

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 24<sup>th</sup> February, 2016

The House met at 9.30 a.m.

*[The Deputy Speaker (Hon. (Dr.) Laboso) in the Chair]*

### PRAYERS

**Hon. Deputy Speaker:** Obviously, there is no quorum. We need to get the Quorum Bell ringing.

*(The Quorum Bell was rung)*

Hon. Members, we are now properly constituted. We want to start our business.

### MOTIONS

#### THE CLIMATE CHANGE BILL

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

*(Hon. (Ms.) Abdalla on 23.2.2016)*

*(Resumption of Debate interrupted on 23.2.2016)*

**Hon. Deputy Speaker:** Hon. Members, this Motion had already been concluded. What was left was for the Question to be put, and I proceed to do.

*(Question put and agreed to)*

Next Order!

#### ADOPTION OF REPORT ON CRISIS FACING THE SUGAR INDUSTRY IN KENYA

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, 12<sup>th</sup> March 2015.

*(Hon. Nooru on 16.2.2016)*

*(Resumption of Debate interrupted on 18.2.2016)*

**Hon. Deputy Speaker:** Hon. Members, again, this is another Motion that had already been concluded. I, therefore, proceed to put the Question.

*(Question put and agreed to)*

*(Question of the Motion as amended put and agreed to)*

*Resolved accordingly:-*

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, 12<sup>th</sup> March 2015, subject to deletion of Paragraph 101.

**Hon. Deputy Speaker:** Next Order.

#### COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[The Deputy Speaker (Hon. (Dr.) Laboso) left the Chair]*

#### IN THE COMMITTEE

*[The Temporary Deputy Chairman  
(Hon. Cheboi) took the Chair]*

#### CONSIDERATION OF THE SENATE AMENDMENTS TO THE CLIMATE CHANGE BILL

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Members, we are now in the Committee of the whole House to consider the Senate amendments to the Climate Change Bill, National Assembly Bill No.1 of 2014.

**Hon. (Ms.) Odhiambo-Mabona:** On a point of order.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Millie Odhiambo, what is your point order?

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, Hon. Temporary Deputy Chairman. I just want to put this for purposes of record. I am concerned that my Bill was No.2 yesterday and today it is No.3. I have been pushing for it to come. If you notice, it is a Bill from 2014. I just wanted to go on record so that should we not reach it, it will be given priority. I do not understand what the process of the House business is, but I am hoping that we do not consider other factors when prioritising Bills.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Millie, your concerns are in order. Unfortunately, we are in the Committee of the whole House now. You know and you understand, obviously, that we cannot make any major decision, but this Bill will be moving quickly and, therefore, you might be reached. You better be patient. I think we will reach your Bill. Let us proceed quickly so that we can save time which we can utilise in your Bill.

**Hon. Wakhungu:** On a point of order.

**The Temporary Deputy Chairman** (Hon. Cheboi): What is it again, Hon. Minority Whip?

**Hon. Wakhungu:** Thank you, Temporary Deputy Chairman. I did not intend to interrupt you but this is very critical. We have not seen the amendments in the Order Paper. We need to know where these amendments are, so that we can follow the proceedings.

**The Temporary Deputy Chairman** (Hon. Cheboi): The amendments are in circulation now.

**Hon. Wakhungu:** Can someone circulate?

**The Temporary Deputy Chairman** (Hon. Cheboi): Can the Serjeant-at-Arms kindly avail the amendments to those Members who do not have them, starting with Hon. (Dr.) Wamalwa? Please, do that quickly. Let us proceed.

**Hon. Ganya:** On a point of order.

**The Temporary Deputy Chairman** (Hon. Cheboi): We are interrupting debate now. Hon. Ganya, what is it?

**Hon. Ganya:** I have seen the circulated version, but it is not the mediated version.

**The Temporary Deputy Chairman** (Hon. Cheboi): What are you saying?

**Hon. Ganya:** The Temporary Deputy Chairman, I have seen the Senate amendments to the Climate Change Bill, but what we have here are the first ones we got from the Senate. They are not the mediated version. What we have been provided for are not the correct ones.

**The Temporary Deputy Chairman** (Hon. Cheboi): Are you talking about the ones that have been circulated already?

**Hon. Ganya:** That is correct. I have a copy.

**The Temporary Deputy Chairman** (Hon. Cheboi): It is good to clarify. You are talking about the mediated version. Was there any mediation in the first place? Let us hear from the Chairperson of the Committee.

**Hon. (Ms.) Abdalla:** Thank you, Hon. Temporary Deputy Chairman. We have not gone to mediation.

**The Temporary Deputy Chairman** (Hon. Cheboi): I thought so.

**Hon. (Ms.) Abdalla:** We, as a Committee, have three amendments to the version that came from the Senate. So, what he is raising is that our amendments are not listed on the Order Paper. In the interest of time and given that they are only three, we can just proceed with what is in the Order Paper. I will explain each amendment. They are only three and we explained them yesterday.

**The Temporary Deputy Chairman** (Hon. Cheboi): Okay, we will proceed but once we get there, we will expect some good explanation from you, so that Members can be at par. Can we have the Chair speaking to Clause 2?

## *Clause 2*

### *Senate Amendment*

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”.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, the Committee agrees with the proposed amendment because it clarifies the Cabinet Secretary (CS) responsible. This shifts the responsibilities from the Cabinet Affairs CS to the CS responsible for matters relating to climate change. We support.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Let us have Hon. Makenga, the Member for Kaiti.

**Hon. Makenga:** Thank you, Hon. Temporary Deputy Chairman. I rise to support the amendment as it appears in the Order Paper and proposed by the Chair of the Committee.

**The Temporary Deputy Chairman** (Hon. Cheboi): Very well. I will dispose of this one.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,  
put and agreed to)*

*(Senate Amendment to Clause 2 agreed to)*

### *Clause 3*

#### *Senate Amendment*

THAT, Clause 3 of the Bill be amended in Subclause (2) by inserting the word “and” immediately after the word “intergenerational” appearing in paragraph (e).

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, the Committee agrees with the Senate amendment because it is able to differentiate between “inter-generational” and “gender” which had been put together without adding a separation “and”.

We support the amendment.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Very well. Let us have Hon. (Dr.) Wamalwa.

**Hon. Wakhungu:** Hon. Temporary Deputy Chairman. There is no big deal about this amendment. I propose that we just move to the next one. I support because the amendment is just for purposes of clarity.

I thank you.

*(Question, that the word to be inserted be inserted,  
put and agreed to)*

*(Senate Amendment to Clause 3 agreed to)*

*Clause 5  
Senate Amendment*

THAT, Clause 5 of the Bill be amended in Subclause (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;

**Hon. (Ms.) Abdalla:** The Senate Amendment basically adds the Deputy President to be the Vice-Chair of the Climate Change Council. The Committee agrees with the Senate on this matter.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Very well. Let us have Hon. Muluvi, the Member for Kitui East.

**Hon. Muluvi:** Thank you, Hon. Temporary Deputy Chairman. As a member of the Committee, I support the amendment entirely.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Chachu Ganya, do you want to speak to this one?

**Hon. Ganya:** Yes, Hon. Temporary Deputy Chairman. This is a very good amendment. It is the practice in very many jurisdictions. The presidency deals with the issue of climate change because it cuts across many sectors in the Government. So, it is really nice to have the presidency in totality to be in charge of climate change business.

I support fully.

**The Temporary Deputy Chairman** (Hon. Cheboi): Okay. Let us have Hon. Kathuri Murungi, the Member for Imenti South.

**Hon. Murungi:** Thank you, Hon. Temporary Deputy Chairman. I support this amendment because if the President is the Chairman of the National Climate Change Council, and because of the enormous work that he does, in case he is not available, it is important that the Deputy President becomes the Vice Chair. This will ensure that the work of the council will go on. The issue of climate change should be anchored in the presidency because it is now becoming “a do or die” issue in as far as matters of climate change are concerned.

**The Temporary Deputy Chairman** (Hon. Cheboi): Okay. What is it, Departmental Committee Chair? I thought you had spoken to this one.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I just want it to be on record that once we pass this clause, there will be need for a consequential amendment in Clause 7, so that the people who clean up Bills can be aware that by adding the Deputy President, the total number of members to this Council will be 11 and not nine. This is for the purposes of being on record.

**The Temporary Deputy Chairman** (Hon. Cheboi): Okay. Let us proceed.

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Senate Amendment to Clause 5 agreed to)*

*Clause 7*

*Senate Amendment*

THAT, Clause 7 of the Bill be amended—

(a) in subclause (2) by—

(i) deleting paragraph (g);

(ii) 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);

(iii) 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);

(b) in subclause (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)”; and,

(c) in subclause (4) by inserting the words “and the Senate” immediately after the words “the National Assembly”.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Members, we may have to deal with this amendment sub-clause by sub-clause, so that there is clarity. Can we, therefore, start with Clause 7(2)(f)? We will make our submissions and then eventually put the question on all of them.

*Clause 7(2)(f)*

THAT, Clause 7 of the Bill be amended –

(a) in subclause (2) by -

(ii) 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);

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, did you say Clause 7(2)(f) because the first one we have is deletion of subclause (g), which we rejected as a Committee?

**The Temporary Deputy Chairman** (Hon. Cheboi): I thought we could start with “(2) (f), (g) and (h)”.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, the Committee agrees with the Senate Amendment to Clause 7 (2)(f), in that it requires that the institutions of the private sector who were to propose members into the Climate Change Council should be a body representing the largest number of private sector. We agree with that proposal because every time a Bill proposes representation by a body, there is a tendency of new bodies mushrooming to take up

that position. We suggest that, in order to make it more representative, whichever institution is chosen should be one with the most numbers.

We support that amendment.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Now that you seem to be insinuating that you might be having an issue with (g), let us dispose of (f).

So, I put the Question, which is that the Senate amendment to Clause 7(2)(f) be now approved.

*(Question, that the words to be inserted be inserted,  
put and agreed)*

*Clause 7(2)(g)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Departmental Committee Chair, now speak to Clause 7(2)(g).

THAT, Clause 7 of the Bill be amended—

(a) in sub-clause (2) by—

(i) deleting paragraph (g);

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, the amendment to Clause 7(2)(g) is a deletion. The Senate is asking that we remove representatives of the civil society from the Climate Change Council. We disagree with the Senate because unlike the other bodies that I have in the past agreed with in terms of removing the civil society, in the climate change discourse, members of the civil society are major players. Removing them from the council will only serve to weaken the fight against climate change.

Therefore, we oppose and urge that the House opposes this amendment from the Senate.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Let me give an opportunity to Hon. Birdi.

**Hon. (Ms.) Sunjeev:** Thank you, Hon. Temporary Deputy Chairman. This amendment is very simple. As simply and clearly explained by the Chair of the Committee on Environment and Natural Resources to which I belong, the participation of the civil society in the council is very important. In addition, the civil society has a constitutional requirement in participating in all matters of law in this country.

With those remarks, I support.

**The Temporary Deputy Chairman** (Hon. Cheboi): What do you support? Do you support the Senate Amendment for deletion or do you support the Chair of the Committee on Environment and Natural Resources.

**Hon. (Ms.) Sunjeev:** I am supporting the Chair of the Departmental Committee.

**The Temporary Deputy Chairman** (Hon. Cheboi): So, you are actually rejecting the Senate Amendment. Let us have Hon. Maanzo.

**Hon. Maanzo:** Thank you, Hon. Temporary Deputy Chairman. Climate Change is a very important thing. In the past, the civil society was known to deal with matters political. But now with the issue of climate change, the energy and funding is put in place by the civil society. This will be good because climate change is a serious matter in the world today. I support the Departmental Committee Chair and reject the Senate's position that the civil society should not participate in this the council. I am saying that they should.

**The Temporary Deputy Chairman** (Hon. Cheboi): Member for Chuka Igambang'ombe.

**Hon. Njuki:** Thank you, Hon. Temporary Deputy Speaker. At the outset, I oppose this amendment by the Senate. Most of us in politics know the civil society as trouble-makers. Some of the people who bring pigs at the entrance of Parliament are normally sponsored by the civil society. However, the members of the civil society are normally the voice of the voiceless in society. If it were not for the civil society at one particular point in time, we would have had very tall buildings at Uhuru Park. They played a very big role.

For that reason, it is critical to have the civil society there to represent that part of the community that cannot have a voice through any means.

Thank you, The Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Cheboi): Let us have two more Members, starting with Hon. Bishop Mutua. The contributions seem to be having a lot of tilt towards membership from a certain region. Probably they are affected more by climate change. I will have to skip a few of them to balance the contributions in the House.

**Hon. (Bishop) R. Mutua:** Thank you, Temporary Deputy Chairman. At the outset, I oppose the Senate amendment. Any time somebody is in power, he or she thinks that the civil society is a nuisance. But once you are out of power, you will realize what an important role the civil society plays in bringing the desired change in this country. Therefore, the civil society cannot afford to be locked out in this Bill. The civil society plays a very important role in terms of creating awareness, funding and mobilising people into action. So, I do not support the Senate amendment. I support the position of the Chair of the Committee.

