Order for Second Reading read.

The Minister of Education and Human Resources, Tertiary Education and Scientific Research (Mrs L. D. Dookun-Luchoomun): Madam Speaker, I beg to move that the Higher Education Bill (No. XX of 2017) be read a second time. This Bill Madam Speaker, have to be seen in the context of one of the overarching enunciations of the Government Programme 2015-2019 which reads thus – “…transform Mauritius into a truly forward looking, environmentally sustainable, economically vibrant and innovative country with modern infrastructure, global connectivity, high skills and technology.”

It is today universally recognised that higher education is a game changer, a cornerstone for the attainment of sustainable development goals as stated by Mrs Irina Bokova, former Director-General of UNESCO.

Madam Speaker, let me situate the higher education sector within the present day international context. The following evidence based statements tell the story to justify the heavy demand for higher education.

(i) Individuals with higher levels of education earn more and are more likely than others to be employed;

(ii) Higher education is an engine of socio economic mobility and is linked to healthier lifestyles.

But this is not the whole story. The knowledge explosion, we are witnessing in our times, has resulted in creating lifelong educational needs of citizens and keeping with knowledge driven global economy.

Again, in some places, the role traditionally played by universities is being re-visited. There is a clearly perceptible shift of focus from the conventional role of universities as transmitters of knowledge to that of providing skills and experiential learning applicable to the real world. This explains the integration of life skills also known as soft skills such as adaptability, communication, empathy, critical thinking into the higher education programmes. This integration equips learners to be competent, more competent in the dynamic world of work.
In addition, Madam Speaker, the sector across the world is hugely diversified with a proliferation of providers ranging from the public to private ones with the latter encompassing a sway of international branch campuses and international online providers offering learning opportunities in virtual distributed environments.

Madam Speaker, Sir John Daniel, former President and CEO of the Commonwealth of Learning explained this phenomenon thus, and I quote –

‘In most of the world, higher education is mired in a crisis of excess cost inflexibility. The dominant forms of higher education in developed nation campus-based, high cost, limited use of technology seem ill-suited to addressing global education needs of the billions of young people who will require it in the decades ahead.’

This shift, Madam Speaker, has in turn a significant impact on programmes and courses that are now more blended. The shift equal impacts students, their expectations and the way they learn.

Madam Speaker, we are moving from a different set of Conventions. There is now a transition among the student community from the passive student to the active learner. We must not forget, Madam Speaker, this is a plug and play generation raised in a media rich environment of computers, internet and virtual reality and who believe in learning through experimentation, collaboration and interaction. And this generation of learners, Madam Speaker, demands greater accountability. They know that the costs of education are high and it is only legitimate that they expect more lucrative returns on investment whether it is in terms of academic quality or future employability, and the world of higher education has to respond to these clarion calls.

Madam Speaker, I will take on Board one dimension of higher education that is central to its mandate. Higher education is one domain where dissemination of knowledge goes hand in hand with the creation of new knowledge; research is the part of the core business of higher education institutions and the international prospective demonstrates the change in nature of research. The movement is now from disciplinary to inter-disciplinary and from individual back room research of operating as a loner to team research and even
transborder research. Technology today is facilitating their advent of virtual lives, or what we called collaborators.

Madam Speaker, this is the background against which we have to understand the introduction of this Bill in this august Assembly. Our higher education sector has to be modernised, it has to be revamped and, above all, it has to be more responsive to the emerging needs of the country.

Madam Speaker, an overview of the higher education sector in Mauritius reveals that we have, indeed, come a long way from the one higher education institution, the University of Mauritius, present in 1968 to today hosting a sector that is highly diversified encompassing some 55 institutions, public and private, each with its own specificity and allowing a wide enough access to a panoply of programmes.

As the House knows, the Body regulating the sector is the Tertiary Education Commission which, inter alia, has the responsibility of an entire gamut of activities including allocating public funds, implementing an overarching regulatory framework, effecting institutional registration, programme accreditation, quality audit and recognition and equivalence of post-secondary qualifications. And, that in itself, does sometimes lead to the possibility of mission drift. If nothing else, Madam Speaker, the risk of conflicting functions in the regulatory monitoring and evaluation roles of the tertiary education calls for a redefinition of these roles and functions.

Madam Speaker, it has been the stated policy of Government to leverage the higher education system as foundational to the national strategy to transform Mauritius into a knowledge-based economy by 2025. This will facilitate and increase participation in the globalised economy which is founded up on upskilling research and innovation as well as competitiveness.

