



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – (SECOND SESSION)

THE SENATE

ORDER PAPER

AFTERNOON SITTING

WEDNESDAY, JUNE 14, 2023 AT 2.30 PM

PRAYER

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions (as listed in the Appendix)
5. Papers (as listed in the Appendix)
6. Notices of Motion
7. Questions and Statements (as listed in the Appendix)
8. ***THE LEARNERS WITH DISABILITIES BILL (SENATE BILLS NO. 4 OF 2023)**
(Sen. (Prof.) Margaret Kamar, MP and Sen. Crystal Asige, MP)

(Second Reading)

***(Resumption of debate interrupted on Tuesday, 13th June, 2023)
(Division)***

9. **COMMITTEE OF THE WHOLE**
****THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILLS NO. 16 OF 2023)**
(The Chairperson, Standing Committee on Finance and Budget)
10. **COMMITTEE OF THE WHOLE**
***THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS NO. 6 OF 2022)**
(Sen. Danson Mungatana, MP)

...../Bills

*(Resumption of debate interrupted on Wednesday, 7th June, 2023 –
Afternoon Sitting)
(Division)*

11. **COMMITTEE OF THE WHOLE**
***THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF
ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILLS NO. 7 OF 2022)**
(Sen. Danson Mungatana, MP)

12. ***THE AGRICULTURAL AND LIVESTOCK EXTENSION SERVICES BILL
(SENATE BILLS NO. 12 OF 2022)**
(Sen. Maureen Tabitha Mutinda, MP)

(Second Reading)

(Resumption of debate interrupted on Tuesday, 13th June, 2023)

13. ***THE PERSONS WITH DISABILITIES BILL (SENATE BILLS NO. 7 OF
2023)**
(Sen. Crystal Asige, MP)

(Second Reading)

14. ***THE HERITAGE AND MUSEUMS BILL (SENATE BILLS NO. 8 OF 2023)**
(The Chairperson, Standing Committee on Labour and Social Welfare)

(Second Reading)

15. ****THE COFFEE BILL (SENATE BILLS NO. 10 OF 2023)**
(Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)

(Second Reading)

16. ***THE PREVENTION OF LIVESTOCK AND PRODUCE THEFT BILL
(SENATE BILLS NO.12 OF 2023)**
(Sen. Samson Cherarkey, MP)

(Second Reading)

17. **MOTION - REPOSSESSION OF MOVABLE ASSETS BY LENDING
INSTITUTIONS DUE TO NON-PERFORMING LOANS**
(Sen. Wahome Wamatinga, MP)

THAT AWARE THAT the high unemployment rate in Kenya has pushed many Kenyans to seek loans from Saccos, Microfinance Institutions and Banks to start Small and Medium Enterprises (SMEs) to sustain their livelihoods;

NOTING THAT the youth in particular have invested in movable assets, including vehicles and motorcycles, to start business in the transport industry and most of them have signed up to the ride hailing apps including but not limited to Uber, Taxify, Bolt and Little cab;

...../Motion

COGNIZANT THAT the Banking Act 2015 CAP 488 does not provide for renegotiation on the loan repayment agreement whenever the business environment becomes unfavorable as a result of the high cost of living, lowered earnings from the App providers and high interest rates;

NOW THEREFORE the Senate urges the National Treasury and Economic Planning to come up with a policy framework to review the Banking Act in order to renegotiate the repayment terms of the loans and provide cushion for Kenyans with non-performing loans and prevent the loss of their movable assets.

18. **MOTION - ARBITRARY ARRESTS OF KENYAN FISHERMEN BY UGANDAN AUTHORITIES**

(Sen. (Dr.) Oburu Oginga, MP)

THAT AWARE THAT the communities around the lake rely on fishing as their main economic activity, their source of food and employment;

CONCERNED THAT the fishermen have reported harassment from the Ugandan security personnel including arbitrary arrests and imposition of unreasonable fines;

FURTHER CONCERNED THAT in November, 2021 the Kenya International Boundaries office formed a Joint Committee with the Ugandan authorities that did not effectively delineate the boundaries that would have helped avoid conflict between the two Countries;

NOW THEREFORE the Senate resolves that-

- a) the Ministry of Foreign and Diaspora Affairs in collaboration with the Ministry of East African Community (EAC), the ASALs and Regional Development engages the counterpart ministries in the Republic of Uganda to;
 - i) Fast-track the delineation of the Kenya-Uganda boundary;
 - ii) Develop measures to curb the arrests of Kenyan fishermen by Ugandan authorities;
 - iii) Institute a protocol for sustainable development of the Lake Victoria Basin on the sharing of resources between partner states; and
- b) The Ministry of Interior and National Administration to deploy the Kenya Coast Guard in the territorial waters of Lake Victoria to enforce maritime security and safety.

...../Motion

19. **MOTION – ACCELERATING THE IMPLEMENTATION OF SUSTAINABLE DEVELOPMENT GOALS (SDGs)**

(Sen. Catherine Mumma, MP)

AWARE THAT, the 2030 agenda for Sustainable Development adopted by all United Nations Member States in 2015 provides a shared global blueprint aimed at ending poverty, protecting the earth’s environment and climate and ensuring that people everywhere enjoy peace and prosperity;

APPRECIATING THAT, the implementation of the 2030 agenda for Sustainable Development in Kenya started by the official launch of the Sustainable Development Goals (SDGs) in Kenya in 2016 followed by the development of the Country SDGs roadmap to guide the transition from Millennium Development Goals to SDGs and the mainstreaming of the SDGs at both the National and County Governments;

CONCERNED THAT, the implementation of the 2030 agenda for sustainable Development in Kenya has been affected negatively by shocks such as continued drought since 2019 in Kenya and around the world, serious invasion by desert locusts, the COVID-19 pandemic and other public health calamities and the current strained state of the Kenyan economy;

NOW THEREFORE, the Senate resolves that the State Department for Economic Planning in consultation with the Council of Governors comes up with reviewed implementation roadmaps for the two levels of Government taking into account the shocks that have impeded or any other that are likely to impede the implementation of the 2030 agenda for Sustainable Development.

