REPUBLIC OF ZAMBIA

REPORT

OF THE

COMMITTEE ON HEALTH, COMMUNITY DEVELOPMENT AND SOCIAL SERVICES ON THE ZAMBIA NATIONAL PUBLIC HEALTH INSTITUTE BILL, N.A.B. NO. 18 OF 2020

FOR THE

FIFTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY

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TABLE OF CONTENTS

Item		Page
1.0	Composition of the Committee	1
2.0	Functions of the Committee	1
3.0	Meetings of the Committee	1
4.0	Procedure adopted by the Committee	1
5.0	Background	1
6.0	Objects of the Bill	2
7.0	Salient Provisions of the Bill	3
8.0	Concerns Raised by Stakeholders	6
9.0	Committee's Observations and Recommendations	17
10.0	Conclusion	22

Appendix I – List of National Assembly Officials
Appendix II – List of Witnesses

REPORT OF THE COMMITTEE ON HEALTH, COMMUNITY DEVELOPMENT AND SOCIAL SERVICES ON THE ZAMBIA NATIONAL PUBLIC HEALTH INSTITUTE BILL, N.A.B. NO. 18 OF 2020 FOR THE FIFTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY

The Committee consisted of:

Dr C Kalila, MP (Chairperson); Ms P Kasune, MP (Vice Chairperson); Mr C M Chalwe, MP; Dr J K Chanda, MP; Mr L N Tembo, MP; Mr J Kabamba, MP; Mr A B Kapalasa, MP; Mr L Kintu, MP; Mr M Ndalamei, MP; and Mr A Mandumbwa, MP.

Dr J K Chanda, MP, ceased to be a Member of the Committee following his appointment as Cabinet Minister. Mr D Mabumba, MP was subsequently appointed to replace Dr Chanda as a Member of the Committee.

The Honourable Mr Speaker
National Assembly
Parliament Buildings
LUSAKA

Sir,

The Committee has the honour to present its Report on the Zambia National Public Health Institute Bill, N.A.B. No.18 of 2020, for the Fifth Session of the Twelfth National Assembly, referred to it by the House on Thursday 12thNovember, 2020.

2.0 FUNCTIONS OF THE COMMITTEE

The functions of the Committee are as set out in Standing Order 157(2). Among other functions, the Committee is mandated to consider Bills that may be referred to it by the House.

3.0 MEETINGS OF THE COMMITTEE

The Committee held ten meetings to consider the Zambia National Public Health Institute Bill, N.A.B. No.18 of 2020.

4.0 PROCEDURE ADOPTED BY THE COMMITTEE

In order to acquaint itself with the ramifications of the Bill, the Committee sought both written and oral submissions from stakeholders. The stakeholders who appeared before the Committee are listed at Appendix II.

5.0 BACKGROUND

The Ministry of Health has established the Zambia National Public Health Institute (ZNPHI), as a specialised institution to address public health security issues in the country. However, in order to ensure efficiency, effectiveness and streamlined focus for

the implementation of public health security mandates, there is need to provide a legal framework for the establishment of the Institute.

Zambia, like many other countries in the world, is facing a lot of challenges in terms of disease outbreaks and other public health emergencies. Currently, there are various on-going outbreaks in Africa, including but not limited to; the corona virus disease 2019 (COVID-19), a pandemic which has affected the whole world; the ebola virus disease (EVD) in the Democratic Republic of Congo (DRC); polio outbreaks in the DRC and many other countries; cholera outbreaks in many countries; anthrax in a number of countries including Zambia; and increased malaria incidences in Zambia.

These disease outbreaks and public health emergencies usually have catastrophic effects and often lead to a breakdown in socio-economic and cultural situations. In view of the foregoing, public health institutions are being established globally, in order to support effective, efficient, and coordinated responses to diseases and other emergencies threatening the public health security of countries.

In order to address the challenges that these public health emergencies pose, the African Union Heads of State and Government, passed resolution AU/Dec.554 (XXIV) aimed at establishing a continental public health security body, referred to as the Africa Centres for Disease Control and Prevention (Africa CDC). Subsequently, the African Union has called on Member States to establish NPHIs, to coordinate public health security at individual country level. NPHIs are science-based governmental organisations that serve as a focal point for a country's public health security efforts, as well as a critical component of global disease prevention and response systems. The goal of establishing NPHIs is to have a global network of proactive, accountable, efficient, and science-focused public health agencies that use data to drive decision-making and contain global health threats at their source.

It is against this background that the Zambia National Public Health Institute Bill, 2020 (hereinafter referred to as "the Bill") was introduced.

6.0 OBJECT OF THE BILL

The objects of the Bill were to:
(a) coordinate public health safety;
(b) continue the existence of the Zambia National Public Health Institute and provide for its functions;
(c) establish the Public Health Emergency Operations Centre;
(d) establish the National Public Health Laboratory;
(e) establish the National Public Health Emergency Fund; and
(f) provide for matters connected with, or incidental to, the foregoing.

7.0 SALIENT PROVISIONS OF THE BILL

The Committee noted the salient features of the Bill as set out below.

7.1 PART I: PRELIMINARY PROVISIONS

Clause 1 – Short Title and Commencement

This clause provided for the citation of the Act.

Clause 2 - Interpretation

This clause defined the key words and phrases used in the Bill in order to make the law easier to understand by all persons and those tasked to implement the law.

PART II: THE ZAMBIA NATIONAL PUBLIC HEALTH INSTITUTE

Clause 3 – Establishment of the Institute

This clause sought to continue the existence of the Zambia National Public Health Institute, currently established as a department in the Ministry responsible for Health, as a body corporate, capable of suing and being sued in its name.

Clause 4 - Functions of the Institute

This clause set out the functions of the Institute which were, among others, to:

(a) advise the Minister on matters and measures relating to public health security and global health security;
(b) coordinate multi-sectoral stakeholders for the purposes of monitoring, evaluating and addressing public health, in order to support and conduct surveillance and disease intelligence;
(c) promote partnerships and collaboration among local, regional and international entities in order to address emerging and re-emerging diseases and public health emergencies; and
(d) harmonise disease control and prevention policies and surveillance among local, regional and international entities.

Clause 5 – The Board of the Institute

This clause constituted the Board of the Institute and set out the composition of the Board.

