NAIROBI, 17th November, 2014.

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THE Marsabit COUNTY EDUCATION FUND BILL, 2014

A Bill for

AN ACT of the County Assembly to provide for the establishment and administration of a Fund to provide financial assistance to meritorious students from needy low-income families to supplement existing bursary schemes and enhance access to higher education in designated fields at recognized institutions of higher learning and for matters incidental thereto and connected therewith

ENACTED by the Marsabit County Assembly as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Marsabit County Education Fund Act, 2014.

2. This Act shall come into operation on such date as the Governor may, by notice in the Gazette, appoint.

3. In this Act, unless the context otherwise requires—

“Auditor-General” means the Auditor-General of the Republic of Kenya, appointed in accordance with Article 229 (1) of the Constitution, 2010;

“Board” means the County Education Fund Board established under section 8(1) of this Act;

“Bursary” means any non-repayable financial support that may be given to a Student.

“Chairperson” means the Chairperson of the Board appointed under section 8(1)(a) of this Act;

“Commission for University Education” means the Commission established by section 4(1) of the Universities Act (No. 42 of 2012);

“County Assembly” means the County Assembly of Marsabit, as constituted under Article 176(1) of the Constitution, as read with Article 177;

“County Executive Committee” means the County Executive Committee established pursuant to Article 179 of the Constitution;
“County Executive Member” means the County Executive Member for the time being responsible for matters relating to finance;

“County legislation” means a legislation passed by the Marsabit County Assembly;

“County Public Service Board” means the County Public Service Board established under section 57 of the County Governments Act (No. 17 of 2012), in accordance with Article 235(1) of the Constitution;

“designated course” means any of the academic courses determined in accordance with section 6(1,2 and 3) of this Act;

“eligible person” means any person, who, being a resident of the County, has attained the minimum entry requirement and has been admitted by a recognized institution of higher learning to a designated course;

“Fund” means the County Education Fund established by section 4 of this Act;

“Gazette” means the Kenya Gazette, County Gazette or any of its supplements;

“higher education” means education at recognized institutions of higher learning, be it a university or a tertiary institution;

“member” means a member of the Board appointed under section 8(1) of this Act;

“Member of Parliament” means a member of the bicameral Parliament of the Republic of Kenya, as established by Article 93(1) of the Constitution, and constituted in accordance with Articles 97(1) and 98(1);

“member of staff” means a member of staff of the Secretariat, appointed under section 18(2) of this Act;

“National Assembly” means the National Assembly of the Republic of Kenya, as constituted under Article 97(1) of the Constitution;

“public officer” has the meaning assigned to it under Article 260 of the Constitution;
“scholarship” means any substantial non-repayable amount advanced to a student under this Act, independent of any loan advanced to the student;

“Secretary” means the secretary to the Board appointed by the Governor under section 8(1)(b) of this Act in accordance with the procedure set out in section 15 of the Act;

“Senate” means the Senate of the Republic of Kenya, as constituted under Article 98(1) of the Constitution;

“student” means any person who, being domiciled in the County, has been admitted to, is pursuing or proposing to pursue, higher education in any of the designated fields with assistance from the Fund;

“Sub-County” means, in accordance with section 48(1)(b) of the County Governments Act, the equivalent of a constituency within the County established under Article 89 of the Constitution;

“Ward Selection Committee” means a Ward Selection Committee established under section 23 of this Act to receive and review applications for bursaries and/or scholarships at the Ward level;

“Treasury” means the County Treasury;

“Ward” means a County Assembly ward in the County, as delimited in accordance with Article 89 of the Constitution and section 26 of the County Governments Act.

PART II—ESTABLISHMENT, OBJECT AND PURPOSE OF THE FUND AND OTHER INCIDENTAL MATTERS

4. There is established a Fund to be known as the Marsabit County Education Fund, which shall finance designated higher education courses in fields where the County has established human resource capacity gaps.

5. The object and purpose of the Fund shall be to provide funds to grant bursaries and scholarships to needy students from the County to pursue higher education in designated fields at such institutions of higher learning duly recognized by the Commission for University Education.
6. (1) The Fund shall be principally administered to sponsor any eligible student pursuing a Certificate, diploma or a degree in such designated courses as may be determined by the Board from time to time.

