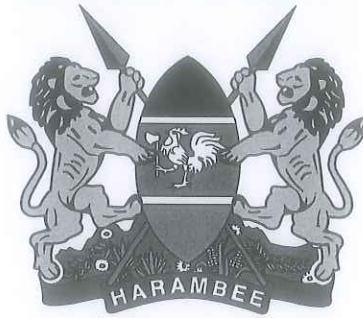


Approved for tabling.

REPUBLIC OF KENYA





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THE NATIONAL ASSEMBLY

12TH PARLIAMENT (THIRD SESSION)

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

REPORT ON THE VETTING OF HON. AMINA ABDALLA, CBS, NOMINEE FOR THE POSITION OF MEMBER FOR THE SALARIES AND REMUNERATION COMMISSION REPRESENTING THE PARLIAMENTARY SERVICE COMMISSION

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 03 DEC 2019	DAY: TUESDAY
TABLED BY:	HON. JOSEPH LIMO CHAIRPERSON, FINANCE AND NATIONAL PLANNING
CLERK-AT THE TABLE:	

DIRECTORATE OF COMMITTEE SERVICES,
CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,
NAIROBI

DECEMBER, 2019



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ABBREVIATIONS

DCI	-	Directorate of Criminal Investigations
EACC	-	Ethics and Anti - Corruption Commission
HELB	-	Higher Education Loans Board
ORPP	-	Office of the Registrar of Political Parties
KRA	-	Kenya Revenue Authority,
PAPAA	-	Public Appointments (Parliamentary Approval) Act, 2011
SRC	-	Salaries and Remuneration Commission

CHAIRPERSON'S FOREWARD

This report contains the Committee's proceedings during the approval hearing of the appointment of Hon. Amina Abdalla, CBS, nominee for the position of Member of the Salaries and Remuneration Commission representing the Parliamentary Service Commission as requested by H.E the President and communicated to the House by the Speaker on Tuesday, 19th November, 2019.

In compliance with section 6(9) of the Public Appointments (Parliamentary Approval) Act, 2011, the Clerk of the National Assembly placed an advertisement in the print media on Thursday, 21st November, 2019. The Clerk 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, 2011. By close of the submission deadline no memoranda had been submitted for or against the nomination of Hon. Amina Abdalla, CBS.

Hon. Amina Abdalla, CBS appeared before the Committee on **Thursday, 28th November, 2019** for the approval hearings and the Committee examined her suitability based on the criteria set out by the Public Appointments (Parliamentary Approval) Act, 2011. The nominee was interviewed on her academic credentials, relevant experience, knowledge of sector issues, leadership and integrity.

Based on her performance during the vetting exercise, the Committee found the nominee to have wealth of experience to serve as the representative of the Parliamentary Service Commission to the SRC.

May I take this opportunity to thank all the Members of the Committee for their input and valuable contributions and time during the approval hearings and deliberations during the writing of the report. The Committee also takes this opportunity to thank the Offices of the Speaker and of the Clerk of the National Assembly for the logistical support accorded to it during the exercise.

On behalf of the Departmental Committee on Finance and National Planning, and pursuant to Articles 230(2) (a) and 250(2) of the Constitution, section 7 of the Salaries and Remuneration Commission Act, 2011 and Section 8(1) of the Public Appointments (Parliamentary Approval) Act (No. 33 of 2011), it is my pleasant duty to table the Report of the Committee on the nomination of Hon. Amina Abdalla, CBS for appointment to the position of Member of the Salaries and Remuneration Commission representing the Parliamentary Service Commission for debate and adoption by the House.

Hon. Joseph Limo, MP

Chairperson, Departmental Committee on Finance and National Planning

CHAPTER ONE

1 PREFACE

1.1 Establishment of the Committee

1. The Departmental Committee on Finance & National Planning is one of the fifteen 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 their implementation;
 - iii. **To study and review all the legislation referred to it;**
 - iv. To study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
 - v. 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;
 - vi. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No. 204 (Committee on appointments);
 - vii. To examine treaties, agreements and conventions;
 - viii. To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
 - ix. To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
 - x. To examine any questions raised by Members on a matter within its mandate.

1.2 Committee Subjects

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider matters related to public finance, monetary policies, public debt, financial institutions (excluding those in securities exchange), investment and divestiture policies, pricing policies, banking, insurance, population revenue policies including taxation and national planning and development.
3. In executing its mandate, the Committee oversees the following government Ministries and departments;
 - a. The National Treasury and Ministry of Planning
 - b. Ministry of Devolution and ASAL
 - c. The Commission on Revenue Allocation
 - d. Office of the Controller of Budget
 - e. Salaries and Remuneration Commission

1.3 Committee Membership

4. The Departmental Committee on Finance and National Planning was constituted by the House in December, 2017 and comprises of the following Members: -

Chairperson

Hon. Joseph K. Limo, MP
MP for Kipkelion East Constituency

Jubilee Party

Vice-Chairperson

Hon. Isaac W. Ndirangu
MP for Roysambu Constituency

Jubilee Party

Members

Hon. Jimmy O. Angwenyi, MP
MP for Kitutu Chache North Constituency

Jubilee Party

Hon. Christopher Omulele, MP
MP for Luanda Constituency

ODM Party

Hon. Dr. Enoch Kibunguchy, MP
MP for Likuyani Constituency

FORD-K

Hon. Shakeel Shabbir Ahmed, MP
MP for Kisumu Town East

Independent Member

Hon. Abdul Rahim Dawood, MP
MP for North Imenti Constituency

Jubilee Party

Hon. Daniel E. Nanok, MP
MP for Turkana West Constituency

Jubilee Party

Hon. Andrew A. Okuome, MP
MP for Karachuonyo Constituency

ODM Party

Hon. David M. Mboni, MP
MP for Kitui Rural Constituency

CCU Party

Hon. Francis K. Kimani, MP
MP for Molo Constituency

Jubilee Party

Hon. Joseph M. Oyula, MP
MP for Butula Constituency

ODM Party

Hon. Joshua C. Kandie, MP
MP for Baringo Central Constituency

MCC Party

The Hon. Lydia H. Mizighi, MP
MP for Taita Taveta County

Jubilee Party

Hon. Mohamed A. Mohamed, MP
MP for Nyali Constituency

Independent Member

Hon. Purity W. Ngirici, MP
MP for Kirinyaga County

Jubilee Party

Hon. Samuel Atandi, MP
MP for Alego Usonga Constituency

ODM Party

Hon. Stanley M. Muthama, MP
MP for Lamu West Constituency

MCC Party

The Hon. Edith Nyenze, MP
MP for Kitui West Constituency

WDM-K

1.4 Committee Secretariat

5. The Committee is facilitated by the following Secretariat: -

Ms. Leah W. Mwaura
Senior Clerk Assistant/Head of Secretariat

Ms. Jennifer Ndeto
Principal Legal Counsel I

Ms. Lauren Wesonga
Clerk Assistant II

Mr. Josephat Motonu
Fiscal Analyst I

Mr. Chelang'a Maiyo
Research Officer II

CHAPTER TWO

2 BACKGROUND

2.1 Message from H.E. the President

6. Pursuant to Standing Order 42 (1), the Speaker on Tuesday 19th November, 2019 communicated to the House a message from H.E. the President regarding the nominee to the position of Member of the Salaries and Remuneration Commission representing the Parliamentary Service Commission (PSC). The Speaker further informed the House that H.E. the President was seeking the approval of the National Assembly on the said nomination before appointment.

