



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – FOURTH SESSION

NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY, FEBRUARY 24, 2016

1. The House assembled at thirty minutes past Nine O'clock
2. The Proceedings were opened with Prayer
3. **PRESIDING** – the Deputy Speaker
4. **MOTION – THE CLIMATE CHANGE BILL (NATIONAL ASSEMBLY BILL NO.1 OF 2014)**

Motion made and Question proposed -

THAT, the Senate Amendments to the Climate Change Bill (National Assembly Bill No.01 of 2014) be considered

(Chairperson, Departmental Committee on Environment and Natural Resources – 23.02.2016)

Debate on the Motion having been concluded on Tuesday, February 23, 2016;

Question put and agreed to.

Amendments referred to the Committee of the Whole House today;

5. **MOTION – ADOPTION OF THE REPORT ON THE CRISIS FACING THE SUGAR INDUSTRY IN KENYA**

Motion made and Question proposed -

THAT, this House adopts the Report of the Departmental Committee on Agriculture, Livestock and Co-operatives on the Crisis Facing the Sugar Industry in Kenya, laid on the Table of the House on Thursday, 12th March, 2015, subject to deletion of Paragraph 101.

(Chairperson, Departmental Committee on Agriculture, Livestock and Co-operatives – 16.02.2015)

Debate on the Motion having been concluded on Tuesday, February 23, 2016;

Question put and agreed to.

6. COMMITTEE OF THE WHOLE HOUSE

Order for Committee read;

IN THE COMMITTEE

The First Chairperson of the Committees

- (i) Consideration of Senate Amendments to the Climate Change Bill (National Assembly Bill No.1 of 2014)

Clause 2

Senate Amendment proposed -

THAT, clause 2 of the Bill be amended in the definition of the word "Cabinet Secretary" by deleting the words "Cabinet affairs" appearing immediately after the words "responsible for" and substituting therefor the words "matters relating to climate change".

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Senate Amendment to Clause 2 - agreed to.

Clause 3

Senate Amendment proposed -

THAT, clause 3 of the Bill be amended in sub clause (2) by inserting the word "and" immediately after the word "intergenerational" appearing in paragraph (e).

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Senate Amendment to Clause 3 - agreed to.

Clause 5

Senate Amendment proposed -

THAT, clause 5 of the Bill be amended in sub clause (2) by inserting the following new paragraph immediately after the introductory clause -

- (a) the Deputy President who shall be the vice-chairperson to the Council;

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Senate Amendment to Clause 5 - agreed to.

Clause 7

Senate Amendment proposed -

THAT, clause 7 of the Bill be amended in sub clause (2) by inserting the words "nominated by the body representing the largest number of institutions in the private sector" immediately after the words "private sector" appearing in paragraph (f);

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Senate Amendment to Clause 7(2)(f) - agreed to.

THAT, clause 7 of the Bill be amended in sub clause (2) by deleting paragraph (g);

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Senate Amendment to Clause 7(2)(g) - agreed to.

THAT, clause 7 of the Bill be amended in sub clause (2) by inserting the words "who has knowledge and experience in matters relating to indigenous knowledge" immediately after the words "of the Constitution" appearing in paragraph (h);

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Senate Amendment to Clause 7(2)(h)- agreed to.

THAT, clause 7 of the Bill be amended in sub clause (3) by deleting the words "(2)(f), (g) and (h)" appearing immediately after the words "under subsection" and substituting therefor the words "(2)(f), (g),(h) and (i)"

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Senate Amendment to Clause 7(3) - agreed to.

THAT, clause 7 of the Bill be amended in sub clause (4) by inserting the words "and the Senate" immediately after the words "the National Assembly".

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and negatived;

Senate Amendment to Clause 7(4) - negatived.

Clause 13

Senate Amendment proposed -

THAT, clause 13 of the Bill be amended in sub clause (4) by inserting the words "of the Action Plan" immediately after the words "for mainstreaming".

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Senate Amendment to Clause 13 - agreed to.

Clause 14

Senate Amendment proposed -

THAT, clause 14 of the Bill be amended in sub clause (1) by inserting the words "and mitigation against" immediately after the words "adaptation to" appearing in paragraph (a).

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Senate Amendment to Clause 14 - agreed to.

Clause 17

Senate Amendment proposed -

THAT, clause 17 of the Bill be amended in sub clause (1) by deleting the word "give" appearing immediately after the words "with instructions" in paragraph (b) and substituting therefor the word "prescribed".

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Senate Amendment to clause 17 - agreed to.

Clause 32

Senate Amendment proposed -

THAT, clause 32 of the Bill be amended in sub clause (1) by deleting the word "one" appearing immediately after the words "fine not exceeding" at the end of the sub clause and substituting therefor the word "ten".

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and Negatived;

Senate Amendment to clause 32 - Negatived.

Clause 35

Senate Amendment proposed -

THAT, clause 35 of the Bill be amended in sub clause (1) by deleting the word "may" appearing immediately after the words "Cabinet Secretary" and substituting therefor the word "shall".

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Senate Amendment to clause 35 - agreed to.

New Clause 25A

Senate Amendment proposed -

THAT, the Bill be amended by inserting the following new clause immediately after clause 25

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Incentives
for the
promotion
of climate
change
initiatives.

