PART I — ESTABLISHMENT OF THE TERTIARY HOSPITALS DEVELOPMENT FUND BILL, 2021

Establishment of Tertiary Healthcare Development Fund. Clause 1:

- There is established the Tertiary Hospitals Development Fund (in this Bill referred to as "the Fund) for the rehabilitation, restoration and consolidation of Tertiary Healthcare in Nigeria.
- is a body corporate with perpetual succession and a common seal; (2)The Fund -
 - (a)
 - may sue and be sued in its corporate name; and (b)
 - hold and dispose its property, whether movable or immovable. (c)

That the provision in Clause 1 be retained (Senator Yahaya I. Oloriegbe — Kwara Central) — Agreed to.

Question that Clause 1 do stand part of the Bill, put and agreed to.

Establishment of Governing Board. Clause 2:

- There is established for the Fund the Governing Board (in this Bill (1)referred to as "the Board").
- The Board shall consist of -(2)
 - a chairman who shall
 - be a person with good knowledge in healthcare administration and management matters,
 - have qualifications and experiences as are required to (ii) perform the functions of that office under this Bill;
 - one representative each, not be below the rank of a Director, of (b) the -
 - (i) Federal Ministry of Health,
 - (ii) Federal Ministry of Finance,
 - Federal Ministry of Education, (iii)
 - Federal Inland Revenue Service, and (iv)
 - Pharmaceutical Society of Nigeria. (v)
 - one representative each from the six geopolitical zones, (c)
 - three representatives of Committee of Medical Directors of (d) Tertiary Hospitals and Federal Medical Centres (including Teaching Hospitals, and Specialist Hospitals), and

- 20/
- (e) Executive Secretary of the Fund who shall be the Secretary of the Board.
- (3) The President shall, on the recommendation of the Minister, appoint the Chairman and members of the Board.
- (4) The members shall be persons with considerable experience relating to the functions of the Board.
- (5) The performance of the functions or exercise of the powers of the Board is not affected by reason of a vacancy in the membership of the Board.
- (6) The supplementary provisions set out in the Schedule to this Bill shall have effect with respect to the proceedings of the Board and other matters contained therein.

That the provision in Clause 2 be retained (Senator Yahaya I. Olorieghe — Kwara Central) — Agreed to.

Question that Clause 2 do stand part of the Bill, put and agreed to.

Clause 3: Tenure of Members.

- (1) A member other than ex-officio
 - shall hold office for a term of four years that may be renewable for another term of four years and no more; and
 - (b) may hold office on terms and conditions as may be specified in his letter of appointment.
- (2) A member may at any time be removed from office by the President
 - (a) for inability to perform the functions of his office (whether arising from infirmity of mind or body); or
 - (b) if the President considers that it is not in the interest of the Fund or public for such member to continue in office.

Committee's Recommendation:

That the provision in Clause 3 be retained (Senator Yahaya I. Oloriegbe — Kwara Central) — Agreed to.

Question that Clause 3 do stand part of the Bill, put and agreed to.

Clause 4: Cessation of Membership.

- (1) A member ceases to hold office if he -
 - (a) is, without permission of the Board, absent
 - (i) for more than three consecutive meetings for the Board without such permission, or
 - (ii) from the Country for a period exceeding one-year;

- in case of a professional, is disqualified or suspended (other than at his own request) from practising his profession in any part of Nigeria by the order of any competent authority;
- (c) becomes bankrupt or makes a compromise with his creditors;
- (d) becomes bankrupt;
- (e) is guilty of —

 (i) serious misconduct in relation to his duties, or
 - (ii) an immorality or corrupt conduct;
- (f) is convicted of a felony or any offence involving dishonesty.
- (2) A member may at any time resign his membership
 - (a) by giving notice in writing through the Minister to the President and the resignation becomes effective from the date specified in the notice; and
 - (b) if no date is specified, from the date of the receipt of the notice by the president.
- Where a member ceases to hold office for any reason whatsoever before the expiration of his term of office, the President, after consulting the Minister, may appoint another person for the unexpired term.

That the provision in Clause 4 be retained (Senator Yahaya I. Oloriegbe — Kwara Central) — Agreed to.

