



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – THIRD SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

TUESDAY, MARCH 05, 2019

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the Honourable Speaker
4. **MESSAGES**

The Speaker conveyed the following Messages –

i) Message from the President on Nominee for Appointment as Cabinet Secretary for Education

Honourable Members,

Pursuant to the provisions of Standing Order No. 42, I wish to convey the following Message from His Excellency the President regarding nomination of a person for appointment as Cabinet Secretary for Education.

In the Message, His Excellency the President, conveys that, in exercise of powers conferred by Article 152(2) of the Constitution, as read together with sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act, 2011, he nominates **Prof. George Albert Omoro Magoha** for appointment to the office of Cabinet Secretary for Education.

Honourable Members, pursuant to the provisions of Standing Order 204(4), I hereby refer the Message together with the curriculum vitae of the nominee to the *Committee on Appointments* for consideration.

Honourable Members, section 8 of the Public Appointments (Parliamentary Approval) Act provides that, unless otherwise provided in law, the Committee to which such nomination is referred shall consider the matter and table a report in the House within fourteen (14) days from the date of notification.

It is therefore imperative that the Committee immediately commences the process of the consideration of approval of the nominee to enable speedy conclusion within the set

timelines. For the avoidance of doubt, the Committee should notify the nominee and the general public of the time and place of holding the approval hearings by **7th March, 2019**, following which the approval hearings should commence. Thereafter, the Committee should table its report in the House by **Tuesday, March 19, 2019**.

I thank you!

ii) Message from the Senate on Passage of Six Bills

Honourable Members, pursuant to the provisions of Standing Order 41, I wish to report to the House that I have received six Messages from the Senate regarding the passage of the following Bills:-

- (i) The Petroleum Bill (National Assembly Bill No. 48 of 2017);
- (ii) The Energy Bill (National Assembly Bill No. 50 of 2017);
- (iii) The Copyright (Amendment) Bill (National Assembly Bill No. 33 of 2017);
- (iv) The Irrigation Bill (National Assembly Bill No. 46 of 2017);
- (v) The Public Private Partnerships (Amendment) Bill (National Assembly Bill No. 52 of 2017); and
- (vi) The Urban Areas and Cities (Amendment) Bill (Senate Bill No. 4 of 2017).

Honourable Members, the Energy Bill, 2017 and the Petroleum Bill, 2017 were passed by the Senate on Wednesday, 20th February, 2019 in the form passed by the National Assembly on 7th June 2018 and 12th June 2018, respectively. In this regard, I will now proceed to present the two Bills to H.E. the President for assent in accordance with the provisions of Article 109 of the Constitution.

Honourable Members, similarly, the Senate, on Wednesday, 20th February, 2019, also considered and concurred with the National Assembly's amendments to the Urban Areas and Cities (Amendment) Bill (Senate Bill No. 4 of 2017), thereby completing the bicameral processing of the said Bill. This being a Senate Bill, it follows that the Speaker of the Senate will refer the Bill to H.E. the President for assent in accordance with Article 112(2)(a) of the Constitution.

Honourable Members, with regard to the Copyright (Amendment) Bill, 2017; the Irrigation Bill, 2017; and the Public Private Partnerships (Amendment) Bill, 2017, the Senate passed the three Bills with amendments and now seeks the concurrence of the National Assembly on the amendments to the said Bills in accordance with the provisions of Article 112(1)(b) of the Constitution.

Honourable Members, I now direct the Clerk to circulate the amendments to all Members in accordance with Standing Order 145. In this regard, the Senate amendments to the said Bills stand committed to the following Departmental Committees for consideration:-

S/No.	Bill	Departmental Committee
1.	The Copyright (Amendment) Bill (National Assembly Bill No. 33 of 2017)	Communication, Information and Innovation
2.	The Irrigation Bill (National Assembly Bill No. 46 of 2017)	Agriculture and Livestock

3.	The Public Private Partnerships (Amendment) Bill (National Assembly Bill No. 52 of 2017)	Finance and National Planning
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(No.13)

TUESDAY, MARCH 5, 2019

(088)

Honourable Members, the Committees are expected to submit their reports before the amendments are considered by the House. I wish to remind the House that the National Assembly will only consider the amendments made by the Senate to the Bills, and not any other part of the Bills.