The power of the higher education to boost economy has never been and will never be questioned. It then stands to reason, Madam Speaker, for Mauritius to become a high income country, the following objectives of higher education must be attained –

• generation of knowledge through research;
• knowledge transmission, and
• application of knowledge.
In addition, we must see to it that as the country, poised to become a knowledge hub, will leverage on our capacity to attract highly reputed international higher education providers as well as international students and thus, posit itself as a sine qua non criterion for Mauritius to become a favoured higher education destination.

Madam Speaker, a number of factors speak for us in this regard. One of them is the quality of programmes on offer. Another is the cosmopolitan diversity and hospitality of our population. But, above all, right next door to us on the Continent we have a critical mass of university aged young people seeking to embark on higher education. The youth bulge in Africa is a major potential waiting to be tapped. On this youth rests the responsibility to accelerate and sustain the region’s economic growth.

Allow me to refer to some figures to substantiate this point. By 2030, it is projected that the number of youth in Africa will have increased by 42% while by 2050 Africa will have around 400 million university aged young people, aged between 20 to 29, roughly double the current number. Already, there is a large number of students studying outside of their native countries. This can be explained by a number of reasons including the significant rise of a more affluent middle-class, more supportive Government policies and the improved completion rates of secondary schooling.

So, yes, Madam Speaker, we have the potential to attract a number of learners to our shores and have the country recognised as a knowledge hub for the region at least. But there is a caveat, in this era of competitiveness we should aim at offering top quality higher education which will, no doubt, enhance the employability of students graduating from our system. In the light of the unfortunate experience we have had in the recent past, we need, Madam Speaker, to wise up and ensure that only renowned institutions are allowed to be registered and to offer their services thus, barring access to bogus degree mills.

Madam Speaker, allow me to trace the route that has led to the introduction of this Bill in the House today. The Bill has been subject to a number of consultations and discussions and is well thought through. One fact has stood out all the way, the current regulatory system as conceived several decades ago no longer adequately support the
development of the higher education sector. And, further, Mauritius was ranked only 62 out of 146 countries on the Knowledge Economy Index, an economic indicator developed by the World Bank and which measures a country’s ability to generate, adopt or defuse knowledge based on four pillars related to the knowledge economy namely –
• economic and institutional regime;
• education and skills;
• information and communication infrastructure, and
• innovative systems.

Hence, our intention, amongst others, Madam Speaker, is to improve on our 62nd position through a coordinated effort with a view to raising the skills and capacities of our people. Accordingly, technical assistance was secured from the European Union to develop a budgeted and implementable Action Plan for the Mauritian Tertiary Education Sector. Preliminary findings and proposals were presented to the higher education stakeholders during a workshop organised in July 2015. The final report submitted by the consultant in September 2015 proposed major changes in the Higher Education Regulatory Framework with respect to access, registration, accreditation and control of post-secondary education institutions in Mauritius.

It must be highlighted, Madam Speaker, that one basic principle in the report was central to the proposed regulatory change. This principle was to build on what has already been achieved so far thus, keeping as much as possible in continuity while ensuring that our higher education is aligned with international best practices. Hence, the proposal submitted focused on three main areas namely –
(i) the reconfiguration of the public tertiary education with a view to foster efficiency and focus on national priorities especially in research;
(ii) gearing the private higher education institutions both local and foreign to focus on socioeconomic requirements of the country and hence, participate in its development, and
(iii) the enhancement of quality assurance for education and research programmes in order to boost the international recognition and competitiveness of Mauritius in these areas.
Madam Speaker, the House will agree that the proposals from the European Union experts reflect primarily a trajectory collection. Now, Madam Speaker, given the highly specific and legal aspects of this task, my Ministry submitted a request to the Commonwealth Secretariat in early 2016 for a legislative drafting expert. His services were meant for the preparation of the Higher Education Bill that would, inter alia, include these main reform proposals.

Following a selection exercise, Dr. Rehman, Crown Counsel and Legislative Drafter in Gibraltar was appointed in June 2016 through the Commonwealth Fund for Technical Cooperation to draft the Regulatory Framework for the Higher Education Sector in Mauritius. Dr. Rehman undertook a series of consultations with officials of my Ministry as well as diverse stakeholders in the course of two prolonged visits prior to submitting the draft Bill at the end of 2016.

