the purpose of management of claims, payments and data collection. (3) The Board may publish guidelines on the use of the centralized healthcare provider management system by empaneled and contracted health care providers.	The centralized Health care provider management system be all encompassing to include all health services. **(PSC)**	No justification provided.	Not accepted

26 **Payment of benefits**	Section 22 of the principal Act is amended by (a) deleting subsection (1) and substituting therefor the following new subsection- "(1) The Board shall pay from the Fund, a benefit to an empaneled or contracted health care provider for an expense incurred by the provider, for the provision of health care services through the centralized healthcare provider management, to the number of beneficiaries determined by the Board." (b) deleting subsection (2); (c) deleting subsection (3) and substituting therefor the following new subsections- "(3) The benefits payable from the Fund shall be subject to such limits, regulations and conditions as the Board may prescribe in consultation with the Cabinet Secretary". (3A) The Board shall determine and approve the applicable tariffs payable to the Fund under section 15(3A) and payable out of the Fund under	**Amend to read:** **Section 22 of the principal Act** is amended by (a) deleting subsection (1) and substituting therefor the following new subsection- "(1) The NHIF Board of Claims and Payments shall pay from the Fund, a benefit to an empaneled or contracted health care provider for an expense incurred by the provider, for the provision of health care services through the centralized healthcare provider management, to the number of beneficiaries determined by the Board." (b) deleting subsection (2); (c) deleting subsection (3) and substituting therefor the following new subsections- "(3) The benefits payable from the Fund shall be subject to such limits, regulations and conditions as the NHIF Board of Accreditation and Empanelment may prescribe ".	The proposed amendments are necessary to identify the specific Board that is responsible for the matters mentioned in the section.	

	subsection (I), to empaneled contracted health care providers for an expense incurred by the provider for the provision of healthcare services to the number of beneficiaries determined by the Board. (3B) The Board shall use the approved risk spreading mechanism on benefits of outpatient, inpatient and work injury benefits as provided under section 15, section 22 and section 43." (d) deleting subsection (4); (e) adding the following new subsection immediately after subsection (4)- "(5) Where a beneficiary has a private health insurance cover- (f) the private health insurance shall be liable for payment up to the limits the beneficiary is covered; (g) the Fund shall pay the daily rebate, for inpatient; and (h) the Fund shall cover the outstanding bill where private	(3A) The NHIF Board of Accreditation and Empanelment shall determine and approve the applicable tariffs payable to the Fund under section 15(3A) and payable out of the Fund under subsection (I), to empaneled contracted health care providers for an expense incurred by the provider for the provision of healthcare services to the number of beneficiaries determined by the Board. (3B) The NHIF Board of Accreditation and Empanelment shall use the approved risk spreading mechanism on benefits of outpatient, inpatient and work injury benefits as provided under section 15, section 22 and section 43." (d) deleting subsection (4); (e) adding the following new subsection immediately after subsection (4)-		

	insurance cover's limits for various benefits have been exhausted subject to the Fund's applicable limits with respect to each benefit.	"(5) Where a beneficiary has a private health insurance cover- (a) the private health insurance shall be liable for payment up to the limits the beneficiary is covered; (b) the Fund shall pay the daily rebate, for inpatient; and (c) the Fund shall cover the outstanding bill where private insurance cover's limits for various benefits have been exhausted subject to the Fund's applicable limits with respect to each benefit." **(COG)**		

		Amendment to Section 22 to include Subsection 5 1. Stakeholders must be engaged in order to identify and agree on the minimum benefits and services that a member covered by private health insurance may access under NHIF without first exhausting his or her private health insurance benefits. 2. The amendment would be tantamount to directing an insurer and is contrary to the Insurance Act as the Insurance Regulatory Authority is the body created under the Insurance Act to issue such directives. **(National Treasury)**	The Bill's proposal unfairly limits members' access to their NHIF benefits.	

		Delete the provisions of the Bill for amendment to Section 3 and Section 3A(**KMA**)	The regulation of the fees is already regulated under CAP 253 and other regulatory bodies. It is also going against the Competition Authority Act No. 12 of 2010 on setting of professional fees. Some of these functions should be vested in separate institutions to ensure accountability through checks and balances. For instance, as in 2017 when the MOH established a Health Benefits Advisory Panel, the design of the benefits, premiums, rates and payment mechanisms should be vested in a Health Benefits Advisory Committee gazetted by the CS in the medium term.	
		Amendment to section 22(a) of the Principal Act is rejected but no proposal is given.(**KAPH**)	The section gives the Board huge and unfettered discretion on the limits of beneficiaries which will or may be abused by the Board.	
		Section 22(e) of the Principal Act should be amended to provide a standard cover which should be given to all contributors and should be in line with the Association of Kenya Insurance(AKI) guidelines.(**KAPH**)	The amendment contravenes the constitutional bill of rights in particular article 27and article 10 on national values and principles. It is also prejudicial and unjust to the private health insurance over the Fund's insurance cover.	

		The bill in section 22(5) is amended by deleting the proposed new subsection 22(5) in its entirety.**(KHF)**	It will increase cost of private medical insurance and impact negatively on cost management programs. The amendment contravenes the Bill of Rights in particular article 27	
		Section 22(a) of the Principal Act is amended as follows; The number of beneficiaries should be clearly defined and should be protected through oversight.**(KHF)**	The section gives the board unfettered discretion on the limits of beneficiaries.	
		Amend section 22 (c)(3) of the Principal Act by inserting- '3(i) Development of the Benefits Packages Limits , regulations and conditions will be set by the Board through a process that involves stakeholders engagement.**(KFBHSC)**	No justification.	
		Amend section 22(e) (5) (b) of the Principal Act by inserting the following immediately after the phrase 'inpatient and – "*outpatient capitation*" **(KFBHSC)**		
		Substitute the word benefit with 'claim to an empaneled'. **(PSC)**	Benefits are only paid to contributors or beneficiaries not to service providers.	

		22. Payment of benefits (1) The Board shall pay from the Fund, benefits to declared hospitals for expenses incurred at those hospitals by any contributor, his named spouse not for the time being covered by NHIF under a separate payer, child, or other named dependant covered under one parent or guardian. **(National Coalition on UHC)**	This ensures that while every eligible individual contributes, there is no double-dipping by one family and that each spouse and child receives benefits from a single insurance cover to enable more individuals and interventions receive benefits.	Not accepted
		The regulations prepared pursuant to the Section 22(3) should be subject to regular public participation so that the public trust for the fund is increased. Multiple cancer sector stakeholders especially patients should be continuously involved in such decisions. **(KENCO)**	NHIF tends to be a bit opaque in its decision making and slow in communication of various decisions/regulations to the public. Case in point, the oncology benefit package from the fund is not clear. Of late, NHIF has come up with punitive regulations requiring cancer patients to pay up to two years' worth of premiums before they access care. These patients are already struggling with other out of pocket costs that are currently not being covered by NHIF, thus having to pay 2 years in advance is discriminative to them.	This is accepted

		With regard to the amendment on the limits payable from the fund, we propose that the limits are reviewed on a regular basis such as every six (6) months to twelve (12) months, whichever period is feasible. In deciding on the benefit package, public participation should be explored. The limits should then be communicated to the public through various channels. This ensures that the public is well aware of the benefits to expect from NHIF. **(KENCO)**	Currently, patients are concerned by the limits set for various oncology services, procedures and medicines. Out of pocket spending is still too high and this leads to lack of access to services and/or treatment drop outs by some patients leading to untimely and unnecessary deaths that affect the nation's development negatively.	Accepted biennial reviews nd report
	Section 22 (3A)	The determination of tariffs by the board be in consultation with the relevant stake holders. **(PSC)**	This will avoid a situation where interested parties go to court to stop implementation on account of lack of public participation.	Accepted and dealt with
	(3B) The Board shall use the approved risk spreading mechanism on benefits of outpatient, inpatient and work injury benefits as provided under section 15, section 22 and section 43."	The approved risk spreading mechanism on benefits of outpatient, inpatient, work injury benefits be expounded on for clarity. **(PSC)**	The provisions under WIBA be referred to where the WIBA Act is put into effect and timelines be given in law for settlement of claims especially under work injury benefits. This is to ensure quality cover for all.	Not accepted
	(c) Deleting subsection (2)	Retain subsection (2) of No. 9 of 1998 as it makes express provision for the payment of medical or health care	Section 22 (2) of No. 9 of 1998 seeks to clarify the expenses that the Fund would cover. It affirms the purpose and	Not accepted

		expenses for both inpatient and outpatient medical healthcare. **(KNCHR)**	objectives of the Fund. Deleting the subsection will lead to ambiguity on how the funds may be applied.	
27 Statements of account	27. The principal Act is amended by deleting section 23 and substituting therefor the following section— **Statements of account.** 23. The Board shall upon request avail a statement of accounts to a contributor, or a person who is liable to remit under section 16, with regard to their contributions.	***Amend to read as follows:*** 27. The principal Act is amended by deleting section 23 and substituting therefor the following section— **Statements of account.** 23. The NHIF Board of Revenue Collection shall upon request avail a statement of accounts to a contributor, or a person who is liable to remit under section 16, with regard to their contributions.**(COG)**	The proposed amendments are necessary to identify the specific Board that is responsible for the matters mentioned in the section.	Not accepted However, the Board to evelop regulations for further nplementation of this section
29 Offences relating to benefits	29. Section 25 of the principal Act is amended— (a) in subsection (1) by deleting the words "a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding twenty-four months, or to both" and substituting therefor the words a fine not exceeding one million shillings or to imprisonment for a term not exceeding sixty-months, or to both".	***Amend to read as follows*** 29. Section 25 of the principal Act is amended— (a) in subsection (1) by deleting the words "a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding twenty-four months, or to both" and substituting therefor the words a fine not exceeding one million shillings or to imprisonment for a term not exceeding sixty-months, or to both".	The proposed amendments in paragraph (e) are necessary to identify the specific Boards being referred to in the section.	Not accepted

	(b) in subsection (2)- (i) by deleting paragraph (b); and (ii)by deleting paragraph (c); (iii) by deleting the words "a fine not exceeding five hundred thousand shillings" appearing in the closing statement and substituting therefor the words "a fine not exceeding one million shillings". (c) by deleting subsection (3); (d) in subsection (4)- (i) by deleting the words "Any declared hospital" and substituting therefor the words "A health care provider"; (ii) by deleting paragraph (ii) and substituting therefor the following new paragraph- "(ii) removal from the register of empaneled and contracted health care providers". (e) by deleting subsection (5) and substituting with the following new subsections- "(5) The Board shall cause the name of every health care provider removed from the	(b) in subsection (2)- (i) by deleting paragraph (b); and (ii) by deleting paragraph (c); (iii) by deleting the words "a fine not exceeding five hundred thousand shillings" appearing in the closing statement and substituting therefor the words "a fine not exceeding one million shillings". (c) by deleting subsection (3); (d) in subsection (4)- (i) by deleting the words "Any declared hospital" and substituting therefor the words "A health care provider"; (ii) by deleting paragraph (ii) and substituting therefor the following new paragraph- "(ii) removal from the register of empaneled and contracted health care providers". (e) by deleting subsection (5) and substituting with the following new subsections- "(5) The NHIF Board of Accreditation and Empanelment shall cause the name of every		

	register under subsection (4)(ii) to be notified in the Gazette, at least two newspapers of national circulation and at the official website of the Fund. (5A) A health care provider who has been removed from the register under section (4)(ii) shall not be entitled to receive any benefit from the Fund".	health care provider removed from the register under subsection (4)(ii) to be notified to the NHIF Board of Claims and Payments and in the Gazette, at least two newspapers of national circulation and at the official website of the Fund. (5A) A health care provider who has been removed from the register under section(4)(ii) shall not be entitled to receive any benefit from the Fund". **(COG)**		
		The Board shall cause the name of every healthcare provider removed from the register under subsection (4) (ii) of this section to be notified in the Gazette and at least three newspapers with nationwide circulation. **(KAPH)**	No justification given.	Accepted
		Amendment to include penalties for board members, staff, and internal entities **Section 25A**: Any board member, staff, or employee of the Board who with intent to defraud the Fund;	The bill proposes to increase punitive measures for offences relating to fraudulently obtaining or seeking to obtain benefits, without proposing any penalties for board members, staff and other internal related entities who defraud NHIF, while this is the major reform	Not accepted

		a) makes any false statement, orally or in writing; b) knowingly gives false or misleading information to the public, or any other persons, including a Court of Law, during their official capacity; c) improperly uses public moneys, property, services, or information acquired in the performance of or as a result of their official functions relating to the Fund; or d) uses or attempts to use official resources or information from the Fund to obtain special privilege or benefit for themselves; commits a crime, and is liable, on conviction, to a fine not exceeding twenty million shillings, or imprisonment to a term not exceeding 7 years or both. **(National Coalition on UHC)**	preoccupation by Kenyans. While Kenyans have witnessed employees and the board prosecuted in court for collaborating to defraud NHIF of significant amounts of money; and it is in the public domain that internal and external parties including service providers collaborate to defraud NHIF for large sums, there is no stipulated minimum penalty for this in the bill. The foremost health sector issue prioritized by Kenyan civil society according to a survey in September 2021 is stopping pilferage and ensuring efficient use of funds.	
30 Regulation of contribution and stamps	Section 26 of the principal Act is amended— (b) by deleting the word "Minister" appearing in the opening sentence and substituting therefor the word "Cabinet Secretary";	***Amend to read as follows*** Section 26 of the principal Act is amended— (b) by deleting the opening sentence and substituting therefor the following opening sentence—	The proposed amendment is necessary to identify the specific Board responsible for the making of the regulations and to give to the Council of Governors a role in the regulation making process.	Not accepted

		"Subject to the provisions of this Act, the NHIF Board of Claims and Payments, in consultation with the Cabinet Secretary and the Council of Governors, may make regulations prescribing the amount of any benefits and the period within which any benefits shall be payable out of the Fund for the time being and such regulations may provide for—" **(COG)**		
31 Regulations relating to benefits	Section 27 of the principal Act is amended by deleting the word "Minister" appearing in the opening sentence and substituting therefor the words "Cabinet Secretary".	***Amend to read as follows*** Section 27 of the principal Act is amended by deleting the opening sentence and substituting therefor the following opening sentence— 'The three NHIF Boards may jointly, in consultation with the Cabinet Secretary and the Council of Governors, make regulations providing for—'**(COG)**	The proposed amendments are necessary to assign the regulation making responsibility to the three boards jointly and to give a role to the Council of Governors in the regulation making process.	Not accepted
32 General provisions as to regulations	Section 29 of the principal Act is amended— (a) in subsection (1) by deleting the word "Minister" appearing in the opening	***Amend to read as follows*** Section 29 of the principal Act is amended— (a) in subsection (1) by deleting the opening sentence and substituting	The proposed amendments are necessary to make reference the boards instead of just one Board and to give to the Council of Governors a role in the regulation making process.	Not accepted

	sentence and substituting therefor the words "Cabinet Secretary"; (b) by inserting the following new subsections immediately after subsection (2)- "(3) For the purposes of Article 94 (6) of the Constitution- (a) the purpose and objective of the delegation under this Act is to enable the Board to make regulations for better carrying into effect the provisions of this Act; (b) the authority of the Board to make regulations under this Act will be limited to bringing into effect the provisions of this Act and fulfilment of the objectives specified under this section.	therefor the following opening sentence— 'Without prejudice to any specific power conferred by any provision of this Act, the three NHIF Boards may separately or jointly, in consultation with the Cabinet Secretary and the Council of Governors, make regulations facilitating the implementation of this Act, including in particular, regulations—' (b) by inserting the following new subsections immediately after subsection (2)- "(3) For the purposes of Article 94 (6) of the Constitution- (a) the purpose and objective of the delegation under this Act is to enable the Boards to make regulations for better carrying into effect the provisions of this Act; (b) the authority of the Boards to make regulations		

		under this Act will be limited to bringing into effect the provisions of this Act and fulfilment of the objectives specified under this section" **(COG)**		
33 Declaration of hospitals for purposes of Act	Section 30 of the principal Act is amended by— (b) deleting subsection (1) and substituting therefor the following new subsection- "(1) The Board shall, in consultation with the relevant accreditation bodies, publish in the Gazette, the list of empaneled health care providers for the purposes of this Act". (c) deleting subsection (2) substituting therefor the following new subsection- "(2) A notice in the Gazette under subsection (1) may be made subject to such conditions relating to the fees which may be charged by the health care provider to any	***Amend to read as follows:*** Section 30 of the principal Act is amended by— (b) deleting subsection (1) and substituting therefor the following new subsection- "(1) The NHIF Board of Accreditation and Empanelment shall publish in the Gazette, the list of empaneled health care providers for the purposes of this Act". (c) deleting subsection (2) substituting therefor the following new subsection- "(2) A notice in the Gazette under subsection (1) may be made subject to such conditions relating to the fees which may be charged by the health care provider to any contributor	The proposed amendments are necessary to identify the specific Board referred to in the section.	CoG amendment not ccepted however, delete ference to accreditation odies and refer to regulatory odies

	contributor under this Act (including conditions as to the amount of such fees and the requirement of the Board's consent to any variation thereof) as the Board considers it necessary and where any such conditions are made- (a) the Board may publish such conditions in the Gazette or in such other manner it considers necessary; and (b) a health care provider shall not charge any fees to any contributor under this Act which is contrary to such condition". deleting subsection (3) and substituting therefor the following new subsection- "(3) The Board may, at any time, revoke any empanelment under this	under this Act (including conditions as to the amount of such fees and the requirement of the Board's consent to any variation thereof) as the Board considers it necessary and where any such conditions are made- (a) the NHIF Board of Accreditation and Empanelment may publish such conditions in the Gazette or in such other manner it considers necessary; and (b) a health care provider shall not charge any fees to any contributor under this Act which is contrary to such condition". (d) deleting subsection (3) and substituting therefor the following new subsection- "(3) The Board may, at any time, revoke any empanelment under this section".		

	section". (e) inserting the following new subsection immediately after subsection (3) – "(4) A health provider whose empanelment has been revoked under this section may apply to the Board for the review of the revocation in the first instance and, if dissatisfied by the decision of the Board upon review, appeal to the High Court against the revocation."	(e) inserting the following new subsection immediately after subsection (3) – "(4) A health provider whose empanelment has been revoked under this section may apply to the Board for the review of the revocation in the first instance and, if dissatisfied by the decision of the Board upon review, appeal to the High Court against the revocation." **(COG)**		
		Clinical Officers support the amendment. **(KUCO)**	It will allow contracting and empanelment.	Accepted
		a) 3 months should be the period of accreditation after in section. There should be a timeline for gazettement b) The Board should communicate the accreditation decision in writing c)The accreditation process is not clear d)The bill should elaborate who conducts the inspection – KHPOA or NHIF or Board or COC or NCK	There is no clearly defined process for removal from the register of a healthcare provider. This contravenes article 50 of the constitution. All unclear and non-defined process creates room for abuse and corruption Hospitals are expensive to set up	Fair administration action here removal from mpanelment

		e)The procedure for removal of a healthcare provider should not just be discretionary but should be clearly stipulated.**(KHF)**		
		Amend to include that the contract with healthcare providers must have explicit details on what services are covered by the Fund.**(KFBHSC)**	No justification given	
		Insert the words "*and notify the relevant regulatory body of the decision*" immediately after. (**MoH, PHARMACY AND POISONS BOARD)**	The notification enables the regulatory body to take the necessary action in case of professional misconduct.	
		Substitute subsection 1 with; "The Board shall consult with the relevant institution to accredit healthcare providers and health facilities, and publish in the Gazette, the list of empanelled healthcare providers for the purposes of the Act" **(KHPOA)**	There is no accreditation body for healthcare providers and health facilities in Kenya. Regulatory bodies cannot accredit healthcare providers and health facilities because their mandate is limited to registration and licensing.	
	(a) Deleting the marginal note and substituting therefor the following new marginal note – Empanelment of health care providers.	Deleting the marginal note and substituting therefor the following marginal note – Empanelment of healthcare providers including stand-alone medical laboratories. **(KMLTTB)**	a) Stand-alone medical laboratories will assist the country in managing epidemics including the current COVID 19 pandemic, because of capital and human investment in which they have invested heavily.	

			b) The more the stand alone laboratories NHIF empanels the more affordable the cost of tests (economies of scale). c) Specialized tests accessible through stand-alone laboratories will limit the perennial referral of specimens to national level and abroad for example Tissue kidney and Bone marrow transplant through tissue typing, which saves foreign currency. d) In stand-alone laboratories we are guaranteed of automation for efficiency and back-up for sustainability equipment for continuity and uninterrupted of services. e) Stand-alone laboratories will assist in the diagnosis treatment and monitoring of communicable diseases and non-communicable diseases (NCDs) such as HIV, MDR-TB testing and viral load analysis, cancer management and Viral sequencing like COVID-19 treatment and required quality, accessible and affordable services Page 1 of 3. f) Standalone laboratories have robust Laboratory information systems (LIMS)	

			for quality data management, Training and research. g) Standalone laboratories such as national public health reference laboratories will in zoonotic aspects of one health concept and assist in improving biosafety and biosecurity situation of the country and also to deter the use of dangerous organisms by unauthorized personnel such as bioterrorists as well as act as repository for reference organisms. h) Stand-alone laboratories are specialized and have capacity to conduct public health analysis, in food safety , toxicology and archiving of standard reference organisms for training purposes and future reference for example anthrax , Measles , polio and COVID-19	
		Insert a proviso on what happens when revocation is done. **(KMLTTB)**	The revocation should not affect beneficiaries currently seeking services.	
	(e)inserting the following new subsection immediately after subsection (3) – "(4) A health provider whose empanelment has been revoked	**Delete** Clause 33(4) **Add** Clause 33A providing for the establishment, constitution and functions of a Review and Appeals Committee. **(KNCHR)**	Constituting a neutral structure to resolve conflicts between healthcare providers and the Board will ensure adherence to principles independence and impartiality embodied under Article 47 of the	Not accepted

	under this section may apply to the Board for the review of the revocation in the first instance and, if dissatisfied by the decision of the Board upon review, appeal to the High Court against the revocation."		Constitution that makes provision for fair administrative action.	
34 Determination of claims and questions	Section 31 of the principal Act is amended in subsection (1) by deleting the word "Minister" and substituting therefor the words "Cabinet Secretary".	***Amend to read as follows*:** Section 3 1 of the principal Act is amended by deleting subsection (1) and substituting therefor the following new subsection— '(1) Subject to the provisions of this Act, the NHIF Board of Claims and Payments, in consultation with the Cabinet Secretary and the Council of Governors, may make regulations for the determination by the Board or by any officer thereof, or by a person or body of persons appointed or constituted in accordance with the regulations, of any question arising under or in connection with this Act, including any claim for a benefit, and subject	The proposed amendments identify the specific Board responsible and give to the Council of Governors a role in the regulation making process.	Not accepted

		to the provisions of the regulations, a decision in accordance therewith shall be final.' **(COG)**		
New Proposal		Section 35 of the Principal Act is amended— (a) in subsection (1) by deleting the section and substituting therefor the following new section— "(1) At least four months before the commencement of each financial year, each of the three NHIF Boards shall cause to be prepared estimates of the revenue and expenditure of the respective Board for that year." (b) in subsection (2) by deleting the section and substituting therefor the following new section— '(2) The annual estimates shall make provisions for all estimated expenditure of the respective Board for the financial year concerned, and in particular shall provide— (a) for the payment of the salaries, allowances	The amendments are necessary to provide for annual estimates for each of the NHIF Boards.	

		and other charges in respect of the staff of the respective Board; (b) for the payment of the pensions, gratuities and other charges in respect of retirement benefits to staff of the respective Board; (c) in the case of the NHIF Board of Claims and Payments, for the payment of all the claims and benefits of the contributors in respect of medical and health care expenses incurred by them or their named dependents pursuant to the provisions of this Act; (d) for the proper maintenance of the buildings and grounds of the respective Board;		