(2) The County Executive Committee shall, with the approval of the County Assembly, periodically review the list of designated courses as determined by the Board.

(3) In reviewing the list of designated courses, the County Executive Committee and the County Assembly shall take into account the prevailing human resource capacity gaps in the County and other relevant factors.

7. (1) The total amount of funds available from the Fund every financial year to support the bursaries and scholarships scheme shall be divided equitably amongst the sub-counties, and further amongst the Wards, in the County.

(2) In any decision regarding division of funds among the sub-counties and wards, regard shall be made for the relative student populations, poverty indices, human resource development indices, and other relevant factors.

(2) Allocations of funds under this section shall be subject to the consideration of, and approval by, the County Assembly.

PART III— INSTITUTIONAL SET-UP

8. (1) There shall be established a County Education Fund Board consisting of—

(a) a chairperson, not being an employee of the National Government or the County Government, appointed by the Governor.

(b) a secretary appointed by the Governor from among staff in his office, who shall be an ex officio member of the Board;

(c) the County Chief Officer for the time being responsible for matters relating to finance or his duly designated representative from the Treasury;

(d) the County Chief Officer for the time being responsible for matters relating to Education and skills development or his duly designated representative;
(e) two other persons, not being employees of the National Government or the County Government, appointed by the Governor from among professional bodies or development partners.

(2) The Chairperson and Members of the Board, save for the ex officio members appointed under subsections (1)(c)-(e), shall serve on a part-time basis.

(3) The chairperson shall—
(a) preside over all meetings of the Board;
(b) be the spokesperson for the Board; and
(c) give policy direction to the work of the Board.

9. (1) The functions of the Board shall include—
(a) to raise and solicit for funds and other assistance to promote the ideals of the Fund;
(b) to set and review the criteria and conditions governing the granting of bursaries and scholarships;
(c) to receive any gifts, donations, grants or endowments made to the Fund;
(d) to make final determination on applications for bursaries and scholarships, as received from sub-counties in accordance with section 23(1) of this Act;
(f) to establish and maintain links with other persons, bodies or organizations within or outside Kenya as may be necessary for the furtherance of the object and purpose of the Fund;
(g) to mentor beneficiaries of the Fund;
(h) to advise the County Government on all matters relating to financing of higher education and development of the County’s human resource; and
(i) to perform any other function as may be conferred by any County legislation or as may be necessary to ensure prudent management of the Fund.
(2) The Board may delegate some of its functions to the Secretary of the Fund.

(3) Notwithstanding subsection (2), the Board shall not delegate any of the following functions—

(a) the making of any regulations, rules, code of conduct or subsidiary legislation under this Act or any other County legislation;

(b) the making and submitting of any report to the Governor and the County Assembly; and

(c) the performance of any function the delegation of which would amount to unjustified delegation of the Board’s discretion.

(4) A delegation made under subsection (2) shall—

(a) be in writing;

(b) be subject to any conditions the Board may impose; and

(c) not divest the Board of the responsibility concerning the exercise of its powers or the performance of the duty delegated.

10. (1) The Board shall have all the powers necessary for the execution of its functions under this Act or any other relevant County legislation.

(2) Without prejudice to the generality of subsection (1), the Board shall have powers to—

(a) acquire, hold, charge and dispose of movable and immovable property;

(b) do or perform all such other things or acts for the proper discharge of its functions under this Act, including—

(i) gathering, by such means as it considers appropriate, any relevant information on an Applicant or beneficiary of a bursary and/or scholarship under the Fund;

(ii) compelling the production of any information it considers necessary for consideration of an scholarship granted to an eligible student;
application for bursary and/or scholarship under the Fund, or for reviewing the status of any bursary or

(iv) holding inquiries for the purposes of performing its functions under this Act; and taking any measures it considers necessary to ensure compliance with the provisions of this Act.

(3) In the exercise of its powers and the discharge of its functions, the Board—

(a) may inform itself in such manner as it may consider necessary;

(b) may receive written or oral statements; and

(c) is not bound by the strict rules of evidence.

11. (1) A person shall be qualified for appointment as Chairperson of the Board if the person—

(a) hails from, or is domiciled in, the County;

(b) holds a bachelors degree from a university recognized by Commission for University Education;

(c) has had a demonstrably distinguished career of at least ten years in his career/professional field; and

(d) meets the leadership and integrity requirements of Chapter Six of the Constitution of Kenya.

