



REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (THIRD SESSION)

THE SENATE

ORDER PAPER

WEDNESDAY, APRIL 03, 2019 AT 2.30 PM

PRAYERS

1. Administration of Oath
2. Communication from the Chair
3. Messages (as listed in the Appendix)
4. Petitions
5. Papers
6. Notices of Motion (as listed in the Appendix)
7. Statements (as listed in the Appendix)
8. ***THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS NO 31 OF 2018)**
(Sen. (Dr.) Agnes Zani, MP)

(Second Reading)

***(Resumption of debate interrupted on Wednesday, 27th March, 2019)
(Division)***

9. **MOTION – REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE COUNTY GOVERNMENTS’ INFRASTRUCTURE PROJECTS**
(Chairperson, Standing Committee on Finance and Budget)

THAT, this House adopts the Report of the Standing Committee on Finance and Budget on the County Governments’ infrastructure projects comprising County Executive Headquarter offices, Assembly Chambers and offices and County State officers’ residences, laid on the Table of the Senate on Thursday, 29th November, 2018.

***(Resumption of debate interrupted on Thursday, 28th March, 2019)
(Division)***

10. **COMMITTEE OF THE WHOLE**
****THE COUNTY EARLY CHILDHOOD EDUCATION BILL (SENATE BILLS NO. 26 OF 2018)**

(Chairperson, Standing Committee on Education)

***(Resumption of debate interrupted on Wednesday, 27th March, 2019)
(Division)***

...../Bill

11. **COMMITTEE OF THE WHOLE**

***THE PUBLIC PARTICIPATION BILL (SENATE BILLS NO. 4 OF 2018)**

(Sen. Amos Wako, MP)

*(Resumption of debate interrupted on Wednesday, 27th March, 2019)
(Division)*

12. **COMMITTEE OF THE WHOLE**

***THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE) BILL (SENATE BILLS NO. 22 OF 2018)**

(Sen. Judith Pareno, MP)

*(Resumption of debate interrupted on Wednesday, 27th March, 2019)
(Division)*

13. **COMMITTEE OF THE WHOLE**

***THE TREATY MAKING AND RATIFICATION (AMENDMENT) BILL (SENATE BILLS NO. 23 OF 2018)**

(Sen. Fatuma Dullo, MP)

*(Resumption of debate interrupted on Wednesday, 27th March, 2019)
(Division)*

14. **MOTION-** (The Senate Majority Leader)

THAT pursuant to Standing Order 159, the amendments by the National Assembly to the County Governments (Amendment) (No.2) Bill (Senate Bills No. 7 of 2017) be now considered.

15. **COMMITTEE OF THE WHOLE**

*****THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILLS NO. 11 OF 2017)**

(The Senate Majority Leader)

(Consideration of National Assembly Amendments)

16. **COMMITTEE OF THE WHOLE**

***THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2018)**

(Sen. Ledama Olekina, MP)

17. **COMMITTEE OF THE WHOLE**

****THE IMPEACHMENT PROCEDURE BILL (SENATE BILLS NO. 15 OF 2018)**

(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

18. **COMMITTEE OF THE WHOLE**

****DATA PROTECTION BILL (SENATE BILLS NO. 16 OF 2018)**

(Chairperson, Standing Committee on Information and Technology)

19. **COMMITTEE OF THE WHOLE**

***THE COUNTY OUTDOOR ADVERTISING CONTROL BILL (SENATE BILLS NO. 19 OF 2018)**

(Sen. Samuel Poghio, MP)

...../Bill

20. **COMMITTEE OF THE WHOLE**

***THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILLS NO. 27 OF 2018)**

(Sen. Abshiro Halake, MP)

21. ***THE COUNTY OVERSIGHT AND ACCOUNTABILITY BILL (SENATE BILLS NO. 28 OF 2018)**

(Sen. Ledama Olekina, MP)

(Second Reading)

(Resumption of debate interrupted on Tuesday, 2nd April, 2019)

22. ***THE DETERMINATION OF THE NATURE OF BILLS (PROCEDURE) BILL (SENATE BILLS NO. 30 OF 2018)**

(Sen. Mutula Kilonzo Jnr., MP and Sen. Sakaja Johnson, MP)

(Second Reading)

23. ***THE NATIONAL COHESION AND PEACE BUILDING BILL (SENATE BILLS NO. 35 OF 2018)**

(Sen. Judith Pareno, MP)

(Second Reading)

24. ***THE ELECTION LAWS (AMENDMENT) (NO.2) BILL (SENATE BILLS NO. 37 OF 2018)**

(Sen. (Dr.) Agnes Zani, MP)

(Second Reading)

25. ***THE KENYA MEDICAL SUPPLIES AUTHORITY (AMENDMENT) BILL (SENATE BILLS NO. 38 OF 2018)**

(Sen. Mary Seneta, MP)

(Second Reading)

26. *****THE COUNTY HALL OF FAME BILL (SENATE BILLS NO. 39 OF 2018)**

(The Senate Majority Leader)

(Second Reading)

27. **MOTION - THE REALIZATION OF GENDER EQUITY IN ELECTIVE AND APPOINTIVE POSITIONS IN KENYA**

Sen. (Canon) Naomi Waqo Jilo, MP)

AWARE THAT, the Constitution of Kenya recognizes dignity, economic, social and cultural rights, education, housing and the right to health including reproductive health; and that the principle of equality and non-discrimination is established as a core value of leadership and the national values and principles of governance include human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of marginalized groups, among others;

FURTHER AWARE THAT, the Constitution of Kenya has very progressive articles that indicate commitment to the international and regional obligations arising from treaties and conventions and other Commitments signed or ratified;

...../Motion

COGNIZANT that Kenya has ratified the Convention on Elimination of all forms of discrimination against Women and the Protocol to the African Charter on Human and People’s Rights of the Right of Women which are international instruments that are key to promoting women’s rights;

RECALLING that policy framework to enhance gender equality has also been developed, and include the National Gender and Development Policy 2000, the Kenya Vision 2030, Sessional paper No. 2, of 2006, the National Land Policy, the National Policy for Response to Gender Based Violence, and the National Policy for the Abandonment of Female Genital Mutilation;

NOTING THAT, despite there being sound constitutional provisions and elaborate policy framework to realise gender equity, both national government and county governments have not done enough to realise the achievement of gender equality;

CONCERNED that women in Kenya experience hardships when it comes to elective offices, and are underrated by society with most opportunities for elective and appointive offices being awarded to men;

NOW THEREFORE THE SENATE RESOLVES

- 1) that Parliament fast track the enactment of the law that shall give effect to the one third gender rule; and,
- 2) that pursuant to Article 81 of the Constitution both the National and County governments observe the principle of equality, and empowers the female gender by increasing the appointive position to at least fifty per cent.

28. MOTION - CREATION OF SUPPORT SERVICES FOR THE DISCIPLINED FORCES & THEIR FAMILIES

(Sen. George Khaniri, MP)

THAT APPRECIATING the commitment and sacrifice by members of the disciplined forces in protecting our country from both internal and external aggression;

AWARE of the risky and stressful environment that the officers are exposed to daily in the line of duty, combined with the increased terrorism threats at home, and abroad;

NOTING that members of the disciplined forces, and by extension, their families are exposed to traumatic incidents both at home and abroad that manifest as living in constant fear, debilitating depression, nightmares, crippling anxiety and thoughts of suicide commonly referred to as Post Traumatic Stress Disorder (PTSD) leaving them exposed to the stigma of society and unable to care for themselves and their families the way they could before;

RECOGNIZING that there is no structured national comprehensive program for post-traumatic stress counseling either for active or returning soldiers and their families;

...../Motion

NOW THEREFORE the Senate calls upon the Ministry of Interior and Co-ordination of National Government, in partnership with the Ministry of Defence, to establish counseling and support centers in all premises housing disciplined forces, and provide mandatory counseling to all service personnel and the families of those currently serving, and those who may have been killed in the line of duty.