		(e) for the proper maintenance, repair and replacement of the equipment and other movable property of the respective Board; (f) for the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment or in respect of such other matters as the respective Board may deem fit. c) in subsection (3) by deleting the section and substituting therefor the following new section— '(3) The annual estimates shall be submitted for approval by the respective Board before the commencement of the financial year to which they relate: Provided that once approved, the		

		sum provided in the estimates shall not be increased without the prior consent of the respective Board.' d) in subsection (4) by deleting the section and substituting therefor the following new section— "(4) No expenditure shall be incurred for the purposes of any of the Boards except in accordance with the annual estimates approved under subsection (3) or in pursuance of an authorisation of the respective Board." **(COG)**		
		The Bill should set clear guidelines and limits on claims processing and payment timelines .The adequately supported claims which stay unpaid beyond 3 months should attract interest payable at the rate of 3-5 percent.**(KFBHSC)**	No justification given.	
35	Section 32 of the principal Act is amended – d)in subsection (6) by deleting the words 'ten thousand shillings or to imprisonment for a term not exceeding	The amendment is opposed.	The fine is highly punitive, unjust and very high. Give relative penalty to weigh the offence.**(KAPH)**	Reduce the proposed penalty nder the Bill to 100,000, 6 onths imprisonment

	twelve months or to both' and substituting therefor the words 'ten million shillings or to imprisonment for a term not exceeding sixty months or to both.'			
36	Section 34(1) of the Principal Act is amended – (b) by deleting paragraph (b);	Section 34(1) of the principal Act is amended by deleting the section and substituting therefor the following new section— "(b) in the procurement and acquisition of essential medical equipment and supportive infrastructure for provision to empaneled and contracted healthcare providers, on such items and conditions as the board may, from time to time, prescribe: Provided that the board may advance money to any empaneled and contracted healthcare provider for improvement of medical and health care services, subject to the Board being satisfied that such health care provider is financially viable and in any undeserved area" **(KMA)**	The board should not involve itself in the procurement of medical equipment and infrastructure but should stick to the core mandate of health insurance. NHIF can act as a guarantor rather than offering direct funding for procurement.	Amendment as in the Bill ccepted. CBK to advise on the putability of the bank for urposes of investments
		Section 34(1)(b) immediately after the word equipment by inserting the word and validated to read as follows; "In the procurement and acquisition of	Validation of Invitro diagnostics are meant to ensure that they are reliable and accurate which meet international standards (ISO 15189).	ccepted

		essential medical equipment and validated invitro diagnostics and supportive infrastructure for provision to empaneled and contracted healthcare providers ,on such terms and conditions as the board may, from time to time prescribe validated medical equipment and invitro diagnostics" (**KMLTTB**)	It is the documentary proof that the particular requirements for a specific intended use can be validated to ensure that the results of measuring and / or monitoring are meaningful. This guarantees patients' safety.	
37	Section 36 of the principal Act is amended by deleting the word "Minister" and substituting therefor the words "Cabinet Secretary".	***Amend to read as follows*:** Section 36 of the principal Act is amended by deleting the section and substituting therefor the following new section— "36. There shall be paid out of the Fund and in such manner as the Board of Claims and Payments, in consultation with the other Boards, Cabinet Secretary and the Council of Governors may determine, such sum as the respective Board may estimate to be its expenditure in respect of any financial year in accordance with the provisions of section 35: Provided that the total administrative expenses	The proposed amendment limiting the administrative costs is informed by the findings and recommendations of the Expert Panels Report. The Expert Panel after examining administrative costs in 58 countries found estimated average administrative costs of 4.7% while the Kenyan costs are at 17%. The Expert Panel the recommended a legislative gap on administrative costs at 5%. Moreover, the percentage is bound to be a lot of money given that more money is going to be realized form payment of premiums following the making of NHIF compulsory.	Not accepted

		including the expenses of all the three Boards shall not be more that 5% of the total expenditure." **(COG)**		
		Insert section 36A to cater for the following; In line with International Accounting Standards and section 107 (1) and (2) of the PFM Act on Fiscal Responsibility Principles, we propose an amendment capping annual operations and administrative expenditure at a maximum of 7% of its annual budget or previous year's revenue and savings if any; a minimum of 35% of this 7% ought to be development expenditure over the MTEF planning period, and the wage bill should be capped at 35% of this 7% of annual revenue. The relevant sections sought to be amended are to be found on Part IV of the Act on the Financial Provisions and specifically, s. 36. **(National Coalition on UHC)**	This will allow NHIF to concentrate on paying up benefits for the increased number of clients, expand benefits packages and improve quality while managing to invest sustainably without jeopardizing its liquidity. For example, if revenues amount to Ksh. 100 billion, NHIF would be expected to use a maximum of Ksh.7 billion as annual organizational operating and administrative expenditure; of which Ksh. 2.45 billion expenditure such as investments in ICT and other efficiency building mechanisms; Public private Partnerships and others to improve quality of public facilities and health services and promote continued NHIF enrolment. Will comprise of wages, while at least 2.45 billion will comprise of development.	Not accepted

38 **Accounts and Audit**	The principal Act is amended by deleting section 37 and inserting the following new section- **Accounts and Audit** 37. (1) The Board shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Fund. (2) The accounts of the Board shall be audited and reported upon in accordance with the Public Finance Management Act 2012 and the Public Audit Act, 201 5.	**Amend to read:** The principal Act is amended by deleting section 37 and inserting the following new section- **Accounts and Audit** 37. (1) Each of the three NHIF Boards shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Fund. (2) The accounts of each Board shall be audited and reported upon in accordance with the Public Finance Management Act, 2012 and the Public Audit Act, 2015. **(COG)**	The proposed amendments are necessary to provide for accounts and audit of the accounts of each Board.	Not accepted
		Section 38: **Reporting** 1. **Annual Reports**: The Board shall, within three months after the end of each financial year, prepare and submit to the Minister a report of the operations of the Board for the immediately preceding year.	Provision of this information is essential to NHIF's eventual defragmentation towards a single pool, unified benefits package, improvement of its position in the health system as a strategic purchaser, to enable the health sector stakeholders to track value for money and enable Ministry of Health fine tune its roadmap towards transition and UHC by 2030. Every organ having a role or	Not accepted

		2. **Interim Reports**: The board shall submit cost and financial information continuously (monthly) to the national health information system (DHIS 2), including moneys paid to health service provider disaggregated by provider type, geographical location, services provided.**(National Coalition on UHC)**	responsibility within the National Health System, shall ensure that appropriate, adequate, and comprehensive information is disseminated on the health functions for which they are responsible being cognizant of the provisions of Article 35(1)(b) of the Constitution, which must include the types, availability, and cost if any of health services, the organization of health services. The National AIDS Control Council, malaria , TB , Reproductive, Maternal, Neonatal , Child and Adolescent Health, Vaccines and Nutrition programmes, private sector and civil society health service providers are expected to contribute to Health Information Systems and Research by providing quality health information and evidence for decision, including cost references and supply chain commodities for use by counties and other health service providers and in planning for attainment of Universal Health Coverage, but this information has been incomplete since the wealth of information on costs per case used by NHIF is not integrated into the DHIS 2,	

			the database for the National Health Information System.	
		The Board to enhance transparency and accountability for professionalism and effectiveness.**(NCDAK)**	The Fund should be accountable and accessible to the public and relevant stakeholders.	Not accepted
39 Annual Reports	Section 38 of the principal Act is amended by deleting the word "Minister" and substituting therefor the words "Cabinet Secretary".	**Amend to read:** Section 38 of the principal Act is amended by deleting the section and substituting therefor the following new section— '38. Each of the three NHIF Boards shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary and the Council of Governors a report of the operations of the respective Board for the immediately preceding year.' **(COG)**	No justification	Not accepted
New Proposal	Administrative regulations	**Amend section 39 of the principal Act to read:** Section 39 of the Principal Act is amended— (a) in subsection (1) by deleting the section and substituting therefor the following new section—	No justification	Not accepted

		(1) In the performance of its functions under this Act, each Board may, subject to this Act, make regulations generally for the governance, control and administration of the Board and in particular for— (a) the settlement of the terms and conditions of service, including the appointment, dismissal, remuneration and retirement benefits of the members of the staff of the respective Board; and (b) the constitution and procedure of meetings of the respective Board and the establishment, composition and terms of reference of committees of the respective Board. (b) in subsection (2) by deleting the section and substituting therefor the following new section— '(2) Regulations made by each Board under this section shall not be published in the Gazette but shall be brought to the attention of all persons		

gal ceedings ler the Act	Section 42 of the principal Act is amended by inserting the following new subsection immediately after subsection (4)- "(5) Despite any other written law, the assets of the Fund shall not be liable to attachment under any process of law."	affected thereby. **(COG)** **Amend to read:** Section 42 of the Principal Act is amended— (a) in subsection (1) by deleting the section and substituting therefor the following new section— '(1) The court before which any person is convicted of an offence under this Act may, without prejudice to any civil remedy, order such person to pay to the NHIF Board of Revenue Collection, as the case may be, the amount of any standard contribution or any other sum, together with any penalty found to be due from such person to the Board of Revenue Collection and any sum so ordered shall be recoverable as a fine and paid into the Fund.' (b) in subsection (2) by deleting the section and substituting therefor the following new section— '(2) All sums due to the Board of Revenue Collection shall	The proposed amendments clarify that it is the Board of Revenue Collection being referred to.	

		be recoverable as debts due to the Board, and without prejudice to any other remedy, may be recovered by the Board of Revenue Collection summarily as a civil debt.' (c) in subsection (3) by deleting the section and substituting therefor the following new section— '(3) All criminal and civil proceedings under this Act may, without prejudice to any other power in that behalf, be instituted by any inspector or other officer of the Board of Revenue Collection."**(COG)**		
44 **Evidence**	The principal Act is amended by inserting the following new section immediately after section 45— Exemption from Cap. 487. The insurance Act shall not apply to the Fund.	**Amend to read:** The principal Act is amended by inserting the following new section immediately after section 45— **Exemption from Cap. 487.** Any of the three NHIF Boards may apply for limited exemption of the Fund from the application of any aspects of the insurance Act, and the Fund, may upon establishment of sufficient grounds by the	The proposed amendment seeks to protect public funds and contributors as there is no reason why the Fund should be given a blanket exemption from the regulatory framework of the Insurance Act. After all, in the banking industry all Banks are subject to the regulatory Framework established by the Central Bank	Adopt Sen. C recom

		Board, be so exempted. **(COG)**		
46	The Second Schedule to the principal Act is amended— (a)… (b) in paragraph 3— (iii) by deleting the word "nine" appearing in subparagraph (4) and substituting therefor the word "five"	Retain the word "nine" appearing in paragraph 3 sub-paragraph (b)(iii). **(Pwani GBV Network, CWID, JUHUDI and MCHANE)**	The amendment appears to be reducing the number of members of the board who are to vote in case of an issue that would require votes; The deletion of the word "nine" will allow and open room for manipulation of the office decisions by allowing the "five" to make decisions by coercion.	Not accepted
	New proposal	Amendment of the Second Schedule, at Paragraph 1 by including a new subparagraph – **Security of tenure for board members** 1 (3) Once a board member is so appointed, they will be expected to serve their full uninterrupted term of at least 3 years and may not be sacked or relieved by any authority unless they are found to be in contravention of Chapter 6 of the Constitution of Kenya 2010 or for any other serious integrity issues.	Currently, appointees have no security of tenure hence must bend to the whims of their appointers, other board members or external forces, even when decisions and policies go against the best interests of the public.	

Proposed new amendments		**National Treasury** **1.** The Bill should be amended to specify the fundamental considerations that must be taken into account by qualified actuaries when advising on suitable levels of contribution by scheme members, employers and the National Government.	This will ensure NHIF's solvency is sustained.	Not accepted
		2. The Bill to specify the permissible investment classes and limits to which the scheme funds may be applied.	Guidance on the principles of investment of scheme funds will help stimulate fund growth and limit investment risk and overreliance on contributions.	Not accepted
		3. The Bill must mandate NHIF's Board to affect mandatory reinsurance.	This will help build NHIF's resilience and disaster response capability(including ability to respond to epidemics and pandemics)	Accepted

		4. The Bill's provisions on collection be strengthened to provide that NHIF contributions shall be a first charge on every employee's salary.	The Bill's financial strategy focuses on mandatory contributions, National Government funding and cross-subsidization of risks. The amendment will ensure that NHIF maintains adequate liquidity to fund claim settlements.	Not accepted
		5. The Bill should provide for control of NHIF's administrative expenses.	One of the Bill's shortcomings is the absence of provisions guiding the determination and approval of administrative expenses. The amendment will ensure that scheme funds are applied mainly towards fulfilment of NHIF's obligations to contributors and beneficiaries.	Not accepted

		6. The Bill should be amended to provide for— (i) Minimum benefits to which members and beneficiaries shall be entitled, for example a right to basic and emergency healthcare; (ii) Stakeholder's and, in particular, community participation in in the procurement and performance appraisal of empaneled healthcare providers; (iii) Compliance with the Public Procurement and Asset Disposal Act in the procurement and management of empaneled healthcare providers; (iv) Use of surplus scheme funds to ensure that empaneled public healthcare providers are able to procure essential medicine, vaccines and equipment; and (v) Control of fees charged by empaneled healthcare providers in order to ensure that inability to pay fees does not become a barrier to accessing universal healthcare.	NHIF's core objectives include ensuring that members and their beneficiaries receive medical services that are commensurate to their needs. This means that, at a minimum, the range of benefits afforded and the quality of service provided must be of a standard that reduces the incidence of suffering, disability or death of members and beneficiaries.	Not accepted

		7. NHIF must issue policy documents to scheme members, outlining the benefits, terms and conditions for scheme membership. Further, members and beneficiaries be provided with periodic statements of account, so that they can trace their available and utilized benefits.	There is need to ensure that member's and beneficiaries' rights are expressly outlined in the Bill, including mechanisms for effecting transparency and accountability to NHIF's consumers. The amendment will ensure that members are aware of and able to enforce their benefits.	Not accepted
		8. The Bill must provide a legal framework for participation of private medical insures in the delivery of universal healthcare. This will substantially increase Kenya's insurance penetration rate, which currently stands at 2.3%.	NHIF's membership currently comprises 18% of Kenya's population. Additionally, 3% of Kenya's population is currently covered by private medical insurance. Most individuals and households covered by private medical insurance are also covered by NHIF. This means that there is a substantial opportunity for innovation and collaboration between NHIF, National Government and private medical insurance to bridge the existing medical insurance coverage gaps.	This is already covered in the ill

		9. The Bill to bring out the extent of medical coverage on the part of NHIF	The extent of medical coverage would help the beneficiaries make an informed decision on the adequacy of the cover and whether there would be need to take additional private medical insurance.	Not accepted
		10. The Bill to make provisions for supervision as required under the Insurance Act	NHIF is currently carrying on insurance business without requisite supervision as required under the Insurance Act. NHIF is as a body has no mechanism to self-regulate on issues of adequacy or otherwise of actuarial valuation which is key for anybody offering medical insurance services.	This has been covered with e amendments under 45A.
		Kenya Medical Association 1. Vulnerable persons to be defined.	Determination of vulnerable persons who are not able to contribute to the fund will not be an easy task as the criteria has not been spelt out.	Not accepted
		2. Nurses to be included as health care providers.	It is discriminatory as their registration numbers are currently deemed invalid.	Nota accepted

		3. Improved stakeholder engagement.	This is to promote checks and balances where NHIF is concerned.	Dealt with
		COFEK a) The NHIF should be transformed into a social security fund whose mandate will be to equip, buy drugs and pay for services offered to patients across the country. Some of the roles undertaken by KEMSA should be taken up by the new NHIF; b) Break up NHIF into three (3) entities: **(a) 'Health Bank'; (b) Health Services Board and (c) as NHIF Insurance.** c) NHIF should be capitation-based and not claims based. Even without decapitation, not a single doctor should make referrals especially for specialized and expensive procedures. Verification by another doctor is needed. An independent counter-check should be done. All such referrals should be scanned and put up online so as to be accessed by doctors from other quarters especially those independent ones for purposes for transparency and	• As a bank, NHIF will deal with collections and disbursements to accredited health facilities; • As a Health Services Board, NHIF should review strategy based on research and benchmark on evaluating ways and means in which many more Kenyans could access UHC, cheaper medication, re-investments etc.; It will also develop standards for accreditation of hospitals and doctors under the special and defined scheme – covering all conditions and as an insurer, • NHIF will offer more options and compete with private sector but allow all special health conditions to be covered – under different terms and subsidized premiums – for the poor;	Not accepted

		accountability; d) Create viable incentives to allow for voluntary contributions well beyond the legal ceiling; e) Clear roles of the National Government and that of the County Governments should be defined on linking NHIF to health infrastructure and specialized personnel. The construction of health facilities and deployment of human resources should be left to County Governments while the standards, acquisition of specialized equipment, drugs and cost of treatment should be a responsibility of National Government through NHIF; f) UHC should only be provided by public health facilities and only limit referral cases to private and international hospitals – complete with clear checks and balances. Private hospitals should only be adopted on emergency and cost-sharing basis; g) NHIF should be delineated from politics. The Management and board of directors should be competitively recruited and not politically		

		handpicked. Agencies seconding nominees should offer at least 3 nominees and that each of the selected nominee only serves for one term of 3 years. Government representation should be limited to no more than 3. Representatives of consumers of health services in line with Article 46 of the Constitution ought to be considered. De-politicize NHIF by having it report to an inter-ministerial panel of Health, Treasury, Labour and Internal Security; h) NHIF staff should all be on renewable contracts; i) NHIF should be responsible for registering Ambulances across the country with minimum standards of equipment on board and qualifications of personnel depending on the illness of the patient; j) NHIF should cater for other pillars of UHC i.e., preventive and promotive health care. Support medical screening e.g., Prostate – Specific Antigen (PSA) for all males above 40, Pap smears, breast exam for women above 40; k) Prompt reimbursement by NHIF to		

		service providers, set to no more than 2 weeks, will reduce opportunities for corruption. Further, all the Health Information System be developed and ensure that all NHIF departments are automated; **(COFEK)**		
	New proposal	**Kenya Renal Association** 1. The Bill should not reduce the reimbursements to patients undergoing haemodialysis; 2. The Bill should promote and support the Kidney Transplant Programme nationally to reduce the number of patients undergoing dialysis; 3. The Bill should support peritoneal dialysis programme which may be cheaper.	The NHIF is leading the nation into a major catastrophe where thousands of haemodialysis patients will die if they insist on reducing the reimbursement for patients undergoing haemodialysis. In the new scheme, NHIF will categorise units into comprehensive and non-comprehensive. In the comprehensive category patients will not be expected to pay additional fees to top up for their haemodialysis sessions. These units will have to use shortcuts to be able to sustain their costs within the 6,500 reimbursed. In the non-comprehensive category, patients will top up for their sessions. Of the 213 haemodialysis units in the country only 54 belong to the public sector and these are not enough to cater for all the patients who will not be able to top up.	Notwithstanding the provisions of 22, persons suffering from chronic illnesses shall not be denied on-going access to benefits

		Network of TB Champions in Kenya 1. The Bill should scrap off hospital selection.	Patients should access healthcare at the point of need regardless of location	Not accepted However set out in the Bill at for out-patient services a erson shall indicate hospital
		2. The Bill should cater for all patient Bills as they do for civil servants.	Government should ensure there is equality in service provision.	Not accepted
		3. The Bill should introduce a special package for the vulnerable population like TB patients. TB patients should get a comprehensive cover that incorporates Post TB Care 4. NHIF should cater for Blood investigation for those who are confirmed to have drug resistance TB in all facilities, inpatient and outpatient. 5. The reforms should authorize imaging and examination immediately a patient presents himself/herself to a facility.	No justification provided	Not accepted

		Irene G. Irungu The Amendment Bill should not be given any consideration and should be discarded all together. Senate to request for data showing mortality rate before NHIF dialysis. The Bill to remove or even reduce the cover for kidney patients is not only a death sentence to the sick but it will spell gloom and misery upon thousands of families in Kenya	Families are going to be forced to sell anything they have to meet the cost of dialysis - note some patients are on 2 and others 3 sessions per week; Mortality rate is going to be on the rise as a result; Poverty and crime rate is going to be on the rise as families try to cope with rising medical demands; Education for our children is going to be affected adversely as children opt out of school to do manual labour in order to support increasing medical bills; Many families will break up as members run away from a health situation that is draining meagre family resources; other grave situations.	Not accepted
		Samantha Wanjiru When it comes to policy formation by the government and relevant stakeholders, I believe that patients should be the priority—and that health regulations should benefit patients rather than hurt them.	Chronic Kidney Disorder has a huge financial burden on patients and a disproportionate impact on some populations who have been historically underserved. Low Income Communities, for example, have greater rates of CKD and are disproportionately affected by the lack of health insurance coverage. Thanks to NHIF patients went from spending (or having to look for) Sh20,000 to Sh35,000 a month on dialysis in public hospitals to paying nothing. A dire service which if taken away will lead to the loss of countless lives.	Not accepted

List of Stakeholders

1. Council of Governors **(COG)**
2. Public Service Commission **(PSC)**
3. National Treasury and Insurance Regulatory Authority
4. Ministry of Health Pharmacy and Poisons Board
5. Kenya Medical Association**(KMA)**
6. Kenya Medical Laboratory Technicians and Technologists Board **(KMLTTB)**
7. Network of TB Champions in Kenya
8. Kenya Faith Based Health Services Consortium **(KFBHSC)**
9. Kenya Healthcare Federation **(KHF)**
10. Consumers Federation of Kenya **(COFEK)**
11. Kenya Renal Association
12. National Coalition on Universal Health Coverage, Health Financing and Budget Advocacy.
    The partners, collaborating as Trainers in all counties of Kenya, through a partnership comprising the Global Fund to fight AIDS, TB and malaria, World Bank supported Global Financing Facility (GFF), GAVI, the Vaccine Alliance, UHC 2030, Global Fund Advocates Network, the Partnership for Maternal, New-born and Child Health (PMNCH) and their local partners WACI Health and Globesolute Corporation comprise about 100 Civil Society, Private Sector, Media partners including ordinary wananchi such as youth and women groups, Advocates of the High Court, Actuarial Scientists, Economists, Teachers, Medical Practitioners and County Representatives with expertise on health financing and budget advocacy.
13. Kenyan Network of Cancer Organizations**(KENCO)**
14. Pwani Gender Based Violence Network; Collaboration of Women in Development (CWID); Mombasa County Health Advocacy Network (MCHANE); and Justice Humanity Dignity (JUHUDI).
15. Dr Peter Kimuu
16. Federation of Kenya Employers**(FKE)**

17. Non-Communicable Diseases Alliance Kenya(**NCDAK**)
18. Kenya Union of Clinical Officers(**KUCO**)
19. Kenya Association of Private Hospitals (**KAPH**)
20. Kenya Clinical Officers Association (**KCOA**)
21. Kenya Health Professional Oversight Authority (**KHPOA**)
22. Kenya Medical Practitioners and Dentists Union (**KMPDU**)
23. Nursing Council of Kenya (**NCK**)
24. Clinical Officers Council (**COC**)
25. Kenya National Human Rights Commission(**KNCHR**)
26. Kenya National Union of Pharmaceutical Technologists (**KNUPT**)
27. Irene G. Irungu
28. Samantha Wanjiru

TWELFTH PARLIAMENT |FIFTH SESSION

MINUTES OF THE SITTING OF THE SENATE STANDING COMMITTEE ON HEALTH, HELD ON MONDAY, 15TH NOVEMBER, 2021, AT 9.00 A.M. ON THE ZOOM ONLINE PLATFORM

PRESENT

1. **Sen. Michael Mbito, MP** - **Chairperson**
2. Sen. Mary Seneta, MP - Vice-Chairperson
3. Sen. Beth Mugo, EGH, MP
4. Sen. (Prof) Samson Ongeri, EGH, MP
5. Sen. (Dr) Abdullahi Ali Ibrahim, CBS, MP
6. Sen. Millicent Omanga, MP
7. Sen. Ledama Olekina, MP
8. Sen. Fred Outa, MP

APOLOGY

1. Sen. Beatrice Kwamboka, MP

SECRETARIAT

1. Dr. Christine Sagini - Senior Clerk Assistant
2. Ms. Caroline Njue - Clerk Assistant III
3. Mr. Robert Rop - Audio Officer
4. Ms. Lucy Radoli - Legal Counsel
5. Mr. Mbithi - Sergeant-at-arms

IN ATTENDANCE

COUNCIL OF GOVERNORS (COG)

1. Prof. Anyang Nyong'o - Chair Health Committee COG

NATIONAL TREAURY (NT)

1. Mr. Amos Gathecha - Principal Administrative Secretary Treasury

KENYA REVENUE AUTHORITY (KRA)

1. Mr. Maurice Oray - Deputy Commissioner, Corporate Policy Unit
2. Mr. Andrew Osiany - Chief Manager, Stakeholder Engagement & Events Management

MINISTRY OF HEALTH (MOH)

1. Ms. Susan Mochache - Principal Secretary
2. Dr. Patrick Amoth - Director General

PUBLIC SERVICE COMMISSION (PSC)

1. Ms. Joan Machayo - Director HRM&D

MIN. NO. SCH/13/11/2021: PRELIMINARIES

The Chairperson called the meeting to order at 9.15 a.m. and the meeting commenced with a word of prayer.

MIN. NO. SCH/14/11/2021: ADOPTION OF THE AGENDA

The Committee adopted the agenda of the sitting, as set out below, having been proposed by **Sen. Fred Outa, MP** and seconded by **Sen. (Dr.) Abdullahi Ali, MP: -**

1. Preliminaries
   a) Prayer
   b) Adoption of the Agenda
2. Stakeholder engagement with Government Agencies and Departments on the National Hospital Insurance Fund (Amendment), 2021 Bill including the:

- Ministry of Health
- National Treasury
- Public Service Commission
- Council of Governors
- Kenya Revenue Authority

3. Any other business.
4. Date of the Next Meeting.
5. Adjournment

MIN. NO. SCH/15/11/2021: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS

The Committee deferred the confirmation of minutes to a later date.

MIN. NO. SCH/16/11/2021: RECEIVING OF STAKEHOLDER'S SUBMISSIONS ON THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT), 2021 BILL

The Committee received Stakeholder Submissions in the following order:

1. Prof. Anyang Nyong'o, Representative of the Council of Governors.
2. Mr. Amos Gathecha, Representative of the National Treasury.
3. Mr. Maurice Oray and Mr. Andrew Osiany, Representatives of the Kenya Revenue Authority.
4. Ms. Susan Mochache and Dr. Patrick Amoth, Representatives of the Ministry of Health.
5. Ms. Joan Machayo, Representative of Public Service Commission.

The presentations were made in accordance with their written submissions, which they presented word for word. For more information, the matrix of public submissions on the Bill are annexed to these minutes.

MIN. NO. SCH/17/11/2021: ANY OTHER BUSINESS

The committee was informed of the meeting with the Ministry of Health and the KEMSA Board at Serena Hotel at 2:00 p.m.