(2) A person shall be qualified for appointment as a member of the Board under section 9(1)(f) if the person—

(a) hails from, or is domiciled in, the County;

(b) holds a bachelors degree from a university recognized by Commission for University Education;

(c) has had a demonstrably distinguished career of at least seven years in his career/professional field; and

(d) meets the leadership and integrity requirements of Chapter Six of the Constitution of Kenya.
(3) A person shall not be qualified for appointment as a member of the Board under section 9(1)(a)&(f) if the person—

(a) is a sitting Member of Parliament representing any of the constituencies in the County, whether in the National Assembly or the Senate;

(b) is a member of the County Assembly;

(c) is an official of a governing body of a political party;

(d) has at any time within the preceding five years, held or stood for election to any political office in any part of the Republic of Kenya;

(e) is an undischarged bankrupt; or

(f) has been removed from office for contravening the provisions of the Constitution or any other law in force in the Republic or the County.

(4) The Chairperson and Members of the Board, save for the Secretary and those appointed under section 8(1)(c)&(d), shall be appointed for a single term of five years and shall not be eligible for re-appointment.

12. Members of the Board shall serve on such terms and conditions as the County Public Service Board may, with the approval of the County Executive Committee, determine.

13. The Chairperson or a Member of the Board may be removed from office in accordance with the procedure for removal provided in the Second Schedule.

14. (1) The Office of the Chairperson or a Member of the Board shall become vacant if—

(a) the holder—

(i) dies;

(ii) by notice in writing addressed to the Governor, resigns from office;

(iii) is convicted of a felony;

(iv) is absent from three consecutive meetings of the Board without justifiable cause;
is adjudged bankrupt by a court of competent jurisdiction;

(vi) for reasons of physical or mental infirmity, is unable to continue performance of the functions of his office, and the Board has passed a unanimous resolution affirming such inability to continue performance of the assigned functions;

(vii) is removed from office for gross misconduct or violation of any provision of the Constitution, this Act or any other written law in force in the Republic or the County; or

(b) the term of office of the holder expires.

(2) Where a vacancy occurs in the membership of the Board, the Governor shall appoint a replacement in accordance with the procedure set out in the First Schedule.

(3) A member appointed under subsection (2) shall serve the Board for a single term of five years and shall not be eligible for re-appointment.

15. (1) A person shall be qualified for appointment as Secretary to the Board if the person—

(a) hails from, or is domiciled in, the County;

(b) holds a degree from a university recognized by the Commission for University Education;

(c) has had at least five years of proven experience at management level;

(d) has extensive experience in public administration; and meets the requirements of Chapter Six of the Constitution.

(2) The Secretary shall be the Chief Executive Officer of the Fund and Head of the Secretariat.

(3) The Secretary shall be the accounting officer of the Fund and shall be responsible to the Board for all income and expenditures of the Fund, as well as all assets and the discharge of all liabilities of the fund.
(4) The Secretary Shall hold office for a term of three years and shall be eligible for re-appointment for further term of three years.

16. (1) The Secretary may be removed from office by the Board in accordance with the terms and conditions of service for—

(a) inability to perform the functions of the office of secretary arising out of physical or mental incapacity;

(b) gross misconduct or misbehavior;

(c) incompetence or neglect of duty;

(d) violation of the Constitution; or

(e) any other ground that would justify removal from office under the terms and conditions of service.

(2) Before the Secretary is removed under subsection (1), he shall be given—

(a) sufficient notice of the allegations against him; and

(b) an opportunity to present his defence against the allegations.

17. The Chairperson, Members and the Secretary shall, before assuming office, make and subscribe, before the Governor, to the oath office or affirmation set out in the Third Schedule.

18. (1) The Board shall establish a Secretariat to help in the day-to-day running of the affairs of the Fund.

(2) The Board may request secondment of such staff as may be necessary for the proper discharge of its functions under this Act, from among the existing public service establishment.

(3) The Board may hire such experts or consultants as are necessary for the functions of the Board and shall pay out of the Fund to such experts or consultants such remuneration or allowances as the Board may from time to time determine.

