



REPUBLIC OF KENYA

Approved
Boss
1st Dec. 2022

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – FIRST SESSION – 2022

DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON LABOUR

REPORT ON THE APPROVAL HEARINGS OF:

1. MR. GEOFFREY KAITUKO, NOMINEE FOR APPOINTMENT AS PRINCIPAL SECRETARY, STATE DEPARTMENT FOR LABOUR AND SKILLS DEVELOPMENT; AND
2. MR. AMOS GATHECHA, EBS, NOMINEE FOR APPOINTMENT AS PRINCIPAL SECRETARY, STATE DEPARTMENT FOR PUBLIC SERVICE

CLERK'S CHAMBERS

DIRECTORATE OF DEPARTMENTAL COMMITTEES

PARLIAMENT BUILDINGS

NAIROBI

THE NATIONAL ASSEMBLY	
DATE: 01 DEC 2022	
THURSDAY	
TABLED BY:	CHAIR, DC - LABOUR
CLERK AT THE TABLE:	HON. ERIC MUCHANGI MP
	Benson Inzofu

DECEMBER 2022

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LIST OF ABBREVIATIONS AND ACRONYMS

H.E.	-	His Excellency
KRA	-	Kenya Revenue Authority
EACC	-	Ethics and Anti-Corruption Commission
EBS	-	Elder of the Burning Spear
DCI	-	Directorate of Criminal Investigations
HELB	-	Higher Education Loans Board
ORPP	-	Office of the Registrar of Political Parties
PAPAA	-	Public Appointments (Parliamentary Approval) Act
UDA	-	United Democratic Alliance
ODM	-	Orange Democratic Movement

ANNEXURES

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CHAIRPERSON'S FOREWORD

This report contains proceedings of the Departmental Committee on Labour during the approval hearings of Mr. Geoffrey Kaituko, nominee for appointment as Principal Secretary, State Department for Labour and skills Development and Mr. Amos Gathecha, EBS, nominee for appointment as Principal Secretary, State Department for Public Service as requested by H.E. the President and communicated to the House by the Speaker on Thursday, 3rd November 2022.

Pursuant to Article 155(3) (b) of the Constitution, Section 5 of the PAPAA and Standing Order 45(1), H.E. the President notified the National Assembly of the nomination of fifty-one (51) Principal Secretaries to various State Departments vide a letter dated 2nd November 2022. The Hon. Speaker pursuant to Standing Order 42(1) vide a communication made on Thursday, 3rd November 2022 conveyed to the House the Message from H.E. the President and subsequently referred names of the nominees, curricula vitae, and the report of the selection panel on their recruitment to Departmental Committees for approval hearings. While referring the matter to the Committees, the Speaker directed that the Committees undertake the vetting exercise within twenty-eight (28) days pursuant to Section 8 of the Public Appointments Parliamentary Approval Act (No. 33 of 2011). The Speaker further directed the Clerk of the National Assembly to notify the nominees and the general public by placing adverts in two newspapers of nationwide circulation and the Parliamentary Website of the time and place of holding the approval hearings by Friday, 4th November 2022.

In compliance with Article 118 (b) of the Constitution and section 6 (4) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), the Clerk of the National Assembly placed an advertisement in the print media on Friday, 4th November 2022 informing the public of the nomination, date, time and place of the approval hearing. He also invited the public to submit memoranda by way of written statements on oath (*affidavit*) on the suitability of the nominees in conformity with section 6 (9) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011). The memoranda were to be received on or before Friday, 11th November 2022 at 5.00 p.m. (East African Time). At the close of the submission deadline, the Committee had not received any memorandum for or against the two nominees' suitability.

The Clerk of the National Assembly also wrote to Kenya Revenue Authority (KRA), Ethics and Anti-Corruption Commission (EACC), Directorate of Criminal Investigations (DCI), Higher Education Loans Board (HELB) and Office of the Registrar of Political Parties (ORPP) seeking references and background checks relating to the suitability of the nominee.

The Speaker communicated on 16th November, 2022 on the suspension of vetting of nominees to Principal Secretaries awaiting the court determination by the employment and labour court who had issued conservatory stay orders. The inter-parties hearing was held on Tuesday 29th November, 2022 and the petitions dismissed. Thereafter the Speaker communicated the same to the House and directed Committees to resume the approval hearings and table their reports once concluded.

The nominees appeared before the Committee on Wednesday, 30th November 2022 for vetting. The Committee examined their suitability based on the criteria set out in Section 7 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011). In addition, the Committee examined their academic credentials, relevant experience, knowledge of sector issues and on leadership and integrity. The Committee paid due regard to the procedure used to arrive at the nominees; any constitutional or statutory requirements relating to the office in question and suitability of the nominees

for the appointment proposed having regard to whether the nominees' abilities, experience and qualities meet the needs of the State Departments.

Committee Recommendation

The Committee having held approval hearings of the nominees regarding their suitability, observed that due process was followed in the recruitment process as provided for under Article 155(3) (b) of the Constitution and the Public Appointments (Parliamentary Approval Act) (No. 33 of 2011). The Committee therefore recommends that the National Assembly **APPROVES** the nomination of Mr. Geoffrey Kaituko for appointment as Principal Secretary, State Department for Labour and Skills Development and Mr. Amos Gathecha, EBS for appointment as Principal Secretary, State Department for Public Service.

Acknowledgements

The Committee registers its appreciation to the Offices of the Speaker, Office of the Clerk of the National Assembly, Office of the Director, Departmental Committees and the Committee Secretariat for the logistical support extended during the vetting process.

In addition, the Committee thanks the nominees for their cooperation during the vetting process. Finally, the Committee appreciates KRA, EACC, DCI, HELB and ORPP for providing references and background checks relating to the suitability of the nominees.

I acknowledge and appreciate Members of the Committee for their patience, sacrifice and commitment which enabled the Committee to complete the task within the required timelines.

On behalf of the Departmental Committee on Labour, and pursuant to Article 155(3)(b) of the Constitution and Section 8 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) and provisions of Standing Orders 45(4) and 199(6), it is my pleasant duty to present the Report of the Committee on the approval hearings of Mr. Geoffrey Kaituko, nominee for appointment as Principal Secretary for the State Department of Labour and Social Skills and Mr. Amos Gathecha, EBS, nominee for appointment as Principal Secretary for the State Department of Public Service for debate and adoption by the House.

Hon. Eric Muchangi Karemba, MP.

Chairperson, Departmental Committee on Labour

CHAPTER ONE

1 PREFACE

1.1 Establishment and Mandate of the Committee

1. The Departmental Committee on Labour is one of the twenty Departmental Committees of the National Assembly established under **Standing Order 216** whose mandates pursuant to the **Standing Order 216 (5)** are as follows:

- i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
- ii. *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
- iii. *on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
- iv. *To study and review all legislation referred to it;*
- v. *To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
- vi. *To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;*
- vii. ***To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);***
- viii. *To examine treaties, agreements and conventions;*
- ix. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
- x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
- xi. *To examine any questions raised by Members on a matter within its mandate.*

1.2 Subjects under the Committee

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider, labour, human capital and remuneration, trade union relations and public service.

In executing its mandate, the Committee oversees the Ministries of Labour and Social Protection and Public Service, Gender and Affirmative Action.