MIN. NO. SCH/18/11/2021: ADJOURNMENT

The meeting was adjourned at 11:00 a.m.

SIGNED: .....

(CHAIRPERSON)

DATE: .....**30/11/2021**.....

TWELFTH PARLIAMENT |FIFTH SESSION

MINUTES OF THE SITTING OF THE SENATE STANDING COMMITTEE ON HEALTH, HELD ON TUESDAY, 16TH NOVEMBER, 2021, AT 9.00 A.M. ON THE ZOOM ONLINE PLATFORM

PRESENT

1. **Sen. Michael Mbito, MP** - **Chairperson**
2. Sen. Mary Seneta, MP - Vice-Chairperson
3. Sen. Beth Mugo, EGH, MP
4. Sen. (Prof) Samson Ongeri, EGH, MP
5. Sen. (Dr) Abdullahi Ali Ibrahim, CBS, MP
6. Sen. Millicent Omanga, MP
7. Sen. Ledama Olekina, MP

APOLOGY

1. Sen. Beatrice Kwamboka, MP
2. Sen. Fred Outa, MP

IN ATTENDANCE

CENTRAL ORGANIZATION OF TRADE UNIONS

1. Francis Atwoli - Secretary General

KENYA UNION OF POST-PRIMARY EDUCATION TEACHERS (KUPPET)

1. Maurice Misori - Secretary General

KENYA UNION OF CLINICAL OFFICERS (KUCO)

1. Mr. Petereson Wachira - Chairperson
2. Mr. Gibore - Secretary General

SECRETARIAT

1. Dr. Christine Sagini - Senior Clerk Assistant
2. Ms. Caroline Njue - Clerk Assistant III
3. Mr. Robert Rop - Audio Officer
4. Ms. Lucy Radoli - Legal Counsel
5. Mr. Mbithi - Sergeant-at-arms

MIN. NO. SCH/19/11/2021: PRELIMINARIES

The Chairperson called the meeting to order at 9.15 a.m. and the meeting commenced with a word of prayer.

MIN. NO. SCH/20/11/2021: ADOPTION OF THE AGENDA

The Committee adopted the agenda of the sitting, as set out below, having been proposed by **Sen. Ledama Olekina, MP** and seconded by **Sen. (Dr.) Abdullahi Ali, MP: -**

1. Preliminaries
a) Prayer
b) Adoption of the Agenda
2. Submissions on the NHIF (Amendment) Bill, 2021, 2020:
a) Central Organisation of Trade Unions (COTU);
b) Kenya Union of Post-Primary Education Teachers (KUPPET)
c) Kenya Union of Clinical Officers (KUCO)
3. Any other business:
4. Date of the Next Meeting.
5. Adjournment.

MIN. NO. SCH/21/11/2021: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS

The Committee deferred the confirmation of minutes to a later date.

MIN. NO. SCH/22/11/2021: RECEIVING OF STAKEHOLDER'S SUBMISSIONS ON THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT), 2021 BILL

The Committee received Stakeholder Submissions in the following order:

1. Mr. Francis Atwoli, Representative of the Central Organization of Trade Unions.

2. Mr. Maurice Misori, Representative of the Kenya Union of Post-Primary Education Teachers
3. Mr. Peterson Wachira, Representative of the Kenya Union of Clinical Officers.

The presentations were made in accordance with their written submissions, which they presented word for word. For more information, the matrix of public submissions on the Bill are annexed to these minutes.

MIN. NO. SCH/23/11/2021: ANY OTHER BUSINESS

There was no other business.

MIN. NO. SCH/24/11/2021: ADJOURNMENT

There being no other business, the meeting was adjourned at 10:00 a.m.

SIGNED: .....

(CHAIRPERSON)

DATE: .....**30/11/2021**.....

TWELFTH PARLIAMENT |FIFTH SESSION

MINUTES OF THE SITTING OF THE SENATE STANDING COMMITTEE ON HEALTH, HELD ON TUESDAY, 16TH NOVEMBER, 2021, AT 2.30 P.M. ON THE ZOOM ONLINE PLATFORM

PRESENT

1. **Sen. Michael Mbito, MP** - **Chairperson**
2. Sen. Mary Seneta, MP - Vice-Chairperson
3. Sen. Beth Mugo, EGH, MP
4. Sen. (Dr) Abdullahi Ali Ibrahim, CBS, MP
5. Sen. Millicent Omanga, MP
6. Sen. Fred Outa, MP
7. Sen. Ledama Olekina, MP

APOLOGY

1. Sen. (Prof) Samson Ongeri, EGH, MP
2. Sen. Beatrice Kwamboka, MP

SECRETARIAT

1. Dr. Christine Sagini - Senior Clerk Assistant
2. Ms. Caroline Njue - Clerk Assistant
3. Ms. Lucy Radoli - Legal Counsel
4. Mr. Phillip Kipkemboi - Audio Officer

IN ATTENDANCE

1. **KENYA NATIONAL UNION OF MEDICAL LABORATORY OFFICERS (KNUMLO)**

2. **KENYA NATIONAL UNION OF PHARMACEUTICAL TECHNOLOGISTS (KNUPT)**

SECRETARIAT

1.	Dr. Christine Sagini	-	Senior Clerk Assistant
2.	Ms. Caroline Njue	-	Clerk Assistant III
3.	Ms. Lucy Radoli	-	Legal Counsel
4.	Phillip Kipkemboi	-	Audio Officer

MIN. NO. SCH/29/11/2021: PRELIMINARIES

The Chairperson called the meeting to order at 2.30 p.m. and the meeting commenced with a word of prayer.

MIN. NO. SCH/30/11/2021: ADOPTION OF THE AGENDA

The Committee adopted the agenda of the sitting, as set out below, having been proposed by **Sen. Fred Outa, MP** and seconded by **Sen. Mary Seneta, MP: -**

1. Preliminaries
   a) *Prayer*
   b) *Adoption of the Agenda*
2. ***Submissions on the NHIF (Amendment) Bill, 2021,***
   a) ***Kenya National Union of Medical Laboratory Officers (KNUMLO);***
   b) ***Kenya National Union of Pharmaceutical Technologists (KNUPT)***
3. Any other business
4. Date of the Next Meeting.
5. Adjournment.

MIN. NO. SCH/31/11/2021: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS

The Committee deferred the confirmation of minutes to a later date.

MIN. NO. SCH/32/11/2021: MIN. NO. SCH/22/11/2021: RECEIVING OF STAKEHOLDER'S SUBMISSIONS ON THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT), 2021 BILL

The Committee received Stakeholder Submissions in the following order:

1. Representative of the Kenya National Union of Medical Laboratory Officers
2. Representative of the Kenya National Union of Pharmaceutical Technologists.

The presentations were made in accordance with their written submissions, which they presented word for word. For more information, the matrix of public submissions on the Bill are annexed to these minutes.

MIN. NO. SCH/33/11/2021: ANY OTHER BUSINESS

There was no other business.

MIN. NO. SCH/34/11/2021: ADJOURNMENT

There being no other business, the meeting was adjourned at 15:40 p.m.

SIGNED: .....

(CHAIRPERSON)

DATE: .....**30/11/2021**.....

TWELFTH PARLIAMENT |FIFTH SESSION

MINUTES OF THE SITTING OF THE SENATE STANDING COMMITTEE ON HEALTH, HELD ON TUESDAY, 16TH NOVEMBER, 2021, AT 3:40 P.M. ON THE ZOOM ONLINE PLATFORM

PRESENT

1. **Sen. Michael Mbito, MP** - **Chairperson**
2. Sen. Mary Seneta, MP - Vice-Chairperson
3. Sen. Beth Mugo, EGH, MP
4. Sen. (Dr) Abdullahi Ali Ibrahim, CBS, MP
5. Sen. Millicent Omanga, MP
6. Sen. Fred Outa, MP
7. Sen. Ledama Olekina, MP

APOLOGY

1. Sen. (Prof) Samson Ongeri, EGH, MP
2. Sen. Beatrice Kwamboka, MP

IN ATTENDANCE

FEDERATION OF KENYA EMPLOYERS (FKE)

1. Mr. Stephen Obiro - Head of Advocacy, Communication & Partnerships
2. Mr. George Masese - Head of Legal & Industrial Federation
3. Mr. Grace Kaome - Head of human Resource

KENYA PRIVATE SECTOR ALLIANCE (KEPSA),

1. Dr. Kanyenje Gakombe - Chairman

KENYA HEALTHCARE FEDERATION (KHF)

1. Dr. Kanyenje Gakombe - Vice Chairperson

CHRISTIAN HEALTH ASSOCIATION OF KENYA (CHAK)

1. Dr. Samuel Mwenda - Chief Executive Officer

KENYA ASSOCIATION OF PRIVATE HOSPITALS (KAPH)

1. Ms. Elizabeth Gitau - Chief Executive Officer

RURAL PRIVATE HOSPITALS ASSOCIATION (RPHA)

1. Mr. Joseph Kariuki - Vice Chairman

ASSOCIATION OF KENYA INSURERS (AKI)

1. Mr. Tom Gichuhi

SECRETARIAT

1. Dr. Christine Sagini - Senior Clerk Assistant
2. Ms. Caroline Njue - Clerk Assistant III
3. Ms. Lucy Radoli - Legal Counsel
4. Phillip Kipkemboi - Audio Officer

MIN. NO. SCH/35/11/2021: PRELIMINARIES

The Chairperson called the meeting to order at 3.42 p.m. and the meeting commenced with a word of prayer.

MIN. NO. SCH/36/11/2021: ADOPTION OF THE AGENDA

The Committee adopted the agenda of the sitting, as set out below, having been proposed by **Sen.(Dr.) Abdullahi Ali, MP** and seconded by **Sen. Beth Mugo, MP: -**

1. Preliminaries
   a) Prayer
   b) Adoption of the Agenda
2. ***Submissions on the NHIF (Amendment) Bill, 2021,***

a) ***Federation of Kenyan Employers (FKE)***
b) ***Kenya Private Sector Alliance (KEPSA)***
c) ***Kenya Healthcare Federation (KHF)***
d) ***Kenya Association of Private Hospitals (KAPH)***
e) ***Christian Health Association of Kenya (CHAK)***
f) ***Rural Private Hospitals Association (RPHA)***
g) ***Association of Kenya Insurers (AKI)***

3. Any other business:
4. Date of the Next Meeting.
5. Adjournment.

MIN. NO. SCH/35/11/2021: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS

The Committee deferred the confirmation of minutes to a later date.

MIN. NO. SCH/36/11/2021: RECEIVING OF STAKEHOLDER'S SUBMISSIONS ON THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT), 2021 BILL

The Committee received Stakeholder Submissions in the following order:

1. Ms. Elizabeth Gitau, Representative of the Kenya Association of Private Hospitals.
2. Dr. Samuel Mwenda, Representative of the Christian Health Association of Kenya.
3. Mr. Joseph Kariuki, Representative of the Rural Private Hospitals Association.
4. Mr. Stephen Obiro, Mr. George Masese and Ms. Grace Kaome, Representatives of the Kenya Federation Employers.
5. Dr. Kanyenje Gakombe, Representative of Kenya Private Sector Alliance.
6. Mr. Tom Gichuhi, Representative of the Association of Kenya Insurers.
7. Dr. Nyalita, Representative of the Kenya Healthcare Federation.

The presentations were made in accordance with their written submissions, which they presented word for word. For more information, the matrix of public submissions on the Bill are annexed to these minutes.

MIN. NO. SCH/37/11/2021: ANY OTHER BUSINESS

There was no other business.

MIN. NO. SCH/38/11/2021: ADJOURNMENT

There being no other business, the meeting was adjourned at 15:40 p.m.

SIGNED: .....

(CHAIRPERSON)

DATE: .....**30/11/2021**.....

TWELFTH PARLIAMENT |FIFTH SESSION

MINUTES OF THE SITTING OF THE SENATE STANDING COMMITTEE ON HEALTH, HELD ON WEDNESDAY, 17TH NOVEMBER, 2021, AT 9:00 A.M. ON THE ZOOM ONLINE PLATFORM

PRESENT

1. **Sen. Michael Mbito, MP** - **Chairperson**
2. Sen. Mary Seneta, MP - Vice-Chairperson
3. Sen. Beth Mugo, EGH, M
4. Sen. (Dr) Abdullahi Ali Ibrahim, CBS, MP
5. Sen. Millicent Omanga, MP
6. Sen. Fred Outa, MP
7. Sen. Ledama Olekina, MP
8. Sen. (Prof) Samson Ongeri, EGH, MP

APOLOGY

1. Sen. Beatrice Kwamboka, MP

SECRETARIAT

1. Dr. Christine Sagini - Senior Clerk Assistant
2. Ms. Caroline Njue - Clerk Assistant
3. Ms. Lucy Radoli - Legal Counsel
4. Mr. Robert Rop - Audio Officer
5. Ms. Farhiya Haji - Sergeant-at-arm

IN ATTENDANCE

NATIONAL COALITION ON UHC

1. Chris Alando - Convener

KENYA MEDICAL ASSOCIATION (KMA)

1. Dr. Were Onyino - President

PHARMACEUTICAL SOCIETY OF KENYA (PSK)

1. Ms. Daniella Munene - Convener

KENYA PHARMACEUTICAL ASSOCIATION (KPA)

1. Mr. Eric Seda - President

MIN. NO. SCH/39/11/2021: PRELIMINARIES

The Chairperson called the meeting to order at 9.15 a.m. and the meeting commenced with a word of prayer.

MIN. NO. SCH/40/11/2021: ADOPTION OF THE AGENDA

The Committee adopted the agenda of the sitting, as set out below, having been proposed by **Sen.(Dr.) Abdullahi Ali, MP** and seconded by **Sen. Millicent Omanga, MP: -**

1. Preliminaries
   a) Prayer
   b) Adoption of the Agenda
2. ***Submissions on the NHIF (Amendment) Bill, 2021,***
   a) National Coalition on UHC
   b) Kenya Medical Association (KMA)
   c) Pharmaceutical Society of Kenya (PSK)
   d) Kenya Pharmaceutical Association (KPA)
3. Any other business
4. Date of the Next Meeting.
5. Adjournment.

MIN. NO. SCH/41/11/2021: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS

The Committee deferred the confirmation of minutes to a later date.

MIN. NO. SCH/42/11/2021: RECEIVING OF STAKEHOLDER'S SUBMISSIONS ON THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT), 2021 BILL

The Committee received Stakeholder Submissions in the following order:

1. Mr. Chris Alando, Representative of the National Coalition on UHC.
2. Dr. Were Onyino, Representative of the Kenya Medical Association.
3. Ms. Daniella Munene, Representative of the Pharmaceutical Society of Kenya.
4. Mr. Eric Seda, Representative of the Kenya Pharmaceutical Association.

The presentations were made in accordance with their written submissions, which they presented word for word. For more information, the matrix of public submissions on the Bill are annexed to these minutes.

MIN. NO. SCH/43/11/2021: ANY OTHER BUSINESS

There was no other business.

MIN. NO. SCH/44/11/2021: ADJOURNMENT

There being no other business, the meeting was adjourned at 10:00 a.m.

SIGNED: .....

(CHAIRPERSON)

DATE: .....**30/11/2021**.....

TWELFTH PARLIAMENT |FIFTH SESSION

MINUTES OF THE SITTING OF THE SENATE STANDING COMMITTEE ON HEALTH, HELD ON WEDNESDAY, 17TH NOVEMBER, 2021, AT 10:00 A.M. ON THE ZOOM ONLINE PLATFORM

PRESENT

1. **Sen. Michael Mbito, MP** - **Chairperson**
2. Sen. Mary Seneta, MP - Vice-Chairperson
3. Sen. Beth Mugo, EGH, MP
4. Sen. (Dr) Abdullahi Ali Ibrahim, CBS, MP
5. Sen. Millicent Omanga, M
6. Sen. Fred Outa, MP
7. Sen. Ledama Olekina, MP
8. Sen. (Prof) Samson Ongeri, EGH, MP

APOLOGY

1. Sen. Beatrice Kwamboka, MP

SECRETARIAT

1. Dr. Christine Sagini - Senior Clerk Assistant
2. Ms. Caroline Njue - Clerk Assistant
3. Ms. Lucy Radoli - Legal Counsel
4. Mr. Robert Rop - Audio Officer
5. Ms. Farhiya Haji - Sergeant-at-arm

IN ATTENDANCE

KENYA PROGRESSIVE NURSES ASSOCIATION (KPNA)

1. Mr. Michael Nyongesa -

KENYA CLINICAL OFFICERS ASSOCIATION (KCOA)

1. Mr. Joseph Chebii - Secretary General

KENYA HEALTH PROFESIONALS SOCIETY (KHPS)

1. Mr. Mohamed Duba - Chairperson

NATIONAL NURSING ASSOCIATION OF KENYA (NNAK)

1. Mr. Collins Ajwang

MIN. NO. SCH/45/11/2021: PRELIMINARIES

The Chairperson called the meeting to order at 10.02 a.m. and the meeting commenced with a word of prayer.

MIN. NO. SCH/46/11/2021: ADOPTION OF THE AGENDA

The Committee adopted the agenda of the sitting, as set out below, having been proposed by **Sen. Beth Mugo, EGH, MP** and seconded by **Sen. (Dr.) Abdullahi Ali, MP MP: -**

1. Preliminaries
   a) *Prayer*
   b) *Adoption of the Agenda*
2. ***Submissions on the NHIF (Amendment) Bill, 2021,***
   a) ***National Nursing Association of Kenya (NNAK)***
   b) ***Kenya Clinical Officers Association (KCOA)***
   c) ***Kenya Health Professionals Society (KHPS)***
   d) ***National Nursing Association of Kenya (NNAK)***
3. Any other business
4. Date of the Next Meeting.
5. Adjournment.

MIN. NO. SCH/47/11/2021: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS

The Committee deferred the confirmation of minutes to a later date.

MIN.NO.SCH/48/11/2021: RECEIVING OF STAKEHOLDER'S SUBMISSIONS ON THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT), 2021 BILL

The Committee received Stakeholder Submissions in the following order:

1. Mr. Michael Nyongesa, Representative of the Kenya Progressive Nurses Association.
2. Mr. Joseph Chebii, Representative of the Kenya Clinical Officers Association.
3. Mr. Mohamed Duba, Representative of the Kenya Health Professionals Society.
4. Mr. Collins Ajwang, Representative of the National Nursing Association of Kenya.

The presentations were made in accordance with their written submissions, which they presented word for word. For more information, the matrix of public submissions on the Bill are annexed to these minutes.

MIN. NO. SCH/49/11/2021: ANY OTHER BUSINESS

There was no other business.

MIN. NO. SCH/50/11/2021: ADJOURNMENT

There being no other business, the meeting was adjourned at 11:15 a.m.

SIGNED: .....

(CHAIRPERSON)

DATE: .....**30/11/2021**.....

TWELFTH PARLIAMENT |FIFTH SESSION

MINUTES OF THE SITTING OF THE SENATE STANDING COMMITTEE ON HEALTH, HELD ON TUESDAY, 17TH NOVEMBER, 2021, AT 2:30 P.M. ON THE ZOOM ONLINE PLATFORM

PRESENT

1. **Sen. Michael Mbito, MP** - **Chairperson**
2. Sen. Mary Seneta, MP - Vice-Chairperson
3. Sen. Beth Mugo, EGH, MP
4. Sen. (Dr) Abdullahi Ali Ibrahim, CBS, MP
5. Sen. Millicent Omanga, MP
6. Sen. Fred Outa, MP
7. Sen. Ledama Olekina, MP
8. Sen. (Prof) Samson Ongeri, EGH, MP
9. Sen. Beatrice Kwamboka, MP

SECRETARIAT

1. Dr. Christine Sagini - Senior Clerk Assistant
2. Ms. Caroline Njue - Clerk Assistant
3. Ms. Lucy Radoli - Legal Counsel
4. Mr. Phillip Kipkemboi - Audio Officer
5. Ms. Farhiya Haji - Sergeant-at-arms

IN ATTENDANCE

INSURANCE REGULATORY AUTHORITY (IRA)

1. Mr. Godfrey Kiptum - Commissioner of Insurance
2. Ms. Diana Tanui - IRA

3. Mr. Willson Wachira - IRA
4. Mr. Christopher Wairoma - IRA

KENYA MEDICAL PRACTITIONERS AND DENTIST COUNCIL (KMPDC)

1. Mr. Daniel Yumbia - Chairperson

KENYA HEALTH PROFESSIONS OVERSIGHT AUTHORITY (KHPOA)

1. Ms. Sophie - Convener

PHARMACY AND POISONS BOARD (PPB)

1. Mr. Fred Siyoi - Deputy Registrar

NURSING COUNCIL OF KENYA (NCK)

1. Ms. Edna Tallam - CEO
2. Ms. Caroline Muchina - Head of Legal

KENYA COUNCIL OF CLINICAL OFFICERS COUNCIL (KCOC)

1. Mr. Ibrahim Wako - Ag. Registrar

COUNCIL OF KENYA NUTRITIONISTS AND DIETTITIANS INSTITUTUE (CKNDI)

1. Dr. David Okeyo

NURSING COUNCIL OF KENYA (NCK)

1. Ms. Edna Tallam and Ms. Caroline Muchina, Representatives of the Nursing Council of Kenya.

MIN. NO. SCH/51/11/2021: PRELIMINARIES

The Chairperson called the meeting to order at 10.02 a.m. and the meeting commenced with a word of prayer.

MIN. NO. SCH/52/11/2021: ADOPTION OF THE AGENDA

The Committee adopted the agenda of the sitting, as set out below, having been proposed by **Sen. Millicent Omanga, MP** and seconded by **Sen. Ledama Olekina, MP: -**

1. Preliminaries
   a) *Prayer*
   b) *Adoption of the Agenda*
2. ***Submissions on the NHIF (Amendment) Bill, 2021,***
   a) ***Insurance Regulatory Authority (IRA)***
   b) ***Kenya Medical Practitioners and Dentist Council (KMPDC)***
   c) ***Kenya Health Professions Oversight Authority (KHPOA)***
   d) ***Pharmacy And Poisons Board (PPB)***
   e) ***Nursing Council of Kenya (NCK)***
   f) ***Clinical Officers Council (COC)***
   g) ***Nursing Council of Kenya (NCK)***
3. Any other business:
4. Date of the Next Meeting.
5. Adjournment.

MIN. NO. SCH/53/11/2021: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS

The Committee deferred the confirmation of minutes to a later date.

MIN.NO.SCH/54/11/2021: RECEIVING OF STAKEHOLDER'S SUBMISSIONS ON THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT), 2021 BILL

The Committee received Stakeholder Submissions in the following order:

1. Mr. Godfrey Kiptum, Ms. Diana Tanui, Mr. Willson and Mr. Christopher Wairom, Representative of the Insurance Regulatory Authority.
2. Mr. Daniel Yumbia, Representative of the Kenya Medical Practitioners and Dentists Council.
3. Ms. Sophie, Representative of the Kenya Health Professions Oversight Authority.
4. Mr. Fred Siyoi, Representative of the Kenya Pharmacy and Poisons Board.
5. Ms. Edna Tallam and Ms. Caroline Muchina, Representative of the Nursing Council of Kenya.
6. Mr. Ibrahim Wako, Representative of the Clinical Officers Council.

The presentations were made in accordance with their written submissions, which they presented word for word. For more information, the matrix of public submissions on the Bill are annexed to these minutes.

MIN. NO. SCH/55/11/2021: ANY OTHER BUSINESS

There was no other business.

MIN. NO. SCH/56/11/2021: ADJOURNMENT

There being no other business, the meeting was adjourned at 3:15 p.m.

SIGNED: .....

(CHAIRPERSON)

DATE: .....**30/11/2021**.....

TWELFTH PARLIAMENT |FIFTH SESSION

MINUTES OF THE SITTING OF THE SENATE STANDING COMMITTEE ON HEALTH, HELD ON FRIDAY, 26TH NOVEMBER, 2021, AT 11.00 A.M. AT SWAHILI BEACH HOTEL AND ON THE ZOOM ONLINE PLATFORM

PRESENT

1. **Sen. Michael Mbito, MP** - **Chairperson**
2. Sen. Mary Seneta, MP - Vice-Chairperson
3. Sen. (Dr) Abdullahi Ali Ibrahim, CBS, MP
4. Sen. (Prof) Samson Ongeri, EGH, MP
5. Sen. Beth Mugo, EGH, MP
6. Sen. Millicent Omanga, MP
7. Sen. Ledama Olekina, MP
8. Sen. Fred Outa, MP

APOLOGY

1. Sen. Beatrice Kwamboka, MP

SECRETARIAT

1. Dr. Christine Sagini - Senior Clerk Assistant
2. Ms. Caroline Njue - Clerk Assistant II
3. Ms. Lucy Radoli - Legal Counsel
4. Mr. Robert Rop - Audio Officer
5. Mr. Farhiya Haji - Sergeant-at-arms
6. Ms. Kathleen Nanzala - Legal Pupil
7. Ms. Cynthia Karuru - Legal Pupil
8. Dorin Mbui - Office Assistant

MIN. NO. SCH/51/11/2021: PRELIMINARIES

The Chairperson called the meeting to order at 9:15 a.m. and the meeting commenced with a word of prayer.

MIN. NO. SCH/52/11/2021: ADOPTION OF THE AGENDA

The Committee adopted the agenda of the sitting, as set out below, having been proposed by **Sen. Millicent Omanga, MP** and seconded by **Sen. Mary Seneta, MP: -**

1. Preliminaries
   a) *Prayer*
   b) *Adoption of the Agenda*
2. ***Consideration of the report on the NHIF (Amendment) Bill, 2021***
3. Any other business.
4. Date of the Next Meeting.
5. Adjournment.