Clause 6 – Functions of the Board

This clause set out the functions of the Board which, among others, were to-
(a) provide strategic direction to the Institute;
(b) approve the Institute's annual budget; and
(c) approve the policies, programmes and strategies of the Institute.

Clause 7 – Delegation of Functions

This clause gave the Board the power to delegate its functions to the Director-General.

Clause 8 – Director-General, Board Secretary and other Staff of the Institute

This clause empowered the Board to appoint an Executive Director responsible for the day-to-day administration of the Institute. The clause further empowered the Board to appoint the Board Secretary and other staff necessary for the performance of the functions of the Institute under the Act.

Clause 9 – Emoluments and other Conditions of Service for the Director-General, Board Secretary and other Staff

This clause mandated the Emoluments Commission, on the recommendation of the Board, to determine the emoluments of the Director-General, Board Secretary and other staff of the Institute. The clause further mandated the Board to determine the conditions of service, other than emoluments, of the Director-General, Secretary and other staff of the Institute.

PART III: INSPECTORATE

Clause 10 – Authorised Officers

This clause mandated the Board by *Gazette* notice to appoint an authorised officer for the purpose of ensuring compliance with the Act.

Clause 11 – Powers of Authorised Officers

This clause provided for the powers of an authorised officer which, among others, were to:

(a) enter, inspect or search any premises for the proper performance of duty required or authorised by the Act;
(b) take reasonable measures in line with international health regulations to prevent the entry and spread of a communicable disease from a foreign country into the Republic, through quarantine and the isolation of a suspect and new entrant; and
(c) take measures that protect or promote public health security based on available scientific evidence or a precautionary principle.

PART IV: THE PUBLIC HEALTH EMERGENCY OPERATIONS CENTRE

Clause 12 – Establishment of the Centre

This clause provided for the establishment of the Public Health Emergency Operations Centre to be managed by the Institute.

Clause 13 – Functions of Centre

This clause set out the functions of the Centre which, among others, were to:

(a) direct and support an incident or event with public health implications through the establishment of a scalable system of oversight, organisation and coordination as well as utilising an emergency incidence response strategy;
(b) provide technical guidance to response operation teams and coordinate the response; and
(c) collect and analyse data and plan future action, based on the likely cause of an event and the available resources.

PART V: ESTABLISHMENT OF THE NATIONAL PUBLIC HEALTH LABORATORY

Clause 14 – Establishment of the Laboratory

This clause provided for the establishment of the National Public Health Laboratory and placed the management of the Laboratory with the Institute. The clause further set out the functions of the laboratory which were to:

a) analyse or examine material sent to the laboratory and issue a certificate of analysis;
b) collect, share and provide materials for research; and
c) collect, contain, secure and store samples, pathogen isolates and relevant materials from outbreaks and other events of public health importance.

PART VI: THE NATIONAL PUBLIC HEALTH EMERGENCY FUND

Clause 15-Establishment of the Fund

This clause provided for the establishment of the National Public Health Emergency Fund and the purpose of the National Public Health Emergency Fund.

Clause 16- Administration and Management of the Fund

This clause provided for the administration of the National Public Health Emergency Fund. The clause further empowered the Institute to invest any monies of the Fund that were not immediately required for the purposes of the Fund.

PART VII: GENERAL PROVISIONS

Clause 17 –Appeals

This clause provided for the appeal procedure for a person aggrieved with a decision of the Institute and empowered the Chief Justice to prescribe rules of procedure for an ad hoc tribunal convened under the aforementioned appeal procedure.

Clause 18 –Immunity from Execution of Judgment

This clause provided for the immunity of the Institute against execution of judgment on the Institute's property, but mandated the Institute to cause to be paid out of the revenue of the Institute, the amounts that may be awarded against the Institute, to the person entitled to that amount.

Clause 19 - Public Health Security Information Management System

This clause compelled the Institute, subject to the *Statistics Act, 2018,* and any other relevant written law, to establish a repository of information concerning disease surveillance, public health security and the management of public health emergencies, as prescribed. The clause further made it mandatory for the Institute to-

(a) collect information on aspects of public health security, disease surveillance and the management of public health emergencies;
(b) process and analyse the information under paragraph (a); and
(c) disseminate information to members of the public on the promotive, preventive and curative measures.

Clause 20 -Regulations

This clause empowered the Minister to make regulations for the better carrying out of the provisions of the Act.

Clause 21 –Savings and Transitional Provisions

This clause set out the savings and transitional provisions relating to the Institute.

8.0 CONCERNS RAISED BY STAKEHOLDERS

While supporting the Bill, the stakeholders expressed concern on the provisions highlighted hereunder.

Objectives of the Bill

a) While appreciating that the Institute had been in existence as a department in the Ministry of Health, stakeholders observed with concern that objective (b) implied that the Zambia National Public Health Institute was already established under an Act of Parliament. The stakeholders contended that the Institute was being established as a new body corporate, therefore, objective (b) should be recast to read "to establish the Zambia National Public Health Institute…"

Clause 2 – Interpretation

a) Some Stakeholders observed with concern that the Bill was using a very old definition of 'public health', dating as far back as the early 1900s. The definition did not, in this regard, take into consideration the fact that the concept of public health in the 21stcentury had undergone important changes. The stakeholders, therefore, proposed that the definition of 'public health' be recast to read:

   "The totality of all evidence-based public and private efforts throughout the life cycle, that preserve and promote health and prevent disease, disability, and death."

   By so doing, the stakeholders contended that the definition of public health took into account the important changes that the discipline had under gone over the years.

b) Under the definition of 'authorised officer' stakeholders observed that the Bill was not clear at what stage an authorised officer cited in the various pieces of legislation became an authorised officer under the Bill. The stakeholders, therefore, recommended that the Bill should avoid the ambiguity in defining the "authorising officer" as this may create challenges in enforcement.

c) Other stakeholders, however, held the view that the definition of 'authorised officer' was too broad and did not indicate what areas or purpose the different authorised officers defined in other pieces of legislation would serve. The stakeholders, therefore, recommended that the Bill should provide for the definition of an 'authorised officer' under *the Animal Health Act no. 17 of 2010,* as the definition was comprehensive and incorporated into the *Food Safety Act, No. 7 of 2019*.

d) Some stakeholders observed that the local authorities had authorised officers who were strategic in the enforcement and response to any public health emergency in all the districts in the country. In this regard, the stakeholders were of the view that it would be a duplication of efforts for the purported authorised officers under clause 2 to be employed under the Zambia National Public Health Institute.

e) Stakeholders also proposed that officers appointed under the *Plant Pests and Diseases Act, No. 13 of 1994* and the *Plant Varieties and Seeds Act, No. 21 of 1995* must be added to the definition of 'authorised officer'.

f) Stakeholders observed that the *Animal Health Act, No. 27 of 2010* had erroneously been cited as the *Animal Health Act 2010*, in the Bill, under clause 2(d).