25A. (1) The Cabinet Secretary shall, in accordance with the appropriate law, and in consultation with the Cabinet Secretary responsible for finance, grant to persons who –

- (a) encourage and put in place measures for the elimination of climate change including reduction of greenhouse emissions and use of renewable energy;
- (b) put in place measures to mitigate against the adverse effects of climate change;
- (c) are involved in the conduct of accredited training in programmes that are aimed at eliminating climate change;

such incentives as may be necessary for the advancement of the elimination of and mitigation against climate change and the effects of climate change.

(2) The Cabinet Secretary shall, for the purpose of subsection (1), in regulations set out the nature of the incentives, the conditions for the grant or withdrawal of such incentives and such other matter as may be necessary for the exercise of the power conferred under subsection (1).

(3) In granting incentives under subsection (1), the Cabinet Secretary shall take into account international standards and best practice.

(4) The Cabinet Secretary shall make the regulations specified under subsection (2) within a period of twelve months from the commencement of this Act.

(Chairperson, Departmental Committee on Environment & Natural Resources)

Motion made and Question proposed;

THAT, the New Clause 25A be read a Second Time

Debate arising;

Question put and agreed to;

Motion made and Question proposed;

THAT, the New Clause 25A be part of the Bill

Question put and agreed to;

Senate Amendment to Clause 2 - agreed to.

Amendments to be reported subject to re-committal of Clause 7(2)(g)

(ii) **The Basic Education (Amendment) Bill (National Assembly Bill No. 35 of 2014)**

Clause 3 - amendment proposed -

THAT, the Bill be amended by deleting clause 3 and substituting therefor with the following new clause-

"3. Section 18 of the principal Act is amended by deleting subsection (1) and substituting therefor the following subsection-

(1) The functions of the County Education Board shall be to-

- (a) facilitate the full realization of the right of all children to access quality basic education;
- (b) ensure that all children and youth of school going age attend and complete basic education and training;
- (c) ensure all institutions of basic education and training have a conducive learning environment and are provided with appropriate and adequate infrastructure;
- (d) collaborate with the national and county governments, the Teachers Service Commission, parents, the civil societies, international and local organizations in planning, promotion, development and coordination of innovations, research, and in the provision of educational infrastructure and instructional materials for basic education;
- (e) oversee the establishment, operations, management of public and private youth polytechnics, home craft centers, pre-primary, primary, secondary schools, any other institution of basic education and training operating in the county, and the
- (f) implementation of projects and programs in collaboration with the county government and other stakeholders;
- (g) establish and maintain a disaggregated data bank on learners, teachers and all service providers in institutions of basic education and training in the County;
- (h) vet nominees for board of management members and managers for private institutions;
- (i) compile a priority list of schools infrastructural development annually within the county and send to the National Education Board;

- (j) transfer and discipline learners and non-teaching staff employed by Board of management;
- (k) monitor and evaluate-
 - (i) general performance of institutions of basic education and training, ongoing programs and projects in public institutions, and achievement of learners;
 - (ii) conduct of national exams and institutional based assessments;
- (l) coordinate adult and continuing education programs in the County;
- (m) maintain a data bank of all students who are ranked in the first quartile in the constituency in the national examination at the primary level and who due to inability to pay school fees fail to gain entry into or complete education in a public secondary school;
- and
- (n) perform such other functions as may be necessary for the promotion of basic education under this Act or any other written law."

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed -

Debate arising;

Question put and agreed to;

Clause 3 - as amended agreed to

Clause 4 - amendment proposed -

THAT, clause 4 of the Bill be amended in the proposed section 20(1) -

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

“(c) County Executive in charge of education;”

(b) in paragraph (f) by deleting sub-paragraph (ii) and substituting therefor the following new sub-paragraph -

“(ii) Kenya Conference of Catholic Bishops; and”

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed -

Debate arising;

Question put and agreed to;

Clause 4 - as amended agreed to

Clause 5 - amendment proposed -

THAT, clause 5 of the Bill be amended-

- (a) in the proposed section 25A by deleting the proposed sub-section (2) and substituting therefor the following new sub-section-

"(2) Every Sub-county Education Board shall consist of a chairperson and twelve other persons appointed by the Cabinet Secretary and shall include-

- (a) the Sub-County Education Officer who shall be the secretary to the Sub County Education Board;
 - (b) a representative of the County Executive in charge of Education;
 - (c) a representative of the Teachers Service Commission;
 - (d) a representative of the association of private schools ;
 - (e) two representatives of a trade union representing the interest of teachers;
 - (f) where applicable one person each representing-
 - (a) jointly the National Council of Churches of Kenya and the Evangelical Fellowship of Kenya;
 - (b) the Kenya Conference of Catholic Bishops; and
 - (c) the Muslim Education Council.
 - (g) one representative of persons with disability;
 - (h) two members nominated by the Primary School Head Teachers Association and the Secondary Schools Principal Association;
 - (i) the deputy County Commissioner.
- (b) by deleting the proposed section 25B and substituting therefor the following new section-

" 25B (1) The functions of the Sub-county Education Board shall be to put in place measures to-

