



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – FOURTH SESSION

NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

THURSDAY, MARCH 03, 2016

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** - the Speaker
4. **PETITION ON THE EXTENSION OF TRANSITION PERIOD AND THE TERM OF THE TRANSITION AUTHORITY**

The Speaker conveyed the following Petition –

"Honourable Members,

Pursuant to the provisions of Standing Order 225(2) (b), I hereby convey to the House that my office has received a Petition signed by one Patrick Ouma Onyango on behalf of residents of Nairobi County regarding the imminent dissolution of the Transition Authority, commonly referred to as TA.

Honourable Members, the Petitioner appreciates that devolution is one of the core pillars of the Constitution of Kenya 2010. He is also alive to the fact that the Constitution envisages that transition to the devolved system would be phased out gradually in a period not exceeding three years as contemplated under Section 15(1) of the Sixth Schedule to the Constitution. However, he is concerned that the term of the Transition Authority as established under the Transition to Devolved Government Act, 2012, is coming to an end in the month of March 2016. The Petitioner is thus concerned that this will negatively affect the smooth and successful phasing out the devolution of functions to the County Governments. The Petitioner is therefore praying that, as a matter of urgency, the National Assembly prioritizes the debate on the Report of the Constitution Implementation Oversight Committee (C.I.O.C.) on *the Term of the Transition Authority* and resolves to extend the transition period and term of the Transition Authority by a period not exceeding three years to enable it to conclude its work. The Petitioner also draws a parallel between the process of extending the term of the TA and that of the former Commission for the Implementation of the Constitution (CIC).

Honourable Members, ordinarily, I would have straight away referred this Petition to the relevant Committee for consideration. However, owing to the exceptional circumstances under which the Petition is presented, I wish to highlight few issues relating to the Prayers sought in the Petition. As you may be aware, on Thursday, 18th February 2016, the Constitution Implementation Oversight Committee tabled in this House a Report on *Consideration of the Extension of the Transition Period and Term of the Transition Authority*. Debate on the Report commenced last week and is scheduled to resume today as indicated under Order No. 12 in today's Supplementary Order Paper. Perhaps worth noting is the Committee's recommendation that the term of the TA should not be extended beyond 5th March 2016 as there lacks a legal avenue to do so. Rather, the Authority should be allowed to naturally wind up as contemplated under Section 15(1) of the Sixth Schedule to the Constitution as read together with Section 37 of the Transition to Devolved Government Act, 2012.

Honourable Members, the contents and recommendations of the said Report have not only been extensively debated in this House but have also been canvassed in the House Business Committee, which I chair. Without anticipating the debate under Order No. 12 in today's Supplementary Order Paper, it is apparent that a section of this House may be desirous to extend the term of the TA. Others have divergent views. Be this as it may, let me remind the House that the term of the Transition Authority cannot be extended by way of an ordinary resolution of the House or by way of a Motion. It is for that reason that the Motion under Order No. 12 is deliberately couched as "Noting" as opposed to the usual manner of "Adopting". For avoidance of doubt, this is the kind of debate referred to as "*debate without resolution*" in a number of other parliamentary jurisdictions. The motion is simply deliberative and intended to provide an opportunity to debate and notify, as opposed to debating and resolving.

Honourable Members, a parallel has been drawn between the terms of office of the Transition Authority and that of the former Commission for the Implementation of Constitution, whose term came to an end in December 2015. First, the Constitution provides that the term of the CIC would simply have been extended by way of a resolution of the House. That would have been achieved by way of a Motion seeking to extend the term, without having to amend any law. On the other hand, it is apparent that an extension of the transition period and term of the Transition Authority as spelt out in Section 15(1) of the Sixth Schedule to the Constitution and Section 37 of the Transition to Devolved Government Act, 2012, desirable as it may be, cannot be achieved by way of a resolution of this House on a Motion or even a Report on a Petition like the one sought by Mr. Onyango. On the contrary, it requires legislative action to probably amend Section 15(1) of the Sixth Schedule to the Constitution, the Transition to Devolved Government Act, 2012 and the Intergovernmental Relations Act 2012.

