



PARLIAMENT  
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KENYA NATIONAL ASSEMBLY

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TENTH PARLIAMENT – FOURTH SESSION

THE DEPARTMENTAL COMMITTEE  
ON  
EDUCATION, RESEARCH AND TECHNOLOGY

REPORT ON  
THE UNIVERSITIES BILL, 2012

PARLIAMENT BUILDINGS  
NAIROBI

NOVEMBER, 2012

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## LIST OF ACRONYMS

MOHEST	- Ministry of Higher Education, Science and Technology
NCCK	- National Council of Churches of Kenya
CHE	- Commission for Higher Education
USIU	- United States International University
KNAP	- Kenya National Association of Parents
KEPSA	- Kenya Private Sector Alliance
VC	- Vice Chancellor

## **PREFACE**

**Mr. Speaker Sir,**

The Departmental Committee of Education, Research and Technology is established under the **Standing Order No. 198 (3)**, and has the following functions:

- i. To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and Departments;**
- ii. To study the programme and policy objectives of the Ministries and Departments and the effectiveness of the implementation;**
- iii. To study and review all legislations referred to it;**
- iv. To study, assess and analyze the relative success of the Ministries and Departments as measured by the results obtained as compared with their stated objectives;**
- v. To investigate and inquire into all matters relating to the assigned Ministries and Departments as they may deem necessary, and as may be referred to it by the House or a Minister; and**
- vi. To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.**

The provisions of the Standing Order 198 state the Terms of Reference (TOR) for the Departmental Committee of Education, Research and Technology as:

- i) Education;**
- ii) Training;**
- iii) Research; and**
- iv) Technological Advancement.**

The Standing Orders also empowers the Committee to make its own selection of the subjects regarding the policy, management and administration among others of the Ministries and Departments falling under its jurisdiction.

## COMMITTEE'S MEMBERSHIP

The committee comprises of the following members:-

The Hon. David K. Koech, MP	- <b>Chairperson</b>
The Hon. Francis T. Nyammo, MP	- <b>Vice-Chairperson</b>
The Hon. B. C. Muturi Mwangi, MP	- Member
The Hon. Mwaura Kiburi David, MP	- Member
The Hon. Dr. Joyce Laboso, MP	- Member
The Hon. Mohammed Sirat, MP	- Member
The Hon. Dr. Wilber Ottichilo K., MP	- Member
The Hon. Alfred Odhiambo, MP	- Member
The Hon. Dache John Pesa, MP	- Member
The Hon. Shakila Abdalla, MP	- Member

On Wednesday, 10<sup>th</sup> October, 2012, the Universities Bill, 2012 was read a first time and referred to the relevant Departmental Committee of the House pursuant to the provisions of the Standing Order No. 111 of the National Assembly. The Bill further went through the Second Reading on Tuesday 20<sup>th</sup> and 21<sup>st</sup> November, 2012 and awaits the Committee of the Whole House.

The Departmental Committee on Education, Research and Technology during its 57<sup>th</sup> Sitting on Tuesday, 30<sup>th</sup> October, 2012 and the 59<sup>th</sup> Sitting on Thursday 1<sup>st</sup> November, 2012 held consultative meetings with various stakeholders where the Committee received and considered oral and written submissions from the stakeholders.

The Stakeholders included the Ministry of Higher Education, Science and Technology (MOHEST), the Kenya Private Sector Alliance, the Kenya National Association of Parents (KNAP), the Unites States International University (USIU), the Aga Khan University (East Africa), the National Association of Private Universities in Kenya (NAPUK), the Commission for Higher Education (CHE) and the National Council of Churches of Kenya among others.

## COMMITTEE'S OBSERVATIONS AND CONCLUSIONS

The Committee observed and concluded that:

- i. The Universities Bill, 2012 was developed to align the university education sector to the Kenyan Constitution, 2010 and Vision 2030 and is based on the Policy Framework on the Education and Training, 2012. The Bill repeals various statutes that established the public universities and the Universities Act
- ii. The representation of various institutions and organizations especially the sponsors, religious entities, trade unions, students and the private sector in the management of universities needed to be enhanced in order to bolster the spirit of consultation and participation in decision making process.
- iii. The private investors needed a free hand in the management of the Universities and requested for flexibility in the constitution of the councils and Boards of Management. However, the role of the Commission for Higher Education as the regulatory body was supported by all stakeholders.
- iv. The role of the various regulatory bodies especially in the professional disciplines in accrediting and approving academic programmes was a recipe for duplication of roles between these bodies and the Commission for University education. In this regard, the Committee was categorical that the Commission for University Education should be the only institution empowered to accredit and approve academic programmes at the University level in the country while the role of the regulatory bodies in the various disciplines remains that of registering and licensing the graduates.
- v. The non-profit making universities had requested for inclusion of a clause that gives such universities the right to apply for tax exemptions. The Committee observed that although the request was restricted to the right to apply for tax exemption, this was a matter that was beyond the purview of the Committee.

- vi. The appointment of the retired vice chancellors and any other universities administrators from either the public or private universities as Commissioners of the Commission for University Education amounts to conflict of interest. Therefore, there was need to introduce an amendment that mitigated this phenomenon.
- vii. It was necessary that the Commission for University education has the powers to regulate supervise and monitor the quality and standards of university education in both the public and private universities.