PART II: THE ZAMBIA NATIONAL PUBLIC HEALTH INSTITUTE

a) There were some stakeholders that held a the view that clause 4 should include the following functions of the Institute:

- undertake general educational programmes for the purpose of creating public awareness on public health;
- monitor the trends in public health and their impact on the country's socioeconomic development and make necessary recommendations to the appropriate authority; and
- publicise information on any aspect of public health and facilitate public access to information on public health.

b) Under clause 4, other stakeholders submitted that functions (a), (b), (c), (e), (i), (j), (k), (m), (n), (p) and (q) sat well with the objectives of the Institute. However, functions (d), (h) and (l) were covered by function (b) and should, therefore, be deleted from the Bill.

c) Some stakeholders also observed with concern that the Bill used two phrases in the same sentence under clause 4 (a), implying that they were different. However, by definition, global health security and public health security were basically the same. According to the World Health Organisation (WHO), both phrases meant: "the activities required, both proactive and reactive, to minimise the danger and impact of

acute public health events that endanger people's health across geographical regions and international boundaries." In view of the forgoing, the stakeholders recommended that where both global health security and public health security were used, the Bill should separate the two phrases with "or"; and not "and".

d) Other stakeholders observed that clause 4(b) seemed to be suggesting that the Institute would take over the mandates of other Institutions. However, the Institute should instead seek to collaborate with other Institutions and not coordinate them; therefore, the Bill should provide for this. Additionally, the stakeholders recommended that "disease intelligence" should be defined in the Bill.

e) Other stakeholders also submitted that harmonising disease control, prevention policies, and surveillance systems under clause 4 (d) should be a collaborative effort that encompassed all stakeholders, if the Institute was to effectively achieve this function.

f) Under clause 4 (e), some stakeholders held the view that there was need for the Institute to ensure collaboration or working with already established early warning systems such as the one under the Disaster Management and Mitigation Unit (DMMU) rather than establishing a whole new system.

g) Under clause 4 (f) other stakeholders held the view that the function should just be to support and coordinate stakeholders/other institutions in conducting health hazard mapping and risk assessment. This was because there were officers already doing this work from other institutions such as the Ministry of Health. Emphasis should, therefore, just be on coordination.

h) Under clause 4 (g), stakeholders observed that the Institute's role should be to integrate and analyse information for decision making. They, therefore, recommended that clause 4 (g), should provide for the Institute to "analyse data coming from various institutions working on public health matters across the country and enforce the *Public Health Act, Chapter 295 of the Laws of Zambia*."

i) Other stakeholders observed that the Bill under clause 4 (i) was not clear on what the role of other institutions and departments such as local authorities and the Zambia Environmental Management Agency would be, if the Institute would coordinate the workforce. In view of the foregoing, the stakeholders recommended that the Bill should provide clarity regarding the coordinating role of the Institute in relation to other coordinating bodies.

j) Stakeholders also proposed that clause 4 (j) should not be in the Bill because the accreditation of a laboratory was what every institution should aspire for as a guarantee that its work was of internationally accepted standards, among other benefits.

k) Other stakeholders held the view that the function of the Institute under clause 4(p) should be recast to read:

"conduct public health research in collaboration with other Government entities or private institutions."

They argued that this would minimise conflict over resources and turf, with existing Ministry of Health entities currently conducting such research.

l) There were stakeholders who also held the view that clause 4 (p) was in direct conflict with the functions of the Tropical Diseases Research Centre. The stakeholders were further concerned that the clause also gave the Institute a very broad mandate and may lead to the Institute engaging in research that may not have direct relevance to its overall mandate. The stakeholders, therefore, recommended that clause 4 (p) be recast to read: "conduct research in public health security" in order for this function to conform to the overall mandate of the Institute.

m) Under clause 4 (s), stakeholders noted that the Bill sought to strengthen the capacity in local authorities with regard to the management of public health emergencies. Stakeholders however, contended that this could only be done if authorised officers from the local authorities were recognised in the Bill. Their recognition would further qualify the public health officers in local authorities for appointment by the Board. Nonetheless, the stakeholders noted that the Bill had not included an officer appointed under the *Local Government Act, No. 2 of 2019* under the definition of "authorised officer" in clause 2**.**

n) Other stakeholders submitted that the function of the Institute under clause 4 (s) was already covered under clause 4 (i) and should, therefore, be deleted because capacity strengthening should be in all the public health sectors and not just in the local authorities.

o) Some stakeholders held the view that the Institute should help coordinate and strengthen the epidemic preparedness, prevention, mitigation, control and management committees under clause 4 (r).

p) Under clause 5(1) (a), other stakeholders observed with concern that the Board would comprise an even number of members, thereby posing a challenge when voting, especially that clause 3(6), in the First Schedule, provided for decisions of the Board to be made by a majority vote. The stakeholders, therefore, recommended that the membership of the Board be reduced to nine or increased to eleven.

q) Other stakeholders held the view that the proposed list of part-time representatives on the Board under clause 5 (1) (a) left out key line ministries expected to develop business continuity plans to limit disruptions, as well as key agencies and organisations that could assist the Government in preparing institutions to respond to the public health emergencies in order to mitigate their economic and societal impact. The stakeholders, therefore, proposed that representatives of the following line ministries be added to the list of the Board members:

- the Ministry of Defence, to consider what military assets should be brought to bear in the event of a public health emergency and how to mobilise them;

- the Ministry of Transport and Communications, to minimise infection risks and staff absences in vital transportation, air, and sea ports and loading and unloading facilities, to enable continued supply of medicines and food;
- the Ministry of Finance, to maintain essential cash, credit, banking, payment, international funds transfers, salary, pension, and regulation services in the face of significant absenteeism, and conduct the testing of systemic resilience to public health emergency risk.; and
- the Ministry of Justice**,** to consider what legal processes could be suspended during the public health emergency and make alternative plans to operate courts during the public health emergency. The Ministry should also consider measures to minimise the spread of infection in prisons and other institutions under their authority.