29. **MOTION - COMPLETION OF ALL STALLED PROJECTS UNDER COUNTY GOVERNMENTS THROUGH BUDGETARY MANAGEMENT**

(Sen. Charles Reubenson Kibiru, MP)

THAT, AWARE THAT Kenya has had a development blueprint of Vision 2030 since 2008 which has guided planning and development for the last decade, with a focus to making Kenya an industrialized middle income economy with a higher per capita income for its citizens;

FURTHER AWARE THAT, the development planning of the country is funded from the Consolidated Fund through the annual budget whereby revenues generated by Kenyans through taxes, levies, and fees that are supplemented with support of development partners in the form of outright loans, conditional loans, grants and/or unconditional grants to support growth and development across the country;

COGNIZANT THAT, any diversion from the Vision 2030 blueprint as well as the President’s “Big Four” Agenda, would negatively impact the development trajectory that seeks to ensure a long term microeconomic stability resulting in a revision of targets on the goals for socio-economic, cultural, environmental, technological and political transformation;

NOTING THAT, whereas the National Government’s Budget is based on Vision 2030 and “Big Four” Agenda, the County Governments’ Budgets are based on their respective County Integrated Development Plans, (CIDPs) which are expected to dovetail with the overall national development blueprint;

CONCERNED THAT, there are glaring discrepancies in progress made in development among counties, particularly among the 14 devolved functions caused by lack of accountability, integrity, professionalism and remaining a blemish on the successes of devolution;

ACKNOWLEDGING, the tribulations, ridicule, pecuniary embarrassment and negative socio-economic impact that pending bills have had on the local business community who supplied or undertook a service for the county governments, and the attendant slowdown in actual project completion, the rise in stalled projects dotting counties, with County Governors prioritizing new projects instead of the completion of those which have stalled;

FURTHER ACKNOWLEDGING THAT, the National Treasury in its circular No. 9/2018 detailed the five hundred and forty five (45) projects which have stalled in the 47 Counties, and their status of completion, collectively amounting to an estimated project cost of three hundred and sixty six (366) Billion Kenya shillings;

...../Motion

NOW THEREFORE, the Senate recommends that the National Treasury in partnership with the Controller of Budget, Commission on Revenue Allocation, the Council of Governors and the County Assemblies Forum to-

- 1) Ensure that all the County Integrated Development Plans (CIDP's) and Annual Development Plans (ADP's) are aligned to Vision 2030 with an implementation, monitoring, and evaluation framework in place;
- 2) Address Pending Bills by prioritizing their payment, creating clear timeframes for payment and publishing a schedule of payment of the same; and
- 3) Prioritize the completion of stalled development projects prior to undertaking or funding new projects.

30. **MOTION - RENAMING OF MURANG'A UNIVERSITY OF TECHNOLOGY TO KENNETH MATIBA UNIVERSITY OF TECHNOLOGY.**

(Sen. Isaac Mwaura, MP)

THAT AWARE THAT, Murang'a University of Technology (MUT) is a Chartered University established under Section 13 of the Universities Act, 2012, and is positioning itself to develop a distinctive profile as a progressive and international Technical University, growing its enrolment strategically;

FURTHER AWARE that the University is located in Murang'a County, the home County of the late politician Kenneth Njindo Matiba, who died a patriotic and political hero, with numerous achievements spanning four decades;

NOTING THAT, the late Matiba was a prolific industrialist in the hospitality and education sector, and an accomplished public servant having served as the first indigenous African Permanent Secretary for Education in 1963; Permanent Secretary for Commerce; Chairperson of the Kenya Football Federation from 1974-78; a member of parliament for Kiharu constituency; Cabinet Minister for Health; Culture & Social Services; and Transport & Communications;

FURTHER NOTING THAT, the late Matiba was part of the opposition alliance that led the liberation struggle for the restoration of multi-party democracy through the Forum for the Restoration of Democracy (FORD), later founding FORD –Asili under which he ran for presidency in 1992 general election;

COGNIZANT that under the Heroes Act, 2014, the state is obliged to confer recognition to the late statesman for his cardinal contributions to the political and economic growth of this country;

FURTHER COGNIZANT that other patriotic Kenyans like Jomo Kenyatta, Daniel arap Moi, Masinde Muliro, Dedan Kimathi and Jaramogi Oginga Odinga have been accorded such recognition;

NOW THEREFORE, the Senate urges the National Government in remembrance of Matiba's contribution to our Nation, to rename Murang'a University of Technology to Kenneth Matiba University of Technology.

...../Notice

NOTICE

The Senate resolved on 13th February, 2019 as follows:-

THAT, pursuant to Standing Order 106 (1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Committee shall be limited in the following manner:-

A maximum of three hours with not more than twenty minutes for the Mover, twenty minutes for the Majority Party Official Responder, twenty minutes for the Minority Party Official Responder and fifteen minutes for each other Senator speaking and that fifteen minutes before the time expires, the Mover shall be called upon to reply.

KEY

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

******* - Denotes a National Assembly Bill

****** - Denotes a Committee Bill

***** - Denotes any other Bill

A. *THE COUNTY GOVERNMENT (AMENDMENT) BILL (NO. 2) (SENATE BILLS NO. 7 OF 2017)

(Sen. Mutula Kilonzo Junior, MP)

(Consideration of the National Assembly Amendments)

Schedule of amendments as passed by the National Assembly to the Bill on Tuesday, 26th March, 2019

CLAUSE 2

THAT, clause 2 be amended in the proposed amendments to section 123 —

(a) by deleting the proposed subsection (8) and substituting therefore following new subsection—

“(8) Where the Commission does not recommend the suspension of a county government, the President shall, within fourteen days of receipt of the report of the Commission under subsection (7), notify the Speaker of the Senate and the apex intergovernmental body the recommendation of the Commission.”

(b) in the proposed sub-section (9) by deleting the words “whether or not” appearing in paragraph (a) and substituting therefor the word “that”.

(c) by inserting a new subsection immediately after the proposed subsection (9)—

“(9a) Where the President is not satisfied that justifiable grounds exist for suspension of a county government the President shall, within fourteen days of receipt of the report of the Commission under subsection (7), notify the Speaker of the Senate and the apex intergovernmental body of his dissatisfaction.”

(d) in the proposed subsection (13) by—

- i) deleting the word “authorization” immediately after the word “upon” and substituting therefor the word “approval”; and
- ii) inserting the words “within fourteen days or receipt of the Senate resolution” immediately after the words “the President shall”.

(e) by deleting the in the proposed subsection (14).

CLAUSE 3

THAT, clause 3 of the Bill to be amended by renumbering the last provision under the proposed New Section 129 as subsection (8).

B.*THE COUNTY GOVERNMENT (AMENDMENT) BILL (SENATE BILLS NO. 11 OF 2017)**

(The Senate Majority Leader)

(Consideration of the National Assembly Amendments)

Schedule of amendments as passed by the National Assembly to the Bill on Wednesday, 6th March, 2019

CLAUSE 8 -

THAT, Clause 8 of the Bill be amended in the proposed amendment to section 25 in the new subsection (2) by deleting the words “and the county Gazette” appearing immediately after the words Kenya Gazette.