MIN. NO. SCH/53/11/2021: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS

The Committee deferred the confirmation of minutes to a later date.

MIN. NO. SCH/54/11/2021: CONSIDERATION OF THE REPORT ON THE NHIF (AMENDMENT) BILL, 2021

The legal counsel took the committee through the matrix of submissions clause by clause as follows:

MATRIX OF SUBMISSIONS RECEIVED ON THE NATIONAL HEALTH INSURANCE FUND (AMENDMENT) BILL 2021

Clause	Provision in the Bill	Proposed Amendment	Justification	Committee resolution
2 **Long title**	2. The National Hospital Insurance Fund Act in this Act referred to as the 'Principal Act' is amended by deleting the long title and inserting the following new long title— "An Act of Parliament to provide for the establishment of the	***Amend to read as follows:*** 2. The National Hospital Insurance Fund Act in this Act referred to as the 'Principal Act' is amended by deleting the long title and inserting the following new long title— "An Act of Parliament to align the national health insurance system to the devolved system of government; to provide for	The proposed Amendments are necessary because of several reasons. First, the Amendments seek to align the system of national health insurance to the devolved system of government since county governments have the greater part of the health services delivery function.	Not accepted. The long title as set out in the Bill is adequate as it sets out in a succinct manner the changes in the aw: a movement from simply covering hospital insurance and to a more holistic approach covering the umbrella healthcare financing.

	National Health Insurance Fund; to establish the National Health Insurance Management Board; to provide for mechanisms of contributions to and the payment of benefits out of the Fund; and for connected purposes"	the establishment of the National Health Insurance Fund; to establish the National Health Insurance Management and Accountability structures; to provide for mechanisms of contributions to and the payment of benefits out of the Fund; to provide for mechanisms for internal and external accountability to the public for finances and other purchasing activities including contracting, service utilization, service quality, and efficiency of operations; and for connected purposes" **(COG)**	Secondly, the Expert Panel found that a major problem with the current National Hospital Insurance Fund is that the NHIF Board combines the functions of accreditation and empanelment of health facilities as providers of services; setting the premium rates for contributors; setting the reimbursement rates to be paid to service provides; and making of payment of claims. This combination creates a conflict of interest; and the Expert Panel in its Report recommended the separation of roles and establishment of more independent structures to be assigned different roles and act as checks and balances on each other. It is for this reason that the Amendments are proposing the establishment of several NHIF management and accountability structures, instead of just one NHIF Management Board. Thirdly, the Expert Panel found that the current NHIF system lacks adequate mechanisms for accountability and in its Report recommended the expansion of accountability beyond (1) internal and include external accountability to stakeholders and the public; (2) financial to	

			include accountability for other purchasing activities. **(COG)**	
7 **Interpretation**	Section 2 of the Principal Act is amended by inserting the following new definitions in the proper alphabetical sequence— 'health care provider' means the whole or part of a public or private institution, building or place, duly registered healthcare professional, whether for profit or not, that is operated or designed to provide in-patient or out-patient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventative or other health service.	***Amend to read as follows:*** 7. Section 2 of the Principal Act is amended by inserting the following new definitions in the proper alphabetical sequence— 'health care provider' means the whole or part of a public or private institution, building or place, duly registered healthcare professional, whether for profit or not, that is operated or designed to provide (a) preventative and promotive health services; and/or (b) in-patient or out-patient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative convalescent, or other health service. **(COG)**	The reason for the proposed Amendment is that while the replacement of the word 'Hospital' with the word 'Health' and the long title create the impression that the new law moves away from facility and curative orientation and focus, to health and preventive as well as promotive orientation and focus; the definition of 'health care provider' seems to go back to the emphasis on facility and curative orientation. This is because most preventive and promotive health care is not facility based and may end up not being covered and therefore financed. This will continue the old approach of underfunding primary health care which will undermine UHC and which contradicts the health policy and the Community health Services Bill that is seeking to ensure adequate funding of the community health services. The proposed Amendment therefore seeks to separate preventive and promotive services from curative services and lists it first to	ccepted but only include ıe word "promotional" ı the amendment but ıaintain the amendment ; it is.

			give it prominence. This will ensure that in the process of accreditation, these services are specifically mentioned and included in the capitation budgets and claims. **(COG)**	
	" accreditation" means the formal recognition of a health care provider by the relevant body.	Insert the word "regulatory" immediately after the word "relevant" **(MoH, PHARMACY AND POISONS BOARD)**	Both the Health Act 2017 and the Pharmacy Act use the term "**regulatory body**". Section 60 of the Health Act 2017 provide a lists of the regulatory bodies to include; a) Clinical Officers Authority b) Nursing Council of Kenya c) The Kenya Medical Laboratory Technicians and Technologists Board d) Medical Practitioners and Dentist Council e) The Radiation Protection Board f) Pharmacy and Poisons Board g) Council of Institute of Technicians and Dieticians h) Public Health Officers and Technicians Council	ccepted for clarification
	" accreditation" means the formal recognition of a health care provider by the relevant body.	Proposed clause; "accreditation" means the formal recognition of a health care provider/ health facility by an independent body based on criteria established by the Cabinet	Regulatory bodies are mandated to register and license health care providers and health facilities and not to accredit them. There will be a conflict of interest if	The proposed definition of accreditation is vague as it does not indicate which relevant body should accredit healthcare providers

		Secretary responsible for Health. **(KHPOA)**	regulatory bodies are allowed to accredit health care providers and health facilities.	under the Act. The clause should be amended that the Board should accredit providers.
	"child" means a child of a contributor including a posthumous child, a stepchild, an adopted child and any child to whom the contributor stands in loco parentis, and who has not attained the age of eighteen years.	Proposal The Bill to use the definition of "child" as defined by the Children's Act. **(NCDAK)**	No justification provided.	ot accepted
	"employer" includes the national government and the national entities, the county government and the county entities.	Adopt the definition of "employer" as provided for under the Employment Act, 2007. "Employer" means any person, public body, firm, corporation or company who or which has entered into a contract of service to employ any individual and includes the agent, foreman, manager or factor of such person, public body, firm, corporation or company. **(KRA)**	Adoption of the definition shall bring certainty and harmonize it with the Employment Act, 2007.	Accepted with modification: include national government and its entities as well as county governments and its entities and delete reference to *"the agent, foreman, manager or factor of such person, public body, firm, corporation or company"* in KRAs proposal
	"vulnerable person" means a person who is in need of special care, support or protection, including the orphaned and vulnerable children, widows or widowers, person with disability, elderly persons or indigent due to a risk of abuse or neglect	Define "Special Care" as included in the definition of "vulnerable person" Consider including Persons living with Non-Communicable Diseases (PLWNCDs) with special or social needs as a vulnerable population in the definition of "vulnerable person" **(NCDAK)**	No justification provided.	ccepted

	and who has been identified as such by the relevant government body."			
	"health care provider" means the whole or part of a public or private institution, building or place duly registered healthcare professional, whether for profit or not, that is operated or designed to provide in-patient or out-patient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventive or other health service.	Include stand-alone medical laboratories, X-Ray Centres, chemists and pharmacies within the definition of "health care provider" **(Dr Peter Kimuu)**	The definition of "health care provider" is narrow. A health care provider is an individual health professional or a health facility organization licensed to provide health care diagnosis and treatment services, including medication, surgery and medical devices. These services should not necessarily be available within one setting. For example, a dispensary or medical clinic may refer a patient or sample to s stand-alone medical laboratory, X-Ray center etc. for diagnostic services. Also, a hospital or medical clinic may issues prescription for the patient to access prescribed medicines from a stand-alone pharmacy or chemist. One of the major challenges that Kenyans visiting public hospital face is being sent to pay for diagnostic tests, or even buying prescribed medicines outside. For insured / NHIF contributors, insurance has proved useless.	ot accepted
New proposal	New proposal	Define "collector" to mean Commissioner General of Kenya Revenue Authority.	This will provide efficiency, lower the cost of collection and ensure increased compliance by contributors.	ot accepted

		The collector of the funds shall remit the funds by 15th of every month. **(KRA)**		

MIN. NO. SCH/55/11/2021: ANY OTHER BUSINESS

There was no other business.

MIN. NO. SCH/56/11/2021: ADJOURNMENT

There being no other business, the meeting was adjourned at 13:30 p.m. to 14:30 p.m. in the afternoon.

SIGNED: .....

(CHAIRPERSON)

DATE: .....**30/11/2021**.....

TWELFTH PARLIAMENT |FIFTH SESSION

MINUTES OF THE SITTING OF THE SENATE STANDING COMMITTEE ON HEALTH, HELD ON FRIDAY, 26TH NOVEMBER, 2021, AT 2.30 P.M. AT SWAHILI BEACH HOTEL AND ON THE ZOOM ONLINE PLATFORM

PRESENT

1. Sen. Mary Seneta, MP - Vice-Chairperson
2. Sen. (Prof) Samson Ongeri, EGH, MP
3. Sen. (Dr) Abdullahi Ali Ibrahim, CBS, MP
4. Sen. Ledama Olekina, MP
5. Sen. Fred Outa, MP
6. Sen. Millicent Omanga, MP

APOLOGY

1. **Sen. Michael Mbito, MP - Chairperson**
2. Sen. Beatrice Kwamboka, MP
3. Sen. Beth Mugo, EGH, MP

SECRETARIAT

1. Dr. Christine Sagini - Senior Clerk Assistant
2. Ms. Caroline Njue - Clerk Assistant II
3. Ms. Lucy Radoli - Legal Counsel
4. Mr. Robert Rop - Audio Officer
5. Mr. Farhiya Haji - Sergeant-at-arms
6. Ms. Kathleen Nanzala - Legal Pupil
7. Ms. Cynthia Karuru - Legal Pupil
8. Dorin Mbui - Office Assistant

MIN. NO. SCH/57/11/2021: PRELIMINARIES

The Chairperson called the meeting to order at 2:40 p.m. and the meeting commenced with a word of prayer.

MIN. NO. SCH/58/11/2021: ADOPTION OF THE AGENDA

The Committee adopted the agenda of the sitting, as set out below, having been proposed by **Sen. Ledama Olekina, MP** and seconded by **Sen Mary Seneta, MP: -**

1. Preliminaries
    a) *Prayer*
    b) *Adoption of the Agenda*

8 Establishment of the Fund	Section 3 of the Principal Act is amended— (a) In subsection (1), by deleting the word "Hospital" and substituting therefor the word "Health"; (b) In subsection (2), by deleting paragraph (a) and substituting therefor the following new paragraph— (1) "Into the Fund— (i) Contributions under section 15; (ii) such monies as may be appropriated by the National Assembly, for indigent and vulnerable persons; (iii) gifts, grants or donations; (iv) funds from the national government, county governments and their respective entities, or employers for the administration of employee benefits; and (v) funds from post retirement funds for provision of medical cover to retired employees, where the contributor has elected to do so."	***Amend to read as follows:*** Section 3 of the Principal Act is amended— (a) by deleting subsection (1) and substituting therefor the following new subsection (1)— (1) There shall be established a Fund, to be known as the National Health Insurance Fund which shall vest in and be operated and managed by the following Boards— (i) The National Health Insurance Fund Board of Accreditation and Empanelment. (ii) The National Health Insurance Fund Board of Revenue Collection; and (iii) The National Health Insurance Fund Board of Claims and Payment. (b)In subsection (2), by deleting paragraph (a) and substituting therefor the following new paragraph— (a) Into the Fund— (i) Contributions under section 15; (ii) such monies as may be appropriated by the National Assembly, for indigent and vulnerable persons; (iii) gifts, grants or donations; (iv) funds from the national	As already noted, the Expert Panel found that a major problem with the current National Hospital Insurance Fund is that the NHIF Board combines the functions of accreditation and empanelment of health facilities as providers of services; determination of the benefits package; setting the premium rates for contributors; collection of revenue from the contributors; setting the reimbursement rates to be paid to service provides; and making of payment of claims. This combination creates a conflict of interest; and the Expert Panel in its Report recommended the separation of roles and establishment of more independent structures to be assigned different roles and act as checks and balances on each other and enhances accountability. It is for this reason that the Amendments are proposing the establishment of several NHIF management and accountability structures, instead of just one NHIF Management Board. Moreover, the Ministry of Health in its proposal for establishment of a Social Health Insurance Fund also recognized that such fund would need to be managed by several structures such as the Social Health Insurance Board of Management; Stakeholders Advisory Committee; Health Benefits and Tariffs Advisory Committee; Accreditation Body; Independent Medical Claims Review and Management	**Not accepted** **The creation of additional Boards would create unnecessary bureaucratic layers. However, the public is concerned as to governance and liability would be amended to provide of submissions of report in section 37 and 38 of the Act to Parliament.** **Further AG to make financial and non-financial performance of the Fund.**

		government, county governments and their respective entities, or employers for the administration of employee benefits; and (v) funds from post retirement funds for provision of medical cover to retired employees, where the contributor has elected to do so.' **(COG)**	Organization; and a Health Insurance Regulator.	
		Amend section 3 (iv) of the Principal Act by inserting the word '*medical*' after the word 'employee' and immediately before the word 'benefits.' **(KFBHSC)**	For medical benefits agreed with the sponsor.	**ccepted**
		We propose to add the words – as a "Semi-Autonomous State Agency" so that the section reads; Establishment of the Fund (1) There shall be established a Fund, to be known as the National Health Insurance Fund operating as a Semi-Autonomous State Agency, and which shall vest in, and operated and managed by the Board. **(National Coalition on UHC)**	No justification given.	**ot accepted**
		Delete "where the contributor has elected to do so" from the clause in the amendment to Section 3(a) (v) of the principal Act. **(Dr Peter Kimuu)**	Note that the spirit of this Bill is to have a make health insurance mandatory. However, the amendment Clause is making it voluntary for retired employees.	**Not Accepted**
9 Establishment of the Board	Section 4 of the Principal Act is amended by deleting subsection (1) and substituting therefor the following new subsections— '(1) **The Management of the Fund shall vest in a Board which shall consist of—** (a) A Chairperson appointed by the President by virtue of his or	***Amend to read as follows:*** Section 4 of the Principal Act is amended by deleting the marginal note and substituting therefor the following new title— "Establishment of the Accreditation and Empanelment, Revenue Collection, and Claims Payment Boards" Section 4 of the Principal Act is amended by deleting subsection (1) and substituting therefor the following new subsections (1), (1A) and (1B)— '(1) There is established a National Health Insurance Fund Board of Accreditation and Empanelment which shall consist of the Kenya Health	This proposed Amendment is justified on grounds that this part of the legislation seeks to establish three different entities as Boards of the National Health Insurance Fund. This provisions which constitutes the Kenya Health Professions Oversight Authority (KHPOA) into the NHIF Board of Accreditation and empanelment is in line with the recommendation of the MOH in its proposal for establishment of a Social Health Insurance that the accreditation function should be	**Deleting paragraph (d) by inserting ta new paragraph (da) one person nominated by the Kenya Medical Association.** **In paragraph (g) deleting the word "one" and substitution with the word "two".** **Deleting the words "paragraphs (f) and (g) immediately after the words "appointed under" and substitute with the words**

		her knowledge and experience in matters relating to insurance, financial management, economics, health or business administration; (b) The Principal Secretary in the Ministry for the time being responsible for matters relating to health or a representative appointed in writing; (c) The Principal Secretary in the Ministry for the time being responsible for matters relating to finance or a representative appointed in writing; (d) One person nominated by the Kenya Health Professions	Professions Oversight Authority established by sections 45 and 46 of the Health Act (1A) (1) There is established a National Health Insurance Fund Board of Revenue Collection which shall consist of— (a) A Chairperson appointed by the President in consultation with the Council of Governor, by virtue of his or her knowledge and experience in matters relating to financial management, revenue administration and collection, insurance, economics, health or business administration; (b) Two persons, not being public officers appointed by the Cabinet Secretary; (c) Two persons, not being Governors, nominated by the Council of Governors; (d) One person nominated by the Federation of Employers; (e) One person nominated by the organized labour; (f) One person nominated by non- state health providers; and (g) The Chief Executive Officer, who shall be an ex-officio member of the Board. (1A) (2) The persons nominated or appointed under paragraphs (b) to (f) shall have knowledge and experience in matters relating to finance, revenue administration and collection, insurance, information communication and technology, law, public health, business management, audit, economics or any other relevant field. (1A) (3) The nominating and appointing bodies under paragraphs (b) to (f) shall afford	assigned to KHPOA. Under the proposed Amendment, KHPOA with be an Oversight Authority for purposes of the health Act but an accreditation and empanelment Board for purposes of the National Health Insurance Fund. The proposed Amendments on the membership of the NHIF Revenue Collection Board and the NHIF Claims and Payment Board, are justified on two grounds. First, with devolution, county governments are key players in the delivery of health services and must therefore through the Council of Governors be give adequate representation in these boards. Secondly, with the making of health insurance compulsory, the contributors from the informal sector that are non- salaried and are not represented by the Federation of Employers as well as the Central Organization of Trade Unions will certainly be more members and need to be organized and given adequate representation in the NHIF boards.	**paragraphs (f) (g) and (h).**

		Oversight Authority; (e) One person nominated by the Federation of Employers ; (f) One person nominated by the Central Organization of Trade Unions; (g) One person, not being a Governor, nominated by the Council of Governors; (h) Two persons, not being public officers appointed by the Cabinet Secretary; and (i) The Chief Executive Officer, who shall be an ex-officio member of the Board.	equal opportunity to men and women, youth, persons with disability and minorities and marginalized groups and ensure regional balance. (1A) (4) The Cabinet Secretary responsible for matters relating to health shall publish the names of the persons nominated under paragraphs (b) to (f) in the Gazette. (1B) (1) There is established a National Health Insurance Fund Board of Claims and Payments which shall consist of— (a) A Chairperson appointed by the President in consultation with the Council of Governors, by virtue of his or her knowledge and experience in matters relating to insurance, financial management, economics, health or business administration; (b) The Principal Secretary in the Ministry for the time being responsible for matters relating to health or a representative appointed in writing; (c) The Principal Secretary in the Ministry for the time being responsible for matters relating to finance or a representative appointed in writing; (d) Two persons, not being Governors, nominated by the Council of Governors; (e) One person nominated by the Kenya Health Professions Oversight Authority; (f) One person nominated by the Federation of Employers; (g) One person nominated by the Central Organization of Trade Unions; (h) Two persons, not being public officers appointed by the Cabinet Secretary to represent the informal sector and non-salaried contributors;		

		(i) Two persons nominated by the Council of Governors to represent the informal sector and non-salaried contributors; and (j) The Chief Executive Officer, who shall be an ex-officio member of the Board. (1B) (2) The persons nominated or appointed under paragraphs (d) to (i) shall have knowledge and experience in matters relating to finance, insurance, information, communication and technology, law, public health, business management, audit, economics or any other relevant field. (1B) (3) The nominating and appointing bodies shall afford equal opportunity to men and women, youth, persons with disability and minorities and marginalized groups and ensure regional balance. (1B) (4) The Cabinet Secretary responsible for matters relating to health shall publish the names of the persons nominated under paragraphs (d) to (i) in the Gazette. **(CoG)**		

		Stakeholder analysis be undertaken and that the two-thirds gender rule is implemented in the NHIF Board. **(National Treasury)**	The NHIF Board must be revisited, with a view to enhancing its skills, diversity and effectiveness. For example, it is necessary to incorporate representation of key stakeholders such as community interest groups, Council of Governors, Kenya Pharmacy and Poisons Board, Kenya Pharmaceutical Association among others.	**Remove the KHPOA and add CoG nominees to two persons. Also require CS nominee to have knowledge in insurance, etc under 1A**
		The Director General for Health should be represented in the Board to provide technical guidance. **(KMA)**	The DG for Health is the technical advisor to the Government on all matters relating to health within the health sector.	**ot accepted**
	(d) One person nominated by the Kenya Health Professions Oversight Authority	Replace Kenya Health Professions Oversight Authority with Kenya Medical Association. **(KMA)**	KMa is currently representing health service providers in the NHIF Act,1998 and it should be retained to ensure inclusion of key service providers in the Board. KHPOA cannot fit this role as: a) it is a government agency under the Ministry of Health that is yet to be operationalized through an Act of parliament, b) its mandate is to provide oversight over regulatory bodies and not represent service providers, c) and it will be procedural to have board members from other SAGAs as part of another board-for avoidance of creation of super-boards and potential conflict of interest.	**ot accepted**
	(h) Two persons, not being public officers appointed by the Cabinet Secretary;	Include one person from faith-based hospitals as persons appointed or nominated by the Cabinet Secretary. **(Railway workers Union (K))**	They have a stake and should be nominated or appointed by the Cabinet Secretary on consultation with stakeholders.	ot accepted
		Amendment to include minimum qualifications for board members: 4(2) Members of the Board appointed or nominated under Section 4(1) above shall have successful experience of 10 years or more at management level within the national and or international private and public	The shift from voluntary to mandatory enrollment and obligatory payments by government, need for resource mobilization, need for strategic purchasing, value for money and defragmentation into a single pool, quality improvement to attract enrollment and use, timing for expansion of the benefits package	**Provide for a Masters degree on top of the 10-year experience.**

		sectors in: finance, resource mobilization, macroeconomic management, health systems management; accounting; medicine; information systems, law, business management, actuarial sciences; insurance management, community systems or other relevant qualifications. 2. (i) Every appointment under subsection (1) (a) to (f) shall be by name and by notice in the Gazette and shall be for a renewable period of 3years, but shall cease if the appointee: **(National Coalition on UHC)**	especially in readiness for transition by 2030 and ensuring that no one is left behind and effective community engagement are complex issues which require a knowledgeable and experienced board that can guide NHIF successfully.	
	(h) Two persons, not being public officers appointed by the Cabinet Secretary:	A Representative of a Non-communicable Disease Civil Society Organization should be included as one of the non-public officers appointed by the Cabinet Secretary. **(NCDAK)**	Stating explicitly that the NHIF is established by law as a semi-autonomous state agency, among other clarifications, places it under the purview of the Code of Governance for State Corporations (Mwongozo), and hence offers a legal basis to address some of the governance issues.	
	New Proposal	Provide for stakeholder engagement in the Board's decision making. **(FKE)**	Public participation in decision making is a Constitutional Right. The Bill does not take into account stakeholder engagement in decision making. The Board has been given wide unfettered discretion to make decision without consulting the contributors or ends users of the services.	**ccepted**
10 Objects and function of the Board	Section 5(1) of the Principal Act is amended— (a) In paragraph (b) by deleting the words 'declared Hospitals' and substituting therefor the words 'empaneled health care providers'; (b) by deleting paragraph (c) and substituting therefor the following new paragraph— (c) in consultation with the Cabinet Secretary, to set the criteria for the empanelment	Section 5 of the Principal Act is amended by deleting the title of the section and substituting therefore the following new title— **"Objects and Functions of the NHIF Boards"** ***Amend to read as follows:*** Section 5 of the Principal Act is amended by deleting the entire section and substituting therefore the following new section 5(1), 5(2) and 5(3)— '5(1) The objects and functions of the National Health Insurance Fund Board of Accreditation and Empanelment shall— (a)in respect of accreditation and empanelment of health care providers be to—	The proposed Amendments and allocation of the functions to the three NHIF Boards is consistent with the Expert Panel's Report which recommended separation of roles and their allocation to different independent bodies to act as checks and balances. The allocation of functions has also partly drawn from MOH's suggested allocation of functions when the Ministry was proposing the establishment of a Social Health Insurance.	In consultation with "regulatory bodies" instead of Cabinet Secretary.

	and contracting of health care providers for the purposes of this Act'; (c)by deleting paragraph (g) and substituting therefor the following new paragraph— (g)to facilitate attainment of Universal Health Coverage with respect to health insurance; (ga) to administer employee benefits as provided under this	i. determine the accreditation and empanelment criteria based on the optimal and achievable standards of quality health care the health care providers must meet; ii. advance high quality of patient care and safety through objective application of recognized standards; iii. promote a single shared view of quality through working with stakeholders in defining and institutionalizing a consistent approach to quality of care; iv. set and continuously review health care providers and facilities conformity assessment tools; v. regularly assess health care providers and facilities for accreditation and assign them their appropriate level of health care delivery as per the Kenya Essential Package for Health, norms and standards; vi. continuously monitor the quality of the provision of health services to ensure compliance with evidence- based practices and accreditation standards and guidelines; vii. collaborate with the Ministry of Health and the county governments through the Council of Governors in grading		

		of health facilities and award systems to incentivize the facilities in promotion of quality health care; viii. Designate centres of excellence for specialized services to promote quality of care; ix. publish accreditation reports, summaries and performance ratings on their website to assist the public to choose health care services; (b) in respect of benefits and tariffs be to— i. to regulate the contributions payable to the Fund and the benefits and other payments to be made out of the Fund; ii. enhance financial stability and affordability of health services including containment of costs for health services; iii. Carry out an evidence-based benefits package development process that includes conducting and disseminating Health Technology Assessment results; iv. determine a unified benefits package of health services covered by the insurance that should progressively be attained for all Kenyans; v.determine the premiums payable by contributors of different categories; vi. determine uniform tariffs for all		

		the items included in the health benefits package that are reimbursable to all the health facilities whether public or private, under the NHIF contract, and that are standardized for same services anywhere; vii. conduct costing of health services to determine the cost of delivering health services and seek to close the gap between the established Kenyan Essential Health services Package and the NHIF benefits package; viii. facilitate the improvement of quality of healthcare services under the universal health coverage through devising service provider's incentives and or disincentives to avoid over-or-under provision of necessary services; ix. ensure that funds are being spent on services that create the maximum benefit for the population; x.empower the population especially the poor and marginalized groups, by making them aware of their specific entitlements. 5(2) The objects and functions of the National Health Insurance Fund Board of Revenue Collection shall be— (a) to establish efficient systems for collection of Funds due to NHIF including outsourcing of independent contracts to collect the funds on behalf of the NHIF Board of Revenue collection;		