Question that Clause 4 do stand part of the Bill, put and agreed to.

Clause 5: Allowances of Members.

Members shall be paid such allowances as the Revenue Mobilization, Allocation and Fiscal Commission may direct.

Committee's Recommendation:

That the provision in Clause 5 be retained (Senator Yahaya I. Oloriegbe — Kwara Central) — Agreed to.

Question that Clause 5 do stand part of the Bill, put and agreed to.

PART II — FUNCTIONS OF THE FUND AND POWERS OF THE BOARD

Clause 6: Functions of the Fund.

The Fund shall -

(a) provide and maintain —

- (i) infrastructure essential for tertiary healthcare service delivery,
- (ii) health research and publications, and

- clinical staff training and development; and (iii)
- monitor and ensure collection of the tax by the Service and ensure transfer (b) of same to the Fund:
- manage and disburse the tax imposed by this Bill; (c)
- liaise with the appropriate ministries or bodies responsible for collection (d) or safe keeping of the tax;
- receive requests and approve appropriate projects after due consideration; (e)
- ensure disbursement of funds to various Tertiary Teaching Hospitals in (f) Nigeria;
- monitor and evaluate execution of the projects in relation to funds (g) releases;
- invest funds in appropriate and safe securities; (h)
- -update-the-Federal-Government-on-its-activities-and-progress-through-(i)annual and audited reports not later than six month after the preceding
- review progress and suggest improvements within the provisions of this (j) Bill;
- make and issue guidelines, from time to time, to all beneficiaries on (k) disbursement from the Fund on the use of monies received from the Fund;
- generally regulate the administration, application and disbursement of (1) monies from the Fund under this Bill.
- do such other things as are -(m)
 - necessary or incidental to the objects of the Fund under this Bill or as may be assigned by the Federal Government, and
 - in the opinion of the Board, critical and essential for the (ii) improvement of quality and maintenance of standards in the Tertiary Hospitals.

That the provision in Clause 6 be retained (Senator Yahaya I. Oloriegbe - Kwara Central) -Agreed to.

Question that Clause 6 do stand part of the Bill, put and agreed to.

Powers of the Board. Clause 7:

The Board has powers to -

(a) make regulations for the management of the Fund with the approval of the President through the Minister for health on the basis of -

funding of all Tertiary Hospitals,

- equality among the States of the Federation, in the case of regular (ii) intervention projects, and
- equality among the six geopolitical zones of the Federation, in the (iii) case of special intervention projects;
- approve the annual budget of the Fund; (b)
- approve all grants for healthcare research, training and development; (c)
- approve loan for healthcare investment subject to section 8 (b) of this Bill; (d)
- review and monitor the activities of the Fund; (e)
- approve payment to persons employed by the Fund of such remuneration (f) and allowances;
- give report on all activities of the Fund on quarterly basis through the (g) Minister to the President
- specify the manner in which assets of the Fund are to be held, and (h) regulate payment into and out of the Fund.
- specify the manner for timely disbursement and recovery (where (i) necessary) of loans;
- require the keeping of proper accounts and records for the purposes of the (j) Fund in such form as may be specified in the rules;
- require the accounts of the Fund to be audited periodically by the (k) Auditor-General of the Federation;
- ensure that the copies of the accounts and the auditor's report thereon are (1) submitted to the Federal Executive Council through Minister;
- monitor the execution of projects; and (m)
- carry out such other activities as may be incidental to the performance of (n) its functions under this Bill.

That the provision in Clause 7 be retained (Senator Yahaya I. Oloriegbe - Kwara Central) -Agreed to.

Question that Clause 7 do stand part of the Bill, put and agreed to.

Management and Administration of the Fund. Clause 8:

The Board shall administer the tax imposed under this Bill and disburse the amount in the Fund to Tertiary Hospitals specifically for the provision

essential physical infrastructure for teaching, learning, research or maintenance of -(a) and service;

- instructional, medical and other services equipment; (b)
- research and publication; (c)
- staff training and development; and (d)
- any other need which, in the opinion of the Board of Management, is critical and essential for the improvement of (e) quality and maintenance of standards in the Tertiary hospitals.
- The Board shall remit in whole or in part a sum added to the unpaid tax (2) under subsection (1) of this section.
- The Board may give due consideration to the peculiarities of each geo-political zone in the disbursement and management of the tax imposed (3)under this Bill between the various Tertiary Hospitals.
- The Minister shall, on the recommendation of the Board of Management and subject to approval by the President, make guidelines for (4)disbursement of funds under this Bill.

