



*Approved
SAA
18/2/26*

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – FIFTH SESSION – 2026

DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON EDUCATION

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REPORT ON:

BASIC EDUCATION (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILL NO. 3 OF 2025)

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 18 FEB 2026	DAY: Wednesday
TABLED BY:	Hon. Julius Melly (Chairperson, Departmental Committee on Education)
THE TALKS:	Irene Naloku

CLERKS CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES,
PARLIAMENT BUILDINGS
NAIROBI

FEBRUARY 2026

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LIST OF ABBREVIATIONS AND ACRONYMS

ABE	-	Alternative Basic Education
AG	-	Attorney General
APBET	-	Alternative Provision of Basic Education
CBE	-	Complementary Basic Education
EGS	-	Education Guarantee Scheme

LIST OF ABBREVIATIONS AND ACRONYMS

ABE	-	Alternative Basic Education
AG	-	Attorney General
APBET	-	Alternative Provision of Basic Education
CBE	-	Complementary Basic Education
EGS	-	Education Guarantee Scheme
EMIS	-	Education Management Information System
NFS	-	Non-Formal Schooling
NIOS	-	National Institute for Open Schooling
UNESCO IIEO	-	United Nations Educational, Scientific and Cultural Organization International Institute for Educational Planning
SDG	-	Sustainable Development Goals
TSC	-	Teachers Service Commission

LIST OF ANNEXURES

1. Report adoption Schedule
2. Minutes
3. Copy of the newspaper advertisement on public participation
4. Letter inviting stakeholders for meetings with the Committee
5. Stakeholder submissions

CHAIRPERSON'S FOREWORD

This report contains proceedings of the Departmental Committees on Education on its consideration of the Basic Education (Amendment) Bill (National Assembly Bill No 3 of 2025) which was published on 18th February 2025. The Bill went through the First Reading on 11th June 2025 and was thereafter committed to the Departmental Committee on Education for consideration and reporting to the House pursuant to the provision of Standing Order 127.

The Bill has 15 (Fifteen) clauses and seeks to amend the Basic Education Act, *Cap.* 211 to ensure Alternative Provision for Basic Education and Training (APBET) schools fall under the definition of basic education and to provide for mapping, recognition, registration and provision of equivalent benefits to Alternative Provision for Basic Education and Training (APBET) schools.

Following placement of advertisements in the print media on Wednesday 11th July 2025 seeking public and stakeholder views on the Bill pursuant to Article 118(1) (b) of the Constitution and Standing Order 127(3), the Committee received sixteen (16) memoranda from the Public. The Committee also invited stakeholders for a stakeholders' engagement meeting on the Bill which was held on 31st July 2025 Parliament Buildings.

The Committee also conducted extensive public participation in Nairobi County informal settlement areas where APBET schools exist. These included;

- a. Kibra Constituency on 6th August 2025;
- b. Dagoreti North and Mathare Constituencies on 13th August 2025; and
- c. Ruaraka Constituency on 11th September 2025.

The majority of the stakeholders were of the view that the Bill is critical for formally recognizing Alternative Provision for Basic Education and Training (APBET) schools as an integral part of Kenya's basic education system. In considering the Bill, Members observed that the legislation was timely because it will provide for mapping, recognition, registration, and provision of equivalent benefits to APBET schools.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support provided during its sittings. The Committee further wishes to thank the sponsor of the Bill, Hon. Antony Tom Oluoch, MP, Leader of the Majority Party, Members of the Departmental Committee on Education for the contribution that they made on the Bill and all stakeholders who submitted their comments on the Bill. Finally, I wish to express my appreciation to the Honorable Members of the Committee and Secretariat who made useful contributions towards the consideration of the Bill and the production of this report.

On behalf of the Departmental Committee on Education and pursuant to provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the Basic Education (Amendment) Bill (*National Assembly Bill No. 3 of 2025*). It is my pleasure to report that the Committee has considered the Basic Education (Amendment) Bill (*National Assembly Bill No. 3 of 2025*) and I have the honor to report back to the National Assembly with the recommendation that the Bill be **approved with amendments as reported by the Committee.**

Hon. Julius K. Melly, CBS, M.P.
Chairperson, Departmental Committee on Education

PART ONE

1 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Education is one of the twenty Departmental Committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows:

- 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 Ministries and departments and the effectiveness of their implementation;*
- iii. *On a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
- iv. **To study and review all the legislation referred to it;**
- v. *To study, assess and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
- vi. *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 them by the House;*
- vii. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on appointments);*
- viii. *To examine treaties, agreements and conventions;*
- ix. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
- x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
- xi. *To examine any questions raised by Members on a matter within its mandate.*

1.2 MANDATE OF THE COMMITTEE

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider matters regarding: -
 - a) Education
 - b) Training
 - c) Curriculum development and
 - d) Research
3. In executing its mandate, the Committee oversees
 - a. The Ministry of Education and all its Agencies.
 - b. The Teachers' Service Commission
4. The State Departments and the agencies the Committee oversees are as listed;
 - a) **State Department for Basic Education**
 - i. Kenya National Examination Council
 - ii. Kenya Institute of Curriculum Development
 - iii. Kenya institute of Special Education
 - iv. Kenya Literature Bureau
 - v. Kenya Institute for the Blind
 - vi. Centre for Mathematics, Science and Technology in Africa

- vii. Kenya National Commission for UNESCO
- viii. Kenya Education Management Institute
- ix. School Equipment Production Unit
- x. Jomo Kenyatta Foundation
- xi. National Commission for Nomadic Education

b) State Department for Technical and Vocational Education

- i. Technical and Vocational Education and Training Authority
- ii. Technical Vocational Education Training Fund Board
- iii. Curriculum Development Assessment and Certification Council
- iv. Kenya National Qualification Authority
- v. Kenya National Qualification Authority
- vi. Kenya School of TVET

c) State Department for Higher Education

- i. Commission for University Education
- ii. Kenya Universities and Colleges Placement Service
- iii. Higher Education Loans Board
- iv. University Funding Board
- v. Forty (40) Public Universities (Under Universities Act, Cap. 210)
- vi. University of Nairobi Enterprises
- vii. University of Nairobi Press

d) State Department for Science, Research and Innovation

- i. National Commission for Science Technology and Innovation
- ii. National Research Fund
- iii. Kenya National Innovation Agency