1.3 Committee Membership

3. The Departmental Committee on Labour was constituted by the House on 27th October 2022 and comprises of the following Members:

Chairperson

Hon. Eric Muchangi Karemba, MP
Runyenjes Constituency

UDA Party

Vice-Chairperson

Hon. Fabian Kyule Muli, MP
Kangundo Constituency

GDDP

Members

Hon. James Onyango K'Oyoo, MP
Muhoroni Constituency

ODM Party

Hon. Richard Kiti Chonga, MP
Kilifi South Constituency

ODM Party

Hon. George Aladwa Omwera,
Makadara Constituency

ODM Party

Hon. Amina Dika Abdullahi, MP
Tana River Constituency

KANU

Hon. Patrick Simiyu Barasa, MP
Cherangany Constituency

DAP-K Party

Hon. Peter Irungu Kihungi, MP
Kangema Constituency

UDA Party

Hon. Lilian Chebet Siyoi, MP
Trans Nzoia County

UDA Party

Hon. Ernest Ogesi Kivai Kagesi, MP
Vihiga Constituency

ANC Party

Hon. Joseph Samal Lomwa, MP
Isiolo North Constituency

Jubilee Party

MP Hon. Catherine Wambiliaga, MP
Bungoma County

FORD-K

Hon. Dorice Aburi Donya, MP
Kisii County

WDM-K

Hon. Mangale Munga Chiforomodo, MP
Lunga Lunga Constituency

UDM Party

Hon. Leah Sopiato Sankaire, MP
Kajiado County

UDA Party

1.4 Committee Secretariat

4. The Committee is facilitated by the following staff:

Ms. Rose M. Wanjohi
Senior Clerk Assistant /Head of Secretariat

Mr. Binensa Mabungu
Clerk Assistant III

Mr. Fredrick Muthengi
Chief Fiscal Analyst

Mr. Abdi Aden Ahmed
Fiscal Analyst II

Ms. Wambui Nyachae
Research Officer III

Mr. Timothy C. Tsungulah
Research Officer III

Mr. Alan Gituku
Serjeant-At-Arms

Mr. Samuel Wanjiru
Clerk Assistant III

Ms. Christine Odhiambo
Senior Legal Counsel

Ms. Noelle Chelagat
Media Relations Officer II

Mr. Kibet Nickson
Hansard Officer III

Ms. Zainab Wario
Serjeant-At-Arms II

CHAPTER TWO

2 BACKGROUND INFORMATION

2.1 Legal Framework

5. Article 155 of the Constitution provides that:

155. (1) there is established the office of Principal Secretary, which is an office in the public service.

(2) Each State department shall be under the administration of a Principal Secretary.

(3) The President shall—

(a) nominate a person for appointment as Principal Secretary from among persons recommended by the Public Service Commission; and

(b) with the approval of the National Assembly, appoint Principal Secretaries.

(4) The President may re-assign a Principal Secretary.

(5) A Principal Secretary may resign from office by giving notice, in writing, to the President.

6. In light of this, H.E. the President nominated fifty-one (51) persons for appointment as Principal Secretaries to various State Departments. The President nominated the following persons for appointment as Principal Secretaries for Labour and Skills Development and Public Service:

- i. Mr. Geoffrey Kaituko,; Nominee for appointment as Principal Secretary, Labour and Skills Development; and
- ii. Mr. Amos Gathecha , EBS,; Nominee for appointment as Principal Secretary, Public Service

7. The Departmental Committee on Labour has been assigned the role of conducting the approval hearing of the aforesaid nominees.

8. The following Articles of the Constitution and statutes/provisions will be paramount to the Committee as it executes this mandate:

- i. The Public Appointments (Parliamentary Approval) Act (No. 33 of 2011);
- ii. The Public Service Commission Act (No. 10 of 2017) on recommendation for appointment of Principal Secretaries;
- iii. Article 10 of the Constitution on the national values and principles of governance;
- iv. Chapter 6 of the Constitution on leadership and integrity;
- v. Article 77 of the Constitution on restriction on activities of State Officers;
- vi. Article 78 of the Constitution on dual citizenship;
- vii. Article 118 of the Constitution on public participation;
- viii. Article 232 of the Constitution on values and principles of public service;
- ix. The Leadership and Integrity Act (Cap. 182);
- x. The Public Service (Values and Principles) Act (No. 1A of 2015); and
- xi. The Public Officer Ethics Act (Cap. 183).

The Public Appointments (Parliamentary Approval) Act (No. 33 of 2011)

9. Section 7 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), provides for issues which the relevant House of Parliament (in this case, the National Assembly) is supposed to consider in relation to any nomination. These issues include:

- i. *the procedure used to arrive at the nominee;*
- ii. *any constitutional or statutory requirements relating to the office in question; and*
- iii. *the suitability of the nominee for the appointment proposed having regard to whether the nominee's abilities, experience and qualities meet the needs of the body to which nomination is being made.*

10. During the approval hearing, section 6 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) provides important points, viz:
- i. An approval hearing shall focus on a candidate's academic credentials, professional training and experience, personal integrity and background (section 6(7), PAPAA);
 - ii. The criteria specified in the Schedule shall be used by a Committee during an approval hearing for the purposes of vetting a candidate (section 6(8), PAPAA);
 - iii. Any person may, prior to the approval hearing, and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated (section 6(9), PAPAA); and
 - iv. A candidate may, at any time, by notice in writing addressed to the Clerk, withdraw from the approval process and the candidate's nomination shall end (section 6(10), PAPAA).

The Public Service Commission Act (No. 10 of 2017)

11. Section 47 (2) of the Public Service Act (No. 10 of 2017) provides qualifications that one must have so as to be eligible for appointment as a Principal Secretary. These are:
- i. be a citizen of Kenya;
 - ii. hold a degree from a university recognized in Kenya;
 - iii. has at least ten (10) years relevant professional experience, five (5) years of which should have been in a leadership position or at a top management level in the public service or private sector;
 - iv. possess general knowledge of the organization and functions of Government;
 - v. demonstrates an understanding of the goals, policies and developmental objectives of the nation;
 - vi. has demonstrable leadership and management capacity including knowledge of financial management and strategic people management; and
 - vii. meets requirements of Chapter Six of the Constitution.

Article 10(2) of the Constitution on national values and principles of governance

12. Article 10(2) of the Constitution provides for the national values and principles of governance which include patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people; human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized; good governance, integrity, transparency and accountability; and sustainable development.

Chapter 6 of the Constitution (Leadership and Integrity)

13. There are important provisions in Chapter 6 of the Constitution worth pointing out. Article 73 of the Constitution provides that the authority assigned to a State officer (a Principal Secretary being a state officer under Article 260 of the Constitution) is a public trust to be exercised in accordance to the Constitution, demonstrate respect for the people, bring honour to the nation and dignity to the office and promote public confidence in the integrity of the office. Also, the State officer shall have the responsibility to serve the people, rather than the power to rule them.
14. The guiding principles of leadership and integrity are listed as selection based on personal integrity, competence and suitability, objectivity and impartiality in decision making, selfless service based solely on the public interest, accountability and discipline and commitment in service to the people.

Article 77 of the Constitution (Restriction on activities of State officers)

15. Article 77 of the Constitution provides that a full-time State officer shall not participate in any other gainful employment and that any appointed State officer shall not hold office in a political party.

Article 78 of the Constitution on citizenship and leadership

16. Article 78 of the Constitution states that a person is not eligible for election or appointment to a State office unless the person is a citizen of Kenya. It also provides that a State officer or a member of the defence forces shall not hold dual citizenship.

Article 118 of the Constitution on public access and participation

17. Article 118 of the Constitution provides that:

1. *Parliament shall:*

- a) *conduct its business in an open manner, and its sittings and those of its committees shall be in public; and*
- b) *facilitate public participation and involvement in the legislative and other business of Parliament and its committees.*

2. *Parliament may not exclude the public, or any media, from any sitting unless in exceptional circumstances the relevant Speaker has determined that there are justifiable reasons for the exclusion.*

Article 232 of the Constitution on Values and Principles of Public Service

18. Article 232 of the Constitution provides for the values and principles of public service which include high standards of professional ethics; efficient, effective and economic use of resources; responsive, prompt, effective, impartial and equitable provision of services; involvement of the people in the process of policy making; accountability for administrative acts; transparency and provision to the public of timely, accurate information; fair competition and merit as the basis of appointments and promotions; representation of Kenya's diverse communities; and affording adequate and equal opportunities for appointment, training and advancement, at all levels of the public service of men and women; the members of all ethnic groups; and persons with disabilities.

The Leadership and Integrity Act (Cap. 182)

19. The Leadership and Integrity Act provides a number of obligations to a State officer. These are, among others: to respect and abide by the Constitution and the law, public trust, performance of duties in an honest and accountable manner, professionalism, financial integrity, not to engage in activities that amount to abuse of office, not misuse public resources, accepting gifts that may compromise the officer's duties, wrongful or unlawful acquisition of property, conflict of interest etc.