That the provision in Clause 8 be retained (Senator Yahaya I. Oloriegbe — Kwara Central) — Agreed to.

Question that Clause 8 do stand part of the Bill, put and agreed to.

PART III — APPOINTMENT OF THE EXECUTIVE SECRETARY AND OTHER STAFF

Appointment of the Executive Secretary and Other Staff Clause 9:

- The President shall, appoint for the Fund an Executive Secretary. (1)
- The Executive Secretary shall be a person who, has acquired cognate (2)experience of not less than 15 years in
 - medicine; and (a)
 - management and administration. (b)
- The Executive Secretary is -(3)
 - the chief executive and accounting officer of the Fund; and
 - responsible for -(b)
 - the day-to-day management and administration of the Fund, subject to the general directions of the Board,
 - keeping the proper books and records of the proceedings (ii) of the Board,
 - "(iii)"""the administration of the Secretariat of the Board of Management, and

- the general direction and control of all other employees (iv) of the Fund.
- The Executive Secretary shall -(4)
 - hold office for a term of five years and no more; or
 - on such terms and conditions as are specified in his letter of (b) appointment.
- Notwithstanding, the provisions of subsections (4) of this section, the Executive Secretary may be removed from office by the President — (5)
 - for inability to perform the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct, or
 - if President is satisfied that it is not in the interest of the service or public for him to continue in office. (b)
- The Executive Secretary may resign his appointment by a letter to the (6)President through the Minister.
- The Board may deploy or appoint for the Fund other employees upon such terms and conditions as may be determined by the Board. (7)
- Service in the Fund shall be approved service for the purpose of the (8) Pension Reform Act.

That the provision in Clause 9 be retained (Senator Yahaya I. Oloriegbe - Kwara Central) -Agreed to.

Question that Clause 9 do stand part of the Bill, put and agreed to.

PART IV — FINANCIAL PROVISIONS

Account. Clause 10:

- The Fund shall establish and maintain an account from which shall be (1) defrayed all expenditure incurred by the Fund.
- There shall be paid into the account established in subsection (1) of this (2)section
 - take off grant provided by the Federal Government; (a)
 - money appropriated by the National Assembly; (b)
 - 1% of petroleum companies tax paid on total barrels of crude oil (c) produced yearly;
 - 1% of mobile phone service providers tax paid on airtime and data sold yearly;

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- 1% of beverages and breweries companies tax paid on profit (e) yearly declared;
- 1% of cement companies on profit yearly declared; (f)
- 1% of paint and chemical manufacturing companies tax paid on (g) profit yearly declared; and
- 1% of tobacco companies tax paid on profit yearly declared. (h)

Committee's Recommendation:

That the provision in Clause 10 be retained (Senator Yahaya I. Oloriegbe - Kwara Central) -Agreed to.

Question that Clause 10 do stand part of the Bill, put and agreed to.

Assessment and Collection of Tax. Clause 11:

- The Federal Inland Revenue Service (in this Bill referred to as "the (1)FIRS") shall
 - assess and collect the taxes imposed under this Bill; and (a)
 - when assessing a company for companies income tax for an accounting period of the company, also assess the company for (b) the tax due under this Bill;
- The tax imposed under this Bill shall be due and payable within 90 days. (2)

That the provision in Clause 11 be retained (Senator Yahaya I. Oloriegbe — Kwara Central) — Agreed to.

Question that Clause 11 do stand part of the Bill, put and agreed to.