Additionally, the stakeholders submitted that representatives of the following agencies and organisations should also be added to the membership of the Board:

- national and international civil society, non-governmental organisations, and faith based organisations **–** these would be expected to meet the basic needs of vulnerable populations and provide essential services during a public health emergency.
- community-based organisations **–** these would be expected to translate scientific and government messages and recommendations, which otherwise may be met with mistrust or scepticism by some sections of the population. Community leaders may also help to build public confidence, disseminate information, and identify people at risk and provide community-based services to meet the needs of the vulnerable during a public health emergency;

- employers in the public and private sector – these would be expected to provide appropriate information to staff, to protect staff health and safety and reduce the spread of infection in the workplace and during travel to work, and in maintaining business continuity through contingency planning.

- labour unions – these would be expected to ensure that employers honoured their obligations toward staff health and safety and could be instrumental in making sure that staff received the information and advice that they needed.

r) There were stakeholders who also observed with concern that clause 5(1) (a) did not make provision for representation on the Board from the Ministry of Home Affairs. They contended that it would, therefore, be difficult for the Board to implement regulations that may require law enforcement agencies to act or enforce. The stakeholders, therefore, recommended that the Ministry of Home Affairs should have a representative on the Board, preferably from the Zambia Police Service or/and the Drug Enforcement Commission.

s) Some stakeholders also held the view that provision should be made in clause 5 (1) (a), nursing and midwifery representation on the Board through any of the professional organisations such as, but not limited to, the General Nursing and

Midwifery Council of Zambia in order to ensure a boarder involvement of key players in the management of public health security.

t) There were stakeholders who held the view that representation on the Board of other key stakeholders in disease prevention and control, including civil society, chambers of commerce and the Local Government Association should be provided for under clause 5 (1) (a).

u) Other stakeholders submitted that the lack of the human resource specialisation as a distinct and core aspect of public health security and safety on the Board under clause 5 (1) (a) was of concern and required serious consideration. They contended that training and accountability of specialised human resource in public health had a huge bearing on the effectiveness and efficiency in the delivery of quality health services, therefore, the Bill should provide for representation of human resource specialists on the Board.

v) Other stakeholders contended that the wording in clause5 (1) (a) should be clear as to whether the representative of the line ministries should be the permanent secretaries or representatives of the permanent secretaries. The stakeholders, therefore, recommended that in order to enhance corporate governance in statutory bodies, the wording should be revised to read "a representative of the Permanent Secretary for the…'' so that the eligible appointees to the Board of the Institute could come from among staff below the Permanent Secretary.

w) Stakeholders proposed that clause 5(1)(b) should be recast to read "representative of a public health research institute". This was because in its current form, the Bill was not clear whether the intention was to appoint a member of the Zambia National Public Health Institute to sit on the Board.

x) Stakeholders observed that clause 5(1)(b) provided that a representative of a public health institute would be part of the Board. The stakeholders, however, expressed concern that this clause contradicted clause 5(5)(f) which disqualified an employee of the Institute from being appointed as Board Member. The stakeholders, therefore, recommended that a representative of the public health institute should not be appointed to the Board.

y) Other stakeholders held the view that a **r**epresentative of a public health institute under clause 5(1) (b) should be replaced with a representative of an association for health care workers. The stakeholders argued that representation of an association for health care workers would enhance the inclusion of health care workers' welfare considerations at the Board level and would positively impact ***o***n the delivery of the Institute's functions.

z) Other stakeholders observed with concern that clause 5 (1) (e) appeared to be subjective as to who a person with the relevant knowledge and experience should be. The stakeholders, therefore, recommended that the provision should categorically read, "a person with relevant knowledge and experience in public health or a related field".

aa) On clause 5 (5) (b), stakeholders held the view that disqualifying a person from appointment on the Board on account of not having served at senior management level for at least five years was retrogressive, in that the provision had the potential to deny membership to prospective members who could not have the privilege of serving in a senior position for that period. In addition, the provision was very subjective as to what constituted a senior management level. The stakeholders, therefore, recommended that this provision must be removed from the Bill.

bb) Stakeholders also held the view that the qualifications for the position of Director General under clause 8(2) were not sufficient. Therefore, the Bill should provide that the Director General should not have any criminal record/ or have been convicted of any offence under the Bill or any written law, similar to the proivison on Board Members under clause 5 (5) (e). The stakeholders contended that the omission could result in the employment of a person with a criminal record.

cc) Under clause 8 (4), some stakeholders held the view that the establishment of staff should not be limited, but instead, co-opt the major players in public health service provision who were nurses and midwives. They argued that this cadre bore the burden of public health service delivery and, therefore, should be key in the management at national level.

dd) Other stakeholders observed that clause 9 (1) and clause 5 under the First Schedule provided for the Emoluments Commission to determine the emoluments of the Director General on recommendation of the Board and determination of Board allowances on recommendation by the Minister, respectively. However, the stakeholders held the view that the operationalisation of these provisions was likely to be challenging in that the Emoluments Commission was not in existence and that the enactment of the proposed law would take place within the life of cycle of the Twelfth Session of the National Assembly. The stakeholders, therefore, recommended that clause 9 (1) and clause 5 under the First Schedule be revisited to make them operational once the law come into force.