The Public Service (Values and Principles) Act

20. Section 5 of the Public Service (Values and Principles) Act provides that a public officer shall maintain high standards of professional ethics, including, being honest; displaying high standards of integrity, transparency, accountability, respect to others, objectivity, patriotism, observance of rule of law. (Applies in future upon appointment)

The Public Officer Ethics Act (Cap. 183)

21. The Public Officer Ethics Act provides for obligations to be carried out by a public officer. These include professionalism, carrying out duties in accordance with the law, prohibition from unjust enrichment, avoiding conflict of interest, not using office as a venue for soliciting or collecting harambees; not acting for foreigners; care of property; political neutrality, not practicing nepotism or favoritism, giving impartial advice, conducting private affairs in a way that maintains public

confidence, bar from sexual harassment, submission of declaration of income, assets and liabilities once every two years (section 26). (Applies in future after appointment)

2.2 Qualifications for appointment as Principal Secretary

22. In conducting the approval hearings, the Committee was guided by Article 155 (3) (b) of the Constitution, section 47 (2) of the Public Service Act and the provisions of Section 7 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011).

2.3 Message from H.E. the President

23. H.E. the President on **2nd November 2022** vide letter OP/CAB.26/4A VOL.1(49) (annexure 3) communicated the names of the nominees for appointment to the positions of Principal Secretary, Labour and skills development and Public Service to the Speaker for approval by the National Assembly pursuant to Article 155 (3). The Speaker in his communication from the Chair issued on **Thursday, 3rd November 2022** and pursuant to Standing Order No. 42 referred the names to the Departmental Committee on Labour to conduct approval hearings and report within twenty-eight (28) days.

2.4 Speaker's Communication and Committal to the Committee

24. Pursuant to the provisions of Standing Order No. 42, the Speaker of the National Assembly on **Thursday, 3rd November 2022** communicated (No. 002 of 2022)(annexure 4) to the House the message from H.E. the President regarding the nominees for appointment as Principal Secretaries for various State Departments. The Speaker informed the House that H.E. the President was seeking approval of the National Assembly on the said nominations before the nominees' appointment.
25. In accordance with Standing Order 45(1), the Speaker read the Message from H.E. the President and referred the names of the nominees, their curricula vitae and report of the Selection Panel on the recruitment process to the Departmental Committee on Labour to conduct approval hearings.
26. While referring the matter to the Committee, the Speaker directed that the Committee undertakes the vetting exercise within twenty-eight (28) days pursuant to Section 8 of the Public Appointments Parliamentary Approval Act (No. 33 of 2011). The Speaker further directed the Clerk of the National Assembly to notify the nominees and the general public by placing adverts in two newspapers of nationwide circulation and the Parliamentary Website of the time and place of holding the approval hearings by Friday, 4th November 2022.
27. In addition, the Speaker directed that approval hearings should commence on Monday, 14th November 2022 and end on Friday, 18th November 2022. Thereafter, the reports should be tabled in the House not later than Tuesday, 22nd November 2022 so as to enable the House to consider the reports within the statutory timelines.

2.5 Notification to the Public

28. Section 6(9) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), provides that *"any person may, prior to the approval hearing, and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated"*.

29. The Clerk of the National Assembly on **Friday, 4th November 2022** placed a notification in the print media informing the general public of the intention of the Committee to conduct approval hearings, as provided for by Article 118 (1) (a) (b) and (2) of the Constitution and Section 6(4) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), which allows public participation in committee proceedings (Annexure 5). The notification gave provision for the submission of memoranda, by way of written statements on oath (*affidavit*) on the suitability or otherwise of the nominees, by **Friday, 11th November 2022 at 5.00 pm (East African Time)**. At the close of the submission deadline, the Committee had not received any memorandum for or against the suitability of the nominees.

2.6 Notification to the Nominee

30. The Clerk of the National Assembly vide an advert placed in the print media on Friday, 4th November 2022 and letters Ref. NA/DDC/LB/VETT/2022/001 and Ref. NA/DDC/LB/VETT/2022/002 informed the nominees of the nomination by H.E. the President and requested them to appear for vetting by the Departmental Committee on Labour on **Thursday, 17th November 2022** in Committee Room 9, Main Parliament Building (Annexure 6). The Clerk of the National Assembly further requested the nominees to bring with them their clearance certificates from the Kenya Revenue Authority (KRA), the Higher Education Loans Board (HELB), Ethics and Anti-Corruption Commission (EACC), Directorate of Criminal Investigations (DCI) and Office of the Registrar of Political Parties (ORPP) (Annexure 7).

2.7 Clearance Requirements

31. The Clerk of the National Assembly wrote to the Kenya Revenue Authority (KRA), the Higher Education Loans Board (HELB), Ethics and Anti-Corruption Commission (EACC), Office of the Registrar of Political Parties (ORPP) and Directorate of Criminal Investigations (DCI) requesting for tax, education loans, integrity, affiliation to political parties and criminal record status of the nominees. The following institutions wrote back to the National Assembly clearing the nominees, KRA (letter Ref. KRA/5/1002/5(8179) dated 14th November 2022(Annexure 8)); DCI (letter Ref. DCI/CRO/SEC/6/7/2/A/VOL.XI/208 dated 10th November 2022)(Annexure 9); ORPP (letter Ref: RPP/ORG/34 VOL. VI (41) dated 10th November 2022(Annexure 10); HELB (letter Ref. HELB/RR/112009/190 dated 10th November 2022)(Annexure11) and EACC (letter Ref: EACC.7/10/5 VOL XXI (70) dated 11th November 2022)(Annexure 12)

2.8 Report of the Selection Panel on the Nomination of Principal Secretaries

32. Pursuant to Article 155 (3) (a) of the Constitution, the Public Service Commission invited applications from suitably qualified persons for the position of Principal Secretary. The advertisement was published in the print media, Kenya Gazette No. 10536 and on the Commission's Website on 7th September 2022 with a closing date of 20th October 2022.
33. On 20th September 2022, the Commission extended the advertisement period by seven (7) days. The advertisement period lapsed on 27th September 2022 with a total of nine thousand one hundred and fifty-four (9,154) persons submitting applications for consideration.
34. Four hundred and seventy-seven (477) candidates were shortlisted from 3rd to 6th October 2022 and a further review done on 7th October 2022 to bring the shortlist to five hundred and eighty-five (585) candidates so as to cater for gender, marginalized/minority groups and PWDs pursuant to

Article 232 (1) (h) of the Constitution. Interviews for the shortlisted persons were conducted from 12th to 22nd October 2022.

35. The Public Service Commission adhered to all provisions of the Constitution in the process of advertising, shortlisting and interviewing the candidates including, merit, gender, ethnic and regional balance.

2.9 Suspension of Vetting of Nominees for appointment as Principal Secretaries

36. On Wednesday 16th November, 2022, the Speaker vide his communication, notified the House, the committees and the public of the suspension of vetting of nominees for appointment as Principal Secretaries. This is in respect to the conservatory orders temporarily staying the vetting process pending inter-parte hearings scheduled for 21st November as granted by the Employment and Labour Relations Court (CP No. E186 of 2022) (annexure 4). There was a further extension of the orders to allow for inter-parte hearings that were then scheduled for 29th November, 2022. The order to proceed with the vetting was delivered on 29th November, 2022 and the Speaker vide his communication (No. 24 of 2022) dated Tuesday 29th November, 2022 notified the House that Committees can proceed with the vetting process. (annexure 5)

2.10 Committee proceedings

37. The Committee having received the names of the nominees was obligated to conduct approval hearings and make determination of the nominees' suitability or otherwise within twenty-eight (28) days as provided for in section 8 (1) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011).
38. Pursuant to Standing Order (192) of the National Assembly, the Whip of the Majority Party appointed Hon. Kitilai Ole Ntutu, M.P and Hon. Reuben Kiborek, M.P. to act in place of Hon. Kihungi Peter Irungu, M.P and Hon. Siyoi Lillian Chebet, M.P respectively who are currently out of the country on official parliamentary business.
39. The Committee held three (3) sittings during which it examined and reviewed the nominees' certificates, testimonials as well as conducted approval hearings.