20. **MOTION - DECLARATION OF CATTLE RUSTLING AS A NATIONAL DISASTER AND ESTABLISHMENT OF A SPECIAL FUND FOR VICTIMS**

(Sen. William Cheptumo, MP)

THAT AWARE THAT, cattle rustling is a major menace and security threat in the South and North Rift regions and some other regions of the country;

CONCERNED THAT, the menace has since left irreparable and negative socio-economic impact which include but are not limited to increased number of widows, widowers, orphaned children, poverty, displacement of people leading to Internally Displaced Persons (IDPS), disruption of educational programs and other economic activities owing to the destruction and/or closure of educational, health and other institutions;

FURTHER CONCERNED THAT; the people living in the affected regions have been denied the enjoyment of their social, economic and political rights as guaranteed to them under the Bill of Rights as enshrined in Chapter Four of the Constitution;

...../Motion

NOW THEREFORE, the Senate resolves that the National Government through the Ministry of Interior and National Administration and in collaboration with the Council of Governors:

1. Declares cattle rustling a National Disaster;
2. Establish a National Task force on cattle rustling to:
 - (i) Investigate the causes of the rampant cattle rustling in the said region and the Country at large;
 - (ii) Establishes extent of loss and damage the cattle rustling has occasioned to the communities in all the affected Counties;
3. Create a special fund for mitigating the losses suffered by and in compensating all victims of cattle rustling and settle all internally displaced persons occasioned by the menace.

NOTICE

The Senate resolved on 15th February, 2023 as follows:-

THAT, pursuant to Standing Order 111 (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**

-----**XXX**-----

NOTICE OF AMENDMENTS**A. **THE COUNTY ALLOCATION OF REVENUE BILL (SENATE BILLS NO. 16 OF 2023)**

(The Chairperson, Standing Committee on Finance and Budget)

NOTICE is given that the, Chairperson, Standing Committee on Finance and Budget, intends to move the following amendments to the County Allocation of Revenue Bill (Senate Bills No. 16 of 2023) at the Committee Stage-

SECOND SCHEDULE

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

SECOND SCHEDULE

(s.5)

County Government Budget Ceilings on Recurrent Expenditure in Financial Year 2023/2024 (Figures in Kenya Shillings)					
No.	County	County Assembly Ceilings		County Executive Ceilings	
		2022/2023	2023/2024	2022/2023	2023/2024
1	Baringo	712,229,059	828,250,102	607,049,529	628,507,168
2	Bomet	621,143,848	826,903,256	588,023,141	525,981,274
3	Bungoma	873,284,854	1,030,966,304	664,128,690	593,145,551
4	Busia	765,019,229	890,557,352	626,075,916	565,353,297
5	Elgeyo/Marakwet	592,408,337	688,567,522	568,996,754	540,143,817
6	Embu	594,786,279	655,164,072	568,996,754	470,665,205
7	Garissa	815,801,264	928,822,377	607,049,529	517,163,240
8	Homa Bay	872,842,726	951,617,005	645,102,303	612,652,603
9	Isiolo	451,013,358	539,314,722	492,255,576	384,717,582
10	Kajiado	699,076,887	836,365,718	562,230,871	543,625,285
11	Kakamega	1,097,653,117	1,400,821,103	721,207,850	702,976,417
12	Kericho	708,995,621	828,466,755	607,049,529	574,171,331
13	Kiambu	1,114,698,533	1,352,347,776	721,207,850	689,615,145
14	Kilifi	779,167,171	942,241,093	626,075,916	552,882,777
15	Kirinyaga	582,922,761	673,319,674	556,100,619	463,453,685
16	Kisii	940,958,856	1,112,890,743	664,128,690	635,010,868
17	Kisumu	718,886,210	827,121,358	626,075,916	548,429,020
18	Kitui	862,047,458	1,042,409,957	645,102,303	787,239,883
19	Kwale	617,790,583	667,712,409	568,996,754	436,816,651
20	Laikipia	467,754,457	545,809,049	524,178,098	429,430,142

County Government Budget Ceilings on Recurrent Expenditure in Financial Year 2023/2024 (Figures in Kenya Shillings)					
No.	County	County Assembly Ceilings		County Executive Ceilings	
		2022/2023	2023/2024	2022/2023	2023/2024
21	Lamu	419,261,939	493,148,394	492,255,576	349,978,277
22	Machakos	865,126,181	1,021,331,660	645,102,303	618,887,863
23	Makueni	729,754,316	882,052,960	607,049,529	597,330,868
24	Mandera	864,090,152	983,911,204	616,986,522	537,192,934
25	Marsabit	678,317,733	714,092,325	568,996,754	477,791,217
26	Meru	938,478,295	1,105,946,626	664,128,690	802,472,137
27	Migori	857,185,385	1,003,508,709	645,102,303	609,089,597
28	Mombasa	674,783,021	837,169,783	607,049,529	414,726,825
29	Murang'a	753,378,653	830,709,033	626,075,916	633,050,405
30	Nairobi City	1,446,962,393	1,924,120,608	816,339,786	640,180,465
31	Nakuru	1,006,312,104	1,160,413,432	702,181,463	703,777,688
32	Nandi	666,771,490	796,999,461	607,049,529	647,212,948
33	Narok	734,655,062	911,202,495	607,049,529	545,667,285
34	Nyamira	610,515,511	746,578,493	568,996,754	458,194,685
35	Nyandarua	651,697,338	770,438,804	588,023,141	533,107,285
36	Nyeri	692,693,761	776,126,610	607,049,529	605,347,631
37	Samburu	517,964,444	593,254,286	533,708,983	482,789,720
38	Siaya	683,152,880	775,678,151	607,049,529	540,322,777
39	Taita/Taveta	620,545,692	681,840,554	568,996,754	439,488,905
40	Tana River	582,990,790	677,653,973	537,074,233	436,641,663
41	Tharaka -Nithi	434,745,770	517,563,626	524,178,098	445,463,668
42	Trans Nzoia	643,357,859	685,259,476	588,023,141	427,107,865
43	Turkana	818,680,328	966,834,859	607,049,529	526,961,505
44	Uasin Gishu	703,027,730	796,524,510	607,049,529	474,407,171
45	Vihiga	637,128,800	714,071,318	588,023,141	487,678,963
46	Wajir	853,371,986	992,922,326	597,112,535	599,569,960
47	West Pokot	603,044,748	683,634,469	568,996,754	589,135,145
	Total	34,576,474,969	40,612,656,492	28,486,731,667	25,825,556,396