**The Temporary Deputy Chairman** (Hon. Cheboi): Let us have Hon. Wanyonyi Reginalda, the Member for Bungoma.

**Hon. (Ms.) R. N. Wanyonyi:** Thank you, Temporary Deputy Chairman. I stand as a member of the Committee to support my Chair and oppose the amendment by the Senate. The civil society plays a very key role in regulating climate change activities, especially in carrying out discoveries, providing innovations and in being change-specific. This is a group of people in a position to effect very small changes as far as climate change is concerned. Balancing the membership to include the civil society, to me, is paramount.

I oppose the Senate amendment and support the Committee's position.

**The Temporary Deputy Chairman** (Hon. Cheboi): Members who want to speak to this particular clause might wait a little because I will give them an opportunity to speak on the other clauses. The last person on this clause is Hon. Wamalwa.

**Hon. Wakhungu:** Thank you, Temporary Deputy Chairman. I rise to strongly oppose the Senate amendment and support the proposal by the Committee. When you look at matters of the environment, the civil society has played a very critical role. In the new Sustainable Development Goals (SDGs), there are specific goals that touch on the environment and matters of climate change. It is important, for purposes of global partnership, that we need to have the



civil society represented. But my question to the Chair is: Where are you going to put the church? As Catholics, we know very well that Pope Francis has been very committed, especially to matters of the environment and climate change. Do we have an option for the church or is the church also coming in at the section of the civil society?

I oppose the Senate amendment. Maybe, the Committee should think about the role of the church.

I thank you.

*(Question, that the words to be left out be left out,  
put and agreed to)*

The Ayes have it and I am surprised. I am fairly surprised, never mind the fact that I hear. So, we will proceed. What it means, hon. Members, is that you have actually opposed all through and Members have proceeded to approve. That is it. For me, I take a neutral position. I put the Question and I am sure you understood. So, it is not my business really to--- For me, it is just to judge the decibels really because the Question has been put, I could hear very loudly hon. Reginalda who had just opposed saying "Aye".

The Chair of the Committee, what is it?

**Hon. (Ms.) Abdalla:** Members, we probably need to have this reconsidered because we have opposed the Senate amendment but, in the voting, you said Aye - meaning that we retain the Senate amendment. The Temporary Deputy Chairman, with your indulgence, I would like that the House reconsiders that vote because we would be---

**The Temporary Deputy Chairman** (Hon. Cheboi): Now, if hon. Members are telling the Chair that they did not understand, let me clarify this: If you vote Aye, in effect you are accepting the Senate amendment. If you vote Nay, then we will be actually supporting the position of the Chair, which is in opposition to the Senate amendment. But as you know, this is something that has gone through. Members simply have to be keen. What could happen is that eventually, if the Chair feels very strongly, she will seek for a re-committal and that will be dealt with.

Let us proceed to the next clause. Members, we must be keen. We will have to follow the rules. There is no short-cut about it. The decision was made by you. If there is any issue that has to be raised--- What is it Hon. Wamalwa?

**Hon. Wakhungu:** The Temporary Deputy Chairman, on a matter like this and in line with Standing Order No. 1 which gives you discretion, I think it would be important for the Chair to do the re-committal right now. It was just an issue of clarification. You can use your discretion so that we can finalize on this matter and then we move on. That is procedural, The Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. J.B. Serut.

**Hon. Serut:** The Temporary Deputy Chairman, re-committal is always at the end of the process. Can you consider re-committal of that particular clause at the end of this particular process?

**The Temporary Deputy Chairman** (Hon. Cheboi): You are right, Hon. Serut. But I will be jumping the gun if I tell you now that I will have it re-committed because it will have to come from a certain procedure, which I am sure the Chair is well aware of. She is a fairly seasoned politician. She has been here for quite a number of terms.

*Clause 7(2)(h)*

THAT, Clause 7 of the Bill be amended –

(a) in subclause (2) by -

(iii) 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);

Let us proceed. I now propose the Question that the Senate amendment to Clause 7(2)(h) be now approved. The Chair, do you have something on this amendment? I will be moving a little faster.

**Hon. (Ms.) Abdalla:** The Temporary Deputy Chairman, the Committee agrees with the Senate amendment because it requires that the representative of marginalised communities is qualified to assist in these matters.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted, put and agreed)*

*Clause 7(3)*

THAT, Clause 7 of the Bill be amended –

(b) 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)”;

**Hon. (Ms.) Abdalla:** The Temporary Deputy Chairman, I propose that we agree with the Senate on Clause 7(3) and we will disagree with the Senate on Clause 7(4). So, on Clause 7(3), it is basically that they are looking for ways of improving the membership in those--- It provides that the members from outside the Executive have some expertise and so, we just do not put individuals without considering expertise. We think that, that is a useful addition.

The Temporary Deputy Chairman, allow me to say something. Now that we have done something wrong on Clause 2(g), we should note that there will be a consequential amendment to this one. But if we re-commit, then this Bill would be okay because it covers 2(g) as well.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Cheboi): All right. Let us have hon. Iringo on this last one. Hon. Iringo, do you want to speak to this one?

**Hon. Kubai Iringo:** Thank you, Hon. Temporary Deputy Chairman. I agree with the Committee and also the Senate amendment to the same.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof)*

*be inserted, put and agreed to)*

*Clause 7(4)*

THAT, Clause 7 of the Bill be amended –  
(c) in Sub-clause (4) by inserting the words “and the Senate” immediately after the words “the National Assembly”.

**Hon. (Ms.) Abdalla:** The Temporary Deputy Chairman, let me speak slowly so that Members do not vote the wrong way. The Senate is adding that they be included in the vetting of members proposed to be in the council, who are not members of the Executive.

We oppose this amendment because it is against the Constitution. Article 95(5)(b) of the Constitution provides that:-

“95(5) The National Assembly-

(b) exercises oversight of State organs.”

Under 96(4), the role of the Senate regarding oversight is limited to the process of the impeachment of the President and the Deputy President. We believe that this would be unconstitutional and would bring unnecessary confusion as we saw with the vetting of the Inspector-General of Police.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Very well, let us have a last one on this. Hon. Chachu Ganya.

**Hon. Ganya:** Thank you, The Temporary Deputy Chairman. As my Chair of the Committee has clearly said, we basically questioned the constitutionality of that clause from the Senate. Terms of vetting are very clear in the role that the Senate and the National Assembly plays. Really, that is our position.

**The Temporary Deputy Chairman** (Hon. Cheboi): Now, you are making your decision Hon. Members. If you vote Aye, it means you are agreeing with the Senate amendments. If you vote Nay, it means you are actually rejecting the Senate amendment.

*Question, that the words to be inserted be inserted,  
put and negated)*

*(Senate Amendment to Clause 7(4) negated)*

*(Senate Amendment to Clause 7(2) (f), (g) (h) and (3) agreed to)*

*Clause 13*

*Senate Amendment*

THAT, Clause 13 of the Bill be amended in subclause (4) by inserting the words “of the Action Plan” immediately after the words “for mainstreaming”.

**Hon. (Ms.) Abdalla:** The Temporary Deputy Chairman, we agree with the Senate amendment because it is providing further clarity.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Mbui, Member for Kathiani.

**Hon. Mbui:** Thank you, Hon. Temporary Deputy Chairman. I do approve and agree with the Committee on the said amendment. I want to urge the House to be keen because I just noticed an error which happened. I was the one who shouted in support of the National Assembly Members who were supporting something they did not agree with.

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Senate Amendment to Clause 13 agreed to)*

*Clause 14  
Senate Amendment*

THAT, Clause 14 of the Bill be amended in subclause (1) by inserting the words “and mitigation against” immediately after the words “adaptation to” appearing in paragraph (a).

**Hon. (Ms.) Abdalla:** Thank you, Hon. Temporary Deputy Chairman. The Committee agrees with the Senate because it has included mitigation in action plans. In the past, it was left out. We believe that this is a good amendment.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Let us have the Hon. Member for Kimilili.

**Hon. Kasuti:** Thank you, Hon. Temporary Deputy Chairman. I rise to support because this is going to be good in the work plan. So, there is no much value; we just have to agree.

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Senate Amendment to Clause 14 agreed to)*

*Clause 17  
Senate Amendment*

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

**Hon. (Ms.) Abdalla:** The Committee agrees with the Senate amendment because it is giving a better word than the one we had which replaces “give” with “prescribed”. It gives a better intention of the clause.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Very well. Member for Kaiti.

**Hon. Makenga:** Thank you, Temporary Deputy Chairman. I support the Senate amendment. I think this amendment gives more clarity and meaning.

*(Question, that the word to be left out be left out,  
put and agreed to)*

*(Question, that the word to be inserted in place thereof  
be inserted, put and agreed to)*

*(Senate Amendment to Clause 17 agreed to)*

*Clause 32  
Senate Amendment*

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

**Hon. (Ms.) Abdalla:** The Temporary Deputy Chairman, the Committee disagrees with the Senate and rejects its amendment. The import of the Senate amendment is that it is increasing the fine for disobeying an order by the Council from Kshs1 million to Kshs10 million.

This order by the Council to industries would be punitive to the industries that need to pay that fine, especially given that the industries we are dealing with are mainly small to medium scale. This figure is punitive. They did nothing to the jail term. They left it as it was but increased the fine to Kshs10 million. We oppose because we feel that this would be detrimental to the expansion of industrialisation in our country.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Cheboi): I will give the Floor to one Member and that is the Member for Kitui East.

**Hon. Muluvi:** Thank you, Hon. Temporary Deputy Chairman. I support my Chair on the same. If we lift the fine from Kshs1 million---

**The Temporary Deputy Chairman** (Hon. Cheboi): What have you said? You support?

**Hon. Muluvi:** I support the rejection by the Chair. I am rejecting because raising the fine from Kshs1 million to Kshs10 million is punitive and that will now be muzzling the small industries. That is why I support my Chair.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Members, again be very keen. Make the decision one way or the other. Voting Aye, as I told you earlier, would be accepting the Senate’s proposal. Voting Nay will be supporting the rejection as proposed by the Chair.

*(Question, that the word to be left out be left out,  
put and negated)*

*(Senate Amendment to Clause 32 negated)*

*Clause 35  
Senate Amendment*

THAT, Clause 35 of the Bill be amended in subclause (1) by deleting the word “may” appearing immediately after the words “Cabinet Secretary” and substituting therefor the word “shall”.

**Hon. (Ms.) Abdalla:** The Temporary Deputy Chairman, we agree with the Senate. They are just making it mandatory for the Cabinet Secretary to consult the council when making regulations.

*(Question of the amendment proposed)*

**Hon. Kubai Iringo:** Thank you, Hon. Temporary Deputy Chairman. I support the amendment because it is important that when decisions are being made, they should not be unilateral. They should be all-inclusive and, therefore, consulting the Cabinet Secretary consulting the council is very important.

*(Question, that the word to be left out be left out,  
put and agreed to)*

*(Question, that the word to be inserted in place thereof  
be inserted, put and agreed to)*

*(Senate Amendment to Clause 35 agreed to)*

*New Clause 25A  
Senate Amendment*

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

Incentives for the promotion of climate change incentives	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.

**Hon. (Ms.) Abdalla:** The Committee agrees with the Senate's new subclause. Basically, they are introducing incentives by Government to individuals and institutions that are promoting climate change. We think that those incentives will go a long way to promote clean environment. It is something we have been urging even under the Environmental Management and Coordination Act (EMCA), so that industries that adhere to environmental positive activities are given incentives.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Let us have Hon. Bishop Mutua.

**Hon. (Bishop) R. Mutua:** Thank you, Temporary Deputy Chairman. I support this new clause. By offering new incentives, you will motivate companies and individuals to be innovative and creative so that we can tackle the issue of climate change positively.

I support the amendment.

*(Question, that the new clause be added to the Bill, put and agreed to)*

*(Senate Amendment to New Clause 25A agreed to)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. (Ms.) Abdalla, I understand that you want to recommit some clauses. Unfortunately, due to circumstances beyond our

control, we cannot do it now. You will have to be a little patient. After we finish considering the next Bill, you will have an opportunity.

We will move on to the Basic Education (Amendment) Bill (National Assembly Bill No.35 of 2014). I can see the Chairperson and the Vice-Chairperson of the Committee are both here and so, we will move quickly.

THE BASIC EDUCATION (AMENDMENT) BILL

**The Temporary Deputy Chairman** (Hon. Cheboi): Order, Members! I am consulting with the Clerks-at-the-Table. Kindly give us one minute.

Hon. Members, we are now dealing with the Basic Education (Amendment) Bill (National Assembly Bill No.35 of 2014). Hon. Members should note that the passage of Clauses 4(a),5(2)(b) and New Clause 25D shall convert this Bill to one that concerns county governments, with all the other consequences that will follow. Therefore, Hon. Members, you have to be very keen.

*Clause 3*

**The Temporary Deputy Chairman** (Hon. Cheboi): Why have you not inserted your card in the intervention slot, Hon. Chair? Do you not have it?

**Hon. (Ms.) S.W. Chege:** No, I do not have it.

**The Temporary Deputy Chairman** (Hon. Cheboi): Allow us to locate the specific chair you are seated on. Hon. Members, we are considering Clause 3.