2.2 Committal to the Departmental Committee on Finance and National Planning

7. In accordance with Standing Order 42(3) (c) the Speaker having read the Message from the President referred the name of the nominee together with their curriculum vitae to the Departmental Committee on Finance and National Planning to conduct approval hearings. The Speaker advised the Committee to conduct extensive public participation as provided for under Article 118 of the Constitution as well as the Public Appointments (Parliamentary Approval) Act (No.33 of 2011) and report to the House on or before Tuesday, 3rd December, 2019.

2.3 Nomination and appointment process

- 3 Articles 230(2)(a) and 250 (2) of the Constitution read together with section 7 of the Salaries and Remuneration Commission Act, 2011 provide for the process through which the position is recruited. The Constitution provides that the recruitment of officers to public office should be conducted in a competitive, transparent and fair process before nomination for appointment by H.E. the President with the approval of the National Assembly.
- 4 The National Assembly having received the name of the nominee is obligated to conduct approval hearings and make a determination of the nominee's suitability or otherwise within fourteen days as provided for in section 8(1) of the Public Appointments (Parliamentary Approval Act) (No.33 of 2011) read together with section 7(11) of the Salaries and Remuneration Commission Act, 2011.

2.2 Report of the Parliamentary Service Commission

- 5 Following the rejection of the appointment of the Member of the Salaries and Remuneration Commission representing the Parliamentary Service Commission, Hon. Halima Abdille Mohammed by the National Assembly, the Executive Office of the President wrote to the Speaker of the National Assembly/Chairman of the Parliamentary Service Commission on 7th September, 2018 requesting the Parliamentary Service Commission to initiate fresh nomination process for its nominee to the SRC.
- 6 On 19th December, 2018, Parliamentary Service Commission placed an advertisement on the Daily Nation newspaper inviting applications from suitably qualified persons for nomination by the Parliamentary Service Commission to the Salaries and Remuneration Commission. At the close of the advertisement, sixty-six (66) applications were received and long-listed.

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- 7 On 15th January, 2019, Hon. Halima Abdille Mohammed filed an application at the High Court in Petition No. 340 of 2018 under Certificate of Urgency seeking that the High Court issues a conservatory order restraining the Parliamentary Service Commission from conducting the process of interviewing, shortlisting, nominating and recruiting a new nominee for Member of the Salaries and Remuneration Commission as advertised in the Daily Nation of 19th December, 2018.
- 8 The Court in its ruling issued a conservatory order restraining the Parliamentary Service Commission from conducting the process of interviewing, shortlisting, nominating and recruiting a new nominee for Member of the Salaries and Remuneration Commission as advertised in the Daily Nation of 19th December, 2018. As a result of the issuance of the conservatory orders, the recruitment process was halted.
- 9 On 24th May, 2019, the Petitioner filed and served the Parliamentary Service Commission with a “*Notice of Intention to Withdraw the Petition*”, requesting for the matter to be withdrawn. Following the withdrawal of the petition, the Parliamentary Service Commission resumed the selection process.
- 10 Out of the sixty-six (66) applications that were long-listed, six (6) qualified applicants were short-listed. The Parliamentary Service Commission published a list of the short-listed applicants in two local daily newspapers on 20th September, 2019 and invited the short-listed applicants for oral interviews which were conducted in on 30th September, 2019.
- 11 Following the interviews, the candidates performed as follows:-
- | | | | |
|------|-----------------------|---|--------|
| i. | Amina Abdalla | – | 88.55% |
| ii. | Andrew Toboso Anyanga | – | 72.15% |
| iii. | Abdirahman Ali Hassan | – | 68.75% |
| iv. | Racheal Ameso Amollo | – | 64.65% |
| v. | Isaac Kipkemboi Melly | – | 63.95% |
| vi. | Michael Aringo Onyura | – | 61% |
- 12 Section 7(2) of the Salaries and Remuneration Act provides that the nominating bodies shall interview the applicants and forward the names of two persons so qualified, who shall be of opposite gender, to the Cabinet Secretary for onward transmission to the President.
- 13 However, the High Court in the case of **Judicial Service Commission v Attorney General & another Interested Party; Jacqueline Akinyi Okeyo Manani [2019] eKLR**, issued a declaration that section 7(2) of the Salaries and Remuneration Commission Act was unconstitutional, null and void, in so far as it required a nominating body to forward the names of two persons so qualified who shall be of opposite gender to the Cabinet Secretary for onward transmission to the President and that the same was contrary to Article 230(2) (b) of the Constitution. This decision has not been overturned or stayed.
- 14 At its Special Meeting held on 30th September, 2018, the Parliamentary Service Commission resolved to forward the name of one nominee to H. E. the President following the above mentioned decision of the High Court and selected the candidate who ranked highest in the oral interviews as its nominee pursuant to section 7(2) of the Salaries and Remuneration Commission Act, No. 10 of 2011.

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15 Accordingly, the Parliamentary Service Commission resolved to forward to the Cabinet Secretary, National Treasury and Planning the name of **Hon. Amina Abdalla, CBS** as the nominee of the Parliamentary Service Commission to the Salaries and Remuneration Commission, for onward transmission to His Excellency the President of the Republic of Kenya.

2.3 Committee proceedings

16 During the approval hearings, the Committee held a total of three sittings to examine and review the nominee's certificates, testimonials, consider public views and hold vetting meeting with the nominee.

CHAPTER THREE

3 BACKGROUND INFORMATION

3.1 Legal framework

- 17 Article 230 of the Constitution provides as follows—
230. (1) *There is established the Salaries and Remuneration Commission.*
- (2) *The Salaries and Remuneration Commission consists of the following persons appointed by the President—*
- (a) *a chairperson;*
 - (b) *one person each nominated by the following bodies from among persons who are not members or employees of those bodies—*
 - (i) *the Parliamentary Service Commission;*
 - (ii) *the Public Service Commission;*
 - (iii) *the Judicial Service Commission;*
 - (iv) *the Teachers Service Commission;*
 - (v) *the National Police Service Commission;*
 - (vi) *the Defence Council; and*
 - (vii) *the Senate, on behalf of the county governments;*
 - (c) *one person each nominated by—*
 - (i) *an umbrella body representing trade unions;*
 - (ii) *an umbrella body representing employers; and*
 - (iii) *a joint forum of professional bodies as provided by legislation;*
 - (d) *one person each nominated by—*
 - (i) *the Cabinet Secretary responsible for finance; and*
 - (ii) *the Attorney-General; and*
 - (e) *one person who has experience in the management of human resources in the public service, nominated by the Cabinet Secretary responsible for public service.*
- (3) *The Commissioners under clause (1)(d) and (e) shall have no vote.*
- (4) *The powers and functions of the Salaries and Remuneration Commission shall be to—*
- (a) *set and regularly review the remuneration and benefits of all State officers;*
and
 - (b) *advise the national and county governments on the remuneration and benefits of all other public officers.*
- (5) *In performing its functions, the Commission shall take the following principles into account—*
- (a) *the need to ensure that the total public compensation bill is fiscally sustainable;*