...../Notice of Amendments

B. THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS NO. 6 OF 2022)

(Sen. Danson Mungatana, MP)

- i. **NOTICE** is given that the Chairperson to the Standing Committee on Land, Environment and Natural Resources, intends to move the following amendments to the Natural Resources (Benefit Sharing) Bill 2022, (Senate Bills No. 6 of 2022), at the Committee Stage—

CLAUSE 3

THAT clause 3 of the Bill be amended by—

- (a) deleting paragraph (b) and substituting therefor the following new paragraph (b) —
 - (b) surface and underground water;
- (b) inserting the following new paragraphs immediately after paragraph (f) —
 - (g) geothermal resources;
 - (h) minerals; and
 - (i) petroleum.

CLAUSE 4

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

- (g) environmental protection and restoration.

CLAUSE 5

THAT the Bill be amended by deleting clause 5 and substituting therefore the following New Clause-

PART II – ESTABLISHMENT AND MANAGEMENT OF THE BENEFIT SHARING AUTHORITY

Establishment of the Benefit Sharing Authority. **5.** (1) There is established the Benefit Sharing Authority.

Sharing Authority. (2) The Authority shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

...../Notice of Amendments

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) borrowing or lending money; and
- (d) doing or performing such other things or acts for the proper performance of its functions under this Act which may be lawfully done or performed by a body corporate.

CLAUSE 6

THAT clause 6 of the Bill be amended—

(a) in subclause (1) by—

- (i) deleting the word “Commission” appearing immediately after the word “The” and substituting therefor the word “Authority”; and
- (ii) inserting the words “and upon conducting public participation” immediately after the words “national government entities”;

(b) in subclause (3) by deleting the words “payments or benefit sharing” appearing immediately after the words “the royalty, fees,” and substituting therefor the words “or payments”; and

(c) in subclause (4) by—

- (i) deleting the word “Commission” appearing immediately after the word “The” and substituting therefor the word “Authority”; and
- (ii) deleting the words “or any other written law” appearing immediately after the words “to this Act”.

CLAUSE 7

THAT clause 7 of the Bill be amended—

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

...../Notice of Amendments

(2) The Kenya Revenue Authority shall declare and pay monies collected under subclause (1) to the Consolidated Fund by the fifth day of every month.

- (b) in subclause (4) by deleting the word “Commission” appearing immediately after the words “account to the” and substituting therefor the word “Authority”; and
- (c) inserting the following new subclauses immediately after subclause (4)—

(5) The Authority shall submit to the respective county government declarations received from the Kenya Revenue Authority under subsection (4) at least once every quarter.

(6) The county executive committee member in the respective county shall submit to the respective local community declarations received from the Authority under subsection (5) within twenty one days of receipt.

CLAUSE 8

THAT clause 8 of the Bill be amended—

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

(1) The revenue collected under this Act shall, subject to subsection (3), be shared between the National Government and respective county governments in the ratio of sixty per cent to the National Government and forty per cent to the county governments.

- (b) by deleting subclause (2);

- (c) in subclause (3) by—

- (i) deleting the word “forty” appearing immediately after the words “At least” and substituting therefor the word “sixty”; and
- (ii) deleting the word “sixty” appearing immediately after the words “community projects and” and substituting therefor the word “forty”;

- (d) in subclause (4) by deleting the word “Commission” appearing immediately after the words “more counties the” and substituting therefor the word “Authority”;

- (e) in subclause (5) by deleting the word “Commission” appearing immediately after the words “subsection (4) the” in the introductory clause and substituting therefor the word “Authority; and
- (f) in subclause (6) by deleting the word “Commission” appearing immediately after the word “The” and substituting therefor the word “Authority”.

CLAUSE 10

THAT clause 10 of the Bill be amended—

- (a) in subclause (2) by deleting paragraph (b) and substituting therefor the following new paragraph (b)—
 - (b) the county executive committee member responsible for matters relating to natural resources;
- (b) in subclause (3) by inserting the words “be appointed by the county governor and” immediately after the words “subsection (2)(d) shall”; and
- (c) by inserting the following new subclause immediately after subclause (5)—
 - (5A) The county chief officer responsible for matters relating natural resources shall serve as the secretary to the County Benefit Sharing Committee.

CLAUSE 11

THAT clause 11 of the Bill be amended in paragraph (a) by inserting the words “in consultation with the respective local community and upon conducting public participation” before the words “negotiate the terms”.