- (a) facilitate the full realization of the right of all children to access quality basic education;
- (b) ensure that all children and youth of school going age attend and complete basic education and training;
- (c) ensure all institutions of basic education and training have a conducive learning environment and are provided with appropriate and adequate infrastructure;
- (d) initiate policy reform proposals for the County Education Board;
- (e) establish and maintain a register of all public and private youth (Village) polytechnics, home craft centres, pre-primary schools, child care centres and any other institution of basic education and training operating in the county;
- (f) generate and maintain statistics in all education matters including all students who are ranked in the first quartile by the constituency in the national examinations at primary level, and submit the report to the County Education Board;

- (g) generate and a priority list of public schools with infrastructural challenges within the sub-county;
- (h) nominate board of management members and managers for private institutions;
- (i) coordinate adult and continuing education programs in the sub-county; and
- (j) perform such other functions as may be necessary for the promotion of basic education under this Act or any other written law.

(c)by inserting the following new clause immediately after clause 25C-

Remuneration of
the Sub-county
Education Boards.

(25D) The members of the Sub-county Education Boards shall be paid such allowances and disbursements for expenses as may be approved by the Cabinet Secretary in consultation with the Salaries and Remunerations Commission.

(Chairperson of the Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Further amendment proposed -

THAT, clause 5 of the Bill be amended in the proposed section 25A–

(a) in subsection (2) by deleting paragraph (a) and substituting therefor the following new paragraph –

“(a) two educationists of five years standing being one man and one woman;”

(b) in subsection (2) by deleting paragraph (l); and

(c) in sub-section (4) by deleting the words, “ but shall have no right to vote” after the word “Board” and substituting therefor with, “ as an *ex-officio* member”.

(Hon. Sammy Mwaita)

Question of the further amendment proposed;

Debate arising;

Question put and agreed to;

Clause 5 - as amended agreed to

Clause 7 - amendment proposed –

THAT, the Bill be amended by deleting clause 7 and substituting therefor the following new clause-

Amendment of section 27 of No. 14 of 2013.

(7) Section 27 of the principal Act is amended by-

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

“to participate and offer proposals on matters regarding syllabus, textbooks, digital content and other instructional materials and teaching aids during curriculum review;”

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

“(e) to offer material and financial support to institutions in regards to infrastructure improvement or any other project to support academic programs.”

(c) inserting the following new paragraph immediately after paragraph (e)-

“(f) to participate in the process that may lead to change of status of a public sponsored institution of basic education and training.”

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed -

Debate arising;

Question put and agreed to;

Clause 7 - as amended agreed to

Clause 8 - amendment proposed -

THAT, the Bill be amended by deleting clause 8.

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed -

Debate arising;

Question put and agreed to;

Clause 8 - deleted

Clauses 9 & 10 - agreed to

Clause 11 - amendment proposed -

THAT, the Bill be amended by deleting clause 11 and substituting the following new clause-

Amendment of section 35 of No. 14 of 2013.

(11) "Section 35 of the Principal Act is amended in sub-section (2) by inserting the words "except with the concurrence of the parents or guardians" immediately after the word "class".

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed -

Debate arising;

Question put and agreed to;

Clause 11 - as amended agreed to

Clause 12 - amendment proposed -

THAT, the Bill be amended by deleting clause 12 and substituting the following new clause-

Amendment of section 39 of No. 14 of 2013.

(12) Section 39 of the principal Act is amended by inserting the following new paragraphs immediately after paragraph (h)-

(ha) put in place measures to ensure that children who meet the criteria for admission to a public secondary school but fail to gain entry into or are likely to drop out on account of inability to pay school levies are supported to complete secondary education";

(hb) in consultation and cooperation with the County Education Board, Sub-County Education Board, the County government and other stakeholders mobilize resources for the provision of bursaries to deserving but needy students";

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed -

Debate arising;

Question put and agreed to;

Clause 12 - as amended agreed to

Clause 13 - amendment proposed -

THAT, the Bill be amended by deleting clause 13 and substituting the following new clause-

Amendment of section 40 of No. 14 of 2013.

(13) Section 40 of the principal Act is amended by inserting the following new subsections immediately after subsection (4)-

(5) "Every head of a public institution of basic education and training shall, not later than 28th February of each year develop and submit to Sub-County Education Board and a copy to the County Education Board, a list profiling the performance and conduct of learners in their institution in the preceding year whose parents or guardians are unable to pay school levies and therefore more likely to drop out."

(6) "The Sub-County Education Board in collaboration with the Parents Associations and other stakeholders shall vet all the learners submitted under subsection 40(5) to ensure that only needy and deserving learners are supported to complete their studies."

(Chairperson of the Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 12 - as amended agreed to

Clause 13 - agreed to

Clause 14 - amendment proposed –

THAT, the Bill be amended by deleting clause 14.

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 14 - as amended agreed to

Clause 15 - amendment proposed –

THAT, the Bill be amended by deleting clause 15.

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 15 - as amended agreed to

Clause 16 - amendment proposed –

THAT, the Bill be amended by deleting clause 16 and substituting therefor the following new clause–

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of No.
14 of
2013.