1.3 COMMITTEE MEMBERSHIP

5. The Committee was re-constituted by the House on 6th March 2025 and comprises the following Members:

Chairperson

Hon. Julius Kibiwott Melly, CBS, MP
Tinderet Constituency
UDA

Vice Chairperson

Hon. Eve Akinyi Obara, CBS, MP
Kabondo-Kasipul Constituency
ODM

Honorable Members

Hon. Dr. Christine Oduor Ombaka, MP
Siaya County
ODM

Hon. Nabii Nabwera Daraja, MP
Lugari Constituency
ODM

Hon. Peter Ochieng Orero, MP
Kibra Constituency
ODM

Hon. Rebecca Noonaishi Tonkei, MP
Narok County
UDA

Hon. Joseph Makilap, MP
Baringo North Constituency,
UDA

Hon. Elijah Kururia, MP
Gatundu North Constituency
IND

Hon. Dick Oyugi Maungu, MP
Luanda Constituency
DAP-K

Hon. Mary Emaase, MP
Teso South
UDA

Hon. Jerusha Mongina Momanyi, MP
Nyamira County
JP

Hon. Abdul Ebrahim Haro, MP
Mandera South Constituency
UDA

Hon. Clive Gisairo, MP
Kitutu Masaba, Constituency,
ODM

Hon Julius Taitumu M'Anaiba, MP
Igembe North Constituency,
UDA

Hon. (Prof.) Phylis Jepkemoi Bartoo, MP
Moiben Constituency
UDA

1.4 COMMITTEE SECRETARIAT

6. The Committee is facilitated by the following staff:

Mr. Douglas Katho
Head of Secretariat

Mr. Clive Onyancha
Clerk Assistant II

Mr. Dennis Amunavi
Clerk Assistant III

Ms. Fiona Wanjiru
Legal Counsel II

Mr. Eric Kanyi
Fiscal Analyst I

Ms. Noelle Chelagat
Media Relations Officer II

Dr. Mburu Maina
Research Officer III

Ms. Pauline Njuguna
Hansard Reporter II

Mr. Richard Sang
Serjeant-At-Arms

Mr. Jared Onyancha
Public Communications Officer III

Mr. Nimrod Ochieng'
Audio Recording Officer

Ms. Christabel Naisula
Parliamentary Internship Programme

PART TWO

2 BACKGROUND OF ALTERNATIVE PROVISION OF BASIC EDUCATION AND TRAINING SCHOOLS

2.1 SITUATIONAL ANALYSIS

7. Alternative Providers of Basic Education and Training (APBET) in Kenya cater for learners in underserved areas, including urban informal settlements, marginalized regions, and communities with high poverty levels. They mainly serve children who are out of school or whose families cannot afford formal public or private schooling. Most APBET institutions are community-driven, faith-based, or privately run, relying on low and flexible fee structures to remain accessible to poor households.
8. These schools have played a crucial role in widening access to education, providing opportunities to children who would otherwise miss out on basic learning. Their flexible schedules and multi-shift approaches make them adaptable to the realities of learners in informal and nomadic environments.
9. However, APBET schools face multiple operational challenges. Infrastructure is often inadequate, with many institutions operating in temporary or substandard facilities that lack proper classrooms, sanitation, and playgrounds. Teacher shortages and low qualifications are common, as schools depend on untrained or underpaid educators, resulting in inconsistencies in the quality of instruction. Financial limitations remain a major obstacle, since most institutions survive on minimal fees from low-income families and receive little to no government support, affecting their ability to maintain facilities, acquire learning materials, or retain qualified teachers.
10. Additionally, APBET institutions face social perception challenges, often regarded as less prestigious than mainstream schools, which can hinder student progression to higher levels of education. Weak data integration also persists, with many schools absent from national education databases, complicating government efforts to plan, allocate resources, or track learner outcomes effectively.
11. Despite these hurdles, significant opportunities exist to strengthen APBET. Increased government engagement through funding and teacher deployment, streamlined registration processes, and partnerships with private sector and development partners could improve infrastructure and instructional quality. Leveraging digital learning and innovative teaching methods can also bridge gaps in staffing and resources, while better inclusion in national data systems will support evidence-based planning and accountability.
12. In essence, APBET institutions play an indispensable role in promoting inclusive education, particularly for learners from marginalized and low-income communities. Enhancing their capacity through funding, infrastructure, teacher support, and integration into national education planning is critical to achieving equity and the national goal of universal basic education.

2.3 COMPARATIVE ANALYSIS

India

13. India offers a comprehensive model of integrating alternative learning into its formal education system. The Education Guarantee Scheme (EGS) was created to serve children in hard-to-reach areas where building formal schools was difficult. Under this scheme, learners are officially enrolled in the national

system and the government provides per-learner funding that covers teacher stipends, learning materials, and community engagement activities. In addition, the National Institute of Open Schooling (NIOS) provides flexible learning and assessment pathways, allowing children outside conventional schooling to gain recognized certification and transition to mainstream education. This dual approach demonstrates how formal registration and government support can make alternative education both credible and sustainable (UNESCO IIEP, Government of India).

Ghana

14. Ghana's Complementary Basic Education (CBE) program is a successful African case of state-backed alternative learning. Originating from the School for Life initiative, CBE targets out-of-school children, particularly in the northern regions. Learners are fully registered in the national education database and receive capitation funding, which supports teacher stipends and learning materials. CBE centers focus on accelerated literacy and numeracy, enabling children to transition into public primary schools after a short but intensive program. This integration of funding, registration, and transition pathways has significantly reduced the number of out-of-school children in Ghana (UNICEF Ghana, World Bank).

Ethiopia

15. Ethiopia has built one of Africa's most structured ABE systems, primarily serving pastoralist and rural communities. Learners in these Alternative Basic Education centers are formally captured in the national Education Management Information System (EMIS), and the government allocates per-learner capitation to cover learning materials and operational costs. Transition to formal primary schools is guaranteed, with some regions recording transition rates above 70%. Ethiopia's model reflects how government ownership, community participation, and sustainable funding can make alternative education both inclusive and reliable (UNESCO IIEP, World Bank).

Key Takeaways for Strengthening APBET in Kenya

16. The experiences of India, Ghana, and Ethiopia highlight practices that could transform Kenya's APBET into a robust, equitable system:
 - i. Formal registration and EMIS integration ensure proper planning, monitoring, and eligibility for government support.
 - ii. Capitation or per-student funding makes alternative learners truly part of the national education budget.
 - iii. Clear transition pathways to mainstream schools prevent educational segregation and promote social equity.
 - iv. State-community collaboration enhances ownership, accountability, and sustainability.
 - v. Legal and policy backing secures long-term financing and quality assurance for alternative programs.
17. By adopting these approaches, Kenya could strengthen APBET into a credible and sustainable pillar of basic education, ensuring that children in informal settlements and marginalized regions are not left behind, in line with Article 53 of the Constitution and SDG 4 on inclusive, quality education.

PART THREE

3 OVERVIEW OF THE BASIC EDUCATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO 3 OF 2024)

3.1 INTRODUCTION

18. The principal object of the Bill is to amend the Basic Education Act *Cap.* 211 to ensure Alternative Provision for Basic Education and Training (APBET) schools fall under the definition of basic education and to provide for mapping, recognition, registration and provision of equivalent benefits to Alternative Provision for Basic Education and Training (APBET) schools.
19. The policy framework for Alternative Provision of Basic Education and Training (APBET) 2009 and the Basic Education Regulations 2015 recognizes different categories of APBET institutions including Adult and Continuing Education Centres, Non-Formal Education Learning Centres, Vocational Training Centres, Alternative Basic Education Programmes (Non-Formal Schools) (NFS), Mobile Schools, Night Schools and Home Schools. However presently, there is no proper recognition of such schools in the Basic Education Act 2013.

3.2 REVIEW OF THE BILL

20. The Bill has fifteen clauses and has the following provisions:
 1. Clause 2 of the Bill proposes to amend section 2 of the Basic Education Act 2013 to include Alternative Provision for Basic Education and Training (APBET) schools under Basic Education for recognition under the Act.
 2. Clause 3 of the Bill proposes to amend section 5 of the Principal Act to provide for the funding of infrastructure in APBET schools as well as the waiver of stringent registration requirements such as submission of title documents.
 3. Clause 4 of the Bill proposes to amend Section 7(1) of the Act to ensure APBET schools are represented in the National Education Board by at least one person to cater for their needs.
 4. Clause 5 of the Bill proposes to amend section 18 of the Principal Act to give the County Education Board the mandate to oversee the operation and management of APBET Schools in the County.
 5. Clause 6 of the Bill proposes to amend section 20 of the Principal Act to increase the composition of the County Education Board by two members to add two representatives from the APBET schools in the board.
 6. Clause 7 of the Bill proposes to amend section 26 of the Principal Act to provide that the County Government shall be responsible for providing funds to APBET schools, among the other schools listed in that particular subsection.
 7. Clause 8 of the Bill proposes to amend Section 39 of the Act to add additional responsibility to the Cabinet Secretary to advise the National Government on financing of infrastructure in APBET schools and also to provide for the waiver of the strict registration requirements for APBET schools if need be.

8. Clause 9 of the Bill proposes to amend section 41 of the Act to require the promotion of education in APBET schools.
9. Clause 10 of the Bill proposes to amend the Act by listing and recognizing APBET schools
10. Clause 11 of the Bill proposes to amend the Act to insert a new PART VIIA to incorporate part V of the Basic Education Regulations 2015 into the Basic Education Act as a substantive law to operationalize the regulations in order to fully embrace and mainstream Alternative Provision of Basic Education and Training (APBET) schools into the formal education structures or system.