		(b) to ensure equitable distribution of the established collection systems across the country; (c) to receive from the National Health Insurance Board of Claims and Payments and maintain the register of all citizens registered NHIF coverage; (d) to receive all contributions and other payments required by this Act to be made to the Fund; (e) to use the list of citizens registered for NHIF coverage to collect and enforce payment of premiums from all those registered; (f) To remit the funds collected to the National Health Insurance Fund Board of Claims and Payments as the custodian of the Funds; (g) to protect the interests of contributors to the Funds; (h) to protect the collected funds while still in the custody of the Board of Revenue Collection; (i) to maintain proper books of account of all funds collected and to account for the same to the Board of Claims and Payments and to the citizens through Parliament and County Assemblies; (j) to prepare and submit annual records of all collected funds to the two houses of Parliament and all county assemblies. 5(3) The objects and functions of the National Health Insurance Fund Board of Claims and Payments shall be— (a) to register all citizens against specific facility catchment areas for coverage under the NHIF; (b) to submit a copy of the entire register of the registered citizens to the NHIF Board of Revenue Collection for purposes of collection of the premiums due; (c) to submit to every public health facility, copies of the register of		

		all persons registered under that facility for purposes of payment of capitation; (c) to continuously update the register of registered citizens and update the NHIF Board of Revenue Collection to enforce payment by contributors or any other entities that pay on behalf of the contributors; (d) to contract health care providers for purposes of the objects of NHIF upon successful accreditation bythe Accreditation and Empanelment Board: (e) to pay annual capitation to all public health facilities based on the number of persons registered under the facility; (f) to receive, consider, verify and approve disbursements to health care providers making claims under the NHIF; (g) to make payments out of the Fund to accredited and empaneled health providers in accordance with the provisions of this Act; (h) to ensure equitable distribution of resources to the health care provider; (i)to consider and approve funding for preventive and promotive health services; (j)to prepare an annual report on the operations and performance Fund and submit to the both Houses of Parliament and all County Assemblies. **(COG)**		
10	a) by deleting paragraph (c) and substituting therefor the following new paragraph— (b) in consultation with the Cabinet Secretary, to set the criteria for the empanelment and contracting of health care providers for	To be amended to explicitly spell out the **statutory health regulatory bodies.** "c" in consultation with the Cabinet Secretary and relevant ***statutory health regulatory bodies***, to set the criteria for the empanelment and contracting of health care providers for the purposes of this Act'. **(KHPOA)**	This is to capture standards set by respective statutory health regulatory bodies. This also promotes inclusivity of all statutory professional bodies.	**ccepted**

	the purposes of this Act';			
10		Introduce Section 5(g) to Section 5: Objects and Functions of the Board "5(g) To facilitate transformation of the National Health Insurance Scheme into a single, defragmented public health insurance pool, with uniform benefits package for all." **(National Coalition on UHC)**	Currently the different classes of insured persons, packages and types of cover means that the NHIF is discriminatory, running more than 90 different pools, negating its role as a sustainable public health insurance and financing mechanism. The costs paid for someone in Isiolo County at the same level health facility for a particular illness may not be like those paid in Makueni constituency, or for an employee in Job Group S. Global best practice requires a gradual shift towards a single pooled health financing mechanism. This will ensure that members' contributions to the scheme are standardized and maximized, ensure that all persons are eligible to receive the highest quality health care services are considered for health services, without discrimination of any kind, regardless of class, position, skin colour, county, employment status, county of residence, ethnic group and or any other bias.	**ot accepted.** **Make room in the *ex-gratia* amount.** **Establish in each county a Fund into which it shall be paid all monies from the NHIF and money.**
10		Amendment to include a new clauses to subsection 5(1) on roles/functions of the board— (e) to oversee the functions of NHIF committees, CEO and it's the entire staff, make recommendations and act on any issue as the constitution and state corporations Act? SAGAs Law? will allow them to. (g) to oversee the functions of NHIF committees, the CEO, and the staff and employees of the Board. (h) to perform such other functions as are conferred on it by this	Public and Internal Oversight of NHIF activities on a continuous basis is yet suboptimal. According to the National State Corporations Act 2012, Oversight is typically the role of the board in collaboration with other external public financial oversight mechanisms.	**ot accepted**

		Act or by any other written law. **(National Coalition on UHC)**		
10		Introduce section 5(2) to provide; "5 (2) The Board shall ensure that appropriate, adequate, and comprehensive information is disseminated on the functions for which they are responsible being cognizant of the provisions of Article 35(1)(b) of the Constitution, and in particular, the Board. a) Shall compile and publish reports on the operations of the Fund, every three months, which reports shall be made publicly accessible b) Shall put in place modalities for dissemination and access to information concerning the workings and operations of the National Health Insurance Fund by the public. **(National Coalition on UHC)**	Article 43 (1) (a) of the Constitution of Kenya 2010 provides that every person has the right to the highest attainable standard of health, which includes the right to health care services, including reproductive health care. Article 43 (2) of the Constitution of Kenya 2010 provides that a person shall not be denied emergency medical treatment. The United Nations charter on the right to health must be enjoyed without discrimination on any grounds and states must redress any discriminatory law, practice, or policy. The 1948 Universal Declaration of Human Rights mentions health as part of the right to an adequate standard of living (art. 25). The 1966 International Covenant on Economic, Social and Cultural Rights recognizes health as a human right. The United Nations has recognized Kenya's President (2019) as a champion for Universal Health Coverage and H.E The President has since 2018 allocated about Ksh. 50 billion annually to cater for UHC for the indigent, mostly through NHIF. However, a rapid survey of the indigent, including the extremely poor, street children, some orphans, the elderly, people living with chronic diseases and those living with disabilities shows that less than 50% have NHIF cover and where covered, receive substandard benefits that discourage even the average willing-to-pay citizen from voluntary enrollment.	
11 **Powers of the Board**	Section 6 of the Principal Act is amended in paragraph (a) by deleting the word "Minister" appearing in the proviso and substituting therefor the words 'Cabinet Secretary'.	***Amend to read as follows:*** Section 6 of the Principal Act is amended by deleting the title of the section and substituting therefor the following new title— **"Powers of the NHIF Boards"** Section 6 of the Principal Act is amended by deleting the entire section and substituting therefor the following new section 6(1), 6(2) and 6(3)— "6(1) The National Health Insurance Fund Board of Accreditation and	The proposed Amendments are necessary as part of ensuring separation of roles, functions and powers among the three NHIF Boards as recommended by the Expert Panel and the MOH.	

		Empanelment shall have all the powers necessary for the performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Board of Accreditation and Empanelment shall have power to— (a) enter and inspect the premises of any health care provider for purposes of accreditation, review of accreditation or review of the quality of services being rendered; (b) issue Accreditation and Empanelment Certificates to qualified health care providers; (c) Cancel the Accreditation and Empanelment Certificate of any health care provider that ceases to meet the accreditation and empanelment criteria; (d) determine and enforce sanctions against accredited health care providers that do not comply with the prescribed quality standards and any other requirements of the Act. 6(2) The National Health Insurance Fund Board of Revenue Collection shall have all the powers necessary for the		

		performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Board of Revenue Collection shall have power to— (a) pending remittance of the funds collected to the NHIF Board of Claims and Payment, manage, control, administer and account for funds in such manner as is prescribed by the Act; 6(3) The National Health Insurance Fund Board of Claims and Payments shall have all the powers necessary for the performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Board of Claims and Payments shall have power to— (a) manage, control, supervise and administer the assets of the Fund in such manner and for such purpose as best promotes the objects for which the Fund is established: Provided that the Board shall not charge or dispose of any immovable property of the Fund without the prior joint approval of the Cabinet Secretary and the Council of Governors; (b) receive any gifts, grants, donations or endowments		

		made to the Fund or any other monies in respect of the Fund and make disbursements therefrom in accordance with the provisions of this Act; (c) subject to the regulatory framework established by the Insurance Regulatory Authority for all insurance companies, determine the provisions to be made for capital and recurrent expenditure and for reserves of the Board: Provided that the administration costs of NHIF Fund including those of all the Boards shall not be more than 5% of the total cross collections of the premiums; (d) open a banking account or banking accounts for the Fund; and subject to the regulatory framework established by the Insurance Regulatory Authority for all insurance companies prudently invest any monies of the Fund not immediately required for the purposes of this Act in the manner provided in section 34.**(COG)**		

12	Section 6 of the Principal Act is amended by inserting the following new paragraph immediately after paragraph (a)— "(aa) to determine the contributions to made by contributors to the Fund."	Delete the proposed Amendment as it is not necessary. **(COG)**	No justification given.	**ot accepted**
		The contributors' fund rates should be approved by the Cabinet Secretary through a gazette notice. **(KRA)**	Unregulated/unstructured determination of contribution by the Board will not guarantee consistency in the standards.	**ot accepted**
13 Remuneration of members of the Board	The Principal Act is amended by deleting section 9 and substituting therefor the following new section— Remuneration of members of the Board 9. The Chairman and members of the Board, other than the Chief Executive Officer, shall be paid out of the moneys of the Fund such sitting allowances or other remuneration as the Board may, in consultation with the Salaries and Remuneration Commission, determine.	***Amend to read as follows:*** The Principal Act is amended by deleting section 9 and substituting therefor the following new section— **Remuneration of members of the Boards** "9. The Chairpersons and members of the Boards, other than the Chief Executive Officers, shall be paid out of the moneys of the Fund such sitting allowances or other remuneration as the Boards may, in consultation with the Salaries and Remuneration Commission, determine." **(COG)**	The proposed Amendments are necessary to provide for remuneration for members of all the Boards established under the proposed amendments.	
		Delete the words "other remuneration" from the amendment clause. **(Pwani GBV Network, CWID, JUHUDI and MCHANE)**	We are concerned on the meaning of "other remunerations" it gives room for distortion of the article phrase because it doesn't specify the meaning of other. The word "other remuneration" can lead to distortion and even lead to paying members per every word they pronounce in a sitting.	
14 Chief Executive Officer	The Principal Act is amended by deleting section 10 and substituting therefor the following new section— Chief Executive Officer 10(1) There shall be a Chief Executive Officer of the Fund who shall be appointed by the Board, through a competitive process, on such terms and conditions as the Board may, with the advice of the Salaries and Remuneration Commission, determine. (2) A person is qualified	***Amend to read as follows:*** The Principal Act is amended by deleting section 10 and substituting therefor the following new section— **Chief Executive Officers** 10(1) There shall be a Chief Executive Officer for each of the NHIF Boards who shall be appointed by the respective Board, through a competitive process, on such terms and conditions as the respective Board may, with the advice of the Salaries and Remuneration Commission, determine. 2) A person is qualified for appointment as a chief executive	The proposed amendments are necessary to provide for a chief executive officer for each of the three NHIF Boards.	**Replace Bachelors' degree with Masters' degree for the CEO**

	for appointment as a chief executive officer if the person— (a) Has a Bachelor's degree from a university recognized in Kenya; (b) has at least ten years' experience at a senior management level with skills in health insurance, health financing, financial management, health economics, healthcare, administration, law or business administration; and (c) meets the requirements of Chapter Six of the Constitution. 3) The chief executive officer shall, subject to the directions of the Board, be responsible for the day to day management of the affairs and staff of the Board. 4) The chief executive officer shall serve for a term of three years and shall be eligible for reappointment for a further and final term of three years. The chief executive officer shall be an ex officio member of the Board.	officer of any of the Boards if the person— (a) has a Bachelor's degree from a university recognized in Kenya; (b) has at least ten years' experience at a senior management level with skills in health insurance, health financing, financial management, health economics, healthcare, administration, law or business administration; and (c) meets the requirements of Chapter Six of the Constitution. (3) A chief executive officer of any of the Boards shall, subject to the directions of the respective Board, be responsible for the day-to-day management of the affairs and staff of the Board. (4) A chief executive officer of any of the Boards shall serve for a term of three years and shall be eligible for reappointment for a further and final term of three years. (5)A chief executive officer shall be an ex-officio member of the respective Board.		

2. ***Consideration of the report on the NHIF (Amendment) Bill, 2021***
3. Any other business.
4. Date of the Next Meeting.

5. Adjournment.

MIN. NO. SCH/59/11/2021: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS

The Committee deferred the confirmation of minutes to a later date.

MIN. NO. SCH/60/11/2021: CONSIDERATION OF THE REPORT ON THE NHIF (AMENDMENT) BILL, 2021

The legal counsel took the committee through the matrix clause by clause as follows:

MIN. NO. SCH/61/11/2021: ANY OTHER BUSINESS

There was no other business.

MIN. NO. SCH/62/11/2021: ADJOURNMENT

There being no other business, the meeting was adjourned at 18:03 p.m.

SIGNED: .....

(CHAIRPERSON)

DATE: .....**30/11/2021**.....

TWELFTH PARLIAMENT |FIFTH SESSION

MINUTES OF THE SITTING OF THE SENATE STANDING COMMITTEE ON HEALTH, HELD ON SATURDAY, 27TH NOVEMBER, 2021, AT 9.00 A.M. AT SWAHILI BEACH HOTEL AND ON THE ZOOM ONLINE PLATFORM

PRESENT

1. **Sen. Michael Mbito, MP** - **Chairperson**
2. Sen. Mary Seneta, MP - Vice-Chairperson
3. Sen. (Dr) Abdullahi Ali Ibrahim, CBS, MP
4. Sen. Ledama Olekina, MP
5. Sen. Fred Outa, MP

APOLOGY

1. **Sen. Michael Mbito, MP** - **Chairperson**
2. Sen. (Prof) Samson Ongeri, EGH, MP
3. Sen. Beatrice Kwamboka, MP
4. Sen. Beth Mugo, EGH, MP
5. Sen. Millicent Omanga, MP

SECRETARIAT

1. Dr. Christine Sagini - Senior Clerk Assistant
2. Ms. Caroline Njue - Clerk Assistant II
3. Ms. Lucy Radoli - Legal Counsel
4. Mr. Robert Rop - Audio Officer
5. Mr. Farhiya Haji - Sergeant-at-arms
6. Ms. Kathleen Nanzala - Legal Pupil
7. Ms. Cynthia Karuru - Legal Pupil
8. Mr. Leonard Lerionka - Legal Pupil

9. Dorin Mbui - Office Assistant

MIN. NO. SCH/63/11/2021: PRELIMINARIES

15 Cooperation Secretary	Corporation Secretary 10A. (1) The Board shall competitively recruit a person qualified in terms of the law governing the practice of certified secretaries in Kenya, to serve as the Corporation Secretary of the Board. (2) The Corporation Secretary shall be the Secretary to the Board and shall— (a) in consultation with the Chairperson of the Board, issue notices of the meetings of the Board; (b) keep in custody, the records of the deliberations, decisions and resolutions of the Board; (c) transmit decisions and resolution of the Board to the Chief Executive Officer for execution, implementation and other relevant action; (d) provide guidance to the Board on their duties and responsibilities on matters relating to governance; and (e) perform such other duties as the Board may direct.	***Amend to read as follows:*** Corporation Secretary 10A. (1) Each NHIF Board shall competitively recruit a person qualified in terms of the law governing the practice of certified secretaries in Kenya, to serve as the Corporation Secretary of the respective Board. (2) The Corporation Secretary shall be the Secretary to the respective Board and shall— (a) in consultation with the Chairperson of the respective Board, issue notices of the meetings of the respective Board; (b) keep in custody, the records of the deliberations, decisions and resolutions of the respective Board; (c) transmit decisions and resolution of the respective Board to the Chief Executive Officer for execution, implementation and other relevant action; (d) provide guidance to the respective Board on their duties and responsibilities on matters relating to governance; and (e) perform such other duties as the respective Board may direct. **(COG)**	The proposed amendments are necessary to provide for a corporation Secretary for each of the three NHIF Boards.	**Introduce qualifications of the corporate secretary in terms of CPS admission, 10 years' experience in the relevant bodies**
		Provide for term limits of the Corporation Secretary **(KMPDU)**	No justification provided.	**ot accepted**
19 Contributions to the Fund	Section 15 of the Principal Act is amended— (c)in subsection (2), by— (i) deleting paragraph (b) and substituting therefor the following new paragraph— "(b) (i)… (ii) in case of a contributor who is not a sole beneficiary, a special contribution at such	***Amend to read as follows:*** Section 15 of the Principal Act is amended— (c)in subsection (2), by— (ii) in case of a contributor who is not a sole beneficiary, a special contribution at such respective rates as may be determined by the NHIF Board of Accreditation and Empanelment.	The proposed amendments are necessary to identify the correct Board that has responsibility for determining the matters provided for. The deletion of the provision for enhanced benefits is necessary to avoid persons with enhanced benefits passing additional costs of managing their enhanced benefits to the rest of the contributors	**Committee proposed amendment of clause 19 to provide for instances where an employer other than the national or county government having procured private medical cover for their employees, wishes to be**

	respective rates as may be determined by the Board." (ii)inserting the following new paragraph immediately after paragraph (b)— "(c) in the case of an unemployed person, such rate as may be determined by the Board". (d)in subsection (2) by inserting the following new paragraphs immediately after paragraph (b)— (c) (d) (e) in the case of any other employer under subsection (1A) (c), such amount as will be required to top up the employee's contribution at such rate as may be determined under subsection (3): Provided that the amount contributed by an employer under this paragraph shall not exceed the highest rate of special contribution prescribed for any of the categories of contributors under subsection (2)(b); and (d) in the case of national government under subsection (1B), a special contribution as the Board, in consultation with the Cabinet Secretary, may determine. e) by deleting subsection (3) and inserting the following new subsection— '(3) a contribution under subsection (2)(a) and (b) shall be at such rate, depending on the person's income, as the Board in consultation with the Cabinet Secretary, may determine.'	(ii)inserting the following new paragraph immediately after paragraph (b)— "(c)in the case of an unemployed person, such rate as may be determined by the NHIF Board of Accreditation and Empanelment" (d) in subsection (2) by inserting the following new paragraphs immediately after paragraph (b)— (c).... (d) .... (e) in the case of any other employer under subsection (1A) (c), such amount as will be required to top up the employee's contribution at such rate as may be determined under subsection (3): Provided that the amount contributed by an employer under this paragraph shall not exceed the highest rate of special contribution prescribed for any of the categories of contributors under subsection (2)(B); and (f) in the case of national government under subsection (1B), a special contribution as the NHIF Board of Accreditation and Empanelment, in consultation with the Cabinet Secretary, may determine. (e) by deleting subsection (3) and inserting the following new subsection— '(3) a contribution under subsection (2)(A) and (b) shall be at such rate, depending on the person's income, as the NHIF Board of Accreditation consultation with the Cabinet Secretary, may determine.' (f)by deleting the inserted section (g)… (h)…		**exempted from making matching contributions for their employees.**

	f) by inserting the following subsection immediately after subsection (3)— (3A) subject to such guidelines as the Board may, from time to time issue, a person who wishes to receive an enhanced benefit under subsection 22(3) may make additional voluntary contribution to the scheme'. (g)… (h)… (i)by inserting the following new subsection immediately after subsection (5)— '(6)The Cabinet Secretary may, in consultation with the Board, make regulations for the better carrying out of this section.	(i)by inserting the following new subsection immediately after subsection (5)— '(6) The Cabinet Secretary may, in consultation with the three NHIF Boards, make regulations for the better carrying out of this section and Empanelment in consultation with the Cabinet Secretary, may determine.' (f)by deleting the inserted section (g)… (h)… (i)by inserting the following new subsection immediately after subsection (5)— '(6) The Cabinet Secretary may, in consultation with the three NHIF Boards, make regulations for the better carrying out of this section. **(COG)**		
		Amendment to Section 15 to provide for public participation. **(FKE)**	Clause 19(1A) (b)(c) of the Bill amends section 15 of the Principal Act. The proposed Bill seems to give wide discretionary powers to the Board to unilaterally decide the rates of contributions without public participation. This is contrary to the Constitution. In labour intensive sectors like agriculture and the hospitality industry, the proposed top-up on the standard rates by an employer will have a huge impact on labour cost. It is against the policy of the Government which is currently riding on the clarion call **'ease of doing business'**. It will negate all the efforts the Government has put in place to attract investors and create jobs for millions of Kenyan youth and women of this country who are vulnerable. On the same note, the special rate of top up has been left to the discretion of the Board. The wide discretionary powers are likely to be abused and oppressive now that the contribution is mandatory.	
20. Amendment of	Section 16 of the Principal Act is amended – f) in subsection (6) –	Relook at the amendment**(KAPH)**	The increment is exorbitant, unreasonable and punitive.	**The committee accepted the amendment. The**

section 16	i)by inserting the words 'or matching' immediately after the word 'standard' appearing in paragraph (a); ii)by deleting the words 'fifty thousand' and substituting therefore the words 'one million' in the closing statement.			**penalty proposed in the Bill should be reduced from Ksh 1 million to Ksh 500,000 and that NHIF shall notify the member when their contributions have been remitted or not.**
21	Section 18 of the principal Act is amended— b) by deleting subsection (1) and substituting therefor the following new subsection— "(1) If a standard or matching contribution which a person is liable to remit under section 16, has not been remitted by the day on which the payment is due, the person shall be liable to pay a penalty equal to the lending rate of interest, of the amount of the contribution, as may be published by the Central Bank of Kenya from time to time;..."	The Clause should not base the penalty on the CBK lending rates. **(FKE)**	Basing the penalty on the lending rates of CBK will amount to converting the social and human contract to a commercial contract. The lending rate based on CBK rates is a concept that applies in the banking sector but cannot be applied and expected to work in Employment and human relations/resource matters. We should avoid mixing the common commercial transaction concepts with employment and labour relations issues.	**The committee did not accept the amendment. However, the committee resolved to delete the provision exempting the National or County Government from penalty for late payment.**
	c)In subsection (2) by deleting paragraph (a) and substituting therefor the following new paragraph- "a)that employer shall be liable to pay the penalty prescribed in subsection (1) and pay the costs incurred by the employee when seeking treatment from a contracted health care provider during the period when the contribution is due."	Insert the following phrase immediately after 'contribution is due' – "for the costs that would have been covered by NHIF."**(KFBHSC)**	No justification provided.	**Paragraph (b) deleting the words 'provided that such penalty shall not be imposed on state agencies if the delay or non-remittance is caused by delay in disbarment from NT or delay in disbursement of any funds by the NA ' after the words 'from time to time**
		The amendment amounts to double jeopardy to the contributors.**(FKE)**	The amendment suggests that a contributor who has delayed making the contributions to the Fund will pay a penalty equal to the lending rates of CBK and at the same time meet the medical costs of the beneficiary. This is a severe double punishment and goes against the Constitutional rights of the Contributor. The penalties imposed by the proposed amendments are more inclined to punishing employers than ensuring voluntary compliance. They are geared towards closing businesses rather than making it easy for enterprises to conduct	

			business. This is open to abuse during implementation as it is a fertile ground for possible extortion by the officers.	
23 Voluntary Contributions	Section 20 of the Principal Act is amended by inserting the words 'by the youth' immediately after the words 'voluntary contributions'	Section 20 of the Principal Act is amended by repealing the entire section. **(COG)**	This is justified by the fact the while the marginal note talks of repealing the section, the amendment for some unexplained reasons does not repeal the section. Furthermore, having provided for compulsory contributions, it is not clear why we should again be providing for voluntary contributions by the youth.	**Amend clause 23 by deleting the words 'by the youth' appearing after the words ' inserting the words' and substituting with the words 'unemployed'**
		The penalty should be lowered to 500,000 from 1 million. **(KPMDU)**	No justification provided.	**ccepted**
26 Payment of benefits	Section 22 of the principal Act is amended by (a) deleting subsection (1) and substituting therefor the following new subsection- "(1) The Board shall pay from the Fund, a benefit to an empaneled or contracted health care provider for an expense incurred by the provider, for the provision of health care services through the centralized healthcare provider management, to the number of beneficiaries determined by the Board." (b) deleting subsection (2); (c) deleting subsection (3) and substituting therefor the following new subsections- "(3) The benefits payable from the Fund shall be subject to such limits, regulations and conditions as the Board may prescribe in consultation with the Cabinet Secretary". (3A) The Board shall determine and approve the applicable tariffs payable to the Fund under section 15(3A) and payable out of the Fund under subsection (I), to empaneled contracted health care providers for an expense incurred by the provider for the provision of healthcare services to the number of	**Amend to read:** **Section 22 of the principal Act** is amended by (a) deleting subsection (1) and substituting therefor the following new subsection- "(1) The NHIF Board of Claims and Payments shall pay from the Fund, a benefit to an empaneled or contracted health care provider for an expense incurred by the provider, for the provision of health care services through the centralized healthcare provider management, to the number of beneficiaries determined by the Board." (b) deleting subsection (2); (c) deleting subsection (3) and substituting therefor the following new subsections- "(3) The benefits payable from the Fund shall be subject to such limits, regulations and conditions as the NHIF Board of Accreditation and Empanelment may prescribe ". (3A) The NHIF	The proposed amendments are necessary to identify the specific Board that is responsible for the matters mentioned in the section.	**Delete proposed subsection (3) and substitution with the new sub section (3) the benefits from the fund, including benefits in respect to emergency treatment under the third schedule, shall be subject to such limits, regulations and conditions as the Board may prescribe in consultation with the Cabinet Secretary.** **Inserting a new subsection (3AA) immediately after the proposed new subsection (3A)-** **(3AA) The Board shall, every two years, carry out a review of the applicable tariffs payable to the Fund under section 15 and payable out of the Fund to empaneled contracted health care providers.** **deleting the proposed new subsection (3B) and substituting**

	beneficiaries determined by the Board. (3B) The Board shall use the approved risk spreading mechanism on benefits of outpatient, inpatient and work injury benefits as provided under section 15, section 22 and section 43." (d) deleting subsection (4); (e) adding the following new subsection immediately after subsection (4)- "(5) Where a beneficiary has a private health insurance cover- (f) the private health insurance shall be liable for payment up to the limits the beneficiary is covered; (g) the Fund shall pay the daily rebate, for inpatient; and (h) the Fund shall cover the outstanding bill where private insurance cover's limits for various benefits have been exhausted subject to the Fund's applicable limits with respect to each benefit.	Board of Accreditation and Empanelment shall determine and approve the applicable tariffs payable to the Fund under section 15(3A) and payable out of the Fund under subsection (I), to empaneled contracted health care providers for an expense incurred by the provider for the provision of healthcare services to the number of beneficiaries determined by the Board. (3B) The NHIF Board of Accreditation and Empanelment shall use the approved risk spreading mechanism on benefits of outpatient, inpatient and work injury benefits as provided under section 15, section 22 and section 43." (d) deleting subsection (4); (e) adding the following new subsection immediately after subsection (4)- "(5) Where a beneficiary has a private health insurance cover- (a) the private health insurance shall be liable for payment up to the limits the beneficiary is covered; (b) the Fund shall pay the daily rebate, for inpatient; and (c) the Fund shall cover the outstanding bill where private insurance cover's limits for various benefits have been exhausted subject to the Fund's applicable limits with respect to each benefit." (**COG**		**therefor the following new subsection-** **(3B) The Board shall use the approved risk spreading mechanism, approved claims administration services on benefits of outpatient, inpatient and on employees benefits scheme as provided for under section 3(iv) and (v), section 15, section 22 and section 43 of the Act.**
		Amendment to Section 22 to include Subsection 5 1. Stakeholders must be engaged in order to identify and agree on the minimum benefits	The Bill's proposal unfairly limits members' access to their NHIF benefits.	