**Hon. (Ms.) S.W. Chege:** The Temporary Deputy Chairman, I beg to move:-

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 sub-section—

(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 implementation of projects and programs in collaboration with the county government and other stakeholders;
- (f) establish and maintain a disaggregated data bank on learners, teachers and all service providers in institutions of basic education and training in the county;
- (g) vet nominees for board of management members and managers for private institutions;
- (h) compile a priority list of schools infrastructural development annually within the county and send to the National Education Board;
- (i) transfer and discipline learners and non-teaching staff employed by Board of Management;
- (j) 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;
- (k) coordinate adult and continuing education programs in the county;
- (l) 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
- (m) perform such other functions as may be necessary for the promotion of basic education under this Act or any other written law.”

**Hon. (Ms.) Odhiambo-Mabona:** On a point of order, Temporary Deputy Chairman.

**Hon. (Ms.) S.W. Chege:** The Temporary Deputy Chairman, do I have to read the entire amendment from the Order Paper?

**The Temporary Deputy Chairman** (Hon. Cheboi): You can just state that you are moving the amendment as it appears on the Order Paper. The Hon. Members have the Order Paper.

**Hon. (Ms.) S.W. Chege:** Thank you, Temporary Deputy Chairman. That is what I was consulting on with the Chair. Thank you, Hon. Millie.

**The Temporary Deputy Chairman** (Hon. Cheboi): Why are you thanking Hon. Millie?

**Hon. (Ms.) S.W. Chege:** Because she was raising a point of order instead of advising me.

**The Temporary Deputy Chairman** (Hon. Cheboi): How did you notice that? I did not notice that myself. It is not your business to notice such.

*(Laughter)*

**Hon. (Ms.) S.W. Chege:** She is my sister and so, I notice a lot.

**The Temporary Deputy Chairman** (Hon. Cheboi): You should not notice Hon. Millie even though your dresses are of the same colour.

**Hon. (Ms.) S.W. Chege:** We are both in blue.

**Hon. (Ms.) Odhiambo-Mabona:** We are wearing the same colour.

**The Temporary Deputy Chairman** (Hon. Cheboi): We are now considering Clause 3. We had jumped the gun.

*(Question of the amendment proposed)*

I will give the first chance to Hon. Mwaura. Do you want to speak to this Hon. Mwaura? Hon. Mwaura has left. Let us have Hon. Cecilia Ngetich.

**Hon. (Ms.) Ngetich:** Thank you, Hon. Temporary Deputy Chairman. I am a member of that Committee. This section, as amended, provides the details of the functions of the County Education Board.

I support the amendment.

**The Temporary Deputy Chairman** (Hon. Cheboi): Let us have Hon. Millie Odhiambo, now that you both have a similar dress code.

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, Hon. Temporary Deputy Chairman. I support the proposed amendment. I missed your earlier rider about clauses that will convert this Bill to one that concerns county governments. I do not know if this clause relates to that. But in terms of its content in that it ensures that children are better protected, I support it. I just wanted to find out whether this is one of the clauses that you had earlier spoken about.

**The Temporary Deputy Chairman** (Hon. Cheboi): No. This is not one of the clauses, Hon. Millie. Let me clarify again. Passage of Clauses 4(a), 5(2)(b) and New Clause 25D shall convert the Bill to one that concerns county governments. It is in the Order Paper. Look at the Order Paper. That statement was just for Members to take note.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,  
put and agreed to)*

*(Clause 3 as amended agreed to)*

#### *Clause 4*

**Hon. (Ms.) S.W. Chege:** The Temporary Deputy Chairman, I beg to move:-  
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”

Currently, even if this clause touches on the counties, the formation of county education boards still includes both national Government and county government officials. The purpose of the amendment is to ensure that the county education board is lean for ease of decision-making.

The inclusion of the county executive in charge of education is to ensure that the Bill expressly indicates which officer from the county government should sit on the county education board. Currently, the county government was supposed to have a representative sitting on the board, but there was no indication of who in the county government should sit in the board. The County Executive Director in charge of education may then decide who to represent him or her on the county education board.

The inclusion of the Kenya Conference of Catholic Bishops in the county education board is in recognition of the immense role it has played in the development of education in this country.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Clause 4 (b) is very specific. I am sure Hon. Wamalwa will be listening keenly. I will give the first opportunity to the Hon. Member for Buuri.

**Hon. Kinoti:** Thank you, Hon. Temporary Deputy Chairman. I rise to support the amendment and thank the House for adopting Clause 3 of the Bill. The amendment to develop a data bank for needy students is a Motion that I brought to this House in 2013. I would like to support Clause 4 of the Bill because, as much as we want to incorporate the county government in the county education board, we must be clear that it should be the county executive for education. Otherwise, we may give the county government a blank cheque to nominate other individuals who may not add value to our education system.

Secondly, I wish to support section (b) and thank the Committee for recognising that the church is a key driver of education in this country. Some of the leading schools we have in the country are church-sponsored and, therefore, incorporating the Kenya Conference of Catholic Bishops is a milestone in the progress of education in this country.

I beg to support.

**The Temporary Deputy Chairman** (Hon. Cheboi): Let me see if Hon. Mwaura is ready on this particular amendment. I have called you a few times but you were not ready.

**Hon. Mwaura:** The Temporary Deputy Chairman, I was still mooting, but I am now okay. I support the amendment on the county executive committee and note that there is a representative of persons with disabilities.

The Temporary Deputy Chairman, when you look at the substantive law in Subclause 4, it states that a Member of Parliament from the respective county may attend the meetings. I need your guidance on this even if it is not before this House. What is the constitutionality of this?

**The Temporary Deputy Chairman** (Hon. Cheboi): Which particular one Hon. Mwaura?

**Hon. Mwaura:** In the main Act. It is not part of the amendment but part of Clause 4.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Mwaura, let us deal with the amendments for now because I do not have the benefit of having looked at the Act as it is now. Let us first deal with the amendments and then raise those other issues later. There is quite a lot

of interest in this amendment. I do not know whether it is specifically to this. Hon. Gunga Mwinga, Member for Kaloleni.

**Hon. Chea:** Thank you, Hon. Temporary Deputy Chairman. I wish to support this amendment for two reasons: First, it brings clarity in terms of allowing the county government to participate. Secondly, it provides an opportunity for mass stakeholders to participate in the issues of education.

For those two reasons, I support.

**The Temporary Deputy Chairman** (Hon. Cheboi): I will now put the Question---

*(Hon. Dawood consulted loudly)*

Hon. Dawood, the next amendment is about the same thing. So, you will have the first shot. I can see you are making one finger salute, which is very tempting for the Chairman at this point in time.

Hon. Members, why do we not dispose of this? You will have an opportunity to contribute in the next amendment. I will give an opportunity to three Members and they have to be brief. Hon. Dawood, Member for North Imenti.

**Hon. Dawood:** The Temporary Deputy Chairman, Paragraph (b) talks about Muslim Education Council. That council does not exist. The Hindu faith has not been represented. I am a Muslim, but the Hindu faith has not been represented in these amendments.

**The Temporary Deputy Chairman** (Hon. Cheboi): I thought the amendments were specific. They were only introducing the county executive committee and the Kenya Conference of Catholic Bishops. I do not want us to get into the main Act. If there would be anybody who is interested in an amendment, there is a process you can follow. The Act, as exactly what you are saying, probably should not have been there. The best way would have been to amend it.

Hon. Dawood, much as I feel what you are saying, unfortunately it is not before us. We are dealing with what is before us. What is before us is whether we support the county executive committee and the Kenya Conference of Catholic Bishops. The Muslim fraternity is already placed in that particular organisation which you say is probably not recognised. I will allow the last Member to speak on this. I will allow Hon. Wamalwa because I could see he was very interested in this amendment.

**Hon. Wakhungu:** Thank you, Hon. Temporary Chairman. I would like to thank the Committee and, particularly, the Chairlady, Hon. Sabina Chege, for coming up with this amendment. The Catholic Church has played a critical role when it comes the education system in this country.

For my friend, Hon. Dawood, we are particularly talking about the amendment. It is unfortunate that the Muslim Education Council does not exist. But my assumption is that it already exists. The good thing you can do is to bring an amendment so that we can put the right term of the body that already exists. For these two particular amendments, I would like to briefly talk about the county executive committee.

Hon. Temporary Deputy Chairman, we need your guidance because when you look at the Fourth Schedule of the Constitution, particularly on matters to do with primary and secondary schools, they are functions of the national Government. I do not see the value or constitutionality of bringing in county executive committee just like the counties do not involve the national Government in whatever work they do. In this case, this Act is particularly touching on the

schools which are a national Government function. What value will it add to have the county government come in and yet, that function is not theirs? Is it just for the purposes of know-how or what value is it adding? The Fourth Schedule of the Constitution is very clear about this. I would like the Chairlady to clarify that.

**The Temporary Deputy Chairman** (Hon. Cheboi): I will give more time on this because it is the one we indicated earlier that if passed, it will convert this Bill into one that concerns the counties. It is one of the four clauses that we are talking about. I will give an opportunity to Hon. Kathuri, Hon. Melly and then get back to the Chairlady.

**Hon. Murungi:** Thank you, Hon. Temporary Deputy Chairman. My concern is what Hon. Wamalwa has stated. This is informed by Clause 3 because according to this amendment, the County Education Board is supposed to handle youth polytechnics and primary schools. Is it that we are now taking the responsibility of the county government through this amendment or the Bill? It should be re-looked at. It is unconstitutional to pass such an amendment in Clause 3 because the national Government is not bothered with youth polytechnics. It is the work of the county governments.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Members, as I give you the opportunity to ventilate on this, we will now separate the two sub-clauses. We will deal with the first one that will be dealing with county executive committees and the next one which is bringing in the Catholic Church. That is the position so that you can make your decision one way or the other. I will now give the Floor to Hon. Melly.

**Hon. Melly:** Thank you, Hon. Temporary Deputy Chairman. I rise to support the amendments especially the inclusion of the county executive in charge of education. The reason we saw it fit to include the county executive in charge of education was because education issues should be seamlessly joined together. The county governments and the national Government are serving the same citizens of this country. The fact that Hon. Wamalwa was indicating that we exclude the county governments will not augur well with the running of education in the counties. The County Education Secretary is in charge of Early Childhood Development (ECD) and polytechnics and, therefore, the need to have the secretary in the board. As you know, the national Government is in charge of running the policy on ECD and polytechnics at the national Government. It is important and paramount to have the county executive in charge of education to be a member of the County Education Board and Sub-county Education Board.

**The Temporary Deputy Chairman** (Hon. Cheboi): Okay, Hon. Members, now make your decision, one way or the other. Let us have Hon. Ore, Member for Wajir West. That will be the last one on this one. I can see quite a number of Members interested in speaking. Let us have your input in terms of the decision and voting.

**Hon. A.O. Ahmed:** Thank you, Hon. Temporary Deputy Chairman. On the issue of whether the Muslim Education Council exists, it does. But the question is whether it is the right representation and as you said, we cannot discuss that here.

Concerning the county executives in charge of education, there is a very big concern. We need to be very clear on this. As it is, we are having a lot of issues with the counties in terms of their mandates and their roles. As we amended the Constituencies Development Fund (CDF) Act, it was very clear what we are supposed to do. But now, at the county level, their role is not clear. They go into education issues without any limitation. Having the county executives there and knowing very well that their role is limited to Early Childhood Development (ECD) does not augur well. This is something we need to be very clear about even if it means going ahead and

having representation of the Member of Parliament or his representative. That is something that we should merge the county and the national Government.

**The Temporary Deputy Chairman** (Hon. Cheboi): Okay, Hon. Members, we cannot take too much time on this. We will now proceed and make a decision. If you vote Aye, just for clarity purposes, the county executive will be involved in the County Education Board. Let us make the decision on this, Hon. Chair. So, if you vote Aye, we will involve the county executive committee in the County Education Board. If we vote Nay, it means, therefore, we will be rejecting it. So, I proceed to put the Question.

*(Loud consultations)*

Okay, what is it Chair? It has to be brief.

**Hon. (Ms.) S. W. Chege:** Thank you, Hon. Temporary Deputy Chairman.

*(Loud consultations)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Order, Members!

**Hon. (Ms.) S.W. Chege:** Hon. Temporary Deputy Chairman, I just want to clarify something before we vote. Even if we vote no, the county government will still be there. It is only that we have not said who is going to be there. What the Committee did was to say, for clarity, who is supposed to in the board. Currently, the County Education Board and the county government are in it. If we vote no, we will still have them, but we will not have said who. That is the position. It is just for the Members to know. So, we are not introducing it. It is something that already exists.

**The Temporary Deputy Chairman** (Hon. Cheboi): I can see there is a lot of interest in this. There are too many Members who want to speak to this. We might take too long on it. Let us have the County Member for Vihiga.

**Hon. (Ms.) Kedogo:** Hon. Temporary Deputy Chairman, the county executive committee must be there because we have the ECD which is already devolved. So, they should be there, so that they can know what is being done in education. On Muslim Education Council, we consulted and it is in place. So, we feel we did our work well.

Thank you.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Amina, the last one.