CHAPTER THREE

3.0 APPROVAL HEARINGS

40. The Committee conducted approval hearings for the nominees on **Wednesday, 30th November 2022**. In conducting the vetting exercise, the Committee was guided by, among other documents, the Constitution, the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), the Public Service Act and the Standing Orders.
41. The Committee noted the following:-
- i. THAT, the nominees had not notified the Clerk of the National Assembly of their withdrawal from the approval process as outlined under section 6 (10) of Public Appointments (Parliamentary Approvals) Act, 2011.
 - ii. THAT, the Committee would therefore proceed with the approval hearings on Wednesday 30th November, 2022 ; and
 - iii. THAT, the Committee would examine the nominees against the criteria set out in section 7 of the Public Appointments (Parliamentary Approval) Act, 2011.
42. The Committee examined the nominees using the guidelines in the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011). The Committee also considered the following in vetting the nominees:
- a. Academic qualifications
 - b. Employment record and work experience
 - c. Professional association
 - d. Public office, political activities and affiliations
 - e. Potential conflict of interest
 - f. Suitability to the position
 - g. Tax compliance
 - h. Vision and leadership
 - i. Integrity
 - j. Expectations and Key priorities

3.1 Mr. Geoffrey Kaituko

The nominee, Mr. Geoffrey Kaituko appeared before the Committee on Wednesday 30th November, 2022 at 10.30am and was orally interviewed by the Committee under oath pursuant to Article 155(3) of the Constitution, the Public Appointments (Parliamentary Approval Act, 2011 and the Standing Orders of the National Assembly. He responded to questions during vetting as follows:

3.1.1 Personal Background

43. Mr. Geoffrey Kaituko is a Kenyan citizen of identity card number 12834968 and was born in Turkana County in 1974.

3.1.2 Educational Background

44. Mr. Geoffrey Kaituko holds a Master Degree in Public Administration and Policy (MPA) from Western Michigan University in United States of America awarded in 2006, a Bachelor of Laws (LLB) from the University of South Africa awarded in 2013 and a Bachelor of Arts (BA) Degree from the University of Nairobi (1999).

45. He sat for his 'O' level examinations at Moi High School Kabarak in 1993.

3.1.3 Work experience/career progression

46. Mr. Kaituko has worked in the public sector all his career life in the following capacities:

- i. Advisor for the social sector, Office of the Deputy President, Public Service Commission, from 2018 to 2020;
- ii. Elected as Speaker, County Assembly of Turkana from 2013 to 2017;
- iii. Drought Management Officer(Project Coordinator, Arid Lands Resources Management Project (later National Drought Management Authority –NDMA)) from 2006 to 2012; and
- iv. District Coordinator, the Constitution of Kenya Review Commission (Defunct) from 2001 to 2003.

3.1.4 Professional Associations & Affiliations

47. Mr. Kaituko is professionally affiliated with

- i. Associate Member , Chartered Institute of Arbitrators (CIARB-K)MFROM 2017 to date
- ii. Chief Executive Officers' Association (CEOA)

He is also

- i. a patron, Frontier Children Development Organization
- ii. Member, Turkana Professional Association

3.1.5 Honors and Awards

48. Mr. Kaituko has received the alumni achievement award in 2019.

3.1.6 Published writings

49. The nominee has published a book by the title "Getting things done: the key to exemplary leadership."

3.1.7 Clearance Requirements

50. The Committee confirmed that the nominee had been cleared by KRA, ORPP, DCI, EACC and HELB, having obtained clearance certificates to that effect.

3.1.8 Other issues under consideration

To examine suitability or otherwise of the nominee, the Committee posed questions to the nominee in the following thematic areas:

3.1.9 Potential conflicts of interest

51. The nominee declared that he had no potential conflict of interest

3.1.20 Pro bono/Charity work

52. The nominee is involved in charity work as a patron of frontier children development organization.

3.1.21 Statement on Net worth

53. The nominee estimated his net worth to be at Kshs. 130 million. He stated his source of income includes rent from rental houses, salary and book sales.

3.1.21 Integrity

54. The nominee stated that he had not been dismissed or otherwise removed from office for contravening Article 75 of the Constitution. He has not also not been adversely associated with practices that depict bias, favoritism or nepotism in the discharge of public duties.
55. Further, the nominee submitted that he had not been charged in any court of law in the last three years and neither has he been adversely mentioned in an investigatory report of Parliament or any other Commission of inquiry in the last three years.

3.1.22 General and Sector Specific questions to Mr. Geoffrey Kaituko

1.

56. The President, H.E William Ruto announced plans to enact the 6% contribution of employees' salary towards NSSF. There have been reports of misuse of workers' funds at NSSF while the payment of benefits upon retirement has been a frustrating process for many. In your view, what policies will you consider to ensure funds are not misused and streamline the system payments?

The nominee stated that the 6 % proposed workers' contribution and matched by one by the employer is based on the National Social Security Fund (amendment) Act, 2013. The current model is unsustainable. Mismanagement of the Fund is due to risky land deals undertaken. To mitigate the mismanagement, there is need for the adoption of global best practice to manage pension funds and have the right trustees in place. NSSF is an autonomous body outside the government's purview which makes monitoring its activities difficult. Enhanced government intervention and oversight will go a long way to mitigate against the mismanagement. To reduce the time of cost and time of processing retirees' pensions, NSSF can be devolved to county headquarters and payments digitized.

57. What would the nominee consider to be the major challenges for the labor sector today? What solutions would he propose?

The nominee stated that unemployment is exacerbated by the low rate of absorption of new graduates in the market. As per the UDA manifesto, there is need to unlock the main sectoral drivers of economies such as agriculture and manufacturing. There is a mismatch of skills to market requirements and over supply of certain skills. The Ministry is to carry out a skills assessment in order to advise the training institutes on the requisite skills including the National Industrial Training Authority and the Tertiary and Vocational Education and Training (TVET). The review of labour laws and regulations to allow for labour exporting agreement with Countries who require the skills which are in excess. The Ministry is to requisition for additional Labour Attaché especially in large labour markets to protect the right of migrant workers.

On labour unrests, the Alternative Dispute Resolution (ADR) mechanism is been implemented to arrest the disputes before they became industrial actions and thus reduce litigation.

58. The country is facing serious challenges of child labour and child prostitution, how can this vice be combated?

The nominee reported that there is need for more labour inspectors especially in known hotspot areas and during certain seasons. Schooling is a big deterrent against child labor because those who go to school do not engage in child labor. A multi –sectoral and multi-agency approach is advisable to ensure success.

59. What safeguards are there or can be enacted to ensure that expatriate opportunities issued expatriates before ensuring that Kenyans do not have the requisite skills, thus promoting "A Kenyan first employment policy".

The nominee proposes a multi-sectoral approach. The Ministry of Interior that issues work permits to request for a skills vetting report from the Ministry of Labour on whether the skills are available in Kenya. Enactment of regulations to allow the Ministry of Labour to receive a copy of the expatriate contracts for verification and confirmation of skills transfer.

60. The mistreatment of migrant workers to the Middle East is a thorny issue and there is a blame game between foreign affairs and labour. What measures can be put in place to curb the mistreatment of the workers?

The nominee reported that the mistreatment of largely unskilled and domestic migrant workers is largely in Saudi Arabia, because Kenya does not have a labour agreement with the Kingdom of Saudi to govern among others, a minimum wage and acceptable working conditions. There is need to enhance consular services in Saudi Arabia by increase of Labour attaché to seven (7) to provide more hands on consular services. Currently there is only one officer. There is need to enact a labour migration management bill, to provide teeth for the Ministry to register and sanction migrant workers agencies. At the moment, administrative actions taken against these agencies, have no sanctions to discipline them and courts have not ruled in favour of the Ministry since there is weak legislation in place. The consular can operate safe houses for those migrant workers in need before they are repatriated.

Saudi Arabia is one of Kenya's largest migrant workers market with close to 300,000 Kenyans working there. Kenyans faced the same issues in Qatar, but with the labour agreement in place incidence of mistreatment have greatly reduce. Further, skilled workers do not face the same mistreatment since their contracts are governed by different set of laws. Saudi Arabia had made labour agreements with countries like Philippines who are reporting reduced incidences of mistreatments. A combined labour agreement from the East African community will also dissuade the Middle East Countries from exploiting individual members' migrant workers.