I thank you”.

5. **PETITIONS**

The Member for Butere Constituency (Hon. Tindi Mwale) presented a Petition regarding release of examination results for Mr. Nicky Odongo Lubanga.

Petition was referred to the Departmental Committee on Education and Research.

6. **PAPERS LAID**

The following Papers were laid on the Table: –

a). By the Leader of the Majority Party

- (i) Sessional Paper No.1 of 2019 on a Policy Framework for Reforming Education and Training for Sustainable Development in Kenya from the Ministry of Education
- (ii) A Framework for formulating a National Land Policy for Kenya, Concept Paper from the National Land Commission
- (iii) The draft Law Society of Kenya (General) Regulations, 2019 and the Explanation Memorandum from the Law Society of Kenya
- (iv) Annual Report and financial Statements of Kenya National Commission on Human Rights (KNCHR) for the period 2016/17
- (v) Reports of the Auditor General on the financial statements and the certificates therein for the year ended 30th June, 2018 in respect of –
 - (a) Unclaimed Financial Assets Authority;
 - (b) Chuka University;
 - (c) Registration of Certified Public Secretaries Board;
 - (d) Contingencies Fund; and,
 - (e) Kenya Marine and Fisheries Research Institute.
- (vi) Reports of the Auditor General on the financial statements and the certificates therein for the year ending 30th June, 2017 for the following constituencies:
 - (a) Narok South;
 - (b) Ainamoi; and,
 - (c) Bomet Central

b). By the Chairperson, Departmental Committee on Communication, Information and Innovation (Hon. Kisang Kipkemoi)

Report of the Departmental Committee on Communication, Information and Innovation on Inquiry into Legislative and Regulatory Gaps affecting Competition in the Telecommunications Sub-Sector.

c). By the Chairperson, Departmental Committee on Administration and National Security (Hon. Paul Koinange)

Report of the Departmental Committee on Administration and National Security on the Vetting of Nominees for Appointment as Chairperson and Members of the National Police Service Commission.

7. **NOTICES OF MOTION**

The following Notices were given -

(i) **Notice of Motion – Report on the inquiry into Legislative and Regulatory Gaps affecting Competition in the Telecommunications Sub-Sector**

THAT, this House adopts the Report of Departmental Committee on Communication, Information and Innovation on the Inquiry into Legislative and Regulatory Gaps affecting Competition in the Telecommunications Sub-Sector, laid on the Table of House on Tuesday, March 5, 2019.

(Hon. William Kisang’ -Chairperson, Communication, Information & Innovation Committee)

(ii) **Notice of Motion - Vetting of Nominees for Appointment as Chairperson and Members to the National Police Service Commission**

THAT, this House adopts the Report of the Departmental Committee on Administration and National Security on the Vetting of Nominees for Appointment as Chairperson and Members to the National Police Service Commission, *laid on the Table of House on Tuesday, March 5, 2019*, and pursuant to the provisions of Article 250(2)(b) of the Constitution, section 6(6) of the National Police Service Commission Act, and section 8 of the Public Appointments (Parliamentary Approval) Act, **approves** the appointment of the following persons to the National Police Service Commission:

- | | |
|------------------------------------|----------------|
| (i) Mr. Eliud Ndung'u Kinuthia | - Chairperson; |
| (ii) Ms. Lilian Mutio Kiamba | - Member; |
| (iii) Mr. Eusebius Karuti Laibuta | - Member; |
| (iv) Mr. Naphtaly Kipchirchir Rono | - Member; |
| (v) Dr. Alice Atieno Otwala | - Member; and, |
| (vi) Mr. John Tentemo Ole Moyaki | - Member. |

(Hon. Paul Koinange -Chairperson, Departmental Committee on Administration and National Security)

(iii) **Notice of Motion – Report on Promotion and popularization of the Ratification of the Protocol on the free movement of persons**

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on promotion and popularization of the Ratification of the Protocol on the free movement of persons and its implementation roadmap, laid on the Table of House on Tuesday, November 20, 2018.