11. The new Part provides for institutions of alternative basic and continuing adult education, capitation grants to promote education in APBET schools and the applicable curriculum for Alternative Basic and Continuing adult education institutions. It also provides for mechanisms for admission of learners above the age of eighteen years into institutions of alternative basic, adult and continuing education, the conduct of education programmes in institutions of alternative basic, adult and continuing education through accelerated and self-directed learning. The levies to be charged by public institutions of alternative basic, adult and continuing education; provision of infrastructure improvement, grants and registration of and the applicable curriculum for middle level institutions are also provided for.
12. Clause 12 of the Bill proposes to amend Section 76 of the Act to give the Cabinet Secretary power to waive stringent registration requirements such as the submission of title documents before registration of ABPET schools, depending on the circumstances at hand.
13. Clause 13 of the Bill proposes to amend Section 79 of the Act to ensure that the County Education Board maintains a Data bank of all registered Alternative Provision of Basic Education and Training (APBET) schools in the County.
14. Clause 14 of the Bill proposes to insert a new section 82A into the Act to provide for waiver of registration requirements if need be.
15. Clause 15 of the Bill proposes to amend Section 86 of the Act to ensure the funds of the Department of Education are used to promote education in Alternative Provision of Basic Education and Training (APBET) schools
16. This Bill delegates legislative powers to the responsible Cabinet Secretary to waive registration requirements for a particular category of schools. The bill does not limit any fundamental right or freedom.
17. The enactment of this Bill may occasion additional expenditure of public funds.
18. This Bill is a bill concerning County Governments. It contains provisions affecting the functions and powers of County Governments in relation to the Fourth Schedule to the Constitution.

PART FOUR

PUBLIC PARTICIPATION/STAKEHOLDERS CONSULTATION

21. Following the call for memoranda from the public through placement of adverts in the print media on Friday, 11th July 2025 and vide a letter REF: NA/DDC/EDUC/2025/(095) and REF:NA/DDC/EDUC/2025/(116) inviting stakeholders for a meeting, the Committee received memoranda from the following stakeholders:

- i. The State Department for Basic Education
- ii. The State Department for Technical, Vocational Education and Training
- iii. The Attorney General
- iv. Kenya Union of Post Primary Education Teachers
- v. Education Stakeholders Association of Kenya
- vi. Unified APBET Schools Association – Kenya
- vii. National Council of Churches of Kenya
- viii. World Vision
- ix. WeCare Organization
- x. Kenya Private Schools Association
- xi. Bridge International Academies Foundation
- xii. Kenya Human Rights Commission
- xiii. Complementary Schools Association of Kenya
- xiv. Gender Equality, Disability and Social Inclusion
- xv. Elimu Yetu Coalition
- xvi. Community Homeschooling Parents in Kenya

22. The stakeholders submitted as outlined in the matrix below:

CLAUSE	AMENDMENT	ANALYSIS OF AMENDMENT	STAKEHOLDER	STAKEHOLDER COMMENTS
1.	This clause provides the short title of the Bill.	-	-	-
2.	<p>Amendment in section 2 —</p> <p>(a) in the definition of "basic education" by inserting the words "and Alternative Provision for Basic Education and Training schools" immediately after the word "centers".</p> <p>(b) by inserting the following new definition in proper alphabetic sequence</p> <p>"middle level institution" means an institution offering pre-service and in-service teacher training courses that support provision of basic education;</p> <p>"Alternative Provision for Basic Education and Training Schools" means institutions offering basic education curriculum in informal settlements in urban areas."</p>	<p>The effect of this amendment is to include APBET schools in the definition of basic education, to provide for the definition of middle level institutions and APBET schools.</p>	<p>Kenya Human Rights Commission</p>	<p>1. Propose an amendment to the definition of APBET institutions to—</p> <p>"Alternative Provision for Basic Education and Training Schools' means organized learning institutions offering basic education to disadvantaged persons;"</p> <p>Justification</p> <p>The Registration Guidelines for Alternative Provision of Basic Education and Training, 2015 defines APBET as an organised form of learning set up to deliver basic education and training to the disadvantaged persons who due to various circumstances cannot access formal schools. The proposed amendment will therefore align the definition of APBET schools with the registration guidelines ensuring uniformity.</p> <p>• We note that the proposed definition is inline with the general description provided for under the Registration Guidelines for Alternative Provision of Basic Education and Training, 2015.</p> <p>2. Amend "middle level college" to "middle level institution".</p> <p>Justification</p>

			<p>The Basic Education Regulations, 2015 use the terms “middle level college”. Amending it will align the Act with the Regulations.</p> <ul style="list-style-type: none"> • We note that the word “Institutions” broadly covers all entities offering vocational, technical, or post-basic instruction—including public training centers, faith-based initiatives, or community-based programs—without implying formal college status while the word “Colleges” may suggest a narrower, more formalized set of institution. It is also used in the various laws and policies in the education sector including the Basic Education Act, section 41(d) . We therefore recommend that the term middle level institution remain as is to adequately cover all entities offering pre-service and in-service teacher training courses.
		<p style="text-align: center;">World Vision</p>	<ol style="list-style-type: none"> 1. Amend the definition of Alternative Provision for Basic Education and Training Schools. <ul style="list-style-type: none"> Justification Amend the Alternative Provision for Basic Education and Training Schools adding urban slums and remote areas to provide for a comprehensive inclusion of APBET institutions operating in informal settlements, urban slums and remote areas. • We note that the proposal aligns itself with the description of APBET institutions provided for in

			<p>Complimentary School Association of Kenya</p>	<p>the 2009, Policy for Alternative Provision for Basic Education and Training.</p> <p>1. Amend to expand the scope of the definition of APBET institutions and accompany with implementation guidelines.</p> <ul style="list-style-type: none"> ● We note that the definition of APBET should be expanded to reflect the description of APBET institutions provided for in the 2015, Policy for Alternative Provision for Basic Education and Training. <p>1. Definitions should affirm inclusive education principles and recognize institutions that support learners with disabilities and underserved populations.</p> <ul style="list-style-type: none"> ● We note that this is inline with Article 53(1)(b) of the Constitution of Kenya, which guarantees every child the right to free and compulsory basic education and further provided for under section 4 of the Basic Education Act, which emphasizes equity, inclusiveness, and the promotion of the rights of learners with special needs.
	<p>Gender Equality, Disability, and Social Inclusion (GEDSI)</p>			

		<p>Elimu Yetu Coalition</p>	<p>1. Amend the definition of APBET as the current amendment as it limits them to informal settlements.</p> <ul style="list-style-type: none"> • We note that the proposed amendment is inline with the general description provided for under the Registration Guidelines for Alternative Provision of Basic Education and Training, 2015.
		<p>Office of the Attorney-General and Department of Justice</p>	<p>1. Not in agreement</p> <p>Justification</p> <p>The definition should also be aligned with the definition in the 2009 Policy for Alternative Provision of Basic Education and Training which has defined alternative provision to mean a provision that intentionally seeks to provide an option or choice that is responsive and relevant to the needs of the targeted population and the options must have parity of esteem and convey comparable chances.</p> <ul style="list-style-type: none"> • We note that the Registration Guidelines for Alternative Provision of Basic Education and Training Institutions, 2015 defined Alternative Provision of Basic Education and Training Institutions as “an organized form of learning set up to deliver basic education and training to the disadvantaged persons who due to various

			<p>Community of Homeschooling Parents in Kenya</p>	<p>circumstances cannot access formal schools” and “non-formal education institutions offering the national curriculum.”</p>
				<p>1. Propose to include homeschooling as part of the definition of APBET.</p> <p>Justification</p> <p>Homeschooling contributes to universal access to basic education alongside other modes of APBET institutions.</p> <ul style="list-style-type: none"> ● We note that homeschooling involves parent-led education at home, and is practiced to deliver basic education and training to persons who due to various circumstances cannot access formal schools as is the definition given for APBET in the Registration Guidelines for Alternative Provision of Basic Education and Training Institutions, 2015. This proposed amendment may be adopted.
			<p>Unified APBET Schools Association</p>	<p>1. In agreement.</p> <p>Justification: Recognizes APBET schools’ role in educating four million children in informal settlements.</p> <ul style="list-style-type: none"> ● We note that this aligns with constitutional rights (Article 53(1)(b)).