*(Hon. Mbui consulted loudly)*

Hon. Mbui, please, hold your horses.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, mine is a suggestion. I have a different vote for each of these two amendments. I do not support the county executive committee, one, because I do not want this Bill to go to the Senate. But I support the inclusion of the Catholic Church. When you lump them, you are making my vote inconsequential.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Amina, we have clarified that. We are saying that we will be voting for each separately. Since, Hon. Mbui is top on the list and I can see he wants to contribute, have a brief one and then we will put it to vote. Hon. Mbui.

**Hon. Mbui:** Thank you, Hon. Temporary Deputy Chairman. My concern is that when you look at the changes made in Clause 3 and then Clause 4, I see the need to have the county executive committee in Clause 4 because in Clause 3, we have put in youth polytechnics and ECD centres.

On the basis of the Basic Education (Amendment) Bill, I do not know why we are mixing the county and national Government functions. We could have had a Bill that has only national Government functions, which is clearly articulated by the County Education Board and another separate one for the CEC and his people. There is a mix up in this law.

**The Temporary Deputy Chairman** (Hon. Cheboi): Okay, Hon. Members, you will make your decision. We will start with the first one and you will vote as per your position.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,  
put and agreed to)*

*(Clause 4(a) as amended agreed to)  
(Hon. Kinoti ululated)*

Hon. Gatobu, I might take very punitive measures against you. If you have won the battle, you cannot really ululate in the Chamber. So, let us proceed to the next one.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,  
put and agreed to)*

*(Clause 4(b) as amended agreed to)*

*(Clause 4 as amended agreed to)*

Hon. Gatobu, you know that you cannot keep changing your voice from bass to soprano because it confuses the Chair, please.

*(Laughter)*

*Clause 5*

**The Temporary Deputy Chairman** (Hon. Cheboi): We will now move a bit quickly. Hon. Sabina Chege.

**Hon. (Ms.) S. W. Chege:** Thank you, Hon. Temporary Deputy Chairman.  
I beg to move:-

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 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.

The new Clause is intended to further decentralise the management of education and to bring it closer to the sub-county. In the mother Act, the sub-county education board was not recognised and the role of the Member of Parliament was not also recognised. The sub-county education board is expected to provide reports to the county education board which is then expected to provide the same information to the National Education Board who will in turn advise the Cabinet Secretary for Education, Science and Technology on priorities and necessary policies.

This clause will also touch the county because already the constitution of the County Education Board has members of the county assembly who are part of the County Education Board. This is also goes to the sub-county. It is also important to note that polytechnic as per Schedule IV of the Constitution and the ECDs are part of the management of education that is done by the county government.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Cheboi): There are quite a number of Members who are interested in speaking. I am trying to pick those who have not spoken. Let us start with Hon. Grace Kiptui. She is absent. Let us have Hon. Daniel Nanok, Member for Turkana West.

**Hon. Nanok:** Thank you, Hon. Temporary Deputy Chairman. Even as I make my contribution, I have heard the Chair of the Departmental Committee on Education, Science and Technology mention that this particular amendment recognises the role of the Member of Parliament, but looking at it, I do not see where the Member of Parliament is. Maybe that is something that we will need clarification.

It is right and proper that education decentralisation be made effective by having the sub-county education office under the Board. That way, we are able to manage our education processes at a manageable and lower level than the counties. Actually, when you look at the operations currently, the county education boards which are now supposed to run education at the counties are unable to function effectively without the sub-county education boards. When we introduce the sub-county education boards, a lot of the processes and requirements in

education are going to be met faster. Decisions will be made faster. This is what we desire to have in our education system.

I support the amendment.

**The Temporary Deputy Chairman** (Hon. Cheboi): We have to be brief, Hon. Nanok, because this is not debating time. I will give a chance to one eminent Educationist, Hon. Ombaka.

**Hon. (Ms.) Ombaka:** Thank you for this opportunity. The boards are a very good representation at the county level because they are quite relevant and very close to the people. I support this amendment because this is the right representation.

**The Temporary Deputy Chairman** (Hon. Cheboi): Member for Matayos, Hon. Odanga.

**Hon. Odanga:** Thank you, Hon. Temporary Deputy Chairman. The inclusion of the Sub-County Education Boards is very important because they have existed since Independence. There was no good justification why they have been left out by the 2013 Act. They are very important because they are close to us. We shall make decisions easily and quickly.

**The Temporary Deputy Chairman** (Hon. Cheboi): Lastly, let us have Hon. Kisoi, Member for Mbooni.

**Hon. Kisoi:** Thank you, Hon. Temporary Deputy Chairman. I support the amendment because there is good stakeholder representation in this matter. Obviously, the essence of the new Constitution is to devolve most functions to the lowest level. Therefore, this will ensure that the functions that are supposed to be done solely at the county level are devolved to the sub-county level. This will give an opportunity for representation, proper and effective action at the sub-county level.

I support the amendment.

**The Temporary Deputy Chairman** (Hon. Cheboi): We will put the Question on this particular amendment proposed by the Chair of the Departmental Committee on Education, Research and Technology, but we still have another one by the Member for Baringo Central. Can we first quickly dispose the first one and then we go to the next?

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Let us have the Member for Baringo Central, if he is in the House. In his absence, it is, therefore, dropped.

*(Proposed amendment by Hon. Mwaita dropped)*

*(Clause 5 as amended agreed to)*

*(Clause 6 agreed to)*

*Clause 7*

**The Temporary Deputy Chairman** (Hon. Cheboi): Order, Hon. Members. Allow us to make some consultations here. We noticed that there is an amendment to this clause. Let us have the Committee Chair prosecute her amendment.

**Hon. (Ms.) S. W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-

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.”

This amendment is intended to ensure that the role of the sponsor is only meant to give proposals in curriculum review. This will give the Teachers Service Commission (TSC) independence to operate.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Let me give an opportunity to Hon. Cecilia Ng’etich.

**Hon. (Ms.) Ng’etich:** Thank you, Hon. Temporary Deputy Chairman. I support this amendment because it clarifies the original one. I am a Member of that Committee and, indeed, this is meant to make it clearer so that it can be understood.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Nyamai.

**Hon. (Ms.) R. K. Nyamai:** Thank you, Hon. Temporary Deputy Chairman. I also rise to support the amendment because it gives more room for participation in terms of matters regarding the syllabus. It also emphasises the fact that education changes. It is not static. It gives an opportunity for people to participate. I feel that sub-clause (e) is important because it gives the sponsor a higher role beyond what it is in the initial draft.

Thank you.

*(Question, that the words to be left out be left out,*

*put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 7 as amended agreed to)*

*Clause 8*

**Hon. (Ms.) S. W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-  
THAT the Bill be amended by deleting Clause 8.

The amendment may not be attainable since it will be a huge financial burden to the Ministry. Free primary education only covers public schools. Attending private school is a choice, hence persons willing to attend private schools should support themselves. The Government provides free primary education and free day secondary education for public schools.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Cheboi): Let us start with Hon. Iringo.

**Hon. Kubai Iringo:** Thank you, Hon. Temporary Deputy Chairman. I support the deletion of Clause 8 because it might be unattainable. Getting the statistics and the funds to do the same might be unattainable.

**The Temporary Deputy Chairman** (Hon. Cheboi): Let us have the Member for Kiminini.

**Hon. Murungi:** On a point of order, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Cheboi): What is your point of order, Hon. Kathuri?

**Hon. Murungi:** Thank you, Hon. Temporary Deputy Chairman. I did not hear the Committee Chair moving amendments to Clause 7 (b) and (c). She only moved amendments to Clause 7 (a). These are also amendments. I am not sure whether she moved them together.

**The Temporary Deputy Chairman** (Hon. Cheboi): We dealt with the entire Clause 7.

**Hon. Murungi:** She should have explained the import of some of the amendments.

**The Temporary Deputy Chairman** (Hon. Cheboi): Member for Imenti South, that is now water under the bridge. We have finalised that. Let us proceed with the Member for Kiminini.

**Hon. Wakhungu:** Thank you, Hon. Temporary Deputy Chairman. As I support this amendment, I agree with the Member for South Imenti that when the Committee Chair moves amendments, she must explain the import of all the clauses. What he said is true.

**The Temporary Deputy Chairman** (Hon. Cheboi): The beauty of this whole issue is that we have the Order Paper with us. Those amendments are there. She could easily have said that she is seeking to move the amendment as per the Order Paper. It is for Members to look at them keenly.

If you were to oppose or support, you would be doing it on the basis of knowledge, Member for Kiminini.

**Hon. Wakhungu:** Hon. Temporary Deputy Chairman, I agree with you.

**The Temporary Deputy Chairman** (Hon. Cheboi): Let us not go to that amendment anymore. Proceed with the next one.

**Hon. Wakhungu:** Thank you, Hon. Temporary Deputy Chairman. I support the issue of private and public sectors because it is good to be specific. We have scenarios where people go to the private sector and still expect much, especially from the CDF. When you go to the private sector, it is assumed that you can afford. So, you do not have to come back to public institutions.

So, I agree and support the Chairperson.

**The Temporary Deputy Chairman** (Hon. Cheboi): Let us hear Hon. (Prof.) Nyikal.

**Hon. (Prof.) Nyikal:** Thank you, Hon. Temporary Deputy Chairman, for giving me an opportunity to contribute. I stand to support this amendment. The business of the Government is to improve public schools, so that we can get to the situation we were in not many years ago when public schools were the best and people did not see the need to go to private schools. If we now start supporting private schools and putting money there, it would be taking money from the poor and giving it to the rich.

I support the amendment.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Clause 8 deleted)*

*(Clauses 9 and 10 agreed to)*

#### *Clause 11*

**Hon. (Ms.) S.W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-

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”.

The amendment is meant to ensure that in the event the school management wishes to hold back a learner with a view to improving her performance, it should be done in consultation with the parents or the guardian.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Cheboi): I will start with Hon. Dawood.

**Hon. Dawood:** Thank you, Hon. Temporary Deputy Chairman, for giving me an opportunity to contribute. I support the amendment by the Chairperson of the Departmental Committee because many times schools hold back students. They do not allow them to progress to the next class. That affects their morale. So, I believe they need to speak to parents as well as

to the student to establish if he or she is willing to stay back. There is no point in holding somebody back when he or she is not willing.

With those few remarks, I support the amendment.

**The Temporary Deputy Chairman** (Hon. Cheboi): Okay, let us have the Member for Balambala.

**Hon. Aden:** Thank you, Hon. Temporary Deputy Chairman. I support this particular amendment because some students fail exams not necessarily as a result of being dull or unable to cope with the workload, but as a result of other reasons. They are then forced to repeat classes. Sometimes this kills the morale of the students in the sense that a younger generation they had left behind catches up with them. That is something which kills an individual's spirit.

These days schools are commercial oriented. Some schools might even make children to repeat a class just because they want to have more students remaining behind, so that they can collect more fees. It is very important to have the consent of the parent and the student before a child is made to repeat a class.

**The Temporary Deputy Chairman** (Hon. Cheboi): Hon. Kipchoim, did you remove your card?

**Hon. (Ms.) Kipchoim:** Thank you, Hon. Temporary Deputy Chairman, for giving me the opportunity to contribute. I want to support the amendment. Most of the students are made to repeat classes. Teachers have that tendency. We say "no" to such rules unless parents and guardians accept.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,  
put and agreed to)*

*(Clause 11 as amended agreed to)*

#### Clause 12

**Hon. (Ms.) S.W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by deleting Clause 12 and substituting therefor the following new clause—

Amendment of section 39 of No.14 of 201.3	(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 mobilise
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resources for the provision of bursaries to deserving but needy students”;

The amendment is meant to ensure that the Cabinet Secretary for Education, Science and Technology is duty-bound to seek ways and means of ensuring that bright and needy children are supported to complete education. The Constitution gives the right to free and compulsory equal education to all learners. Hence, learners should not drop out of school on account of lack of financial capacity.

The Cabinet Secretary should ensure that he works closely with the county and sub county education boards and all stakeholders to provide funds to support needy students who have passed and are not able to join high school. There must be a proper vetting process of needy children, which should be done in collaboration with all the other stakeholders including the local administration. This will ensure that only genuine needy students are targeted and helped to attain basic education.

*[The Temporary Deputy Chairman  
(Hon. Cheboi) left the Chair]*

*[The Temporary Deputy Chairman  
(Hon. Kajwang') took the Chair]*

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang'): Hon. Members, I have a long list of requests. Is this the order in which you want to debate Clause 12? Member for Kathiani, do you have something on Clause 12?

**Hon. Mbui:** Yes, Hon. Temporary Deputy Chairman. I thank you for giving me the opportunity to contribute. I support this amendment. It is important because we go through this every year. When the Kenya Certificate of Primary Education examination results are announced at the end of every year, many of the students who get Form One placements in national schools are from poor families. I support the amendment, so that we can look for money. Unfortunately, the CDF is not one of the stakeholders that have been listed in this Bill yet most of the national Government CDF monies go to education. I would have preferred to see the national Government CDF listed as one of the stakeholders.