(16) Section 56(1) of the principal Act is amended by deleting –

(a) paragraph (a) and substituting therefor the following paragraph–

“(a) four persons elected to represent parents of the pupils in the school or from the local community;”

(b) paragraph (c) and substituting therefor the following paragraph–

“(c) head of the institution who shall be the secretary of the Board;”

(c) paragraph (d) and substituting therefor the following paragraph–

“(d) two representatives of the sponsors of the school;”

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 16 - as amended agreed to

Clause 17 - amendment proposed –

THAT, the Bill be amended by deleting clause 17.

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 17 - as amended agreed to

Clause 18 - amendment proposed –

THAT, the Bill be amended by deleting clause 18

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 18 - as amended agreed to

Clause 19 - amendment proposed –

THAT, the Bill be amended in clause 19 by deleting the phrase "(c)" appearing at the end of the clause and substituting therefor with the phrase "(e)".

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 19 - as amended agreed to

Clause 20 - amendment proposed –

THAT, the Bill be amended by deleting clause 20.

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 20 - as amended agreed to

Clause 21 - amendment proposed –

THAT, the Bill be amended by deleting clause 21.

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 21 - as amended agreed to

New Clause 18A proposed -

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

Amendment of section 94 of No. 14 of 2013

18A. Section 94 of the Basic Education Act is amended by-
(a) Inserting the following new subsection (2) immediately after subsection (1)-

(2) The National Council for Nomadic Education in Kenya shall be a body corporate with perpetual succession and common seal and shall, in its corporate name, be capable of-

(a) suing and being sued;

(b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;

(c) entering into contracts; and

(d) undertaking or performing all other activities necessary for the proper performance of its functions under this Act that may lawfully be done or performed by a body corporate.

(e) renumbering the existing subsection (2) as subsection (3) and inserting the expression "and (2)" immediately after the expression (1)

(The Leader of the Majority Party)

Motion made and Question proposed -

THAT, the New Clause 18A be read a Second Time

Debate arising;

Question put and agreed to;

Motion made and Question proposed -

THAT, the New Clause 18A be part of the Bill

Question put and agreed to;

Schedule - agreed to

Clause 2 - amendment proposed -

THAT, clause 2 of the Bill be amended-

(a) in paragraph (b) by deleting the definition of the word "manager" and substituting thereof the following new definition-

"manager" means a person who-

(a) is the proprietor or is nominated by the proprietor of private institution of basic education and training;

(b) is registered by the County Education Board as provided for under section 78 of this Act;

(c) oversees and implements the education programs, policies and guidelines issued from time to time; and

(d) may perform any other delegated teacher management functions.; and

(b) in paragraph (c) by deleting the definition of "sponsor".

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 2 - as amended agreed to

Clause 1 - agreed to

Title - agreed to

Bill to be reported with amendments.

7. **HOUSE RESUMED** - the Deputy Speaker in the Chair

(i) **The Basic Education (Amendment) Bill (National Assembly Bill No.35 of 2014)**

Bill to be reported with amendments.

Motion made and Question proposed –

THAT, the Basic Education (Amendment) Bill (National Assembly Bill No. 35 of 2014) be now read a Third Time

(Chairperson, Departmental Committee on Education, Science and Technology)

Question of the Third Reading deferred to another day.

(ii) **Consideration of Senate Amendments to the Climate Change Bill (National Assembly Bill No.1 of 2014)**

Consideration of Senate amendments reported subject to re-committal of Clause 7(2)(g);

Motion made and Question proposed –

THAT, the Senate Amendments to the Climate Change Bill (National Assembly Bill No.1 of 2014) be approved, subject to re-committal of Clause 7(2)(g)

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question put and agreed to;

Thereupon the House resolved into Committee.

8. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

IN THE COMMITTEE

The Third Chairperson in the Chair

- (i) **Consideration of Senate Amendments to the Climate Change Bill (National Assembly Bill No.1 of 2014)**

Clause 7(2)(g)

Senate Amendment proposed –

THAT, clause 7 of the Bill be amended in sub clause (2) by deleting paragraph (g);

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question put and negatived;

Senate Amendments to be reported;

The Engineering Technologists and Technicians Bill (National Assembly Bill No.7 of 2015)

Clause 3 - amendment proposed –

THAT, clause 3 of the Bill be amended by deleting the words “Engineering Technologists and Technicians” and substituting therefor the words “Kenya Engineering Technology”.

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 3 - as amended agreed to

Clause 4 - amendment proposed –

THAT, clause 4 of the Bill be amended by deleting clause 4 and substituting therefor with the following new clause –

- Composition of the Board. **4. (1) The Board shall consist of-**
 - a) The Chairperson who shall be appointed by the Cabinet Secretary from amongst the members appointed under paragraph (c);

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b) The Principal Secretary in the Ministry for the time being responsible for matters relating to Engineering Technology;

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- c) Eight persons appointed by the Cabinet Secretary as follows—
- (i) one chairperson from any of the recognized professional institutions responsible for engineering technologists and technicians;
 - (ii) one person representing Technical and Vocational Education and Training Authority (TVETA);
 - (iii) one person who shall be a public officer from a public corporation responsible for engineering technology curriculum development;
 - (iv) one person who shall be a public officer from a public corporation involved in offering engineering technology services and products;
 - (v) one person who shall be a representative of Technical Universities offering engineering technology programmes in Kenya;
 - (vi) one person who shall be a representative of Technical Training Institutions offering engineering technology programmes in Kenya; and
 - (vii) one person who shall be from the private sector dealing with matters related to engineering technology;
- (d) The Registrar of the Board.