PART III: INSPECTORATE

a) Some stakeholders held the view that PART III should be deleted from the Bill because the officers mandated to conduct the roles outlined under this section were already empowered to do so under other pieces of legislation. For instance, the *Public Health Act, Chapter 295 of the Laws of Zambia* and *the Food Safety Act, No. 7 of 2019* already contained provisions for Health Inspectors and Environmental Health Officers to conduct the roles outlined under this section. Therefore, the Bill was merely replicating existing powers and functions, thereby making the mandate of the authorising officer under the Bill irrelevant. The stakeholders, therefore, recommended the specificity of powers provided to authorising officers under the Bill in order to guarantee the relevance of the officers.

b) Some stakeholders were of the view that clause 11 (1)(b) should be rephrased in order to remove the ambiguity created by the word "reasonable", as what was considered reasonable was unclear.

c) There were some stakeholders that held the view that clause 11(1)(c) was a function of the Institute rather than the powers of an inspector/authorised officer and, should therefore be, relocated to the appropriate clause. Further, under clause 11 (1) (c), stakeholders also observed that although the Bill made mention of the "precautionary principle", it did not define what the "precautionary principle" was, for the purpose of this Bill. In view of the foregoing, the stakeholders recommended that "precautionary principle" be defined under clause 2 of the Bill.

d) Under clause 11 (1) (d), stakeholders recommended that the words "of public health interest" should be added after the word "investigations" in an effort to avoid the potential abuse of the clause by the investigating officers.

e) Other stakeholders observed with concern that the proposed source of data under clause 11 (1) (j) (i), was limited to the computer system. The stakeholders argued that focusing the search on the visible 'computer system' may miss out data which could have been stored in the cloud computing model that stored data on the internet through a cloud computing provider that managed and operated data storage from afar, as a service. The stakeholders, therefore, proposed that clause 11 (1) (j) (i), be amended to read "search any data contained in, or available to the computer system, and/or the cloud storage and other backup systems".

f) Regarding the powers of the "authorised officer" under clauses 11(1)(d), 11(1)(j) and 11(3), some stakeholders expressed concern over the potential for abuse of the broad powers since the provision did not have any safeguards against arbitrary action by the officer. In this regard, the stakeholders proposed that the clauses be reconsidered in order to provide for a minimum of two authorised persons to be present when executing the necessary action.

g) Other stakeholders held the view that clause 11 4(c) should be deleted from the Bill because it violated the right of a citizen to remain silent in the absence of an attorney of their choice. Additionally, this could result in the authorised officer asking inappropriate questions unrelated to the case at hand.

PART IV: THE PUBLIC HEALTH EMERGENCY OPERATIONS CENTRE

a) Stakeholders observed that clause 13 outlined the functions of the Public Health Emergency Operations Centre and gave the impression that the Centre would initiate all its actions. To the contrary, the stakeholders submitted that there was need for the Bill to explicitly indicate that the Centre would also respond and react to requests for help from other government and private entities. The current functions of Centre as they stood were one sided and implied that the Centre would only deal with expected public health emergencies. In view of the foregoing, the stakeholders proposed that the Bill should include an additional clause that should read:

"respond in a timely manner, to requests for operational and technical support from agencies, institutions, bodies and persons in unexpected incidents or events with public health implications."

b) Stakeholders also observed with concern that very important key functions of the Centre under clause 13 had been omitted from the Bill. The stakeholders, therefore, proposed that the following key functions be included:

- design standard operating procedures (SOPs) to help define, oversee, and coordinate key preparedness actions**;**
- develop a detailed communication strategy to guide on how to stimulate appropriate public health emergency responses from relevant agencies and organisations;
- develop business continuity plans to help limit disruption. They should be both inward-looking (to ensure that the ministries themselves deliver their key functions) and outward-looking (ensuring that planning was taking place across their sector); and
- identify and address critical trans-border issues. This would be done at a bilateral or regional level. Interoperability of plans across borders should also be considered. The stakeholders further submitted that plans should be developed to cope with the possible external and internal displacement of people during the public health emergency, and to address the needs of displaced populations.

PART V:THE ESTABLISHMENT OF THE NATIONAL PUBLIC HEALTH LABORATORY

a) Under clause 14 (1), some stakeholders held the view that specialised laboratories and research centres such as the Centres for Disease Control (CDC) and Tropical Diseases Research Centre (TDRC), among others, should be incorporated into the establishment of the National Public Health Laboratory in order to share information and work more cost effectively so as to avoid duplication of research work and scientific findings.

b) Other stakeholders observed with concern that the Bill under clause 14(1), only spoke to the establishment of the National Reference Laboratory but was not explicit about the establishment of other satellite laboratories to support the National Reference Laboratory. Therefore, the stakeholders proposed that a sentence be added to clause 14(1) to read:

"this Laboratory will be supported by satellite laboratories across the country as the Board may establish".

c) Other stakeholders held the view that the laboratory should include another function under clause 14 (1)(d) to read:

"collaborate with other existing laboratories covered in other laws or institutions".

d) Under clause 14 (3), which provided for the Institute to charge fees for the analysis of materials and any other services provided by the Laboratory as prescribed, other stakeholders argued that the National Health Insurance Management Authority ((NHIMA) established under the *National Health Insurance Act, No. 2 of 2018* had the mandate to provide for sound financing for the national health system in order to provide universal access to quality insured health services, They, therefore,

proposed that the National Health Insurance Scheme should include and cover the cost of services demanded under this clause. The stakeholders further contended that a distinct relationship between NHIMA and the Institute, should be clearly spelt out in the Bill as both institutions were key in quality service provision and universal access for the country.

e) Stakeholders observed with concern that the Bill was not clear under clause 14 (3) whether the Food and Drugs Laboratory would be part of the National Public Health Laboratory provided for in this section. However, if that were the case, there was a concern on the institute charging fees without stating any exemptions under clause 4 (s). The stakeholders explained that currently, a local authority referred samples to the food and drugs laboratory and they were exempted on fees. These were routine samples to monitor and ensure compliance with the *Food Safety Act, No. 7 of 2019*. The stakeholders therefore, recommended that the Bill should take note of mandatory exemptions of fees and other requirements under this provision.

f) There were some stakeholders who observed that clause 14(4) and clause 14(5) mentioned specific persons to be appointed by the Board, to run the laboratory in the Institute, in addition to the Director General and the Secretary. In order to avoid possible conflicts related to the governance structure in future, the stakeholders recommended that the person occupying this position should be appointed by the Director General for and on behalf of the Board, like any other member of staff in the Institute save the Secretary. The stakeholders contended that after all, all members of staff below the Director General and Secretary would be appointed by the Director General for and on behalf of the Board. Similarly, there was no need for the Bill to vest the responsibility of appointing the public analysts in the Board rather than the Director General. In view of the foregoing, the stakeholders recommended that clause 14(4) and clause 14(5) should be recast to read as follows:

"the Director-General shall appoint, on such terms and conditions as the Board may determine, a Laboratory Administrator and Public Analysts, and other staff considered necessary for the performance of the functions of the Institute''.