(4) The Board may establish sub-committees for the better carrying out of its functions.
(5) The Board may co-opt into the membership of its committees other persons whose knowledge and skills are necessary for the functions of the Board.

(6) A person co-opted into the membership of a committee under subsection (5) may attend meetings of the Board and participate in its deliberations but shall have no right to vote at any meeting.

(7) The Board may pay persons co-opted to the committees such allowances and other expenses as it may from time to time determine.

19. (1) The business and affairs of the Board shall be conducted in accordance with the Fourth Schedule.

(2) Except as provided in the Fourth Schedule, the Board may regulate its own procedure.

20. (1) The common seal of the Board shall be kept in such custody as the Board shall direct and shall not be used except on the order of the Board.

(2) The common seal of the Board when affixed to a document and duly authenticated shall be judicially and officially noticed and unless the contrary is proved, any necessary order or authorization of the Board under this Act shall be presumed to have been duly given.

21. No matter or thing done by a member of the Board or any officer, employee or agent of the Board shall, if the matter or thing is done in good faith for executing the functions, powers or duties of the Board, render the member, officer, employee or agent of the Board personally liable to any action, claim or demand whatsoever.

22. The Board shall ensure access to its services in all parts of the County in accordance with the provision of Article 176(2) of the Constitution.

23. (1) The Board shall, in consultation and cooperation with the Office of the Governor, establish a Ward Selection Committee for each ward in the County for purposes of receiving applications for bursaries and scholarships and making preliminary determinations on the same.

(2) A Ward Selection Committee shall comprise—
(a) not less than three and not more than seven members appointed by the Board; and

(b) the ward Administrator or his duly designated representative, who shall be an ex officio member and secretary to the committee.

(3) A member of a committee, unless ex-officio, shall be appointed for a single term of three years and shall not be eligible for re-appointment.

(4) The Chairpersons of the Committees shall be elected by the respective members in their first sitting.

(5) The appointment of the Members of the Committees shall be approved by the County Executive Committee and shall take into account the national values and principles referred to in Article 10 and Article 232 of the Constitution, and shall reflect gender equity and ethnic diversity within the County.

(6) In the discharge of their functions, the Committees shall comply with the regulations made by the Board under this Act.

(7) The Committees shall—

(a) subject to regulations made under this Act, receive and process applications for bursaries and/or scholarships, and transmit a list of selected eligible students to the Board for approval; and

(b) perform any other functions assigned by the Board or by any other County legislation.

24. In fulfilling their mandates under this Act, all offices, officers and institutions bearing any responsibility under this Act shall act in accordance with the values and principles set out in Articles 10(2), 201 and 232(1) and Chapter Six of the Constitution of Kenya, as well as provisions of relevant national and County legislation. In particular, they shall observe and respect—

(a) the social, economic, political, religious, cultural and other diversities of the people of Marsabit County;

(b) inclusiveness, non-discrimination, gender equality and gender equity;
(c) integrity, transparency and accountability;
(d) prudence and responsibility in utilization and management of public funds and assets, as well as clarity in fiscal reporting;
(e) the need to ensure equity in allocation of resources;
(f) the rights of the public to participate in policy-making and legislative processes;
(g) the need to ensure impartial, responsive, prompt, effective, efficient and equitable service provision;
(h) the rights of the public to be provided timely and accurate information;
(i) the need for protection of the vulnerable and the marginalised groups and communities; and
(j) the rules of natural justice.

PART IV—ADMINISTRATION OF THE FUND

25. (1) The Fund shall be administered and managed by the County Education Fund Board.

(2) The Board shall be responsible for—
(a) disbursing bursaries and scholarships
(b) managing the funds and other related assets of the Fund;
(c) Prepare annual books of accounts

PART V—APPLICATION, PROCESSING AND APPROVAL OF BURSARIES AND SCHOLARSHIPS AND OTHER INCIDENTAL MATTERS

26. (1) Every student desiring to be considered for the grant of a higher education bursary and/or scholarship under this Act shall apply to the Board in the prescribed form.

(2) All eligible applications shall be subject to consideration by the Board, which may accept or reject such application.

(3) Where it rejects an application, the Board shall provide reasons for rejection of the application. Where it
accepts an application, the Board shall grant the relevant financial assistance to the eligible student

(4) Where the Board has made a decision to accept an application for a bursary and/or scholarship, it shall notify the Applicant student in writing.