		and services that a member covered by private health insurance may access under NHIF without first exhausting his or her private health insurance benefits. 2. The amendment would be tantamount to directing an insurer and is contrary to the Insurance Act as the Insurance Regulatory Authority is the body created under the Insurance Act to issue such directives. **(National Treasury)**		
		Delete the provisions of the Bill for amendment to Section 3 and Section 3A(**KMA)**	The regulation of the fees is already regulated under CAP 253 and other regulatory bodies. It is also going against the Competition Authority Act No.12 of 2010 on setting of professional fees. Some of these functions should be vested in separate institutions to ensure accountability through checks and balances. For instance, as in 2017 when the MOH established a Health Benefits Advisory Panel, the design of the benefits, premiums, rates and payment mechanisms should be vested in a Health Benefits Advisory Committee gazetted by the CS in the medium term.	
		Amendment to section 22(a) of the Principal Act is rejected but no proposal is given.**(KAPH)**	The section gives the Board huge and unfettered discretion on the limits of beneficiaries which will or may be abused by the Board.	
		Section 22(e) of the Principal Act should be amended to provide a standard cover which should be given to all contributors and should be in line with the Association of Kenya Insurance(AKI) guidelines.**(KAPH)**	The amendment contravenes the constitutional bill of rights in particular article 27and article 10 on national values and principles. It is also prejudicial and unjust to the private health insurance over the Fund's insurance cover.	
		The bill in section 22(5) is amended by deleting the proposed new subsection 22(5) in its entirety.**(KHF)**	It will increase cost of private medical insurance and impact negatively on cost management programs. The amendment contravenes the Bill of Rights in particular article 27	
		Section 22(a) of the Principal Act is amended as follows; The number of beneficiaries should be clearly	The section gives the board unfettered discretion on the limits of beneficiaries.	

		defined and should be protected through oversight.**(KHF)**		
		Amend section 22 (c)(3) of the Principal Act by inserting- '3(i) Development of the Benefits Packages Limits , regulations and conditions will be set by the Board through a process that involves stakeholders engagement.**(KFBHSC)**	No justification.	
		Amend section 22(c) (5) (b) of the Principal Act by inserting the following immediately after the phrase 'inpatient and – "*outpatient capitation*" **(KFBHSC)**		
		Substitute the word benefit with 'claim to an empaneled'. **(PSC)**	Benefits are only paid to contributors or beneficiaries not to service providers.	
		22. Payment of benefits (1) The Board shall pay from the Fund, benefits to declared hospitals for expenses incurred at those hospitals by any contributor, his named spouse not for the time being covered by NHIF under a separate payer, child, or other named dependant covered under one parent or guardian. (**National Coalition on UHC**)	This ensures that while every eligible individual contributes, there is no double-dipping by one family and that each spouse and child receives benefits from a single insurance cover to enable more individuals and interventions receive benefits.	
		The regulations prepared pursuant to the Section 22(3) should be subject to regular public participation so that the public trust for the fund is increased. Multiple cancer sector stakeholders especially patients should be continuously involved in such decisions. **(KENCO)**	NHIF tends to be a bit opaque in its decision making and slow in communication of various decisions/regulations to the public. Case in point, the oncology benefit package from the fund is not clear. Of late, NHIF has come up with punitive regulations requiring cancer patients to pay up to two years' worth of premiums before they access care. These patients are already struggling with other out of pocket costs that are currently not being covered by NHIF, thus having to pay 2 years in advance is discriminative to them.	
		With regard to the amendment on the limits payable from the fund, we propose that the limits are reviewed on a regular basis such as every six (6) months to twelve (12) months, whichever period is feasible. In deciding on the benefit package, public participation	Currently, patients are concerned by the limits set for various oncology services, procedures and medicines. Out of pocket spending is still too high and this leads to lack of access to services and/or treatment drop outs by some patients leading to	

		should be explored. The limits should then be communicated to the public through various channels. This ensures that the public is well aware of the benefits to expect from NHIF. **(KENCO)**	untimely and unnecessary deaths, that affect the nation's development negatively.	
	Section 22 (3A)	The determination of tariffs by the board be in consultation with the relevant stake holders. **(PSC)**	This will avoid a situation where interested parties go to court to stop implementation on account of lack of public participation.	
	(3B) The Board shall use the approved risk spreading mechanism on benefits of outpatient, inpatient and work injury benefits as provided under section 15, section 22 and section 43."	The approved risk spreading mechanism on benefits of outpatient, inpatient, work injury benefits be expounded on for clarity. **(PSC)**	The provisions under WIBA be referred to where the WIBA Act is put into effect and timelines be given in law for settlement of claims especially under work injury benefits. This is to ensure quality cover for all.	
	(a) Deleting subsection (2)	Retain subsection (2) of No. 9 of 1998 as it makes express provision for the payment of medical or health care expenses for both inpatient and outpatient medical healthcare. **(KNCHR)**	Section 22 (2) of No. 9 of 1998 seeks to clarify the expenses that the Fund would cover. It affirms the purpose and objectives of the Fund. Deleting the subsection will lead to ambiguity on how the funds may be applied.	
27 Statements of account	27. The principal Act is amended by deleting section 23 and substituting therefor the following section— **Statements of account.** 23. The Board shall upon request avail a statement of accounts to a contributor, or a person who is liable to remit under section 16, with regard to their contributions.	***Amend to read as follows:*** 27. The principal Act is amended by deleting section 23 and substituting therefor the following section— **Statements of account.** 23. The NHIF Board of Revenue Collection shall upon request avail a statement of accounts to a contributor, or a person who is liable to remit under section 16, with regard to their contributions.**(COG)**	The proposed amendments are necessary to identify the specific Board that is responsible for the matters mentioned in the section.	**Amend clause 27 of the Bill be in the proposed new section 23 by-** **renumbering the existing provision as subsection (1); and** **inserting the following new subsection immediately after subsection (1)-** **(2) The Board shall make regulations for the better carrying out of the provisions of this section.**
29 Offences relating to benefits	29. Section 25 of the principal Act is amended— (a) in subsection (1) by deleting the words "a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding twenty-four months, or to both" and substituting therefor the words a fine not exceeding one million shillings or to imprisonment for a term not exceeding sixty-months, or to both". (b) in subsection (2)-	***Amend to read as follows*** 29. Section 25 of the principal Act is amended— (a) in subsection (1) by deleting the words "a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding twenty-four months, or to both" and substituting therefor the words a fine not exceeding one million shillings or to imprisonment for a term not exceeding sixty-months, or to both". (b) in subsection (2)-	The proposed amendments in paragraph (e) are necessary to identify the specific Boards being referred to in the section.	

	(i) by deleting paragraph (b); and (ii)by deleting paragraph (c); (iii) by deleting the words "a fine not exceeding five hundred thousand shillings" appearing in the closing statement and substituting therefor the words "a fine not exceeding one million shillings". (c) by deleting subsection (3); (d) in subsection (4)- (i) by deleting the words "Any declared hospital" and substituting therefor the words "A health care provider"; (ii) by deleting paragraph (ii) and substituting therefor the following new paragraph- "(ii) removal from the register of empaneled and contracted health care providers". (e) by deleting subsection (5) and substituting with the following new subsections- "(5) The Board shall cause the name of every health care provider removed from the register under subsection (4)(ii) to be notified in the Gazette, at least two newspapers of national circulation and at the official website of the Fund. (5A) A health care provider who has been removed from the register under section (4)(ii) shall not be entitled to receive any benefit from the Fund".	(i) by deleting paragraph (b); and (ii) by deleting paragraph (c); (iii) by deleting the words "a fine not exceeding five hundred thousand shillings" appearing in the closing statement and substituting therefor the words "a fine not exceeding one million shillings". (c) by deleting subsection (3); (d) in subsection (4)- (i) by deleting the words "Any declared hospital" and substituting therefor the words "A health care provider"; (ii) by deleting paragraph (ii) and substituting therefor the following new paragraph- "(ii) removal from the register of empaneled and contracted health care providers". (e) by deleting subsection (5) and substituting with the following new subsections- "(5) The NHIF Board of Accreditation and Empanelment shall cause the name of every health care provider removed from the register under subsection (4)(ii) to be notified to the NHIF Board of Claims and Payments and in the Gazette, at least two newspapers of national circulation and at the official website of the Fund. (5A) A health care provider who has been removed from the register under section(4)(ii) shall not be entitled to receive any benefit from the Fund". **(COG)**		
		The Board shall cause the name of every healthcare provider removed from the register under subsection (4) (ii) of this section to be notified in the Gazette and at least three newspapers with nationwide circulation. **(KAPH)**	No justification given.	

		Amendment to include penalties for board members, staff, and internal entities **Section 25A**: Any board member, staff, or employee of the Board who with intent to defraud the Fund; a) makes any false statement, orally or in writing; b) knowingly gives false or misleading information to the public, or any other persons, including a Court of Law, during their official capacity; c) improperly uses public moneys, property, services, or information acquired in the performance of or as a result of their official functions relating to the Fund; or d) uses or attempts to use official resources or information from the Fund to obtain special privilege or benefit for themselves; commits a crime, and is liable, on conviction, to a fine not exceeding twenty million shillings, or imprisonment to a term not exceeding 7 years or both. **(National Coalition on UHC)**	The bill proposes to increase punitive measures for offences relating to fraudulently obtaining or seeking to obtain benefits, without proposing any penalties for board members, staff and other internal related entities who defraud NHIF, while this is the major reform preoccupation by Kenyans. While Kenyans have witnessed employees and the board prosecuted in court for collaborating to defraud NHIF of significant amounts of money; and it is in the public domain that internal and external parties including service providers collaborate to defraud NHIF for large sums, there is no stipulated minimum penalty for this in the bill. The foremost health sector issue prioritized by Kenyan civil society according to a survey in September 2021 is stopping pilferage and ensuring efficient use of funds.	
30 Regulation of contribution and stamps	Section 26 of the principal Act is amended— (b) by deleting the word "Minister" appearing in the opening sentence and substituting therefor the word "Cabinet Secretary";	***Amend to read as follows*** Section 26 of the principal Act is amended— (b) by deleting the opening sentence and substituting therefor the following opening sentence— "Subject to the provisions of this Act, the NHIF Board of Claims and Payments, in consultation with the Cabinet Secretary and the Council of Governors, may make regulations prescribing the amount of any benefits and the period within which any benefits shall be payable out of the Fund for the time being and such regulations may provide for—" **(COG)**	The proposed amendment is necessary to identify the specific Board responsible for the making of the regulations and to give to the Council of Governors a role in the regulation making process.	**ot Accepted**
31 Regulations relating to	Section 27 of the principal Act is amended by deleting the word "Minister" appearing in the opening sentence and substituting therefor the words "Cabinet Secretary".	***Amend to read as follows*** Section 27 of the principal Act is amended by deleting the opening sentence and substituting therefor the following opening sentence—	The proposed amendments are necessary to assign the regulation making responsibility to the three boards jointly and to give a role to the Council of Governors in the regulation making process.	**ot accepted**

benefits		'The three NHIF Boards may jointly, in consultation with the Cabinet Secretary and the Council of Governors, make regulations providing for—'(COG)		

The Chairperson called the meeting to order at 9:30 a.m. and the meeting commenced with a word of prayer.

MIN. NO. SCH/64/11/2021: ADOPTION OF THE AGENDA

The Committee adopted the agenda of the sitting, as set out below, having been proposed by **Sen. (Dr) Abdullahi Ali Ibrahim, CBS, MP** and seconded by **Sen. Ledama Olekina, MP: -**

1. Preliminaries
   a) *Prayer*
   b) *Adoption of the Agenda*
2. ***Consideration of the report on the NHIF (Amendment) Bill, 2021***
3. Any other business.
4. Date of the Next Meeting.
5. Adjournment.

MIN. NO. SCH/65/11/2021: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS

The Committee deferred the confirmation of minutes to a later date.

MIN. NO. SCH/66/11/2021: CONSIDERATION OF THE REPORT ON THE NHIF (AMENDMENT) BILL, 2021

The legal counsel took the committee through the matrix clause by clause as follows:

MIN. NO. SCH/67/11/2021: ANY OTHER BUSINESS

There was no other business.

MIN. NO. SCH/68/11/2021: ADJOURNMENT

There being no other business, the meeting was adjourned at 13:00 p.m

SIGNED: .....

(CHAIRPERSON)

DATE: .....**30/11/2021**.....

TWELFTH PARLIAMENT |FIFTH SESSION

MINUTES OF THE SITTING OF THE SENATE STANDING COMMITTEE ON HEALTH, HELD ON SATURDAY, 27TH NOVEMBER, 2021, AT 3.00 P.M. AT SWAHILI BEACH HOTEL AND ON THE ZOOM ONLINE PLATFORM

PRESENT

1. Sen (Dr.) Michael Mbito, MP - Chairperson
2. Sen. Mary Seneta, MP - Vice-Chairperson
3. Sen. (Dr) Abdullahi Ali Ibrahim, CBS, M
4. Sen. Beatrice Kwamboka, MP
5. Sen. Ledama Olekina, MP
6. Sen. Fred Outa, MP

APOLOGY

1. Sen. (Prof) Samson Ongeri, EGH, MP
2. Sen. Beth Mugo, EGH, MP
3. Sen. Millicent Omanga, MP

SECRETARIAT

1. Dr. Christine Sagini - Senior Clerk Assistant
2. Ms. Caroline Njue - Clerk Assistant II
3. Ms. Lucy Radoli - Legal Counsel
4. Mr. Robert Rop - Audio Officer
5. Mr. Farhiya Haji - Sergeant-at-arms
6. Ms. Kathleen Nanzala - Legal Pupil
7. Ms. Cynthia Karuru - Legal Pupil
8. Dorin Mbui - Office Assistant

MIN. NO. SCH/69/11/2021: PRELIMINARIES

The Chairperson called the meeting to order at 3:05 p.m. and the meeting commenced with a word of prayer.

MIN. NO. SCH/70/11/2021: ADOPTION OF THE AGENDA

The Committee adopted the agenda of the sitting, as set out below, having been proposed by **Sen. Ledama Olekina, MP** and seconded by **Sen. Fred Outa, MP: -**

1. Preliminaries
    a) *Prayer*
    b) *Adoption of the Agenda*
2. ***Consideration of the report on the NHIF (Amendment) Bill, 2021***
3. Any other business.
4. Date of the Next Meeting.
5. Adjournment.

MIN. NO. SCH/71/11/2021: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS

The Committee deferred the confirmation of minutes to a later date.

MIN. NO. SCH/72/11/2021: CONSIDERATION OF THE REPORT ON THE NHIF (AMENDMENT) BILL, 2021

The legal counsel took the committee through the matrix clause by clause as follows:

Clause	Provision in the Bill	Proposed Amendment	Justification	Committee Resolution
33 Declaration of hospitals for purposes of Act	Section 30 of the principal Act is amended by— (b) deleting subsection (1) and substituting therefor the following new subsection- "(I) The Board shall, in consultation with the relevant accreditation bodies, publish in the Gazette, the list of empaneled health care providers for the purposes of this Act". (c) deleting subsection (2) substituting therefor the following new subsection- "(2) A notice in the Gazette under subsection (1) may be made subject to such conditions relating to the fees	***Amend to read as follows:*** Section 30 of the principal Act is amended by— (b) deleting subsection (1) and substituting therefor the following new subsection- "(I) The NHIF Board of Accreditation and Empanelment shall publish in the Gazette, the list of empaneled health care providers for the purposes of this Act". (c) deleting subsection (2) substituting therefor the following new subsection- "(2) A notice in the Gazette under subsection (1) may be made subject to such conditions relating to the fees which may be charged by the	The proposed amendments are necessary to identify the specific Board referred to in the section.	**Delete paragraph (d) and substituting therefor the following paragraph-** **(d) deleting subsection (3) and substituting therefor the following new subsections-** **(3) The Board may, at any time, revoke any empanelment under this section.** **(3A) Where the Board intends to revoke the empanelment of a health provider under subsection (3), the Board shall notify, in writing setting out the reasons for empanelment.**

	which may be charged by the health care provider to any contributor under this Act (including conditions as to the amount of such fees and the requirement of the Board's consent to any variation thereof) as the Board considers it necessary and where any such conditions are made- (a) the Board may publish such conditions in the Gazette or in such other manner it considers necessary; and (b) a health care provider shall not charge any fees to any contributor under this Act which is contrary to such condition". deleting subsection (3) and substituting therefor the following new subsection- "(3) The Board may, at any time, revoke any empanelment under this section". (e) inserting the following new subsection immediately after subsection (3) – "(4) A health provider whose empanelment has been revoked under this section may apply to the Board for the review of the revocation in the first instance and, if dissatisfied by the decision of the Board upon review, appeal to the High Court against the revocation."	health care provider to any contributor under this Act (including conditions as to the amount of such fees and the requirement of the Board's consent to any variation thereof) as the Board considers it necessary and where any such conditions are made- (a) the NHIF Board of Accreditation and Empanelment may publish such conditions in the Gazette or in such other manner it considers necessary; and (b) a health care provider shall not charge any fees to any contributor under this Act which is contrary to such condition". (d) deleting subsection (3) and substituting therefor the following new subsection- "(3) The Board may, at any time, revoke any empanelment under this section". (e) inserting the following new subsection immediately after subsection (3) – "(4) A health provider whose empanelment has been revoked under this section may apply to the Board for the review of the revocation in the first instance and, if dissatisfied by the decision of the Board upon review, appeal to the High Court against the revocation." **(COG)**		**(3B) A health provider may, after receiving a notification under subsection (3A) respond to reasons for revocation within seven days.** **(a) by deleting paragraph (e) and substituting therefor the following new paragraph-** **(e) inserting the following new subsections immediately after subsections (3)-** **(4) A health provider whose empanelment has been revoked under this section may apply to the Board for the review of the revocation in the first instance and, if dissatisfied by the decision of the Board upon review, appeal to the High Court against the revocation.** **(5) The Board shall cause the name of every healthcare provider removed from the register under subsection (4) (ii) of this section to be notified in the Gazette and at least three newspapers with nationwide circulation.**

		Clinical Officers support the amendment. **(KUCO)**	It will allow contracting and empanelment.	
		a) 3 months should be the period of accreditation after in section. There should be a timeline for gazettement b) The Board should communicate the accreditation decision in writing c)The accreditation process is not clear d)The bill should elaborate who conducts the inspection – KHPOA or NHIF or Board or COC or NCK e)The procedure for removal of a healthcare provider should not just be discretionary but should be clearly stipulated.**(KHF)**	There is no clearly defined process for removal from the register of a healthcare provider. This contravenes article 50 of the constitution. All unclear and non-defined process creates room for abuse and corruption Hospitals are expensive to set up	
		Amend to include that the contract with healthcare providers must have explicit details on what services are covered by the Fund.**(KFBHSC)**	No justification given	
		Insert the words "*and notify the relevant regulatory body of the decision*" immediately after. **(MoH, PHARMACY AND POISONS BOARD)**	The notification enables the regulatory body to take the necessary action in case of professional misconduct.	
		Substitute subsection 1 with; "The Board shall consult with the relevant institution to accredit healthcare providers and health facilities, and publish in the Gazette, the list of empanelled healthcare providers for the purposes of the Act" **(KHPOA)**	There is no accreditation body for healthcare providers and health facilities in Kenya. Regulatory bodies cannot accredit healthcare providers and health facilities because their mandate is limited to registration and licensing.	
	(a) Deleting the marginal note and substituting therefor the following new marginal note – Empanelment of health care providers.	Deleting the marginal note and substituting therefor the following marginal note – Empanelment of healthcare providers including stand-alone medical laboratories. **(KMLTTB)**	a) Stand-alone medical laboratories will assist the country in managing epidemics including the current COVID 19 pandemic, because of capital and human investment in which they have invested heavily. b) The more the stand alone laboratories NHIF empanels the more affordable the cost of tests (economies of scale). c) Specialized tests accessible through stand-alone laboratories will limit the perennial referral of specimens to national level and abroad for example Tissue kidney and Bone marrow transplant through tissue typing, which saves foreign currency. d) In stand-alone laboratories we are guaranteed of automation for	

			efficiency and back-up for sustainability equipment for continuity and uninterrupted of services. e) Stand-alone laboratories will assist in the diagnosis treatment and monitoring of communicable diseases and non-communicable diseases (NCDs) such as HIV, MDR-TB testing and viral load analysis, cancer management and Viral sequencing like COVID-19 treatment and required quality, accessible and affordable services Page 1 of 3. f) Standalone laboratories have robust Laboratory information systems (LIMS) for quality data management, Training and research. g) Standalone laboratories such as national public health reference laboratories will in zoonotic aspects of one health concept and assist in improving biosafety and biosecurity situation of the country and also to deter the use of dangerous organisms by unauthorized personnel such as bioterrorists as well as act as repository for reference organisms. h) Stand-alone laboratories are specialized and have capacity to conduct public health analysis, in food safety , toxicology and archiving of standard reference organisms for training purposes and future reference for example anthrax , Measles , polio and COVID-19	
		Insert a proviso on what happens when revocation is done. **(KMLTTB)**	The revocation should not affect beneficiaries currently seeking services.	
	(e)inserting the following new subsection immediately after subsection (3) – "(4) A health provider whose empanelment has been revoked under this section may apply to the Board for the review of the revocation in the first instance and, if dissatisfied by the decision of the Board upon review, appeal to the High Court against	**Delete** Clause 33(4) **Add** Clause 33A providing for the establishment, constitution and functions of a Review and Appeals Committee. **(KNCHR)**	Constituting a neutral structure to resolve conflicts between healthcare providers and the Board will ensure adherence to principles independence and impartiality embodied under Article 47 of the Constitution that makes provision for fair administrative action.	