CLAUSE 12

THAT clause 12 of the Bill be amended in subclause (2) by deleting the word “Commission” appearing immediately after the words “deposited with the” and substituting therefor the word “Authority”.

CLAUSE 13

THAT clause 13 of the Bill be amended in subclause (3) by inserting the words “be appointed by the respective county executive committee member responsible for matters relating to natural resources and” immediately after the words “sharing forum shall”.

CLAUSE 14

THAT the Bill be amended by deleting clause 14 and substituting therefor the following new clause—

- Funds of the Authority.
- 14.** The funds of the Authority shall consist of—
- (a) such monies or assets as may accrue to or vest in the Authority in the course of the exercise of its powers or the performance of its functions under this Act;
 - (b) such money as may be provided by the National Assembly for defraying expenses incurred in the implementation of this Act;
 - (c) all monies from any other source provided for or donated or lent to the Authority; and
 - (d) such other monies that may lawfully accrue in the discharge of functions of the Authority under this Act.

CLAUSE 16

THAT clause 16 of the Bill be amended in subclause (1) by deleting the word “Commission” appearing immediately after the words “furnished to the” in paragraph (a) and substituting therefor the word “Authority”.

CLAUSE 17

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

- Transitional provisions.
- 17.** (1) An affected entity that, immediately before the commencement of this Act, was lawfully authorised to exploit a natural resource under this Act shall be deemed to be authorised to conduct such exploitation under this Act.
- (2) Despite subsection (1), an affected entity shall comply with the provisions of this Act within two years of the commencement of the Act.

CLAUSE 18

THAT clause 18 of the Bill be amended in subclause (1) by inserting the words “in consultation with the Authority and the Council of County Governors” immediately after the words “Cabinet Secretary may”.

CLAUSE 19

THAT the Bill be amended by deleting clause 19 and substituting therefor the following new clause 19—

Amendment **19.** Section 183 of the Mining Act is amended by to section deleting subsection (5) and substituting therefor the 183 of Act following new subsection (5)—

No. 12 of 2016.

(5) The royalty received by the State under this section shall be paid into the Consolidated Fund and apportioned in accordance with section 8 of the Natural Resources (Benefit Sharing) Act.

NEW CLAUSES

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

Functions of **5A.** (1) The functions of the Authority shall be to the Authority. to—

- (a) coordinate the preparation of benefit sharing agreements between an affected county and an affected entity;
- (b) review, and where appropriate, determine the royalties payable by an affected entity engaged in natural resource exploitation;
- (c) identify counties that are required to enter into a benefit sharing agreement under this Act in consultation with the respective county governments;
- (d) oversee the administration of funds set aside for community projects to be implemented under a benefit sharing agreement;
- (e) facilitate and monitor the implementation of a benefit sharing agreement entered into between a county government and an affected entity;

...../Notice of Amendments

- (f) conduct research regarding the exploitation and development of natural resource and benefit sharing in Kenya;
- (g) determine appeals arising out of conflicts regarding the preparation and implementation of benefit sharing agreements;
- (h) advise the national government on policy and the enactment of legislation relating to benefit sharing in resource exploitation;
- (i) oversee the establishment of benefit sharing committees and forums established under this Act;
- (j) ensure the proper and timely payment of funds to counties and local communities as provided under this Act;
- (k) build the capacity of local communities in negotiations for benefit sharing and implementation of related projects;
- (l) prepare national guidelines on benefit sharing in consultation with the relevant stakeholders;
- (m) identify, in consultation with sector specific organizations, incentives and benefits to promote the conservation of natural resources;
- (n) promote value addition in natural resources;
- (o) promote local content initiatives on the exploration and exploitation of natural resources under this Act; and
- (p) promote the restoration of the environment after the exploitation of a natural resource in an affected county.

(2) The Authority may, in furtherance of its functions, collaborate with such other bodies or organizations within or outside Kenya as it may consider necessary for the better performance of its functions under this Act.

...../Notice of Amendments

(3) The Authority shall have regard to the following in the performance of its functions—

- (a) all existing law regulating the natural resources sector in Kenya;
- (b) all existing arrangements for benefit sharing between local communities and an affected entity under any law in Kenya; and
- (c) obligations imposed on Kenya under any international treaty or agreement relating to the exploitation of natural resources.

Board of the Authority.

5B. (1) The management of the Authority shall vest in a Board which shall consist of—

- (a) a chairperson appointed by the President with the approval of Parliament;
- (b) the Principal Secretary responsible for finance or a designated representative;
- (c) the Principal Secretary responsible for mining or a designated representative;
- (d) the Principal Secretary responsible for petroleum or a designated representative;
- (e) the Principal Secretary responsible for energy or a designated representative;
- (f) two persons of opposite gender nominated by the Council of County Governors to represent such communities as the council shall determine;
- (g) one person nominated by a registered association representing a majority of members of county assemblies to represent local communities;
- (h) one person nominated by an umbrella body representing the interests of the private sector in Kenya; and

...../Notice of Amendments

(i) the Director-General appointed by the Board in accordance with section 5K.

(2) The chairperson shall be competitively recruited by the Public Service Commission and appointed by the President by notice in the *Gazette*.

(3) The Cabinet Secretary shall, with the approval of Parliament, appoint the persons nominated under subsection (1)(f), (g) and (h) by notice in the *Gazette*.

(4) In nominating and appointing persons as members of the Board, the nominating authorities and the Cabinet Secretary shall—

(a) have regard to—

(i) the principles of non-discrimination on the basis of gender, disability, youth and marginalized persons under the Constitution; and

(ii) the requirements of chapter six of the Constitution; and

(b) ensure that the nominations reflect the regional diversity of the people of Kenya.