**The Temporary Deputy Chairman** (Hon. Kajwang'): All right. I do not know the mood in which you were in before I came in. However, I am tempted to think that if you are in support, then you let us move fast, so that we only hear some burning discussions if you are in opposition. If you are going to support by debating, then we will be in the Second Reading yet this is the Third Reading. So, Member for Kiminini, if you support, you do not have to rise. How do I know those who are objecting?

*(Hon. Mwaura stood up in his place)*

The Nominated Member, Hon. Mwaura is objecting.

**Hon. Mwaura:** Thank you, Hon. Temporary Deputy Chairman. I rise to oppose these amendments for very obvious reasons. The clause is unattainable. Even when you have

enumerated the people who are supposed to act to provide such support, I do not think it can be done. In any case, there already exist the Ministry of Education, Science and Technology bursaries and other forms of bursaries which go to needy students.

I also wonder whether we are over-legislating. In my opinion, some of these things should fall under regulations and not the substantive law.

I oppose.

**The Temporary Deputy Chairman** (Hon. Kajwang): All right. Having supported and opposed, I put the Question.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 12 as amended agreed to)*

### Clause 13

**Hon. (Ms.) S.W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-  
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.”

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*



*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 13 as amended agreed to)*

*Clause 14*

**Hon. (Ms.) S.W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-  
THAT, the Bill be amended by deleting Clause 14.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Clause 14 deleted)*

*Clause 15*

**Hon. (Ms.) S.W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-  
THAT, the Bill be amended by deleting Clause 15.

The justification is to retain the provision by the parent Act. The previous deletion is also to retain what is in the parent Act.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Clause 15 deleted)*

*Clause 16*

**Hon. (Ms.) S.W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-  
THAT, the Bill be amended by deleting Clause 16 and substituting  
therefor the following new Clause—

Amendment of  
Section 40 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;”

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 16 as amended agreed to)*

#### Clause 17

**Hon. (Ms.) S.W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by deleting Clause 17.

This is also to retain what is provided by the parent Act.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Clause 17 deleted)*

#### Clause 18

**Hon. (Ms.) S.W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by deleting Clause 18.

This is also to retain what is provided by the parent Act.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Clause 18 deleted)*

*Clause 19*

**Hon. (Ms.) S.W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-  
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)”.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,  
put and agreed to)*

*(Clause 19 as amended agreed to)*

*Clause 20*

**Hon. (Ms.) S.W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-  
THAT, the Bill be amended by deleting Clause 20.  
This is also to retain the provision in the parent Act.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Clause 20 deleted)*

*Clause 21*

**Hon. (Ms.) S.W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-  
THAT, the Bill be amended by deleting Clause 21.  
This is so as to retain what is provided by the parent Act.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Clause 21 deleted)*

*New Clause 18A*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Member for Garissa Town. The Member is not present though desiring to contribute. Therefore, that amendment is hereby dropped.

*(Proposed amendment to New Clause 18A by Hon. A.B. Duale dropped)*

Next clause.

*Clause 2*

**Hon. (Ms.) S.W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-

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”.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,  
put and agreed to)*

*(Clause 2 as amended agreed to)*

*(Title agreed to)*

*(Clause 1 agreed to)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): All right. That will be the end of The Basic Education (Amendment) Bill, No.35 of 2014. We move to the next Bill on the Order Paper.

This is the Engineering Technologists and Technicians Bill, Bill No.7 of 2015. Hon. Mover, we were to proceed to the next Bill, but I understand you have an intervention. Yes, Chairperson what is your intervention?

**Hon. (Ms.) S.W. Chege:** Hon. Temporary Deputy Chairman, I did not have any intervention. I wanted to proceed with the next stage.

**The Temporary Deputy Chairman** (Hon. Kajwang’): I have been informed that you have an intervention. Can you proceed?

**Hon. (Ms.) S.W. Chege:** Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Basic Education (Amendment) Bill (National Assembly Bill No.35 of 2014) and its approval thereof with amendments

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Chairperson of the Departmental Committee on Environment and Natural Resources, I also understand you have an intervention. Were you the Chair of the Senate Amendments to the Climate Change Bill?

**Hon. (Ms.) Abdalla:** Yes.

**The Temporary Deputy Chairman** (Hon. Kajwang’): So, what sayeth you?

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I am aware that I need to report progress.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Just look at your notes.

CONSIDERATION OF THE SENATE AMENDMENTS TO  
THE CLIMATE CHANGE BILL

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Senate Amendments to the Climate Change Bill (National Assembly Bill No.1 of 2014) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[The Deputy Speaker (Hon. (Dr.) Laboso)  
in the Chair]*

**REPORT**

THE BASIC EDUCATION (AMENDMENT) BILL

**Hon. Deputy Speaker:** Just give us a minute to organise ourselves.

Hon. Members, we will start with the Basic Education (Amendment) Bill, move to the re-committal and go back to the Engineering Technologists and Technicians Bill.

**Hon. Kajwang:** Hon. Deputy Speaker, I beg to report that the Committee of the whole House has considered the Basic Education (Amendment) Bill (National Assembly Bill No.35 of 2014) and approved the same with amendments.

**Hon. (Ms.) S.W. Chege:** I beg to move that the House doth agree with the Committee in the said Report. I request Hon. Michael Kisoï to second the Motion for agreement with the Report of the Committee of the whole House.

**Hon. Kisoï:** Thank you, Hon. Deputy Speaker. I rise to second the amendment. This has given a realisation that stakeholders now get involved at each and every level. Previously, it was the county education boards that were completely active. We have tried to devolve these structures to the sub-county level. That will give an opportunity for all stakeholders to participate fully.

**Hon. Deputy Speaker:** This is not the point where you make your remarks. This is the point where you just second.

**Hon. Kisoï:** Hon. Deputy Speaker, I second.

*(Question proposed)*

*(Question put and agreed to)*

**Hon. Deputy Speaker:** Mover, move the Third Reading.

**Hon. (Ms.) S.W. Chege:** Hon. Deputy Speaker, I beg to move that the Basic Education (Amendment) Bill (National Assembly Bill No.35 of 2014) be now read a Third Time. I also request Hon. Melly to second.

**Hon. Melly:** Hon. Deputy Speaker, I second.

*(Question proposed)*

**Hon. Deputy Speaker:** This is the point where you may comment. You should make very short comments. Does Hon. Isaack Mwaura want to make a comment on this? If not, you just indicate that you are not. Hon. M'ruaki.

**Hon. M'uthari:** Thank you, Hon. Deputy Speaker. This is good. I am happy about these amendments. This Bill brings on board some of the stakeholders and the consideration of the importance of basic education.

We are bringing on board the sub-county education board that involves people who are closer to the communities. The Act that we have amended did not take into consideration some of the stakeholders who are very close to the people. This way, we also have the individuals. We have leadership at the sub-county level that understands the people, are close to schools and can make decisions. These amendments will go a long way in terms of improving education. As you know, education is an equaliser of possibilities for all.

Thank you.

**Hon. Deputy Speaker:** Members, we do not want to take too long because we do not have the requisite number for putting the Question. So, make very brief comments. Hon. Shakeel Shabbir.

**Hon. S.S. Ahmed:** Thank you, Hon. Deputy Speaker. First, I want to commend the Mover of the Bill. Basic education, as you know, is one of the pillars of society. In Nyanza, for example in Kisumu, we have a lot of problems getting basic education at the level that has been proposed by this Bill. I am very happy about this Bill. The only bit that, perhaps, we need to rework on is the issue of nomadic education that affects other parts of Kenya that I do not represent. I feel that, that must be looked into again. As far as basic education is concerned, this is a good Bill. I commend the House for approving it.

Thank you.

**Hon. Kubai Iringo:** Thank you, Hon. Deputy Speaker. Let me commend the Committee for the good work and Members for approving the amendments, in particular for decentralising education and taking it to sub-counties. That will be more effective because the grassroots is important as far as education is concerned.

**Hon. Deputy Speaker:** Hon. Members, feel sufficiently represented by the Members who have contributed. We need to proceed to the next one as I indicated. We will put the Question when we have the requisite numbers.

Hon. Kajwang', can we move to the next one on recommitment?

## PROGRESS REPORTED

### CONSIDERATION OF THE SENATE AMENDMENTS TO THE CLIMATE CHANGE BILL

#### RE-COMMITTAL OF CLAUSE 7(2)(g)

**Hon. Kajwang':** Hon. Deputy Speaker, I beg to report that the Committee of the whole House has considered the Senate Amendments to the Climate Change Bill (National Assembly Bill No.1 of 2014) and approved the same with amendments.

**Hon. (Ms.) Abdalla:** Hon. Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report subject to re-committal to Clause 7(2)(g).

I request Hon. Fatuma Ibrahim, the Member for Wajir, to second.

**Hon. (Ms.) F.I. Ali:** Hon. Deputy Speaker, I rise to second the Senate Amendments to the Climate Change Bill. These are crucial amendments which have created an agreement between the two Houses of Parliament. They seek to provide a more devolved implementation of climate change, which is a serious threat. I want to confirm that my county, an ASAL area, is experiencing serious effects of climate change.

I second.

*(Question proposed)*

*(Question put and agreed to)*

## COMMITTEE OF THE WHOLE HOUSE

*[The Deputy Speaker (Hon.(Dr.) Laboso)  
left the Chair]*

## IN THE COMMITTEE

*[The Temporary Deputy Chairman  
(Hon. Kajwang') took the Chair]*

CONSIDERATION OF SENATE AMENDMENTS TO  
THE CLIMATE CHANGE BILL 2014

*(Resumption of consideration interrupted today)*

**The Temporary Deputy Chairman** (Hon. Kajwang'): Hon. Members, this is the Committee of the whole House constituted to consider the Senate Amendments to Climate Change Bill (National Assembly Bill No.1 of 2014). We are specifically going to deal with the re-committal of Clause 7(2)(g).

*Clause 7  
Senate Amendment*

*Clause 7(2)(g)*

THAT, Clause 7 of the Bill be amended—

- (a) in subclause (2) by-  
(i) deleting paragraph (g);

Chair of the Departmental Committee, you will be the first one to lead us into the discussion.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, the proposal from the Senate was rejected by the Committee of the National Assembly. The Senate wants to remove the civil society representative in the Climate Change Council. We are disagreeing with them in recognition of the contribution of the civil society to the issue of climate change. However, at the point of voting, Ayes were in support of the Senate's amendment and they were more. So, we want you to reconsider this because we believe that it would be wrong and it will be a loss to the Council for the civil society not to be represented. So, I urge that we reject the Senate amendment by saying no to the Senate amendments. .

**The Temporary Deputy Chairman** (Hon. Kajwang'): Hon. Members, I think now you get the gist of the matter. I have a problem knowing who wants to speak because I have a long request list which has been here since morning. To allow me to organise myself, will you press the intervention button, then I will know you want to speak to this specific issue? I am giving you a few minutes to press the intervention button then I can know that you want to speak to the Climate Change Bill only.

Member for Igembe Central.

*(Question of the amendment proposed)*



**Hon. Kubai Iringo:** Hon. Temporary Deputy Chairman, I agree with the Chair that the civil society should be included. Therefore, I oppose the proposal by the Senate.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Mwaura, the Nominated Member.

**Hon. Mwaura:** Thank you, Hon. Temporary Deputy Chairman. The whole debate around climate change has been supported by the civil society. It will be very unfair to remove them from this noble process, especially when we have had a lot of representation from the Government, including the high office in the land. The civil society will bring a lot of expertise to the Council.

I oppose the amendment.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Member for Igembe North!

**Hon. M’uthari:** Thank you, Hon. Temporary Deputy Chairman. I agree with our Committee’s opposition to this amendment by the Senate. It is very clear that the civil society has played a very significant role in the drafting of this Bill. They have participated in all matters relating to environment under the climate change. The contribution of the civil society cannot be denied. To deny their participation in the Council is in bad taste. We should not accept. They should be included in the Council as it was in the original Bill.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Member for Kaiti, are you a Member of this Committee?

**Hon. Makenga:** No, I am not, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Alright, proceed.

**Hon. Makenga:** Hon. Temporary Deputy Chairman, I was de-whipped some time from the Committee. Climate change is a global phenomenon. It is important to note that the civil society plays a very important role in matters concerning climate change. They sensitise and mobilise the people and resources. They are very active in matters relating to climate change. Therefore, their exclusion in this particular aspect would deter them from playing their role as the civil society.

**The Temporary Deputy Chairman** (Hon. Kajwang’): May I hear dissenting voices, particularly from the Members who are not in the Committee? Let us have only those who are in disagreement, so that we can save time. I am sure if you are going to support what the Chair has said, then you will just be repeating points that the Chair has made. Is there anybody who has a burning issue in disagreement to the position taken Chairperson?

Member for Kathiani, are you a Member of the Committee?

**Hon. Mbui:** No, Hon. Temporary Deputy Chair. I am not. I am not disagreeing, but I just want to highlight something. A Committee of the whole House in the morning was in agreement with the Chair of the Departmental Committee in rejecting the Senate proposal, but every one of us said that we agreed with the Chairperson. So, when it came to voting, people agreed instead of rejecting. We need to be careful that if you are rejecting, you say that you oppose as opposed to saying that you agree with the Chairperson of the Departmental Committee yet the amendment is not hers.