- (b) the need to ensure that the public services are able to attract and retain the skills required to execute their functions;*
- (c) the need to recognise productivity and performance; and*
- (d) transparency and fairness.*

18 Section 7 of the Salaries and Remuneration Commission Act, 2011 provides for the procedure for nomination of chairperson and members of the Commission as follows—

- 7. (1) Within fourteen days of the commencement of this Act, or of the occurrence of a vacancy in the Commission relating to the members under Article 230(2)(b) and (c) of the Constitution, the relevant nominating body shall, by advertisement in at least two local daily newspapers of national circulation, invite applications from persons who qualify for nomination under the Constitution and this Act for nomination as a member of the Commission.*
- (2) The relevant nominating body shall consider the applications received under subsection (1) to determine their compliance with the provisions of the Constitution and this Act, interview the applicants and forward the names of two persons so qualified, who shall be of opposite gender, to the Cabinet Secretary for onward transmission to the President.*
- (3) Deleted by Act No. 4 of 2018, Sch.*
- (4) Deleted by Act No. 4 of 2018, Sch.*
- (5) Deleted by Act No. 4 of 2018, Sch.*
- (6) Deleted by Act No. 4 of 2018, Sch.*
- (7) Deleted by Act No. 4 of 2018, Sch.*
- (8) Deleted by Act No. 4 of 2018, Sch.*
- (9) Deleted by Act No. 4 of 2018, Sch.*
- (10) The President shall, within seven days' receipt of the names forwarded under subsection (2) nominate the members of the Commission from each category and forward the names of the nominees, together with the name of his nominee for Chairperson of the Commission, to the National Assembly.*
- (11) The National Assembly shall, within fourteen days of the day it next sits after receipt of the names of the nominees under subsection (9), consider all nominations and may approve or reject any nomination.*
- (12) Where the National Assembly approves the nominees, the Speaker shall forward the names of the approved nominees to the President for appointment.*
- (13) The President shall, within seven days of the receipt of the approved nominees from the National Assembly, by notice in the Gazette, appoint the chairperson and members approved by the National Assembly.*
- (14) Where the National Assembly rejects any nomination, the Speaker shall communicate the decision to the President to submit fresh nominations.*

- 19 In light of this, H.E. the President has nominated Hon. Amina Abdalla, CBS for appointment as Member of the Salaries and Remuneration Commission representing the Parliamentary Service Commission.
- 20 The Departmental Committee on Finance and National Planning was assigned the role of conducting the vetting of the aforesaid nominee. The following statutes/provisions were paramount to the Committee as it executed this mandate:
- (i) The Salaries and Remuneration Commission Act (No. 10 of 2011);
 - (ii) The Public Appointments (Parliamentary Approval) Act (No. 33 of 2011);
 - (iii) Chapter 6 of the Constitution on leadership and integrity;
 - (iv) Article 250 of the Constitution on composition, appointment and terms of office of Constitutional Commission and Independent offices;
 - (v) Article 230 of the Constitution on the Salaries and Remuneration Commission;
 - (vi) Article 232 of the Constitution on values and principles of public service;
 - (vii) Article 10 of the Constitution on the national values and principles of governance;
 - (viii) Article 77 on Restriction on activities of State Officers
 - (ix) The Leadership and Integrity Act (Cap. 182);
 - (x) The Public Service (Values and Principles) Act (No. 1A of 2015)
 - (xi) The Public Officer Ethics Act (Cap. 183)

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

- 21 Section 7 of the Public Appointments (Parliamentary Approval) Act, Chapter 136 (PAPAA), provides for issues which the relevant House of Parliament (in this case, the National Assembly) is required to take into consideration in relation to any nomination. This includes:-
- a) *the procedure used to arrive at the nominee;*
 - b) *any constitutional or statutory requirements relating to the office in question; and*
 - c) *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.*
- 22 The specific qualifications for appointment as Member of the Commission are prescribed under section 5 of the Salaries and Remuneration Commission Act however the Schedule to the Public Appointments (Parliamentary Approval) Act provides for the criteria to guide the Committee during an approval hearing. These are—
- a. Education, employment record;
 - b. Public office, political activities and affiliations;
 - c. Deferred income or future benefits;
 - d. Sources of income, tax status, statement of net worth;
 - e. Potential conflicts of interest;
 - f. Pro bono or charity work;
 - g. Whether the nominee has been charged in a court of law or convicted;
 - h. Adverse mention in an investigatory report of a Parliamentary Committee or Commission.

- 23 During the approval hearing, section 6 of the Public Appointments (Parliamentary Approval) Act (PAPAA) provides important points, as follows—
- 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)
 - 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).

Chapter 6 of the Constitution (Leadership and Integrity)

- 24 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 member of a Commission being a state officer under Article 260 of the Constitution) is a public trust to be exercised in a manner that is consistent with the Constitution, demonstrates respect for the people, brings honour to the nation and dignity to the office and promotes 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.
- 25 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 on Restriction on activities of State Officers

- 26 Article 77 of the Constitution provides that a full-time State officer shall not participate in any other gainful employment. Further clause (2) provides that any appointed State officer shall not hold office in a political party. Therefore, the Salaries and Remuneration Commission being a full-time Commission pursuant to section 4(3) of the SRC Act, the provisions of Article 77 apply.

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

- 27 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.

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

28 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 marginalised; good governance, integrity, transparency and accountability; and sustainable development.

The Leadership and Integrity Act

29 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 e.t.c.

The Public Service (Values and Principles) Act

30 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

31 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 favouritism, 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)

3.2 Qualifications for appointment of a Member of the Salaries and Remuneration Commission

32 In conducting the Approval hearing, the Committee was guided by Article 230(2)(a) of the Constitution, Sections 5 and 7 of the Salaries and Remuneration Commission Act (Act No.10 of 2011) and the provisions of Section 3 and 5 of the Public Appointments (Parliamentary Approval) Act No. 33 of 2011.

33 Article 250(3) of the Constitution provides that to be appointed to a Commission or independent office a person shall have the specific qualifications required by the Constitution or national legislation. Further Article 250(4) provides that appointments to commissions and independent offices shall take into account the national values referred to in Article 10, and the principle that the composition of the commissions and offices, taken as a whole, shall reflect the regional and ethnic diversity of the people of Kenya.