## **PROPOSED AMENDMENTS**

The Committee further during its 60<sup>th</sup> Sitting held on Tuesday 27<sup>th</sup> November, 2012 considered and unanimously approved the proposed amendments to the Bill as follows:

### **CLAUSE 2**

**THAT** the Bill be amended in Clause 2 by-

- (a) deleting “Association of Retired Vice- Chancellors means the Association of that name registered under the Societies Act” appearing in the definitions
- (b) inserting the following new definitions in proper alphabetical sequence-

“alumni” means a member of convocation of a university

“foreign university” means a university established outside Kenya which intends to offer university education in Kenya.

### **CLAUSE 5**

**THAT** the Bill be amended in Clause 5 by:-

- (a) Inserting the words “relevance and” immediately after the word “assure” appearing in paragraph(c) of sub-clause(1)
- (b) Inserting the words “, disseminate ” immediately after the word “collect” appearing in paragraph(i) of sub-clause(1)
- (c) inserting the following new paragraphs immediately after paragraph(i) in sub-clause (1) –

- (j) accredit universities in Kenya;
- (k) regulate university education in Kenya
- (l) accredit and inspect University programmes in Kenya
- (d) Inserting the following new sub-clause (3)
  - (3) For the avoidance of doubt, only the Commission shall have the powers to perform the functions set out in this section.

## CLAUSE 6

**THAT** the Bill be amended in Clause 6 by:-

- (a) deleting the words “appointed by the Cabinet Secretary” appearing in paragraph(a) of sub-clause(1)
- (b) (g)deleting the words “not more than” appearing in paragraph (d) in sub-clause(1)
- (c) deleting sub-clause (2) and substitute therefor the following new paragraph “The chairperson and the members of the Commission under subsection (1) (d) shall be appointed by the Cabinet Secretary only from a list; incase of the chairperson three names; in case of other members nine names submitted by a Selection panel appointed by the Cabinet Secretary in accordance with subsection (3).
- (c) deleting paragraphs (b), (c) and (d) in sub-clause (3) and substituting therefor the following new paragraphs-
  - (b) one persons to represent the Federation of Kenya Employers;
  - (c) two person to represent the body currently recognized as representing the interest of the private sector;
  - (d) two eminent scholars appointed by the Cabinet Secretary
- (d) Deleting the words “sub-section (3)” appearing in sub-clause(3) and substituting therefor the words “subsection(2)”
- (e) Inserting a new paragraph immediately after sub-clause (4)
  - (4a) The Selection panel shall advertise for the vacancies and publicize the applicants and shortlisted candidates in at least two dailies with a wide national circulation.
- (f) ) Inserting a new paragraph immediately after sub-clause (5)



(5a) The Selection panel in nominating members of the Commission must ensure that those nominated shall not have any conflict of interest in serving as Commissioners in the Commission for University education.

## **CLAUSE 7**

**THAT** the Bill be amended in Clause 7 by:-

- (a) deleting the letter “a” appearing immediately after the word “commission” in paragraph (b) of sub-clause(1)
- (b) deleting the word “and” appearing in paragraph(b) of sub-clause (1) and substituting therefor the words “atleast”
- (c) deleting the word “chairman” appearing in sub-clause(3) and substituting therefor the word “chairperson”
- (d) inserting the words “ten years” immediately after the word “have” appearing in sub-clause(3)
- (e) inserting the words “chairperson and” immediately after the word “Act” appearing in sub-clause(4)
- (f) deleting the words “two and three” appearing in sub-clause (5) and substituting therefor the words “three and four”
- (g) deleting sub-clause(7)
- (h) inserting the words “and atleast five years experience in leadership, management or academia” immediately after the word “Kenya” appearing in paragraph (b) in sub-clause(1)
- (i) inserting the word “two” immediately after the word “which” appearing in the sub-clause
- (j) deleting the words “other than ex- officio members” and substituting therefor the words “ appointed under clause 6(1) (d)”

## **CLAUSE 12**

**THAT** the Bill be amended in Clause 12 by:-

- (a) deleting the words “of the commission” appearing immediately after the word ‘functions’ in the clause
- (b) inserting a new paragraph as follows:

(2) All appointment under this section shall take into account gender equity, ethnic and regional balance in accordance with the Constitution

(c) inserting sub-clause(1) immediately after clause(12)

#### **CLAUSE 16**

**THAT** the Bill be amended in Clause 16 by:-

- (a) deleting letter “5” appearing in sub-clause (1) and substituting therefor the letter “15”

#### **CLAUSE 19**

**THAT** the Bill be amended in Clause 19 by:-

- (a) deleting the words “ the Cabinet Secretary may deem appropriate” appearing in paragraph (c) of sub-clause(2) and substituting therefor the words “provided for in the regulations”

#### **CLAUSE 20**

**THAT** the Bill be amended in Clause 20 by:-

- (a) inserting the word “new academic” immediately after the word “its” appearing in paragraph(d) of sub-clause(1)

#### **CLAUSE 24**

**THAT** the Bill be amended in Clause 24 by:-

- (a) inserting the words “the commission through” immediately after the words “recommendation of” appearing in sub-clause(1)
- (b) inserting the words “and with approval of Parliament” immediately after the word “Cabinet Secretary” appearing in sub-clause(1)

#### **CLAUSE 34**

**THAT** the Bill be amended in Clause 34 by:-

- (a) deleting the words “publish them” appearing in paragraph(a)(ii) in sub-clause(1) and substituting therefor the words “cause them to be published”

- (b) deleting the word “appoint” appearing in paragraph(a)(v) in sub-clause(1) and substituting therefor the words “ in the case of a public university, recommend”
- (c) inserting the word “principal of a constituent college and appoint” immediately after the words “Vice chancellor and” appearing in paragraph(a)(v) of sub-clause(1)