PART VI: THE NATIONAL PUBLIC HEALTH EMERGENCY FUND

a) Some stakeholders held the view that clause 15 (2) (b) should be harmonised with the *National Health Insurance Act, No 2 of 2018*.

b) There were some stakeholders who noted that clause 15 (2) (c) provided that monies may be paid to the Institute by way of fees, donations and grants from any source, with the approval of the Minister. The stakeholders, however, observed with concern that this was an emergency Fund, therefore, the requirement for the Minister to approve of donations could derail resource mobilisation initiatives. The stakeholders therefore, recommended that in emergency situations, the Bill must provide for the Board to approve donations as this would be the quickest way of mobilising more monies for the Fund.

PART VII: GENERAL PROVISIONS

a) Some stakeholders held the view that the appeal process under clause 17 of the Bill regarding the constitution of an ad hoc tribunal by the Minister may prove to be cumbersome in that, several tribunals would have to be held in an effort to deal with various complaints brought before the Minister. The stakeholders further observed with concern that the Bill made no mention of the next step to be made after the decision of the ad hoc tribunal had been made and one party was not satisfied with the outcome. The stakeholders, therefore, proposed the following appeal procedure:

- the person aggrieved with the decision of the institute should appeal to the Minister of Health; and
- if not satisfied with the decision of the Minister, he or she should appeal to the High Court.

b) Stakeholders also observed that clause 17 (1) provided for the aggrieved person to notify the Minister of their intention to appeal against the decision of the Institute. Clause 17 (2) also provided for the Minister to within seven days of receipt of the notice to appoint and convene an ad hoc appeals tribunal. However, stakeholders were concerned that the Bill did not provide for the powers of the ad hoc appeals tribunal though it seemed to presuppose the powers of hearing the appeals. They, therefore, recommended that the powers of the tribunal be explicitly provided for in the Bill.

c) Other stakeholders observed that clause 17 (3) provided for the Chief Justice to prescribe the rules of procedure for an adhoc tribunal. The stakeholders, however, recommended that being ad hoc, the tribunal should be given the discretion to determine its own procedure as it would not be bound by the rules of evidence.

8.1 OTHER CONCERNS RAISED

Stakeholders further raised the following other concerns during their interactions with the Committee.

a) Some stakeholders contended that the Bill, as it was framed, had some conflict clauses with the *National Health Research Act, No 1 of 2013*. They noted with concern that some functions such as identifying and recommending health priorities; facilitating research, investigating the causes of diseases; and facilitating the development of health research capacity, appeared to be more pronounced in the Bill despite being provided for under the *National Health Research Act*. The stakeholders therefore, recommended that a clearer division of responsibilities be established.

b) Other stakeholders observed that the Bill had not taken into consideration the existence of the Departments of Public Health in the local authorities whose powers and functions (as provided by the *Public Health Act, Chapter 295 and the Food Safety Act, No. 7 of 2019*) were similar to those proposed for authorised officers in the Bill, which they strongly felt was a duplication of work and functions. On this premise,

the stakeholders proposed that the Bill should include capacity building in such Departments of Public Health, which should be in line with the provisions of the Constitution of Zambia in its facilitation of decentralisation.

c) There were some stakeholders who also held the view that the proposed Bill should provide for additional clauses compelling anyone carrying out health research in Zambia to register the research with the ***Public Health Institute*** prior to commencement, and to submit quarterly progress or end-of-activity reports to the Institute, prior to the publication of their research findings elsewhere.
d) Stakeholders also submitted that the Bill should provide that institutions such as Tropical Disease Research Centre and other government funded grant aided health research entities must be sub-centres or sub-entities of the Zambia National Public Health Institute.
e) A deliberate policy should be developed to promote shared research and data to build and strengthen the National Public Health Laboratory as a reference laboratory.

9.0 COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

The Committee notes that the Zambia National Public Health Bill, if enacted, will be a progressive piece of legislation, addressing the inadequacies in the current legal and regulatory framework that governs public health emergencies. While supporting the Bill, therefore, the Committee makes the observations and recommendations set out hereunder.

OBJECTIVES OF THE BILL

a) The Committee is concerned that in its current formulation, objective (b) suggests that the Zambia National Public Health Institute was already established under an Act of Parliament. The Committee, therefore, recommends that objective (b) should be recast to read "…to establish the Zambia National Public Health Institute…" in order to depict the fact that the Institute is being established as a new body corporate.

CLAUSE 2 – INTERPRETATION

a) Despite the concept of public health undergoing various important changes over the years, the Committee observes that the Bill is using an archaic definition of "public health", dating as far back as the early 1900s. In order to take into account the important changes that the discipline has under gone over the years therefore, the Committee agrees with stakeholders that the definition of 'public health' be recast to read:

> "The totality of all evidence-based public and private efforts throughout the life cycle that preserve and promote health and prevent disease, disability, and death."

b) The Committee agrees with stakeholders that the definition of "authorised officer" in the Bill is not clear. In particular, it is not clear at what stage an authorised officer

cited in the various pieces of legislation becomes an authorised officer under the Bill. The Committee, therefore, recommends that the Bill should be recast so as to provide clarity in the definition of the "authorised officer" as the current definition may create challenges in enforcement.

