



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – FOURTH SESSION

NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

TUESDAY, DECEMBER 20, 2016 AT 3.00 P. M

ORDER OF BUSINESS

1. The House assembled at Three O'clock.
2. The Proceedings were opened with Prayer.
3. **PRESIDING** – The Honourable Speaker
4. **COMMUNICATION FROM THE CHAIR**

The following Communication was made from the Chair:-

Suspension of Committees' Business

“Honourable Members, today’s sitting marks the culmination of the National Assembly’s Sittings for the Fourth Session of the Eleventh Parliament. As the curtains to the Session draw to a close, I wish to take this opportunity to thank and congratulate all Committees of the House for their exemplary work and service undertaken during the Session. The services rendered by Committees have indeed gone a long way in contributing to the delivery of the overall Constitutional mandate accorded to the National Assembly in the three key areas of representation, legislation and oversight. For this reason, Honourable Members, and in order to give Honourable Members sufficient time to go and interact with their respective constituents with a view to obtaining *wananchi*’s agenda for prioritization in the forthcoming Fifth Session, it is hereby notified that all businesses and activities of all Committees of the House shall stand suspended from Friday, 23rd December 2016 to Monday, 23rd January 2017.

Honourable Members, the suspension, however, shall not apply to the sittings of the Departmental Committee on Justice and Legal Affairs which will consider the suitability of nominee to the position of Chairperson of the Ethics and Anti Corruption Commission and nominees to the Independent Electoral and Boundaries Commission should they be forwarded during the recess period. This is in keeping with the House resolution of 1st December 2016 which allowed the Speaker to forward forthwith names of nominees to relevant Committees to conduct vetting exercise.

I thank you.”

5. MESSAGES

The following two Messages were conveyed by the Honourable Speaker:-

a) Message from the Senate on the Decision of the Senate on the Parliamentary Service (Senate Monitoring & Evaluation) (Procedure for Management of Funds) Regulations, 2016

“Honourable Members, Standing Order 41(5) relating to Messages requires the Speaker to report to the House any Message(s) received from the Senate at a time when the House is not in session, on the day the House next sits. In this regard, Honourable Members, I wish to report that on Wednesday, 7th December 2016, I received a Message from the Senate regarding the Decision of the Senate on the Parliamentary Service (Senate Monitoring & Evaluation) (Procedure for Management of Funds) Regulations, 2016.

The Message states, and I quote:

“...the Senate, by Resolution made on Tuesday, 29th November 2016, pursuant to Standing Order 215(3)(b) and 216 of the Senate Standing Orders, resolved to establish a Joint Committee comprising the following Senators to consider the Parliamentary Service (Senate Monitoring & Evaluation) (Procedure for Management of Funds) Regulations, 2016 –

- 1. Sen. Kiraitu Murungi*
- 2. Sen. Abdirahman Hassan*
- 3. Sen. Beatrice Elachi*
- 4. Sen. Muriuki Karue*
- 5. Sen. (Dr.) Agnes Zani*
- 6. Sen. Billow Kerrow*
- 7. Sen. Stephen Sang*
- 8. Sen. (Prof.) John Lonyangapuo*
- 9. Sen. Peter Mositet*
- 10. Sen. Judith Sijeny*
- 11. Sen. Henry Ole Ndiema*
- 12. Sen. Janet Ong’era*
- 13. Sen. Kimani Wamatangi*
- 14. Sen. Boni Khalwale, and*
- 15. Sen. Christopher Obure”*

Honourable Members, you will recall that on Thursday, 1st December 2016, this House did approve the names of its fifteen (15) Members to form part of the Joint Committee for the purposes of referral and re-consideration of the said Regulations. As you are aware, the formation of this Joint Committee of the two Houses of Parliament was necessitated by the annulling of the Regulations by the National Assembly on 17th November 2016. I therefore wish to call upon the Hon. William Cheptumo, who is the Co-Chairperson of the Joint Committee, to reach out to his Senate counterpart so as to commence the reconsideration process of these Regulations.

I thank you!

b) The Nominee for Appointment as the Chairperson of the Ethics and Anti-Corruption Commission (EACC)

“Honourable Members, pursuant to the provisions of Standing Order No. 42(1) of the National Assembly Standing Orders, I wish to report to the House that I have received a Message from His Excellency the President, seeking National Assembly’s approval of the nominee for appointment as the Chairperson of the Ethics and Anti-Corruption Commission (EACC). In the Message, His Excellency the President conveys that, in exercise of powers vested in him under sections 3 and 5 of the Ethics and Anti-Corruption Commission Act, 2011, he has nominated Archbishop (Rtd.) Eliud Wabukala Wamukekhe for appointment as the Chairperson of the Ethics and Anti-Corruption Commission (EACC).