### **CLAUSE 35**

**THAT** the Bill be amended in Clause 35 by:-

- (a) Deleting sub-clause (1) and substituting therefor the following new sub-clause(1)

(1)The council of a public university or constituent college of such a university shall consist of nine persons appointed by the cabinet secretary as follows-

- (a) Chairperson
- (b) Principal secretary in the Ministry for the time being responsible for the university education
- (c) Principal secretary in the Ministry for the time being responsible for Finance
- (d) Five members appointed by the cabinet secretary through an open and competitive process
- (e) The Vice Chancellor who shall be an ex-officio

(2) The provisions relating to the qualifications of the chairperson and members of the commission in clause 7 shall mutatis mutandis apply to the chairperson and members appointed in clause 35(1) (a) and (d)

### **CLAUSE 38**

**THAT** the Bill be amended in Clause 38 by:-

- (a) Inserting the word “in” immediately before the word “the” appearing in paragraph (a) of sub-clause (1)

### **CLAUSE 53**

**THAT** the Bill be amended in Clause 53 by:-

- (a) deleting the words “not more than” appearing in paragraph (d) in sub-clause(1)

(b) deleting the words “section 7” appearing in sub-clause(3) and substituting therefor the words “section 6”

(c) inserting the following new paragraphs immediately after sub-clause (5) –

(6) The provisions relating to the appointment of the Secretary and staff members of the Commission as set out in sections 9 and 12 shall apply , *mutatis mutandis* to the appointment of the Director and staff members of the Fund.;

(7) “The provisions relating to the financial provisions of the Commission as set out in sections 29, 30, 31 and 32 shall apply, *mutatis mutandis* to the finances of the Fund.”

#### **CLAUSE 54**

**THAT** the Bill be amended in Clause 54 by:-

(a) Inserting the words “thirteen members appointed by the Cabinet Secretary as follows” immediately after the words “consists of” appearing in sub-clause(3)

(b) Deleting the word “two” appearing in paragraph(d) of sub-clause(1) and substituting therefor the word “three”

(c) Deleting the word “of” appearing in paragraph(f) of sub-clause(3) and substituting therefor the word “representing”

(d) Deleting the word “of” appearing in paragraph(g) of sub-clause(3) and substituting therefor the word “representing”

(e) Deleting the paragraph(h) and substituting therefor a new paragraph (h) as follows-

(h) Two representatives of the Kenya Association of Technical Institutions

(f) inserting the following new paragraphs immediately after paragraph (h) of sub-clause (3) –

(i) the principal Secretary in the Ministry responsible for higher education.;

(j) the principal Secretary in the Ministry responsible for finance

## **CLAUSE 56**

**THAT** the Bill be amended in Clause 56 by:-

- (a) inserting the following new paragraphs immediately after the clause

(56A) The provisions relating to the appointment of the Secretary and staff members of the Commission as set out in sections 9 and 12 shall apply, *mutatis mutandis* to the appointment of the Director and staff members of the Placement Service;

(56B) the provisions relating to the financial provisions of the Commission as set out in sections 29, 30, 31 and 32 shall apply, *mutatis mutandis* to the finances of the Placement Service

## **CLAUSE 60**

**THAT** the Bill be amended in Clause 60 by:-

- (b) deleting the words “but the person shall not be entitled to legal representation within the institutional hearing” appearing immediately after the words “in person” in paragraph(c) of the sub-clause(1)

## **CLAUSE 70**

**THAT** the Bill be amended in Clause 70 by:-

- (a) Inserting the words “Letter of Interim Authority or” immediately after the words “granted such” appearing in the clause
- (b) Deleting (1) appearing in the clause

## **CLAUSE 73**

**THAT** the Bill be amended in Clause 73 by:-

- (a) Deleting the words “or Vice- Chancellor” appearing immediately after the word chancellor in sub-clause(1)

- (b) Deleting sub-clause(2) and substituting therefor a new sub-clause(2) as follows-

(2) any person who immediately before the commencement of this Act, is a Vice Chancellor of a public University or Principal of a Constituent College of a public University, shall remain in office for the remaining period of his or her term of office;

#### **CLAUSE 78**

**THAT** the Bill be amended in Clause 78 by:-

- (a) Inserting the words “as long as they are not inconsistent with this Act” immediately after the words “in force” appearing in the second line of sub-clause(2)

#### **CLAUSE 81**

**THAT** the Bill be amended in Clause 81 by:-

- (a) Inserting “(1)” immediately before the words “All persons” appearing in the clause
- (b) Deleting the words “terms of office” appearing in the clause and substituting therefor the words “or for a period not exceeding six months, whichever is shorter”
- (c) inserting the following new paragraph

(2) Any person who immediately before the commencement of this Act is a Commission Secretary shall remain in office for the remaining period of his or her term of office;

#### **CLAUSE 82**

**THAT** the Bill be amended in Clause 82 by:-

- (a) Deleting the words “subject to such terms and conditions of service as the commission shall determine” appearing immediately after the words “of the commission” in the clause.

#### **NEW CLAUSE 83**

**THAT** the Bill be amended by:-

- (a) Inserting the following new Clause (83) immediately after clause(82)

(83) Where any conflict arises between the provisions of this Act and the provisions of any other law in relation to accreditation of institutions or programmes of Universities or any other function of the Commission, the provisions of this Act shall prevail.