Certainly, I note that in their Report to the House, the CIOC had applied its minds to these questions and indeed observed that, the dissolution of the Transition Authority does not occasion an absolute lacuna in so far as the discharge of its mandate is concerned. The Intergovernmental Relations Act 2012 establishes the Intergovernmental Relations Technical Committee whose functions are spelt out in Section 12 of the Act. Paragraph (b) of the Section 12 of the said Act provides that, among other functions, the Intergovernmental Relations Technical Committee shall –

(b) take over the residual functions of the transition entity established under the law relating to transition to devolved government after dissolution of such entity;

Obviously, the entity whose functions would be assumed by the Intergovernmental Relations Technical Committee upon dissolution of such entity is the Transition Authority.

Honourable Members, clearly, the legislation that would extend the transition period and term of the Transition Authority is one that concerns county governments and will obviously require to be considered by the two Houses of Parliament. By now, I have not received any legislative proposal to amend the said statutes from any Member. I am informed that the period that the Petitioners are beseeching Parliament to extend is inevitably going to lapse by midnight of 4th March 2016, being barely half a day from now! Whereas the Speaker is obligated to convey all Petitions to the House and refer them to respective Committees, I am afraid that this particular Petition is coming rather a little too late. It therefore serves little purpose, if any, for me to refer this Petition to any Committee for consideration. In the circumstances, the best the Speaker can do, which I hereby proceed to do, is to ask the Clerk of the National Assembly to forward a copy of the Report of the Constitution Implementation Oversight Committee on 'Consideration of the Extension of the Transition Period and Term of the Transition Authority' to the Petitioner.

Thank you".

5. **PAPERS LAID**

The following Papers were laid on the Table –

- (i) The Protected Areas Order 2015 and the Explanatory Memorandum;
- (ii) The Ministry of Defence Annual Performance Report for the period ended 30th June, 2015;
- (iii) Annual Report and Financial Statements of the National Police Service Commission for the year 2014/2015;
- (iv) The Quarterly Report of the Commission for the Implementation of the Constitution for the period October-December, 2015;
- (v) Report of the Auditor General on the Financial Statements of School Equipment Production Unit for the year ended 30th June, 2014 and the certificate therein; and,
- (vi) The Reports of the Auditor General on the Financial Statements in respect of the following institutions for the year ended 30th June, 2015 and the certificates therein –
 - (a) Ministry of Mining, and
 - (b) Kenya National Examinations Council

(The Deputy Majority Whip)

6. **STATEMENT PURSUANT TO STANDING ORDER 44(2)(a)**

Pursuant to the provision of Standing Order 44(2) (a), the Hon. Priscilla Nyokabi, a Member, House Business Committee issued a Statement regarding the Business of the House for the week commencing Tuesday, March 08, 2016.

7. **THE LEGAL AID BILL (NATIONAL ASSEMBLY BILL NO. 35 OF 2015)**

Order for Third Reading read;

Motion made and Question proposed;

THAT, the Legal Aid Bill (National Assembly Bill No. 35 of 2015) be now read a Third Time

(The Leader of the Majority Party)

Debate on the Third Reading having been concluded on Thursday, March 03, 2016 Morning Sitting);

Question put and agreed to;

Bill read a Third Time and passed.

8. COMMITTEE OF THE WHOLE HOUSE

The Private Security Regulation Bill (National Assembly Bill No. 4 of 2014)
(The Leader of the Majority Party)

Order deferred to another day.

9. MOTION – APPROVAL OF THE BUDGET POLICY STATEMENT, 2016

Motion made and Question proposed;

THAT, pursuant to the provisions of Section 25(7) of the Public Finance Management Act and Standing Order 232, this House adopts the Report of the Liaison Committee on the Budget Policy Statement and the Debt Management Strategy for the Financial Year 2016/2017 and the Medium Term, laid on the Table of the House on **Thursday, March 03, 2016**, and approves the *Budget Ceilings* in respect of the various Votes and programmes in the **National Government, the Judiciary and Parliament** as contained in the Schedule.