The Migrant workers welfare Fund needs to be operationalized with budgetary allocation of seed capital to the Fund and contributory deductions from the migrant workers.

3.2 Mr. Amos Gathecha, EBS

The nominee, Mr. Amos Gathecha, EBS appeared before the committee on Wednesday 30th November, 2022 at 12.30 pm and was orally interviewed by the Committee under oath pursuant to Article 155(3) of the Constitution, the Public Appointments (Parliamentary Approval) Act, 2011 and the Standing orders of the National Assembly. He responded to questions during vetting as follows:

3.2.1 Personal Background

61. Mr. Amos Gathecha is a Kenyan citizen of identity card number 8432970 and was born in Kiambu County in 1964.

3.2.2 Educational Background

62. Mr. Gathecha holds a Master of Arts in International Studies (2007) from the University of Nairobi and a Bachelor of Arts Degree (1989) from University of Nairobi.

63. He sat for his 'A' level examinations at Kirangari High School in 1984, his 'O' level examinations at Kirangari High School in 1982 and his Certificate of Primary Education at Mathiani Primary School in 1978.

3.2.3 Work experience/career progression

64. Mr. Gathecha is currently the Principal Administrative Secretary, the National Treasury and Economic Planning, a position he has held since April 2020.

65. Mr. Gathecha has also worked in the following capacities:

- i. Board Member of Anti-money Laundering Authority; Kenya Pipeline Company; Kenya Airport Authority; Witness Protection Board; Private Securities Regulatory Authority; Non-governmental Organizations and Kinaya Properties Limited;
- ii. Head of Secretariat, National Information Management System(NIIMS);
- iii. Secretary, Internal Security;
- iv. County Commissioner, Embu and Nakuru; and
- v. District Commissioner, West Pokot, Maragua, Bomet, Lugari and Marsabit.
- vi. District Officer- various districts

3.2.4 Professional Associations & Affiliations

66. Mr. Gathecha is a member of the Kenya Association of Administration and Management since 2016.

3.2.5 Honors and Awards

Mr. Gathecha was awarded the Elder of the Burning Spear (EBS) in 2016 and Moran of the Burning Spear (MBS) in 2010, by the Government of Kenya (GoK).

3.2.6 Clearance Requirements

67. The Committee confirmed that the nominee had been cleared by KRA, ORPP, DCI, EACC and HELB, having obtained clearance certificates to that effect.

3.2.7 Other issues under consideration

To examine suitability or otherwise of the nominee, the Committee posed questions to the nominee in the following thematic areas:

3.2.8 Pro bono/Charity work

68. The nominee is involved in charity work among the churches as well as a board member of secondary schools in Kabete area.

3.2.8 Potential conflict of interest

69. The nominee stated that he had no immediate associations that are likely to present potential conflict of interest when he assumes office.

3.2.9 Statement of Net worth and sources of Income

70. The nominee estimated his net worth to be Kshs. 205 million. He stated his source of income to include rental income, board income, salary and dividend payments from Harambee Sacco.

3.2.10 Integrity

71. The nominee stated that he had not been dismissed or otherwise removed from office for contravening Article 75 of the Constitution. He has not also not been adversely associated with practices that depict bias, favoritism or nepotism in the discharge of public duties.

72. Further, the nominee submitted that he had not been charged in any court of law in the last three years and neither has he been adversely mentioned in an investigatory report of Parliament or any other Commission of inquiry in the last three years.

3.2.11 General and Sector Specific questions to Mr. Geoffrey Kaituko

73. How will the nominee deal with allegations of nepotism and corruption in the recruitment of public officers as well as ensure that recruitment in public service is by merit and all communities are given an equal chance?

The nominee stated that he would implement the provisions of the constitution during the various recruitment exercises, will refer to Article 232 on fairness and Article 52 of the Constitution also discusses gender inclusivity.

74. The public service is the single largest employer in the country. The Cabinet Secretary for Public Service, Gender and Affirmative action, Hon. Aisha Jumwa Katana recently proposed a plan by the government for a salary increase for civil servants in 100 days. Given that there is already a huge wage bill, what are the nominee view, on what needs to be done to streamline the public service to be lean and effective while at the same time meeting the welfare needs of civil servants?

The nominee reported that civil servants deserve the pay rise but a discussion has to be based on the wage bill and whether it will be sustainable. The government has come up with a welfare package for civil servants such as full medical cover through NHIF, Group personal cover, mortgage, car loan, and through HELB, loans to civil servants to pursue higher learning.

75. In the nominee's assessment, what can the public service do to improve public service delivery?

He advocates for entrenchment of performance management and results-oriented initiatives to improve service delivery. Further, entrenching quarterly appraisals makes officers conscious of what they have to do, holds them more accountable for their actions. Have a feedback mechanisms to gauge service delivery. Entrench customer service in the public service.

76. On the right to fair labor practices every worker has the right to fair remuneration. What steps will the nominee take to ensure that the workers' remunerations are at par with the current economic environment, where inflation in the local and international sphere is high? This is with a special focus on hardship areas for different workers.

There is a draft hardship policy pending before the Ministry of Labour and Social Protection awaiting public participation. It is envisaged to redefine hardship areas and increase amounts paid as allowance.

77. The public service has been politicized and public servants have become politicians in their offices. How can the nominee ensure the civil service remains professional?

He stated that in the past, the public service was shunned because of poor pay but due to improved pay and various other incentives, it's attracting candidates for various positions. The nominee promised to entrench and enhance professionalism including advocating for officers to be members of professional bodies.

78. The rationale behind not devolving the Kenya School of Government to Counties?

The Kenya School of Government is intended to be a learning institution to train and provide a forum for interaction for all Public Officers regardless of their county of residence. The civil servant can therefore be posted anywhere in the Country.

79. Measures to mitigate against ethnicity in the public service.

The nominee stated that the provisions of the Constitution under Articles 10, 232 and 56 promote inclusivity which requires entrenchment and continuous monitoring. The criteria to use is on pro-rata rate based on population. The main challenges still arising are on gender and age. The policy

on affirmative action is in place in the public service to mainly address the gender parity in pay and positions.

80. The Cabinet Secretary for Public Service, Gender and Affirmative Action has undertaken to increase pay for public servants within 100 days of office. How will the nominee implement the proposed pay increase in light of the measures in place to curb the ballooning wage bill?

The nominee reported that the undertaking was based on a Collective Bargain Agreement with the civil service unions which is in the process of negotiation. The speed at which the parties will reach an agreement would impact on the timeline of 100 days.

CHAPTER FOUR

4.0 OBSERVATIONS AND FINDINGS

81. The Committee observations were guided by Article 155 of the Constitution, section 47 of the Public Service Commission Act, 2017 and section 7 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) in terms of issues for consideration as follows:
- the procedure used to arrive at the nominee;
 - any constitutional or statutory requirements relating to the office in question; and
 - the suitability of the nominees for the appointment proposed having regard to whether the nominees' abilities, experience and qualities meet the needs of the body to which the nomination is made.
82. The Committee, having considered each nominee filled questionnaires pursuant to section 6(8) of the Public Appointments (Parliamentary Approval) Act, each nominee's curriculum vitae and having heard each of their oral submissions during the approval hearing, made the following observations on each nominee's suitability for appointment as Principal Secretary in the State Department of Labour and Skills Development and State Department of Public Service -

4.1 Mr. Geoffrey Kaituko

- THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since he is a Kenyan citizen born in 1974 in Turkana County and does not hold dual citizenship.
- THAT**, the nominee
 - Holds a Master Degree in Public Administration and Policy (MPA) from Western Michigan University in United States of America awarded in 2006, a Bachelor of Laws (LLB) from the University of South Africa awarded in 2013 and a Bachelor of Arts (BA) Degree from the University of Nairobi (1999). He sat for his 'O' level examinations at Moi High School, Kabarak in 1993.
 - He was an Advisor for the social sector, Office of the Deputy President, Public Service Commission, from 2018 to 2020;
 - Was elected as Speaker, County Assembly of Turkana from 2013 to 2017;
 - Was a Drought Management Officer(Project Coordinator, Arid Lands Resources Management Project (later National Drought Management Authority –NDMA)) from 2006 to 2012; and
 - Was a District Coordinator, the Constitution of Kenya Review Commission (Defunct) from 2001 to 2003.
- THAT**, the nominee meets the requirements of Chapter Six of the Constitution on leadership and integrity having obtained clearance from Ethics and Anti-corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), the Office of the Registrar of Political Parties (ORPP) and the Higher Educations Loans Board (HELB).
- THAT**, the nominee has not been charged in a court of law in the past three years.
- THAT**, the nominee does not hold office in any political body
- THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of Article 75(1) (*conflicts of Interest*), Article 76(*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2)(*dual citizenship*) of the Constitution.
- THAT**, the nominee demonstrated knowledge of topical, administrative and technical issues

touching the State Department of Labour and Social Skills and has the requisite abilities, qualifications and experience to serve as the Principal Secretary for Labour and Social Skills.