CLAUSE 11 -

THAT, Clause 11 of the Bill be amended in the proposed amendments to section 31 by deleting the proposed new paragraph (a) and substituting therefor— “(a) may dismiss a county executive member, if the governor considers appropriate and shall give reasons for dismissal”

CLAUSE 15 -

THAT, the Bill be amended by deleting clause 15 and substituting therefor—

...../Amendments

Amendment to section 44 of No. 17 of 2012.

15. Section 44 the principal Act is amended by-
(a) deleting subsection (2) and substituting therefor—

“(2) A person shall be qualified for appointment as a county secretary under subsection (1), if that person —

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognized in Kenya;
- (c) has at least ten years relevant professional experience;
- (d) has at least five years’ experience in a leadership position at senior management level in a public service or private sector organization; and
- (e) meets the requirements of leadership and integrity as prescribed in Chapter Six of the Constitution.

(b) inserting the following new subsections immediately after subsection (2)–

(2A) The Governor shall, for the purpose of competitive recruitment of a county secretary under subsection (2), constitute a selection panel.

(2B) The selection panel shall consist of the following persons-

- (a) a chairperson, not being a public officer;
- (b) one person from the private sector;
- (c) an Advocate of the High Court of Kenya, who is a member of the Law Society of Kenya;
- (d) an accountant who is a member of the Institute of Certified Public Accountants of Kenya; and
- (e) one person from an association representing workers.

(2C) The provisions of section 58A shall, with such modification as shall be necessary apply to the recruitment of a county secretary.

(2D) Upon interviewing the applicants for the position of county secretary-

- (i) the selection panel shall submit to the governor the names of two applicants who qualify for appointment as county secretary; and

...../Amendments

(ii) the governor shall submit the name of one applicant to the county assembly for approval for appointment as county secretary by the governor.

(2E) The county secretary shall hold office for a term of five years and shall be eligible for re-appointment once.

(2F) The county secretary shall be an *ex officio* member of the County Executive Committee with no voting rights.

(c) inserting the following new subsection immediately after subsection (3) –

(3A) The county secretary may be removed from office on the following grounds—

- (a) inability to perform functions of the office arising out of physical or mental infirmity;
- (b) incompetence;
- (c) gross misconduct;
- (d) bankruptcy; or
- (e) violation of the Constitution.

(3B) Before removal under subsection (3A), the county secretary shall be informed, in writing, of the reasons for the intended removal, and shall be given an opportunity to put a defence against any such allegations, either in person or through a representative.

(3C) Subject to subsection (3A), (3B) and conditions of appointment, a county secretary may be dismissed by the governor.

C. **THE COUNTY EARLY CHILDHOOD EDUCATION BILL (SENATE BILLS NO. 26 OF 2018)

(Chairperson, Standing Committee on Education)

(i) NOTICE is given that Sen. (Dr.) Christopher Langat, MP (Chairperson, Standing Committee on Education) intends to move the following amendments to the County Early Childhood Education Bill, Senate Bills No. 26 of 2018, at the Committee Stage-

CLAUSE 6

THAT clause 6 of the Bill be amended in paragraph (d) by deleting the words “that are secular in nature and that promote culture” appearing immediately after the words “curriculum programs” and substituting therefor the words “that promote positive culture”.

CLAUSE 19

THAT clause 19 be amended by-

- (a) deleting sub-clause (3) and substituting therefore the following new sub-clause-
(3) The compound in which an education centre is situated shall not be less than one acre in measurement.
- (b) deleting sub-clause (4).

CLAUSE 30

THAT clause 30 of the Bill be amended-

- (a) in sub-clause 1 by inserting the words “living with disability” immediately after the words “one person” appearing in paragraph (e);
- (b) in sub-clause (3) by deleting the words “and shall report to the County Education Board in the performance of his or her functions under this Act” appearing immediately after the words “board of management”; and
- (c) by inserting the following new sub-clause immediately after sub-clause (3)-
(3A) The board of management shall report to the County Education Board on the performance of its functions under this Act.

CLAUSE 38

THAT clause 38 of the Bill be amended in sub-clause (1) by deleting the word “training” appearing immediately after the words “Recruitment and” in paragraph (a) and substituting therefor the words “professional development”.

CLAUSE 41

THAT clause 41 be amended in sub-clause (1) by deleting the word “three” appearing immediately after the words “the age of” and substituting therefor the word “four”.

CLAUSE 49

THAT clause 49 be amended by inserting the words “and the County Education Boards” at the end of the clause.

CLAUSE 63

THAT clause 63 be amended-

(a) in sub-clause (1) by –

(i) inserting the words “of either gender” immediately after the words “two persons” in paragraph (a);

(ii) deleting paragraph (b) and inserting therefore the following new paragraph-
(b) the county executive committee member responsible for education or a representative nominated by the county executive member in writing;

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

(ba) one public officer in the department responsible for health, nominated by the respective county executive committee member responsible for matters relating to health;

(b) by inserting the following sub-clauses immediately after sub-clause (1)-

(1A) The appointments under subsections (1)(a) and (1)(d) shall be for a term of three years renewable for one further term.

(1B) The Committee shall, at its first meeting elect a Chairperson.

(1C) The County executive committee member responsible for education shall establish a secretariat to support the Committee.

NEW CLAUSE 66A

That the following new clause be inserted immediately after clause 66-

Qualified persons.

66A. A person employed as an early childhood teacher at the commencement of this Act and does not possess the minimum requirements as stated under section 36(1) shall continue to qualify for employment as an early childhood teacher if that person obtains the necessary qualifications within four years of the commencement of this Act.

CLAUSE 1

THAT clause 1 of the Bill be amended by deleting the word “County” appearing immediately after the words “cited as the”.

(ii) **NOTICE** is given that Sen. (Dr.) Agnes Zani, intends to move the following amendment to the County Early Childhood Education Bill, Senate Bills No. 26 of 2018, at the Committee Stage-

CLAUSE 67

THAT clause 67 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (1)-

(1A) The Cabinet Secretary shall in consultation with the Teachers Service Commission and the Council of County Governors prescribe minimum standards relating to schemes of service for early childhood teachers within one year of enactment of this Act.

D. *THE PUBLIC PARTICIPATION BILL (SENATE BILLS NO. 4 OF 2018)

(Sen. Amos Wako, MP)

(i) **NOTICE** is given that Sen. Samson Cherarkey, Chairperson of the Standing Committee on Justice, Legal Affairs and Human Rights, intends to move the following amendments to the Public Participation Bill, Senate Bills No. 4 of 2018, at the Committee Stage-

CLAUSE 3

THAT clause 3 of the Bill be amended-

- (a) in the introductory clause by inserting the words “and developmental programmes” immediately after the words “in governance processes”;
- (b) by inserting the following new paragraph immediately after paragraph (f)-
 - (g) promote participation by non-state actors in decision-making processes.

CLAUSE 4

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

- (a) that the public, communities and organisations to be affected by a decision shall have a right to be notified, heard and involved in the decision-making process;

CLAUSE 5

THAT clause 5 of the Bill be amended in sub-clause (2)-

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

(c) independent commissions or offices, boards, authorities or any other public body, the respective chief executive officer or secretary to the public body;

(b) in paragraph (f) by deleting the words “County Secretaries” appearing immediately after the words “County Executive” and substituting therefor the words “respective county executive committee member”.

CLAUSE 6

THAT clause 6 of the Bill be amended in sub-clause (2) by deleting the word “specific” appearing immediately after the word “include” in paragraph (a) and substituting therefor the words “any further”;

CLAUSE 7

THAT clause 7 of the Bill be amended by inserting the words “publicize and” immediately after the words “authority shall”.