			<p>Ministry of Education -State Department of TVET</p>	<p>1. Not in agreement.</p> <p>Justification</p> <p>1. Amend clause 2 by deleting the term “and Training” immediately after the term “Education” because Training is the mandate of the State Department of Technical, Vocational Education and Training as teacher training is its sole mandate as envisaged under the Technical, Vocational Education and Training Act <i>Cap. 210A</i> and the Executive Order No. 2 of 2023. To ensure that there is no duplicity in functions and wastage of public resources.</p> <p>2. All succeeding descriptions of the object of this amendment Bill 2025 should therefore read “Alternative Provision for Basic Education Schools (APBES)”. This includes aligning the below sections with this amendment, 5, on the definition of National Education Board, 18(1)(b) and (g), 41, 43(1), 76, 79(1)(a) and 82.</p> <ul style="list-style-type: none"> • We note the proposal to delete the term “and Training” from “Alternative Provision of Basic Education and Training” (APBET) to align with the TVET Act and Executive Order No. 2 of 2023. However, the term “training” is used more broadly in the APBET Policy, 2009 and the Basic Education Regulations, 2015, particularly in relation to capacity-building for instructors in
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			<p>Ministry of Education-State Department for Basic Education</p>	<p>non-formal education settings. Its removal may unintentionally narrow the scope of APBET. Clarification, rather than deletion, may be more appropriate.</p> <p>1. Not in agreement to the amendment to introduce the definition of “middle level institution”.</p> <p>Justification</p> <p>The Ministry of Education has developed a draft Pre-Service Education and In-Service Training in Basic Education Bill to provide a framework for Pre-Service Education and In-Service Training in Basic Education.</p> <ul style="list-style-type: none"> • We note that Parliament may not be barred from performing their constitutional mandate of legislating because the Executive has an upcoming bill. This is because of the doctrine of supremacy of the Constitution and the doctrine of separation of powers ensure that the legislative mandate of parliament is unfettered. Where there occurs overlapping bills, Parliament has internal mechanisms to merge them where necessary. <i>In the matter of the Commission for Implementation of the Constitution v the National Assembly & Others [eKLR]</i>, the Court held that courts cannot intervene in ongoing parliamentary processes except where there is a clear constitutional violation.
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				<p>2. Not in agreement with the definition of “<i>Alternative Provision for Basic Education and Training Schools</i>”</p> <p>Justification This definition is restrictive to persons in informal settlements in urban areas.</p> <ul style="list-style-type: none"> ● Refer to the responses above on the same subject matter.
	<p>3. Section 7 of the principal Act is amended by of inserting the following</p>	<p>The effect of this amendment is to provide for inclusion of APBET schools</p>	<p>Kenya Private Schools Association</p>	<p>1. Not in agreement with the amendment.</p> <p>Justification Amend the definition of “Alternative Provision for Basic Education and Training schools” to expand it as the targeted institutions do not only exist in informal settlements only but also in arid and semi-arid areas as well as rural and underserved areas in terms of public and private schools. The proposal is to add “<i>and other underserved communities across Kenya.</i>” Right after the words “urban areas”. Further, to provide a definition for underserved communities to mean private and public school infrastructure is either lacking or inadequate to meet the demands of the local communities.</p> <ul style="list-style-type: none"> ● Refer to the responses above on the same subject matter. <p>1. Amend clause 7 by inserting a new paragraph immediately after 7(1)(g) to add one representative of registered private basic education institutions</p>



	<p>new subsection immediately after subsection (1)— (1A) One of the members of the Board appointed under subsection (1) shall be the National Chairperson of Alternative Provision of Basic Education and Training Schools in Kenya.</p>	<p>in the membership of the National Education Board.</p>		<p>nominated by the Kenya Private School Association.”</p> <ul style="list-style-type: none"> • We note that the proposed amendment is not inline with the subject of section 7 of clause 3 the Bill. 	<p>Kenya Private School Association.”</p> <ul style="list-style-type: none"> • We note that the proposed amendment is not inline with the subject of section 7 of clause 3 the Bill.
			<p>Elimu Yetu Coalition</p>	<p>1. Disagree with the amendment</p> <p>Justification That the amendment does not provide for appointing authority of the Chairperson of the institutions as it only gives the Cabinet secretary the power to appoint as per provisions of the Act.</p> <p>We note this amendment allows for autonomy of associations to choose their leadership and therefore be included in the National Education Board.</p>	<p>1. Disagree with the amendment</p> <p>Justification That the amendment does not provide for appointing authority of the Chairperson of the institutions as it only gives the Cabinet secretary the power to appoint as per provisions of the Act.</p> <p>We note this amendment allows for autonomy of associations to choose their leadership and therefore be included in the National Education Board.</p>
			<p>Complimentary School Association of Kenya</p>	<p>1. Proposes an amendment to the effect that the representative should be one of the APBET executive board members in the national office agreed upon by the same board not necessarily the national chairperson since the duration of service is three years renewable once.</p> <ul style="list-style-type: none"> • We note that this proposal is more effective as it offers flexibility by allowing the APBET executive board to nominate any qualified national member, ensuring continuity even 	<p>1. Proposes an amendment to the effect that the representative should be one of the APBET executive board members in the national office agreed upon by the same board not necessarily the national chairperson since the duration of service is three years renewable once.</p> <ul style="list-style-type: none"> • We note that this proposal is more effective as it offers flexibility by allowing the APBET executive board to nominate any qualified national member, ensuring continuity even

				<p>during leadership transitions. This prevents representational gaps tied to the tenure or availability of a single officeholder. It also promotes internal democracy and responsiveness to sector needs. We may adopt this suggestion.</p>
			<p>Gender Equality, Disability, and Social Inclusion (GEDSI)</p>	<p>1. Board composition should reflect gender equity, regional representation, and disability inclusion. Consider establishing selection criteria that promote balanced participation.</p> <ul style="list-style-type: none"> • We note that is provided for by the Mwongozo Code of Governance for State Corporations.
<p>4.</p>	<p>Section 18(1) of the principal Act is amended in paragraph (a) by inserting the words “and Alternative Provision Schools” immediately after the word “programmes”.</p>	<p>The effect of this amendment is to include APBET schools under the mandate of the County Education Board.</p>	<p>Office of the Attorney-General and Department of Justice</p>	<p>i. In agreement.</p> <p>Justification Supports inclusion of APBET schools in county mandates.</p> <ul style="list-style-type: none"> • We note that this aligns with the Constitution Schedule Four and the 2009 APBET Policy.
			<p>Ministry of Education-State Department for Basic Education</p>	<p>1. Not in agreement with this amendment.</p> <p>Justification Reference to Alternative Provision of Basic Education and Training should be limited to basic education levels falling under County Governments.</p>



		<ul style="list-style-type: none"> We note that this amendment provides for the inclusion of Alternative Provision of Basic Education and Training, in all its various categories, within the mandate of the County Government as provided under the Fourth Schedule to the Constitution. 	
<ul style="list-style-type: none"> We note that this is already provided for under the Kenya Institute of Curriculum Development (KICED) Act. Specifically, section 4 of the Act which mandates KICED to develop curricula and curriculum support materials that are inclusive and tailored to meet the diverse needs of all learners, thereby embedding equity and responsiveness in education program design. 	<p>Gender Equality, Disability, and Social Inclusion (GEDSI)</p>	<ol style="list-style-type: none"> Program design should be responsive to the needs of girls, learners with disabilities, and children from low-income backgrounds, including support services such as counselling and nutrition. 	
<ol style="list-style-type: none"> Highlighted concern in devolution of education to the county level. Justification To safeguard APBET institutions from the National Government. <ul style="list-style-type: none"> We note that APBETs include adult continuing education, non-formal education learning, 	<p>Elimu Yetu Coalition</p>		

				<p>vocational training center and alternative basic education programs, therefore including devolved functions as per the Fourth Schedule of the Constitution and therefore properly provided for in this clause.</p>
<p>5.</p>	<p>Section 20 of the principal Act is amended</p> <p>(a) In subsection (1) by deleting the word “twelve” appearing immediately after the words “Chairperson and” and substituting therefore the word “fourteen”.</p> <p>(b) By inserting the following new paragraph immediately after paragraph (k) –</p> <p>“(l) two representatives of Alternative Provision of Basic Education and Training Schools.”</p>	<p>The effect of this amendment is to provide for inclusion of APBET schools in the membership of the County Education Boards.</p>	<p>Kenya Union of Post Primary Education Teachers</p>	<p>1. Amend 20(g) to state “two representatives of teachers’ unions representing the interest of teachers.”</p> <p>Justification</p> <p>To ensure representation of teachers’ interests.</p> <ul style="list-style-type: none"> • We note that the Act as it currently is provides for the representation of teachers’ interests through providing for a representative from the Teachers Service Commission (a professional regulatory body) in section 20(d) and two representatives of a trade union representing teachers in section 20(g).
			<p>Complimentary School Association of Kenya (CSAK)</p>	<p>1. In agreement but with amendment.</p> <p>Justification</p> <p>CSAK endorses broader representation and proposes capacity building for APBET appointees to contribute effectively to education planning.</p> <ul style="list-style-type: none"> • We note that is adequately provided for under the Mwongozo Code of Governance for State Corporations.