Tenure of office.

of

5C. (1) The members of the Board other than the Director-General shall—

(a) hold office for a term of three years and shall be eligible for reappointment for one further term; and

(b) serve on a part-time basis.

(2) Paragraph (1)(a) shall not apply to principal secretaries who serve as members of the board.

Qualifications for appointment.

5D. A person is qualified for appointment as the chairperson or a member of the Board under section 5B(1) (f), (g) and (h) if that person—

(a) holds a degree from a university recognised in Kenya; and

- (b) has knowledge and at least seven years' experience in—
 - (i) law;
 - (ii) environmental management;
 - (iii) economics;
 - (iv) public finance;
 - (v) mining;
 - (vi) community development; or
 - (vii) any other related field.

Vacation of office.

5E. The office of the chairperson or a member of the Board appointed under section 5B(1)(f), (g) and (h) shall become vacant if the chairperson or member—

- (a) is unable to perform the functions of the office by reason of mental or physical incapacity;
- (b) is otherwise unable or unfit to continue serving as the chairperson or member of the Board;
- (c) is adjudged bankrupt;
- (d) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (e) is absent, without reasonable cause, from three consecutive meetings of the Board;
- (f) resigns in writing addressed, in the case of the chairperson, to the President and in the case of a member appointed under section 5B(1) (f), (g) or (h), to the Cabinet Secretary;
- (g) fails to declare their interest in any matter being considered by the Board; or
- (h) dies

Powers of the Board.

5F. (1) The Board shall have all the powers necessary for the performance of the functions of the Authority under this Act and in particular, but without prejudice to the generality of the foregoing, the Board shall have the power to—

- (a) enter into contracts;
- (b) manage, control and administer the assets of the Authority in such manner and for such purposes as best promote the purposes for which the Authority is established;
- (c) receive any gifts, grants, donations or endowments made to the Authority or any other monies in respect of the Authority and make disbursements therefrom in accordance with the provisions of this Act;
- (d) require from any person such information as it considers necessary for the performance of its functions under this Act; and
- (e) open and operate a bank account for the funds of the Authority into which all moneys received by the Authority shall be paid in the first instance and out of which all payments made by the Authority shall be made.

(2) The Board shall consult the respective Cabinet Secretary responsible for an affected natural resource in carrying out its functions under this Act.

Committees of the Board.

5G. (1) The Board may establish such committees as it may consider necessary for the performance of its functions and the exercise of its powers under this Act.

(2) The Board may invite any person whose knowledge and skills are found necessary for the performance of its functions to sit in any committee established under subsection (1).

Power to delegate. **5H.** The Board 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 Authority the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act.

Remuneration and allowances. **5I.** The remuneration, allowances, expenses and other emoluments of members and staff of the Authority shall be determined by the Salaries and Remuneration Commission.

Conduct of business and affairs of the Board. **5J.** The Board shall conduct its affairs in accordance with the provisions of the Schedule.

Director-General. **5K.** (1) There shall be a Director-General of the Authority who shall be competitively recruited and appointed by the Board on such terms and conditions as the Board shall determine.

(2) A person qualifies for appointment as a Director-General under subsection (1) if such person —

- (a) holds a degree from a university recognized in Kenya; and
- (b) has knowledge and at least ten years' experience in —
 - (i) law;
 - (ii) environmental management;
 - (iii) economics;
 - (iv) public finance;
 - (v) mining;
 - (vi) community development; or
 - (vii) in any other related field.

(3) The Director-General shall be an *ex-officio* member of the Board and shall have no right to vote at any meeting of the Board.

...../Notice of Amendments

Tenure of office of the Director-General. **5L.** The Director-General shall be appointed for a term of four years and shall be eligible for reappointment for one further term.

Functions of the Director-General. **5M.** (1) The Director-General shall be the chief executive officer of the Authority and secretary to the Board.

(2) The Director-General shall, for the effective performance of the functions under this Act and subject to the direction of the Board, —

- (a) be responsible for the day-to-day management of the Authority;
- (b) manage the funds, property and affairs of the Authority;
- (c) be responsible for the management of the staff of the Authority;
- (d) cause to be prepared for the approval of the Board—
 - (i) the strategic plan and annual plan of the Authority; and
 - (ii) the annual budget and audited accounts of the Authority; and
- (e) perform such other duties as may be assigned by the Board.

Tenure of office of the Director-General. **5N.** The Board may terminate the appointment of the Director-General in accordance with the terms and conditions of service for—

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct or misbehaviour;
- (c) incompetence or neglect of duty; or
- (d) any other ground that would justify removal from office under the terms and conditions of service

Common seal of the Authority.

5O. (1) The common seal of the Authority shall be kept in the custody of the Director-General or such other person as the Board may direct and shall not be used except with the express authority and direction of the Board.

(2) The common seal of the Authority shall be authenticated by the signature of the chairperson and the Director-General of the Board or in the absence of either person, such other member of the Board who shall be designated by the Board for that purpose.

(3) The common seal of the Authority shall, when affixed to a document and authenticated, be judicially and officially noticed and unless the contrary is proved, any order or authorization by the Board under this section shall be presumed to have been duly given.

Staff of the Authority.

5P. (1) The Board may employ such officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Authority under this Act.

(2) The staff employed under subsection (1) shall serve on such terms and conditions as the Board may, subject to section 5I, determine.

Protection from personal liability.

5Q. No matter or thing done by a member of the Board or by any officer, employee or agent of the Authority shall, if the matter or thing is done bona fide for executing the functions, powers or duties of the Authority 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.

Liability of the Authority to damages.

5R. Section 5Q shall not relieve the Authority of liability to pay compensation or damages to any person for any injury to them, their property or any of their 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.