## **Second Schedule**

**THAT** the Bill be amended in second Schedule by:-

(a) Deleting paragraph (1) and substituting therefor the following new paragraph (1):-

(1) Where vacancy occurs in the office of the Chancellor of a public University the Senate shall in consultation with the respective alumni association identify suitable persons for appointment

(b) deleting paragraph (2) and substituting therefor the following new paragraph(2):-

(2) All names submitted under paragraph (1) shall be vetted by the Senate in accordance with the procedure set out in the charter, and the Senate shall propose five names of persons deemed to be qualified under the provisions of this Act for purposes of ranking by the alumni

(b) deleting paragraph (4) and substituting therefor a new paragraph as follows:

(4) The Senate shall forward the names of the top three applicants respectively ranked by the alumni to the Cabinet Secretary for onward transmission to the President, who shall pick one of the persons so ranked for appointment as Chancellor.

(b) deleting the words "the name" appearing in paragraph(6) and substituting therefor the words "three names"

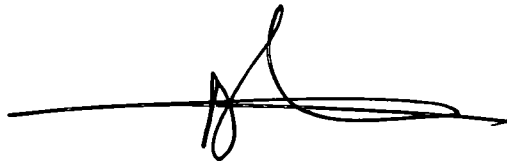
**ACKNOWLEDGEMENTS**

The Committee wishes to thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it in the execution of its mandate. The Committee also appreciates the Secretariat for the preparation of this report.

Finally, I wish to express my appreciation to the Honourable Members of the Committee who sacrificed their time to participate in the activities of the Committee and preparation of this report.

**Mr. Speaker Sir,**

It is therefore my pleasant duty and privilege, on behalf of the Departmental Committee of Education, Research and Technology to table this report on the proposed amendments to the Universities Bill, 2012 and commend it to the House for debate and adoption pursuant to provisions of the National Assembly Standing Order 181.



Signed .....

**CHAIRPERSON**

**(HON. DAVID KOECH, MP)**

Date: 27/11/2012 .....



MINUTES OF THE 57<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON  
EDUCATION, RESEARCH AND TECHNOLOGY HELD ON TUESDAY, 30<sup>TH</sup>  
OCTOBER, 2012 AT COMMITTEE ROOM, 4<sup>TH</sup> FLOOR, CONTINENTAL HOUSE,  
PARLIAMENT BUILDING AT 3.00 P.M.

PRESENT

Hon. David Koech, M.P. - Chairperson  
Hon. F. T. Nyammo, M.P. - Vice-chairperson  
Hon. John D. Pesa, M.P.  
Hon. (Dr.) Wilbur Ottichilo, M.P.  
Hon. David Njuguna, M.P.  
Hon. Mohammed Sirat, M.P.

ABSENT WITH APOLOGY

Hon. Alfred Bwire Odhiambo, M.P.  
Hon. B. Muturi Mwangi, M.P.  
Hon. Shakilla Abdalla, M.P.  
Hon. (Dr.) Joyce Laboso, M.P.

IN ATTENDANCE

Hon. Prof. Margaret Kamar, MP  
Prof. Cripus Kiamba  
Prof. Harry Kaane  
Mr. Owate Wambayi  
Ms. Torome  
Dr. Salome Gichura  
Mr. Isaac W. Gathirwa  
Prof. D. Kimutai Some  
Prof. Florence K. Lenga

IN ATTENDANCE

Mr. Derick Koli  
Mr. George Otieno  
Ms. Rose Ometere

MINISTRY OF HIGHER EDUCATION, SCIENCE  
AND TECHNOLOGY

- Minister for Higher Education, Science & Technology  
- PS MOHEST  
- MOHEST  
- MOHEST  
- MOHEST  
- MOHEST  
- CHE  
- CHE  
- CHE

KENYA NATIONAL ASSEMBLY

- Clerk Assistant  
- Clerk Assistant  
- Hansard

**MIN.NO. 214/2012:**

**PRELIMINARIES**

The Chairman called the meeting to order at thirty minutes past three o'clock in the afternoon and the meeting started with a word of prayer. The Chairman thereafter welcomed the Minister for Higher Education, Science and Technology and other officials from the Ministry and thanked them for attending the meeting and called for a round of introductions.

**MIN. NO.215/2012:**

**THE UNIVERSITIES BILL, 2012**

The Chairman thereafter invited the Minister to take the Committee through the Bill Clause by Clause and asked him to make comments where necessary on areas that the stakeholders had proposed amendments or raised concerns.

The Minister thanked the chairman and other stakeholders present and reiterated that the Universities Bill, 2012 was a crucial piece of legislation in the education sector especially the higher education segment. The Minister further informed the Committee that the Bill establishes various organs that guarantee equitable access to higher education and at the same time ensures the expansion does not compromise the quality of education in the institutions of higher learning. The Minister further stated that the Bill puts emphasis on a framework where all Universities (public and private) will be regulated by the Commission for Higher Education.