					<p>1. One of the newly added members should ideally be a woman or a person with a disability to promote fair and inclusive governance structures.</p> <p>We note that these considerations are provided for by the Mwongozo Code of Governance for State Corporations.</p>
					<p>1. Amend clause 5 of the Bill and replace 20(1)(f) to include one representative each of an APBET institution and a private basic-education institution nominated by KPSA.</p> <p>Justification To secure a balanced consultation on fees, staffing ratios and infrastructure planning.</p> <ul style="list-style-type: none"> ● We note that is already provided for under Section 20(f) of the Act— “(f) a representative of the association of private Schools”
					<p>Gender Equality, Disability, and Social Inclusion (GEDSI)</p>
					<p>Kenya Private Schools Association</p>

			<p>communities, have the right to non-discriminatory, inclusive, and safe educational facilities. Funding and registration policies must therefore ensure equal access for all, not selective prioritization.</p>
		<p>Kenya Private Schools Association</p>	<p>1. In agreement but with an amendment.</p> <p>Justification</p> <p>Amend clause 7 of the Bill to read “for all public schools, private basic-education institutions serving low income learners and APBET institutions.</p> <ul style="list-style-type: none"> • We note that amendment attempts to include “private basic-education institutions serving low income learners” to receive funds from the county government being public funds, there are no audit guidelines provided to audit public funds allocated to private institutions as is required by Article 226(3) and section 7 of the Public Audit Act, <i>Cap. 531</i>.
		<p>Bridge International</p>	<p>1. Agree but with an amendment.</p> <p>Justification</p>



			Academies Foundation	To accommodate different circumstances. Proposal, “...advise the national government on the waiver of registration requirements, including documents of title land size for APBET schools as circumstances may demand.” <ul style="list-style-type: none"> • Refer to response in clause 3.
			Elimu Yetu Coalition	1. Not in agreement with the amendment. Justification That APBET education remains in the ambit of the national government. <ul style="list-style-type: none"> • We note that this contradicts Schedule Four of the Constitution on devolution of functions.
8.	Section 41 of the principal Act is amended by inserting the following new paragraph immediately after paragraph (d)— (e) Alternative Provision of Basic Education and Training Schools.’	The effect of this amendment is to provide for the inclusion of APBET schools in the promotion of education and training in Kenya.	Kenya Schools Association Private	1. Agree but with an amendment. Justification Amend section 41 by adding the following words— “Nothing in this section shall be construed to convert private basic education institutions into public institutions.” To avert potential land-tenure and asset-owner disputes at county level. <ul style="list-style-type: none"> • We note that the amendment clarifies that the provision of government support—such as subsidies, vouchers, or public-private partnerships -- does not alter the legal status of private basic education institutions or convert

				<p>them into public schools. It preserves the autonomy and proprietary rights of private institutions while encouraging their participation in government programs aimed at enhancing access to education. This safeguard ensures that private schools retain their independence despite receiving public funds, and it limits any unintended extension of state control over privately managed institutions.</p> <ul style="list-style-type: none"> • We, however, note that this clause only seeks to provide that the Cabinet Secretary shall promote education and training in the various systems and structures of basic education.
9.	Section 43 (1) of the principal Act is amended in paragraph (a) by inserting the words "Alternative Provision of Basic Education and Training Schools" "immediately after the word "sponsored schools".	The effect of this amendment is to provide for formal recognition of APBET schools under the public schools category in basic educational institutions.	National Treasury	<p>1. Review this clause as it seeks to include APBET schools in the category of public schools.</p> <p>Justification This creates a legal issue where some of the schools, currently owned by individuals and organizations, qualify for support as public schools.</p> <ul style="list-style-type: none"> • We note that APBET institutions should be classified based on their ownership. If they are owned and run by private individuals or organizations, they remain private institutions, even though they contribute to the national goal

				<p>of providing universal basic education. Public oversight and regulation do not convert them into public institutions. We therefore recommend the deletion of this clause.</p>
			<p>Gender Equality, Disability, and Social Inclusion (GEDSI)</p>	<p>1. Monitoring Evaluation and Learning tools should include gender and disability inclusion indicators and provide pathways for community feedback and learner protection.</p> <ul style="list-style-type: none"> • We note that while the proposal to include gender and disability inclusion indicators and community feedback mechanisms is critical for advancing equitable education outcomes, it may not be appropriately placed under Section 43 of the Basic Education Act, which addresses the establishment and management of institutions. A more suitable placement would be under the provisions governing Quality Assurance and Standards, where monitoring and evaluation tools are more comprehensively addressed.
			<p>Ministry of Education-State Department of Basic Education</p>	<p>1. Not in agreement with the amendment.</p> <p>Justification That this amendment has a huge financial implication therefore the concurrence of the</p>

<p>National Treasury is key to ensure proper implementation.</p> <ul style="list-style-type: none"> • Refer to the response to the comment to the National Treasury above. 			
<p>1. Not in agreement.</p> <p>Justification</p> <p>No appropriate way to classify APBET schools and institutions as public schools. As this may serve to lock out non-governmental organizations from providing education opportunities to underserved communities. Proposal, an amendment in this section to establish APBET Schools as a distinct category of schools established through community initiatives and private-public benefit organizations or other non-profit organizations.</p> <ul style="list-style-type: none"> • We note that the above comment does not fully capture the effect of the proposed amendment, as its intent is to provide formal recognition of APBET education within the national education system and structure as outlined under Section 41 of the Basic Education Act. This would integrate APBET institutions into the established framework for basic education, thereby distinguishing them from other private 	<p>Bridge International Academies Foundation</p>		

				institutions and enabling their inclusion in planning, oversight, and support mechanisms under the law.
10.	<p>The principal Act is amended by inserting the following new Part immediately after Part VII</p> <p>PART VIIA-ALTERNATIVE PROVISION OF BASIC EDUCATION TRAINING AND CONTINUING ADULT EDUCATION.</p> <p>52A. Institutions of Alternative Basic Education, Training and Continuing Adult Education may utilize facilities of existing institutions of basic education or other public and private institutions or premises upon request and concurrence of the institutions of basic education.</p> <p>52B.Learners under the age of eighteen years in institutions to which this Part applies shall be eligible for capitation grants under the free and compulsory education programme.</p> <p>52C. Institutions of Alternative Basic, Adult and Continuing Education shall offer programmes in accordance with the curriculum approved by the Kenya Institute of Curriculum Development.</p>	<p>The effect of this amendment is to incorporate Part V of the Basic Education Regulations 2015.</p> <p>Clause 52A</p> <p>APBET schools to utilize facilities of existing schools.</p> <p>Clause 52B</p> <p>Learners under the age of 18 years to be eligible for capitation under the free and compulsory education programme.</p>	<p>-</p> <p>National Treasury</p>	<p>-</p> <p>1. Not in agreement</p> <p>Justification</p> <p>The provision of capitation grants to learners under the age of 18 years in APBET schools under the free and compulsory education programme will occasion additional funding or re-prioritization of resources within the Ministry.</p> <ul style="list-style-type: none"> • We note that children are entitled to free and compulsory basic education under the Constitution, however, funding from the Ministry of Education is allocated to public schools in line with the provisions of the Basic Education Act, 2013 and the Public Finance Management Act, 2012. This can be inferred from section 29(1) of the Basic Education Act,