(2) A person appointed as a member of the Board under this Act, other than an *ex officio* member, shall serve for a term of three years and shall be eligible for re-appointment for a further and final term of three years.

(3) A member of the Board, other than an *ex officio* member, may –

(a) at any time resign from office by notice in writing to the chairperson;

(b) be removed from office if the member –

(i) has been absent from three consecutive meetings of the Board without permission of the chairperson;

(ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his or her creditors;

(iii) is convicted of an offence involving dishonesty or fraud;

(iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings; or

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(v) is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit to discharge his or her duties as a member of the Board.

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 4 - as amended agreed to

Clauses 5, 6, 7 & 8 - agreed to

Clause 9 - amendment proposed –

THAT, clause 9 of the Bill be amended by deleting the words “at any meeting of the Board” appearing immediately after the word “vote” in subsection (3).

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 9 - as amended agreed to

Clause 10 - agreed to

Clause 11 - amendment proposed –

THAT, clause 11 of the Bill be amended by inserting the words “through a competitive process” immediately after the word “staff”.

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 11 - as amended agreed to

Clauses 12 & 13 - agreed to

Clause 14 - amendment proposed –

THAT, clause 14 of the Bill be amended by –

- (a) deleting the words “Chief Executive Officer” wherever it appears in subsection (2) and substituting therefor with the word “Registrar”; and
- (b) deleting the words “Chief Executive Officer” wherever it appears in subsection (3) and substituting therefor with the word “Registrar”.

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 14 - as amended agreed to

Clause 15 - amendment proposed –

THAT, clause 15 be deleted and replaced by the following new clauses –

Categorisation
of
registration.

15A. (1) A person may be registered in the engineering technology profession as—

- (a) Professional, which includes—
 - (i) Professional Engineering Technologist; or
 - (ii) Certified Engineering Technician.
- (b) Candidate, which includes—
 - (i) Candidate Engineering Technologist; or
 - (ii) Candidate Engineering Technician.

(2) A person may not practice in any of the categories contemplated in subsection (1), unless he or she is registered in that category.

(3) A person may only practice in a consulting capacity if registered in the category of consulting engineering technologist.

(4) A person who is registered in the category of candidate must perform work in the engineering technology profession only under the supervision and control of a professional of any category as prescribed.

Application for
registration.

15B. (1) A person intending to apply for registration in the engineering technology profession may make such application in the prescribed application form to the Board for registration in any of the categories referred under section 15 (1).

(2) The application form referred to under subsection (1) shall be accompanied by the prescribed fee.

(3) The Board may register the applicant in the relevant category and issue a registration certificate to the successful applicant in the prescribed form if, after consideration of an application, the Board is satisfied that the applicant—

- (a) In the case of a person applying for registration as a professional—
 - (i) has demonstrated his or her competence as measured against standards determined by the Board for the relevant category of registration; and
 - (ii) has passed any additional examinations that may be determined by the Board;

(b) In the case of a person applying for registration as a candidate or a candidate in a specified category, has satisfied the relevant educational outcomes determined by the Board for this purpose, by—

- (i) having passed accredited or recognized examinations at any educational institution offering educational programmes in engineering technology; and
- (ii) having passed any other examination that may be determined by the Board; or
- (iii) presenting evidence of prior learning in engineering technology.

(c) In the case of a person applying for registration as a consulting engineering technologist in a specified category, that person must—

- (i) have practiced in a specialized engineering technology field as a professional for at least five years or any period determined by the Board; and
- (ii) have achieved a standard of competence to enable him/her to practice as a consulting engineering technologist personnel in that particular specialization.

Refusal for registration.

15C. (1) The Board may refuse to register an applicant—

- (a) If the applicant has been removed from an office of trust on account of improper conduct;
- (b) Has been convicted of an offence and was sentenced to imprisonment without an option of a fine, or, in the case of fraud, to a fine or imprisonment or both;
- (c) If the applicant has, subject to paragraph (b), been convicted of an offence in a foreign country and was sentenced to imprisonment without an option of a fine, or, in the case of fraud, to a fine or imprisonment or both;
- (d) If the applicant is declared by the High Court to be of unsound mind or mentally disordered, or is detained under the Mental Health Act;
- (e) If the applicant is an un-rehabilitated insolvent whose insolvency was caused by his or her negligence or incompetence in performing work falling within the scope of the category in respect of which he or she is applying for registration;

(2) For the purposes of subsection (1) (c), the Board shall take cognizance of the prevailing circumstances in a foreign country relating to a conviction.

(3) The Board shall provide the applicant with a notice of a refusal.

Qualification
for
registration.

15D. (1) Subject to the provisions of this Act, a person shall be eligible for registration—

(a) as a professional engineering technologist, if that person—

- (i) is registered as a candidate engineering technologist and has obtained practical experience of at least three years for the degree holder or at least four years for the Higher Diploma holder in the relevant area;
- (ii) has passed professional assessment examination conducted by the Board; and
- (iii) is a full member of a professional society/association recognized by the Board;

(b) as a consulting engineering technologist, if that person—

- (i) holds a Master's degree in the relevant discipline from a recognized University or Institute or first degree with outstanding contributions to engineering technology;
- (ii) has practiced in a specialized engineering technology field as a professional engineering technologist for a period of at least five years; and
- (iii) has achieved a standard of competence to enable him/her to practice as a consulting engineering technologist in that particular specialization.