Expenditure. Clause 12:

- The Federal Inland Revenue Service shall pay the tax collected under this Bill into the Fund and shall, when doing so, submit to the Fund in such (1) form as the Board shall approve, showing
 - the name of the company making the payment; (a)
 - the amount collected; (b)
 - the assessable profit of the company for the accounting period; (c) and
 - such other information as may be required by the Fund for the (d) proper administration of the tax.
- The Fund shall, before disbursement of the amount in the Fund, set aside in each year, an amount not exceeding 10% of the total money accruing (2) to the Fund in the preceding year which shall be applied
 - for the cost of administration and management of the Fund;

- for the development or maintenance of any property acquired by or vested in the Fund and generally to pay for any service (b) rendered to the Fund;
- for project monitoring; (c)
- to meet all the needs of the Fund necessary for the due administration and implementation of the purpose of this Bill; (d)
- for the payment of allowances and benefits of members and for reimbursing members of any committee set up by the Board for (e) such expenses as may be expressly authorised by the Board; and
- for the payment of salaries, remuneration or allowances, pensions and other benefits payable to the officers and other employees of (f) the Fund.
- No payment of any kind under subsection (2) (f) (except such as may be expressly authorised by the Board) shall be made to any person who is in (3) receipt of emolument from the Federal or State Government.

That the provision in Clause 12 be retained (Senator Yahaya I. Oloriegbe — Kwara Central) — Agreed to.

Question that Clause 12 do stand part of the Bill, put and agreed to.

Annual Accounts and Estimates. Clause 13:

- The Fund shall keep accounts in respect of each year and proper records in relation to those accounts and shall cause to be prepared in each year a statement
 - showing the income and expenditure of the Fund for the (a) preceding year; and
 - of all assets and liabilities of the Fund as at the last day of the (b) preceding year.
- The Fund shall cause every statement prepared under this section to be (2)audited within six months after the end of the year to which the statement relates by auditors from the list and in accordance with the guidelines supplied by the Auditor-General for the Federation.
- The Fund shall submit to the Minister, not later that 31st August in each year, as estimate of its expenditure and income during the next succeeding (3)year.

That the provision in Clause 13 be retained (Senator Yahaya I. Oloriegbe — Kwara Central) —

Question that Clause 13 do stand part of the Bill, put and agreed to.

Annual Report, Audited Accounts and Auditor's Report. Clause 14:

The fund shall -(1)

- prepare and submit to the Minister, not later than six months after the end of the year, a report, in such form as the Minister may (a) direct, on the activities of the Fund during the immediate preceding year; and
- include in the report a copy of the audited accounts of the Fund for that year and auditor's report thereon. (b)
- The Minister shall submit a copy of each report made to him under this (2)section to the Federal Executive Council.

That the provision in Clause 14 be retained (Senator Yahaya I. Oloriegbe — Kwara Central) — Agreed to.

Question that Clause 14 do stand part of the Bill, put and agreed to.

Power to Accept Gifts. Clause 15:

- (1)——The Fund may accept any gift of land, money or other property on such terms and conditions, if any, as may be specified by the person or organisation making gift.
- The Fund shall not accept any gift if the conditions attached by the person or organisation offering the gift are inconsistent with the functions and (2)objectives of the Fund.

Committee's Recommendation:

That the provision in Clause 15 be retained (Senator Yahaya I. Oloriegbe — Kwara Central) — Agreed to.

Question that Clause 15 do stand part of the Bill, put and agreed to.

Power to Borrow. Clause 16:

- The Fund may, from time to time, borrow, by way of overdraft or (1) otherwise, such sums as it may require for the performance of its functions under this Bill.
- The Fund shall not, without the approval of the Minister, borrow money (2)which exceeds, at any time, the amount set by the Government as the limit of the authority of the Fund.
- Where the sum to be borrowed is in foreign currency, the Fund shall seek (3)and obtain the approval of the Minister through the Board.

Committee's Recommendation:

That the provision in Clause 16 be retained (Senator Yahaya I. Oloriegbe — Kwara Central) — Agreed to.

Question that Clause 16 do stand part of the Bill, put and agreed to.

PART V — OFFENCES AND PENALTIES

Clause 17: Offences as

- Offences and Penalties.

 (1) A person who contravenes or fails to comply with the provisions of this Bill commits an offence and is liable on conviction to a fine not exceeding \$\frac{1}{2}\$,000,000 or imprisonment for a term of two years or both.
- Where an offence under this Bill is committed by a body corporate or firm or other association of individuals, every—

(a) director, manager, secretary or other similar officer of the body corporate,

- (b) partner or officer of the firm,
- (c) person concerned in the management of the affairs of the association, or
- (d) person who was purporting to act in that capacity, is severally guilty of that offence and liable to be proceeded against and punished for the offence in like manner as if he had himself committed the offence, unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance.