<p>52D. A learner above the age of eighteen years shall only be admitted into the institutions of alternative basic, adult and continuing education.</p> <p>52E. While admitting learners to institutions of alternative basic, adult and continuing education, the institution shall use the learner's prior ability, knowledge and competencies in determining his or her placement at an appropriate level of education.</p> <p>52F. Institutions of alternative basic, adult and continuing education shall conduct their programs through accelerated and self-directed learning to cover the prescribed curriculum.</p> <p>52G. Public institutions of alternative basic, adult and continuing education may charge such levies as may be prescribed by the Cabinet Secretary.</p> <p>52H. The national government shall provide institutions of alternative basic adult and continuing education grants for infrastructure improvements.</p> <p>52I. Except with the approval of the Cabinet Secretary, no institution registered as public middle level institution shall be transferred or converted to any other use.</p>			<p>which <i>"No public school shall charge or cause any parent or guardian to pay tuition fees for or on behalf of any pupil in the school."</i> Further, there are no audit guidelines provided to audit public funds allocated to private institutions as is required by Article 226(3) and section 7 of the Public Audit Act, Cap. 531.</p>
	<p>Kenya Human Rights Commission</p>		<p>1. Amend Clause 52B to allow all learners, regardless of age, to qualify for capitation grants and insert an equality safeguard to prohibit denial of basic education services, including funding, on the basis of age.</p> <p>Justification</p> <p>Ensures learners over the age of 18 are not excluded from financial support, promotes flexibility and inclusion for those who missed school at the regular age, and aligns the Bill with Article 27 and 43(1)(f) of the Constitution, as well as international obligations under ICESCR and SDG 4.</p> <ul style="list-style-type: none"> • We note that the right to free and compulsory basic education in Kenya applies to all individuals, regardless of age, as long as they are seeking to access education at the basic level (i.e., pre-primary, primary, and secondary education). Article 53(1)(b) of the Constitution provides that "Every child has the right to free and compulsory basic education." Article 43(1)(f)

	<p>52 J. (1) A middle level institution shall only offer courses or programs whose curriculum is developed or approved by the Kenya Institute of Curriculum Development or an agency approved by the Cabinet Secretary.</p> <p>(2) The Kenya National Examinations Council or a body prescribed by the Cabinet Secretary shall issue certifications for the courses offered under subsection (1).</p>			<p>further states that “every person has the right to education as part of socio-economic rights”. The Basic Education Act, section 28(1), reinforces this by stating that “The Cabinet Secretary shall implement the right of every child to free and compulsory basic education.” And Section 28(2) adds that “Every parent shall ensure that his or her child attends school regularly.” Further the courts have interpreted the term “child” in the context of education rights liberally—to mean that any person who has not completed basic education should not be denied access based on age alone. Therefore, age is not a barrier to accessing free basic education in public institutions in Kenya. Any person, regardless of age, who is pursuing or has not completed basic education is constitutionally entitled to do so free of charge. This aligns with the principles of inclusive, equitable, and lifelong learning. Further, the response issued to the comment by the National Treasury above applies.</p>
	<p>Clause 52C APBET institutions offer programmes in accordance with the curriculum approved by KICD.</p> <p>Clause 52D</p>	<p>-</p>		
		<p>WeCare Organization</p>	<p>1. Propose to amend section 52D to include youth below the age of 18.</p>	

		<p>Learners above 18 years to be admitted only in alternative basic, adult, and continuing education.</p>		<p>Justification</p> <p>This provision by strictly limiting admission to learners above the age of eighteen years, fundamentally contradicts the constitutional right to free and compulsory basic education envisaged under article 53(1)(b) for all children and youth. Furthermore, this restriction undermines the very purpose of “Alternative Provision” which is formed to cater to diverse learning needs and bridge educational gaps for all that have fallen outside of the formal education system.</p> <ul style="list-style-type: none"> • We note that section 52 C provides for learners under the age 18 while section 52D provides for learners above the age of eighteen years therefore not discriminatory and is inline with some of the requirements in the section 32 of Basic Education Act which requires proof of age for admission.
			<p>Kenya Human Rights Commission</p>	<ol style="list-style-type: none"> 1. Revise Clause 52D to permit learners above 18 to access mainstream alternative basic education where appropriate and insert an equality safeguard to prohibit denial of basic education services, including funding, on the basis of age. <ul style="list-style-type: none"> • We note that The right to free and compulsory basic education in Kenya applies to all individuals, regardless of age, as long as they are seeking to access education at the basic level (i.e.,



				<p>pre-primary, primary, and secondary education). Article 53(1)(b) of the Constitution provides that “Every child has the right to free and compulsory basic education.” Article 43(1)(f) further states that “every person has the right to education as part of socio-economic rights”. The Basic Education Act, Section 28(1), reinforces this by stating that “The Cabinet Secretary shall implement the right of every child to free and compulsory basic education.” And Section 28(2) adds that “Every parent shall ensure that his or her child attends school regularly.” Further the courts, have interpreted the term “child” in the context of education rights liberally—to mean that any person who has not completed basic education should not be denied access based on age alone. Therefore age is not a barrier to accessing free basic education in Kenya. Any person, regardless of age, who is pursuing or has not completed basic education is constitutionally entitled to do so free of charge. This aligns with the principles of inclusive, equitable, and lifelong learning.</p>
	<p>Clause 52E Prior ability, knowledge and competence to be used in determining placement.</p>	-	-	
	<p>Clause 52F</p>	-	-	

		<p>Programmes to be self-directed learning model to cover prescribed curriculum.</p> <p>Clause 52G Cabinet Secretary to determine levies charged by APBETS.</p>	<p>WeCare Organization</p>	<p>1. Amend by deleting clause 52G that provides that the Cabinet Secretary shall determine levies charged by APBETS as this provision limits the right to free and compulsory basic education provided for under Article 53(1)(b).</p> <ul style="list-style-type: none"> • <i>We note that section 29 (1) of the Act provides that “No public school shall charge or cause any parent or guardian to pay tuition fees for or on behalf of any pupil in the school.” It however limits the above and states that school fees are payable by persons who are not Kenyan Citizens, and that “...other charges may be imposed at a public school with the approval of the Cabinet Secretary in Consultation with the County Education Board provided that no child shall be refused to attend school because of failure to pay such charges.” Clause 52G provides for the same for APBET institutions. Providing a safeguard for parents not to be charged more than that which is approved by the Cabinet Secretary and the County Education Board in public APBET institutions. We may therefore provide an amendment to provide for a further safeguard as is provided in section 29(1) of the Act. Of note is, APBETS are not public</i>
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	<p>institutions therefore such pronouncements do not apply.</p> <p>1. Amend this clause of the Bill by adding a new sub-clause 52G, that the Cabinet Secretary shall, before prescribing any levy affecting private institutions, conduct a regulatory impact assessment and consult the Kenya Private School Associations.” This is to ensure a stable consultative regulatory process safeguarding annual private capital investment and conforms to the Statutory Instruments Act, Cap. 201.</p> <ul style="list-style-type: none"> • We note that this qualifies as a delegated legislative power as it authorizes the Cabinet Secretary to impose financial obligations through a legal instrument and must therefore comply with the Statutory Instruments Act, Cap 201, which includes being subject to regulatory impact assessment as per section 6. • We note that because they are privately managed, the Cabinet Secretary does not prescribe or approve their fee structures. Like other private schools, APBET schools set their own fees based on their operational needs and available resources. The Cabinet Secretary’s role is limited to registration, quality assurance, and monitoring, not regulating or subsidising their fee levels.
<p>Kenya Private Schools Association</p>	

	<p>Clause 52H Grants for infrastructure development shall be provided by the national government.</p>	<p>WeCare Organization</p>	<p>1. Amend this clause to ensure comprehensive government funding for alternative basic education infrastructure, covering both initial development and ongoing improvement to meet minimum standards for safe and conducive learning environments.</p> <ul style="list-style-type: none"> • We note that this clause deals specifically with grants for infrastructure and does not limit comprehensive government funding to APBET institutions. Section 39 (e) provides that it is the duty of the government to provide appropriate financial resources in public institutions, APBETs are privately owned institutions that do not qualify for such support.
	<p>Clause 52I No public middle level institution may be converted to any other use except with the approval of the Cabinet Secretary.</p>	<p>WeCare Organization</p>	<p>1. Amend this clause to empower the County Education Board for local educational institution conversions with the Cabinet Secretary oversight for policy compliance. This is because this would create centralized control, hindering efficient local planning.</p> <ul style="list-style-type: none"> • We note that this provides for a safeguard as is envisioned by section 43(2) of the Act, that provides for checks and balances by requiring that a public basic education institution be converted only with the consultation of the National Education Board, and by Approval by the Cabinet Secretary.