The Minister thereafter took the Committee through the Bill as directed by the chairman and during the meeting the following amendments were proposed:-

**CLAUSE 2**

**THAT** the Bill be amended in Clause 2 by-

- (a) deleting "Association of Retired Vice- Chancellors means the Association of that name registered under the Societies Act" appearing in the definitions
- (b) inserting the following new definitions in proper alphabetical sequence-

"alumni" means a member of convocation of a university

## **CLAUSE 5**

**THAT** the Bill be amended in Clause 5 by:-

- (a) Inserting the words “relevance and” immediately after the word “assure” appearing in paragraph(c) of sub-clause(1)
- (b) Inserting the words “, disseminate” immediately after the word “collect” appearing in paragraph (i) of sub-clause (1)

## **CLAUSE 6**

**THAT** the Bill be amended in Clause 6 by:-

- (a) deleting the words “appointed by the Cabinet Secretary” appearing in paragraph(a) of sub-clause(1)
- (b) deleting the words “not more than” appearing in paragraph (d) in sub-clause(1)
- (c) deleting sub-clause(2) and substitute therefor the following new paragraph ““The chairperson and the members of the Commission under subsection (1) (d) shall be appointed by the Cabinet Secretary only from a list; incase of the chairperson three names; in case of other members nine names submitted by a Selection panel appointed by the Cabinet Secretary in accordance with subsection (3).
- (c) deleting paragraphs (b), (c) and (d) in sub-clause (3) and substituting therefor the following new paragraphs-
  - (b) one person to represent the Federation of Kenya Employers;
  - (c) two person to represent the body currently recognized as representing the interest of the private sector;
  - (d) two eminent scholars appointed by the Cabinet Secretary.
- (d) deleting the words “sub-section(3)” appearing in sub-clause(3) and substituting therefor the words “subsection(2)”
- (e) inserting a new paragraph immediately after sub-clause(4)

(4a) The Selection panel shall advertise for the vacancies and publicize the applicants and shortlisted candidates in at least two dailies with a wide national circulation.

(f) Inserting a new paragraph immediately after sub-clause (5)

(5a) The Selection panel in nominating members of the Commission must ensure that those nominated shall not have any conflict of interest in serving as Commissioners in the Commission for University education.

#### **CLAUSE 7**

**THAT** the Bill be amended in Clause 7 by:-

- (a) deleting the word “and” appearing in paragraph(b) of sub-clause (1) and substituting therefor the words “atleast”
- (b) deleting the word “chairman” appearing in sub-clause(3) and substituting therefor the word “chairperson”
- (c) inserting the words “ten years” immediately after the word “have” appearing in sub-clause(3)
- (d) deleting the words “two and three” appearing in sub-clause (5) and substituting therefor the words “three and four”
- (e) deleting sub-clause(7)
- (f) inserting the word “two” immediately after the word “which” appearing in the sub-clause

#### **CLAUSE 12**

**THAT** the Bill be amended in Clause 12 by:-

- (a) deleting the words “of the commission” appearing immediately after the word ‘functions’ in the clause
- (b) inserting a new paragraph as follows:

(2) All appointment under this section shall take into account gender equity, ethnic and regional balance in accordance with the Constitution

(c) inserting sub-clause(1) immediately after clause(12)

#### **CLAUSE 16**

**THAT** the Bill be amended in Clause 16 by:-

(a) deleting letter “5” appearing in sub-clause (1) and substituting therefor the letter “15”

#### **CLAUSE 24**

**THAT** the Bill be amended in Clause 24 by:-

(a) inserting the words “the commission through” immediately after the words “recommendation of” appearing in sub-clause(1)

(b) inserting the words “and with approval of Parliament” immediately after the word “Cabinet Secretary” appearing in sub-clause(1)

#### **CLAUSE 34**

**THAT** the Bill be amended in Clause 34 by:-

(a) deleting the words “publish them” appearing in paragraph(a)(ii) in sub-clause(1) and substituting therefor the words “cause them to be published”

#### **CLAUSE 35**

**THAT** the Bill be amended in Clause 35 by:-

(2) The provisions relating to the qualifications of the chairperson and members of the commission in clause 7 shall mutatis mutandis apply to the chairperson and members appointed in clause 35(1) (a) and (d)

#### **CLAUSE 38**

**THAT** the Bill be amended in Clause 38 by:-

(a) Inserting the word “in” immediately before the word “the” appearing in paragraph (a) of sub-clause (1)

### **CLAUSE 53**

**THAT** the Bill be amended in Clause 53 by:-

- (a) deleting the words “not more than” appearing in paragraph (d) in sub-clause(1)
- (b) deleting the words “section 7” appearing in sub-clause(3) and substituting therefor the words “section 6”
- (c) inserting the following new paragraphs immediately after sub-clause (5) –
  - (6) The provisions relating to the appointment of the Secretary and staff members of the Commission as set out in sections 9 and 12 shall apply , *mutatis mutandis* to the appointment of the Director and staff members of the Fund.;
  - (7) “The provisions relating to the financial provisions of the Commission as set out in sections 29, 30, 31 and 32 shall apply, *mutatis mutandis* to the finances of the Fund.”

### **CLAUSE 56**

**THAT** the Bill be amended in Clause 56 by:-

- (a) inserting the following new paragraphs immediately after the clause
  - (56A) The provisions relating to the appointment of the Secretary and staff members of the Commission as set out in sections 9 and 12 shall apply, *mutatis mutandis* to the appointment of the Director and staff members of the Placement Service;
  - (56B) the provisions relating to the financial provisions of the Commission as set out in sections 29, 30, 31 and 32 shall apply, *mutatis mutandis* to the finances of the Placement Service

### **CLAUSE 78**

**THAT** the Bill be amended in Clause 78 by:-

MINUTES OF THE 59<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON EDUCATION, RESEARCH AND TECHNOLOGY HELD ON THURSDAY, 1<sup>ST</sup> NOVEMBER, 2012 AT COMMITTEE ROOM, 4<sup>TH</sup> FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDING AT 3.00 P.M.