Committee's Recommendation:

That the provision in Clause 17 be retained (Senator Yahaya I. Oloriegbe — Kwara Central) — Agreed to.

Question that Clause 17 do stand part of the Bill, put and agreed to.

PART VI - LEGAL PROCEEDINGS

Clause 18: Limitation Against Suit.

- (1) No suit shall be instituted in any court against the Fund or its employee unless it is commenced
 - (a) within three months next after the act, neglect or default complained of; and
 - (b) in the case of continuation of damage or injury, within three months next after the ceasing thereof.
- (2) No suit shall commence against the Fund before the expiration of a period of one month after written notice of the intention to commence the suit shall have been served on the Fund by the intending plaintiff or his agent and the notice shall clearly state
 - (a) cause of action;
 - (b) particulars of claim;
 - (c) the name and place of abode of the intending plaintiff; and
 - (d) the relief which he claims.

That the provision in Clause 18 be retained (Senator Yahaya I. Oloriegbe - Kwara Central) -Agreed to.

Question that Clause 18 do stand part of the Bill, put and agreed to.

Service of Documents. Clause 19:

A notice, summons or other documents required or authorised to be served upon the Fund under the provisions of this Bill or any other law or enactment may be served by -

- delivering it to the office of the Executive Secretary; or (a)
- sending it by registered post addressed to the Executive Secretary or the (b) principal office of the Fund.

Committee's Recommendation:

That the provision in Clause 19 be retained (Senator Yahaya I. Oloriegbe — Kwara Central) — Agreed to.

Question that Clause 19 do stand part of the Bill, put and agreed to.

Restriction on Execution. Clause 20:

- In any action or suit against the Fund, no execution or attachment of process in any nature thereof shall be issued against the Fund unless at least three months' notice of the intention to execute or attach has been given to the Fund.
- Any sum of money which may, by the judgment of any court awarded (2) against the Fund ought to subject to any direction given by the court where no notice of appeal against the judgment has been given, be paid from the account of the Fund.

Committee's Recommendation:

That the provision in Clause 20 be retained (Senator Yahaya I. Oloriegbe — Kwara Central) — Agreed to.

Question that Clause 20 do stand part of the Bill, put and agreed to.

Indemnity. Clause 21:

A member, the Executive Secretary or any employee of the Fund shall be indemnified out of the asset of the Fund against any liability incurred by him in defending any proceeding, whether civil or criminal, if any such proceeding is brought against him in his capacity as a member, Executive Secretary or employee of the Fund.

Committee's Recommendation:

That the provision in Clause 21 be retained (Senator Yahaya I. Oloriegbe - Kwara Central) -Agreed to.

Question that Clause 21 do stand part of the Bill, put and agreed to.

PART VII — MISCELLANEOUS PROVISIONS

Clause 22:

Directives.

Subject to the provisions of this Bill, the President may give to the Fund directives of a general nature or relating generally to matters of policy with regard to the performance by the Fund of its functions and it is the duty of the Fund to comply.

Committee's Recommendation:

That the provision in Clause 22 be retained (Senator Yahaya I. Oloriegbe — Kwara Central) — Agreed to.

Question that Clause 22 do stand part of the Bill, put and agreed to.

Clause 23:

Direction by the Minister.

Subject to the provision of this Bill, the Minister may give to the Board directions of general nature relating to matters of policy with regard to the exercise by the Board of its powers and the Board shall comply with such directions.

Committee's Recommendation:

That the provision in Clause 23 be retained (Senator Yahaya I. Oloriegbe — Kwara Central) — Agreed to.

Question that Clause 23 do stand part of the Bill, put and agreed to.

Clause 24:

Power to make Regulations.

The Minister may make regulations generally for the purpose of giving full effect to this Bill.

Committee's Recommendation:

That the provision in Clause 24 be retained (Senator Yahaya I. Oloriegbe - Kwara Central) -Agreed to.

Question that Clause 24 do stand part of the Bill, put and agreed to.