<p>Clause 52J (1) Curriculum to be approved by Kenya Institute of Curriculum Development (KICD).</p>	<p>Kenya Union of Post Primary Education Teachers</p>	<p>1. In agreement but with amendment. To delete the words “or agency approved by the Cabinet Secretary.” Justification That KICD should be the body to develop and approve courses or programs for APBETS while CDAC is to develop courses and programs for teachers.</p> <ul style="list-style-type: none"> • We note that middle-level institutions have been defined to mean institutions that offer pre-service and in-service training courses that support provision of basic education and as such, fall under the mandate of basic education. Their curriculum is therefore rightly regulated by the Kenya Institute of Curriculum Development (KICD), which is mandated to prescribe curricula for all levels of Basic Education, including teacher training programs that support its delivery.¹
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¹ Section 4 of the Kenya Institute of Curriculum Development Act. And page 2 of the Presidential Working Party on Education Reforms.

	(2) KNEC or any other body mandated by the Cabinet Secretary to issue certificates.	Kenya Private Schools Association	<p>1. Amend the clause and add a clause on audit, safety and staffing directives, to read, “private basic education institutions shall comply in a risk based and proportionate manner and may satisfy these requirements through recognised third-party accreditation frameworks.”</p> <ul style="list-style-type: none"> • We note that the phrase “private basic education institutions shall comply in a risk-based and proportionate manner and may satisfy these requirements through recognised third-party accreditation frameworks” introduces flexibility in regulatory compliance by allowing institutions to meet standards based on their assessed risk level and, in some cases, through non-governmental accreditation bodies. However, the risk with this approach is that it may undermine uniformity and consistency in the quality assurance of basic education. Relying on third-party accreditation without a standardized, government-led oversight framework could result in uneven enforcement, varying quality standards, and reduced public accountability — especially where accreditation bodies differ in rigor or where oversight is weak. This could dilute the overall integrity of the education system and compromise learners' rights to quality basic education as guaranteed under Article 43(f) of the Constitution of Kenya.
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			<p>World Kenya</p> <p>Vision</p>	<p>1. In agreement.</p> <p>Justification</p> <p>Supports inclusive education and capitation.</p> <ul style="list-style-type: none"> • We note that KEMIS registration and financing frameworks are critical for sustainability. We however note that, APBET institutions are private institutions.
			<p>Elimu Coalition</p> <p>Yetu</p>	<p>1. Do not agree with this amendment.</p> <p>Justification</p> <p>That this amendment brings confusion in regulations.</p> <ul style="list-style-type: none"> • We note that it seeks to provide a detailed framework to govern ABPET governance in the Act.
			<p>Gender Equality, Disability, and Social Inclusion (GEDSI)</p>	<p>1. Ensure operational procedures accommodate learners with disabilities, displaced learners, girls, and other disadvantaged groups. Accelerated learning programs should be age-flexible and culturally sensitive.</p>

					<ul style="list-style-type: none"> ● We note that the Basic Education Act, 2013 already provides a strong legal foundation for inclusive and equitable access to education—particularly for marginalized and vulnerable groups. Specifically: <ul style="list-style-type: none"> ➤ Section 4(f) outlines the right of every child to basic education, without discrimination. ➤ Section 39 mandates the Cabinet Secretary to ensure that children with special needs have access to appropriate educational facilities and programs. ➤ Section 42(2) provides for flexible school systems and curriculum to accommodate learners in difficult circumstances, including accelerated programs. ➤ Section 46 provides for curriculum development and implementation to meet the needs of all learners, including those with special needs. <p>Therefore, while the proposal to accommodate learners with disabilities, displaced learners, girls, and other disadvantaged groups—as well as to offer age-flexible accelerated learning—is valid and in line with inclusive principles, these obligations are already embedded in the current legal framework.</p>
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11.	Section 76 of the principal Act is amended by inserting the following new clause immediately after clause 1— (1A) The Cabinet Secretary may, where appropriate, waive registration requirements for Alternative Provision of Basic Education and Training schools including the submission of title documents, to facilitate the registration of the schools.	The effect of this amendment is to provide for a waiver of registration requirements for APBET schools.	Office of the Attorney General and Department of Justice	<p>1. Not in agreement.</p> <p>Justification</p> <p>This provision is similar to clause 3 which has been addressed. And is therefore recommended for deletion.</p> <ul style="list-style-type: none"> • We note that the amendment to waive registration requirements goes against Registration Guideline Alternative Provision of Basic Education and Training Institutions, 2015 and is further addressed in response to clause 3
12.	Section 79 of the principal Act is amended in subsection (1) by inserting the following new paragraph immediately after paragraph (c) “(d) registered, accredited, licensed Alternative Provision of Basic Education and Training schools in the county.”	The effect of this amendment is to establish a data bank for ABPBET schools.	Kenya Private Schools Association	<p>1. Amend this provision by adding the following after the word “county”— “provided that any personal or proprietary information shall be redacted or anonymised in compliance with the Data Protection Act, 2019.”</p> <ul style="list-style-type: none"> • We note that this amendment is in line with the providing protection of data under the relevant law, however, it may be inferred that these protections apply as they are provided for under the Data Protection Act, CAP 411C.
13.	The principal Act is amended by inserting the new section immediately after section 82— 82A. The Cabinet Secretary may, where appropriate, waive registration	The effect of this amendment is to provide for waiver of registration requirements for APBET schools.	-	-

	<p>requirements for requirements of Alternative Provision of Basic Education and Training schools, including the submission title documents. to facilitate the registration of the schools.</p>		<p>Office of the Attorney-General and the Department of Justice.</p>	<p>1. Not in agreement. Justification The proposal suggests amending section 82 of the Act to allow the Cabinet Secretary to waive registration requirements, including the submission of title documents, for alternative provision of basic education and training schools. However, since this provision is similar to one addressed in clause 3, the recommendation is to delete clause 14.</p> <ul style="list-style-type: none"> • We note that the amendment to waive registration requirements goes against Registration Guidelines for Alternative Provision of Basic Education and Training Institutions, 2015.
<p>14.</p>	<p>Section 86 of the principal Act is amended in subsection (2) by inserting the words “including Alternative Provision of Basic Education and Training” immediately after the word “education”.</p>	<p>The effect of this amendment is to include APBET schools under the financing of basic education.</p>	<p>Kenya Private Schools Association</p>	<p>1. Amend this section 86 by inserting a new paragraph (d)— “Funds appropriated for public-private partnership subsidies, learner vouchers or infrastructure co-financing with registered private schools.”</p> <ul style="list-style-type: none"> • We note that the amendment proposes to formally recognize and enable the allocation of public funds to support private education providers through structured partnerships. This amendment raises accountability concerns as there are no set guidelines on auditing public funds that are channelled to private institutions.