Honourable Members, it is expected that the nominee will undergo the vetting process in accordance with the provisions of the Public Appointments (Parliamentary Approval) Act, 2011. Section 8 of the said Act provides that the relevant Committee of the House should consider the suitability or otherwise of the nominee and table its Report for consideration by the House within fourteen (14) days from the date when the notification of nomination is conveyed to the House. Further, the Act requires that the public be given a seven (7) days notification to submit their views regarding the suitability or otherwise of the nominee proposed for appointment to an office requiring Parliamentary approval.

In this regard, and in accordance with the provision of Article 259(5)(a) of the Constitution as read together with section 5 of the said Act, the seven (7) days’ notification to the public shall start running on the day following the day when the notice is published in the dailies. Further Section 9 of the said law provides that:-

“If after the expiry of the period for consideration specified in Section 8, Parliament has neither approved nor rejected a nomination of a candidate, the candidate shall be deemed to have been approved.”

Honourable Members, in this regard, I will be asking the Chairperson if the Departmental Committee on Justice and Legal Affairs to seek relevant resolution of the House today, to extend the period for consideration of the nominee as provided for in under section 13 of the Public Appointments (Parliamentary Approval) Act, 2011.

Honourable Members, owing to the pivotal role played by the Office of the Chairperson of the Ethics and Anti-Corruption Commission (EACC) in driving the fight against corruption within our society, it is advisable that the concerned committee expeditiously proceeds to notify the nominee and the public. Thereafter, the Committee should commence the approval hearings and table a Report thereto, at the earliest opportunity to enable the House to consider the Report within the statutory timelines. This Message, together with the resume of the nominee stand committed to the Departmental Committee on Justice and Legal Affairs for consideration.

I thank you.”

6. PETITIONS

- a) The Hon. Speaker, pursuant to Standing Order 225(2)(b), conveyed a Petition calling for the Removal of Ban on consumption of foods derived from genetically modified organisms (GMOs) and for issuance of permit for national performance trial of locally developed maize on behalf of the Members of Kenya Biotechnology Consortium (KUBICO).
- b) The Nominated Member (Hon. Isaac Mwaura) presented a Petition on behalf of calling for the Enactment of legislation on prevention and management of Sick Cell Anemia on behalf of Children Sick Cell Foundation of Kenya.

7. PAPERS

The following Papers were laid on the Table of the House:

(i) The Leader of the Majority Party:

- a) The Reports of the Auditor-General on the Financial Statements in respect the following Constituencies for the year ended 30th June, 2015 and the certificates therein:-

- | | |
|--------------------------------|---------------------------------|
| 1) Isiolo South Constituency; | 17) Yatta Constituency; |
| 2) Kibwezi East Constituency; | 18) Kitui Central Constituency; |
| 3) Kibwezi West Constituency; | 19) Shinyalu Constituency; |
| 4) Kitui East Constituency; | 20) Bomet Central Constituency; |
| 5) Laisamis Constituency; | 21) Samburu East Constituency; |
| 6) Saku Constituency; | 22) Ainamoi Constituency; |
| 7) Budalangi Constituency; | 23) Nyeri Town Constituency; |
| 8) Igembe North Constituency; | 24) Baringo North Constituency; |
| 9) Maara Constituency; | 25) Kilome Constituency; |
| 10) Webuye West Constituency; | 26) Kuresoi South Constituency; |
| 11) Igembe South Constituency; | 27) Bahati Constituency; |
| 12) Mbeere South Constituency; | 28) Laikipia East Constituency; |
| 13) Ikolomani Constituency; | 29) Gichugu Constituency; |
| 14) Tigania East Constituency; | 30) Ol' Joro Orok Constituency; |
| 15) Mwingi West Constituency; | 31) Kiambu Town Constituency; |
| 16) Manyatta Constituency; | 32) Narok East Constituency; |

- b) The Reports of the Auditor-General on the Financial Statements of Masinde Muliro University of Science and Technology for the year ended 30th June, 2015 and the certificates therein
- c) The National Climate Change Framework Policy –Sessional Paper No. 3 of 2016

(ii). The Chairperson of Budget and Appropriations Committee

The Report of the Budget and Appropriations Committee on its consideration of the Budget Policy Statement for the FY 2017/2018.