(Hon. Ali Dido Rasso -Member, Departmental Committee on Defence and Foreign Relations)

(iv) **Notice of Motion – Report on the inquiry into the Kenya-Somalia Border Securitization Project**

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on the inquiry into the Kenya-Somalia Border Securitization Project, laid on the Table of House on Tuesday, November 20, 2018.

(Hon. Ali Dido Rasso -Member, Departmental Committee on Defence and Foreign Relations)

8. **QUESTIONS**

The following Questions were asked –

- (i) Questions by Private Notice-
- a. Question By Private Notice No.005/2019 by the Member for Mwala (Hon. Vincent Musyoka) regarding attack on Makiliva Sub-location residents by armed gangsters under the protection of police officers. Question referred for response before the Departmental Committee on Administration and National Security.
 - b. Question By Private Notice No.006/2019 by the Member for Kibwezi East (Hon. Jessica Mbalu) regarding the murder of Mr. George Mutua Mutunga of I/D No. 22516898. Question referred for response before the Departmental Committee on Administration and National Security.
 - c. Question By Private Notice No.007/2019 by the Member for Butere (Hon. Tindi Mwale) regarding unapproved courses being offered in universities in the country. Question referred for response before the Departmental Committee on Education and Research.
- (ii) Question No.049/2019 by the Member for Lamu County (Hon. Obo Mohamed Ruweida) regarding acquisition of uniform by National Police Reservists and payment of compensation for services offered in Lamu County. Question referred for response before the Departmental Committee on Administration and National Security.
- (iii) Question No.058/2019 by the Member for Runyenjes (Hon. Eric Muchangi Njiru) regarding status of construction of the Kyeni-Kathanjuri-Karururmo Road. Question referred for response before the Departmental Committee on Transport, Public Works and Housing.
- (iv) Question No.075/2019 by the Member for Githunguri (Hon. Gabriel Kago) regarding implementation status of the General Packet Radio Service (GPRS)-enabled Electronic Tax Registers. Question referred for response before the Departmental Committee on Finance and National Planning.
- (v) Question No.076/2019 by the Member for Mwingi Central (Hon. Gideon Mulyungi) regarding human-wildlife conflicts in Mwingi Central Constituency. Question referred for response before the Departmental Committee on Environment and Natural Resources.

9. **STATEMENTS**

The following Statements were made –

- (i) The Member for Bomachoge Borabu (Hon. Zadoc Ogutu) made a statement regarding extra-judicial killings of residents in Bomachoge Borabu Constituency by police officers. He informed the House that since September 2018, the Constituency had witnessed the killing of two innocent persons, while three people had been maimed by police officers. He called upon the Ministry of Interior and Coordination of National Government to expeditiously end this trend and take stern measures against the culprits as well as ensure that Police Officers protect citizens.
- (ii) The Member for Malindi (Hon. Aisha Jumwa) made a Personal Statement regarding the decision the Orange Democratic Movement to discharge her from the Party. She observed that Chapter 4 of the Constitution provides for fundamental freedoms including freedom of speech and association. She added that she supported the handshake spearheaded by H. E. President Uhuru Kenyatta and the Rt. Hon. Raila Odinga observing that it was an important rallying call for Kenyans to embrace each other. She stated that she had been unjustly condemned by her Party for building bridges with her fellow Kenyans and urged the people of Malindi and Coast region to remain calm.