NEW CLAUSES

THAT the Bill be amended by inserting the following clauses immediately after clause 14—

Financial year. **14A.** The financial year of the Authority shall be the period of twelve months ending on thirtieth June in each year.

Accounts. **14B.** (1) The Authority shall cause to be kept all proper books and records of account of the income, expenditure and assets of the Authority.

(2) Within three months of the end of each financial year, the Authority shall submit to the Auditor-General, the accounts of the Authority together with—

- (a) a statement of the income and expenditure of the Authority during that financial year; and
- (b) a statement of the assets and liabilities of the Authority as at the last day of that year.

(3) The accounts of the Authority shall be audited and reported upon in accordance with the Public Audit Act.

No. 34 of 2015. (4) The Authority may establish, control, manage, maintain and contribute to pension and provident funds for the benefit of employees of the Authority and may grant pensions and gratuities from any such fund to the said employees upon their resignation, retirement or separation from the service of the Authority or, as the case may be, to the dependants of any such employee upon such employee's death.

Annual Report. **14C.** (1) Within three months of the end of each financial year, the Authority shall submit—

- (a) to the Auditor-General, the accounts of the Authority in respect of that year together with—
 - (i) a statement of the income and expenditure of the Authority during that year; and

- (ii) a statement of the assets and liabilities of the Authority as at the last day of that financial year; and
- (b) to the President and Parliament, an annual report in respect of that year containing—
 - (i) the financial statements of the Authority including—
 - (A) a statement of the income and expenditure of the Authority during that year; and
 - (B) a statement of the assets and liabilities of the Authority as at the last day of that financial year;
 - (ii) a list of institutions contributing to benefit sharing under this Act, the proportion of benefit and the local community that benefited;
 - (iii) the total sums contributed towards benefit sharing and its distribution;
 - (iv) the progress made in the implementation of the Authority’s functions; and
 - (v) any other information that the Authority may consider necessary.

(2) The Authority shall publish the annual report in the *Gazette* and in at least one newspaper of national circulation.

NEW CLAUSES

THAT the Bill be amended by inserting the following new clauses immediately after clause 19—

Amendment to section 7 of Act No. 47 of 2013. **20.** Section 76 of the Wildlife Conservation and Management Act is amended by—

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

(1) The revenue received by the National Government under this Act shall be paid into the National Treasury and apportioned in accordance with section 8 of the Natural Resources (Benefit Sharing) Act.

- (b) deleting subsection (2);
- (c) deleting subsection (3); and
- (d) deleting subsection (4).

Amendment to section 85 of Act No. 1 of 2019.

21. Section 85 of the Energy Act is amended by—

- (a) deleting subsection (3) and substituting therefor the following new subsection (3)—
- (3) The royalty received by the National Government under this section shall be paid into the National Treasury and apportioned in accordance with section 8 of the Natural Resources (Benefit Sharing) Act.

- (b) deleting subsection (4).

Amendment to section 58 of Act No. 2 of 2019.

22. The Petroleum Act is amended by deleting section 58 and substituting therefor the following new section 58—

Sharing of petroleum resource.

58. The National Government’s share of the profits derived from upstream petroleum under section 57 shall be apportioned in accordance with section 8 of the Natural Resources (Benefit Sharing) Act.

NEW SCHEDULE

THAT the Bill be amended by inserting the following new Schedule—

SCHEDULE
(s.5J)

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD OF THE BENEFIT SHARING AUTHORITY

Meetings of the Board.

1. (1) The Board shall meet at least once in every three months to conduct the business of the Board of the Authority.

(2) The first meeting of the Board shall be convened by the chairperson and the Board shall meet subsequently at such a time and place as it shall determine.

(3) Notwithstanding the provisions of subparagraph (1), the chairperson shall, upon a written request by at least five members of the Board or at any time where he or she considers it expedient for the transaction of the business of the Authority, convene a special meeting of the Board.

(4) The members of the Board shall elect a vice-chairperson from among themselves—

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

(5) A meeting shall be presided over by the chairperson or in her or his absence by the vice-chairperson.

(6) Unless three quarters of the total number of the members of the Board otherwise agree, at least five days written notice of every meeting of the Board shall be given to every member of the Board by the Director-General.

(7) The Board may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of the Board.

(8) The proceedings of the Board shall not be invalidated by reason of a vacancy within its membership.

Quorum.

2. (1) Subject to subparagraph (2), the quorum of a meeting of the Board shall be not less than half of the appointed members.

(2) Where there is a vacancy in the Board, the quorum of the meeting shall be not less than three appointed members.

Voting.

3. Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a simple majority of the votes of the members present and voting and in the case of an equality of votes, the chairperson or person presiding over the meeting shall have a casting vote.

Conflict of interest.

4. (1) A member of the Board who has a direct or indirect personal interest in any matter being considered or to be considered by the Board shall, upon the relevant facts concerning the matter having come to their knowledge, disclose the nature of their interest to the Board.

(2) A disclosure of interest made by a member of the Board under subparagraph (1) shall be recorded in the minutes of the meeting of the Board and the member shall not, unless the Board otherwise determines—

- (a) be present during the deliberation on the matter by the Board; or
- (b) take part in the decision of the Board on the matter.

(3) A member of the Board who makes a disclosure under subparagraph (1) shall not—

- (a) be present in the meeting of the Board held to determine whether or not the member should take part in the deliberations or decision of the Board in relation to the matter; or
- (b) influence any other member of the Board in arriving at a particular decision in relation to the matter.

(4) A member or staff of the Authority shall not transact any business or trade with the Authority.

Rules of Procedure and minutes.

4. (1) Subject to provisions of this Schedule, the Board may determine its own procedure and the procedure for any committee of the Board.