34 As regards qualifications for appointment as a chairperson or member of the Salaries and Remuneration Commission section 5 of the Salaries and Remuneration Commission Act, 2011 provides as follows—

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Qualification for appointment of chairperson and members

5. (1) A person shall be qualified for appointment as the chairperson if such person—

- (a) holds a degree from a university recognized in Kenya;
- (b) has knowledge and at least ten years' experience in matters relating to either—
 - (i) public management;
 - (ii) finance and administration;
 - (iii) human resource management;
 - (iv) economics; or
 - (v) labour laws;
- (c) has knowledge of labour market trends in Kenya as relates to income in the public and private sector;
- (d) meets the requirements of Chapter Six of the Constitution; and
- (e) has had a distinguished career in their respective fields.

(2) A person shall be qualified for appointment as a member if the person—

- (a) holds a degree from a university recognized in Kenya;
- (b) has knowledge and at least ten years' experience in either—
 - (i) finance and administration;
 - (ii) public management;
 - (iii) economics;
 - (iv) human resource management; or
 - (v) labour laws;
- (c) meets the requirements of Chapter Six of the Constitution; and
- (d) has had a distinguished career in their respective fields.

(3) A person shall not be qualified for appointment as the chairperson or a member if the person—

- (a) is a member of Parliament or County Assembly;
- (b) is a member of a governing body of a political party;
- (c) is a member of a local authority;
- (d) is an undischarged bankrupt; or
- (e) has been removed from office for contravening the provisions of the Constitution or any other law.

35 Article 73 of the Constitution provides that: (2) The guiding principles of leadership and integrity include— (a) *selection on the basis of personal integrity, competence and suitability, or election in free and fair elections; (b) objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favouritism, other improper motives or corrupt practices; (c) selfless service based solely on the public interest, demonstrated by— (i) honesty in the execution of public duties; and, (ii) the declaration of any personal interest that may conflict with public duties; (d) accountability to the public for decisions and for decisions and actions; and (e) discipline and commitment in service to the people.*

3.3 Message from H.E the President

36 H.E. the President on **Monday, 18th November, 2019** communicated the name of the nominee for the position of Member representing the Parliamentary Service Commission to the Salaries and Remuneration Commission to the Speaker for approval by the National Assembly pursuant to Article 230 (2) (a). The Speaker in his communication from the Chair issued on **Tuesday, 19th November, 2019** and pursuant to Standing Order No. 42 referred the names to the Departmental Committee on Finance and National Planning to conduct approval hearings and report within 14 days.

3.4 Notification to the nominee and six (6) clearance requirements

37 The Clerk of the National Assembly vide letter ref. NA/DC/F&NP/2018/90 dated **20th November, 2019** wrote to the nominee informing her of her nomination by H.E the President and requested her to appear for vetting by the Departmental Committee on Finance and National Planning on **Thursday, 28th November, 2019** in 2nd Floor, Continental House, Parliament Buildings at 10:00 am. The Clerk further requested the nominee to bring with her clearance certificates from 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).

38 The Clerk also 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 requesting for tax, loans, integrity, membership to a political party and criminal record status of the nominee. The institutions wrote back to the National Assembly as follows:-

- i. The Higher Education Loans Board (HELB) (letter Ref: HELB/RR/112009/22), the Ethics and Anti-Corruption Commission (EACC) (letter Ref. EACC.7/10/5 VOL.XI (172)) Office of the Registrar of Political Parties (ORPP) (letter Ref: RPP/ORG/34 Vol.III (78)) and Kenya Revenue Authority (KRA) (letter Ref. CDT/HO/54) cleared the candidate.
- ii. By the time the Committee was compiling its report, the Directorate of Criminal Investigations (DCI) had not responded to the letter by the Clerk of the National Assembly, however the nominee submitted a clearance certificate Ref. No.PCC-AAAHHJKH6 dated 20th December, 2018.

3.5 Request for Memoranda and Notification to the public

39 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"*.

40 The Clerk of the National Assembly on **Thursday, 21st November, 2019** 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. The notification gave provision for the submission of memoranda, on the suitability or otherwise of the nominee, by **Wednesday, 28th November, 2019** at **5.00 pm**.

3.6 Submission of memoranda

- 41 At the close of business **Wednesday, 28th November, 2019**, the Office of the Clerk, had not received an affidavit for or against the suitability of the nominee.

CHAPTER FOUR

4 APPROVAL HEARINGS

- 42 The Committee conducted approval hearings for the nominee to the position of Member representing PSC to the Salaries and Remuneration Commission on **Thursday, 28th November, 2019**. 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) and the Standing Orders.
- 43 The Committee examined the nominee using the guidelines provided for in the Public Appointments (Parliamentary Approval) Act No. 33 of 2011. The Committee also considered the following in vetting the nominee:-
- 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

4.1 Hon. Amina Abdalla, CBS – Nominee for the Position of Member Representing the PSC to the Salaries and Remuneration Commission

- 44 Hon. Amina Abdalla, CBS was nominated for the position of Chairperson of the Salaries and Remuneration Commission. She appeared before the Committee for vetting on **Thursday, 28th November, 2019**. She was orally interviewed by the Committee and responded to questions during vetting as follows:-

4.1.1 Personal Background

- 45 Hon. Amina Abdalla, CBS is a Kenyan citizen of identity card number 10319352 and was born in Nairobi County in 1969.

4.1.2 Educational Background

- 46 Hon. Amina Abdalla, CBS holds a Masters Degree in International Development from Cornell University in USA and a Bachelor of Science Degree in Agriculture and Home Economics from Egerton University in Njoro.

4.1.3 Work Experience

- 47 Hon. Abdalla has over 25 years' experience in public sector oversight and international natural resources management having served as a Member of Parliament for fifteen (15) years. As an M.P., she served as the Chairperson of the Departmental Committee on Environment and Natural Resources in the eleventh (11th) Parliament and the Chairperson of the Select Committee on Delegated Legislation in the 10th Parliament. Additionally, she is serving as a Member of Presidential Tribunals set up to investigate the conduct of Justices Lucy Njoki Waithaka, Njagi Marete and Martin Muya (August 2019 to date) and Departmental Committee on Finance and National Planning: report on the vetting of Hon. Amina Abdalla nominee for appointment to the position of Member of the Salaries and Remuneration Commission

also served in the Presidential Tribunal set up to investigate the conduct of Supreme Court Judge Hon. Jackton B. Ojwang (April to August, 2019). Besides the above appointments, she has served as Regional Projects Coordinator, IUCN at the World Conservation Union Regional Office for East Africa in Nairobi (June 2000 to January 2003), Programme Officer and Officer in charge of IUCN at the World Conservation Union, Somali Natural Resources Management Programme in Hargesa, Somaliland (August 1998 to May 2000), Projects Officer, IUCN at the World Conservation Union Regional Office for East Africa in Nairobi (August 1996 to August 1997), Field Co-ordinator, GTZ-RESCUE Project, Daadab Refugee Complex in Daadab North Eastern Kenya (April 1996 to August 1996), Deputy Field Co-ordinator, GTZ-RESCUE Project at Daadab Refugee Complex in Daadab North Eastern Kenya (September, 1994 to March 1996) and Camp Supervisor, GTZ-RESCUE Project at Daadab Refugee Complex in Daadab North Eastern Kenya (September 1993 to August 1994).

