A BILL

FOR

AN ACT TO AMEND THE EDUCATION (NATIONAL MINIMUM STANDARDS AND ESTABLISHMENT OF INSTITUTIONS) ACT CAP E3 LFN 2004 AND OTHER RELATED MATTERS

Sponsored by Senator Jibrin I. Barau

[ ]  

ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

1. The Education (National Minimum Standards and Establishment of Institutions) Act Cap E3 LFN 2004 (in this Bill referred to as the Principal Act) is hereby amended as set out in this Bill.

2. Section 1 of the Principal Act is amended by substituting:

(1) Section 1 with a new section 1 
"Minimum standards for early childhood care and development centers, pre-primary and primary institutions".

(2) Subsection 1(1) with a new subsection 1(1):

"(1) The responsibility for the establishment and maintenance of minimum standards in early childhood care and development centers, pre-primary and primary institutions, and other similar institutions in the Federation is hereby vested in the Minister."

3. Section 2 of the Principal Act is amended by:

(1) Substituting subsection (f) with a new subsection (f) -
"to develop social skills through team building activities;"

(2) inserting new subsections (i) to (l) after subsection (h) -
(i) to lay the foundation for academic, cognitive, social and emotional development;

(ii) to promote readiness for reading, literacy and numeracy;

(iii) to develop creativity in children; and
1. (iv) to develop a love for learning."

4. Section 3 of the Principal Act is amended by substituting subsection 1(g) with a new subsection 1(g):

"(g) to provide basic knowledge and skills for further advancement in academic and technical education, including preparation for local trades and crafts."

5. Section 4 of the Principal Act is amended by-

(1) inserting a new subsection (3)-

"(3) The responsibility for the establishment and maintenance of minimum standards in the Federation in respect of teacher education carried out as part of higher education but not extending up to degree level is hereby vested in the National Commission for Colleges of Education, after obtaining prior approval therefrom from the Minister."

(2) re-numbering the existing subsection (3) as subsection (4)

(3) inserting a new subsection (5) after the new subsection (4)-

"In prescribing the minimum standards mentioned in subsection (3), the National Commission for Colleges of Education and, as the case may be, the Minister, shall have regard to the matters mentioned in sections 7 and 11 of this Act."

6. Section 7 of the Principal Act is amended by inserting:

the phrase, "To produce highly effective classroom teachers who are equipped with the knowledge and skills to employ the best techniques to achieve optimum student learning" immediately below the phrase, "Purpose of teacher education".

(1) a new subsection (c) after the existing subsection (d)-

"(c) to institute practices that ensure the continuing education of teachers."

7. Section 8(3) of the Principal Act is amended by substituting the phrase, "in section 9 of this Act" with the phrase, "in section 9 and 11 of this Act".
8. Section 9 is amended by substituting:

(1) the words "the provision of" in subsections (a) and (c) with the words, "to produce".

(2) the words "the provision of" in subsections (b) and (e) with the words, "to provide".

(3) the words, "the introduction of" in subsection (i) with the words, "to introduce".

9.- (1) The heading of sections 10-11 is hereby changed from "Higher Education" to "University and Higher Education".

10.- (1) Section 10 of the Principal Act is amended by -

(1) substituting subsection (1) with a new subsection (1) "(1) The power to lay down and enforce minimum standards for all universities and other degree-awarding institutions in the Federation, inserting a new subsection (4) after the existing subsection(3)

"(4) The powers vested in the National Universities Commission by subsection (1) of this section shall supersede such similar powers conferred on any other body by any other Law or Act", and such similar powers shall be void to the extent of their inconsistency with those of NUC.

11. Section 13 of the Principal Act is hereby amended by -

(1) substituting subsection (a) with a new subsection (a) "(a) to provide adequate education for all physically and mentally challenged children and adults in order to enable them to maximize their full potential and to play their roles in the development of the nation;"

(2) inserting a new subsection (c) after the existing subsection (b) "to provide the optimal education possible in the least restrictive environments for all children and adults with disabilities."

12. Section 15 (1) of the Principal Act is amended by substituting the phrase, "keep himself or itself", with the word. "stay".