(iii). Chairperson, Departmental Committee on Lands

Report of the Departmental Committee on Lands on the Petition by Ngiiri Market Squatters in Mutitu Location, Mbeere North Constituency on ceding of

part of Tana and Athi River Development Authority (TARDA) Land to Ngiiri Market Squatters.

8. NOTICE OF MOTION

THAT, this House adopts the Report of the Budget and Appropriations Committee on its consideration of the Budget Policy Statement for the FY 2017/2018, laid on the Table of the House today, Tuesday, 20th December 2016.

(Chairperson, Budget and Appropriations Committee)

9. NOTICE OF MOTION

THAT, this House adopts the Report of the Departmental Committee on Lands on the Petition by Ngiiri Market Squatters in Mutitu Location, Mbeere North Constituency on ceding of part of Tana and Athi River Development Authority (TARDA) Land to Ngiiri Market Squatters, laid on the Table of the House today, Tuesday, 20th December 2016.

(Chairperson, Departmental Committee on Lands)

10. PROCEDURAL MOTION - ALTERATION OF THE CALENDAR OF THE HOUSE (REGULAR SESSIONS)

Motion made and Question proposed -

THAT, pursuant to the provisions of Standing Order 28(4), relating to the Calendar of the House, this House **resolves** to alter its Calendar for the Fourth Session, so that-

- (i) the Fourth Session terminates on the 23rd Day of January, 2017; and,
- (ii) the House resumes for its *regular sessions* at the commencement of the Fifth Session on Tuesday, the 24th Day of January, 2017 at 2.30 pm.

(The Leader of the Majority Party)

Mover Replied;

Question Put and Agreed to.

11. PROCEDURAL MOTION - EXTENSION OF TIME FOR THE VETTING OF THE NOMINEE FOR APPOINTMENT AS CHAIRPERSON OF THE ETHICS AND ANTI-CORRUPTION COMMISSION (EACC)

Motion made and Question proposed -

THAT, pursuant to the provisions of Section 13 of the Public Appointments (Parliamentary Approval) Act, 2011, this House **resolves** to extend time for conducting the vetting of the nominee for Appointment as the Chairperson of the Ethics and Anti-Corruption Commission (EACC) by a period not exceeding fourteen (14) days from 4th January 2017.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Mover Replied;

Question Put and Agreed to.

12. MOTION – APPOINTMENT OF MEMBERS TO THE COMMISSION FOR REVENUE ALLOCATION

Motion made and Question proposed -

THAT, this House adopts the Report of the Departmental Committee on Finance, Planning and Trade on the Vetting of Nominees for Appointment to the Commission for Revenue Allocation, laid on the Table of the House on Tuesday, December 20, 2016 (Morning Sitting), and pursuant to the provisions of Article 215 of the Constitution and Section 9 of the Commission of Revenue Act, 2011, **approves** the appointment of the following persons as Members of the Commission of Revenue Allocation:-

- a) Prof. Edward Akong'o Oyugi;
- b) Mr. Peter Gachuba Njeru;
- c) Mr. Kishanto Suuji;
- d) Dr. Irene C. Koech Asienga;
- e) Ms. Fouzia Abdikadir Dahir;
- f) Mr. Humprey Wattanga; and
- g) Prof. Peter Kiko Kimuyu.

(Chairperson, Departmental Committee on Finance, Planning and Trade)

Debate Arising;

Mover Replied;

Question Put and Agreed to.

13. MOTION – APPOINTMENT OF MEMBERS TO NATIONAL CLIMATE CHANGE COUNCIL

Motion made and Question proposed -

THAT, pursuant to Section 7 of the Climate Change Act, 2016, Section 8(1) of the Public Appointments (Parliamentary Approval) Act, 2011 and Standing Order 45(4), this House adopts the Report of the Departmental Committee on Environment and Natural Resources on the vetting of the Nominees for appointment as Members of the National Climate Change Council, laid on the Table of the House on Tuesday, December 20, 2016 (Morning Sitting), and **approves** the recommendations of the Committee as follows:-

- (i) **Approves** the appointment of Messrs. Suresh Patel and John Kioli as Members of the National Climate Change Council;
- (ii) **Rejects** the appointment of Ms. Cynthia Wechabe and Dr. Jane Mutheu as Members of the Climate Change Council; and
- (iii) **Recommends** that the appointing authority submits nominees of the female gender to represent the marginalized communities and Commission for

University Education as prescribed by Public Appointments (Parliamentary Approval) Act.