CLAUSE 8

THAT clause 8 of the Bill be amended in sub-clause (4) by inserting the words “including information on the purpose, dates and participants” immediately after the words “of public participation” in paragraph (a).

CLAUSE 9

THAT clause 9 of the Bill be amended by inserting the words “within six months of the coming into operation of this Act” immediately after the words “the Cabinet Secretary may”.

SCHEDULE

THAT the schedule to the Bill be amended-

(a) in paragraph 2 by deleting the word “continuing” appearing immediately after the words “shall facilitate” and substituting therefor the word “continuous”;

(b) in paragraph 5 by inserting the words “youth, minorities and marginalized communities” immediately after the words “persons with disabilities” in subparagraph (2);

(c) by deleting paragraph 8 and substituting therefor the following new paragraph-

8. Every public participation forum shall be undertaken within a reasonable timeframe from the earliest possible time for consultation, allowing a reasonable period for each stage of the process.

(d) in paragraph 11 by deleting sub-paragraph (b) and substituting therefor the following new sub-paragraphs-

(b) the final decision, including the reasons for the decision, is made widely available in a timely manner to the public;

(ba) the final decision is publicized in the same manner required for giving notice for public participation under these guidelines;

(e) in paragraph 13 by inserting the words “and may be subject to penal consequences under any relevant law” immediately after the words “from a meeting” in sub-paragraph (2).

CLAUSE 2

THAT clause 2 of the Bill be amended by inserting the following new definition immediately after the definition of the word “general guidelines”-

“public participation” means the process through which the public are broadly engaged in understanding and contributing to decision-making processes of the policy making, law making and implementation level.

TITLE

THAT the Bill be amended in the long title by inserting the words “at the national and county level of government” immediately after the words “effective public participation”;

(ii) **NOTICE** is given that Sen. Petronilla Were Lokorio, intends to move the following amendments to the Public Participation Bill, Senate Bills No. 4 of 2018, at the Committee Stage—

CLAUSE 4

THAT clause 4 of the Bill be amended—

(a) by numbering the existing clause as sub-clause (1);

(b) in the new sub-clause (1) by deleting the words “taken into consideration in” appearing immediately after the words “views shall be” in paragraph (d) and substituting therefor the words “the basis of”;

(c) by inserting the following new sub-clauses immediately after sub-clause (1)—

(2) In conducting public participation, the responsible authority shall—

- (a) allocate sufficient time before the public participation event to create public awareness on the subject matter;
- (b) avail the relevant information to the members of the public with respect to the issue under consideration;
- (c) engage the relevant stakeholders in such manner as the responsible authority shall consider appropriate;
- (d) where the issue under consideration is of a technical nature, avail an independent technical expert to take members of the public through the matter under consideration in detail; and
- (e) put in place a feedback mechanism to enable stakeholders submit their views and to receive feedback on the decisions made by the responsible authority.

(3) Where the issue for public participation relates to a matter that affects the nation generally, the responsible authority shall conduct public participation forums with respect to that matter in at least twenty-four counties.

(4) The responsible authority shall, in determining the counties in which public participation is to be conducted under sub-section (3), ensure that the forums are held in the counties alternately and that the residents in the counties in which the forums are not conducted are carried out through an alternative appropriate method.

CLAUSE 6

THAT clause 6 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (3)—

- (4) The responsible authority shall publicize and publish, by notice in the *Gazette*, the guidelines.

CLAUSE 8

THAT clause 8 of the Bill be amended in sub-clause (5) by deleting the words “in such other manner” appearing immediately after the words “and publicized in” and substituting therefor the words “through such other appropriate platform”.

SCHEDULE

THAT paragraph 10 of the schedule be amended by inserting the following new sub-paragraph immediately after sub-paragraph (4) to read—

- (4A) The confidentiality requirement imposed by the responsible authority shall be reasonable and not unduly fetter the rights of the applicant.

NEW CLAUSE

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

Provision of **7A.** The responsible authority shall provide the resources for public necessary resources for the conduct of public participation. participation under this Act.

CLAUSE 2

THAT clause 2 of the Bill be amended by inserting the following new definition immediately after the definition of the word “general guidelines” —

“public participation” means an effective and reasonable process in which the public is properly engaged in a given matter of public interest for the purpose of obtaining their views with the aim of facilitating a favourable outcome.

E. *THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE) BILL (SENATE BILLS NO. 22 OF 2018)

(Sen. Judith Pareno, MP)

NOTICE is hereby given that the Chairperson of the Senate Standing Committee on Justice Legal Affairs and Human Rights, intends to move the following amendments to the Petition to County Assemblies (Procedure) Bill, (Senate Bills No. 22 of 2018), at the Committee Stage-

CLAUSE 5

THAT clause 5 of the Bill be amended by-

- (a) deleting subclause (1);
- (b) deleting the introductory phrase to paragraph (4) and substituting therefor the following new introductory phrase-
 - (4) The relevant county assembly committee shall in considering the petition-

F. *THE TREATY MAKING AND RATIFICATION (AMENDMENT) BILL (SENATE BILLS NO. 23 OF 2018)
(Sen. Fatuma Dullo, MP)

NOTICE is hereby given that the Chairperson of the Senate Standing Committee on Justice, Legal Affairs and Human Rights, intends to move the following amendments to the Treaty Making and Ratification (Amendment) Bill, (Senate Bills No. 23 of 2018), at the Committee Stage-

CLAUSE 2

THAT clause 2 of the Bill be amended in the proposed new section 8 by inserting the following new subsection immediately after subsection (1)-

(1A) The memorandum submitted under subsection (1) shall include the same information specified under section 7.

NEW CLAUSE 1A

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

Amendment of section 3 of No. 45 of 2012.	<p>1A. Section 3 of the principal Act is amended in subsection (2) by inserting the following new subparagraph immediately after subparagraph (v)-</p> <p>(vi) any matter that may have an impact on national revenue and public finance management.</p>
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NEW CLAUSE 4A

THAT the Bill be amended by inserting the following new clause immediately after clause 4-

Amendment of section 10 of No. 45 of 2012.	<p>4A. Section 10 of the principal Act is amended by inserting the following new subsection immediately after subsection (2)-</p> <p>(2A) Where the Cabinet Secretary intends to withdraw a reservation to a treaty ratified under this Act, the Cabinet Secretary shall submit the proposed reservation to Parliament for approval in accordance with the procedure set out under this Part.</p>
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G. *THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2018)
(Sen. Ledama Olekina, MP)

- (i) **NOTICE** is given that Sen. Johnson Sakaja, the Chairperson to the Standing Committee on Labour and Social Welfare, intends to move the following amendments to the Retirement Benefits (Deputy President and Designated State Officers) Bill, 2018, at the Committee Stage—

CLAUSE 2

Amend section 2 of Act No. 8 of 2015 **THAT** the Bill be amended by deleting clause 2 and substituting the following new clause—
 Section 2 of the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015, hereinafter referred to as the “principal Act”, is amended by—

- (a) inserting the following new definition immediately after the definition of the term “entitled person”—

“pensionable emoluments” means basic salary excluding housing, transport and any other allowances or fluctuating emoluments;

- (b) deleting the definition of the term “retired vice president” and substituting therefor the following new definition—

“retired Vice-President” means a person who, having held the office of the Vice President at any time after 1st January, 1993, has ceased to hold office as such in the manner specified in the Constitution;

CLAUSE 7

THAT clause 7 of the Bill be amended by—

- (a) renumbering the proposed new section 10 as subsection (1); and
- (b) inserting the following new subsection immediately after subsection (1)—

(2) Where an entitled person has no surviving spouse or an eligible child the benefits payable shall form part of the estate of the deceased for administration.