PRESENT

Hon. David Koech, M.P. - Chairperson  
Hon. F. T. Nyammo, M.P. - Vice-chairperson  
Hon. John D. Pesa, M.P.  
Hon. (Dr.) Wilbur Ottichilo, M.P.  
Hon. David Njuguna, M.P.  
Hon. Mohammed Sirat, M.P.  
Hon. B. Muturi Mwangi, M.P.

ABSENT WITH APOLOGY

Hon. Alfred Bwire Odhiambo, M.P.  
Hon. Shakilla Abdalla, M.P.  
Hon. (Dr.) Joyce Laboso, M.P.

IN ATTENDANCE

MINISTRY OF HIGHER EDUCATION, SCIENCE, AND TECHNOLOGY AND OTHER STAKEHOLDERS

Hon. Prof. Margaret Kamar,MP	- Minister for Higher Education, Science & Technology
Prof. Cripus Kiamba	- PS MOHEST
Prof. Harry Kaane	- MOHEST
Mr. Owate Wambayi	- MOHEST
Ms. Torome	- MOHEST
Dr. Salome Gichura	- MOHEST
Mr.Simon N. Gicharu	- National Association of Private Universities
Mr. Vincent G. Gantho	- National Association of Private Universities
Mr. Isaac W. Gathirwa	- CHE
Prof. D. Kimutai Some	- CHE
Prof. Florence K. Lenga	- CHE
Prof. Heenry Thairu	- KEPSA
Prof. Freida Brown	- USIU
Ms. Hellen P. Ambasa	- USIU
Prof. Onesmo Ole Moiyo	- Aga Khan University
Mr. Amin A. Jivraj	- Aga Khan University
Mr. Kinyanjui Kamau	- NCKK
Rev. Samuel Njoroge	- NCKK
Mr. Musau Ndunda	- KNAP
Ms. Rachael Oduor	- KNAP

**IN ATTENDANCE**

Mr. Derick Koli  
Mr. George Otieno  
Ms. Rose Ometere

**KENYA NATIONAL ASSEMBLY**

- Clerk Assistant  
- Clerk Assistant  
- Hansard

**MIN.NO. 222/2012:**

**PRELIMINARIES**

The Chairman called the meeting to order at thirty minutes past three o'clock in the afternoon and the meeting started with a word of prayer. The Chairman thereafter welcomed the Minister for Higher Education, Science and Technology and other stakeholders from various institutions and thanked them for attending the meeting and called for a round of introductions. The Chairman thereafter stated that the meeting was called so that all the stakeholders in the Higher education sector could be accorded the opportunity to dialogue together and come up with a Bill that reflects the aspirations of all Kenyans. The chairman reminded all participants to be tolerant to each other's views.

**MIN. NO.223/2012:**

**THE UNIVERSITIES BILL, 2012  
(STAKEHOLDERS MEETING)**

The Chairman thereafter invited the Minister for Higher Education, Science and Technology to take the Committee and other relevant stakeholders through the Universities Bill, 2012 Clause by Clause and asked her to make comments where necessary on areas that the stakeholders had proposed amendments or raised concerns.

The Minister thanked the chairman and other stakeholders present and reiterated that the Universities Bill, 2012 was a crucial piece of legislation in the education sector especially the higher education. The Bill establishes various organs that guarantee equitable access to higher education and at the same time ensures the expansion does not compromise the quality of education in the institutions of higher learning. The Minister further stated that the Bill puts emphasis on a framework where all Universities (public and private) will be regulated by the Commission for Higher Education.

The Minister thereafter took the Committee and other stakeholders through the Bill as directed by the chairman and during the meeting the following amendments were proposed:-

**CLAUSE 2**

**THAT** the Bill be amended in Clause 2 by-

- (a) deleting "Association of Retired Vice- Chancellors means the Association of that name registered under the Societies Act" appearing in the definitions



(b) inserting the following new definitions in proper alphabetical sequence-

“foreign university” means a university established outside Kenya which intends to offer university education in Kenya.

#### **CLAUSE 5**

**THAT** the Bill be amended in Clause 5 by:-

- (a) Inserting the words “relevance and” immediately after the word “assure” appearing in paragraph(c) of sub-clause(1)
- (b) Inserting the words “, disseminate ” immediately after the word “collect” appearing in paragraph(i) of sub-clause(1)
- (c) inserting the following new paragraphs immediately after paragraph(i) in sub-clause (1) –
  - (j) accredit universities in Kenya;
  - (k) regulate university education in Kenya
  - (l) accredit and inspect University programmes in Kenya
- (d) Inserting the following new sub-clause (3)
  - (3) For the avoidance of doubt, only the Commission shall have the powers to perform the functions set out in this section.

#### **CLAUSE 7**

**THAT** the Bill be amended in Clause 7 by:-

- (a) deleting the letter “a” appearing immediately after the word “commission” in paragraph (b) of sub-clause(1)
- (b) inserting the words “chairperson and” immediately after the word “Act” appearing in sub-clause(4)
- (c) inserting the words “and atleast five years experience in leadership, management or academia” immediately after the word “Kenya” appearing in paragraph (b) in sub-clause(1)
- (d) deleting the words “other than ex- officio members” and substituting therefor the words “ appointed under clause 6(1) (d)”

#### **CLAUSE 19**

**THAT** the Bill be amended in Clause 19 by:-

- (a) deleting the words “ the Cabinet Secretary may deem appropriate” appearing in paragraph (c) of sub-clause(2) and substituting therefor the words “provided for in the regulations”