SCHEDULE: **BUDGET CEILINGS FOR SPENDING AGENCIES**

Vote		Programmes		Budget Ceilings(Kshs. Millions)		
Number	Details	Number	Details	Recurrent	Capital	Total
1011	The Presidency		Total	6,973	1,741	8,714
		0702000	P.2 Cabinet Affairs	1,265	1,109	2,374
		0703000	P.3 Government Advisory Services	314	-	314
		0704000	P.4 State House Affairs	3,010	459	3,469
		0734000	P.6 Deputy President Services	2,384	173	2,557
1021	State Department for Interior		Total	98,002	15,181	113,183
		0601000	P.1 Policing Services	80,485	12,899	93,384
		0602000	P.2 Planning, Policy Coordination and Support Service	12,589	611	13,200
		0603000	P.3 Government Printing Services	727	121	848
		0605000	P.4 Population Management Services	4,201	1,550	5,751
1022	State Department for Coordination of National Government		Total	19,291	1,050	20,341
		0604000	P.1 Correctional services	18,875	1,032	19,907
		0623000	P.2 General Administration, Planning and Support Services	346	18	364
		0624000	P.3 Betting Control, Licensing and Regulation Services	70	-	70
1031	State Department for Planning		Total	18,492	53,633	72,125
		0706000	P.1 Economic Policy and National Planning	1,124	38,141	39,265
		0707000	P.2 National Statistical Information Services	1,818	1,572	3,390
		0708000	P.3 Monitoring and Evaluation Services	43	163	206
		0709000	P.4 General Administration Planning and Support Services	746	144	890

Vote		Programmes		Budget Ceilings(Kshs. Millions)		
Number	Details	Number	Details	Recurrent	Capital	Total
1032	State Department for Devolution	0710000	P.5 Public Service Transformation	6,600	910	7,510
		0711000	P.6 Gender & Youth Empowerment	8,161	12,703	20,864
			Total	2,242	7,994	10,236
		0732000	P.3 General Administration, Planning and Support Services	269	-	269
		0712000	P.7 Devolution Services	1,029	10	1,039
		0713000	P.8 Special Initiatives	574	1,507	2,081
1041	Ministry of Defence	0733000	P.9 Accelerated ASAL Development	370	6,477	6,847
			Total	96,952	42	96,994
		0801000	P.1 Defence	95,219	42	95,261
		0802000	P.2 Civil Aid	450	-	450
1051	Ministry of Foreign Affairs and International Trade	0803000	P.3 General Administration, Planning and Support Services	1,283	-	1,283
			Total	13,232	1,000	14,232
		0715000	P.2 Foreign Relation and Diplomacy	9,310	402	9,712
		0714000	P.1 General Administration Planning and Support Services	3,172	598	3,770
1061	State Department for Education	0716000	P.3 International Trade and Investments Promotion	750	-	750
			Total	59,412	22,074	81,486
		0501000	P.1 Primary Education	17,225	18,986	36,211
		0502000	P.2 Secondary Education	33,681	1,443	35,124
		0503000	P.3 Quality Assurance and Standards	4,978	903	5,881
1062	State Department of Science and Technology	0508000	P.8 General Administration, Planning and Support Services	3,528	742	4,270
			Total	60,260	13,531	73,791
		0504000	P.4 University Education	55,990	7,567	63,557
		0505000	P.5 Technical Vocational Education and Training	2,004	5,363	7,367
		0506000	P.6 Research, Science, Technology and Innovation	872	601	1,473
		0507000	P.7 Youth Training and Development	-	-	-
1071	The National Treasury	0508000	P.8 General Administration, Planning and Support Services	1,394	-	1,394
			Total	46,732	44,712	91,444
		0717000	P.1 General Administration Planning and Support Services	39,816	4,804	44,620
		0718000	P.2 Public Financial Management	5,422	37,994	43,416
		0719000	P.3 Economic and Financial Policy Formulation and Management	1,174	1,859	3,033
1081	1081 Ministry of Health	0720000	P.4 Market Competition	320	55	375
			Total	28,940	30,635	59,575
		0401000	P.1 Preventive & Promotive Health Services	1,736	13,845	15,581
		0402000	National Referral and Specialized Services	14,079	10,829	24,908
		0403000	P.3 Health Research and Development	5,025	624	5,649
		0404000	P.4 General Administration, Planning & Support Services	6,100	81	6,181
1091	State Department for Infrastructure		Health Policy, Standards and Regulations	2,000	5,256	7,256
			Total	31,596	102,949	134,545
1092	State Department for Transport	0202000	P.2 Road Transport	31,596	102,949	134,545
			Total	5,793	124,960	130,753
		0201000	P.1 General Administration, Planning and Support Services	397	5	402
		0203000	P.3 Rail Transport	-	109,170	109,170
		0204000	P.4 Marine Transport	502	11,500	12,002
		0205000	P.5 Air Transport	4,378	3,985	8,363
		0206000	P.6 Government Clearing Services	65	-	65
1101	State Department for Environment and Natural Resources	0216000	P.7 Road Safety	451	300	751
			Total	14,616	11,680	26,296
		1010000	P.1 General Administration, Planning and Support Services	586	25	611
		1011000	P.2 Environment and Natural Resources Management and Protection	12,214	7,435	19,649
		1012000	P.3 Meteorological Services	1,157	1,101	2,258
1102	Ministry for Water and Regional Authorities	1005000	P.5 Integrated Regional Development	659	3,119	3,778
			Total	4,162	42,122	46,284
		1001000	P.1 General Administration, Planning and Support	616	190	806