- 48 Hon. Amina was a Member of Parliament of the Select Committee that midwifed the Constitution of Kenya 2010. She has wide knowledge of all major environment and natural resources legislations in Kenya and has developed and managed natural resources management projects in ten (10) countries of the greater Horn of Africa. She is currently a consultant on governance and natural resources management.

4.1.4 Awards, Distinctions and Others

Hon. Amina Abdalla has achieved the following in her career life:-

- 49 Was awarded Water Ambassador by the Government of Kenya for her contribution to the review of the Water Act, 2016;
- 50 Awarded the Presidential award of the Chief of the Burning Spear 1st Class for her contribution to legislative reforms in the natural resources sector in 2015; and
- 51 Awarded by the National Authority for Campaign against alcohol and drug abuse by sponsoring the Bill that anchored the Agency into law in 2012.

4.1.5 Article 77 of the Constitution on Restriction on activities of State Officers

- 52 Article 77 of the Constitution provides that a full-time State officer shall not participate in any other gainful employment. In light of this provision, the Committee noted that the nominee was serving as a Member of the Presidential Tribunal set up to investigate the conduct of Justices Lucy Njoki Waithaka, Njagi Marete and Martin Muya. The nominee informed the Committee that she intends to resign from the position if approved to serve as a member of SRC.

4.1.6 Clearance Requirements

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

4.1.7 Gender and Regional Balance

54 the nominee is female from Nairobi County. The Committee noted that the Commission as currently composed is balanced in terms of gender and region. The nomination of this candidate does not contravene the provisions of the Constitution in this regard.

4.1.8 Other Issues Under Consideration

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

How she will improve the relationship between the Salaries and Remuneration Commission and Parliamentary Service Commission

56 Hon. Abdalla noted that the relationship between the two institutions had been strained in the past following very unfavorable decisions made by the SRC. She stated that she would do her best to ensure that there exists cordial relationship between the two institutions. In her opinion, a cordial, interactive and consensual relationship between the two institutions will enable them to work harmoniously.

Wage bill sustainability

57 She noted that the wage bill sustainability did not necessarily imply reduction of salaries. She observed that there was need to rethink the entire spectrum of public service to ensure productivity and that there is value for money for every workforce in the public service.

Integrity and Leadership

58 Hon. Abdalla informed the meeting that no case of integrity arose against her for all the years that she had worked both in the private and public sector. If approved to serve in SRC, she will continue to uphold values of good governance and integrity.

Affiliation to a political party

59 Hon. Abdalla informed the meeting that she served as an official of KANU from 2006 until 2012 after which she resigned from that position.

Her opinion on the wage bill in the county governments

60 She noted that the high wage bill in the county governments had been occasioned by the high number of ghost workers and that majority of county government employees were being remunerated higher than their educational qualifications. She observed that the problem of high wage bill could be solved by looking into the institutional structures of county governments and this could be done in a collaborative approach between the Senate and SRC.

How she will ensure that SRC works as an independent institution

- 61 She stated that she will adhere to her oath of office and impress upon her fellow members of the Commission to do the same. Additionally, she cited public participation as key in enabling the Commission to carry out its mandate. She will endeavor to stick to the rule of law and as much as possible engage all the stakeholders with a view to ensuring that their proposals factored in decision making.

Her opinion on whether independent Commissions should be full time or part time

- 62 She noted that in her view, from the onset, the independent commissions needed to operate on a full time basis so as to set up institutional structures after which they should be made part time.

Her opinion on the ranking of Members of Parliament as number 43

- 63 She stated that it was important for Parliamentary Service Commission to engage the Salaries and Remuneration Commission to find out the parameters used in determining the ranking for Members of Parliament. She further stated that if appointed to serve in SRC she will initiate discussions so as to have the ranking reviewed.

Her net worth

- 64 She stated that she is worth KSh. 250 million.

CHAPTER FIVE

5 OBSERVATIONS AND FINDINGS

65 The Committee observations were guided by section 7 of the Public Appointments (Parliamentary Approval) Act in terms of issues for consideration as follows:-

- (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 made.

66 The Committee having considered the nominees' curriculum vitae and heard oral submissions during the vetting exercise made the following observations and findings. That:-

- i. Hon. Amina Abdalla is a Kenyan citizen born in 1969 in Nairobi County and therefore as a State Officer she didn't possess dual citizenship.
- ii. Hon. Amina met the educational requirement as she holds a Masters Degree in International Studies and a Bachelor of Science Degree in Agriculture and Home Economics and therefore had the necessary academic qualifications necessary to serve as a Member of SRC.
- iii. She served as Member of Parliament for fifteen (15) years , ten (10) years of which she was a Chairperson of Committee on Delegated Legislation (2008 - 2012) and Departmental Committee on Environment and Natural Resources (2013 - 2017).
- iv. She has a wealth of experience in environment and natural resources matters having experience of over twenty-five (25) years in the public sector oversight and international natural resources management and therefore qualified in terms of minimum number of years of experience.
- v. The Parliamentary Service Commission interviewed and ranked her at position one with a score of 88.55%.
- vi. She had been cleared by the Kenya Revenue Authority (KRA) on Tax Compliance, Directorate of Criminal Investigations (DCI) on her criminal status, Office of the Registrar of Political Parties (ORPP) on membership to a Political Party, Ethics and Anti-Corruption Commission (EACC) on her integrity and the Higher Educations Loans Board (HELB) on the payment of her education loan.
- vii. She had never been dismissed from office for contravention of the provisions of Article 75 of the Constitution which deals with conduct of State Officers that are adversely mentioned in any investigatory report of Parliament or any commission of inquiry.

CHAPTER SIX


6 RECOMMENDATION

At the end of the vetting process, the Committee made the following recommendation: -

- 67 Having considered the suitability, capacity and integrity of the nominee, and pursuant to Article 250(2) of the Constitution, Sections 5 and 7(11) of the Salaries and Remuneration Commission Act (No. 10 of 2011) and Section 8(2) of the Public Appointments (Parliamentary Approval) Act No. 33 of 2011, the Committee recommends that the National Assembly **APPROVES** the nomination and subsequent appointment of Hon. Amina Abdalla, CBS as a Member of the Salaries and Remuneration Commission representing the Parliamentary Service Commission.