#### **CLAUSE 20**

**THAT** the Bill be amended in Clause 20 by:-

- (a) inserting the word “ new academic” immediately after the word “its” appearing in paragraph(d) of sub-clause(1)

#### **CLAUSE 34**

**THAT** the Bill be amended in Clause 34 by:-

- (a) deleting the word “appoint” appearing in paragraph(a)(v) in sub-clause(1) and substituting therefor the words “ in the case of a public university, recommend”
- (b) inserting the word “principal of a constituent college and appoint” immediately after the words “Vice chancellor and” appearing in paragraph(a)(v) of sub-clause(1)

#### **CLAUSE 35**

**THAT** the Bill be amended in Clause 35 by:-

- (a) Deleting sub-clause (1) and substituting therefor the following new sub-clause(1)

(1)The council of a public university or constituent college of such a university shall consist of nine persons appointed by the cabinet secretary as follows-

- (a) Chairperson
- (b) Principal secretary in the Ministry for the time being responsible for the university education
- (c) Principal secretary in the Ministry for the time being responsible for Finance
- (d) Five members appointed by the cabinet secretary through an open and competitive process
- (e) The Vice Chancellor who shall be an ex-officio

## **CLAUSE 54**

**THAT** the Bill be amended in Clause 54 by:-

- (a) Inserting the words “thirteen members appointed by the Cabinet Secretary as follows” immediately after the words “consists of” appearing in sub-clause(3)
- (b) Deleting the word “two” appearing in paragraph(d) of sub-clause(1) and substituting therefor the word “three”
- (c) Deleting the word “of” appearing in paragraph(f) of sub-clause(3) and substituting therefor the word “representing”
- (d) Deleting the word “of” appearing in paragraph(g) of sub-clause(3) and substituting therefor the word “representing”
- (e) Deleting the paragraph(h) and substituting therefor a new paragraph (h) as follows-
  - (h) Two representatives of the Kenya Association of Technical Institutions
- (f) inserting the following new paragraphs immediately after paragraph (h) of sub-clause (3) –
  - (i) the principal Secretary in the Ministry responsible for higher education.;
  - (j) the principal Secretary in the Ministry responsible for finance

## **CLAUSE 60**

**THAT** the Bill be amended in Clause 60 by:-

- (b) deleting the words “but the person shall not be entitled to legal representation within the institutional hearing” appearing immediately after the words “in person” in paragraph(c) of the sub-clause(1)

## **CLAUSE 70**

**THAT** the Bill be amended in Clause 70 by:-

- (a) Inserting the words “Letter of Interim Authority or” immediately after the words “granted such” appearing in the clause
- (b) Deleting (1) appearing in the clause

### **CLAUSE 73**

**THAT** the Bill be amended in Clause 73 by:-

- (a) Deleting the words “or Vice- Chancellor” appearing immediately after the word chancellor in sub-clause(1)
- (b) Deleting sub-clause(2) and substituting therefor a new sub-clause(2) as follows-

(2) any person who immediately before the commencement of this Act, is a Vice Chancellor of a public University or Principal of a Constituent College of a public University, shall remain in office for the remaining period of his or her term of office;

### **CLAUSE 81**

**THAT** the Bill be amended in Clause 81 by:-

- (a) Inserting “(1)” immediately before the words “All persons” appearing in the clause
- (b) Deleting the words “terms of office” appearing in the clause and substituting therefor the words “or for a period not exceeding six months, whichever is shorter”
- (c) inserting the following new paragraph

(2) Any person who immediately before the commencement of this Act is a Commission Secretary shall remain in office for the remaining period of his or her term of office;

### **NEW CLAUSE 83**

**THAT** the Bill be amended by:-

- (a) Inserting the following new Clause (83) immediately after clause(82)

(83) Where any conflict arises between the provisions of this Act and the provisions of any other law in relation to accreditation of institutions or programmes of Universities or any other function of the Commission, the provisions of this Act shall prevail.

### **Second Schedule**

**THAT** the Bill be amended in second Schedule by:-

(a) Deleting paragraph (1) and substituting therefor the following new paragraph (1):-

(1) Where vacancy occurs in the office of the Chancellor of a public University the Senate shall in consultation with the respective alumni association identify suitable persons for appointment

(b) deleting paragraph (2) and substituting therefor the following new paragraph(2):-

(2) All names submitted under paragraph (1) shall be vetted by the Senate in accordance with the procedure set out in the charter, and the Senate shall propose five names of persons deemed to be qualified under the provisions of this Act for purposes of ranking by the alumni

(c) deleting paragraph (4) and substituting therefor a new paragraph as follows:

(4) The Senate shall forward the names of the top three applicants respectively ranked by the alumni to the Cabinet Secretary for onward transmission to the President, who shall pick one of the persons so ranked for appointment as Chancellor.

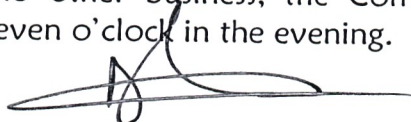
(d) deleting the words "the name" appearing in paragraph(6) and substituting therefor the words "three names"

**MIN.NO. 224/2012:**            **DATE OF THE NEXT MEETING**

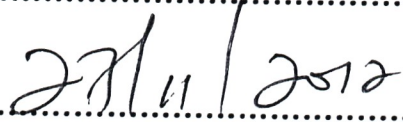
The next meeting was to be called by notice

**MIN. NO.225/2012:**            **ADJOURNMENT**

There being no other business, the Committee adjourned the sitting at twenty five minutes past seven o'clock in the evening.

SIGNED.....

(CHAIRMAN)

DATE.....