CLAUSE 8

THAT the Bill be amended by deleting clause 8.

CLAUSE 9

THAT the Bill be amended by deleting clause 9.

CLAUSE 10

THAT the Bill be amended by deleting clause 10.

NEW CLAUSE

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

Amendment **7A.** The First Schedule of the principal Act is amended in of First paragraph (h) by deleting the word “two” appearing at the Schedule of beginning of the paragraph.
Act No. 8 of
2015

- (ii) **NOTICE** is given that Sen. Farhiya Ali Haji, intends to move the following amendments to the Retirement Benefits (Deputy President and Designated State Officers) (Amendment) Act, Senate Bills No. 2 of 2018, at the Committee Stage—

CLAUSE 5

THAT clause 5 of the Bill be amended by inserting the following new paragraphs after paragraph (a)-

(aa) in subsection (1) by deleting the word“four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.

(ab) in subsection (1) by deleting the word“four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

THAT the Bill be amended by introducing the following new clauses after clause 5

CLAUSE 5A

THAT section 5A of the Act be amended by-

- (a) deleting the word “four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.
- (a) deleting the word “four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

CLAUSE 5B

THAT section 5B of the Act be amended by-

- (a) deleting the word “four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.
- (b) deleting the word “four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

CLAUSE 5C

THAT section 6 of the Act be amended by-

- (a) deleting the word “four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.
- (b) deleting the word “four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

CLAUSE 5D

THAT section 7 of the Act be amended by-

- (a) deleting the word “four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.
- (b) deleting the word “four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

H. **THE IMPEACHMENT PROCEDURE BILL (SENATE BILLS NO. 15 OF 2018)

(Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

NOTICE is given that Sen. Samson Kiprotich Cherarkey, Chairperson to the Standing Committee on Justice, Legal Affairs and Human Rights, intends to move the following amendments to the Impeachment Procedure Bill, Senate Bills No. 15 of 2018, at the Committee Stage—

CLAUSE 4

THAT clause 4 of the Bill be amended—

- (a) by deleting subclause (1) and substituting therefor the following new subclause—

...../Amendments

(1) A member of the National Assembly who intends to move a motion for the removal of the President by impeachment shall submit a copy of the proposed motion to the Clerk of the National Assembly together with a list of the members of the National Assembly who support the motion.

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

(1A) The list of members under subclause (1) shall be in the form prescribed in the Schedule.

CLAUSE 9

THAT clause 9 of the Bill be amended—

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

(1) A member of the National Assembly who proposes a motion for the removal of a Cabinet Secretary under subsection (1) shall submit to the Clerk of the National Assembly a copy of the proposed motion for the removal of the Cabinet Secretary together with a list of the members of the National Assembly who support the motion.

(b) by inserting the following new subclause immediately after the new subclause (2)—

(2A) The list of members under subclause (1) shall be in the form prescribed in the Schedule.

CLAUSE 10

THAT clause 10 of the Bill be amended in subclause (1) by deleting the word “afford” appearing at the beginning of paragraph (b)(i) and substituting therefor the word “accord”.

CLAUSE 11

THAT clause 11 of the Bill be amended in paragraph (a) by deleting the word “promptly” appearing immediately after the words “the speaker shall” and substituting therefor the words “within three days,”.

CLAUSE 14

THAT clause 14 of the Bill be amended—

(a) by deleting subclause (1) and substituting therefor the following new subclause—

- (1) A member of a county assembly who intends to move a motion under section 13 shall submit to the Clerk of the county assembly the motion together with a list of the members of the county assembly who support the motion.
- (b) by inserting the following new subclauses immediately after the new subclause (1)—
 - (1A) The list of members under subclause (1) shall be in the form prescribed in the Schedule.
 - (1B) The Clerk of the county assembly shall confirm that the proposed motion—
 - (a) specifies the grounds and particulars upon which the proposed motion is made;
 - (b) is signed by the member; and
 - (c) is signed in support by at least a third of all the members of the county assembly.
 - (1C) The Clerk of the county assembly shall, within three days of receipt of the proposed motion, submit the motion to the Speaker advising the Speaker of the determination made under subclause (1B).
- (c) in subclause (2) by inserting the words “in writing” immediately after the words “for the refusal” appearing in paragraph (b); and
- (d) in subclause (6) by deleting the word “five” appearing immediately after the words “the governor within” in paragraph (b) and substituting therefor the word “seven”.

CLAUSE 17

THAT clause 17 of the Bill be amended in subclause (2) by deleting the words “appointment of a special committee” appearing immediately after the words “days of the” and substituting therefor the words “determination of the special committee under section 16 (2) that section 14 was complied with”.

CLAUSE 28

THAT clause 28 of the Bill be amended—

- (c) by deleting subclause (1) and substituting therefor the following new subclause—

...../Amendments

(1) A member of a county assembly who intends to move a motion under section 27 shall submit to the Clerk of the county assembly the motion together with a list of the members of the county assembly who support the motion.

(d) by inserting the following new subclauses immediately after the new subclause (1)—

(1A) The list of members under subclause (1) shall be in the form prescribed in the Schedule

(1B) The Clerk of the county assembly shall confirm that the proposed motion—

- (a) specifies the grounds and particulars upon which the proposed motion is made;
- (b) is signed by the member; and
- (c) is signed in support by at least a third of all the members of the county assembly.

(1C) The Clerk of the county assembly shall, within three days of receipt of the proposed motion, submit the motion to the Speaker advising the Speaker of the determination made under subclause (1B).

CLAUSE 33

THAT the Bill be amended by deleting clause 33.

J. **THE DATA PROTECTION BILL (SENATE BILLS NO. 16 OF 2018)

(Chairperson, Standing Committee on Information and Technology)

NOTICE is given that Sen. Gideon Moi, the Chairperson of the Standing Committee on Information and Technology, intends to move the following amendments to the Data Protection Bill (Senate Bills No. 16 of 2018) at the Committee Stage –

CLAUSE 3

THAT the Bill be amended by deleting clause 3 and substituting therefor the following new clause –

Application.

3. (1) This Act shall apply to –

- (a) the protection of personal data of a data subject in the processing of such data by

–

...../Amendments

- (i) an agency established in the Republic of Kenya; and
- (ii) an agency not established in the Republic of Kenya but processes personal data of a data subject who is a resident of the Republic of Kenya; and

(b) the processing by automated or any other means of personal data which forms or is intended to form part of a filing system.

(2) This Act shall not apply to the processing of personal data –

(a) by or on behalf of a public body responsible for national security the purpose of which is the prevention, detection, investigation or punishment of a crime; or

(b) by a person in the course of a personal or household activity.

(3) Despite the provisions of subsection (2)(a) and except where the security of the country, the life, safety or health of a person, or property is in imminent danger, a public body that intends to process personal data without the consent of the data subject shall make an application *ex parte* to a court for orders to process such data.

CLAUSE 7

THAT clause 7 of the Bill be amended in sub-clause (2) by –

- (a) deleting paragraph (b) and substituting therefor the following new paragraph –
 - (b) the data subject or a guardian, where the data subject is a child or a person who is legally incapacitated, has consented to the collection of the personal data from another source;
- (b) deleting paragraph (c);
- (c) by deleting the words “the interests” appearing immediately after the words “protection of” in paragraph (e)(ii) and substituting therefor the words “fundamental rights and freedoms”;

(d) deleting paragraph (f) and substituting therefor the following new paragraph –
(f) the life, safety or health of a person or property is in imminent danger.

(e) deleting sub-clause (3) and substituting therefor the following new sub-clause –
(3) An agency shall collect or process personal data using lawful means that do not intrude to an unreasonable extent upon the privacy of a data subject.