THE HON. JOSEPH K. LIMO, MP,

CHAIRPERSON

SIGNED:  DATE: 3/12/19

MINUTES OF THE 70TH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD ON MONDAY, 2ND DECEMBER, 2019 IN LOITA CONFERENCE ROOM, OLESERENI HOTEL AT 10.00 AM

PRESENT

1. Hon. Joseph K. Limo, MP - **Chairperson**
2. Hon. Isaac W. Ndirangu, MP - **Vice Chairperson**
3. Hon. Jimmy O. Angwenyi, MGH, MP - **Chairing**
4. Hon. Christopher Omulele, MP
5. Hon. Shakeel Shabbir Ahmed, CBS, MP
6. Hon. Abdul Rahim Dawood, MP
7. Hon. David M. Mboni, MP
8. Hon. Francis K. Kimani, MP
9. Hon. Joseph M. Oyula, MP
10. Hon. Joshua C. Kandie, MP
11. Hon. Lydia Mizighi, MP
12. Hon. Purity Ngirici, MP
13. Hon. Samuel Atandi, MP
14. Hon. Stanley M. Muthama, MP
15. Hon. Edith Nyenze, MP

ABSENT WITH APOLOGY

1. Hon. Andrew A. Okuome, MP
2. Hon. Daniel E. Nanok, MP

ABSENT

1. Hon. Dr. Enoch Kibunguchy, MP
2. Hon. Mohamed A. Mohamed, MP

INATTENDANCE

SECRETARIAT

1. Ms. Leah Mwaura - Senior Clerk Assistant/Head of Secretariat
2. Ms. Jennifer Ndeto - Principal Legal Counsel I
3. Ms. Laureen Wesonga - Clerk Assistant II
4. Ms. Christine Maeri - Audio Officer
5. Mr. John Njoro - Serjeant-At-Arms
6. Mr. Faustine Rotich - Intern

AGENDA

1. Prayers
2. Preliminaries/Introductions/Communication from the Chairperson
3. Confirmation of Minutes
4. Matters Arising

5. **Adoption of the reports on the vetting of the nominees for the positions of Member of the Salaries and Remuneration Commission representing the Parliamentary Service Commission and the Controller of Budget**
6. Adjournment/ Date of the next meeting

MIN.NO.NA/F&NP/2019/379: PRELIMINARIES/COMMUNICATION FROM THE CHAIRPERSON

The meeting was called to order at 09.25 am and a prayer was said. The Chairperson then welcomed and thanked Members for attending the retreat. He then welcomed the meeting to deliberate the day's agenda.

MIN.NO.NA/F&NP/2019/380: CONFIRMATION OF MINUTES

Agenda deferred.

MIN.NO.NA/F&NP/2019/381: ADOPTION OF THE REPORT ON THE VETTING OF THE NOMINEE TO THE POSITION OF MEMBER OF SALARIES AND REMUNERATION COMMISSION REPRESENTING THE PARLIAMENTARY SERVICE COMMISSION

The report on the vetting of Hon. Amina Abdalla, CBS was adopted having been proposed and seconded by Hon. Jimmy Angwenyi, MP and Hon. Abdul Rahim Dawood, MP. The Committee agreed on the following observations and recommendations:-

OBSERVATIONS

The Committee observations were guided by section 7 of the Public Appointments (Parliamentary Approval) Act in terms of issues for consideration as follows:-

- (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 made.

The Committee having considered the nominees' curriculum vitae and heard oral submissions during the vetting exercise made the following observations and findings. That:-

- i. Hon. Amina Abdalla is a Kenyan citizen born in 1969 in Nairobi County and therefore as a State Officer she didn't possess dual citizenship.
- ii. Hon. Amina met the educational requirement as she holds a Masters Degree in International Studies and a Bachelor of Science Degree in Agriculture and Home Economics and therefore had the necessary academic qualifications necessary to serve as a Member of SRC.
- iii. She served as Member of Parliament for fifteen (15) years, ten (10) years of which she was a Chairperson of Committee on Delegated Legislation (2008 -2012) and Departmental Committee on Environment and Natural Resources (2013 – 2017).
- iv. She has a wealth of experience in environment and natural resources matters having experience of over twenty-five (25) years in the public sector oversight and international natural resources management and therefore qualified in terms of minimum number of years of experience.

- v. The Parliamentary Service Commission interviewed and ranked her at position one with a score of 88.55%.
- vi. She had been cleared by the Kenya Revenue Authority (KRA) on Tax Compliance, Directorate of Criminal Investigations (DCI) on her criminal status, Office of the Registrar of Political Parties (ORPP) on membership to a Political Party, Ethics and Anti-Corruption Commission (EACC) on her integrity and the Higher Education Loans Board (HELB) on the payment of her education loan.
- vii. She had never been dismissed from office for contravention of the provisions of Article 75 of the Constitution which deals with conduct of State Officers that are adversely mentioned in any investigatory report of Parliament or any commission of inquiry.

RECOMMENDATION

At the end of the vetting process, the Committee made the following recommendation: -

Having considered the suitability, capacity and integrity of the nominee, and pursuant to Article 250(2) of the Constitution, Sections 5 and 7(11) of the Salaries and Remuneration Commission Act (No. 10 of 2011) and Section 8(2) of the Public Appointments (Parliamentary Approval) Act No. 33 of 2011, the Committee recommends that the National Assembly **APPROVES** the nomination and subsequent appointment of Hon. Amina Abdalla, CBS as a Member of the Salaries and Remuneration Commission representing the Parliamentary Service Commission.

MIN.NO.NA/F&NP/2019/382: ADOPTION OF THE REPORT ON THE VETTING OF THE NOMINEE TO THE POSITION OF CONTROLLER OF BUDGET

The report on the vetting of Dr. Margaret Ngang'ate Nyakango was adopted having been proposed and seconded by Hon. Edith Nyenze, MP and Hon. Joshua Kandie, MP. The Committee agreed on the following observations and recommendations:-

OBSERVATIONS

The Committee observations were guided by section 7 of the Public Appointments (Parliamentary Approval) Act in terms of issues for consideration as follows:-

- 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 made.

The Committee having considered the nominee's curriculum vitae and heard oral submissions during the vetting exercise made the following observations and findings. That the candidate, Dr. Margaret Nyakango:-

- i. is a Kenyan citizen born in 1959 in Nyamira County and therefore as a State Officer she didn't possess dual citizenship.

- ii. met the educational requirement as she holds a PhD in Business Administration, a Masters of Business Administration in Strategic Management and a Bachelor of Commerce (Accounting).
- iii. had met the minimum experience required as she had a wealth of experience of close to 32 years having worked in the finance departments in both public and private enterprises. She worked for ten (10) years as a Director of Finance & Administration at the Kenya National Bureau of Statistics. She also started her public service at the Controller and Auditor General's Office hence has the requisite knowledge of the operations of the CoB.
- iv. was ranked at first position by the selection panel that interviewed her with a score of 76%.
- v. was cleared by the Kenya Revenue Authority (KRA) on Tax Compliance and the Higher Educations Loans Board (HELB) on the payment of her education loan, Ethics and Anti-Corruption Commission (EACC) on integrity, Directorate of Criminal Investigations (DCI) on her criminal status and Office of the Registrar of Political Parties (ORPP) on membership to a political party.

RECOMMENDATION

At the end of the vetting process, the Committee made the following recommendation: -


Having considered the suitability, capacity and integrity of the nominee, and pursuant to Article 250(2) of the Constitution, Sections 3 and 4 of the Controller of Budget Act (No. 26 of 2016) and Section 8(2) of the Public Appointments (Parliamentary Approval) Act No. 33 of 2011, the Committee recommends that the National Assembly **APPROVES** the nomination and subsequent appointment of Dr. Margaret Nyang'ate Nyakango as the Controller of Budget.