(5) Any Applicant aggrieved by a decision of the Board may appeal to the Board within thirty days for review of the decision. The Board shall dispose of such application within two weeks of receipt of the same.

27. (1) In granting a bursary or scholarship, the Board shall take into account, among other things—

(a) the relevance of the Applicant’s chosen course to the County’s human resource development priority;
(b) the academic record and related achievement(s) of the Applicant; the socio-economic status of the Applicant’s family;
(c) the character of the Applicant, as attested to by a recognized leader from his Ward or Village;
(d) the Applicant’s co-curricular abilities;
(e) the Applicant’s leadership potential.

(2) Upon completion of the sponsored studies, every recipient of a scholarship and or bursary under this Act shall work, resource allowing and dependent on availability of vacancy in the County Government or other partners within the Marsabit County for a minimum of three years, failure to which he/she shall be liable to reimburse the County Government the full scholarship amount.

28. (1) The Board may withdraw or cancel a bursary or scholarship where an Applicant—

(a) in filling an application form, knowingly makes any false representation relating to any matter affecting his request for a bursary or scholarship;
(b) fails to, without reasonable cause, furnish any required information or particulars affecting his request for a bursary or scholarship; or
(c) is granted a bursary or scholarship on the basis of false information or particulars.

(2) Where the Board withdraws or cancels a bursary or scholarship for any of the reasons in subsection (1), it may proceed to institute criminal proceedings against the Applicant, who shall on conviction be liable to a fine of not less than fifty thousand shillings or to imprisonment for a term not less than six months, or both.

PART VI—FINANCE

29. (1) The sources of funds for the Fund shall consist of—

(a) such monies as may from time to time be voted by the County Assembly for that purpose;

(b) such monies or assets as may accrue to the Fund from time to time; and

(c) all monies, gifts, donations, grants, endowments or loans made to the Fund.

(2) Any funds donated or lent to, or gift made to the Fund under subsection (1)(c) shall be disclosed and made public.

(3) The receipts, earnings and accruals of the Fund and the balances at the close of each financial year shall not be paid into the County Revenue Fund but shall be retained for the purposes of the Act.

30. (1) A bank account of the Fund shall be opened and maintained at a public commercial bank appointed by the County Executive Member with the approval of the County Executive Committee.

(2) The signatories to the bank account maintained in accordance with subsection (1) shall be—

(a) the Chairperson of the Board;

(b) the Secretary to the Board;

(c) the County Chief Officer for the time being responsible for matters relating to finance or his duly designated representative; and

(d) one other Member of the Board as may be appointed by a resolution of the Board.
(3) The signing instructions shall be such that the signature of the the Chief Officer for the time being responsible for matters relating to finance shall be mandatory on all payment in cheques and/or instruments intended for actual release of money from the Fund, plus any one of the other two signatories.

31. The financial year of the Board shall be the period of twelve months commencing on the first of July and ending on the thirtieth of June of the subsequent year.

32. (1) In every budget cycle, the Board shall cause to be prepared estimates of the Fund’s income and expenditure for the given fiscal year.

(2) The annual estimates shall make provisions for all estimates of expenditure relating to administration and management of the Fund for the given fiscal year, and shall in particular provide for—

(a) the cost of grant of bursaries and scholarships to eligible students;

(b) Board’s cost of administering, managing or otherwise dealing with the fund;

(c) payments or reimbursements to members of the Board and the ward Selection of expenses incurred in the course Committees of monies in respect of executing their respective duties;

(d) payment of charges whatsoever payable to staff, agents or consultants of the Board;

(e) grounds cost of maintenance of equipment and the buildings and of the Board;

(f) funding of of the training, research and development activities Board; and

(g) creation of such funds to meet future or contingent liabilities in respect of benefits, insurance or replacement of buildings or installations, equipment and in respect of such other matters as the Board may think fit.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate.
PART VII—MISCELLANEOUS PROVISIONS

33. (1) As soon as practicable after the end of each financial year, the Board shall submit a report to the Governor.