		National Treasury	<p>1. Do not agree with this amendment.</p> <p>Justification Concern over the requirement that the Department of Education is to provide funds for the promotion of education in APBET Schools.</p> <ul style="list-style-type: none"> • Refer to the response to the Kenya Private Schools Association above.
		Elimu Coalition Yetu	<p>2. Do not agree with this amendment.</p> <p>Justification That the amendment is unnecessary.</p> <ul style="list-style-type: none"> • Refer to the response to the Kenya Private Schools Association above.
		Kenya Private Schools Association (KPSA)	<p>1. In agreement.</p> <p>Justification Supports inclusive funding and public-private partnerships.</p> <ul style="list-style-type: none"> • Refer to the response to the Kenya Private Schools Association above.
		Ministry of Education-State Department for Technical, Vocational Education and Training	<p>1. Not in agreement (general comment on inclusion of "and Training").</p> <p>Justification Overlaps with SDTVET mandate per Executive Order No. 2 of 2023; recommends deleting "and Training" from the Bill.</p>

			<ul style="list-style-type: none"> We note that this avoids duplication with TVET functions. Comprehensively discussed in clause 2.
	Complimentary School Association of Kenya	<ol style="list-style-type: none"> CSAK recommends creating a digital registry for all APBET institutions and linking it to education sector performance tracking tools. <ul style="list-style-type: none"> We note that this submission is not in line with the subject under this clause. 	
	Gender Equality, Disability, and Social Inclusion (GEDSI)	<ol style="list-style-type: none"> Data systems should collect and report on gender, disability, and economic background to support inclusive policy formulation and funding decisions. <ul style="list-style-type: none"> We note that this submission is not in line with the subject under this clause. 	
	Ministry of Education- State Department for Basic Education	<ol style="list-style-type: none"> Not in agreement with this amendment. <p>Justification</p> This is because APBET is already recognized as a form of basic education. <ul style="list-style-type: none"> Refer to the response to the Kenya Private Schools Association above. 	

NOTES:

1. Unified APBET Schools Association- agree with all the proposed amendments to the Bill and propose that its should be passed as it is.
2. Teachers Service Commission- agree with all the proposed amendments to the Bill and propose that its should be passed as it is.
3. APBET Complementary Schools Association of Kenya - agree with all the proposed amendments to the Bill and propose that its should be passed as it is.
4. Education Stakeholders Association of Kenya-submitted an amendment to section 10 of the Act which is not subject of the Bill.
5. Kenya Private Schools Association -submitted an amendment to section 41 which is not part of the Bill.

Further submissions by the APBET Schools Association of Kenya in support of the Bill–

1. Recognition and Registration: Conduct a comprehensive mapping of APBET schools, define their categories, and establish a streamlined registration process to formalise their status.
2. Equitable Funding: Allocate funds to support APBET schools, including access to school feeding programmes to promote equal opportunities for learners.
3. Capacity Building: Provide training and professional development for APBET teachers to enhance education quality.
4. Infrastructure Support: Invest in the development and improvement of infrastructure in APBET schools.
5. Financial Support: Offer grants or low-interest loans through the Ministry of Education to support the growth and sustainability of APBET schools.
6. Tax and Statutory Relief: Exempt APBET schools from taxes and statutory deductions (NHIF, NSSF, PAYE) or significantly reduce them, given their reliance on donations and limited financial capacity.
7. Access to Opportunities: Allow APBET learners to compete for and benefit from county and sub-county level opportunities to ensure equity and equal treatment.
 - **We note that while the proposal to exempt APBET schools from taxes and statutory deductions is well-intentioned, it must be balanced against constitutional obligations. Article 209 of the Constitution obliges all persons, including institutions, to contribute to the tax burden, while Article 43 guarantees socio-economic rights such as social security and healthcare—implemented through schemes like NSSF and NHIF. Exempting APBET tutors from these contributions would undermine these constitutional protections and their long-term welfare. Moreover, as APBET schools are not recognised as formal public education institutions, there are no established public financial management structures to audit and account for government funds channelled to them. Consequently, direct government funding or statutory exemptions would be legally unsound without first regularising and formalising these institutions within the national education framework. Further, since most county bursary,**

feeding, and co-curricular programmes are designed for public schools, APBET learners are typically excluded or only considered informally at the discretion of local administrators. The absence of a statutory obligation requiring counties or sub-counties to allocate resources to APBET learners has resulted in their inconsistent and inequitable access to such opportunities.

PART FIVE

5 COMMITTEE OBSERVATIONS

23. The Committee observed as follows on the proposed Bill:

1. The Proposed Bill is important as it will provide for mapping, recognition, registration and provision of equivalent benefits to Alternative Provision for Basic Education and Training (APBET) schools.
2. The Basic Education Act does not provide a definition of a school with regard to the total number of students.
3. APBET schools have not formally been recognized component of Kenya's education framework.
4. The proposed provision on funding of APBET schools would ensure sustainability of such schools.

PART SIX

6 COMMITTEE RECOMMENDATION

24. The Committee having reviewed the Basic Education (Amendment) Bill (National Assembly Bill No. 3 of 2025) recommends that the House approves the Bill with amendments as proposed in the Schedule in Part Seven of this report.
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PART SEVEN

7 SCHEDULE OF PROPOSED AMENDMENTS

25. The Committee proposed the following amendments to be considered by the House in the Committee Stage:

i) Clause 2

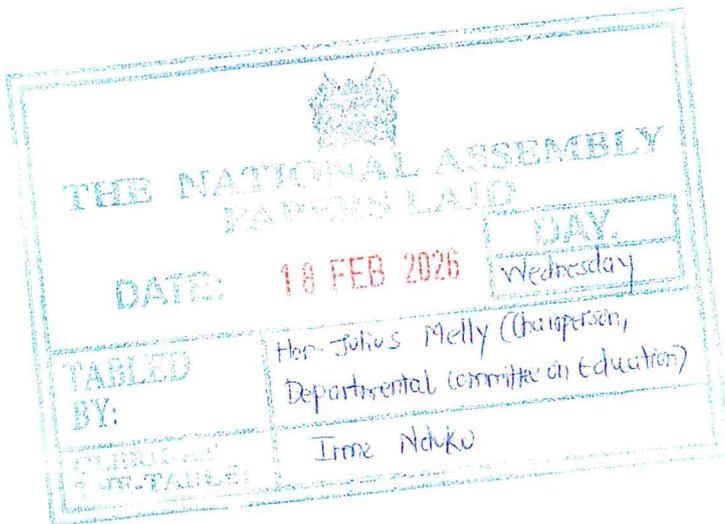
26. The definition should be aligned with the provisions of section 2 of the Basic Education Act which has defined 'non-formal education' to mean any organized educational activity taking place outside the framework of the formal education system and targets specific groups or categories of persons with life skills, values and attitudes for personal and community development.

ii) Clause 3

27. Amend the Clause by deleting Clause 3. The clause proposes waiving registration requirements for APBET schools. However, this exemption conflicts with Article 43(1)(f) of the Constitution, which guarantees everyone's right to education, and also conflicts with the 2009 Policy for Alternative Provision of Basic Education and Training, which requires institutions to meet minimum quality standards set by the Ministry of Education. The 2021 Registration Guidelines for Basic Education Institutions also specify procedures and requirements for establishing such schools, ensuring quality and regulation.

SIGNED.....  DATE..... 18/2/2026.....

**HON. JULIUS K. MELLY, CBS, MP
CHAIRPERSON,
DEPARTMENTAL COMMITTEE ON EDUCATION**





REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT – FOURTH SESSION – 2025
DEPARTMENTAL COMMITTEE ON EDUCATION

ADOPTION SCHEDULE

AGENDA: CONSIDERATION OF THE BASIC EDUCATION
(AMENDMENT) ACT, SPONSORED BY Hon. ANTHONY OLUOKI

NO.	NAME	SIGNATURE
1.	Hon. Julius Melly, MP Chairperson	
2.	Hon. Eve Obara, MP Vice-Chairperson	
3.	Hon. Dr. Christine Oduor Ombaka, MP Member	
4.	Hon. Jerusha Momanyi, MP Member	
5.	Hon. Abdul Haro, MP Member	
6.	Hon. Mary Emaase, MP Member	
7.	Hon. Clive Gisairo, MP member	
8.	Hon. Dick Maungu MP Member	
9.	Hon. Julius Taitumu M'Anaiba, MP Member	
10.	Hon. Nabii Daraja, MP Member	
11.	Hon Peter Orero, MP Member	
12.	Hon. (Prof.) Phylis Bartoo, MP Member	
13.	Hon. Rebecca Tonkei, MP Member	
14.	Hon. Elijah Kururia, MP Member	
15.	Hon. Joseph Makilap, MP Member	