MIN.NO.NA/F&NP/2019/383: ADJOURNMENT/DATE OF NEXT MEETING

There being no other business to deliberate on, the meeting was adjourned at 1.01 p.m. The next meeting will be held at 2.00 p.m.

HON. JOSEPH K. LIMO, MP

(CHAIRPERSON)

SIGNED  DATE..... 3/12/19

MINUTES OF THE 69TH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD ON THURSDAY, 28TH NOVEMBER, 2019 IN 2ND FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00 AM

PRESENT

1. Hon. Isaac W. Ndirangu, MP - Vice Chairperson
2. Hon. Jimmy O. Angwenyi, MGH, MP - Chairing
3. Hon. Dr. Enoch Kibunguchy, MP
4. Hon. Shakeel Shabbir Ahmed, CBS, MP
5. Hon. Abdul Rahim Dawood, MP
6. Hon. Daniel E. Nanok, MP
7. Hon. Francis K. Kimani, MP
8. Hon. Joshua C. Kandie, MP
9. Hon. Purity Ngirici, MP
10. Hon. Samuel Atandi, MP
11. Hon. Edith Nyenze, MP

ABSENT WITH APOLOGY

1. Hon. Joseph K. Limo, MP - Chairperson
2. Hon. David M. Mboni, MP
3. Hon. Joseph M. Oyula, MP
4. Hon. Stanley M. Muthama, MP

ABSENT

1. Hon. Christopher Omulele, MP
2. Hon. Andrew A. Okuome, MP
3. Hon. Lydia Mizighi, MP
4. Hon. Mohamed A. Mohamed, MP

INATTENDANCE

SECRETARIAT

1. Ms. Leah Mwaura - Senior Clerk Assistant/Head of Secretariat
2. Ms. Jennifer Ndeto - Principal Legal Counsel I
3. Ms. Laureen Wesonga - Clerk Assistant II
4. Mr. Chelang'a Maiyo - Research Officer
5. Ms. Christine Maeri - Audio Officer
6. Mr. Faustine Rotich - Intern

NOMINEES

1. Hon. Amina Abdalla, CBS
2. Dr. Margaret Nyang'ate Nyakango

AGENDA

1. Prayers
2. Preliminaries/Introductions/Communication from the Chairperson
3. Confirmation of Minutes
4. Matters Arising
5. **Vetting Nominees for the Positions of Member for Salaries and Remuneration Commission and Controller of Budget as follows:-**
 - i. **Hon. Amina Abdalla, CBS – nominee for the position of Member of Salaries and Remuneration Commission representing the Parliamentary Service Commission at 10.00am; and**
 - ii. **Dr. Margaret Nyakang'o Nyang'ate – nominee for the position of Controller of Budget at 12.00am.**
6. Adjournment/ Date of the next meeting

MIN.NO.NA/F&NP/2019/373: PRELIMINARIES/COMMUNICATION FROM THE CHAIRPERSON

The meeting was called to order at 10.29 am and a prayer was said. The agenda was then adopted having been proposed by Hon. Dr. Enoch Kibunguchy, MP and Hon. Edith Nyenze, MP respectively. The Chairperson then invited the meeting to deliberate on the day's agenda.

MIN.NO.NA/F&NP/2019/374: CONFIRMATION OF MINUTES

Agenda deferred.

MIN.NO.NA/F&NP/2019/375: VETTING MEETING FOR THE NOMINEE TO THE POSITION OF MEMBER OF SALARIES AND REMUNERATION COMMISSION REPRESENTING THE PARLIAMENTARY SERVICE COMMISSION

The Chairperson welcomed the nominee to the meeting before proceeding to request her to be take an oath. After administration of oath, the Chairperson requested the nominee to give a brief on her educational and professional backgrounds. She also responded to the following issues as follows:-

1. Awards, Distinctions and Others

Hon. Amina Abdalla has achieved the following in her career:-

- i. Awarded Water Ambassador by the Government of Kenya for her contribution to the review of the Water Act, 2016;
- ii. Awarded the Presidential award of the Chief of the Burning Spear 1st Class for her contribution to legislative reforms in the natural resources sector in 2015; and
- iii. Awarded by the National Authority for Campaign against alcohol and drug abuse by sponsoring the Bill that anchored the Agency into law in 2012.

2. Article 77 of the Constitution on Restriction on activities of State Officers

Article 77 of the Constitution provides that a full-time State officer shall not participate in any other gainful employment. In light of this provision, the Committee noted that the nominee was serving as a Member of the Presidential Tribunal set up to investigate the conduct of Justices Lucy Njoki Waithaka, Njagi Marete and Martin Muya. The nominee informed the Committee that she intends to resign from the position if approved to serve as a member of SRC.

3. Clearance Requirements

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

4. Other Issues Under Consideration

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

How she will improve the relationship between the Salaries and Remuneration Commission and Parliamentary Service Commission

Hon. Abdalla noted that the relationship between the two institutions had been strained in the past following very unfavorable decisions made by the SRC. She stated that she would do her best to ensure that there exists cordial relationship between the two institutions. In her opinion, a cordial, interactive and consensual relationship between the two institutions will enable them to work harmoniously.

Wage bill sustainability

She noted that the wage bill sustainability did not necessarily imply reduction of salaries. She observed that there was need to rethink the entire spectrum of public service to ensure productivity and that there is value for money for every workforce in the public service.

Integrity and Leadership

Hon. Abdalla informed the meeting that no case of integrity arose against her for all the years that she had worked both in the private and public sector. If approved to serve in SRC, she will continue to uphold values of good governance and integrity.

Affiliation to a political party

Hon. Abdalla informed the meeting that she served as an official of KANU from 2006 until 2012 after which she resigned from that position.

Her opinion on the wage bill in the county governments

She noted that the high wage bill in the county governments had been occasioned by the high number of ghost workers and that majority of county government employees were being remunerated higher than their educational qualifications. She observed that the problem of high wage bill could be solved by looking into the institutional structures of county governments and this could be done in a collaborative approach between the Senate and SRC.

How she will ensure that SRC works as an independent institution

She stated that she will adhere to her oath of office and impress upon her fellow members of the Commission to do the same. Additionally, she cited public participation as key in enabling

the Commission to carry out its mandate. She will endeavor to stick to the rule of law and as much as possible engage all the stakeholders with a view to ensuring that their proposals factored in decision making.

Her opinion on whether independent Commissions should be full time or part time

She noted that in her view, from the onset, the independent commissions needed to operate on a full time basis so as to set up institutional structures after which they should be made part time.

Her opinion on the ranking of Members of Parliament as number 43

She stated that it was important for Parliamentary Service Commission to engage the Salaries and Remuneration Commission to find out the parameters used in determining the ranking for Members of Parliament. She further stated that if appointed to serve in SRC she will initiate discussions so as to have the ranking reviewed.