**The Temporary Deputy Chairman** (Hon. Kajwang’): All right. Now, let us vote. This is the direction: If you vote “yes,” you are agreeing with what the Senate has proposed. If you say “no”, you are taking the position of the Committee. Now, that is very clear. Let us now vote.

*(Question, that the words to be left out be left out,*

*put and negatived)*

*(Clause 7(2)(g) negatived)*

THE ENGINEERING TECHNOLOGISTS AND TECHNICIANS BILL

**The Temporary Deputy Chairman** (Hon. Kajwang’): Let us now get to the Engineering Technologists and Technicians Bill (National Assembly Bill No.7 of 2015). I hope the Member proposing this legislation is present in the Chamber.

The Member for Bomet, are you ready? I need to get your attention because you need to attend to everything that we will do. Let us begin.

*Clause 3*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Chair.

**Hon. (Ms.) S.W. Chege:** Thank you, Hon. Temporary Deputy Chairman. I beg to move:-

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

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): I am getting a long list of Members whom I am not so sure want to contribute to this amendment. So, I am unable to pick you. So that I am able to see how to go about it, can you remove all your cards? Just remove all your cards. Member for Kathiani and Hon. Amina Abdalla, remove your cards, if you do not mind, please. Now, you can replace your cards and log in. Reinsert the cards now. Now I know who wants to contribute to this particular amendment.

The Member for Muhoroni, we start with you.

**Hon. Oyoo:** Thank you, Hon. Temporary Deputy Chairman. I support this amendment although it is more clerical than scientific. I want to support it in the interest of the engineering technologists. Presently, the Government has done very little to accord upcoming engineering technologists room to practise and exhibit their prowess. This new concept will give them an opportunity to showcase their abilities.

**The Temporary Deputy Chairman** (Hon. Kajwang’): The Member for Baringo Central.

**Hon. Mwaita:** Thank you, Hon. Temporary Deputy Chairman. I support the amendment because the title “Kenya Engineering Technology” is an upgrade and gives the engineering technologists and technicians some clout. It is important especially because technologists play a critical role in this economy.

**The Temporary Deputy Chairman** (Hon. Kajwang’): The last person on this is the Member for Gilgil.

**Hon. Ndiritu:** Hon. Temporary Deputy Chairman, I support the amendment because technology is wide. This title covers a wider field.

*(Question, that the words to be left out be left out,*

*put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,  
put and agreed to)*

*(Clause 3 as amended agreed to)*

*Clause 4*

**The Temporary Deputy Chairman** (Hon. Kajwang<sup>2</sup>): Chair, I am experiencing a few issues with technology. Are you able to proceed to the Dispatch Box? Just go to the Dispatch Box as I sort this out.

*(Hon. (Ms.) S.W. Chege moved to the Dispatch Box)*

**Hon. S.W. Chege:** Thank you, Hon. Temporary Deputy Chairman. I beg to move:-

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

(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.

This is just to ensure that assigning of functions to the Board as per the Bill comes immediately after the setting up of the Board.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,  
put and agreed to)*

*(Clause 4 as amended agreed to)*

*(Clauses 5, 6, 7 and 8 agreed to)*

*Clause 9*

**Hon. (Ms.) S.W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-

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).

The amendment has been introduced for consistency. It is clear that under no circumstances is the Registrar expected to take a vote in a matter being deliberated by the Board. He or she is merely there for the effective carrying out of the functions of the Board. This is the tradition in several other boards with more or less similar functions.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Clause 9 as amended agreed to)*

*(Clause 10 agreed to)*

#### *Clause 11*

**Hon. (Ms.) S.W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 11 of the Bill be amended by inserting the words “through a competitive process” immediately after the word “staff”.  
This is in line with the Constitution of Kenya.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Clause 11 as amended agreed to)*

*(Clauses 12 and 13 agreed to)*

#### *Clause 14*

**Hon. (Ms.) S.W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-

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”.

The term that properly applies in this case is “Registrar” and not “Chief Executive Officer”.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the word to be inserted in place thereof be inserted,  
put and agreed to)*

*(Clause 14 as amended agreed to)*

*Clause 15*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Let us have the Mover.

**Hon. (Ms.) S. W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-

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;
  - (iii) 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.

These amendments are necessary for making clear provisions for the categories of persons to be registered by the Board within the Engineering Technology profession.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang<sup>7</sup>): The Member for Rarieda, could you proceed to the Dispatch Box?

**Hon. (Eng.) Gumbo**: Thank you, Hon. Temporary Deputy Chairman. I think the problem we have had with this Bill is provisions that make clear distinctions---

**The Temporary Deputy Chairman** (Hon. Kajwang<sup>7</sup>): Can I have a small microphone here? The Member for Rarieda is a little vertically endowed than the Chair.

**Hon. (Eng.) Gumbo**: Hon. Temporary Deputy Chairman, I was just saying that as engineers the problem we have had with this Bill is that it did not make a distinction between what technologist and engineers can do and I think that is important. I have discussed with both the Chair for the Departmental Committee on Education, Research and Technology and the sponsor of the Bill, Hon. Cecilia Ngetich and I think this is being taken care of.

We do not want to have a country which is not clear on matters of engineering technologist and it does not matter how much education they have. The training that an engineering technologist goes through and an engineer are very distinct. In the legal practice you would probably consider it as what court clerks and lawyers do. Therefore, as long as these distinctions are built into these amendments, we will have no problem with it. I hope that this theme will be running through the amendments that have been proposed by the Chair.

**The Temporary Deputy Chairman** (Hon. Kajwang): Is that the subject of Clause 15?

**Hon. (Eng.) Gumbo**: Yes, to some extent because that has been the *lacuna*. If you look at the initially proposed Bill, you will find that those of us who opposed it on the Floor of the House did that because it was more or less like copy and paste. Under the provisions of the Engineers Act, we were just changing the word "engineer" and replacing "engineering technologist" as recognition. I think the role of the engineering technologists was not clearly defined. Essentially, that is what we are now trying to do. With that we are hoping that the distinction will clearly come out so that we do not infringe on each other's territory.

**The Temporary Deputy Chairman** (Hon. Kajwang’): I know you work very hard on Bills but I do not see as if you may have proposed some amendments to take care of some of these issues which you think should be amended.

**Hon. (Eng.) Gumbo:** Hon. Temporary Deputy Chairman, I proposed amendments because if you heard my contribution, you will realise that they proposed to kill the Bill entirely. My amendments would have proposed to delete all the clauses. I discussed with the sponsor of the Bill and she tried to convince me that she will introduce amendments to take care of this class of Kenyans who are left out right now.

My concern then was the Bill would go out as it was. You know back in the village even people who repair bicycles and taps are called “engineers”. We should not have a Bill where people who repair bicycles and taps can still do the same things as engineers like us. We have gone through a definite programme that qualifies us to be engineers and offer professional services accordingly.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Chair, from where you are, can you assuage the concerns raised by the Member for Rarieda?

The Member for Rarieda, you can resume your seat.

**Hon. (Ms.) S.W. Chege:** Thank you, Hon. Temporary Deputy Chairman. I want to confirm that the Committee has taken care of his concerns. If you look at Clause 15, you will find that it has “A” all the way to “E”. The justification of these amendments was to make clear provisions for the process of applying to the Board for registration; to make clear provisions under what circumstances one can be refused to be registered. All the way to “E” we have made sure that the concerns of Hon. Gumbo are well taken care of.

**The Temporary Deputy Chairman** (Hon. Kajwang’): All right. I thank you if that has been done. I can see that the proposed amendments are from “A” to “E”. My direction is that we will vote on each of them separately so that Members are aware where we are. If you look at the Order Paper, you can read for yourself and understand.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,  
put and agreed to)*

*(Clause 15 as amended agreed to)*

Clause 16

**Hon. (Ms.) S. W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-  
THAT, Clause 16 of the Bill be deleted.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Clause 16 deleted)*

*(Clause 17 agreed to)*

**The Temporary Deputy Chairman** (Hon. Kajwang): Yes, the Member for Rarieda. Well, there is no amendment proposed on Clause 17.

**Hon. (Eng.) Gumbo:** Hon. Temporary Deputy Chairman, it was important to pronounce ourselves as engineers. This amendment is actually one of the things that---

**The Temporary Deputy Chairman** (Hon. Kajwang): On Clause 17?

**Hon. (Eng.) Gumbo:** On Clause 16.

**The Temporary Deputy Chairman** (Hon. Kajwang): Clause 16 has been deleted.

**Hon. (Eng.) Gumbo:** Yes, Hon. Temporary Deputy Chairman. That is one of the areas that we, as engineers, had serious contention on. I want to thank the Chair because they proposed the deletion of that clause in total.

**The Temporary Deputy Chairman** (Hon. Kajwang): Let us move on to the next Clause.

*Clause 18*

**Hon. (Ms.) S. W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-

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.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 18 as amended agreed to)*

*(Cause 19 agreed to)*

*Clause 20*

**Hon. (Ms.) S. W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-  
THAT, Clause 20 of the Bill be deleted.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang): Yes, the Member for Rarieda.

**Hon. (Eng.) Gumbo:** Again, I want to thank the Chair of the Committee for this deletion. One of the biggest problems we had with this Bill is allowing engineering technicians and technologist to also be consultants.

Deletion of Clause 20 is a consequence of the deletion of Clause 16. Once you do away with their consultancy role so that they do not offer consultancy services, then the aspect of checking becomes irrelevant.

I support the deletion.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Clause 20 deleted)*

*(Clauses 21, 22, 23, 24, 25,  
26, 27, 28, 29 and 30 agreed to)*

*Clause 31*

**Hon. (Ms.) S. W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-  
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".

*(Question of the amendment proposed)*

*(Question, that the word to be inserted be inserted,  
put and agreed to)*

*(Clause 31 as amended agreed to)*

*Clause 32*

**Hon. (Ms.) S. W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-

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”.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Clause 32 as amended agreed to)*

*(Clause 33 agreed to)*

*Clause 34*

**Hon. (Ms.) S. W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-

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

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Clause 34 as amended agreed to)*

*(Clause 35 agreed to)*

*Clause 36*

**Hon. (Ms.) S. W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-

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 sub-section (1).

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang'): Let us have the Hon. Member for Mbooni.

**Hon. Kisoi:** Hon. Temporary Deputy Chairman, I did not intend to speak on this amendment.

*(Question, that the word to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,  
put and agreed to)*

*(Clause 36 as amended agreed to)*

*(Clause 37 agreed to)*

*Clause 38*

**Hon. (Ms.) S. W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-  
THAT, Clause 38 of the Bill be amended in paragraph (c)(iv) by inserting the word "or" immediately after the word "rights".

*(Question of the amendment proposed)*

*(Question, that the word to be inserted  
be inserted, put and agreed to)*

*(Clause 38 as amended agreed to)*

*(Clause 39 agreed to)*

*Clause 40*

**Hon. (Ms.) S. W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-  
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".

This is to provide for a new transitional clause for the person to comply with the provisions of the Act once enacted.

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,*

*put and agreed to)*

*(Clause 40 as amended agreed to)*

*(Clause 41 agreed to)*

*Clause 42*

**Hon. (Ms.) S. W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 42 of 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 –

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,  
put and agreed to)*

*(Clause 42 as amended agreed to)*

*(Clause 43 agreed to)*

*Clause 44*

**Hon. (Ms.) S. W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, Clause 44 of the Bill be deleted.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Let us have the Member for Rarieda.

**Hon. (Eng.) Gumbo:** Hon. Temporary Deputy Chairman, I extend my gratitude to both the Chairperson of the Committee and the proposer of the Bill.

Our problem with this Bill was always the fact that it allowed technologists to practise as engineers. The effect of this deletion is in the same spirit as the deletion of Clauses 16 and 20. Therefore, it captures the fears that we had because if we had left Clause 44 as it is, it would have given technicians a *carte blanche* to practise as engineers, which would be in contravention of the Engineers Act.

I support the amendment.



*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Clause 44 deleted)*

*(Clauses 45 and 46 agreed to)*

*Clause 47*

**Hon. (Ms.) S. W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-  
THAT, the Bill be amended in Clause 47 by deleting paragraph (g).

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang'): Let us have the Hon. Member for Rarieda.

**Hon. (Eng.) Gumbo:** Hon. Temporary Deputy Chairman, again, this is a consequence of the deletion of Clauses 16 and 20. Therefore, it is basically a corollary.

I support the amendment.

**The Temporary Deputy Chairman** (Hon. Kajwang'): The deletion only applies to paragraph (g).

**Hon. (Eng.) Gumbo:** Yes. This is because it talks about the conditions for the registration of an accredited checker, which were deleted in Clause 20. Therefore, it is a consequence of that deletion.

I support the amendment.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Clause 47 as amended agreed to)*

*Schedule*

**Hon. (Ms.) S. W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-

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”.