...../Notice of Amendments

(2) The Board shall cause the minutes of all proceedings of its meetings to be recorded and kept, and the minutes of each meeting shall be confirmed by the Board at the next meeting of the Board and signed by the chairperson or the person presiding at the meeting.

CLAUSE 2

THAT clause 2 of the Bill be amended by—

- a) deleting the definitions of the terms—
 - (i) Commission;
 - (ii) fund;
 - (iii) futures fund;
 - (iv) natural resources fund; and
 - (v) sovereign wealth fund;
- b) inserting the following new definitions in the proper alphabetical sequence—

“Authority” means the Benefit Sharing Authority established under section 5;

“Board” means Board of the Benefit Sharing Authority constituted under section 5B; and

“Director-General” means Director-General of the Benefit Sharing Authority appointed under section 5K(1).

ii. NOTICE is given that the Senator for Nakuru County (Sen. Tabitha Karanja Keroche, MP) intends to move the following amendments to the Natural Resources (Benefit Sharing) Bill (Senate Bills No. 6 of 2022), at the Committee Stage—

CLAUSE 3

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

- (g) geothermal resources.

NEW CLAUSE

THAT the Bill be amended by inserting the following new clause immediately after clause 19—

Amendment **20.** Section 85 of the Energy Act is amended to section by—
85 of Act
No. 1 of
2019.

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

(3) The royalty received by the National Government under this section shall be paid into the National Treasury and apportioned in accordance with section 8 of the Natural Resources (Benefit Sharing) Act.

(d) deleting subsection (4).

C. *THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILLS NO. 7 OF 2022)

(Sen. Danson Mungatana, MP)

NOTICE is given that the Senator for Tana River County (Sen. Danson Mungatana, MP) intends to move the following amendments to the Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bills No. 7 of 2022), at the Committee Stage —

CLAUSE 3

THAT clause 3 of the Bill be amended by –

- (a) deleting paragraph (e); and
- (b) deleting paragraph (f).

CLAUSE 4

THAT clause 4 of the Bill be amended in paragraph (e) by inserting the words “effective” immediately after the word “coordinated”.

CLAUSE 5

THAT clause 5 of the Bill be amended in subclause (1) by —

- (a) deleting the expression “53(1)(c)” appearing immediately after the words “out under Articles 43(1)” in the introductory phrase and substituting therefor the words “53(1)(c) and 57(d);
- (b) deleting paragraph (c) and substituting therefor the following new paragraph (c) –
 - (c) ensure the availability, affordability, accessibility, adaptability, acceptability of quality goods and services that would facilitate the realization of economic and social rights.

CLAUSE 7

THAT clause 7 of the Bill be amended in subclause (1) by deleting paragraph (g) and substituting therefor the following new paragraph –

- (g) advise and make recommendations to the authority responsible for implementation of social assistance programs regarding the delivery of social assistance programmes.

CLAUSE 9

THAT clause 9 of the Bill be amended –

- (a) in the marginal note by deleting the words “for the realization of economic and social rights” appearing immediately after the words “County strategic plans”;
- (b) in subclause (2) by deleting paragraph (d) and substituting therefor the following new paragraph –
 - (d) objectives that would facilitate the availability, affordability, accessibility, adaptability and acceptability of quality goods and services relevant to the realization of economic and social rights; and
- (c) in subclause (3) by deleting paragraph (c) and substituting therefor the following new paragraph –
 - (c) adopt strategies and plans that enhance the availability, affordability, accessibility, adaptability and acceptability of quality goods and services aimed at facilitating the realization of economic and social rights.

CLAUSE 12

THAT clause 12 of the Bill be amended –

- (a) in subclause (1) by deleting the words “for the implementation of a county strategic plan” appearing immediately after the words “receipt of grant or donation” in the marginal note; and
- (b) in subclause (2) by inserting the words “and the annual County Governments Additional Allocations Act applicable in the respective financial year” immediately after the words “Public Finance Management Act”

CLAUSE 13

THAT clause 13 of Bill be amended in subclause (2) by inserting the words “*Gazette* and in the” immediately after the words “publish the plan in the”.

CLAUSE 14

THAT clause 14 of the Bill be amended in subclause (2) by inserting the following new paragraph immediately after paragraph (b) –

(ba) the Attorney General.

CLAUSE 19

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

(1) The Cabinet Secretary shall, within twelve months from the commencement of this Act and in consultation with the Commission, make regulations generally for the better carrying out of the provisions of this Act.

CLAUSE 20

THAT the Bill be amended by deleting Clause 20.

CLAUSE 22

THAT clause 22 of the Bill be amended in subclause (1) by deleting the words “six months” appearing immediately before the words “after commencement of” and substituting therefor the word “twelve months”.

SCHEDULE

THAT the Schedule to the Bill be amended by deleting the words “social and economic rights” appearing in the heading and substituting therefor the words “economic and social rights”.

CLAUSE 2

THAT clause 2 of the Bill be amended –

- (a) by deleting the definition of the word “Equalisation Fund”;
- (b) by deleting the definition of the word “subsidy programme”;
- (c) by deleting the definition of the word “person in need”;
- (d) by deleting the definition of the word “vulnerable persons” and substituting therefor the following new definition –

...../Notice of Amendments

“vulnerable persons” means persons who are unable to meet their economic and social needs and include children, pregnant and nursing mothers, older members of society, internally displaced persons, persons with disabilities, the sick, persons with chronic illnesses, victims of conflict, persons living in marginalised areas, and members of marginalised communities or groups and such other groups as the Cabinet Secretary may, by notice in the *Gazette*, or the respective county governor may, by notice in the *Gazette* and county *Gazette* , designate ;

(e) by inserting the following new definition immediately after the definition of the word county executive committee member –

“county integrated development plan” means the five-year plan developed by a county government in accordance with section 108 of the County Governments Act.