10. **MOTION – REPORT OF THE BUDGET AND APPROPRIATIONS COMMITTEE ON THE 2019/2020 BUDGET POLICY STATEMENT**

Motion made and Question proposed –

THAT, this House adopts the Report of the Budget and Appropriations Committee on the Budget Policy Statement and the Debt Management Strategy for 2019/2020 and the Medium-Term, *laid on the Table of the House on Wednesday, February 27, 2019.*

(Chairperson, Budget & Appropriations Committee – 27.02.2019)

Debate on the Motion having been concluded on Thursday, February 28, 2019;

Question put and agreed to.

11. **MOTION - REPORT ON AUDITED FINANCIAL STATEMENTS FOR CONSTITUENCIES IN KISUMU COUNTY**

Motion made and Question proposed –

THAT, this House **adopts** the Third Report of the Special Funds Accounts Committee on Audited Financial Statements for the National Government Constituencies Development Fund for Constituencies in Kisumu County for the Financial Years 2013/14, 2014/15 and 2015/16, *laid on the Table of the House on Wednesday, November 28, 2018.*

(Chairperson, Special Funds Accounts Committee – 27.02.2019)

Debate had been interrupted on Wednesday, February 27, 2019 (Afternoon Sitting);

Rising in his place on Order pursuant to Standing Order 95, the Hon. Aden Duale, Leader of Majority party claimed to move that the Mover be called upon to reply;

And the Speaker acceded to the claim; Question that, the Mover be called upon to reply put and agreed to.

Mover Replied;

Question put and agreed to.

12. COMMITTEE OF THE WHOLE HOUSE

Order for Committee read;

IN THE COMMITTEE

The Deputy Speaker in the Chair

The County Governments (Amendment) Bill (Senate Bill No. 11 of 2017)

Clause 2 - agreed to

Clause 3 - amendment proposed

THAT, Clause 3 of the Bill be deleted and substituted with the following new clause —

“3. The Principal Act is amended by inserting the following new section immediately section 7A—

7B. (1) Whenever there is a new county assembly, the President by notice in the *Gazette*, shall appoint the place and date for the first sitting of every new county assembly which shall be not more than thirty days after the election.

(2) A sitting of a county assembly may be held at any place within a respective county and may commence at anytime the Assembly appoints.”

(Hon. Amos Kimunya)

Debate on the amendment arising;

Question on the amendment put and negatived;

Clause 3 - not amended

Clause 3 - agreed to

Clause 4 - agreed to

Clause 5 - agreed to

Clause 6 - amendment proposed

THAT, Clause 6 of the Bill be amended in the proposed amendments to section 9 by deleting the proposed new section 9A and substituting therefor—

Speaker of a county **9A.** (1) The speaker of a county assembly shall be elected, in accordance with standing orders of the respective county assemblies,

assembly. from among persons who are eligible to be elected as members of a county assembly but are not such members.

(2) In the absence of the speaker of the county assembly or in matters that directly affect the speaker, the county assembly shall elect a member to act as speaker as contemplated under Article 178(2)(b) of the Constitution.

(3) Unless otherwise removed, the member elected under subsection (2), shall, in the absence of the Speaker, preside over the sittings of the assembly for the term of the county assembly.

(Chairperson, Administration and National Security)

(No.13)

TUESDAY, MARCH 5, 2019

(093)

Amendment Withdrawn by the Mover;

Clause 6 - not amended

Clause 6 - agreed to

Clause 7 - amendment proposed

THAT, Clause 7 of the Bill be amended in the proposed amendments to section 11 by deleting the proposed new section 11A

(Chairperson, Administration and National Security)

Amendment Withdrawn by the Mover;

Clause 7 - amendment proposed

THAT, clause 7 of the Bill be amended—

(a) in the proposed new section 11—

(i) by deleting the words “at least two-thirds of all the members of the county assembly” appearing in subsection (1)(c) and substituting therefor the words “not less than seventy five percent of all the members of the county assembly”;

(ii) by inserting the following new subsections immediately after subsection (8)—

(9) If a motion under subsection (8) is supported by not less than seventy five percent of all the members of the county assembly —

(a) the deputy speaker of the county assembly shall inform the Speaker of the Senate of that resolution within two days; and

(b) the speaker shall not perform any of the functions of the office pending the outcome of the proceedings required by this section.