13. Section 19 is amended by:

(1) substituting the title of the section with a new title -
"19. Conditions for the establishment of government-owned institutions"

(2) amending subsection (1) by:

(a) substituting the phrase, "Any institution", with the phrase, "Any government-owned institution";

(b) deleting the phrase "irrespective of the ownership".

(3) amending subsection (2) by substituting the word, "university", in subsection (2)(a) with the word, "higher"

14. Section 20 is amended by:

(1) substituting the word, "learning" everywhere it occurs with the word, "education" deleting the phrase "and who satisfy the criteria set out in the Schedule to this Act for establishment of institutions" from subsection (b).

15. Section 21 of the principal Act is amended by:

(a) Substituting the word, "learning" with the word "education" in subsection (1);

(b) Substituting the phrase "tertiary institution" with the phrase "institution of higher education" everywhere it occurs in subsection (2);

(c) Substituting subsection (3) with a new subsection (3).

"(3) No person or group of persons (whether corporate or incorporate):

(1) shall establish or run an institution of higher education in any part of Nigeria, either independently or in conjunction with any institution of higher education within or without Nigeria, without the written approval of the appropriate authority; and

(2) shall be granted approval to establish an institution of higher education unless the criteria set out in the Schedule of this Act have been satisfied."

(3) Inserting a new subsection (4) after the new subsection (3).

"(4) The approval to establish an institution of higher education shall be granted in the form of license, which license shall be granted for such period,
and subject to such further terms and conditions, as the appropriate authority
may prescribe, in consultation with the Minister."

16. Section 22 of the Principal Act is amended by substituting the
existing Section 22 with a new Section 22 -

"22. Powers to enforce minimum standards in institutions of higher
education.

(1) (a) Any person or group of persons who establishes or operates
an unapproved institution of higher education, including persons acting as
Principal Officers in such an institution, shall be guilty of an offence and
shall be liable severally on conviction to imprisonment for a term of not less
than five years and not more than ten years without an option of fine;
Provided that no person shall be charged under this subsection until all
processes required by subsections (b) and (d) of this section have been
complied with;

(b) Any institution of higher education established otherwise than
in compliance with sections 19, 20 and 21 of this Act shall be deemed to be
illegal and shall be liable to closure by the appropriate authority but before
any such closure, the appropriate authority shall afford the proprietor of the
institution an opportunity to make representations for consideration by the
appropriate authority not later:

(i) The National Universities Commission, in the case of
Universities and all other degree-awarding institutions or bodies;

(ii) sixty days after receipt of notice by the proprietor from such authority
of its intention to close down the institution;

(c) Where an institution of higher education is closed down under
this subsection, the appropriate authority shall appoint a qualified person, to
be known as a receiver, to take charge of the assets and liability of any such
institution for the purposes of winding down the operations of such
institution in accordance with existing laws;

(d) Any person aggrieved by any decision taken under or pursuant
to subsections (b) and (c) of this section shall have a right to apply to court for a
review of the matter;

(e) Where an offence under subsection (a) of this section is committed
by a body corporate, firm or partnership, it shall be liable on conviction to a fine
of not less than five million naira, and

(i) the chairman of the Board and directors of the body corporate;
(ii) every partner and principal officer of the firm or partnership; and
(iii) every person purporting to act in any such capacity shall be
severally liable to be proceeded against and shall be liable on conviction to a
term of not less than five years and not more than ten years imprisonment
without an option of fine.

(f) The powers conferred under this subsection shall not be exercised
by the appropriate authority in respect of any institution belonging to any
government in the Federation without the prior approval of the President, or the
relevant Governor or Local Government Chairman.

(2)(a) Unless otherwise provided by this Act, the establishment and
operation of all institutions of higher education in Nigeria, irrespective of their
ownership, shall be subject to, and comply with the licensing and regulatory
requirements, of the appropriate authorities, namely:

(i) The National Universities Commission, in the case of Universities
and all other degree-awarding institutions or bodies;

(ii) The National Board for Technical Education, in the case of
Polytechnics, Colleges of Agriculture, and all other forms of technical
education below degree level;

(iii) The National Commission for Colleges of Education, in the case
of Colleges of Education and all other forms of teacher training below degree
level.