(Hon. Chachu Ganya, Member,
Departmental Committee on Environment and Natural Resources)
Debate Arising;
Mover Replied;
Question Put and Agreed to.

**14. MOTION -ADOPTION OF THE REPORT ON THE BUDGET POLICY
STATEMENT AND THE DEBT MANAGEMENT STRATEGY
FOR 2017/2018 AND THE MEDIUM TERM**

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 Budget and Appropriations Committee on the Budget Policy Statement and the Debt Management Strategy for 2017/2018 and the Medium Term, laid on the Table of the House on Tuesday, December 20, 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.

(Hon. Mutava Musyimi, Chairperson, Budget and Appropriations Committee)

Debate arising;

Rising in his place on a Point of Order pursuant to the provisions of Standing Order 95, the Member for Kipipiri Constituency (Hon. Samuel Gichigi) claimed to move 'that the mover be now called upon to reply.'

And the Speaker acceding to the claim;
Question put and agreed to;

Over 30 Members rising in their Places in Support of the Claim for Division;

Pursuant to Standing Order 72(1)(b), the Honourable Speaker Declared a Division and Ordered that the Division Bell be rung for ten (10) minutes in accordance to Standing Order 73(1);

Members Voted;

Results of Division: -Ayes 144 (105 voting electronically, 39 voting manually);
-Nays 90 (76 voting electronically, 14 voting manually);

Thereupon, the Question on Motion that the Mover be called upon to reply Agreed to;

Mover Replied;
Question Put and agreed to

**15. MOTION –REPORT OF THE COMMITTEE ON DELEGATED LEGISLATION
ON THE ELECTION CAMPAIGN FINANCING REGULATIONS,
2016**

Motion before the House:

THAT, this House **adopts** the Report of the Committee on Delegated Legislation on its Consideration of the Election Campaign Financing Regulations, 2016, laid on the Table of the House today Tuesday, December 20, 2016 (Morning Sitting), and-

- (a) pursuant to the provisions of Sections 18 and 19 of the Statutory Instruments Act, 2013 and Standing Order 210(4) (b), **rejects** the Draft Election Campaign Financing Regulations, 2016 as they contravene Section 5 of the Election Campaign Financing Act, 2013 and Section 13(a) of the Statutory Instruments Act, 2013; and,
- (b) **resolves** that the Justice and Legal Affairs Committee introduces relevant legislation to amend appropriate sections of the Election Campaign Financing Act, 2013 particularly sections 5 and 18 to give suitable timelines for compliance to enable the Independent Electoral and Boundaries Commission (IEBC) submit fresh regulations for approval.

(Hon. William Cheptumo, Chairperson, Committee on Delegated Legislation)

Motion Withdrawn by the Mover under the provisions of Standing Order 51(1).

**16. PROCEDURAL MOTION – EXTENSION OF SITTING TIME UNTIL CONCLUSION OF
BUSINESS UNDER ORDER NO. 13 ON THE ORDER
PAPER**

Motion made-

THAT, pursuant to the provisions of Standing Order 30(3)(a) of the National Assembly Standing Orders, this House **resolves** to extend its sitting time until the Conclusion of Business under Order Number 13 (Report of the Committee of the Whole House on the Election Laws (Amendment) Bill (National Assembly Bill No. 3 of 2015) on the Order Paper.

(The Leader of the Majority Party)

Question Proposed;

Question Put and Agreed to;

Over 30 Members stood in the Places in Support of the Claim for Division;

Pursuant to Standing Order 72(1)(b), the Honourable Speaker Declared a Division and Ordered that the Division Bell be rung for ten (10) minutes in accordance to Standing Order 73(1);

Division Not undertaken due to Grave Disorder in the House.

Pursuant to Standing Order 112(1), the Honourable Speaker **adjourned** the House on account of Grave Disorder in the Assembly.

And the time being thirty minutes past Eight O'clock, The Honourable Speaker interrupted the Proceedings and adjourned the House without Question put pursuant to Standing Order 112(1).

17. HOUSE ROSE - at thirty minutes past Eight O'clock.

M E M O R A N D U M

The Speaker will take the Chair on
Tuesday, 24th January 2017 at 2.30pm

---X---