4.2 Mr. Amos Gathecha, EBS

1. **THAT**, in accordance with Article 78(1) and (2) of the Constitution, the nominee is eligible for appointment to State Office since he is a Kenyan citizen born on 1964 in Kiambu County and does not hold dual citizenship.
2. **THAT**, the nominee
 - i. Holds a Master of Arts in International Studies (2007) from the University of Nairobi and a Bachelor of Arts Degree (1989) from University of Nairobi. He sat for his 'A' level examinations at Kirangari High School in 1984, his 'O' level examinations at Kirangari High School in 1982 and his Certificate of Primary Education at Mathiani Primary School in 1978.
 - ii. Is currently the Principal Administrative Secretary, the National Treasury and Economic Planning a position he has held since April 2020.
 - iii. Is a Board Member of Anti-money Laundering Authority; Kenya Pipeline Company; Kenya Airport Authority; Witness Protection Board; Private Securities Regulatory Authority; Non-governmental Organizations and Kinaya Properties Limited;
 - iv. Was the Head of Secretariat, National Information Management System(NIIMS);
 - v. Served as Secretary, Internal Security;
 - vi. Served as County Commissioner, Embu and Nakuru;
 - vii. Also served as District Commissioner, West Pokot, Maragua, Bomet, Lugari and Marsabit; and
 - viii. In addition served as a District Officer in various districts
3. **THAT**, the nominee meets the requirements of Chapter Six of the Constitution on leadership and integrity having obtained clearance from Ethics and Anti-corruption Commission (EACC), the Kenya Revenue Authority (KRA), the Directorate of Criminal Investigations (DCI), the Office of the Registrar of Political Parties (ORPP) and the Higher Educations Loans Board (HELB).
4. **THAT**, the nominee has not been charged in a court of law in the past three years.
5. **THAT**, the nominee does not hold office in any political body.
6. **THAT**, the nominee has never been dismissed from office under Article 75 of the Constitution for contravention of Article 75(1) (*conflicts of Interest*), Article 76 (*financial probity*), Article 77 (*restriction on activities of State Officers*) and Article 78(2)(*dual citizenship*) of the Constitution.
7. **THAT**, the nominee demonstrated knowledge of topical, administrative and technical issues touching the State Department of Public Service and has the requisite abilities, qualifications and experience to serve as the Principal Secretary for Public Service.

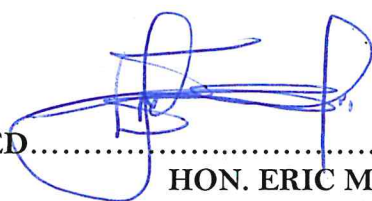
CHAPTER FIVE

5.0 RECOMMENDATION

83. Having conducted the approval hearings for the two nominees pursuant to Article 155(3)(b) of the Constitution, Sections 8(2) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011) and Standing Order 216 (5)(f) and having considered the suitability, capacity and integrity of the nominees, the Committee recommends that the National Assembly **APPROVES** the appointment of:

- i. **Mr. Geoffrey Kaituko to the position of Principal Secretary, State Department for Labour and Skills Development; and**
- ii. **Mr. Amos Gathecha, EBS to the position of Principal Secretary for Public Service.**

SIGNED.....



DATE.....

01/12/2022

HON. ERIC MUCHANGI KAREMBA, MP

CHAIRPERSON

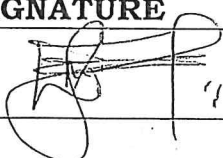
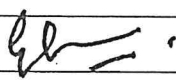
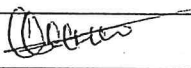

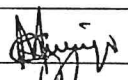

DEPARTMENTAL COMMITTEE ON LABOUR

Annexure 1: Adoption List

REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT- FIRST SESSION- 2022
DEPARTMENTAL COMMITTEE ON LABOUR

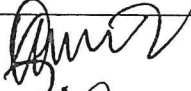

REPORT ADOPTION LIST

We, the members of the Departmental Committee on Labour, have pursuant to Standing Order 199, adopted this report and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity today, Wednesday 30th November, 2022

	NAMES	SIGNATURE
1.	Hon. Karemba Eric Muchangi Njiru, MP-Chair person	
2.	Hon. Muli Fabian Kyule, MP- Vice Chairperson	
3.	Hon. K'Oyoo James Onyango, M.P.	
4.	Hon. Kagesi Kivai Ernest Ogesi, M.P.	
5.	Hon. Kiti Richard Ken Chonga, M.P.	
6.	Hon. Lomwa Joseph Samal, M.P.	
7.	Hon. Omwera George Aladwa, M. P.	
8.	Hon. Wambilianga Catherine Nanjala, MP	
9.	Hon. Abdullahi Amina Dika, M.P.	
10.	Hon. Aburi Donya Dorice, M.P.	
11.	Hon. Barasa Patrick Simiyu , M.P.	
12.	Hon. Chiforomodo Mangale Munga, M.P.	
13.	Hon. Kihungi Peter Irungu, M. P.	
14.	Hon. Sankaire Leah Sopiato, M.P.	
15.	Hon. Siyoi Lillian Chebet, M.P.	

16. Hon. Kitilai Ole Ntutu, M.P.

17. Hon. Reuben Kiborek, M.P.

1. Hon. Kikilai Ole Koto m.p Nairobi South Constituency
2. Hon. Reuben Kiborok mp
Majority Constituency



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

Handwritten: Hon. Shauri Odhiambo
Majority Whip

INTERNAL MEMO

TO : MAJORITY PARTY WHIP

THROUGH: CLERK OF THE NATIONAL ASSEMBLY

FROM : DIRECTOR, DEPARTMENTAL COMMITTEES

DATE : 30TH NOVEMBER, 2022

RE : REQUEST FOR NOMINATION OF MEMBERS FOR
PURPOSES OF ADOPTION OF THE VETTING REPORT OF
THE DEPARTMENTAL COMMITTEE ON LABOUR: S.O 192

The above subject matter refers.

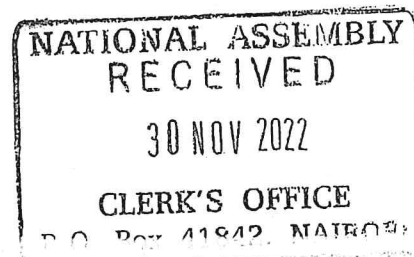
The Departmental Committee on Labour carried out approval hearings of two nominees to the positions of Principal Secretaries for State Department for Labour and Skills Development and the State Department for Public Service.

The following Committee Members were unavailable for adoption of the report:

1. Hon. Lillian Chebet Siyoi, MP
2. Hon. Peter Kihungi Irungu, MP

The purpose of this Memo is to request that you appoint other Members to act in the above Members' place as per Standing Order 192.

Handwritten signature of Peter Chemweno
Peter Chemweno
Director, Departmental Committees



Annexure 2: Minutes

MINUTES OF THE FOURTH SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR HELD ON WEDNESDAY 30TH NOVEMBER 2022 IN THE COMMITTEE ROOM, FOURTH FLOOR, CONTINENTAL HOUSE AT 4:00 PM.