	the revocation."			
35	Section 32 of the principal Act is amended – d)in subsection (6) by deleting the words 'ten thousand shillings or to imprisonment for a term not exceeding twelve months or to both' and substituting therefor the words 'ten million shillings or to imprisonment for a term not exceeding sixty months or to both.'	The amendment is opposed.	The fine is highly punitive, unjust and very high. Give relative penalty to weigh the offence. **(KAPH)**	**Reduce the proposed penalty under the Bill to Ksh 100,000 and 6 months imprisonment.**
36	Section 34(1) of the Principal Act is amended – (b) by deleting paragraph (b);	Section 34(1) of the principal Act is amended by deleting the section and substituting therefor the following new section— "(b) in the procurement and acquisition of essential medical equipment and supportive infrastructure for provision to empaneled and contracted healthcare providers, on such items and conditions as the board may, from time to time, prescribe: Provided that the board may advance money to any empaneled and contracted healthcare provider for improvement of medical and health care services, subject to the Board being satisfied that such health care provider is financially viable and in any undeserved area" **(KMA)**	The board should not involve itself in the procurement of medical equipment and infrastructure but should stick to the core mandate of health insurance. NHIF can act as a guarantor rather than offering direct funding for procurement.	**The amendment as is in the bill was accepted and CBK to advise on the reputability of the bank for purposes of investments.**
		Section 34(1)(b) immediately after the word equipment by inserting the word and validated to read as follows; "In the procurement and acquisition of essential medical equipment and validated invitro diagnostics and supportive infrastructure for provision to empaneled and contracted healthcare providers ,on such terms and conditions as the board may, from time to time prescribe validated medical equipment and invitro diagnostics" **(KMLTTB)**	Validation of Invitro diagnostics are meant to ensure that they are reliable and accurate which meet international standards (ISO 15189). It is the documentary proof that the particular requirements for a specific intended use can be validated to ensure that the results of measuring and / or monitoring are meaningful. This guarantees patients' safety.	
37	Section 36 of the principal Act is amended by deleting the word "Minister" and substituting therefor the words "Cabinet Secretary".	***Amend to read as follows*:** Section 36 of the principal Act is amended by deleting the section and substituting therefor the following new section— "36. There shall be paid out of the Fund and in such manner as the Board of Claims and Payments,	The proposed amendment limiting the administrative costs is informed by the findings and recommendations of the Expert Panels Report. The Expert Panel after examining administrative costs in 58 countries found estimated average administrative costs of 4.7% while the Kenyan	**ot Accepted**

		in consultation with the other Boards, Cabinet Secretary and the Council of Governors may determine, such sum as the respective Board may estimate to be its expenditure in respect of any financial year in accordance with the provisions of section 35: Provided that the total administrative expenses including the expenses of all the three Boards shall not be more that 5% of the total expenditure." **(COG)**	costs are at 17%. The Expert Panel the recommended a legislative gap on administrative costs at 5%. Moreover, the percentage is bound to be a lot of money given that more money is going to be realized form payment of premiums following the making of NHIF compulsory.	
		Insert section 36A to cater for the following; In line with International Accounting Standards and section 107 (1) and (2) of the PFM Act on Fiscal Responsibility Principles, we propose an amendment capping annual operations and administrative expenditure at a maximum of 7% of its annual budget or previous year's revenue and savings if any; a minimum of 35% of this 7% ought to be development expenditure over the MTEF planning period, and the wage bill should be capped at 35% of this 7% of annual revenue. The relevant sections sought to be amended are to be found on Part IV of the Act on the Financial Provisions and specifically, s. 36. **(National Coalition on UHC)**	This will allow NHIF to concentrate on paying up benefits for the increased number of clients, expand benefits packages and improve quality while managing to invest sustainably without jeopardizing its liquidity. For example, if revenues amount to Ksh. 100 billion, NHIF would be expected to use a maximum of Ksh.7 billion as annual organizational operating and administrative expenditure; of which Ksh. 2.45 billion expenditure such as investments in ICT and other efficiency building mechanisms; Public private Partnerships and others to improve quality of public facilities and health services and promote continued NHIF enrolment. Will comprise of wages, while at least 2.45 billion will comprise of development.	
38 Accounts and Audit	The principal Act is amended by deleting section 37 and inserting the following new section- **Accounts and Audit** 37. (1) The Board shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Fund. (2) The accounts of the Board shall be audited and reported upon in accordance with the Public Finance Management Act 2012 and the Public Audit Act,	**Amend to read:** The principal Act is amended by deleting section 37 and inserting the following new section- **Accounts and Audit** 37. (1) Each of the three NHIF Boards shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Fund. (2) The accounts of each Board shall be audited and reported upon in accordance with the Public	The proposed amendments are necessary to provide for accounts and audit of the accounts of each Board.	**ot Accepted**

	201 5.	Finance Management Act, 2012 and the Public Audit Act, 2015. **(COG)**		
		Section 38: **Reporting** 1. **Annual Reports**: The Board shall, within three months after the end of each financial year, prepare and submit to the Minister a report of the operations of the Board for the immediately preceding year. 2. **Interim Reports**: The board shall submit cost and financial information continuously (monthly) to the national health information system (DHIS 2), including moneys paid to health service provider disaggregated by provider type, geographical location, services provided.**(National Coalition on UHC)**	Provision of this information is essential to NHIF's eventual defragmentation towards a single pool, unified benefits package, improvement of its position in the health system as a strategic purchaser, to enable the health sector stakeholders to track value for money and enable Ministry of Health fine tune its roadmap towards transition and UHC by 2030. Every organ having a role or responsibility within the National Health System, shall ensure that appropriate, adequate, and comprehensive information is disseminated on the health functions for which they are responsible being cognizant of the provisions of Article 35(l)(b) of the Constitution, which must include the types, availability, and cost if any of health services, the organization of health services. The National AIDS Control Council, malaria , TB , Reproductive, Maternal, Neonatal , Child and Adolescent Health, Vaccines and Nutrition programmes, private sector and civil society health service providers are expected to contribute to Health Information Systems and Research by providing quality health information and evidence for decision, including cost references and supply chain commodities for use by counties and other health service providers and in planning for attainment of Universal Health Coverage, but this information has been incomplete since the wealth of information on costs per case used by NHIF is not integrated into the DHIS 2, the database for the National Health Information System.	
		The Board to enhance transparency and accountability for professionalism and effectiveness.**(NCDAK)**	The Fund should be accountable and accessible to the public and relevant stakeholders.	
39 Annual Reports	Section 38 of the principal Act is amended by deleting the word "Minister" and substituting	**Amend to read:** Section 38 of the principal Act is amended by deleting the section	No justification	**ot Accepted**

	therefor the words "Cabinet Secretary".	and substituting therefor the following new section— '38. Each of the three NHIF Boards shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary and the Council of Governors a report of the operations of the respective Board for the immediately preceding year.' **(COG)**		
New Proposal	Administrative regulations	**Amend section 39 of the principal Act to read:** Section 39 of the Principal Act is amended— (a) in subsection (1) by deleting the section and substituting therefor the following new section— (1) In the performance of its functions under this Act, each Board may, subject to this Act, make regulations generally for the governance, control and administration of the Board and in particular for— (a) the settlement of the terms and conditions of service, including the appointment, dismissal, remuneration and retirement benefits of the members of the staff of the respective Board; and (b) the constitution and procedure of meetings of the respective Board and the establishment, composition and terms of reference of committees of the respective Board. (b) in subsection (2) by deleting the section and substituting therefor the following new section— '(2) Regulations made by each Board under this section shall not be published in the Gazette but shall be brought to the attention of all persons affected thereby. **(COG)**	No justification	
44	The principal Act is amended by inserting the following new	**Amend to read:** The principal Act is amended by	The proposed amendment seeks to protect public funds and	**delete the proposed new section 45A and**

Evidence	section immediately after section 45— Exemption from Cap. 487. The insurance Act shall not apply to the Fund.	inserting the following new section immediately after section 45— **Exemption from Cap. 487.** Any of the three NHIF Boards may apply for limited exemption of the Fund from the application of any aspects of the insurance Act, and the Fund, may upon establishment of sufficient grounds by the Board, be so exempted. **(COG)**	contributors as there is no reason why the Fund should be given a blanket exemption from the regulatory framework of the Insurance Act. After all, in the banking industry all Banks are subject to the regulatory Framework established by the Central Bank	**substituting therefor the following new sections-** **45A. the provisions of the Insurance Act shall apply to the Fund only on respect to risk spreading and claims administration services.** **45B. The provisions of the Retirement Benefits Act shall apply to Fund only with respect to pot retirement medical contributions.**
New Clause				THAT the Bill be amended by inserting the following new clause immediately after clause 26- 26A. The principal Act is amended by inserting the following new section immediately after section 22 22A. The board shall not withdraw the benefits of a person undergoing treatment for chronic illness. (2) The board shall, in making regulations for determining benefits under the Fund ensure the fund shell meet the costs of a contributor accessing impatient services at any empaneled health care provider.

MIN. NO. SCH/73/11/2021: ANY OTHER BUSINESS

The committee was informed that there will be a presidential address on Tuesday 30th November, 2021.

The committee was informed that there was a scheduled visit to the clinic in Parklands on 30th November, 2021.

MIN. NO. SCH/74/11/2021: ADJOURNMENT

There being no other business, the meeting was adjourned at 18:02 p.m.

SIGNED: .....

(CHAIRPERSON)

DATE: .....**30/11/2021**.....

TWELFTH PARLIAMENT |FIFTH SESSION

MINUTES OF THE SITTING OF THE SENATE STANDING COMMITTEE ON HEALTH, HELD ON MONDAY, 29TH NOVEMBER 2021 AT 8:00 A.M. AT SWAHILI BEACH HOTEL AND ON THE ZOOM ONLINE PLATFORM

PRESENT

1) Sen. (Dr.) Michael Mbito, MP - Chairperson
2) Sen. Mary Seneta, MP - Vice Chairperson
3) Sen. Beth Mugo, EGH, MP
4) Sen. (Dr) Abdullahi Ali Ibrahim, CBS, MP
5) Sen. Fred Outa, MP
6) Sen. Ledama Olekina, MP
7) Sen. Millicent Omanga, MP
8) Sen. Beatrice Kwamboka, MP

APOLOGIES

1. Sen. (Prof) Samson Ongeri, EGH, MP

SECRETARIAT

1) Ms. Emmy Chepkwony - Senior Clerk Assistant
2) Dr. Christine Sagini - Clerk Assistant
3) Ms. Caroline Njue - Clerk Assistant
4) Ms. Lucy Radoli - Legal Counsel
5) Ms. Farhiya Haji - Sergeant-at-arms
6) Mr. Robert Rop - Audio Officer

MIN. NO. SCH/75/11/2021: PRELIMINARIES

The Meeting commenced at 8:30 a.m. with a word of prayer from the Chairperson.

MIN. NO. SCH/76/2021: ADOPTION OF THE AGENDA

The Committee adopted the agenda of the sitting, as set out below, having been proposed by **Sen.Ledama Olekina**, MP and seconded by **Sen. (Dr.) Abdullahi Ali CBS, MP**: -

1. Preliminaries
    a) *Prayer*
    b) *Adoption of Agenda*
2. ***Committee stage amendments***
3. Any other business
4. Date of Next Meeting
5. Adjournment

MIN. NO. SCH/77/2021: COMMITTEE STAGE AMENDMENTS

The legal counsel took the committee through the committee stage amendments as outlined below:

CLAUSE 7

THAT clause 7 of the Bill be amended-

(a) in paragraph (d) by deleting the proposed new definition of the word "employer" and substituting therefor the following new definition-

> **"employer"** means a person, national government or national government entity, county government or county government entity firm, corporation or company who or which has entered into a contract of service to employ any individual

(b) in paragraph (k) in the proposed new definition of the term "accreditation" by deleting the words "relevant body" appearing immediately after the words "provider by the" and substituting therefor the word "Board"; and

(c) in the proposed new definition of the term "health care provider" by inserting the word "promotive" immediately after the words "preventative".

The purpose of this amendment is to align the definition of the term employer to the definition under the Employment Act. Further this amendment seeks to include promotive health services in the list of health care services covered by the Fund

CLAUSE 8

THAT clause of the Bill be amended-

(a) in paragraph (b) in the proposed new paragraph (a) -

(i) by deleting subparagraph (iv) and substituting therefor the following new subparagraph-

(iv) funds from the national government, county governments and their respective entities for the administration of the compulsory public service employees insurance benefit scheme or employers for the administration of employee benefits;

(ii) in subparagraph (v) by deleting the word "funds" and substituting therefor the word "contributions".

The purpose of this amendment is to include the compulsory public service employees insurance benefit scheme in the matters covered by the Fund.

CLAUSE 9

THAT clause 9 of the Bill be amended-

(a) in the proposed new subsection (1)-

(i) by deleting paragraph (d);

(ii) by inserting the following new paragraph immediately after paragraph (d)-

(da) one person nominated by the Kenya Medical Association

(iii) in paragraph (g) by deleting the word "one" appearing immediately after the words "person not being a" and substituting therefor the word "two";

(b) in the proposed new subsection (1A) by deleting the words "paragraphs (f) and (g)" appearing immediately after the words "appointed under" and substituting therefor the words "paragraphs (f), (g) and (h).

The purpose of this amendment is to clarify on the membership of the Board of the Fund: to remove the proposed representative of Kenya Health Professionals Oversight Authority and to substitute therefor with a representative from the Kenya Medical Association; and to increase the representative of the Council of Governors from one person to two persons.

CLAUSE 10

THAT clause 10 of the Bill be amended-

(a) in paragraph (b) in the proposed new paragraph (c) by deleting the words "Cabinet Secretary" appearing immediately after the words "in consultation with the" and substituting therefor the words "regulatory bodies set out in section 60 of the Health Act;

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

(ba) by inserting the following new paragraph immediately after paragraph (c)-

(ca) to facilitate public participation and stakeholder engagement in the carrying out of it functions under this Act.

The purpose of this amendment is to ensure the Board carries out public participation in the carrying out of its functions under the Act and to further set out that the Board shall be in-charge of accreditation in consultation with relevant regulatory bodies.

CLAUSE 14

THAT clause 14 of the Bill be amended in the proposed new section 10(2) by deleting the word "Bachelor's" appearing immediately after the words "has at least a" and substituting therefor the word "Master's".

The purpose of this amendment is to require a higher academic qualification for the Chief Executive Officer of Board: the amendment proposes that the Chief

Executive Officer holds at least a Master's degree from a university recognized in Kenya.

CLAUSE 15

THAT clause 15 of the Bill be amended in the proposed new section 10A by inserting the following new subsection immediately after subsection (2)-

(3) A person is qualified for appointment as a corporation secretary under subsection (1) has been a member of the certified public secretary for at least ten years'.

The purpose of this amendment is to require that a person appointed as corporation secretary be a member of the certified public secretary for at least ten years prior to the appointment.

CLAUSE 19

THAT clause 19 of the Bill be amended-

(a) in paragraph (c) by deleting subparagraph (ii) appearing immediately before paragraph (d);

(b) in paragraph (d) by deleting the proposed new paragraph (e) and substituting therefor the following new paragraph-

(e) in the case of any other employer under subsection (1A) (c), a matching contribution equal to that which their employee is liable to contribute under subsection (1)(c) subject to section 6(c).

(c) in paragraph (i) in the proposed new subsection (6) by deleting the word "may" appearing immediately after the words "Cabinet Secretary" and substituting therefor the word "shall".

The purpose of this amendment is to exempt unemployed persons from mandatory contribution under the Fund; extend the requirement for matching contributions to employers in the private sector in addition to employers in the national and county government; and to require the Cabinet Secretary to consult with the Board in making of regulations for the better carrying out of the provisions of the section.

CLAUSE 20

THAT clause 20 of the Bill be amended in paragraph (f) by deleting the words "one million" appearing immediately after the words "deleting the words" and substituting therefor the words "five hundred thousand" appearing in subparagraph (ii).

The purpose of this amendment is to reduce the proposed penalty for non-remittance from one million shillings to five hundred thousand shillings.

CLAUSE 21

THAT clause 21 of the Bill be amended-

(a) in paragraph (b) in the proposed new subsection (1) by deleting the words "provided that such penalty shall not be imposed on state agencies if the delay or non-remittance is caused by delay in disbursement from the National Treasury or delay in disbursement of any funds appropriated by the National Assembly" appearing immediately after the words "from time to time";

(b) in paragraph (c) by inserting the words "that would have been covered by the Fund" immediately after the words "pay the costs";

(c) by inserting a new paragraph immediately after paragraph (c)-

(d) "where the employer is a national government, county government or their respective entities, the accounting officer shall be personally liable for the costs that would have been covered by the Fund and incurred by the employee when seeking treatment from a contracted health care provider during the period when the contribution is due.

The purpose of this amendment is to remove the exemption applicable to national and county governments on the penalty for meeting of costs incurred by an employee for late remittance of contributions to the Fund; to ensure that an employee required to meet the costs incurred by an employee due to late remittance only extends to costs that would have been met by the Fund; and to provide that accounting officers shall be personally liable for meeting costs where the employer is a national or county government entity.

CLAUSE 23

THAT clause 23 of the Bill be amended by deleting the words "by the youth" appearing immediately after the words "inserting the words" and substituting therefor the words "by the unemployed".

The purpose of this amendment is to provide that unemployed persons may make voluntary contributions to the Fund.

CLAUSE 26

THAT clause 26 of the Bill be amended in paragraph (c) by-

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

> (3) The benefits payable from the Fund, including benefits in respect to emergency treatment under the third schedule, shall be subject to such limits, regulations and conditions as the Board may prescribe in consultation with the Cabinet Secretary.

(b) inserting a new subsection (3AA) immediately after the proposed new subsection (3A)-

> (3AA) The Board shall, every two years, carry out a review of the applicable tariffs payable to the Fund under section 15 and payable out of the Fund to empaneled contracted health care providers.

(c) deleting the proposed new sub section (3B) and substituting therefor the following new subsection-

> (3B) The Board shall use the approved risk spreading mechanism, approved claims administration services on benefits of outpatient, inpatient and on employees benefits scheme as provided for under section 3(iv) and (v), section 15, section 22 and section 43 of the Act.

The purpose of this amendment is to ensure the Fund covers emergency treatment under the Third Schedule; that the Board carry out biennial reviews of the tariffs payable into and out the fund; and that the Board uses the approved risk spreading

mechanism, approved claims administration services on benefits of outpatient, inpatient and on employees benefits scheme

CLAUSE 27

THAT clause 27 of the Bill be amended in the proposed new section 23 by-

(a) renumbering the existing provision as subsection (1); and

(b) inserting the following new subsection immediately after subsection (1)-

(2) The Board shall make regulations for the better carrying out of the provisions of this section.

The purpose of this amendment is to ensure the Board makes regulations for making available to contributors statements of their accounts with the Fund.

CLAUSE 33

THAT clause 33 of the Bill be amended-

(a) by deleting paragraph (d) and substituting therefor the following paragraph-

(d) deleting subsection (3) and substituting therefor the following new subsections-

(3) The Board may, at any time, revoke any empanelment under this section.

(3A) Where the Board intends to revoke the empanelment of a health provider under subsection (3), the Board shall notify, in writing setting out the reasons for empanelment.

(3B) A health provider may, after receiving a notification under subsection (3A) respond to reasons for revocation within seven days.

(b) by deleting paragraph (e) and substituting therefor the following new paragraph-

(e) inserting the following new subsections immediately after subsections (3)-

(4) A health provider whose empanelment has been revoked under this section may apply to the Board for the review of the revocation in the first instance and, if dissatisfied by the decision of the Board upon review, appeal to the High Court against the revocation.

(5) The Board shall cause the name of every healthcare provider removed from the register under subsection (4) (ii) of this section to be notified in the Gazette and at least three newspapers with nationwide circulation.

The purpose of this amendment is to ensure that the Board applies principles of Fair Administrative Action where the Board intends to revoke the empanelment of a health care provider. Further the amendment seeks to require the notification of a revocation for empanelment in the Kenya Gazette and at least three newspapers with nationwide circulation

CLAUSE 39

THAT the Bill be amended by deleting clause 38 and substituting therefor the following new clause-

Amendment of section 38 of No. 9 of 1998.

39. The principal Act is amended by deleting section 38 and substituting therefor the following new section-

Annual reports.

38. (1) The Board shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary a report of the operations of the Board for the immediate preceding year.

(2) The Cabinet Secretary shall, within three months of submission of the report under subsection (1), transmit the report to Parliament.

The purpose of this amendment is to ensure that the reports prepared by the Board and transmitted to the Cabinet Secretary are submitted to Parliament as an additional measure of oversight.

CLAUSE 33

THAT clause 33 of the Bill be amended in paragraph (b) in the proposed new subsection (1) by deleting the words "accreditation bodies" and substituting therefor the words "regulatory bodies as set out in section 60 of the Health Act".

The purpose of this amendment is to set out that the Board shall consult with regulatory bodies in publishing in the gazette the list of empaneled health care providers.

CLAUSE 35

THAT clause 35 of the Bill be amended in paragraph (c) by deleting the words "one million shillings or to imprisonment for a term not exceeding twenty-four months appearing immediately after the words "therefor the words" and substituting therefor the words "one hundred thousand shillings or to imprisonment for a term not exceeding six months".

The purpose of this amendment is to reduce the penalty prescribed for willfully obstruction of an inspector appointed under the Act from one million shillings to one hundred thousand shillings and the applicable term of imprisonment from twenty-four months to six months.

CLAUSE 36

THAT clause 36 of the Bill be amended by-

(a) renumbering the existing paragraph (a) as paragraph (b); and

(b) by inserting the following new paragraph immediately before paragraph (b)-

(a) in paragraph (a) by inserting the words "on the advise of the Central Bank of Kenya" immediately after the words "a reputable bank".

The purpose of this amendment is to ensure that the Board seeks the advice of the Central Bank on reputable banks for the purpose of investing the monies of the Fund.

CLAUSE 44

THAT clause 44 of the Bill be amended by deleting the proposed new section 45A and substituting therefor the following new sections-

Application of Cap 487.

45A. The provisions of the Insurance Act shall apply to the Fund only in respect to risk spreading and claims administration services

Application of No. 3 of 1997.

45B. The provisions of the Retirement Benefits Act shall apply to Fund only with respect to pot-retirement medical contributions.

The purpose of this amendment is to set out the extent of the application of the Insurance Act and the Retirement Benefits Act to the administration of the Fund.

NEW SCHEDULE

THAT the Bill be amended by inserting the following new Schedule immediately after the second schedule—

Insertion of the Third Schedule to No. 9 of 1998.

THIRD SCHEDULE

[Section 22]

Emergency treatment benefits.

1. The Board and the Cabinet Secretary shall when prescribing the benefits available in respect to emergency treatment include benefits in respect to –

(a) primary angioplasty;

(b) thrombolysis; or

(c) thrombolysis and rescue angioplasty.

2. The Board and the Cabinet Secretary may from time to time revise the Third Schedule to include other emergency treatment.

NEW CLAUSE

THAT the Bill be amended by inserting the following new clause immediately after clause 26-

27. (1) Notwithstanding the provisions of section 22, the Board shall not withdraw the benefits of a person undergoing treatment for a chronic illness.

(2) The Board shall, in making regulations for determining benefits under the Fund ensure that the Fund shall meet the costs of a contributor accessing inpatient services at any empaneled health care provider.

The purpose of this amendment is to ensure that treatment for chronic illnesses are not arbitrarily withdrawn and further that contributors and beneficiaries under the Fund shall access inpatient services at any health care provider facility.

MIN. NO. SCH/78/11//2021: ANY OTHER BUSINESS

The committee was informed that there would be a meeting to confirm minutes for the NHIF report, adoption of the committee stage amendments and the adoption of the NHIF report on Tuesday 30th November, 2021 at 9:00 a.m.

MIN. NO. SCH/79/11/2021: ADJOURNMENT

There being no other business, the committee adjourned at 10:25 a.m.

SIGNED: .....

(CHAIRPERSON)

DATE: .....**30/11/2021**.....

TWELFTH PARLIAMENT |FIFTH SESSION

MINUTES OF THE SITTING OF THE SENATE STANDING COMMITTEE ON HEALTH, HELD ON TUESDAY, 30TH NOVEMBER 2021 AT 9:00 A.M. ON THE ZOOM ONLINE PLATFORM

PRESENT

1) Sen. (Dr.) Michael Mbito, MP - Chairperson
2) Sen. Mary Seneta, MP - Vice Chairperson
3) Sen. Beth Mugo, EGH, MP
4) Sen. (Dr) Abdullahi Ali Ibrahim, CBS, MP
5) Sen. Fred Outa, MP
6) Sen. Ledama Olekina, MP
7) Sen. Millicent Omanga, MP
8) Sen. (Prof) Samson Ongeri, EGH, MP
9) Sen. Beatrice Kwamboka, MP

SECRETARIAT

1) Ms. Emmy Chepkwony - Senior Clerk Assistant
2) Dr. Christine Sagini - Clerk Assistant
3) Ms. Caroline Njue - Clerk Assistant
4) Ms. Sombe Toona - Legal Counsel
5) Ms. Lucy Radoli - Legal Counsel
6) Mr. Mbithi - Sergeant-at-Arms

MIN. NO. SCH/86/11/2021: PRELIMINARIES

The Meeting commenced at 9:15 a.m. with a word of prayer from the Chairperson.

MIN. NO. SCH/87/2021; ADOPTION OF THE AGENDA

The Committee adopted the agenda of the sitting, as set out below, having been proposed by **Sen. (Dr.) Abdullahi Ali, CBS, MP** and seconded by **Sen. Millicent Omanga, MP**: -

1. Preliminaries
    a) *Prayer*
    b) *Adoption of Agenda*
2. ***Adoption of NHIF Report***
3. ***Adoption of Committee stage amendments.***
4. Any other business
5. Date of Next Meeting
6. Adjournment

MIN. NO. SCH/82/11/2021: CONSIDERATION AND ADOPTION OF COMMITTEE STAGE AMENDMENTS ON THE NHIF (AMENDMENT) BILL, 2021

The Committee considered and adopted the Committee Stage Amendments on the NHIF (Amendment) Bill, with an amendment to Clause 19 to provide for instances where an employer other than the national or county government, having procured private medical cover for their employees, wishes to be exempted from making matching contributions for their employees. The adoption of the Committee Stage Amendments was proposed by Sen. Ledama Olekina, MP, and seconded by Sen. Millicent Omanga, MP.

MIN. NO. SCH/83/11/2021: CONSIDERATION AND ADOPTION OF THE COMMITTEE REPORT ON THE NHIF (AMENDMENT) BILL, 2021

The Committee considered and adopted the Committee Report on the NHIF (Amendment) Bill, 2021, having been proposed by Sen. Ledama Olekina, MP, and seconded by Sen. (Dr.) Abdullahi Ali, CBS, MP.