- (a) Inserting the words “as long as they are not inconsistent with this Act” immediately after the words “in force” appearing in the second line of sub-clause(2)

**CLAUSE 82**

**THAT** the Bill be amended in Clause 82 by:-

- (a) Deleting the words “subject to such terms and conditions of service as the commission shall determine” appearing immediately after the words “of the commission” in the clause.

**MIN.NO. 216/2012: DATE OF THE NEXT MEETING**

The next meeting was to be held on Thursday, 1<sup>st</sup> November, 2012 at 10.00 a.m.

**MIN. NO.217/2012: ADJOURNMENT**

There being no other business, the Committee adjourned the sitting at thirty minutes past seven o'clock in the evening.

SIGNED.....

(CHAIRMAN)

DATE..... 27/11/2012

MINUTES OF THE 60<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON EDUCATION, RESEARCH AND TECHNOLOGY HELD ON TUESDAY, 27<sup>TH</sup> NOVEMBER, 2012 AT THE MEMBER'S LOUNGE, MAIN PARLIAMENT BUILDING AT 10.00 A.M.

PRESENT

Hon. David Koech, M.P. - Chairperson  
Hon. F. T. Nyammo, M.P. - Vice-chairperson  
Hon. John D. Pesa, M.P.  
Hon. (Dr.) Wilbur Ottichilo, M.P.  
Hon. Mohammed Sirat, M.P.  
Hon. B. Muturi Mwangi, M.P.

ABSENT WITH APOLOGY

Hon. Alfred Bwire Odhiambo, M.P.  
Hon. David Njuguna, M.P.  
Hon. Shakilla Abdalla, M.P.  
Hon. (Dr.) Joyce Laboso, M.P.

IN ATTENDANCE

Mr. Derick Koli  
Mr. George Otieno

KENYA NATIONAL ASSEMBLY

- Clerk Assistant  
- Clerk Assistant

MIN.NO. 226/2012:

PRELIMINARIES

The Chairman called the meeting to order at thirty minutes past ten o'clock in the morning and the meeting started with a word of prayer. The Chairman thereafter welcomed the Members present to the meeting and informed them that the meeting was called to facilitate the adoption of the reports on the Basic Education Bill, 2012 and the Universities Bill, 2012. He thanked the Members for having sacrificed their time to attend all the consultative meetings on the two Bills during recess period.

MIN. NO.227/2012:

ADOPTION OF THE REPORT ON THE PROPOSED AMENDMENTS TO THE UNIVERSITIES BILL, 2012

The report on the proposed amendments to the Universities Bill, 2012 was considered and unanimously approved by the Members present. The Minutes of the 57<sup>th</sup> and 59<sup>th</sup> Sittings held on Tuesday 30<sup>th</sup> October, 2012 and 1<sup>st</sup> November, 2012 respectively were also confirmed. The Minutes of the 57<sup>th</sup> sitting were proposed by Hon. Wilbur Ottichilo,

MP and seconded by Hon. John Pesa, MP and signed by the chairman. The Minutes of the 59<sup>th</sup> sitting were proposed by Hon. B.C. Muturi Mwangi, MP and seconded by Hon. Wilbur Ottichilo, MP and signed by the chairman.

**MIN. NO.228/2012:**

**ADOPTION OF THE REPORT ON THE PROPOSED  
AMENDMENTS TO THE BASIC EDUCATION BILL,  
2012**

The report on the proposed amendments to the Basic Education Bill, 2012 was considered and unanimously approved by the Members present. The Minutes of the 54<sup>th</sup> and 58<sup>th</sup> Sittings held on Monday 29<sup>th</sup> October, 2012 and 1<sup>st</sup> November, 2012 respectively were also confirmed. The Minutes of the 54<sup>th</sup> sitting were proposed by Hon. Mohamud Sirat, MP and seconded by Hon. John Pesa, MP and signed by the chairman. The Minutes of the 58<sup>th</sup> sitting were proposed by Hon. Mohamud Sirat, MP and seconded by Hon. Wilbur Ottichilo, MP and signed by the chairman.

**MIN.NO. 229/2012:**

**ANY OTHER BUSINESS**

The following issues were discussed:

- (a) The proposal by the Aga Khan University to exempt foreign University chartered in their home countries from being accredited and offered another charter in Kenya. This proposal was discussed and the Committee resolved that all universities intending to offer university education in Kenya must all be accredited through a similar process by the Commission for Higher Education.
- (b) Bench marking trip to South Africa. The Committee was informed that the Clerk of the National Assembly had approved the trip. However, the South African Parliament was on recess and had written back indicating unavailability of Members during the proposed dates(25<sup>th</sup> November, to 1<sup>st</sup> December 2012)
- (c) The invitation by the Kenya Private Schools Association to join its delegation on a visit to South Africa from 10<sup>th</sup> to 15<sup>th</sup> December 2012. The Committee accepted the invitation and proposed the following Members for the trip to South Africa:
  - (i) The Hon. Wilbur Ottichilo, MP
  - (ii) The Hon. John Pesa, MP
  - (iii) The Hon. Joyce Laboso, MP

The Committee also recommended that the Members be accompanied by a Committee Clerk.

**MIN.NO. 230/2012:**

**DATE OF THE NEXT MEETING**

The next meeting was to be called by notice



MIN. NO.231/2012:

ADJOURNMENT

There being no other business, the Committee adjourned the sitting at twenty minutes to twelve o'clock.

SIGNED.....

(CHAIRMAN)

DATE.....