PRESENT

1. **The Hon. Karemba Eric Muchangi Njiru, M.P. -Chairperson**
2. The Hon. Kagesi Kivai Ernest Ogesi, M.P.
3. The Hon. Omwera George Aladwa, M.P.
4. The Hon. Chiforomodo Mangale Munga, M.P.
5. The Hon. Barasa Patrick Simiyu, M.P.
6. The Hon. Amina Dika, M.P.

APOLOGIES

1. **The Hon. Muli Fabian Kyule, M.P. -Vice Chairperson**
2. The Hon. K'Oyoo James Onyango, M.P.
3. The Hon. Kiti Richard Ken Chonga, M.P.
4. The Hon. Lomwa, Joseph Samal, M.P.
5. The Hon. Wambilianga Catherine Nanjala, M.P.
6. The Hon. Aburi Donya Dorice, M.P.
7. The Hon. Kihungi Peter Irungu, M.P.
8. The Hon. Sankaire Leah Sopiato, M.P.
9. The Hon. Siyoi Lillian Chebet, M.P.

IN ATTENDANCE

COMMITTEE SECRETARIAT

- | | | |
|------------------------|---|-------------------------|
| 1. Ms. Rose Wanjohi | - | Senior Clerk Assistant |
| 2. Mr. Binensa Mabungu | - | Clerk Assistant III |
| 3. Mr. Samuel Wanjiru | - | Clerk Assistant III |
| 4. Ms. Fiona Wanjiru | - | Senior Legal Counsel II |
| 5. Ms. Wambui Nyachae | - | Research Officer III |
| 6. Mr. Timothy Chiko | - | Research Officer III |
| 7. Ms. Rinha Sainaye | - | Media Relations Officer |
| 8. Mr. Allan Gituku | - | Serjeant-At-Arms |

AGENDA

1. Prayers
2. Preliminaries;
3. Confirmation of Minutes of the Previous Meeting
4. Matters Arising;
5. **Consideration and adoption of the report on Nominees for appointment as Principal Secretaries;**
 - a. **Mr. Geoffrey Kaituko, ACI Arb State Department for Labour and Skills Development**

Committee Recommendations

Having conducted the approval hearings and considered the suitability, capacity and integrity of the Nominees and pursuant to Article 155(3) of the Constitution, Section 3 and 8 of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), and Standing Order 216(5) (f), The Departmental Committee on Labour recommends that the National Assembly **APPROVES** the Nomination and subsequent appointment by His Excellence the president, of;

- a) Mr. Geoffrey Kaituko, ACI Arb for appointment as Principal Secretary for State Department for Labour and Skills Development) and;
- b) Mr. Amos Gathecha, EBS for appointment as Principal Secretary for State Department for Public Service.

Pursuant to Standing Order (192) of the National Assembly, the Whip of the Majority Party appointed Hon. Kitilai Ole Ntutu, M.P. Hon. Reuben Kiborek, M.P. to act in place for Hon. Kihungi Peter Irungu, M.P and Hon. Siyoi Lillian Chebet, M.P who are currently out of the country on official parliamentary business.

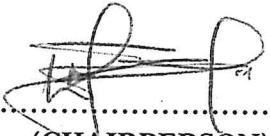
The report on Approval hearings of the two nominees for the appointment to the positions of Principal Secretaries was unanimously adopted having being proposed by Hon. Amina Dika, M.P and seconded by Hon. Kagesi Kivai Ernest Ogesi, M.P.

MIN. NO. 022 NA/ LABOUR/ 2022: ANY OTHER BUSINESS

There was no other business.

MIN. NO. 023 NA/ LABOUR/ 2022: ADJOURNMENT/ DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at twenty-three minutes past four o'clock. The next meeting will be held on notice.

SIGNED.......... DATE 01/12/2022
(CHAIRPERSON)

MINUTES OF THE THIRD SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR HELD ON WEDNESDAY 30TH NOVEMBER 2022 IN COMMITTEE ROOM 4, 4TH FLOOR CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 08:30 AM.

PRESENT

1. **The Hon. Karemba Eric Muchangi Njiru, M.P. -Chairperson**
2. Hon. Kagesi Kivai Ernest Ogesi, M.P.
3. Hon. Omwera George Aladwa, M.P
4. Hon. Abdullahi Amina Dika, M.P.
5. Hon. Aburi Donya Dorice, M.P.
6. Hon. Barasa Patrick Simiyu, M.P.
7. Hon. Chiforomodo Mangale Munga, M.P

APOLOGIES

1. The Hon. Muli Fabian Kyule, M.P. -Vice Chairperson
2. Hon. Koyoo James Onyango, M.P
3. Hon. Kiti Richard Ken Chonga, M.P.
4. Hon. Wambilianga Catherine Nanjala, MP
5. Hon. Lomwa Joseph Samal, M.P.
6. Hon. Kihungi Peter Irungu, MP
7. Hon. Sankaire Leah Sopiato, MP
8. Hon. Siyoi Lillian Chebet, MP

IN ATTENDANCE

1. **Mr. Geoffrey Kaituko, ACI Arb - nominee, Principal Secretary, State Department for Labour and Social Skills**
2. **Mr. Amos Gathecha, EBS - nominee, Principal Secretary, State Department for Public Service**

COMMITTEE SECRETARIAT

- | | | |
|------------------------|---|-------------------------|
| 1. Ms. Rose M. Wanjohi | - | Senior Clerk Assistant |
| 2. Mr. Binensa Mabungu | - | Clerk Assistant III |
| 3. Mr. Samuel Wanjiru | - | Clerk Assistant III |
| 4. Ms . Fiona Wanjiru | - | Legal Counsel II |
| 5. Ms. Wambui Nyachae | - | Research Officer III |
| 6. Mr. Timothy Chiko | - | Research Officer III |
| 7. Ms. Rinha Saineye | - | Media Relations Officer |
| 8. Mr. Danton Nirvana | - | Audio officer |
| 9. Mr. Allan Gituku | - | Serjeant-At-Arms |

AGENDA

1. Prayers
2. Preliminaries;
3. Confirmation of Minutes of the previous minutes
4. Matters Arising;

1. The President, H.E William Ruto announced plans to enact the 6% contribution of employees' salary towards NSSF. There have been reports of misuse of workers' funds at NSSF while the payment of benefits upon retirement has been a frustrating process for many. In your view, what policies will you consider to ensure funds are not misused and streamline the system payments?

The nominee stated that the 6 % proposed workers' contribution and matched by one by the employer is based on the National Social Security Fund (amendment) Act, 2013. The current model is unsustainable. Mismanagement of the Fund is due to risky land deals undertaken. To mitigate the mismanagement, there is need for the adoption of global best practice to manage pension funds and have the right trustees in place. NSSF is an autonomous body outside the government's purview which makes monitoring its activities difficult. Enhanced government intervention and oversight will go a long way to mitigate against the mismanagement. To reduce the time of cost and time of processing retirees' pensions, NSSF can be devolved to county headquarters and payments digitized.

2. What would the nominee consider to be the major challenges for the labor sector today? What solutions would he propose?

The nominee stated that unemployment is exacerbated by the low rate of absorption of new graduates in the market. As per the UDA manifesto, there is need to unlock the main sectoral drivers of economies such as agriculture and manufacturing. There is a mismatch of skills to market requirements and over supply of certain skills. The Ministry is to carry out a skills assessment in order to advise the training institutes on the requisite skills including the National Industrial Training Authority and the Tertiary and Vocational Education and Training (TVET). The review of labour laws and regulations to allow for labour exporting agreement with Countries who require the skills which are in excess. The Ministry is to requisition for additional Labour Attaché especially in large labour markets to protect the right of migrant workers. On labour unrests, the Alternative Dispute Resolution (ADR) mechanism is been implemented to arrest the disputes before they became industrial actions and thus reduce litigation.

3. The country is facing serious challenges of child labour and child prostitution, how can this vice be combated?

The nominee reported that there is need for more labour inspectors especially in known hotspot areas and during certain seasons. Schooling is a big deterrent against child labor because those who go to school do not engage in child labor. A multi –sectoral and multi-agency approach is advisable to ensure success.