CLAUSE 8

THAT clause 8 of the Bill be amended by –

- (a) re-numbering the existing clause as sub-clause (1); and
- (b) inserting the following new sub-clause immediately after sub-clause (1) –
(2) Where the data subject is in control of the means of inputting or processing his or her personal data, it shall be the responsibility of the data subject to ensure that personal data is complete, accurate, up-to-date and not misleading.

CLAUSE 9

THAT clause 9 of the Bill be amended by –

- (a) deleting paragraph (e) and substituting therefor with the following new paragraph –
(e) the deletion of personal data relating to the data subject which is in possession of an agency; and
- (b) inserting the following new paragraphs immediately after paragraph (f) -
(g) be informed of the period within which personal data is to be stored; and
(h) data portability.

CLAUSE 10

THAT clause 10 of the Bill be amended in sub-clause (1) by –

- (a) deleting the introductory clause and substituting therefor the following new clause –
(1) Before an agency collects personal data directly from a data subject, the agency shall inform the data subject, in a language the data subject understands, of —

- (b) deleting the word “hold” appearing immediately after the words “agency that will” in paragraph (d) and substituting therefor the words “be in possession of”;
- (c) deleting paragraph (h) and substituting therefor the following new paragraph –
 - (h) the rights conferred on the data subject under section 9 of this Act.

CLAUSE 11

THAT clause 11 of the Bill be amended in sub-clause (1) by deleting the words “in the recent past” appearing immediately after the words “taken those steps” and substituting therefor the words “within the past twelve months”.

CLAUSE 12

THAT clause 12 of the Bill be amended –

- (a) in paragraph (a) by deleting the words “publicly available” and substituting therefor the words “a matter of public record”;
- (b) by deleting paragraph (c); and
- (c) by deleting paragraph (f) and substituting therefor the following new paragraph –
 - (f) compliance would endanger the life, safety or health of a person or endanger property;

CLAUSE 13

THAT clause 13 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (1) –

- (1A) Subsection (1) shall not apply to a data subject where the decision is –
 - (a) necessary for entering into, or performing, a contract between the data subject and the agency;
 - (b) authorised by a law to which the agency is subject and which lays down suitable measures to safeguard the data subject’s rights, freedoms and legitimate interests; or
 - (c) based on the explicit consent of the data subject.

CLAUSE 14

THAT clause 14 of the Bill be amended in sub-clause (2) by –

- (a) inserting the words “information on” at the beginning of paragraph (b);
- (b) inserting the words “information on” at the beginning of paragraph (c);

- (c) deleting the word “transmitted” appearing immediately after the words “is to be” in paragraph (d) and substituting therefor the word “disclosed”; and
- (d) deleting the words “processed data” appearing immediately after the words “deletion of” in paragraph (f) and substituting therefor the words “data which has been processed”.

CLAUSE 16

THAT clause 16 of the Bill be amended –

- (a) by re-numbering the existing clause as sub-clause (1);
- (b) in the new clause (1) by –
 - (i) inserting the words “is a breach of security or there” after the words “Where there” in the introductory clause;
 - (ii) deleting the words “as soon as reasonably practicable” appearing at the beginning of paragraph (a) and substituting therefor the words “within seventy two hours”;
- (c) by inserting the following new sub-clauses immediately after the new sub-clause (1) –

(2) The notification under subsection (1)(a) shall set out sufficient information to enable the data subject to take protective measures against potential consequences of the data breach, including —

- (a) description of the nature of the breach;
- (b) description of the likely consequences of the breach;
- (c) description of the measures that the agency intends to take or has taken to address the breach;
- (d) recommendation on the measures to be taken by the data subject to mitigate the adverse effects of the breach; and
- (e) where possible, the identity of the person who may have accessed or processed the personal data.

(3) An agency may delay the issuance of a notification under subsection (1) for the purpose of preventing, detecting or investigating a crime by the relevant public entity.

CLAUSE 17

THAT clause 17 of the Bill be amended –

- (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause –

...../Amendments

(1) Where an agency is in possession of personal data or where a person believes that an agency is in possession of personal data relating to him or her, that person —

(a) may obtain from the agency a confirmation as to whether the agency possesses such personal data and the purposes for processing the personal data; and

(b) shall have access to that data.

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause

—

(2) An agency to which an application for access to personal data has been made may charge a prescribed fee for the provision of the personal data and the fee shall not exceed the actual costs of making copies of such information and if applicable, supplying them to the data subject.

CLAUSE 18

THAT clause 18 of the Bill be amended —

(a) in sub-clause (1) by deleting the word “holds” appearing immediately after the words “an agency which” and substituting therefor the words “is in possession of”; and

(b) in sub-clause (2) inserting the words “or such other personal data relating to the data subject as the data subject may request” immediately after the words “or misleading data”.

CLAUSE 19

THAT clause 19 of the Bill be amended —

(a) in sub-clause (1) by —

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

(c) the retention of the data is necessary for a lawful purpose related to the function or activity performed by the agency;

(ii) by deleting the words “parties to the contract” appearing immediately after the words “contract between the” in paragraph (d) and substituting therefor the words “the data subject and the agency”;

(b) by inserting the following new sub-clause immediately after sub-clause (3) —

(3A) An agency may, for purposes of subsection (3), anonymise the data retained under subsection (3) in such a manner as to ensure that the data subject is no longer identifiable.

CLAUSE 20

THAT clause 20 of the Bill be amended by deleting the word “holds” appearing immediately after the words “an agency that” and substituting therefor the words “is in possession of”.

CLAUSE 21

THAT clause 21 of the Bill be amended by –

- (a) re-numbering the existing clause as sub-clause (1); and
- (b) inserting the following new sub-clause immediately after the new sub-clause (1)

–

(2) An agency that uses personal data for commercial purposes shall, where possible, anonymise the data in such a manner as to ensure that the data subject is no longer identifiable.

CLAUSE 23

THAT the Bill be amended by deleting clause 23.

CLAUSE 24

THAT clause 24 of the Bill be amended in sub-clause (2) by –

- (a) inserting the words “in the case of a data subject who is a child or a person who is legally incapacitated, the guardian” immediately after the words “the data subject” in paragraph (a);
- (b) deleting paragraph (d) and substituting therefor the following new paragraph –

(d) with respect to information that has made public by the data subject.

CLAUSE 25

THAT the Bill be amended by deleting clause 25.

CLAUSE 27

THAT the Bill be amended by deleting clause 27.

CLAUSE 29

THAT clause 29 of the Bill be amended –

- (a) in paragraph (a) deleting the words “or any other person having authority to make decisions on behalf of the child” appearing immediately after the words “parent or guardian”; and
- (b) by deleting paragraph (d) and substituting therefor the following new paragraph

–

(d) in the best interest of the child.

CLAUSE 30

THAT the Bill be amended by deleting clause 30.

CLAUSE 31

THAT clause 31 of the Bill be amended –

- (a) by re-numbering the existing clause as sub-clause (1);
- (b) in the new sub-clause (1) by –
 - (i) deleting the words “third party” appearing immediately after the word “the” appearing at the beginning of paragraph (a) and substituting therefor the words “Commission satisfied that the other country”;
 - (ii) deleting paragraph (c) and substituting therefor the following new paragraph –
 - (c) the transfer is necessary -
 - (i) for the performance or conclusion of a contract between the data subject and the agency;
 - (ii) for the establishment, exercise or defence of a legal claim;
 - (iii) for the protection of fundamental rights and freedoms of a person; or
 - (iv) in the interest of the public.
 - (iii) by deleting paragraph (d); and
- (c) by inserting the following new sub-clause immediately after the new sub-clause (1) –
 - (2) The Commission shall prescribe guidelines for the transfer of personal data outside the country and the filing of reports on personal data transferred outside the country by an agency.