(2) The report of the Board shall, in respect of the financial year to which it relates, contain—

(a) the financial statements of the Fund;
(b) a description of the activities of the Board and the Secretariat;
(c) information relating to the progress made in implementing the Act;
(d) recommendations made by the Board to the County Government and the action taken on such recommendations;
(e) any impediments to the work of the Board; and
(f) such other information as the Board considers appropriate or relevant in relation to any of its functions under the Act.

(3) Without prejudice to subsection (1), the Governor or the County Assembly may at any time require the Board to submit a report on a particular issue.

34. The Board shall, within six months of its establishment, develop a code of conduct for its members and staff of the Fund’s Secretariat.

35. Any person who—

(a) submits false or misleading information to the Board or a member of staff of the Secretariat acting under this Act;
(b) fails to discharge an obligation whatsoever due on his part under this Act;
(c) without justification or lawful excuse, obstructs or hinders, assaults or threatens a member of the Board or a member of staff acting under this Act;
(d) fails to honour summons issued by the Board or any other institution established under this Act and so empowered to issue summons; or
(e) misrepresents to or knowingly misleads a member of the Board or a member of staff of the Secretariat acting under this Act,

commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand shillings, or to imprisonment for a term not more than one year, or to both.

36. (1) Legal proceedings for an offence under this Act or any rules and regulations made thereunder may, notwithstanding anything in any law to the contrary, be commenced at any time within twelve months from the date on which evidence sufficient in the opinion of the Board to justify a prosecution for the offence comes to the knowledge of the Board.

37. Any fine imposed in accordance with any provision of this Act, and all sums recovered by legal proceedings in respect of sums which have been due but not paid to the Board, shall be payable to the Board.

38. The County Assembly shall, upon expiry of five years from the date of commencement of this Act, review the mandate of the Board with a view to enhancing effectiveness and efficiency in implementation of this Act.

39. (1) The Board may make regulations generally for the better carrying into effect of any provisions of this Act and such regulations shall be tabled before the County Executive Committee for approval.

(2) Without prejudice to the generality of subsection (1), the Board may make regulations in respect of—

(a) receipt, processing and approval of applications for bursaries and scholarships;

(b) the preparation and maintenance of beneficiaries records;

(c) the withdrawal, recovery and cancellation of bursary and or scholarship already granted;

(d) the terms and conditions of service for staff employed by the Board under this Act.

40. (1) The Governor may by notice in the Gazette exempt any class of eligible persons from all or any of the provisions of this Act, where in his opinion it is expedient in the public interest to do so.
(2) This Act shall, subject to the provisions of subsection (1), apply to all persons in the service of the National Government or the County Governments as it would apply if their employer were a private person or a State corporation.

41. In this Act, references to the masculine gender shall be construed as including reference to the feminine gender.
SCHEDULES
FIRST SCHEDULE

PROCEDURE FOR APPOINTMENT OF CHAIRPERSON AND MEMBERS OF THE BOARD

(1) The Governor shall, within fourteen days after the commencement of this Act and whenever a vacancy arises, constitute a selection panel comprising—

(a) a nominee of the Office of the Governor;

(b) a nominee of the County Public Service Board, who shall be the secretary to the Panel;

(c) a representative of the County Executive Member for the time being responsible for matters relating to finance;

(d) a representative of the County Executive Member for the time being responsible for matters relating to Education and skills development;

(e) A nominee of the Civil Society Organisations working in the County, who have demonstrated competence and capacity in matters related to education; and

(f) a nominee of the local professional bodies, who has demonstrated competence and capacity in the Education sector.

(2) The County Public Service Board shall—

(a) convene the first meeting of the selection panel, at which the members of the selection panel shall elect a chairperson and a vice chairperson from among their number; and

(b) provide the selection panel with such facilities and other support as it may require for the discharge of its functions under this Act.

(3) The selection panel shall, within seven days of convening, by advertisement in at least one daily newspaper of nationwide circulation, invite applications from persons who qualify for nomination and appointment for the position of the chairperson and members referred to under section 8 (e) of this Act.
(4) The selection panel shall within twenty one days after the expiry of the deadline for receipt of applications under paragraph (3)—

(a) consider the applications received under paragraph (3) to determine their compliance with the provisions of the Constitution and this Act;

(b) short list the applicants;

(c) publish the names of the shortlisted applicants and the qualified applicants in at least public notice boards at all sub-county headquarters and County headquarter; conduct interviews of the shortlisted persons in public;

(d) shortlist three qualified applicants for the position of chairperson;

(e) shortlist six qualified applicants for the position of the members; and

(f) forward the names of the qualified persons to the Governor.