(No.13)

TUESDAY, MARCH 5, 2019

(094)

(10) Within seven days after receiving notice of a resolution from the deputy speaker of the county assembly—

(a) the Speaker of the Senate shall convene a meeting of the Senate to hear charges against the speaker; and

(b) the Senate, by resolution, may appoint a special committee comprising eleven of its members to investigate the matter.

(11) A special committee appointed under subsection (10)(b) shall—

(a) investigate the matter; and

(b) report to the Senate within ten days on whether it finds the particulars of the allegations against the speaker to have been substantiated.

(12) The speaker shall have the right to appear and be represented before the special committee during its investigations.

(13) If the special committee reports that the particulars of any allegation against the speaker—

(a) have not been substantiated, further proceedings shall not be taken under this section in respect of that allegation; or

(b) have been substantiated, the Senate shall, after according the speaker an opportunity to be heard, vote on the impeachment charges.

(14) If a majority of all the members of the Senate vote to uphold any impeachment charge, the speaker shall cease to hold office.

(15) If a vote in the Senate fails to result in the removal of the speaker, the Speaker of the Senate shall notify the deputy speaker of the concerned county assembly accordingly and the motion by the assembly for the removal of the speaker on the same charges may only be re-introduced to the Senate on the expiry of six months from the date of such vote.

(Hon. Faith Gitau)

Debate on the amendment arising;

Question on the amendment put and negatived;

Clause 7 - not amended

Clause 7 - agreed to

Clause 8 - amendment proposed

THAT, Clause 8 of the Bill be amended in the proposed amendment to section 25 in the new subsection (2) by deleting the words “and the county Gazette” appearing immediately after the words *Kenya Gazette*.

(Chairperson, Administration and National Security)

Debate on the amendment arising;

Question on the amendment put and agreed to;

Clause 8 - as amended agreed to

Clause 9 - agreed to

Clause 10 - agreed to

Clause 11 - amendment proposed

THAT, Clause 11 of the Bill be amended in the proposed amendments to section 31 by deleting the proposed new paragraph (a) and substituting therefor—

“(a) may dismiss a county executive member, if the governor considers appropriate and shall give reasons for dismissal”

(Chairperson, Administration and National Security)

Debate on the amendment arising;

Question on the amendment put and agreed to;

Clause 11 - as amended agreed to

Clause 12 - agreed to

Clause 13 - agreed to

Clause 14 - agreed to

Clause 15 - amendment proposed

THAT, The Bill be amended by deleting clause 15 and substituting therefor—

Amendment to section 44 of No. 17 of 2012.

15. Section 44 the principal Act is amended by-

(a) deleting subsection(2) and substituting therefor—

“(2) A person shall be qualified for appointment as a county secretary under subsection (1), if that person —

(a) is a citizen of Kenya;

(b) holds a degree from a university recognized in Kenya;

(c) has at least ten years relevant professional experience;

(d) has at least five years’ experience in a leadership position at senior management level in a public service or private sector organization; and

(e) meets the requirements of leadership and integrity as prescribed in Chapter Six of the Constitution.

(b) inserting the following new subsections immediately after subsection (2)–

(2A) The Governor shall, for the purpose of competitive recruitment of a county secretary under subsection (2), constitute a selection panel.

(2B) The selection panel shall consist of the following persons-

(a) a chairperson, not being a public officer;

(b) one person from the private sector;

(c) an Advocate of the High Court of Kenya, who is a member of the Law Society of Kenya;

(d) an accountant who is a member of the Institute of Certified Public Accountants of Kenya; and

(e) one person from an association representing workers.

(2C) The provisions of section 58A shall, with such modification as shall be necessary apply to the

recruitment of a county secretary.