(c) as a certified engineering technician, if that person—

- (i) is registered as a candidate engineering technician and has obtained practical experience of at least two years in the relevant area;
- (ii) has passed professional assessment examination conducted by the Board; and
- (iii) is a full member of a professional society/association recognized by the Board;

(2) Subject to the provisions of this Act, a person shall be eligible for registration —

- (a) as a candidate engineering technologist, if that person is a holder of a bachelor of technology degree or higher diploma or its equivalent from a university, polytechnic, institute, college or school of engineering and technology or any other institution recognized by the Board; and

(b) as a candidate engineering technician, if that person is a holder of diploma in engineering or its equivalent from a university, polytechnic, institute, college or school of engineering and technology or any other institution recognized by the Board.

(3) The persons referred to in subsections (1) and (2) shall be Kenyan citizen or permanent residents of Kenya.

Registration of
an engineering
technology
consulting
firm.

15E. (1) Subject to the provision of this Act, a person may register an engineering technology consulting firm if—

- (a) the firm is a legal person duly registered or incorporated under the written law for the time being in force;
- (b) the firm has at least one partner or principal shareholder who is registered as a consulting engineering technologist and who has a valid license in a specified discipline;
- (c) at least fifty one percent of the shares in the firm are held by Kenya citizens; and

(d) fulfills any other condition as may be stipulated by the Board.

2) The Board may register engineering technology consulting firms in different categories and disciplines based on criteria as shall be established by the Board.

(3) A person intending to register an engineering technology consulting firm under this Act shall apply to the Registrar in the prescribed manner.

(4) An application under subsection (3) shall—

(a) be accompanied with—

- (i) such documents as are necessary to prove qualification for registration and any other document that the Board may prescribe;
- (ii) the curriculum vitae of the partners or directors of the firm;
- (ii) a written commitment that the Board shall be allowed to verify the suitability of the firm for the purposes of registration;

(b) list the firm's profile of activities;

(c) be accompanied by the prescribed fee.

(5) The Board may require the applicant to furnish such further information or evidence of eligibility for registration as it may consider necessary and may require the applicant to appear in person for an interview before it.

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 15 - as amended agreed to

Clause 16 - amendment proposed –

THAT, clause 16 of the Bill be deleted.

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 16 - as amended agreed to

Clause 18 - amendment proposed –

THAT, clause 18 of the Bill be deleted and replaced by the following new clause –

Registration of
foreigners.

18. (1) A foreign person or body of foreigners shall not be registered as professionals in any categories under section 15 (1) or engineering technology firm under section 20B unless—

(a) in the case of a natural person—

- (i) that person possesses the necessary qualifications recognized for the practice of engineering technology as a professional in any category under section 15 (1) in the country where he or she normally practices, and that immediately before entering Kenya, he or she was practicing as a professional in any category under section 18 (1) and holds a valid license; and
- (ii) he or she is a resident of Kenya with a valid working permit;

(b) in the case of a firm, the firm is incorporated in Kenya and a minimum of fifty-one percent of its shares are held by a citizen or citizens of Kenya.

(2) If the conditions stipulated under subsection (1) are not fulfilled, the person or firm applying for registration may be considered for temporary registration under section 23.

*(Chairperson, Departmental Committee on Education,
Research and Technology)*

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 18 - as amended agreed to

Clause 19 - as amended agreed to

Clause 20 - amendment proposed –

THAT, clause 20 the Bill be deleted.

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 20 - as amended agreed to

Clauses 21, 22, 23, 24, 25, 26, 27, 28, 29 & 30 - agreed to

Clause 31 - amendment proposed –

THAT, clause 31 of the Bill be amended in subsection (4) by inserting the word “name” immediately after the words “removal of a person’s”.

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 31 - as amended agreed to

Clause 32 - amendment proposed –

THAT, clause 32 of the Bill be amended in in subsection (1) (a) by deleting the words “and the Cabinet Secretary for the time being responsible for matters relating to finance”.

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 32 - as amended agreed to

Clause 34 - amendment proposed –

THAT, clause 34 of the Bill be amended in in subsection (2) (a) by deleting the words “members and”.

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 34 - as amended agreed to

Clause 35 - as amended agreed to

Clause 36 - amendment proposed –

THAT, the Bill be amended in clause 36 by deleting the word “Treasury” appearing immediately after the words “or banks which the” and replacing therefor the words “Cabinet Secretary for the time being responsible for matters relating to finance” in subsection (1).

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 36 - as amended agreed to

Clause 37 - agreed to

Clause 38 - amendment proposed –

THAT, clause 38 of the Bill be amended in paragraph (c) (iv) by inserting the word “or” immediately after the word “rights”.

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 38 - as amended agreed to

Clause 39 - agreed to

Clause 40 - amendment proposed –

THAT, the Bill be amended in clause 40 by deleting the word “under” appearing immediately after the word “licensed” and replacing therefor the words “within six months after enactment of”.