(5) The Governor shall, within fourteen days of receipt of the names of successful shortlisted applicants forwarded under paragraph (4)(g), appoint the chairperson and members of the board.

(6) In short listing, nominating or appointing persons as chairperson and members of the Board, the Selection Panel and the Governor shall ensure that not more than two-thirds of the eventual membership of the Board is of the same gender.

(7) The Selection Panel may, subject to this section, determine its own procedure.

(8) The Selection Panel shall stand dissolved upon the appointment of the chairperson and members of the Board under paragraph (5).

(9) Despite the foregoing provisions, the Governor may, in writing, extend the period specified in respect of any matter under this section by a period not exceeding twenty-one days.
SECOND SCHEDULE

PROCEDURE FOR REMOVAL OF CHAIRPERSON AND MEMBERS OF THE BOARD

(1) The Chairperson or a member of the Board, other than an ex officio member, may be removed from office only for—

(a) inability to perform the functions of the office held arising out of physical or mental incapacity;
(b) gross misconduct or misbehavior;
(c) incompetence or neglect of duty;
(d) violation of the Constitution; or
(e) any other ground that would justify removal from office under the terms and conditions of service.

(2) A person desiring the removal of a member of the Board on any ground specified in paragraph (1) may present a petition to the County Assembly setting out the alleged facts constituting that ground.

(3) The County Assembly shall consider the petition and, if it is satisfied that it discloses a ground under paragraph (1), shall send the petition to the Governor.

(4) On receiving a petition under paragraph (3), the Governor shall—

(a) appoint a tribunal in accordance with paragraph (5).

(5) The tribunal shall consist of—

(b) a person who is an advocate of the high court with distinguished career of at least seven years, who shall be the chairperson;
(c) two members who are qualified to assess the facts in respect of the particular ground for removal.

(6) The tribunal shall investigate the matter expeditiously, report on the facts and make a binding recommendation to the Governor, who shall act in accordance with the recommendations within thirty days.

(7) Before a member is removed from office, he shall be given—
(a) sufficient notice of the allegations made against him; and
(b) an opportunity to present his defence against the allegations.

THIRD SCHEDULE

OATH/AFFIRMATION OF THE OFFICE OF CHAIRPERSON/
MEMBERS/SECRETARY OF THE BOARD

I ........................................... having been appointed (the
chairperson to /member of /secretary to) the County Education Fund
Board under the Marsabit County Education Fund Act, 2014, do solemnly
(swear/declare and affirm) that I will at all times obey, respect and uphold
the Constitution of Kenya and all other laws of the Republic, as well as the
laws of the County, as legislated by the County Assembly; that I will
faithfully and fully, impartially and to the best of my knowledge and
ability, discharge the trust and perform the functions and exercise the
powers devolving upon me by virtue of this appointment without fear,
favour, bias, affection, or prejudice. (SO HELP ME GOD).

Sworn/declared by the said .........................................................
Before me this ...................... day of ..........................................
........................................

Governor

FOURTH SCHEDULE

MEETINGS AND PROCEDURE OF THE
BOARD

1. (1) The Board shall decide when and where it meets and the meetings shall be convened by the Chairperson.

(2) The Board shall have at least four meetings in every financial year and not more than four months shall elapse between one meeting and the next meeting.

(3) Unless three quarters of the members otherwise agree, at least seven days’ notice in writing of a meeting shall be given to every member.
(4) A meeting shall be presided over by the Chairperson or in the absence of the chairperson, by the vice-chairperson of the Board.

(5) The members of the Board shall elect a vice-chairperson from among

2. (1) If a person has any direct or indirect personal or fiduciary interest in any matter before the Board, and is present at a meeting of the Board or any committee of the Board at which such a matter is the subject of consideration, that person after the commencement of the meeting, declare such interest and shall not take part in any consideration or discussion of, or vote on, any shall as soon as is practicable question touching on such matter or be counted in the quorum of the meeting during consideration of the matter.

(2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A person who contravenes subparagraph (1) commits an offence and is liable, upon conviction, to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment.

(4) No member or staff of the Board shall transact any business or trade with the Board.