Vote		Programmes		Budget Ceilings(Kshs. Millions)		
Number	Details	Number	Details	Recurrent	Capital	Total
			Services			
		1004000	P.4 Water Resources Management	2,692	29,429	32,121
			P.3 Irrigation and Land Reclamation	854	12,503	13,357
1111	Ministry of Lands, Housing and Urban Development		Total	4,269	25,172	29,441
		0101000	P.1 Land Policy and Planning	2,602	4,772	7,374
		0102000	P.2 Housing Development and Human Settlement	458	8,259	8,717
		0103000	P.3 Government Buildings	328	1,232	1,560
		0104000	P.4 Coastline Infrastructure and Pedestrian Access	59	41	100
		0105000	P.5 Urban and Metropolitan Development	297	10,868	11,165
		0106000	P.6 General Administration Planning and Support Services	525	-	525
1121	Ministry of Information, Communication and Technology		Total	2,930	8,288	11,218
		0207000	P.1 General Administration Planning and Support Services	723	619	1,342
		0208000	P.2 Information And Communication Services	1,060	110	1,170
		0209000	P.3 Mass Media Skills Development	215	135	350
		0210000	P.4 ICT Infrastructure Development	932	7,424	8,356
1131	Ministry of Sports Culture and Arts		Total	4,550	2,896	7,446
		0901000	P.1 Sports	2,037	1,545	3,582
		0902000	P.2 Culture	1,016	608	1,624
		0903000	P.3 The Arts	630	130	760
		0904000	P.4 Library Services	555	590	1,145
		0905000	P.5 General Administration, Planning and Support Services	312	23	335
1141	Ministry of Labour Social Security and Services		Total	9,321	15,583	24,904
		0906000	P.1 Promotion of the Best Labour Practice	489	235	724
		0907000	P.2 Manpower Development, Employment and Productivity Management	633	421	1,054
		0908000	P.3 Social Development and Children Services	2,641	842	3,483
		0909000	P.4 National Social Safety Net	5,067	14,070	19,137
		0910000	P.5 General Administration Planning and Support Services	491	15	506
1151	Ministry of Energy and Petroleum		Total	1,973	89,108	91,081
		0211000	P.1 General Administration Planning and Support Services	289	300	589
		0212000	P.2 Power Generation	741	26,950	27,691
		0213000	P.3 Power Transmission and Distribution	766	59,073	59,839
		0214000	P.4 Alternative Energy Technologies	157	827	984
		0215000	P.5 Exploration and Distribution of Oil and Gas	20	1,958	1,978
1161	State Department for Agriculture		Total	7,199	16,127	23,326
		0107000	P.1 General Administration Planning and Support Services	1,307	1,900	3,207
		0108000	P.2 Crop Development and Management	5,715	14,227	19,942
		0109000	P.3 Agribusiness and Information Management	177	-	177
1162	State Department for Livestock		Total	1,968	4,868	6,836
		0112000	P.6 Livestock Resources Management and Development	1,968	4,868	6,836
1163	State Department for Fisheries		Total	1,576	3,119	4,695
		0111000	P.5 Fisheries Development and Management	1,576	3,119	4,695
1171	Ministry of Industrialization and Enterprise Development		Total	2,487	5,261	7,748
		0301000	P.1 General Administration Planning and Support Services	509	-	509
		0302000	P.2 Industrial Development and Investments	1,744	5,101	6,845
		0304000	P.4 Cooperative Development and Management	234	160	394
1181	State Department for Commerce and Tourism		Total	2,683	3,267	5,950
		0306000	P.2 Tourism Development and Promotion	1,246	1,091	2,337
		0307000	P.3 Trade Development and Promotion	809	455	1,264
		0308000	P.4 General Administration, Planning and Support Services	628	1,721	2,349
1182	State Department for East African Affairs		Total	1,598	65	1,663
		0305000	P.1 East African Affairs and Regional Integration	1,598	65	1,663
1191	Ministry of Mining		Total	760	1,215	1,975
		1007000	P.1 General Administration Planning and Support Services	341	100	441