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 40 - as amended agreed to

Clause 41 - agreed to

Clause 42 - amendment proposed –

THAT, clause 42 the Bill be amended–

(a) in subsection (3) by deleting the word “minister” appearing immediately after the word “may” and replacing therefor the word “administer”;

(b) in subsection (8) by inserting the word “thousand” immediately after the word “fifty”;

(c) by inserting the following new Clause 42A –

Disciplinary
Tribunal.

42A. There is established a Disciplinary Tribunal which shall be composed of the following persons appointed by the Cabinet Secretary -
(a) a person who specializes in the professional field relating to the complaint for which the Tribunal is formed;
(b) a professional who has appropriate experience in engineering technology ; and
(c) a person qualified in law and who has appropriate experience.

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 42 - as amended agreed to

Clause 43 - agreed to

Clause 44 - amendment proposed –

THAT, clause 44 of the Bill be deleted.

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 44 - as amended agreed to

Clauses 45 & 46 - agreed to

Clause 47 - amendment proposed –

THAT, the Bill be amended in clause 47 by deleting paragraph (g).

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 47 - as amended agreed to

Schedule - amendment proposed –

THAT, the Schedule to the Bill be amended by in paragraph (5) –

- (a) by deleting the words “at which he is present but,” and replacing therefor with the word “and”; and
- (b) by deleting the word “numbers” appearing immediately after the words “elect one of their” and replacing therefore with the word “members”.

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Schedule - as amended agreed to

Clause 2 - amendment proposed –

THAT, clause 2 of the Bill be amended –

- (a) by deleting the definition of the word “accredited checker”;
- (b) in the definition of “Board” by deleting the words “Engineering Technologists and Technicians Registration” and substituting therefor the words “Kenya Engineering Technology”;
- (c) in the definition of Cabinet Secretary by deleting the word “technology” appearing immediately after the word “engineering”;
- (d) in the definition of “engineering consulting firm” by deleting the words “this Act” and substituting therefor the words “engineering technology consulting firm registered under section 15A”;
- (e) by deleting the definition of “engineering technology” and substituting therefor the following new definition –
 - “is part of the engineering profession in which knowledge of applied mathematical and natural science gained by higher education, experience and practice is devoted to application of engineering principles and the implementation of technology education for the professional focusing primarily on analyzing, applying, implementing and improving existing technologies and is aimed at preparing graduates for the purpose of engineering technology practices closest to the product improvement, manufacturing and engineering operational functions”;
- (f) by inserting the following new definitions in the proper alphabetical sequence –
 - “candidate” refers to any person registered in any of the categories in subsection 15A (1)(b)”;
 - “certified engineering technician” means a person registered as under section 15 (A)(1) (ii);
 - “Engineering Technology Personnel” means any person registered under section 15 (A)(1) as an Engineering Technologist or Technician;
 - “foreign national” has the meaning assigned to it under section 2 of Kenya Citizenship and Immigration Act, No. 12 of 2011;
 - “prescriptive standard” means a document that states procedures or criteria for carrying out a design, or a construction or production activity,

relating to engineering; and the application of which, to the carrying out of the design, or the construction or production activity, does not require advanced scientifically based calculations;

"professional engineering technologist" means a person registered as such under section 15(A) (1)(i);

"professional engineering technology service" means an engineering technology service that requires, or is based on, the application of engineering principles and data to a development, implementation, construction and production activity, relating to engineering technology and does not include an engineering service that is provided only in accordance with a prescriptive standard;

"Professional engineering technology works" includes professional service, consultation, investigation, evaluation, planning, designing or responsibility for supervision of construction or operation and maintenance in connection with any public or privately owned public utilities, building,

machines, equipment, processes, works or projects that requires application of engineering principles and data.

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 2 - as amended agreed to

Clause 1 - amendment proposed –

THAT, clause 1 of the Bill be amended by deleting the word "technologists" and replacing therefor the word "technology".

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 1 - as amended agreed to

Title - amendment proposed –

THAT, the title to Part II be amended by deleting the words “Engineering Technologists and Technicians” and substituting therefor the words “Kenya Engineering Technology”.

(Chairperson, Departmental Committee on Education, Research and Technology)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Title - as amended agreed to;

Bill to be reported with amendments.

(ii) **The In-Vitro Fertilization Bill (National Assembly Bill No.36 of 2014)**

Clause 3 - agreed to

Clause 4 - amendment proposed –

THAT, Clause 4 of the Bill be amended in sub- clause (1) by deleting the words “In-Vitro Fertilization” and substituting therefor the words “Assisted Reproductive Technology”;

(Hon. (Dr.) James Nyikal)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 4 - as amended agreed to

Clause 5 - amendment proposed –

THAT, Clause 5 of the Bill be amended-

(a) in paragraph (a) by deleting the words “in-vitro human fertilization” and substituting therefor the words “assisted reproductive technology”;

(b) in paragraph (b) by deleting the words “in – vitro fertilization” and substituting therefor the words “assisted reproductive technology”;

(c) in paragraph (c) by deleting the words “in – vitro fertilization” and substituting therefor the words “assisted reproductive technology”;

(d) in paragraph (d) by deleting the words “in – vitro fertilization” and substituting therefor the words “assisted reproductive technology”;