CLAUSE 36

THAT clause 36 of the Bill be amended –

- (a) by deleting sub-clause (4) and substituting therefor the following new sub-clause –
 - (4) Despite the provisions of this Act, a person whose personal data is collected or processed contrary to this Act or who suffers loss as a result of disclosure of personal data may lodge a claim before a court for an appropriate remedy.
- (b) by inserting the following new sub-clause immediately after sub-clause (4) -
 - (5) In determining a claim under subsection (4) a court shall consider –

- (a) the nature and the seriousness of the breach;
- (b) the categories of personal data affected;
- (c) any benefit gained or loss suffered as a result of the breach;
- (d) the number of previous violations;
- (e) the duration of time over which the breach occurred;
- (f) any action taken by the agency to remedy or mitigate the breach; and
- (g) the nature and status of the agency.

CLAUSE 38

THAT clause 38 of the Bill be amended –

- (a) in sub-clause (1) by deleting the words “five hundred thousand” appearing immediately after the words “not exceeding” and substituting therefor the words “one million”; and
- (b) by inserting the following new sub-clause immediately after sub-clause (1) –
 - (1A) Despite subsection (1), where the offence –
 - (a) committed relates to special personal information the person shall be liable, on conviction, to a fine not exceeding five million shillings or to a term of imprisonment not exceeding ten years; or
 - (b) is committed by a body corporate, the body corporate shall be liable, on conviction, to a fine not exceeding two million shillings or two percent of its annual turnover, whichever is higher.

NEW CLAUSE 18A

THAT the Bill be amended by inserting the following new clause immediately after clause 18 –

Right to data portability.	<p>18A. (1) A data subject has the right to receive personal data which the data subject has provided to an agency, in a structured, commonly used and machine-readable format.</p>
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(2) A data subject has the right to transmit the data obtained under subsection (1) to another agency.

...../Amendments

(3) Where possible, the data subject shall have the right to have the personal data transmitted directly from one data agency to another.

(4) The right under this section shall not apply to circumstances where —

- (a) processing is necessary for the performance of a task carried out in the public interest or in the exercise of an official authority; or
- (b) it may adversely affect the rights and freedoms of another.

(5) An agency shall comply with data portability requests, free of charge and within a period of seven days from the date of the request.

CLAUSE 2

THAT clause 2 of the Bill be amended –

- (a) by deleting the definition of the word “data controller”;
- (b) by deleting the definition of the word “data subject” and substituting therefor the following new definition –

“data subject” means a natural person to whom personal data relates;

- (c) by deleting the definition of the word “disclosure” and substituting therefor the following new definition –

“disclosure”, in relation to personal data, includes the disclosure of information extracted from such data and the transfer of such data to another person but does not include a disclosure made directly or indirectly by an agency to its employee or agent for the purpose of enabling the employee or agent to carry out its duties and, where the identification of a data subject depends partly on the data and partly on other information in the possession of the agency, the data shall not be considered as disclosed unless the other information is also disclosed;

- (d) by deleting the definition of the word “exempt information”;
- (e) in the definition of the word “personal data” –
 - (i) by deleting paragraph (d) and substituting therefor the following new paragraph –
 - (d) the biometrics of a person;
 - (ii) by deleting paragraph (g); and

(iii) by deleting paragraph (h);

- (f) in the definition of the word “processing” by inserting the word “storage” immediately after the words “collection, organisation” in paragraph (a); and
- (g) by deleting the definition of the word “special personal information” and substituting therefor the following new definition –

“special personal information” means the personal data of a child or data revealing a natural person’s race, health status or ethnic origin.

SHORT TITLE

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

Short title and commencement.	1. This Act may be cited as the Personal Data Protection Act, 2018, and shall come into operation six months from the date of assent.
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K. *THE COUNTY OUTDOOR ADVERTISING CONTROL BILL (SENATE BILLS NO. 19 OF 2018)

(Sen. Samuel Poghio, MP)

NOTICE is given that the Chairperson of the Standing Committee on Information and Technology, Sen. Gideon Moi, MP intends to move the following amendments to the County Outdoor Advertising Control Bill (Senate Bills No. 19 of 2018) at the Committee Stage –

CLAUSE 4

THAT clause 4 of the Bill be amended –

- (f) in subclause (2)(b) by deleting subparagraph (ii) and substituting therefor the following new paragraph –
 - (ii) the Kenya National Highway Authority or any other entity responsible for the management of road reserves, where the advertisement is to be displayed on a road reserve;
- (g) by inserting the following new subclause immediately after subclause (2) –
 - (2A) The county executive committee member shall keep and maintain a register in which shall be recorded all applications made and licences issued under this Act.

...../Amendments

CLAUSE 15

THAT clause 15 of the Bill be amended –

- (a) by deleting the marginal note and substituting therefor the following new marginal note –

Publication of application for a licence.

- (b) in subclause (2) by inserting the words “within seven days from the date of the notice” immediately after the words “on the application”.

NEW CLAUSE 14A

THAT the Bill be amended by inserting the following new clause immediately after clause 14 –

No other government entity to levy fees.	14A. Subject to this Act or any other written law, no other government entity shall levy fees on outdoor advertising.
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NEW CLAUSE 18A

THAT the Bill be amended by inserting the following new clause immediately after clause 18 –

Dispute resolution.	18A. (1) The National government, a county government or any other person who is a party to a dispute arising under this Act shall take reasonable measures to resolve the dispute by alternative dispute resolution before resorting to judicial proceedings.
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(2) A party is considered to have taken reasonable measures to resolve a dispute by alternative dispute resolution if such a party–

- (a) notifies the other party of the issues that are in dispute and offering to settle them;
- (b) responds appropriately to a notification under paragraph (a);
- (c) provides relevant information and documents to the other party to enable that party understand the issues and determine the best approach to take in responding to the issues; or
- (d) where an alternative dispute resolution mechanism is agreed to –

...../Amendments

- (i) collaborating with the other party in determining the person to facilitate resolution of the dispute; and
- (ii) attending the alternative dispute resolution process.

L. *THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILLS NO. 27 OF 2018)

(Sen. Abshiro Halake, MP)

NOTICE is given that Sen. Samson Cherarkey, Chairperson of the Standing Committee on Justice, Legal Affairs and Human Rights, intends to move the following amendments to the Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill, Senate Bills No. 27 of 2018, at the Committee Stage-

CLAUSE 5

THAT the Bill be amended by deleting clause 5.

CLAUSE 6

THAT clause 6 of the Bill be amended –

- (c) in subclause (1) by inserting the words “Articles 43(1) and 53(1)(c) of” immediately after the words “set out under”;
- (d) in subclause (2) by deleting the words “in such infrastructure” appearing immediately after the words “promote investment in” in paragraph (h);
- (e) in subclause (3) by inserting the words National government and” immediately after the words “minimum standards that”.

CLAUSE 8

THAT clause 8 of the Bill be amended –

- (a) in subclause (1) by deleting the word “periodically” appearing at the beginning of paragraph (f) and substituting therefor the word “annually”;
- (b) in subclause (3) by deleting the word “First” appearing immediately after the words “out under the”.

CLAUSE 9

THAT clause 9 of the Bill be amended –

...../ **Amendments**

- (a) by deleting subclause (2);
- (b) in subclause (4) by deleting the words “Part VII” appearing immediately after the words “in accordance with” and substituting therefor the words “section 21 of this Act and section 115 of the County Governments Act”.