Subsequently, the draft Bill with further amendments proposed by the Ministry was submitted to the State Law Office for local contextualisation. Thereafter, consultations were again held with the representatives of the public as well as private tertiary education institutions. Final legal vetting was sought from the State Law Office prior to securing Cabinet approval. So, here we are now, Madam Speaker, at the final stage of the process and we are all looking forward to an improved higher education landscape as from next year. Madam Speaker, allow me to introduce to the House the main provisions of the Higher Education Bill. As will have been observed from the Explanatory Memorandum, the Bill provides for the creation of three new bodies along with the repeal of the TEC Act. What we are, in fact, aiming at, Madam Speaker, is the reorientation of the system towards the main policy goals and areas bearing in mind our intention to position Mauritius as a favoured destination for higher education in the region.

We are thus proposing a completely new structure comprising the Higher Education Advisory Council, the Higher Education Commission and the autonomous Quality Assurance Authority.

First and foremost, the Higher Education Advisory Council will be a completely new organ, whose members will have expert knowledge of the sector and come from various
spheres of activity, including industry. Their mandate would only be advisory in nature, a sort of Comité des Sages. They would be tasked with coming up with recommendations and policy directions for promotion and development of the sector, and this, based on world trends and demands in education.

In a spirit of good governance and given major changes occurring in the higher education landscape, it is high time that the roles and functions of the Tertiary Education Commission be reviewed in accordance with international best practices, as mentioned earlier. The current mandate of the Tertiary Education Commission is extremely wide and may give rise to conflicting functions.

Madam Speaker, let me provide a concrete example of how a conflicting situation may arise. Let us assume that the Tertiary Education Commission has registered an institution, accredited its programmes, and the institution starts operating. After some time, operational and procedural shortcomings are observed during a quality assurance exercise. This is a situation where the Commission will be called upon to go against decision it had itself initially taken. It is a case of asking the Commission to rap itself on its own knuckles. Madam Speaker, The D.Y Patil saga is a concrete example of how things went terribly wrong. The proposed structure will accordingly address this major concern. There will be a segregation of roles. The new Quality Assurance Authority will act independently in as far as quality assurance is concerned, while registration of institutions and accreditation of courses will be the responsibility of the Higher Education Commission.

Madam Speaker, this a sure-fire way to see to it that there is much needed complementarity between as well as distinct separation of functions in the governance tools for higher education sector, especially as these will apply to most public and private institutions. Madam Speaker, let me now come to the provisions of the Bill. Clause 5 makes provision for the establishment of the Higher Education Commission while clauses 6, 7 and 8 redefine the responsibilities of the new Commission. Madam Speaker, I would like to highlight here that most of the functions detailed out in those clauses are already within the mandate of the current Tertiary Education Commission. However, a redefinition of
responsibilities implies that new tasks will be attributed for a better monitoring of the sector.
As such, clause 6(b) (ii) makes provision for -
“(ii) the rationalisation of teaching programmes in public higher education institutions;”

We are keen on seeing to it that, instead of inter-institutional competition, there is greater complementarity among public higher education institutions. This will also enable the pooling of resources and facilities. One fundamental objective is to ensure the existence of a level playing field and not a league table of institutions that pits one against the other. This will instead promote the emergence of high-profiled public institutions in their respective fields and will equally lead to increase cost efficiency and effectiveness. Clause 7(1) (a) provides for the accreditation of programmes. The staff which was formerly restricted to private institutions will now be extended to programmes offered by public institutions as well. The reasons are obvious, Madam Speaker. We cannot insist upon private providers to have their programmes duly accredited and not apply this cardinal principle to public providers.

Good governance as well as the principle of equity insists upon fairness and transparency in all dealings of the Higher Education Commission. On a matter of principle, we cannot require that programmes offered by private institutions need to be relevant and current to the requirements of industry and trade, and not apply the same rule to our public institutions. Accordingly, clause 7(1) (f) provides for periodic accreditation audits to be carried out by the Commission of both public and private education institutions. This, Madam Speaker, remains an important tool in ensuring the level and standard of delivery of programmes. We believe this measure will help improve the quality and standard of higher education being imparted in our public higher education institutions.

In view of unfortunate past experiences related to accreditation of professional courses, the Bill makes provision at clause 18(3) for programmes that lead to professional qualification for practice in Mauritius, to be approved by a relevant recognised professional body prior to accreditation being granted by the Commissioner.