(5) A person who contravenes subsection (1) shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding five years, or to both such fine and imprisonment.

3. (1) Subject to subparagraph (2), the quorum of any meeting of the Board shall not be less than half of the members.

(2) Where there is a vacancy in the Board, the quorum of any meeting of the Board shall not be less than three members.
4. A question before the Board shall be decided by a majority of the members present and voting and, in the case of an equality of votes, the chairperson or the person presiding at the meeting shall have a casting vote.

5. The Board shall—

(a) determine rules of procedure for the conduct of its business; and

(b) keep minutes of its proceedings and decisions.

6. The provisions of this Schedule shall apply to meetings and procedure of the Sub-County Selection Committee mutatis mutandis.

OATH/AFFIRMATION OF THE OFFICE OF CHAIRPERSONS/MEMBERS/SECRETARIES OF THE SUB-COUNTY SELECTION COMMITTEES

I .................................................................................................. having been appointed (the chairperson to /member of /secretary to) the Sub-County Selection Committee under the Marsabit County Education Fund Act, 2014, do solemnly (swear/declare and affirm) that I will at all times obey, respect and uphold the Constitution of Kenya and all other laws of the Republic, as well as the laws of the County, as legislated by the County Assembly; that I will faithfully and fully, impartially and to the best of my knowledge and ability, discharge the trust and perform the functions and exercise the powers devolving upon me by virtue of this appointment without fear, favour, bias, affection, or prejudice. (SO HELP ME GOD).

Sworn/declared by the said .........................................................

Before me this ...................... day of ...........................................

..........................................................
Governor.
MEMORANDUM OF OBJECTS AND REASONS

The object of this Bill is to provide for the establishment, management and administration of the County Education Fund to be used for granting bursaries and scholarships to assist needy students from the County to obtain higher education in designated fields at recognized institutions of higher learning and for matters incidental thereto and connected therewith.

Part I of the Bill contains preliminary provisions, including the title reference of the proposed Act and guidance on construction of various terms, as used therein.

Part II provides for, inter alia, the establishment, object and purpose of the Fund. Over and above demystifying the object and purpose of the Fund, it provides for the scope of the Fund.

Part III lays down the institutional framework for implementing the Act. It establishes the County Education Fund Board to oversee the running of the Fund. It also establishes a secretariat to assist the Board in running the day-to-day affairs of the Fund. The part also establishes the Sub-County Selection Committees to receive and review applications at the sub-county level.

The enactment of this bill will occasion additional expenditure of public funds which shall be provided for through estimates.

Part IV provides for the manner of administration of the Fund. The part also clarifies how excess funds are to be invested (by the Board, on behalf of the County Government).

Part V provides for the manner in which applications for bursaries and scholarships can be made (to the Board), how they will be processed, and the criteria for granting bursaries and scholarships. It also provides for the manner in which bursaries and scholarships already granted may be withdrawn and cancelled.

Part VI deals with financial matters, including—sources of funds for the Fund; maintenance of bank accounts; preparation of annual estimates; and maintenance of books of accounts of the Fund. It particularly provides for the oversight role of the County Assembly.

Part VII provides for general provisions, including the guiding principles for the application of the Act and provisions on legal proceedings under the Act.

Part VIII contains miscellaneous provisions, including those relating to annual reporting, offences and legal proceedings under the Act. The part
also empowers the Board to make regulations to ensure proper implementation of the Act.

The **First Schedule** provides for the procedure for appointment of Chairperson and Members of the Board.

The **Second Schedule** provides for the form of the oath/affirmation to be made by persons assuming the office of Chairperson, Member or Secretary of the Board.

The **Third Schedule** provides for the form of the oath/affirmation to be made by persons assuming the office of Chairperson, Member or Secretary of the Sub-County Selection Committee.

The **Fourth Schedule** provides for matters relating to meetings and procedure of the Board, which shall apply to meetings and procedure of the Sub-County Selection Committee *mutatis mutandis*.

The **Fifth Schedule** provides for the procedure for removal of the chairperson and members of the Board.

The enactment of this bill will occasion additional expenditure of public funds which shall be provided for through estimates.

Dated the 29th August, 2014.

STEVEN LABARAKWE,
*Member, County Executive Committee Education.*