(e) in paragraph (e) by deleting the words "in – vitro fertilization" and substituting therefor the words "assisted reproductive technology";

(f) in paragraph (h) by deleting the words "in – vitro fertilization" and substituting therefor the words "assisted reproductive technology";

(g) in paragraph (i) by deleting the words "in – vitro human fertilization" and substituting therefor the words "assisted reproductive technology";

(h) in paragraph (j) by deleting the words "in-vitro fertilization" and substituting therefor the words "assisted reproductive technology";

(Hon. (Dr.) James Nyikal)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Further amendment proposed –

THAT, clause 5 be further amended by inserting the word "confidential" after the words "establish and maintain"

(Hon. Millie Odhiambo)

Question of the further amendment proposed;

Debate arising;

Question put and agreed to

Clause 5 - as amended agreed to

Clause 6 - agreed to

Clause 7 - amendment proposed –

THAT, Clause 7 of the Bill be amended in paragraph (d), by-

(a) deleting the words "Kenya Medical Board" appearing immediately in sub-paragraph (i) and substituting therefor the words "Kenya Medical Practitioners and Dentist Board";

(b) inserting the following new sub-paragraph immediately aftersub- paragraph (iii)-

"(iv) one man and one woman, who are not affiliated to the organizations appearing in sub-paragraphs (i), (ii) or (iii)."

(Hon. (Dr.) James Nyikal)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 7 - as amended agreed to

Clauses 8, 9, 10, 11, 12, 13, 14 & 15 - agreed to

Clause 16 - amendment proposed –

THAT, Clause 16 of the Bill be amended in Sub-Clause (1) by inserting the words “(1) No act or omission by a member of the Board” immediately before the words “or by” appearing at the beginning of Clause.

(Hon. (Dr.) James Nyikal)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 16 - as amended agreed to

Clauses 17, 18, 19 - agreed to

Clause 20 - amendment proposed –

THAT, clause 20 be amended by deleting the words “In-Vitro fertilization” and inserting the words “Assisted Reproductive Technology” therefor

(Hon. Millie Odhiambo)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 21 - amendment proposed –

THAT Clause 21 of the Bill be amended by deleting the words “in-vitro fertilization” appearing immediately after the words “shall undertake” and substituting therefor the words “assisted reproductive technology”

(Hon. (Dr.) James Nyikal)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 21 - as amended agreed to

Clause 22 - amendment proposed –

THAT, the Bill be amended by deleting Clause 22 of the Bill and substituting therefor the following new Clause-

(Hon. (Dr.) James Nyikal)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 22 - as amended agreed to

Clause 23 - amendment proposed –

THAT, clause 23 of the Bill be amended-

(a) in the marginal note by deleting the words "in-vitro fertilization" and substituting therefor the words "assisted reproductive technology";

(b) in the opening statement by deleting the words "in-vitro fertilization" and substituting therefor the words "assisted reproductive technology";

(c) in paragraph (a) by deleting the words "creating a human being" and substituting therefor the words "human procreation".

(Hon. (Dr.) James Nyikal)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Clause 23 - as amended agreed to

Clause 24 - amendment proposed –

THAT, clause 24 be amended by deleting the words "In-Vitro fertilization" and inserting the words "Assisted Reproductive Technology" therefor

(Hon. Millie Odhiambo)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 24 - as amended agreed to

Clause 25 - amendment proposed –

THAT, Clause 25 of the Bill be amended by deleting the words “purpose of creating a human being that the person reasonably believes will be raised by the donor” and substituting therefor the words “future human procreation by the minor.”

(Hon. (Dr.) James Nyikal)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 25 - as amended agreed to

Clause 26 - agreed to

Clause 27 - amendment proposed –

THAT, clause 27(b) be amended by –

(a) deleting the words “In-Vitro fertilization” and inserting the words “Assisted Reproductive Technology” therefor; and,

(b) deleting the words “unless the services are being provided for the man and woman together and both parties have consented to the treatment” and substituting the words “without his consent” therefor

(Hon. Millie Odhiambo)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 27 - as amended agreed to

Progress Report

Motion made and Question proposed

THAT, the Committee of the whole House do report progress and seeks leave to sit again

(Hon. (Dr.) James Nyikal)

Question put and agreed to.

9. **HOUSE RESUMED** - the Deputy Speaker in the Chair

(iii) **The Engineering Technologists and Technicians Bill (National Assembly Bill No.7 of 2015)**

Bill to be reported with amendments.

Motion made and Question proposed -

THAT, the Engineering Technologists and Technicians Bill (National Assembly Bill No.7 of 2015) be now read a Third Time

(Chairperson, Departmental Committee on Education, Science and Technology)

Question of the Third Reading deferred to another day.

(iv) **The In-Vitro Fertilization Bill (National Assembly Bill No.36 of 2014)**

Progress reported -

THAT, the Committee of the whole House has considered the In-Vitro Fertilization Bill (National Assembly Bill No.36 of 2014) and seeks leave to sit again tomorrow

(Hon. (Dr.) James Nyikal)

Question put and agreed to.

And the time being One O'clock, the Second Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

10. **HOUSE ROSE** - at One O'clock

MEMORANDUM

The Speaker will take the Chair today,
Wednesday, February 24, 2016 at 2.30 p.m.

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