(2D) Upon interviewing the applicants for the position of county secretary-

(No.13)

TUESDAY, MARCH 5, 2019

(097)

(i) the selection panel shall submit to the governor the names of two applicants who qualify for appointment as county secretary; and

(ii) the governor shall submit the name of one applicant to the county assembly for approval for appointment as county secretary by the governor.

(2E) The county secretary shall hold office for a term of five years and shall be eligible for re-appointment once.

(2F) The county secretary shall be an *ex officio* member of the County Executive Committee with no voting rights.

(c) inserting the following new subsection immediately after subsection (3) –

(3A) The county secretary may be removed from office on the following grounds—

(a) inability to perform functions of the office arising out of physical or mental infirmity;

(b) incompetence;

(c) gross misconduct;

(d) bankruptcy; or

(e) violation of the Constitution.

(3B) Before removal under subsection (3A), the county secretary shall be informed, in writing, of the reasons for the intended removal, and shall be given an opportunity to put a defence against any such allegations, either in person or through a representative.

(3C) Subject to subsection (3A), (3B) and conditions of appointment, a county secretary may be dismissed by the governor.

Debate on the amendment arising;

Question on the amendment put and agreed to;

Clause 15 - as amended agreed to

Clause 16 - agreed to

Clause 17 - agreed to

Clause 18 - amendment proposed

THAT, clause 18 of the Bill be amended in the proposed new section 58A (2)—

(a) by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) two persons nominated by the Association of Professional Societies in East Africa;

(b) by deleting paragraph (d).

(Hon. Thuku Kwenya)

Amendment Declared to be Overtaken by Events by the Chair;

Amendment Not Considered;

Clause 18 - not amended

Clause 18 - agreed to

Clause 19 - agreed to

Clause 20 - agreed to

Clause 21 - agreed to

Clause 22 - agreed to

Clause 23 - agreed to

Clause 24 - agreed to

Clause 25 - amendment proposed

THAT, Clause 25 of the Bill be amended in the introductory paragraph by deleting the words “deputy speaker” appearing after the word “serving as”

(Chairperson, Administration and National Security)

Amendment Withdrawn by the Mover;

Clause 25 - not amended

Clause 25 - agreed to

New Clause 6A - New Clause 6A proposed

THAT, the Bill be amended by inserting the following new clause immediately after clause 6—

Amendment to section 10 of No. 17 of 2012. **6A.**The principal Act is amended in section 10 by inserting the following new subsection immediately after subsection (4)—

(5) The procedure for removal of the Speaker under section 11 (2) to (8) of this Act shall apply, with necessary modifications to the removal of —

(a) the leader of majority party; and

(b) the leader of minority party.

(Hon. Moses Kuria)

Amendment Dropped on account of the absence of the Mover;

Amendment Not Considered;

New Clause 6A - not introduced into the Bill

Title - agreed to

Clause 1 - agreed to

Bill to be reported with amendments;

13. **HOUSE RESUMED** - the Fourth Chairperson in the Chair

The County Governments (Amendment) Bill (Senate Bill No.11 of 2017)

Bill reported with amendments;

Motion made and Question proposed –

THAT, the House do agree with the Committee in its Report.

(Chairperson, Administration and National Security)

Question on the Motion deferred.

14. **MOTION – REPORT ON THE DISBURSEMENTS OF FUNDS TO THE NATIONAL GOVERNMENT –CONSTITUENCIES DEVELOPMENT FUND**

Motion made and Question proposed-

THAT, this House **adopts** the Report of the Select Committee on National Government Constituencies Development Fund on the Status of Disbursements of Funds to the National Government Constituencies Development Fund as at February 22, 2019, *laid on the Table of House on February 26, 2019.*

(Chairperson, Select Committee on National Government Constituencies Development Fund)

Debate arising;

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

15. **HOUSE ROSE** - at Seven O'clock

M E M O R A N D U M

The Speaker will take the Chair on
Wednesday, March 06, 2019 at 9.30 a.m.

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