Vote		Programmes		Budget Ceilings(Kshs. Millions)		
Number	Details	Number	Details	Recurrent	Capital	Total
		1008000	P.2 Resources Surveys and Remote Sensing	208	406	614
		1009000	P.3 Mineral Resources Management	211	709	920
1251	Office of the Attorney General and Department of Justice		Total	4,011	494	4,505
		0606000	P.1 Legal Services	1,558	45	1,603
		0607000	P.2 Governance, Legal Training and Constitutional Affairs	1,776	140	1,916
		0609000	P.4 General Administration, Planning and Support Services	677	309	986
1261	The Judiciary		Total	12,860	4,449	17,309
		0610000	P.1 Dispensation of Justice	12,860	4,449	17,309
1271	Ethics and Anti-Corruption Commission		Total	2,691	100	2,791
		0611000	P.1 Ethics and Anti-Corruption	2,691	100	2,791
1281	National Intelligence Service		Total	23,846	-	23,846
		0804000	P.1 National Security Intelligence	23,846	-	23,846
1291	Office of the Director of Public Prosecutions		Total	1,953	150	2,103
		0612000	P.1 Public Prosecution Services	1,953	150	2,103
1301	Commission for the Implementation of the Constitution		Total	-	-	-
		0613000	P.1 Implementation of the Constitution	-	-	-
1311	Office of the Registrar of Political Parties		Total	507	-	507
		0614000	P.1 Registration, Regulation and Funding of Political Parties	507	-	507
1321	Witness Protection Agency		Total	360	-	360
		0615000	P.1 Witness Protection	360	-	360
2011	Kenya National Human Rights Commission		Total	454	-	454
		0616000	P.1 Protection and Promotion of Human Rights	454	-	454
2021	National Land Commission		Total	781	300	1,081
		0113000	P.1 General Administration, Planning and Support Services	300	250	550
			P.13 Land Administration and Management	164		164
			P.14 National Land Management Information System	40	50	90
			P. 15 Land Disputes and Conflict Management	277	-	277
2031	Independent Electoral and Boundaries Commission		Total	19,321	103	19,424
		0617000	P.1 Management of Electoral Processes	19,321	103	19,424
		0618000	P.2 Delimitation of electoral boundaries	-	-	-
2041	Parliamentary Service Commission		Total	10,258	3,200	13,458
		0721000	P.1 National Legislation, Representation and Oversight	-	-	-
		0722000	P.2 Senate Affairs	6,532	-	6,532
		0723000	P.3 General Administration, Planning and Support Services	3,726	3,200	6,926
2042	The National Assembly		Total	15,948	-	15,948
		0721000	P.1 National Legislation, Representation and Oversight	15,948	-	15,948
2051	Judicial Service Commission		Total	450	-	450
		0619000	P.1 General Administration, Planning and Support Services	450	-	450
2061	The Commission on Revenue Allocation		Total	341	-	341
		0724000	P.1 Inter-Governmental Revenue and Financial Matters	341	-	341
2071	Public Service Commission		Total	1,114	50	1,164
		0725000	P.1 General Administration, Planning and Support Services	805	50	855
		0726000	P.2 Human Resource management and Development	187	-	187
		0727000	P.3 Governance and National Values	122	-	122
2081	Salaries and Remuneration Commission		Total	543	-	543
		0728000	P.1 Salaries and Remuneration Management	543	-	543
2091	Teachers Service Commission		Total	191,194	100	191,294
		0509000	P.1 Teacher Resource Management	185,754	-	185,754
		0510000	P.2 Governance and Standards	199	-	199
		0511000	P.3 General Administration, Planning and Support Services	5,241	100	5,341
2101	National Police Service		Total	430	-	430