*(Question of the amendment proposed)*

*(Question, that the words to be left out,*

*be left out put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,  
put and agreed to)*

*(Schedule as amended agreed to)*

*New Clause 42(a)*

**Hon. (Ms.) S. W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-

THAT, the Bill be amended by inserting immediately after Clause 42 thereof a new clause as follows:-

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.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question, that the new clause be read a Second Time,  
proposed)*

*(Question, that the new clause be read a Second Time,  
put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause be added to the Bill,  
put and agreed to)*

*Clause 2*

**Hon. (Ms.) S. W. Chege:** Hon. Temporary Deputy Chairman, I beg to move:-

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.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 2 as amended agreed to)*

#### *Clause 1*

**Hon. (Ms.) S. W. Chege:** Hon. Temporary Deputy Chairman, I beg to move that:-  
THAT, Clause 1 of the Bill be amended by deleting the word “technologists” and replacing therefor the word “technology”.

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out,  
put and agreed to)*

*(Question, that the word to be inserted in place thereof be inserted,  
put and agreed to)*

*(Clause 1 as amended agreed to)*

*(Title agreed to)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): The Member for Mbita, could you please resume your seat? We will move to the next Bill and then we report both of them.

THE IN-VITRO FERTILISATION BILL

**The Temporary Deputy Chairman** (Hon. Kajwang’): We will now consider the In-Vitro Fertilisation Bill No.36 of 2014. The Member for Mbita, I hope I have your attention now.

Hon. Members, this is the Committee of the whole House constituted to consider the In-Vitro Fertilisation Bill No.36 of 2014.

*(Clause 3 agreed to)*

*Clause 4*

**Hon. (Prof) Nyikal:** Hon. Temporary Deputy Chairman, I beg to move:-

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

Hon. Temporary Deputy Chairman, the import of this is to widen the definition.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. (Ms.) Abdalla, are you on an intervention on Clause 4? This is because I do not remember you being an outspoken Member on this issue.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I wanted to intervene before because when you were speaking, the Member for Rarieda and the Member for Muranga County were obstructing me from seeing you.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. (Ms.) Abdalla, for some reason they think they are not interested in this Bill, but they do not know that this Bill is all about them. Nominated Member, Hon. Isaack Mwaura do you have a discussion on Clause 4?

**Hon. Mwaura:** Hon. Temporary Deputy Chairman, I rise to echo the same sentiments because IVF is only one example of assisted reproduction. I think widening of that definition will ensure that this Bill captures the totality of such development of technologies that will help our people to be assisted to get children.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,  
put and agreed to)*

*(Clause 4 as amended agreed to)*

*Clause 5*

**Hon. (Prof.) Nyikal:** Hon. Temporary Deputy Chairman, I beg to move:-

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. Temporary Deputy Chairman, the import of this is to bring in the definition that has been brought up throughout the whole of Clause 5.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): The Member for Mbita, what is the point of discussion?

**Hon. (Ms.) Odhiambo-Mabona:** Hon. Temporary Deputy Chairman, I want to propose two further amendments.

**The Temporary Deputy Chairman** (Hon. Kajwang’): In respect to these paragraphs?

**Hon. (Ms.) Odhiambo-Mabona:** We are in Clause 5.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Are you looking at the amendments by the Member for Seme?

**Hon. (Ms.) Odhiambo-Mabona:** Yes and I want to propose further amendments.

**The Temporary Deputy Chairman** (Hon. Kajwang’): That is all right. Do they fall in the paragraphs proposed by the Member for Seme or they would be additional to what is being proposed by the Member for Seme?

Do you have the Order Paper?

**Hon. (Ms.) Odhiambo-Mabona:** Hon. Temporary Deputy Chairman, I have. I am just looking at the Bill. I have benefitted from the knowledge of expert doctors who were led by the Member for Seme. Therefore, I am agreeable to including “assisted reproductive technology” as opposed to IVF which is only one element of assisted reproductive technology.

**The Temporary Deputy Chairman** (Hon. Kajwang’): You are losing me because you are not speaking English.

**Hon. (Ms.) Odhiambo-Mabona:** Hon. Temporary Deputy Chairman, I am speaking English not Suba. I understand you very well. I wanted to propose further amendments because his amendments go up to (h) and (i) also has IVF. So, I was wondering if he can put the same in

(i). It says: “disseminate information to the public on reproductive health that may relate or affect in-vitro human fertilization.” So, instead of leaving it at (h), if it can also be assisted reproductive technology at (j), that would be good so that we are consistent in language.

That is my further amendment.

**The Temporary Deputy Chairman** (Hon. Kajwang’): I am just trying to understand you. In essence what you are saying is that we retain (i) and (j). The Member for Seme is deleting the entire thing and substituting with (a) to (h). So, would it be then that your contribution is that we retain (i) and (j)?

**Hon. (Ms.) Odhiambo-Mabona:** No, Hon. Temporary Deputy Chairman. Let me simplify it. I agree with everything that the Member for Seme is proposing. I just want to add value to what he is doing. I agree totally with what the Member for Seme is suggesting but, he forgot to add the same amendments to (i) and (j).

**The Temporary Deputy Chairman** (Hon. Kajwang’): But, I see them here on page 57, the Member for Seme. I see that in paragraph (g). For example, you are adding---

**Hon. (Ms.) Mabona-Odhiambo:** Hon. Temporary Deputy Chairman, I am guided. I had been told, I think from your desk that you had said it is up to (h). I can see that from his proposed amendments that he goes up to (j). Therefore, on that vein, I agree totally with the proposed amendments. I only want to include one word on a further amendment.

**The Temporary Deputy Chairman** (Hon. Kajwang’): To which paragraph?

**Hon. (Ms.) Odhiambo-Mabona:** To paragraph 5(j). I propose the inclusion of the word “confidential” so that it is “establish and maintain---

**The Temporary Deputy Chairman** (Hon. Kajwang’): Where would you propose the word “confidential”?

**Hon. (Ms.) Odhiambo-Mabona:** Between the words “maintain a” and “national database” so that it reads, “establish and maintain a confidential national database on persons receiving assisted reproductive technology.” So, it is just the word “confidential”.

**The Temporary Deputy Chairman** (Hon. Kajwang’): I hear you then. This is how we will do it. First of all we will dispose of the Member for Seme’s amendments and then we will consider yours as a further amendment. Because it is a Floor amendment, would you please, reduce it to writing very fast because we are going to be there in a short while?

**Hon. (Ms.) Odhiambo-Mabona:** Okay.

**The Temporary Deputy Chairman** (Hon. Kajwang’): We want to vote on the amendments to Clause 5 as proposed by the Member for Seme. It is in the Order Paper. The Member for Seme is putting a few words to clean the seemingly layman description of what you have there. So, that is where we are. We want to vote and then go to what the Member for Mbita is proposing as a further amendment.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,  
put and agreed to)*

The Member for Mbita, pronounce yourself for the HANSARD.

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, Hon. Temporary Deputy Chairman. I want to propose a further amendment to Clause 5(j).

I beg to move:-

THAT, the word “confidential” be inserted after the words, “establish and maintain a” and before the words, “national database on persons receiving”.

Hon. Temporary Deputy Chairman, the purpose of that is to ensure that information that is kept by the authority, because of the very nature of the information, remains confidential.

*(Question of the further amendment proposed)*

*(Question, that the word to be inserted be inserted, put and agreed to)*

*(Clause 5 as amended agreed to)*

*(Clause 6 agreed to)*

#### *Clause 7*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Member for Seme, can you go to the Dispatch Box? Just proceed to the Dispatch Box.

**Hon. (Prof.) Nyikal:** It is here, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Kajwang’): All right. You may proceed.

**Hon. (Prof.) Nyikal:** Hon. Temporary Deputy Chairman, I beg to move:-

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

(a) deleting the words “Kenya Medical Board” appearing immediately in subparagraph (i) and substituting therefor the words “Kenya Medical Practitioners and Dentist Board”;

(b) inserting the following new sub-paragraph immediately after subparagraph (iii)- “(iv) one man and one woman, who are not affiliated to the organizations appearing in sub-paragraphs (i), (ii) or (iii).”

That is basically to make a correction so that the “Kenya Medical Board” is “Kenya Medical Practitioners and Dentists Board”. There is no “Kenya Medical Board”. Two, it is by adding sub-clause 7(b)(iv) after sub-clause 7(b)(iii) which will read “one man and one woman, who are not affiliated to the organizations appearing in sub-paragraphs (i), (ii) or (iii).”. The purpose of this is to bring a lay representation in this Authority.

Thank you.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): The Member for Mbita, could you come to the Dispatch Box? I am having a temporary problem with microphones. I want to hear you on the HANSASRD. Just step forward. That way we can get you.



**Hon. (Ms.) Odhiambo-Mabona:** Hon. Temporary Deputy Chairman, I am requesting if the Member for Seme Constituency could repeat the essence of the amendment because I wanted to propose an amendment. If his amendment captures my amendment then I do not want to propose it.

**The Temporary Deputy Chairman** (Hon. Kajwang'): The Member for Seme, can you be on your feet again while approaching the Dispatch Box? For the time being, as we are going on, the Member for Mbita Constituency, may I request you to cross the Bar so that you can speak from my right as the Member for Seme is on my left?

*(Hon. (Ms.) Odhiambo-Mabona crossed the Floor)*

**Hon. (Prof.) Nyikal:** Hon. Temporary Deputy Chairman, the purpose of the amendment on Clause 7(a) is to delete "Kenya Medical Board" which I know does not exist, and replace it with what I know was meant which is "Kenya Medical Practitioners and Dentists Board". That is the correct one. For Clause 7(b), the proposal is to add one man and woman who are not affiliated to the organisations appearing under paragraphs (i), (ii) and (iii) on the list of the membership of the Authority. This is because if you look at all those, you will find that they are either medical people, lawyers, people affiliated to civil rights or human rights organisations. The purpose is to make lay people be represented in this; one man and one woman.

*(Hon. (Ms.) Odhiambo-Mabona spoke off the record)*

No! They will stay. We are just adding. Yes.

**The Temporary Deputy Chairman** (Hon. Kajwang'): The Member for Mbita, you are on a discussion. Would you please come to the Dispatch Box?

*(Hon. (Ms.) Odhiambo-Mabona moved to the Dispatch Box)*

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, Hon. Temporary Deputy Chairman. I wanted to know whether his amendment is touching on a further amendment I wanted to make. I have no problem if he is adding lay people because my proposed amendment was to delete the Law Society of Kenya (LSK), which is restrictive. Sometimes when you give LSK the mandate, they will appoint lawyers who may not necessarily be interested in that. However, when you give room to lay persons, then it will cover the area of concern. It is okay if he is adding and giving room for more people to come in.

I know I am the one who moved that amendment but when I was thinking about it later, I thought that putting the LSK may be restrictive. Lawyers who have expertise in this are very few and some of them are not practising. I know one of them who is excellent in this field but she is not a practising lawyer. She is actually in medical legal practise. So, if we had suggested in a restricted manner, she may be excluded.

**The Temporary Deputy Chairman** (Hon. Kajwang'): The Member for Seme is giving more. The LSK is still there but there are more in (iii).

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 7 as amended agreed to)*

*(Clauses 8, 9, 10, 11, 12, 13, 14 and 15 agreed to)*

*Clause 16*

**Hon. (Prof.) Nyikal:** Hon. Temporary Deputy Chairman, I beg to move:-

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.

The import of that is that Clause 16, as it is, is incomplete. After adding these words, it will read: “No act or omission of a member of the Board or by an officer or employee or agent thereof shall, if any act of omission---”

Basically, we are making Clause 16 complete by adding what is not there, which is the member of the Board.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Clause 16 as amended agreed to)*

*(Clauses 17, 18, 19 and 20 agreed to)*

**The Temporary Deputy Chairman** (Hon. Kajwang'): Yes, the Member for Mbita.

**Hon. (Ms.) Odhiambo-Mabona:** I wanted to intervene before you put the Question.

**The Temporary Deputy Chairman** (Hon. Kajwang'): We can hear you from there. You have your microphone.

**Hon. (Ms.) Odhiambo-Mabona:** Sorry, Hon. Temporary Deputy Chairman. I did not know that I have the microphone here. This might need a referral because we have passed the Clause. I noticed Clause 20---

**The Temporary Deputy Chairman** (Hon. Kajwang'): Which clause is that?

**Hon. (Ms.) Odhiambo-Mabona:** Clause 20.

**The Temporary Deputy Chairman** (Hon. Kajwang'): Unfortunately, we did not have a proposal for an amendment in Clause 20.

**Hon. (Ms.) Odhiambo-Mabona:** Yes, Hon. Temporary Deputy Chairman, but I have noticed an error. I know we have been at this for a long time. We are human so sometimes errors

can pass. I noticed that Clause 20 still has the words “in-vitro fertilisation.” We can do that through either miscellaneous amendments or---

**The Temporary Deputy Chairman** (Hon. Kajwang'): What would you have wished to do on Clause 20?

**Hon. (Ms.) Odhiambo-Mabona:** Just to use the consistent language that we have adopted, which is “assisted reproduction.”

**The Temporary Deputy Chairman** (Hon. Kajwang'): So what would have been the point of the insertion?

**Hon. (Ms.) Odhiambo-Mabona:** What we have done is that we have adopted the terminology “assisted reproductive technology” instead of “in-vitro fertilisation”, which is one aspect of assisted reproductive.