(e) The appropriate authority shall have the power to close down any
academic unit or program in any approved institution of higher education
within its jurisdiction that does not meet the prescribed minimum standards
stipulated for it by that authority, or contravenes existing regulations of
same authority;

(d) With regard to institutions of higher education that are privately
owned, the appropriate authority shall have the power, where a breakdown
of internal governance processes threatens the maintenance of minimum
standards, to-

(i) Suspend the existing administrative structure of the affected
institutions; and

(ii) Constitute a Caretaker Committee to temporarily oversee the
affairs of that institution:

Provided that the appropriate authority shall, on the successful
resolution of the crisis, re-establish the governance structure of the affected
institution, in line with the authority's existing regulations.

(e) Any person or corporate body responsible for carrying out such
directive that fails, refuses or neglects to carry out directives issued by the
appropriate authority pursuant to the provisions of this subsection, or
invites, induces or abets any other person to obstruct or interfere with such a
directive shall be guilty of an offence and shall be liable on conviction to a
term of not less than one year and not more than three years imprisonment
without an option of fine.

(3) As from the commencement of this Act-

(a) it shall be unlawful for any University in Nigeria, whether
acting individually or in conjunction with other Institution within or outside
Nigeria, to establish and/or run degree programs in satellite campuses or
study centers outside its primary location;

(b) all degree programs being run on satellite campuses and study
centers shall cease to operate and all the affected students shall be at liberty
to re-apply to any existing approved University running such programs with
full accreditation by the National Universities Commission;

(c) any person or group of persons, including persons acting as
Principal Officers in approved institutions of higher education, who, in
covonvention of this subsection, approve, establish and/or operate satellite
campuses, study centers, or other similar venues by whatever name called, or
any other form of unapproved degree-awarding Institution, for running degree
programs outside of the primary location of a University shall be liable on
conviction to imprisonment for a term of not less than three years and not more
than five years without an option of fine;

(d) Where the person, body corporate, firm or partnership convicted
for operating an unapproved institution of higher education and/or for
committing an offence under subsection (3) of this section is also the owner of
the premises or landed property in question, such premises or landed property
shall, in addition to other punishments stipulated by this Act, be forfeited to the
Federal Government:

(i) the chairman of the Board and directors of the body corporate;
(ii) every partner and principal officer of the firm or partnership; and
(iii) every person purporting to act in any such capacity shall be
severally liable to be proceeded against and shall be liable on conviction to
imprisonment for a term of not less than two years and not more than five years
imprisonment without an option of fine.

(4) (a) Any person who, knowing it is to be used for the operation of
an unapproved institution of higher education and/or for purposes prohibited
under subsection (3) of this section, sells, lets or otherwise makes available for
use his landed property or premises shall be guilty of an offence and liable on
conviction to imprisonment for a term of not less than two years and not more
than five years without option of fine;

(b) Where an offence under this subsection is committed by a body
corporate, firm or partnership, it shall be liable on conviction to a fine of not
less than three million naira, and

(i) The chairman of the Board and directors of the body corporate;
(ii) Every partner and principal officer of the firm or partnership; and
(iii) Every person purporting to act in any such capacity shall be
severally liable to be proceeded against and shall be liable on conviction to a
term of not less than two years and not more than five years imprisonment
without an option of fine.

(c) Where the person, body corporate, firm or partnership
convicted for operating an unapproved institution of higher education
and/or for committing an offence under subsection (3) of this section is also
the owner of the premises or landed property in question, such premises or
landed property shall, in addition to other punishments stipulated by this
Act, be forfeited to the Federal Government.

(5) It shall be an offence, punishable on conviction by a fine of not
less than one million naira for each person so admitted, for an institution of
higher education to admit, for purposes of further education, a person that is
in possession of a degree, diploma, certificate or other academic award
issued by an unapproved institution of higher education.

(6) It shall be an offence, punishable on conviction by a fine of not
less than one million naira for each person so employed, for an employer of
labor, whether in the public or private sector, to recognize and, thereby, base
a decision to employ, on a degree, diploma, certificate or other academic
award issued by an unapproved institution of higher education.