Vote		Programmes		Budget Ceilings(Kshs. Millions)		
Number	Details	Number	Details	Recurrent	Capital	Total
	Commission	0620000	P.1 National Police Service Human Resource Management	430	-	430
2111	Auditor General		Total	3,850	300	4,150
		0729000	P.1 Audit Services	3,850	300	4,150
2121	Controller of Budget		Total	573	-	573
		0730000	P.1 Control and Management of Public finances	573	-	573
2131	The Commission on Administrative Justice		Total	474	-	474
		0731000	P.1 Promotion of Administrative Justice	474	-	474
2141	National Gender and Equality Commission		Total	458	-	458
		0621000	P.1 Promotion of Gender Equality and Freedom from Discrimination	458	-	458
2151	Independent Police Oversight Authority		Total	416	-	416
		0622000	P.1 Policing Oversight Services	416	-	416
Total Ministerial, Department and Agencies Expenditures				840,842	657,519	1,498,361

(The Chairperson, Liaison Committee)

Debate arising;

Rising on a point of order pursuant to Standing Order 95, Hon. Junet Nuh claimed to move "That, the mover be called upon to reply";

And the Speaker acceding to claim;

Question put and agreed to;

Thereupon, Mover called upon to reply.

Question put and agreed to (*Motion adopted and Budget Policy Statement approved*)

10. **THE COMMUNITY LAND BILL (NATIONAL ASSEMBLY BILL NO.45 OF 2015)**

Order for Second Reading read;

Motion made and Question proposed –

THAT, the Community Land Bill (National Assembly Bill No.45 of 2015) be now read a Second Time

(The Leader of Majority Party – 01.03.2016)

Debate interrupted on Thursday, March 03, 2016 (Morning Sitting) resumed;

(Change of Chair from the Speaker to the Fourth Chairperson)

Mover replied;

Question of Second Reading deferred to another day;

And the time being thirty minutes past Six O'clock, the Fourth Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

11. **HOUSE ROSE** - at thirty minutes past Six O'clock

M E M O R A N D U M

The Speaker will take the Chair on
Tuesday, March 08, 2016 at 2.30 p.m.