CLAUSE 13

THAT clause 13 of the Bill be amended in –

- (a) subclause (1) by deleting the words “The county executive committee member responsible for planning within the county” appearing at the beginning of the subclause and substituting therefor the words “The respective county governor”;
- (b) subclause (2) by deleting the words “The county executive committee member shall” appearing at the beginning of the subclause and substituting therefor the words “The county governor”.

CLAUSE 15

THAT clause 15 of the Bill be amended in subclause (2) by deleting the words “act on the recommendation” appearing immediately after the words “the Senate shall” and substituting therefor the words “take into account the recommendation in the implementation of economic and social rights in the subsequent year”

CLAUSE 19

THAT clause 19 of the Bill be amended in subclause (1) by inserting the words “county executive committee members responsible for finance” immediately after the words “responsible for finance”.

NEW CLAUSE

THAT the Bill be amended by inserting the following new clause immediately after clause 24 –

Amendmen
t to No. 17
of 2012

25. (1) The County Governments Act is amended –

- (a) in section 107(1) by inserting the following new paragraph immediately after paragraph (d) –

...../ **Amendments**

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

(2) In the performance of its functions under this Act the Commission shall be guided by the national values and principles set out under the Constitution.

SCHEDULE

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

SCHEDULE (s. 8(3))

CRITERIA FOR THE REALISATION OF SOCIAL AND ECONOMIC RIGHTS

The indicators for the assessment, by the Commission, of the effort of a county government in the implementation of Article 43 of the Constitution shall include—

- (a) whether or not it has allocated tasks and responsibilities to the different levels of government;
- (b) whether or not it has ensured that sufficient human and financial resources are made available for its implementation;
- (c) whether or not it is capable of facilitating the realisation of the rights in question;
- (d) whether or not its plan or programme is reasonable in its conception and implementation;
- (e) whether or not its plan or programme is balanced and flexible enough to among other things, respond to unforeseeable circumstances;
- (f) whether or not it is inclusive or excludes a significant segment of the populace, leading to unfair discrimination;

...../ **Amendments**

- (g) whether or not it balances short, medium, and long-term needs;
- (h) whether or not it has sufficient safety nets such as cash transfers to vulnerable groups and other social assistance; and
- (i) whether or not its plan or programme responds to the needs of the vulnerable and those in crisis situations.

CLAUSE 2

THAT clause 2 of the Bill be amended –

- (a) by inserting the following new definition immediately after the definition of the word “county strategic plan” –

“economic and social rights” means the rights accruing to every person specified under Articles 43(1) and 53(1)(c) of the Constitution including the right to –

- (a) the highest attainable standards of health which includes the right to health care services including reproductive health care services and emergency treatment;
 - (b) accessible and adequate housing;
 - (c) reasonable standards of sanitation;
 - (d) be free from hunger and to have adequate food of acceptable quality;
 - (e) basic nutrition for children;
 - (f) clean and safe water in adequate quantities;
 - (g) social security and social assistance; and
 - (h) education.
- (b) in the definition of the word “subsidy programme” by inserting the words “the National government or” immediately after the words “programme established by”;
 - (c) in the definition of the word “vulnerable persons” by deleting the words “people with disabilities, sick persons with chronic diseases such as HIV/AIDS” and substituting therefor the words “persons with disability, such persons which chronic illness”

APPENDIX

1. MESSAGES

- a) Message from the National Assembly on Senate amendments to the Kenya Roads Bill (National Assembly Bill No. 47 of 2017);
- b) Message from the National Assembly on Senate amendments to the Physical Planning Bill (National Assembly Bill No. 34 of 2017), the Irrigation Bill (National Assembly Bill NO. 46 of 2017), and the Land Value Index Laws (Amendment) Bill (National Assembly Bill No. 3 of 2018).

(The Speaker of the Senate)

2. NOTICES OF MOTION

(i) ESTABLISHMENT OF NATION-WIDE CENTRES AND SATELLITE CLINICS FOR SICKLE CELL DISEASE AT COUNTY, SUB-COUNTY AND WARD LEVELS.

(Sen. Naomi Masitsa Shiyonga, MP)

THAT, AWARE THAT 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;

NOTING THAT, Parliament enacted the Health Act (2017) whose objects encompass the need to establish a national health system at the national and county levels, as well as to facilitate, in a progressive and equitable manner, the highest attainable standards of health services;

ACKNOWLEDGING THAT Sickle Cell Disease, a severe hereditary form of anaemia in which a mutated form of haemoglobin distorts the red blood cells into a crescent shape at low oxygen levels, and is prevalent amongst those of African descent, has been acknowledged by World Health Organization (WHO) as a major public health priority which has had devastating effects on populations in many parts of Kenya;

FURTHER ACKNOWLEDGING the lack of comprehensive information and care programs for Sickle Cell Disease is occasioned by the poor public awareness, unavailability of routine health data and nationally recognised treatment guidelines;

CONCERNED by the lack of national screening programmes for Sickle Cell Disease despite the serious health problems it causes, and its contribution to childhood deaths in Kenya;

NOW, THEREFORE, the Senate urges the National and County Governments to establish nation-wide screening at existing medical centres and satellite clinics, and the provision of counselling on the management of sickle cell disease, a lifelong medical condition that has no cure, at the county, sub-county and ward levels.

(ii) **IMPROVING ALLOCATION OF RESEARCH FUNDS TOWARDS HIGHER LEARNING**

(Sen. (Arch.) Sylvia Kasanga)

AWARE THAT, early childhood education and village polytechnics are a function of the County Governments. Secondary schools, Universities, Tertiary institutions and other institutions of research are a function of the National Government under the Fourth Schedule of the Constitution;

FURTHER AWARE THAT, institutions of higher learning have two basic functions, teaching and conducting research;

CONCERNED THAT, such institutions largely concentrate on “teaching” rather than “research”, as a method of enhancing and imparting the practical application of skills, attitude and knowledge by learners;

NOTING THAT, funds allocated towards community and development oriented academic research are neither sustainable nor adequate;

ACKNOWLEDGING THAT, various national policies on research and innovation are available, but fragmentation in the sector has short-changed the vision of a progressive national research agenda, thereby emboldening low science culture among the population, low global competitiveness ranking, inadequate funding, and poor linkages between academic research and commercial industry;

NOW THEREFORE, the Senate urgently calls upon the Ministry of Education, Science and Technology:

- (i) To provide a comprehensive report from all institutions of higher learning on the status and performance of Research & Innovation Programs in the Country;
- (ii) Re-assess Sector Policies, and Develop new work-plans towards:
 - a. Improving allocation of funds for Academic as well as Sustainable Community Based Research to public institutions of higher learning.
 - b. Providing subsidies, and frameworks for partnerships between public & private institutions of higher learning to enable collaboration and better organization in research and innovations for community/county development Projects.

(iii) **REPORT ON THE GLOBAL DISABILITY SUMMIT**

(Chairperson, Standing Committee on Labour and Social Welfare)

THAT, this House notes the Report of the Standing Committee on Labour and Social Welfare on the Global Disability Summit held in London, United Kingdom, on 24th July, 2018.

...../Appendix

3. **STATEMENTS**

(i) **Statements pursuant to Standing Order No. 47(1)**

Nominated Senator (Sen. (Dr.) Alice C. Milgo, MP) to make a statement on the rising cases of suicide and murder in the country.

(ii) **Statement pursuant to Standing Order No. 48(1)**

The Nominated Senator (Sen. (Dr.) Alice C. Milgo, MP) to seek a statement from the Standing Committee on Land, Environment and Natural Resources on the destruction of forests by fire.