**The Temporary Deputy Chairman** (Hon. Kajwang'): So, you wish to change the wordings there.

**Hon. (Ms.) Odhiambo-Mabona:** Yes, but we have already passed that.

**The Temporary Deputy Chairman** (Hon. Kajwang'): That does not look significant. It is meant to clean up the language. We can go back to it.

**Hon. (Ms.) Odhiambo-Mabona:** I agree. I know we have some clauses which we do not have amendments but just for cleaning up so that we do not have to get through the process of re-cleaning in future.

**The Temporary Deputy Chairman** (Hon. Kajwang'): Because this is a Private Member's Bill, I will exercise some discretion to allow that. Let us work on Clause 20. Speak on the HANSARD so that we can get you.

### *Clause 20*

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, Hon. Temporary Deputy Chairman, for indulging me.

I beg to move:-

THAT the words “in-vitro fertilisation” appearing after the words “donor for the purpose of” and before the words “unless the donor of the material has given written consent” be deleted and replaced with the words “assisted reproductive technology.”

This is so that we adopt the same language that we are using for the entire Bill.

**The Temporary Deputy Chairman** (Hon. Kajwang'): Make it simple for me. Do you want to change the words “in-vitro fertilisation” and replace them with the words “assisted reproductive technology”?

**Hon. (Ms.) Odhiambo-Mabona:** Yes, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Kajwang'): Gather yourself and say that you want to delete the words “in-vitro fertilisation” and replace with the words that you want to put. Just speak on the HANSARD so that I get you.

**Hon. (Ms.) Odhiambo-Mabona:** Hon. Temporary Deputy Chairman, in Clause 20, I propose that we delete the words “in-vitro fertilisation” and replace them with the words “assisted reproductive technology.”

**The Temporary Deputy Chairman** (Hon. Kajwang'): Thank you.

*(Question of the amendment proposed)*

Let us have the Member for Kaiti.

**Hon. Makenga:** Hon. Temporary Deputy Chairman, I support the deletion of the words “in-vitro fertilisation” and replace them with “assisted reproductive technology.” That will make the clause consistent with the other clauses so that it does not create ambiguity.

**The Temporary Deputy Chairman** (Hon. Kajwang'): Just as the Member for Mbita is reducing that in writing, I will put the Question.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 20 as amended agreed to)*

**The Temporary Deputy Chairman** (Hon. Kajwang'): The Member for Seme, you can speak from where you are now.

#### *Clause 21*

**Hon. (Prof.) Nyikal:** Hon. Temporary Deputy Chairman, I beg to move:-

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

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,  
put and agreed to)*

*(Clause 21 as amended agreed to)*

#### *Clause 22*

**Hon. (Prof.) Nyikal:** Hon. Temporary Deputy Chairman, I beg to move:-

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

Circumstances for  
undertaking assisted  
reproductive technology

22. A person qualifies to undertake assisted reproductive technology where it is certified by a medical doctor that the person requires assisted reproductive technology on medical

or health grounds.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang'): The Member for Mbita, do you have a discussion on this?

**Hon. (Ms.) Odhiambo-Mabona:** Yes, Hon. Temporary Deputy Chairman. In addition to that, I wanted to move a further amendment because my understanding is that Prof. Nyikal's amendment is only changing the text to read "assisted reproductive technology."

**The Temporary Deputy Chairman** (Hon. Kajwang'): The Member for Seme is deleting the entire clause and replacing it with another text.

**Hon. (Prof.) Nyikal:** I am deleting the entire Clause 22 because it gives various circumstances under which assisted reproductive technology can be undertaken. If you look at all of them, you will find that they relate to health except (b), which brings in the issue of having difficulty in conceiving because of factors related to lifestyle. We discussed the amendment and realised that it raises far-reaching aspects relating to sexuality, lesbianism and gaysm *et cetera*. We felt that we should make it simple and say that the only condition is on medical grounds.

**The Temporary Deputy Chairman** (Hon. Kajwang'): Let us have the Member for Mbita.

**Hon. (Ms.) Odhiambo-Mabona:** Hon. Temporary Deputy Chairman, I realise that my Order Paper has a problem. Some pages are missing. I remember that we discussed and agreed to delete this clause but I am not seeing the amendment. We had agreed to delete the clause and replace it with another amendment, which I agree with. If that is the proposed amendment, then I do not have any further amendment.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,  
put and agreed to)*

*(Clause 22 as amended agreed to)*

**The Temporary Deputy Chairman** (Hon. Kajwang'): The Member for Dagoretti South, I am sure you are discussing gubernatorial issues but you are discussing them with wrong people. Those people come from Siaya County. Unless they change their voting stations from Siaya to Nairobi, they cannot help. I know that there is voter registration going on. So, maybe this Member is planning to change his voting station.

*Clause 23*

**Hon. (Prof.) Nyikal:** Hon. Temporary Deputy Chairman, I beg to move:-  
THAT, Clause 23 of the Bill be amended-

- (a) in the marginal note by deleting the words “in-vitro fertilisation” and substituting therefor the words “assisted reproductive technology”;
- (b) in the opening statement by deleting the words “in-vitro fertilisation” 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”.

The purpose of part (a) is clear. In part (b), we are removing the words “in-vitro fertilisation” and replacing them with “assisted reproductive technology”. In part (c), we are removing the words “creating a human being” and replacing them with “human procreation”. The fact here is that for religious and social reasons, to say that we can create a human being is rather unacceptable. Therefore, the correct statement would be “human procreation”.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,  
put and agreed to)*

*(Clause 23 as amended agreed to)*

#### *Clause 24*

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, Hon. Temporary Deputy Chairman. I know that we discussed this clause for very long. So, the Member may have missed it.

I beg to move:-

THAT, Clause 24 be amended by deleting the words “in-vitro fertilisation” and replacing with “assisted reproductive technology”.

Hon. Temporary Deputy Chairman, I am sorry, I was a little bit distracted. This stage in legislation takes too long. You have to go through it exactly the same way we were doing. You cannot just say any other place it appears.

**The Temporary Deputy Chairman** (Hon. Kajwang): Because I did not have a proposal for an amendment in the Order Paper, pronounce yourself on the HANSARD that you wish to propose a Floor amendment on Clause 24.

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, Hon. Temporary Deputy Chairman. I am proposing a Floor amendment but I am also putting it on paper. I wish to propose an amendment to Clause 24; that the words “in-vitro fertilisation” be deleted and replaced with the words “assisted reproductive technology”.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,  
put and agreed to)*

*(Clause 24 as amended agreed to)*

*Clause 25*

**Hon. (Prof.) Nyikal:** Hon. Temporary Deputy Chairman, I beg to move:-

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.”

The purpose of this amendment is that as used in the words “purpose of creating a human being”, we found out that this terminology is not acceptable. We are replacing it with “future human procreation by the minor.”

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,  
put and agreed to)*

*(Clause 25 as amended agreed to)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): The Member for Mbita, today I am going to run into problems because there are too many Floor amendments. It is legislative policy to discourage Floor amendments. However, as I have said, this is a Private Member’s Bill. So, I sympathise with you.

**Hon. (Ms.) Odhiambo-Mabona:** Hon. Temporary Deputy Chairman, I thank you for indulging me. Sometimes when you are a lawyer, every time you look at a document, it comes with a new freshness. I know again that we really sat for long hours with the Member for Seme.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Which clause are we discussing?

**Hon. (Ms.) Odhiambo-Mabona:** I am discussing Clause 27, Hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Clause 27.

**Hon. (Ms.) Odhiambo-Mabona:** I have no issue with Clause 26.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Can I just dispose of Clause 26 first?

**Hon. (Ms.) Odhiambo-Mabona:** It is okay

**The Temporary Deputy Chairman** (Hon. Kajwang’): Order! Your Bill and clauses will be lost if you do not interact with me.

*(Clause 26 agreed to)*

Address me on Clause 27. Can the Hon. Member for Mbita have the microphone?

*Clause 27*

**Hon. (Ms.) Odhiambo-Mabona:** Thank you, Hon. Temporary Deputy Chairman for indulging me. I have two proposed amendments.

I beg to move:-

THAT, Clause 27(b) be amended by deleting the words “in-vitro fertilisation” appearing in line one of 27 (1)(b) and replacing with “assisted reproductive technology” and further that we delete the words “unless the services are being provided for the woman and the man together and both parties have consented to the treatment” and replace with the words “without his consent.”

**The Temporary Deputy Chairman** (Hon. Kajwang’): In which way are you replacing the second wording?

**Hon. (Ms.) Odhiambo-Mabona:** The second wording seeks to delete the words “unless the services are being provided for the woman and the man together and both parties have consented to the treatment”. I am suggesting that we delete that and say “a person shall not in the cause of providing assisted reproductive treatment services to a woman use the sperm of any man without his consent”.

That just takes into account the fact that sometimes the man and the woman may not be appearing together. We have sperm banks and after having been educated for long by the doctors I am a bit more informed. That is why I am suggesting that in the course of providing assisted reproductive treatment services to a woman, use the sperms of any man without his consent--- What we are looking for is the consent of the man who may be a donor. A donor does not necessarily have to be a person you are married to.

**The Temporary Deputy Chairman** (Hon. Kajwang’): All right. I will be brave enough. It looks like we should have given it another thought so that it would have been cleaner, but now that we are here---

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Let us have the Member for Seme. Hon. Member for Mbita, you almost have three amendments which I need to see.

**Hon. (Prof.) Nyikal:** Hon. Temporary Deputy Chairman, I may seek a clarification from the Hon. Member because what this means in my understanding, as it is now, it is still not talking about the consent of the person who is providing the sperm. Basically, it is taking into consideration that when you are providing assisted reproductive technology, then the two people involved are giving consent. It is not talking about where the sperm has come from. It is as they are getting this, that you need the consent. I thought that is the import of (b).

**The Temporary Deputy Chairman** (Hon. Kajwang’): Do I take it that it is only these two gallant man and woman who understand the subject that is before the National Assembly this morning? The rest are from another gene, not human beings, because this concerns human beings, I suppose. Let us have the Member for Mbita.



**Hon. (Ms.) Odhiambo -Mabona:** Hon. Temporary Deputy Chairman, there are many Members who understand this very well. I have actually interacted with a number of Members on this but I know that when you are doing legislation, sometimes it is a bit technical, especially at this stage.

The amendment I am bringing is what follows what the Hon. Member is saying. As it is, what it says is that if you want to undertake assisted reproduction procedure, a man and a woman have to appear before the doctor together.

My concern is that if we say that, we may be in a situation where you may require a donor to appear with--- That is my understanding. It says:-

“In the course of providing in-vitro fertilization treatment services to woman, a person shall not in the course of providing assisted reproductive treatment to a woman use the sperm of any man unless the services are being provided for the woman and the man together and parties have consented.”

Sometimes the man giving does not even need to be known. He is merely a donor whose sperms are in the sperm bank. He does not need to come and be given services. Many times, that is what happens especially where the man has a problem. Where the man has the problem, you are not going to call the person who has donated the sperm. If it is not a relative, you are not going to call the person who has donated the sperm to appear before a doctor. That, in essence, is what I am suggesting.

**The Temporary Deputy Chairman** (Hon. Kajwang’): All right. This is how we will do it. We do it in two pieces. The first one will be the clean-up of the terminology that we have been adopting throughout. The next one will be this other one.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted,  
put and agreed to)*

*(Clause 27 as amended agreed to)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Member for Mbita, are you on an intervention?

**Hon. (Ms.) Odhiambo-Mabona:** Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the In-Vitro Fertilization Bill (National Assembly Bill No.36 of 2014) and its approval thereof with amendments and seek leave to sit again.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Thank you very much. Before I put the Question, Member for Mbita, you can see that you will need to look at this Bill again. In areas which you want to have amendments, propose them so that they are in the Order Paper. It is usually better that way.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[The Temporary Deputy Speaker  
(Hon. (Ms) Shebesh) in the Chair]*

## REPORTS

### ENGINEERING TECHNOLOGISTS AND TECHNICIANS BILL

**Hon. Kajwang’:** Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Engineering Technologists and Technicians Bill (National Assembly Bill No.7 of 2015) and approved the same with amendments.

**Hon. (Ms.) S.W. Chege:** Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

I request Hon. Chebet to second the Motion for the agreement with Report of the Committee of the whole House.

**Hon. (Ms.) Chebet:** I second.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh: Hon. Members we will not be putting the Question at this time for obvious reasons. Let us move on to the next Bill.

### IN-VITRO FERTILIZATION BILL

**Hon. Kajwang’:** Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the In-Vitro Fertilization Bill, (National Assembly Bill No.36 of 2014) and approved the same with amendments, and seek leave to sit again.

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Let us have the Mover, Hon. Millie Odhiambo.

**Hon. (Ms.) Odhiambo-Mabona:** Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

I request Hon. Nyikal to second the Motion for agreement with the Report of the Committee of the whole House.

**Hon. (Prof.) Nyikal:** I second.

*(Question proposed)*

## ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. (Ms.) Shebesh): Hon. Members, the time being 1.00p.m., this House stands adjourned until this afternoon at 2.30p.m.

The House rose at 1.00 p.m.