LONG TITLE

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

AN ACT of Parliament to provide a framework for the promotion, monitoring and enforcement of economic and social rights; to establish mechanisms to monitor and promote adherence by the National and county governments to Article 43 of the Constitution; and for connected purposes.

SHORT TITLE

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

APPENDIX

1. PETITION

Petition to the Senate by the Nyandarua Integrated Internally Displaced Persons (IDPs) concerning delayed compensation and occupation of parcels of land bought for their settlement between 2010 and 2013.

(Sen. John Methu, MP)

2. PAPERS

- i.) Report of the Auditor-General on the financial statements of the Rumuruti Municipality – County Government of Laikipia for the year ended 30th June, 2020.
- ii.) Report of the Auditor-General on the financial statements of the Rumuruti Municipality – County Government of Laikipia for the year ended 30th June, 2021.
- iii.) Report of the Auditor-General on the financial statements of the Kakamega Municipality for the twenty-two (22) months period for the year ended 30th June, 2022.
- iv.) Report of the Auditor-General on the financial statements of the Kakamega County Dairy Development Corporation for the year ended 30th June, 2022.
- v.) Report of the Auditor-General on the financial statements of the City of Kisumu for the year ended 30th June, 2022.
- vi.) Report of the Auditor-General on the financial statements of the Siboi Water and Sanitation Company Ltd for the year ended 30th June, 2022.
- vii.) Report of the Auditor-General on the financial statements on the Receiver of Revenue for the County Government of Kericho for the year ended 30th June, 2022.
- viii.) Report of the Auditor-General on the financial statements on the Receiver of Revenue for the County Government of Vihiga for the year ended 30th June, 2022.

(The Senate Majority Leader)

3. QUESTIONS AND STATEMENTS

STATEMENTS

a) Pursuant to Standing Order 53(1)

- (i) The Senator for Kiambu County (Sen. Karungo Thangwa, MP) to seek a statement from the Standing Committee on Lands, Environment and Natural Resources regarding the government compulsory acquisition of private land belonging to the residents of Ndeiya in Kiambu County.
- (ii) The Senator for Lamu County (Sen. Joseph Kamau, MP) to seek a statement from the Standing Committee on Land, Environment and Natural Resources regarding the alleged encroachment of land in Lamu County.
- (iii) Nominated Senator (Sen. Beatrice Ogola, MP) to seek a statement from the Standing Committee on Land, Environment and Natural Resources regarding the state of rehabilitation works and water supply restoration from Ndhiwa borehole.
- (iv) The Senator for Kisumu County (Sen. (Prof.) Tom Ojienda, MP) to seek a statement from the Standing Committee on Health regarding the state of healthcare and medical services offered at Jaramogi Oginga Odinga Teaching and Referral Hospital (JOOTRH).
- (v) The Senator for Kisumu County (Sen. (Prof.) Tom Ojienda, MP) to seek a statement from the Standing Committee on Trade, Industrialization and Tourism concerning measures to enhance tourism resources and tourist potential in Kisumu County.
- (vi) The Senator for Kisumu County (Sen. (Prof.) Tom Ojienda, MP) to seek a statement from the Standing Committee on Land, Environment and Natural Resources regarding the water and sanitation in Katito town in Kisumu County.

NOTICE PAPER

Tentative Business for

Thursday, June 15, 2023

(Published pursuant to Standing Order 43 (1))

It is notified that the Senate Business Committee has approved the following **tentative** business to appear in the Order Paper for Thursday, June 15, 2023.

A. BILLS AT THE SECOND READING STAGE

- i.) *THE AGRICULTURE AND FOOD AUTHORITY (AMENDMENT) BILL (SENATE BILLS NO. 13 OF 2023)
(Sen. James Murango, MP)
- ii.) **THE EQUALIZATION FUND (ADMINISTRATION) BILL (SENATE BILLS NO. 14 OF 2023)
(The Chairperson, Standing Committee on Finance and Budget)

B. MOTIONS

- i.) DESIGNATION OF A MONTHLY CAR FREE DAY AND COUNTY CAR FREE ZONES
(Sen. Crystal Asige, MP)
- ii.) DEVELOPMENT OF A POLICY AND LAW FOR SOCIAL RISK MANAGEMENT IN INFRASTRUCTURE DEVELOPMENT PROJECTS IN KENYA
(Sen. Catherine Mumma, MP)
- iii.) REPORT OF THE 146TH ASSEMBLY OF THE INTER – PARLIAMENTARY UNION (IPU) AND RELATED MEETINGS HELD IN MANAMA, KINGDOM OF BAHRAIN FROM 11TH TO 15TH MARCH, 2023.
(Sen. Kathuri Murungi, MP)
- iv.) REGULATION OF ELECTRONIC CIGARETTES IN KENYA
(Sen. Catherine Mumma, MP)
- v.) ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON HEALTH ON THE DEATH OF THE LATE EDWARD OTIENO ONYANGO DUE TO ALLEGED MEDICAL NEGLIGENCE
(The Chairperson, Standing Committee on Health)

...../Notice Paper

- vi.) ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON HEALTH ON THE DEATH OF THE LATE MAUREEN ANYANGO AT MAMA LUCY KIBAKI HOSPITAL DUE TO ALLEGED MEDICAL NEGLIGENCE
(The Chairperson, Standing Committee on Health)

- vii.) ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON HEALTH ON THE CIRCUMSTANCES THAT LED TO THE DEATH OF THE LATE MASTER TRAVIS MAINA AT KENYATTA NATIONAL HOSPITAL
(The Chairperson, Standing Committee on Health)