Another novelty of this Bill provided for under clause 7(1) (h) relates to the
elaboration of a funding mechanism for public higher education institutions. Funding for these is currently only on accounting matter, with no visible return on investment. The Higher Education Bill provides that the Higher Education Commission will set up a funding mechanism that will enhance accountability of our public higher education institutions and will motivate them to improve their performance.

Madam Speaker, we want to establish a correlation between performance and funding. As such, clause 25 empowers the Commission to determine the design of funding mechanisms along with the criteria, conditions and requirements to be met by those institutions. In cases where the Commission finds that institutions fail to satisfy the required standards, it may amend the level of funding whilst ensuring that the rights of students are maintained and their welfare not jeopardised.

The Bill will consequently allow the Higher Education Commission to monitor the performance of public higher education institutions, including measuring their performance against specified outcomes, something not catered for in the current legislation. Madam Speaker, it would have been a disservice to our higher education sector had we not provided for a framework for the welfare of our students. All educational institutions shall ensure that their students obtain a holistic education, incorporating soft skills, values, as well as the provision of adequate amenities and facilities. Clause 7(1) (j), clause 8(a) (ii) and clauses 22 to 24 make provision for the welfare of the students.

With the coming into force of this legislation, all institutions will henceforth be required to issue and enforce a code of conduct for students and would also have to provide for their welfare. The Commission shall guide the higher education institutions in that process through the issuance of an appropriate welfare framework and model for the code of conduct for students.

Madam Speaker, true it is that the existing guidelines for students charter for postsecondary educational institutions does require the issuance of code of conduct. So far, this is
unfortunate; this requirement has not been met. This legislation now makes it mandatory for institutions to implement same.

Madam Speaker, let me now come to the composition of the Board and its functioning. Let me state at the very outset that, as per clause 9 of the Bill, there is no departure from the manner in which the Board of the Higher Education Commission is to be constituted, as compared to that of the existing Tertiary Education Commission. In addition, to ensure an effective functioning of the Board, clause 10(1) of the Bill provides for a minimum of 10 sittings each year.

Moreover, as per clause 11 of the Bill, the Board shall retain the prerogative to appoint the Chief Executive Officer, who shall be referred to as the Commissioner. Clause 14, Madam Speaker, in addition, provides for the creation of a new post of Registrar, who shall be appointed by the Board.

Madam Speaker, let us now focus on another important aspect of this Bill. This relates to the establishment and registration of foreign higher education institutions in Mauritius. Clause 16(7) (b) (ii) of this Bill now makes it mandatory for overseas institutions intending to set up a centre or branch campus in Mauritius to provide evidence of being approved an accredited institution in accordance with the laws of the country of origin.

Further, subsection 8 of the same Clause stipulates that should a centre or a branch campus intend to operate as a separate entity from the overseas institution, documentary evidence will have to be provided to support the existence of such strong academic linkages between the two.

Madam Speaker, let me now come to a most innovative measure that this Bill heralds. Our public Higher Education Institutions have for too long been restrictive in the provision of quality education within the national frontiers. Now that we are providing them with an enabling environment, it is about time they start thinking big. It is about time they start taking advantage of the current trend of internationalisation of higher education. We want them to manifest an interest in setting up centres or branch campuses as separate entities, but outside Mauritius.
Therein lies the superb opportunity for our higher education institutions to fly high the flag of cross-border education. However, Madam Speaker, such an initiative will have to be in line with the provision of Clause 17 of the Bill whereby they would have to seek prior clearance from the Commissioner.

Madam Speaker, our ambition of becoming a higher income earning country goes hand-in-hand with having a highly skilled and qualified manpower. We sometime face situations where students have to halt their studies for various reasons. Our aim is to provide those students with the possibility of resuming their studies when they are ready for them, and without forgoing the previously acquired units and credits.

The Higher Education Bill, Madam Speaker, provides the right foundation for this to be a reality. Clause 19 of the Bill will accordingly require the Higher Education Commission to develop an issue, a natural credit value and transfer system in order to recognise learning achievements to date by awarding credits.

Madam Speaker, the credits awarded under the national credit value and transfer system shall be transferable in such manner as the Commission may determine. It is worth noting that the current trend in the Higher Education Sector calls for the development of linkages between Higher Education Institutions allowing for possibility of co-awarding of diplomas and degrees. This provision, Madam Speaker, will create the right environment for the promotion of this type of collaboration. Only today, Madam Speaker, the University of Murdoch from Australia had sent representatives in Mauritius because they want to set up minor campuses in Mauritius.