PART II: THE ZAMBIA NATIONAL PUBLIC HEALTH INSTITUTE

a) The Committee is concerned that the Bill uses global health security and public health security in the same sentence under clause 4 (a). This appears to imply that the two phrases mean different things. However, going by the World Health Organisation (WHO) definition of the two phrases, the Committee notes that global health security and public health security are basically the same. In view of the forgoing, the Committee recommends that where both global health security and public health security are used, the Bill should separate the two phrases with "or"; and not "and".

b) Under clause 4 (e), the Committee is concerned that creating a new early warning system as the Bill appears to suggest would be an unnecessary duplication. In this vein, the Committee recommends that the Institute should instead collaborate with already established early warning systems such as the one under the Disaster Management and Mitigation Unit (DMMU).

c) The Committee observes that clause 4 (p) in its current form would put the Institute's mandate in direct conflict with the functions of the Tropical Diseases Research Centre, and also give the Institute a very broad mandate. This could lead to the Institute engaging in research without direct relevance to its overall mandate. In this regard therefore, that the Committee recommends that clause 4 (p) be recast to read "conduct research in public health security". This way, this function will conform to the overall mandate of the Institute.

d) Given that clause 3(6) under the First Schedule provides for decisions of the Board to be made by a majority vote, the Committee is concerned that the composition of the Board, which is made up of an even number of members as provided under clause 5(1) (a), may result in challenges when making decisions since the votes could be tied. The Committee, therefore, recommends that the membership of the Board be reduced to nine or increased to eleven to make it easier for a decision to be made through a majority vote.

e) The Committee concurs with the concern that the omission of representation from the Ministry of Home Affairs on the Board may result in challenges in implementing regulations that may require law enforcement agencies to act or enforce. The Committee, therefore, recommends that a provision be made to ensure that the Ministry of Home Affairs is represented on the Board, preferably by an officer from the Zambia Police Service and/or the Drug Enforcement Commission.

f) The Committee also observes with concern that clause 5 (1) (e) does not specify the nature of the requisite knowledge and experience and therefore, recommends that the provision should categorically read, "a person with relevant knowledge and experience in public health or a related field".

g) The Committee notes that clause 5 (5) (b) disqualifies a person from serving on the Board if that person has not served at senior management level for at least five years. The Committee is concerned that 'senior management level' has not been defined in the Bill and can, therefore, be subject to misinterpretation. For this reason, the Committee recommends that 'senior management level' be defined in the Bill for clarity of this clause.

h) The Committee is concerned that clause 5(5)(f), disqualifies an employee of the Institute from being appointed as a Board Member. The Committee is of the view that this provision is in conflict with best practices that allow the Chief Executive Officer of an Institution to serve as an ex officio or Secretary to the Board. The Committee, therefore, recommends that clause 5(5)(f), be deleted from the Bill.

i) The Committee notes with concern that the Bill, in clause 8(2), does not explicitly proscribe a person with a criminal record or one who was convicted of any offence under the Bill or any written law from being appointed as Director General. In the Committee's opinion, this could result in a person with a criminal record being appointed to this sensitive position. The Committee, therefore, recommends that the Bill should take care of this concern in a similar way as has been provided for the Board Members under clause 5 (5) (e).

PART III: INSPECTORATE

a) The Committee supports the stakeholders' view that PART III should be deleted from the Bill because the officers mandated to conduct the roles outlined under this section are already empowered to do so under other pieces of legislation such as the *Public Health Act, Chapter 295 of the Laws of Zambia* and *the Food Safety Act, No. 7 of 2019,* which contain provisions for Health Inspectors and Environmental Health Officers to conduct these functions. The Committee takes the view that the Bill is merely replicating existing powers and functions, making the mandate of the authorising officer under the Bill irrelevant. In this regard, the Committee recommends that the Bill should clearly outline the functions of the authorising officers in order to guarantee their relevance.

b) The Committee observes that clause 11(1)(c) appears to be misplaced, as it is a function of the Institute rather than the powers of an inspector/authorised officer and, should therefore, be relocated to clause 4.

c) The Committee is concerned that the proposed source of data under clause11 (1) (j) (i), appears to be limited to the computer system. The Committee is, in this vein, concerned that focusing the search on the visible 'computer system' could lead to missing out data which could have been stored in the cloud computing model that stores data on the internet through a cloud computing provider that manages and operates data storage from afar, as a service.

Therefore, the committee recommends that clause 11 (1) (j) (i), be amended to read:

"search any data contained in, or available to the computer system, and/or the cloud storage and other backup systems".

d) The Committee holds the view that clause 11 4(c) should be deleted from the Bill because it violates the right of a citizen to remain silent in the absence of an attorney of their choice. Additionally, this provision may result into abuse as there is a possibility for the authorised officer to ask inappropriate questions unrelated to the case at hand.

PART IV THE PUBLIC HEALTH EMERGENCY OPERATIONS CENTRE

a) The Committee is concerned that clause 13 gives the impression that the Public Health Emergency Operations Centre will initiate all its actions. The current functions of the Centre as they stand, appear to be one sided and to imply that the Centre will only deal with expected public health emergencies. To the contrary, the Committee holds the view that the Bill should explicitly indicate that the Centre will also respond and react to requests for help from other government and private entities. In view of the foregoing, the Committee recommends that the Bill should include an additional clause to read:

> 13(h) "…respond in a timely manner to requests for operational and technical support from agencies, institutions, bodies and persons in unexpected incidents or events of public health implications."

b) The Committee also observes with concern that some very important functions of the Centre under clause 13 have been omitted from the Bill and recommends that the following functions be included:

- develop a detailed communication strategy to guide on how to stimulate appropriate public health emergency responses from relevant agencies and organisations;
- develop business continuity plans to help limit disruption. They should be both inward-looking (to ensure that the ministries themselves deliver their key functions) and outward-looking (ensuring that planning was taking place across their sector); and
- identify and address critical trans-border issues. This would be done at a bilateral or regional level. Interoperability of plans across borders should also be considered. Additionally, plans should also be developed to cope with the possible external and internal displacement of people during the public health emergency and to address the needs of displaced populations.

PART V: THE ESTABLISHMENT OF THE NATIONAL PUBLIC HEALTH LABORATORY

a) On the provisions of clause 14 (1), the Committee holds the view that specialised laboratories and research centres such as the Centres for Disease Control (CDC) and the Tropical Disease Research Centre (TDRC) among others, should be incorporated into the establishment of the National Public Health Laboratory. This would facilitate information sharing and promote cost effectiveness as it would help to avoid the duplication of research work and scientific findings.

b) The Committee observes with concern that the Bill in clause 14(1), only provides for the establishment of the National Reference Laboratory. However, it does not explicitly provide for the establishment of other satellite laboratories to support the National Reference Laboratory. In the regard, the Committee recommends that a sentence be added to clause 14(1), to read

> "this Laboratory will be supported by satellite laboratories across the country as the Board may establish".

c) The Committee also observes that clauses14 (4) and 14(5) provide that specific persons be appointed by the Board to run the laboratory at the Institute, in addition to the Director General and the Secretary. In the Committee's view, this could lead to possible conflicts related to the governance structure. Therefore, the Committee recommends that the person occupying this position should be appointed by the Director General for and on behalf of the Board, like any other member of staff of the Institute, save for the Secretary. It is the Committee's considered opinion that there is no need for the Bill to vest the responsibility of appointing the public analysts in the Board rather than the Director General.