Clause 25:

Fixing of Seal.

The fixing of the seal of the Fund shall be authenticated by the signature of the Executive Secretary.

Committee's Recommendation:

That the provision in Clause 25 be retained (Senator Yahaya I. Oloriegbe — Kwara Central) — Agreed to.

Question that Clause 25 do stand part of the Bill, put and agreed to.

Clause 26:

Interpretation.

In this Bill -

"Board" means the Governing Board of the Fund established by section 2 of this

"Chairman" means the Chairman of the Board;

Functions" includes power and duty;

"Fund" means the Fund established by section 1 (1);

"Executive Secretary" is the Chief Executive of the Fund and Chairman of the Management committee;

"Member" means an individual representing an organisation or institution in (the Board and includes the Chairman and Executive Secretary);

"Minister" means the Minister charged with the responsibility for matters relating to healthcare.

Committee's Recommendation:

That the provision in Clause 26 be retained (Senator Yahaya I. Oloriegbe — Kwara Central) — Agreed to.

Question that Clause 26 do stand part of the Bill, put and agreed to.

Clause 27: Short Title.

This Bill may be cited as the Tertiary Hospitals Development Fund Bill, 2021.

Committee's Recommendation:

That the provision in Clause 27-be-retained (Senator-Yahaya-I.-Oloriegbe---Kwara-Central) Agreed to.

Question that Clause 27 do stand part of the Bill, put and agreed to.

SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE PROCEEDINGS OF THE BOARD

- Before appointing a person as a member, the Minister shall satisfy himself that, that person will have no such interest or owe such allegiance as likely to affect prejudicially 1. the performance by him of his functions as a member and that he has no such interest; and any person who is or whom the Minister proposes to nominate as a member shall, whenever requested by the Minister considers necessary for the performance by the Minister of his duties under this Bill.
- Subject to this Bill and Section 27 of the Interpretation Act (which provides for the decisions of a statutory body to be taken by a majority of the members of the body (1) 2. and for the persons presiding to have a second or casting vote), the Board may make standing orders regulating its proceedings or of any committee thereof.
 - The quorum at a meeting shall be a third of the members of the meeting (2)
- The Board shall meet not less than three times in each year and subject thereto, the Board shall meet whenever it is summoned by the Chairman, and if the (1) Chairman is required to do so, by notice to him by not less than seven members, he shall summon a meeting of the Board to be held within fourteen days from the date on which the notice is given.

- (2) At any meeting of the Board, the Chairman shall preside but if he is absent, the members present at the meeting shall elect one of their members to preside provided there is a quorum.
- 4. Where the Board wishes to obtain the advice of any person on any particular matter, the Board may invite any person as it thinks fit, but any person who is invited by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.
- 5. (1) The Board may appoint one or more committees to carry out, on behalf of the Board, such of its functions as the Board may determine.
 - (2) Every Committee appointed under this paragraph shall consist of such number of persons as may be determined by the Board and not more than one third of those persons may be persons who are not members of the Board,
 - (3) A decision of a committee of the Board shall be of no effect until it is ratified by the Board.
- 6. (1) Where member has an interest in any application for loan for any project made or proposed by any beneficiary shall disclose his interest at a meeting of the Board.
 - (2) Such disclosure shall be recorded in the minute of the meeting and the member shall not take part after such disclosure in any deliberation or decision of the Board with regard to that particular subject matter in respect of which his interest was disclosed.

Question that Provision of the Schedule stand part of the Bill — Agreed to.

Chairman to report Bill.

(SENATE IN PLENARY)

The Deputy President of the Senate reported that the Senate in the Committee of the Whole considered the Report of the Committee on Health (Secondary & Tertiary) on the Tertiary Hospitals Development Fund for the Rehabilitation, Restoration, Improvement of Tertiary Health Care Delivery in Nigeria; and for Related Matters, 2021 and approved as follows:

Clauses 1-27

- As Recommended

Schedule

As Recommended

Question: That the Senate do approve the Report of the Committee of the Whole — Resolved in the Affirmative.

Motion made: That the Bill be now Read the Third Time (Senate Leader).

Question put and agreed to.

Bill accordingly Read the Third Time and Passed.