The one to link up with the University of Mauritius was the UTM and with the Mauritius Institute of Education. So, we are already moving towards internationalisation of our higher education sector. Madam Speaker, the current Tertiary Education Commission legislation has often been termed as unfair as it was perceived as being both judge and party in cases of suspension or revocation of registration and accreditation.

Indeed, the current legislation provides for the Commission itself to decide on the outcome of representations as and when these are made.
The situation will now be remedied through Clause 20 of the Bill which stipulates that the Minister shall appoint an independent panel to look into cases of representations. In addition, Clause 50 of the Bill also provides for an appeal mechanism to enable any person who feels aggrieved by a decision of the Commission or Authority to submit an appeal to the Minister within 21 days of the communication of the decision.

Madam Speaker, we now come to the third body to be created by the new legislation, the Quality Assurance Authority. Quality Assurance, Madam Speaker is of major importance if we are to create an education environment capable of attracting Higher Education Institutions of international repute and positioning our country as a prime Higher Education destination.

However, Madam Speaker, we want to do away with the situation where the Higher Education Commission gets to be seen as being both judge and jury. A separation of powers is fitting to the practice of good governance and besides it is the hallmark of good practice. The argument, Madam Speaker, has been amply summarised by the European Union report I referred to earlier and which goes thus, and I quote –

“Government must strengthen the regulatory framework by means of the creation of a new independent authority covering all types of external quality assurance tools.” Part 3 of the new legislation, Madam Speaker provides for the establishment, objects and functioning of the Authority. This will ensure that every Higher Education Institution, be it public or private, is subject to regular external quality audits measured against international yardstick for benchmarking of performance. The Bill further provides that the quality audit shall be conducted in collaboration with International Quality Assurance Experts. This, Madam Speaker, is a bold step with far-reaching impact. But let me hasten and to add, Madam Speaker, that this proposal which is in the direction of promoting the quality of a Higher Education has received the widespread support of the private Higher Education Institutions. In fact, several private institutions with the highest number of students have already volunteered to be one among the first on the list of those to be subjected to quality audits.
Madam Speaker, African Leadership College, Rushmore, JSS Academy, Middlesex University are all examples of institutions that have volunteered for such quality audits. The Quality Assurance Authority will be given yet another power, that of monitoring the quality of education of programmes having obtained a status of full accreditation; no such monitoring currently exists.

Coupled with that, Madam Speaker, the Quality Assurance Authority will now have the power of causing an accreditation to lapse immediately the moment the Authority is not satisfied that a Higher Education Institution has maintained the required quality standards expected of it. This applies to both private and public higher education institutions. Madam Speaker, I said earlier the Tertiary Education Act will be repealed. Let me, however, reassure the House that in line with the transitional of provisions at Clause 55 of the Bill, the changes and the innovation being propounded through this Bill will not entail any loss of job or redundancy.

In fact, with regard to the staff presently employed by the Tertiary Education and Commission, the Bill contains transitional provisions for the transfer on no less favourable terms and conditions to either the Higher Education Commission or to the Quality Assurance Authority or redeployment as far as is practicable to another statutory body or retirement on grounds of abolition of office with payments of pension benefits.

Madam Speaker, it also goes without saying that other related Acts will also go through technical amendments consequential to the Bill as spelt out in Clause 54. Madam Speaker, this Bill indicates a departure from what has been there till today. Our Higher Education sector needs not simply guaranty greater success and equity but is also called upon to lay emphasis on quality teaching and research relevant to the world of work. All this becomes possible through institutional diversification and innovation. This Bill provides a framework for effective and efficient functioning of our Higher Education Institutions and for a sound regulation of the higher education system.
We want our Higher Education Sector to stand tall in this part of the world and we are not simply talking of our public tertiary institutions. The tide when it comes lifts all boats, Madam Speaker. Hence, through this Bill we want to ensure that the private Higher Education Institutions too, including those providing trans-national education assist in positioning Mauritius as a major centre of learning. Of course a lot of efforts and willpower 101 and determination are required. I, for one, am confident and highly optimistic for I know we are on the right track.

We have made our choices as to the type of Higher Education Sector we want to see emerging. This Bill, Madam Speaker, is a major turning point in the evolution of the Higher Education sector and will definitely show the way towards strengthening and modernising the sector while in parallel making of Mauritius a central Knot for Higher Education in the region. I thank you for your kind attention.

Mr Bodha rose and seconded.