In view of the foregoing, the Committee recommends that the two clauses be recast to read as follows:

> "the Director-General shall appoint, on such terms and conditions as the Board may determine, a Laboratory Administrator and Public Analysts and other staff considered necessary for the performance of the functions of the Institute''.

PART VI: THE NATIONAL PUBLIC HEALTH EMERGENCY FUND

a) The Committee notes that the Bill in clause 15 (2) (c) provides for monies to be paid to the Institute by way of fees, donations and grants from any source, with the approval of the Minister. The Committee is concerned that, this being an emergency Fund, the requirement for the Minister to approve donations has the potential to derail resource mobilisation initiatives. The Committee, therefore, recommends that the Bill must provide for the Board to approve donations in emergency situations as this will be the quickest way of mobilising more monies for the Fund.

PART VII: GENERAL PROVISIONS

a) As regards the appeal process provided for in clause 17, the Committee observes with concern that the Bill does not provide for subsequent actions to be taken after the decision of the ad hoc tribunal has been made in cases where the aggrieved party is not satisfied with the outcome. The Committee, therefore, recommends that the following be the steps in the appeal procedure:

- the person aggrieved with the decision of the Institute should appeal to the Minister of Health; and
- if not satisfied with decision of the Minister, he or she should appeal to the High Court.

b) The Committee also observes that clause 17 (1) provides for the aggrieved person to notify the Minister of the intention to appeal against the decision of the Institute. Clause 17 (2) also provides for the Minister to appoint and convene an ad hoc appeals tribunal within seven days of receipt of the notice. However, the Committee is concerned that the Bill does not provide for the powers of the Ad hoc appeals tribunal, although it seems to presuppose the powers of hearing the appeals. The Committee, therefore, recommends that the powers of the tribunal be explicitly provided for under the Bill.

c) The Committee further observes with concern that there is no provision in the Bill stipulating offences and corresponding penalties. The Committee, therefore, recommends that a schedule of offences and penalties be included in the Bill.

9.0 CONCLUSION

Zambia, like many other countries in the world is facing a lot of challenges in terms of disease outbreaks and other public health emergencies. These disease outbreaks and public health emergencies usually have catastrophic effects and often lead to a breakdown of socio-economic and cultural situations. It is therefore, necessary to put in place measures to ensure collaboration of efforts by various players in the event of a public health emergency. The proposed Zambia National Public Health Institute will be empowered to perform this critical role in Zambia once the Bill is enacted. The Committee, therefore, is in full support of the Bill and commends the government for introducing this piece of legislation.

The Committee wishes to express its gratitude to all stakeholders who appeared before it and tendered both oral and written submissions; and to thank you, Mr Speaker, and the Clerk of the National Assembly for the guidance and support services rendered to the Committee during its deliberations.

We have the Honour to be, Sir, the Committee on Health, Community Development and Social Services mandated to consider the Zambia National Public Health Institute Bill, N.A.B. No.18 of 2020, for the Fifth Session of the Twelfth National Assembly.

Dr C K Kalila, MP
(Chairperson)

Ms P Kasune MP
(Vice Chairperson)

Mr M Ndalamei, MP
(Member)

Mr A Mandumbwa, MP
(Member)

Mr D Mabumba, MP
(Member)

Mr L Kintu, MP
(Member)

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(Member)

Mr J Kabamba, MP
(Member)

Mr L N Tembo, MP
(Member)

Mr C M Chalwe, MP
(Member)

November 2020
LUSAKA

APPENDIX I - National Assembly Officials

Ms C Musonda, Principal Clerk of Committees
Mr H Mulenga, Deputy Principal Clerk of Committees (SC)
Mrs C K Mumba, Senior Committee Clerk (FC)
Ms C T Malowa, Committee Clerk
Mr A Chilambwe, Committee Clerk
Mrs D H Manjoni, Personal Secretary II
Mr D Lupiya, Committee Assistant

APPENDIX II- WITNESSES

MINISTRY OF JUSTICE
Ms Nachimata S Nchito, Parliamentary Counsel

MINISTRY OF HEALTH
Dr Chitalu Chilufya, Minister of Health
Dr Abel Kabalo, Director, Health Promotion, Environmental and Social Determinants
Dr Andrew Silumesi, Director, Public Health
Mr Chrispine Sichone, Director, Department of Policy and Planning
Prof Victor Mukonka, Director, Zambia National Public Health Institute

MINISTRY OF AGRICULTURE
Mr Songowayo Zyambo, Permanent Secretary
Ms Peggy Mlewa, Director, Planning
Mr Brian Ng'andu, Parliamentary Liaison Officer

MINISTRY OF FISHERIES AND LIVESTOCK
Dr Swithine Kabilika, Director, Veterinary Services
Dr Geoffrey M Mwila, Deputy Director VET Services
Dr Linous Munsimbwe, Principal VET Officer
Mr Kondwani Gondwe, Principal Policy Analyst

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Ms Ngoza Munthali, Director - Planning
Mr Brian Siakabeya, Principal Officer

MINISTRY OF WATER DEVELOPMENT, SANITATION AND ENVIRONMENTAL PROTECTION
Mr Mabvuto Sakala, Permanent Secretary
Mr Tobias Musonda, Director, Planning and Information
Mr Absalom Sakala, Principal Environment Management Officer
Ms Mutinta Diangamo, Senior Planner
Mr Abel Manangi, Assistant Director
Ms Flora Simumba, Assistant Director

ZAMBIA POLICY SERVICE
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Ms Belinda Mulolani, Legal Officer
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Ms Thandose Katele, International Liaison Officer

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Mr Jonah Siwale, Director Legal Services
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Mr Charles Mutemba, Head Clinical Care
Mr Abedigo Kaumba, Head Planner