(7) Subject to section 174 of the 1999 Constitution of the Federal
Republic of Nigeria (as amended), any legal officer in the appropriate
authority may conduct criminal proceedings in respect of offences, or
regulations made, under this Act.

(8) The appropriate authority may, from time to time, make
regulations, with the approval of the Minister, where mandated to do so by
this Act or where the effective administration of this Act so requires.

17. Section 24 of the Principal Act is amended by inserting the
word "farms," after the word, "drawing-rooms," and before the word,
"typewriting rooms," in subsection (1)(g).
18. Section 25 of the Principal Act is amended by:

(1) Substituting the interpretation of the word, "Academic Unit", with a new interpretation:

"Academic Unit" means a College, Faculty or Department duly approved by the appropriate authority to run academic disciplines or programs".

(2) Substituting the interpretation of the word, "Campus", with a new interpretation:

"Campus" means any primary location of an institution approved by the appropriate authority."

(3) Inserting new-subsections (c) to (e) after the existing subsection (b) in the interpretation of the word, "appropriate authority":

"(c) The National Universities Commission, in the case of Universities and all other degree-awarding institutions or bodies;

(d) The National Board for Technical Education, in the case of Polytechnics, Colleges of Agriculture, and all other forms of technical education below degree level;

(e) The National Commission for Colleges of Education, in the case of Colleges of Education and all other forms of technical education below degree level.

(4) Substituting the interpretation of the word "technical education" with a new interpretation:

"technical education" means education given in institutions other than institutions of higher education, providing both the scientific knowledge and practical skills for a specific trade, employment or profession as craftsman, technician, technologist, engineer, scientist or similar levels in business, in the fields of engineering, applied science, agriculture or business."

(5) Inserting the interpretation of the words 'unapproved degree-awarding Institution' and 'unapproved institution of higher education"
immediately after the interpretation of the words "technical education" as
follows-

"unapproved degree-awarding Institution" means a degree-
awarding Institution operating without the approval of the National
Universities Commission first sought and obtained with requisite license."

"unapproved institution of higher education" means any
institute of higher education operating without the approval of the
appropriate authority."

19. The Schedule to the Principal Act is amended by -

(1) Amending Clause 2 (2) by inserting the word, "on", before the
phrase, "staff ratio based on the courses contemplated."

(2) Amending the Clause 4 by inserting new subsections (d) and (e)
immediately after the existing subsection (c).

"(d) the applicant has established an endowment fund for at least
N250 million in a reputable bank for the University which fund shall be
increased to N500 million within the first 5 years and to at least N1 billion in
the next 10 years of the establishment of the University:

(e) where the proposed University is registered or incorporated in
Nigeria as a charitable company limited by guarantee; the proprietor(s),
operator(s), trustees or directors are disentitled from drawing profits from
the University."

(3) Amending Clause 5(1) by:

(i) deleting the existing subsection 5(1)(b) in the Principal Act and
inserting a new Subsection (b) thus:

"(b) the minimum land area for a University, Polytechnic,
Monotechnic and College of Education shall be determined by the extant
guidelines issued by the appropriate authorities.

(ii) Inserting a new Subsection (c):

"(c) The land forming part of the assets under paragraph (b) at the
time of the approval contains fully developed infrastructure which in the
opinion of the appropriate authority will be sufficient for the take-off of the
Institution."

(4) Amending Clause 7 by substituting the existing Clause 7 with a
new Clause 7-

"7. To prevent the problems of inadequate municipal facilities, the
proposed institution shall have a clear policy on student and staff
accommodation, catering, welfare and other municipal services.".

(5) Amending Clause 8 by deleting the word, "mission" and
substituting it with the word, "vision".

(6) Substituting the existing short title with a new short title-

"EDUCATION (NATIONAL MINIMUM STANDARDS AND ESTABLISHMENT OF
INSTITUTIONS) AMENDMENT ACT"

20. This Bill may be cited as the Education (National Minimum

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Education (National Minimum Standards and
Establishment of Institutions) act CAP E3 LFN 2004 to provide regulatory
bodies with effective tools for enforcing national minimum standards in the
educational sector.