4. What safeguards are there or can be enacted to ensure that expatriate opportunities issued expatriates before ensuring that Kenyans do not have the requisite skills, thus promoting "A Kenyan first employment policy".

The nominee proposes a multi-sectoral approach. The Ministry of Interior that issues work permits to request for a skills vetting report from the Ministry of Labour on whether the skills are available in Kenya. Enactment of regulations to allow the Ministry of Labour to receive a copy of the expatriate contracts for verification and confirmation of skills transfer.

5. The mistreatment of migrant workers to the Middle East is a thorny issue and there is a blame game between foreign affairs and labour. What measures can be put in place to curb the mistreatment of the workers?

package for civil servants such as full medical cover through NHIF, Group personal cover, mortgage, car loan, and Through HELB, loans to civil servants to pursue higher learning.

7. In the nominee's assessment, what can the public service do to improve public service delivery?

He advocates for entrenchment of performance management and results-oriented initiatives to improve service delivery. Further, entrenching quarterly appraisals makes officers conscious of what they have to do, holds them more accountable for their actions. Have a feedback mechanisms to gauge service delivery. Entrench customer service in the public service.

8. On the right to fair labor practices every worker has the right to fair remuneration. What steps will the nominee take to ensure that the workers' remunerations are at par with the current economic environment, where inflation in the local and international sphere is high? This is with a special focus on hardship areas for different workers.

There is a draft hardship policy pending before the Ministry of Labour and Social Protection awaiting public participation. It is envisaged to redefine hardship areas and increase amounts paid as allowance.

9. The public service has been politicized and public servants have become politicians in their offices. How can the nominee ensure the civil service remains professional?

He stated that in the past, the public service was shunned because of poor pay but due to improved pay and various other incentives, it's attracting candidates for various positions. The nominee promised to entrench and enhance professionalism including advocating for officers to be members of professional bodies.

10. The rationale behind not devolving the Kenya School of Government to Counties?

The Kenya School of Government is intended to be a learning institution to train and provide a forum for interaction for all Public Officers regardless of their county of residence. The civil servant can therefore be posted anywhere in the Country.

11. Measures to mitigate against ethnicity in the public service.

The nominee stated that the provisions of the Constitution under Articles 10, 232 and 56 promote inclusivity which requires entrenchment and continuous monitoring. The criteria to use is on pro-rata rate based on population. The main challenges still arising are on gender and age. The policy on affirmative action is in place in the public service to mainly address the gender parity in pay and positions.

12. The Cabinet Secretary for Public Service, Gender and Affirmative Action has undertaken to increase pay for public servants within 100 days of office. How will the nominee implement the proposed pay increase in light of the measures in place to curb the ballooning wage bill?

The nominee reported that the undertaking was based on a Collective Bargain Agreement with the civil service unions which is in the process of negotiation. The speed at which the parties will reach an agreement would impact on the timeline of 100 days.

MIN. NO. 017 NA/LABOUR/2022: ANY OTHER BUSINESS

The Committee had no other business.

MIN. NO. 018 NA/LABOUR/2022: ADJOURNMENT/DATE OF THE NEXT MEETING

There being no other business, the meeting was adjourned at forty-three minutes past one o'clock. The next meeting will be held at 3:30 pm on 30th November 2022, in Committee room 4, Continental House, Parliament precincts.

MINUTES OF THE SECOND SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR HELD ON THURSDAY 10TH NOVEMBER 2022 IN THE SMALL DINING ROOM, OPPOSITE MEDIA CENTRE, MAIN PARLIAMENT BUILDINGS AT 9:40 AM.

PRESENT

1. The Hon. Karemba Eric Muchangi Njiru, M.P. - **Chairperson**
2. The Hon. Muli Fabian Kyule, M.P. - **Vice Chairperson**
3. The Hon. Wambilianga Catherine Nanjala, M.P.
4. The Hon. Siyoi Lillian Chebet, M.P.
5. The Hon. Kihungi Peter Irungu, M.P.
6. The Hon. Sankaire Leah Sopiato, M.P.
7. The Hon. Kagesi Kivai Ernest Ogesi, M.P.
8. The Hon. Chiforomodo Mangale Munga, M.P.
9. The Hon. Lomwa, Joseph Samal, M.P.
10. The Hon. Oyoo James Onyango, M.P.
11. The Hon. Barasa Patrick Simiyu, M.P.
12. The Hon. Aburi Donya Dorice, M.P.
13. The Hon. Amina Dika, M.P.

APOLOGIES

1. The Hon. Kiti Richard Ken Chonga, M.P.
2. The Hon. Omwera George Aladwa, M.P.

IN ATTENDANCE

1. Hon. Florence Bore - Cabinet Secretary Ministry of Labour and Social Protection
2. Eng. Peter Tum - Permanent Secretary, State Department for Labour
3. Ms. Hellen Apiyo - Acting Labour Commissioner
4. Ms. Joyce Mwale - Senior Deputy Secretary

COMMITTEE SECRETARIAT

- | | | |
|---------------------------|---|-------------------------|
| 1. Mr. Adan Gindicha | - | Senior Clerk Assistant |
| 2. Mr. Binensa Mabungu | - | Clerk Assistant III |
| 3. Mr. Samuel Wanjiru | - | Clerk Assistant III |
| 4. Ms. Christine Odhiambo | - | Senior Legal Counsel |
| 5. Ms. Wambui Nyachae | - | Research Officer III |
| 6. Mr. Timothy Chiko | - | Research Officer III |
| 7. Ms. Noel Chelagat | - | Media Relations Officer |
| 8. Mr. Peter Atsiaya | - | Media Relations Officer |
| 9. Ms. Zainabu Wario | - | Serjeant-At-Arms |

AGENDA

1. Prayers
2. Preliminaries;

Committee Observations and responses by the Ministry of Labour and Social Protection;

The Committee

1. Directed the Ministry to explain whether there were further plans to resolve the dispute given the court order. The Ministry submitted that the court order only gave temporary relief in resolving the industrial dispute. It further stated that the dispute at hand is complex, with diverse technical issues and it would require a multi-sectoral approach by way of constituting a Conciliation Committee to resolve the dispute.
2. Queried the existence of a Memorandum of Understanding between the Management of Kenya Airways and the Pilots Association to cover the COVID-19 pandemic period. The Ministry averred that there was a contractual agreement between the parties to allow for deductions resulting from the constraints brought about by the COVID-19 pandemic.
3. Raised concern on the continued use of public resources to fund the airline's operations. The Ministry submitted that it was not the intention of the government to continue funding the entity. There is a need for a forensic audit on the airline's system so as to unearth operational inefficiencies.

Committee Recommendations

1. The Committee resolved to invite both the Kenya Airways Management and The Kenya Airlines Pilots Association (KALPA) for the purposes of getting submissions from all the parties involved and thereby resolve the dispute in an expedient manner.
2. Both the parties to provide a signed Memorandum or agreement to cover the COVID-19 pandemic period.

MIN.NO.NA/LABOUR/2022/009: BRIEF ON VETTING OF PRINCIPAL SECRETARY NOMINEES

Ms. Christine Odhiambo, Legal Counsel guided the members on the procedure of vetting of Nominees for the positions of Principal Secretaries as governed by the Public Appointments (Parliamentary Approval) Act, Cap. 136 and the National Assembly Standing orders. The Committee was informed that it was in receipt of the notification for appointment by the President of the following persons to serve as Principal Secretaries, as committed to it the House, namely-

1. Mr. Geoffrey Kaituko –nominee for Principal Secretary, State Department for Labour and Skills Development; and
2. Mr. Amos Gathecha- nominee for Principal Secretary, State Department for Public Service

The Committee was taken through the procedure for approval hearing;

- a) Submission of documents -Letters of Clearance from the various agencies, academic and professional certificates and dully filled questionnaire as specified in the Public Appointments (Parliamentary Act), 2011.
- b) Issues for consideration -Section 6(7) of the Act
- c) Submission of Memoranda -Section 6(9) of the Act
- d) Powers of the Committee during the approval hearing -Section 6(5) and Section 12 of the Act.