Her net worth

She stated that she is worth KSh. 250 million.

MEMBERS' DELIBERATIONS

Members noted with concern that the Salaries and Remuneration Commission was yet to submit any reports to the House since its inception despite the fact that the Committee had a located a lot of resources for the production of the reports. The Secretariat was tasked to write a letter to the Commission asking them to submit all reports to the Committee by Thursday, 5th December, 2019.

MIN.NO.NA/F&NP/2019/376: VETTING MEETING FOR THE NOMINEE TO THE POSITION OF CONTROLLER OF BUDGET

The nominee, Dr. Margaret Nyang'ate Nyakango took an oath before giving the Committee her educational and professional background. She then responded to the Committee's questions as follows:-

1. Potential Conflict of interest

The Committee noted that Dr. Nyakango was working as a Managing Consultant at Mitun Business Consulting Limited and this was a potential conflict of interest. Dr. Nyakango informed the meeting that she will resign from her position in the Company if she is appointed as the Controller of Budget.

2. Clearance Requirements

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

3. Other issues under consideration

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

How she will ensure that the Office of the CoB is not an appendage of the Executive

She stated that the Office operates within a legal framework that gives it the mandate to control and authorize withdrawal of funds. In discharging this mandate, she will ensure that the Office operates devoid of interference. She will however encourage the Office to work closely with other Government institutions in order to achieve success.

How she intends to ensure that the Office of the CoB delivers its mandate

She will improve the rate and quality of reporting that is done by the Office of the Controller of Budget and she will use her skill base to improve the advice given to all institutions on budgeting and other issues.

Integrity and Leadership

Dr. Nyakango informed the meeting that no case of integrity arose against her for all the years that she had worked in both the private and public sector. If appointed to serve as the CoB, she will put in place systems to ensure the office promotes ethical practices and encourage reporting of all corrupt practices.

Affiliation to a political party

Dr. Nyakango informed the Committee that she was neither a member nor an affiliate of any political party.

How she will ensure that the Office of the Controller of Budget helps counties to collect more own source revenue

She stated that county governments were collecting their own source of revenue which was below their potential. She noted that counties have a lot of potential that was yet to be exploited in terms of collecting own source revenue. If given a chance to serve as the Controller of Budget, her office will embark on capacity building to the counties so as to sensitize them on possible sources of revenue. She noted the need for county governments to align their expenditure within the approved estimates. In addition, she will encourage counties to carry out self-assessment so as to increase their revenue base and integrate the same in their County Integrated Development Plans.

How the issue of pending bills can be resolved

She stated that pending bills occur because spending agencies spend money that is either not approved, spending beyond what is approved or due to cash flow issues. She noted that this can be solved by assessing the sources of revenue and ensuring that the expenditure is as close as possible to the revenue. The National Government should always have accurate figures obtained

from thorough research. Additionally, she noted the need for the Office of the Controller of Budget to be empowered to not only report on expenditure but also on revenue.

Ultimately, some of the delays in release of funds were as a result of lack of passage of relevant laws such as the Appropriation Act and as such, if appointed as CoB she will encourage county governments to pass the necessary laws before making requisition of funds.

The Office of the CoB is mandated to investigate on pending bills and incomplete projects and find out why they were not completed as scheduled. As the CoB, she will ensure that there is adequate capacity building for institutions so as to ensure completion of one project before embarking on the next and to settle bills as soon as they receive the invoices.

Her opinion on the withholding of funds by the National Treasury to counties that had not paid pending bills

She stated that the Constitution allows the National Treasury to withhold funding to institutions that do not comply with the law. In her opinion, it is a good move since it will encourage prudent use of resources. She further stated that the PFM Act stipulates that at any given financial year, pending bills formed a first charge and therefore the spending agencies had violated that law.

Her opinion on the separation of the Office of the Controller of Budget and the Office of the Auditor General

Dr. Nyakango stated that the separation was a good idea because it has encouraged both offices to execute their mandates better. She stated that the Auditor General could only report on audit issues and the aspect of budget implementation had been neglected. As such separation of the two offices was a positive move as it brought to the fore the aspect of budget implementation.

Her opinion on Supplementary Estimates

She informed the Committee that the Public Finance Management Act provides how a supplementary budget should be initiated. The Office of the CoB provides quarterly reports on the implementation of the budget. The reports give variances on what was budgeted for and what has been spent. If the supplementary budget is intended to cover the gap in the reports then it is a good thing but it should be disallowed if it is prepared as an afterthought.

What her Office will do in order to widen the tax base

She stated that there was need for the informal sector to be brought on board in order to widen the tax base. She will ensure that the quarterly reports capture as much as possible in terms of implementation of the tax base in order to identify ways of capturing everyone who should be in the tax bracket and in turn widen the tax base.

Her net worth

She stated that her net worth is KSh. 68.96 million with total assets being KSh. 69.05 million.

MIN.NO.NA/F&NP/2019/377: ANY OTHER BUSINESS

The Chairperson informed Members that the Committee will retreat to Ole Sereni Hotel to consider and adopt the reports on the vetting of the two nominees. He implored upon the Members to avail themselves for the retreat.

MIN.NO.NA/F&NP/2019/378: ADJOURNMENT/DATE OF NEXT MEETING

There being no other business to deliberate on, the meeting was adjourned at 1.35 p.m. The next meeting will be held on Monday, 2nd December, 2019 at 9.00 a.m.

HON. JOSEPH K. LIMO, MP

(CHAIRPERSON)

SIGNED  DATE..... 3/12/19

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON FINANCE & NATIONAL PLANNING
ADOPTION SCHEDULE FOR THE REPORT ON THE VETTING OF THE NOMINEE TO THE
POSITION OF MEMBER OF SALARIES AND REMUNERATION COMMISSION
REPRESENTING THE PARLIAMENTARY SERVICE COMMISSION

DATE: 2ND DECEMBER, 2019

NAME	SIGNATURE
1. HON. JOSEPH K. LIMO, MP – CHAIRMAN	
2. HON. ISAAC W. NDIRANGU – VICE-CHAIRMAN	
3. HON. JIMMY O. ANGWENYI, MGH, MP	
4. HON. CHRISTOPHER OMULELE, MP	
5. HON. ENOCH KIBUNGUCHY, MP	
6. HON. SHAKEEL SHABBIR AHMED, CBS, MP	
7. HON. ABDUL RAHIM DAWOOD, MP	
8. HON. DANIEL E. NANOK, MP	
9. HON. ANDREW A. OKUOME, MP	
10. HON. DAVID M. MBONI, MP	
11. HON. KURIA KIMANI, MP	
12. HON. JOSEPH M. OYULA, MP	
13. HON. JOSHUA KANDIE, MP	
14. HON. LYDIA H. MIZIGHI, MP	
15. HON. MOHAMED ALI, MP	
16. HON. PURITY NGIRICI, MP	
17. HON. SAMUEL ATANDI, MP	
18. HON. STANLEY M. MUTHAMA, MP	
19. HON. EDITH NYENZE, MP	