MIN. NO. SCH/84/11/2021: ADJOURNMENT

There being no other business the meeting was adjourned at 11:00 a.m.

SIGNED: .....

(CHAIRPERSON)

DATE: .....**30/11/2021**.....

REPUBLIC OF KENYA

PARLIAMENT OF KENYA
THE SENATE

Standing Committee on Health

12th Parliament | Fifth Session

SCHEDULE FOR STAKEHOLDER ENGAGEMENT ON THE NHIF (AMENDMENT) BILL, 2021

No.	ACTIVITY	DESCRIPTION	TIMELINES
1.	Advertisement for submission of written memoranda	1. Publish on re-advertisement on: a) two newspapers with national distribution b) Parliament website c) Parliament social media pages d) Social media	**a)** Newspaper Adverts - **Date of publication:** Friday, 22nd October, 2021. - **Deadline for submission of memoranda:** Friday, 29th October, 2021.
8th to 14th November, 2021 - ESAMI Training in Istanbul, Turkey.			
A. Structured Stakeholder Engagement on the NHIF (Amendment) Bill, 2021			
2.	***Government Agencies and Departments***	Ministry of Health & NHIF	Monday, 15th November, 2021
		Ministry of National Treasury and Finance & KRA	
		Ministry of Labour and Social Protection	

		Ministry of Public Service, Youth and Gender Affairs	
		Council of Governors + NMS	
		Independent Offices and Commissions (including the PSC and TSC).	
3.	***Health Regulatory Bodies***	Kenya Health Professionals Oversight Authority	Wednesday, 17th November, 2021 (2.30 pm)
		Kenya Medical Practitioners and Dentists Council	
		Others	
4.	***Unions***	- COTU - KNUT - KMPDU - KNUN - KNUMLO - KNUPT etc	Tuesday, 16th November, 2021 (9.00 am)
5.	***Private Sector***	Federation of Kenya Employers	Tuesday, 16th November, 2021 (2.30 pm)
		Association of Kenya Insurers and other representative groups of the private health insurance industry.	
		KEPPSA/KHF	
		Kenya Hospitals Assc	
		RUPHA	
		CHAK	
		Kenya Private Hospitals Assoc	
		Other organised private sector groups as may have responded to the call for submissions	
6.	***Health Professional bodies and Associations***	Kenya Medical Association	Wednesday, 17th November, 2021 (9.00 am)
		Others (as may have responded to the call for submissions)	

7.	***Civil Society Groups/NGOs***	Consortium including NGO and civil society groups etc.	
22nd to 27th November, 2021 - 6th Annual Devolution Conference in Makueni			
B. Internal			
19.	***Consideration and adoption of:***	The NHIF (Amendment) Bill: a) The Committee Report on Public Participation b) Committee Stage Amendments	26th to 29th November, 2021
21.	***Tabling of Reports***	a) NHIF (Amendment) Bill, 2021 - The Committee Report on Public Participation - Committee Stage Amendments	Wednesday, 1st December, 2021

SENATE COMMITTEE ON HEALTH & NHIF RETREAT

Monday 18th October 2021

1. Question from Senator Seneta:

County Government facilities lack drugs and are poorly equipped. How will the amendments address this?

NHIF signs contracts with Health Care Providers which indicate the services to be provided, the standards of quality expected and the consequences of breach of these terms.

However, it was noted that there were gaps in in the previous contracts with respect to county health care providers and that many were unable to meet the quality standards in the contract each facility signed. Therefore, in the new health care provider contracts for the contracting period 2021-2024, NHIF will sign contracts with each County on behalf of the county health care providers (a master contract). It will now be the responsibility of each County Government to ensure that the facilities it manages and operates meet NHIF quality standards in providing services to our members.

However, NHIF also appeals to the Senate Departmental Committee to support its engagement with County Governments on ensuring that Counties meet their commitments under the contract to provide services of the highest attainable standards to our members.

2. Question from Senator Mugo:

Some members are raising concerns that their cards are not active and therefore there are delays in accessing medical services

The reasons for this issue are that Members may not have updated their contributions or they had paid their contributions late but never paid the penalties. Therefore, it is only at the point when they seek services that it is discovered that they have arrears.

To address this and as part of the ongoing digital transformation services have been brought closer to members through:

1. *SMS alerts; to alert members on monthly contributions.*

2. *Self-care platforms- USSD code *155#, SMS query code 1550, My NHIF App and the NHIF web portal (www.nhif.or.ke).*

3. *24/7 state-of-the-art customer experience centre- TOLL FREE 0800720601.*

Alternatively, members can also access services at NHIF service outlets which are available in all 47 counties (70 branches, 33 satellite offices, 53 Huduma centres).

3. Question from Senator Mugo:

Why do members encounter delays in approvals when seeking services?

The issue may arise as a result of pre-authorisation of treatment (in particular specialised treatment and surgeries)

Pre-authorisation of services is an international best practice that is intended to ensure that members get the right services for their medical conditions as well as to manage costs.

When NHIF enhanced its benefit packages in 2015, there was a need to introduce pre-authorisation to ensure cost control and sustainability. As part of the organisation's re-structuring that is ongoing, the Case Management Division has been created to specifically deal with the NHIF beneficiary's medical journey from the point when they seek care from Healthcare Provider to the completion of the care plan.

To ensure that the turnaround time for pre-authorisation is improved, the number of staff in the Case Management Division has been increased three-fold to ensure that pre-authorisation is done on real time basis.

4. Question from Senator Ali:

Why are National and County Government bodies being exempted from the need to pay penalties where there are late remittances yet other employers must comply?

NHIF notes that this is a serious issue since statutory remittances are deducted from the salaries of County staff however the same is not submitted to NHIF. This delay leaves the staff exposed. NHIF will therefore consult and revert with a proposal that seeks to remedy this matter. Thereafter once the Amendment Bill is formally before the committee NHIF shall provide firm proposals on how this matter may be addressed.

5. Question from Senator Ali:

How independent is NHIF if the decisions of the Board (such as criteria for empanelment of health care providers) are subject to consultation with the Cabinet Secretary?

The Ministry of Health plays a critical role through regulatory bodies (e.g. KMPDC and KHPOA) in the licensing of health care providers. It is important to promote good will and

seek support from our parent ministry by leaving an opportunity for consultation when it comes to empanelling and contracting of such health care providers. This allows the Ministry, the regulatory bodies and NHIF to act jointly in carrying out their legal mandates.

The detailed procedure for empanelment and contracting will be reflected in the regulations to be made once the Act is passed.

6. Question from Senator Ali:

Does NHIF have the capacity to determine the rates of contribution as provided in the amendments to the Act?

NHIF has an actuarial division responsible for costing the amount of contributions required to sustain the benefit package.

The NHIF receives contributions from the members in the three categories below:- 1. the formal sector contributor who are deducted statutorily
2. the informal sector contributor who will be required by law to contribute
3. those who are unable to contribute are sponsored by Government

The system will ensure no one is left behind.

7. Question from Senator Ali

What guarantees that the reduced penalties for late contributors will be enforced?

With ongoing organisational transformation, NHIF has strengthened the compliance function. In addition to physical compliance visits to employers, NHIF has migrated to digital compliance mechanisms. These are:-

1. *Automated email alerts for employers*
2. *SMS alerts for contributors*

In instances where compliance requires criminal litigation, NHIF is collaborating with ODPP to support the prosecution function.

8. Question from Senator Ali

Clause 29 proposes to increase the penalties for impersonation from the current 500,000/- to 1,000,000/-. However this happens with the collusion of NHIF staff, will the amendments address this?

In cases involving fraud, all parties involved are investigated- be it NHIF staff, members, health care providers or any other party. If there is evidence of culpability the culprits are prosecuted.

Currently NHIF has ongoing cases where NHIF staff, members and health care providers have been investigated and charged.

9. Question from Senator Ali:

How successful was the UHC pilot and what were the lessons learned?

The UHC pilot was rolled out in 4 counties- Isiolo, Machakos, Kisumu and Nyeri- on an input financing model. 70% of the funds were used in the provision of health products and technologies in the identified public facilities. Residents in the pilot counties received services for free for a duration of 1 year.

One of the critical lessons learned in the pilot was that the country needed to move to a more sustainable model while still focusing on strengthening health care systems.

Consequently, to ensure maximum efficiency and equity in coverage, MOH decided to scale up UHC on an output financing model (health insurance) anchored in NHIF.

10. Question from Senator Ali:

NHIF is reducing its administrative expenses, however in many counties there are far flung areas such as Bute, Wajir County where NHIF services are not accessible. How will NHIF address the

challenge of upscaling its services in under-served areas with reduced administrative expenses?

NHIF acknowledges that there is a large population of Kenyans who live in rural and marginalised areas where access to NHIF services is limited. To address this challenge, NHIF has continued to expand its service points to reach as many Kenyans as possible by introducing digital self-care platforms and setting up satellite offices.

NHIF as a social insurer is committed to ensure that members in under-served areas receive the services that they require and that the greatest proportion of contributions goes toward payment for medical services.

As the pool of funds is increased, the proportion of funds available for enhancing access to services for members will still increase even if the percentage of administrative expenses remains the same.

11. Question from Senator Mugo:

There is too much red tape and bureaucracy in provision of services by NHIF. How will NHIF address this?

NHIF embraces the digital transformation that is occurring globally. To align to that

transformation, NHIF has transitioned from use of stamps and manila cards to use of magnetic strip cards and is now transitioning to a cardless biometric registration and identification system. Previously, a member accessing services was required to produce their NHIF Card, national ID card/passport and where the patient was a child, a copy of the birth certificate before accessing benefits.

Thanks to the biometric system, a member accessing services will simply use their fingerprints as identification prior to accessing services.

NHIF is transitioning to an electronic system that will not require submission of physical documents.

Further to support the electronic system, NHIF is ensuring constant engagement with members through SMS alerts as the members seek health services. For seamless access, members need to update their mobile numbers in the NHIF system and ensure they have been biometrically registered.

*As part of the ongoing digital transformation, there are many available options for members to access services through self-care platforms- including USSD code (*155#), SMS query (1550), mobile app (MyNHIF) and the web portal on the website. There is also a 24/7 customer experience centre.*

12. Question from Senator Seneta:

How can NHIF improve the benefit package and does NHIF cover NCDs like cancer and hypertension?

NHIF has a comprehensive benefit package (Supa Cover) comprising of 10 different benefits:

1. *Outpatient cover*
2. *Inpatient cover*
3. *Maternity (including Normal, Caesarian Section)*
4. *Radiology tests (covering MRI, CT Scan)*

5. *Surgery (minor surgery, major surgery, specialised surgery and organ transplant)*
6. *Oncology (radiotherapy and chemotherapy)*
7. *Renal Dialysis*
8. *Drug and Substance abuse rehabilitation*
9. *Road Ambulance evacuation*
10. *Overseas treatment*

Therefore, NCDs are covered under packages such as oncology, renal dialysis and the surgical package.

These services can be accessed in NHIF contracted health care providers which are either comprehensive or non-comprehensive. For a member to access care without paying from their pockets they should visit comprehensive facilities which are categorised into:

1. *Contract A- Government Health Care providers*
2. *Contract B- Mission and Private Health Care providers that are comprehensive*

However if a member visits a Contract C facility (which are non-comprehensive mission and private facilities), NHIF will only pay a portion (usually the rebate) of the expenses and the member will be expected to pay the balance from their own pocket.

13. Question from Chair Senator Mbito:

What measures are in place to ensure sustainability of UHC and how is Strategic Purchasing being undertaken?

NHIF is contracting comprehensive health care providers (which are government, faith-based and low-cost private health care providers) which will provide medical services to UHC Beneficiaries.

In preparation for the re-contracting process for 2021-2024, NHIF is re-assessing health care providers to ascertain the services that they are able to provide to NHIF beneficiaries.

As part of the re-contracting process, NHIF has costed benefit packages and negotiated reimbursement rates to ensure sustainability.

14. Question from Chair Senator Mbito:

What measures has NHIF taken to address quality concerns in provision of health services?

In addition to the re-assessment of Health care providers, the contract for 2021-2024 contains provisions for continuous quality assurance including biannual quality reviews by NHIF and quarterly quality self-assessments by the health care providers.

In the event that the quality standards for any benefit package are not met, the NHIF Board reserves the right to withdraw that particular package from the Health Care Provider until it makes the necessary improvements.

15. Question from Chair Senator Mbito:

What other amendments should be done to any statute or set up of legal framework for achievement or sustainability of UHC?

Members of the Senate Departmental Committee on Health have already noted the deficiencies in county government facilities. One reason for these challenges is the lack of ring-fenced funds for health at county level. This is because revenue received by Counties is pooled in the County Revenue Fund and thereafter not allocated to health care providers

The Public Finance Management Act provides in section 109 that money is excluded from payment into the County Revenue Fund if:-

1. *It is excluded from payment into that Fund because of a provision of the PFMA or another Act of Parliament, and is payable into another county public fund established for a specific purpose;*
2. *may, in accordance with other legislation, the PFMA or County legislation, be retained by the county government entity which received it for the purposes of defraying its expenses.*

The implementation of either of the above options- passing laws mandating payment into a specific county health fund or allowing county government entities to retain the funds would support UHC by ensuring adequate funds are available to county health care providers.

16. Question from Chair Senator Mbito:

Are the amendments intended to put private insurers out of business?

Most private insurance policies have been indicating that they covered their members, net of NHIF rebate.

When the Fund introduced the enhanced benefits in 2015, it focused on taking care of the growing needs of its beneficiaries and did not define how the benefits were to be utilized. The private insurers have since taken advantage of the gap, letting NHIF pay for all the newly introduced enhanced packages first.

Contextually, private insurers collected Sh45billion in premiums against 2million lives (approx. 500,000 families) in the last year. This translates to an average of Sh 90,000 per family per year in premiums, leaving 98% of the population without health insurance.

The NHIF is a family cover, where one premium paid will cater for the Principal member, spouse, and children. It collected Sh 38billion to cover 4.9 million active members at the premium of Sh6,000 per family, translating to an average of Sh1, 800 per family per year. With this amount, NHIF is fully covering, for instance, all cases of radiological services such as Magnetic Resonance Imaging (MRI) and Computerized Tomography Scan (CT scan) countrywide.

17. Proportion of reimbursements go to private sector facilities instead of public sector facilities

The reimbursements to health care providers is member driven. Members choose where they wish to seek services. Due to challenges in the public health care facility network

e.g. lack of adequate supply of required health products and technologies. Thus, NHIF members opt to seek services where they know that the facility is a one-stop-shop which are usually private facilities.

ATTACHMENT 1

SIMULATION OF MANDATING NHIF CONTRIBUTIONS FOR ALL KENYAN RESIDENTS AND

EMPLOYER MATCHING EMPLOYEES' CONTRIBUTIONS

Estimates Using All Kenyan Households as Per KNBS 2019 Population Data with Obligation of the Informal Sector and Sponsorship of Indigents by GoK

Households	Members	Average Contribution per Month	Revenue Collection per Month	Members' Contribution per Year	Employer Matching	Total Estimated Revenue
Public Sector	943,000	1,045	985,435,000	11,825,220,000	11,825,220,000	23,650,440,000
Private Sector	2,910,682	557	1,621,249,874	19,454,998,488	19,454,998,488	38,909,996,976
Informal	3,179,591	500	1,589,795,500	19,077,546,000	-	19,077,546,000
Indigents	5,110,390	500	2,555,194,955	30,662,339,460	-	30,662,339,460
Total	**12,143,663**		**6,751,675,329**	**81,020,103,948**	**31,280,218,488**	**112,300,322,436**

ATTACHMENT 2

NHIF REIMBURSEMENT TO HEALTHCARE PROVIDERS PER CATEGORY

NAIROBI COUNTY

	H.Code	Hospital/Facility	Category Total	Proportion
	1 8000058	KENYATTA NATIONAL HOSPITAL (GENERAL WARD Public 0	1,573,183,43	17%
	2 8000196	NAIROBI WEST HOSPITAL Private 1	1,493,862,57	16%
	3 8000012	NAIROBI HOSPITAL NAIROBI Private 979,476,857		10%

	4 8000005	H.H. AGAKHAN HOSPITAL (NAIROBI) Private 736,333,359	8%
	5 8000197	KENYATTA NATIONAL HOSPITAL (AMENITY WING) Public 533,766,890	6%
	6 8000018	S.S. LEAGUE M.P SHAH HOSPITAL NAIROBI Private 518,784,714	5%
		ST. PETER'S ORTHOPEDICS AND SURGICAL Private 470,664,400	5%
	8 8000747	COPTIC HOSPITAL Private 468,319,612	5%
	9 8000842	LIONS SIGHT FIRST EYE HOSPITAL Private 383,984,920	4%
		KENYATTA UNIVERSITY TEACHING REFERRAL Public 300,520,050	3%
	1 8000002 12 000844 13 000009	S GARDEN CHILDREN'S HOSPITAL NBI Private 288,286,668 THE NAIROBI SPITAL LIMITED Private 284,980,829 MATER MISERICORDIAE HOSPITAL I Private 241,510,603 14 80001134 LADNAN HOSPITAL LIMITED Private 232,988,231	3% 3% 3% 2%
	17 8000676	431 MEDIHEAL HOSPITAL EASTLEIGH Private 183,712,361 16 80001138 L HOSPITAL PARKLANDS Private 170,744,626 CHIROMO LANE MEDICAL ivate 152,209,248 18 80006177 TEXAS CANCER CENTRE NAIROBI WEST Private 149,373,110	2% 2% 2% 2%

19 80001739 NAIROBI EAST HOSPITAL LIMITED Private 147,127,302 2% 20 8000904 ST. FRANCIS COMMUNITY HOSPITAL Private 145,905,950 2%

Proportion of reimbursements to Government HCPs for Nairobi County - 26%

KISUMU COUNTY

	H.Code	Hospital/Facility Category Total	Proportion
1		Private 208,936,40 3 H.H AGA KHAN DISP. & MAT. HOSPITAL KISUMU 7	20%
		KISUMU SPECIALISTS HOSPITAL Private 90,600,740	9%
		AVENUE HOSPITAL-KISUMU Private 81,105,672	8%
4		3 PROVINCIAL GENERAL HOSPITAL KISUMU Public 68,332,500	7%
5		2 JALARAM NURSING & MATERNITY HOME Private 62,793,000	6%
		NIGHTINGALE MEDICAL CENTRE MILIMANI Private 54,084,235	5%
		ST. JAIRUS HOSPITAL Private 49,090,000	5%
8		3 ST. MONICA'S HOSPITAL Mission 42,791,000	4%
9		0 NIGHTGALE MATERNITY & NURSING HOME Private 41,592,209	4%

10		3 ST. JOSEPH'S HOSPITAL (NYABONDO) Mission 38,060,000	4%
11		2 HOLY FAMILY CATHOLIC MISSION HOSPITAL Mission 35,198,986	3%

12		7 ST. VINCENT DE PAUL'S HEALTH CENTRE Mission 31,403,200	3%
13		5 MASENO HOSPITAL Mission 30,495,800	3%
		AFRICA INUKA HOSPITAL LIMITED-KISUMU Private 29,231,800	3%
		AWASI CATHOLIC MISSION DISPENSARY Mission 28,381,500	3%
16		5 THE PORT FLORENCE COMMUNITY HOSPITAL Private 27,831,700	3%
		BLUE RIDGE MEDICAL LTD-KISUMU Mission 27,337,390	3%
		MASABA HOSPITAL LIMITED Private 26,417,800	3%
		AHERO MEDICAL CENTRE Private 25,228,009	2%
20		6 RACHAR SUGAR BELT NURSING HOME Private 25,222,000	2%

Proportion of reimbursements to Government HCPs for Kisumu County - 7%

TRANS NZOIA COUNTY

	H.Code	Hospital/Facility Category Total	Proportion
1	0016087	KITALE DISTRICT HOSPITAL Public 64,283,500	26%
2	0017642	KIMININI COTTAGE HOSPITAL Mission 46,332,950	18%
3	00162672	GALILEE MED CENTRE MILIMANI KITALE LTD Private 35,841,610	14%
4	0016624	CHERANGANY NURSING HOME Private 32,831,393	13%
5	00161728	CRYSTAL COTTAGE HOSPITAL AND MED CLINIC Private 17,840,140	7%
6	00161013	MATUNDA MATERNITY HOME Private 9,861,400	4%
7	0017647	SISTER FRIDAS MEDICAL CENTRE Private 8,694,010	3%
8	0016054	ANDERSON MEDICAL CENTRE Private 4,935,000	2%
9	0016956	ENDEBESS SUB-DISTRICT HOSPITAL Public 4,509,200	2%

10 11	0016448 2 0016447 9	ST RAPHAEL DISPENSARY Private 3,587,500 SABOTI SUB-DISTRICT HOSPITAL Public 3,495,550	1% 1%
12 13 14 15	0016447 4 0016852 1 0016859 8 0016284 5	KWANZA SUB COUNTY HOSPITAL Public 2,990,000 MATUNDA SUB-COUNTY HOSPITAL Public 2,891,000 BROWNS MEMORIAL MEDICAL CENTRE Private 2,808,511 SIKHENDU MEDICAL CLINIC Private 2,456,500	1% 1% 1% 1%
16 17	0016258 8 0016284 4	CHERANGANY SUB-COUNTY HOSPITAL Public 2,155,400 HOLY ROSARY HEALTH CENTRE NGONYEK Mission 1,963,500	1% 1%

18	0016447 3	KOLONGOLO C.M DISPENSARY Public 1,564,500	1%
19	0016633 6	SOLANAMU MEDICAL CENTRE Private 1,505,000	1%
20	0016201 1	MOI'S BRIDGE HEALTH CENTRE Public 1,170,000	0%

Proportion of reimbursements to Government HCPs for Trans Nzoia County - 33%

KAJIADO COUNTY

	H.Code	Hospital/Facility Category Total	Proportion
1	8000840	KAREN HOSPITAL LTD Private 203,574,292	20%
2	6662826	KITENGELA MEDICAL CENTRE Private 146,746,400	14%

3	6662871	ATHI-RIVER SHALOM COMMUNITY HOSPITAL Private 125,711,001	12%
4	80001786	ST. MARY'S MISSION HOSPITAL Mission 107,842,000	11%
5	00026793	NGATATAEK DISPENSARY Public 100,017,549	10%
6	8000873	LANGATA HOSPITAL Private 60,547,624	6%
7	6662259	S.U.C.O.S HOSPITAL Private 41,643,800	4%
8 9	66621471 6662752	KITENGELA MEDICAL SERVICES-KAJIADO Private 37,746,705 ATHI RIVER MEDICAL SERVICES Private 24,738,000	4% 2%
10 11 12 13	80008499 66621081 8000258 8000577	THE RETREAT LTD NGONG ANNEX Private 22,754,334 KITENGELA SUB-DISTRICT HOSPITAL Public 18,965,300 WAMA NURSING HOME Private 17,475,503 WANANCHI JAMII MATERNITY & NURSING Private 16,101,000	2% 2% 2% 2%
14 15	66622389 0002097	KITENGELA WEST HOSPITAL Private 15,219,500 KAJIADO DISTRICT HOSPITAL Public 15,082,800	1% 1%
16	8000580	NAIROBI WOMEN'S HOSPITAL Private 14,795,701	1%
17	8000788	SINAI HOSPITAL RONGAI Private 14,688,900	1%
18	00022223	TRINITY CARE CENTRE LIMITED Private 13,162,778	1%

19	0003103	LOITOKTOK DISTRICT HOSPITAL Public 12,534,420	1%

20	66622671	ATHI COMPLEX GALAXY HOSPITAL Private 10,539,000	1%

Proportion of reimbursements to Government HCPs for Kajiado County - 14%

WAJIR COUNTY

	H.Code	Hospital/Facility Category Total	Proportion
1	5552106	WAJIR DISTRICT HOSPITAL (WAJIR) Public 46,946,450	12%
2	55522114	CAMEL MEDICAL CENTRE Private 46,272,196	12%
3	5550539	JEDDAH NURSING HOME Private 40,603,667	10%
4	55521398	SAMAAD HOSPITAL Private 31,764,239	8%
5	55521573	LADNAN HOSPITAL Private 23,102,560	6%
6	5550538	AL-BUSHRA MEDICAL CENTRE Private 22,533,419	6%
7	55522371	BUTE NURSING HOME Private 20,417,600 ALHAYAT NURSING HOME	5%
8	55522134	Private 17,689,900 WAJIR MATERNITY & NURSING HOME LTD	4%
9	55526448	Private 16,675,683 AFYA MEDICAL CLINIC AND NURSING HOME	4%
10	5550528	Private 15,349,190	4%
11	55528594	ALMAARAJ MEDICAL CENTRE Private 14,243,350 WAJIR CENTRAL	4%
12	55526447	NURSING HOME Private 14,240,067 MASHA'ALLAH NURSING HOME	4%
13	55501056	Private 13,307,900	3%
14	55528625	SHAFIN MEDICARE LIMITED Private 12,552,300	3%

15	5552220 3	GRIFTU NURSING HOME Private 12,153,600	3%
16	5552861 5	MUAD MEDICAL CENTRE Private 10,856,890	3%
17	5552249	HABASWEIN DISTRICT HOSPITAL Public 10,388,200	3%

18	5552644 9	WAJIR WEST ROADSIDE MED CENTRE & LAB Private 10,282,200	3%
19	5552169 7	BUNA NURSING HOME Private 7,686,350	2%
20	5552170 4	AL-HAMDU NURSING HOME Private 6,664,120	2%

Proportion of reimbursements to Government HCPs for Wajir County - 15% 17