

**THURSDAY, 09 SEPTEMBER 2020**

**[No. 12/2020] SECOND SESSION, SIXTH LEGISLATURE**

**KWAZULU-NATAL LEGISLATURE**

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**MINUTES OF PROCEEDINGS**

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**Thursday, 09 September 2020**

The Virtual House met at 09H30.

1. 09h31 Members were given an opportunity for silent prayers or meditation.
2. 09h32 The Speaker made announcements, including the passing away of the following persons:
  - 2.1 Cllr Nyameka Goniwe;
  - 2.2 Mr Glen and Mrs Vida Rafferty;
  - 2.3 Mr Comfort Ngidi;
  - 2.4 Mr Enoch Zimba Ngcobo;
  - 2.5 Dr M J Maseko;

- 2.6 Nathaniel Julius;
- 2.7 Mr Mduzuzi Mvubu;
- 2.8 All persons who have passed away due to gender-based violence;
- 2.9 Victims of road fatalities in the Province of KwaZulu-Natal; and
- 2.10 People who have succumbed to the Covid-19 pandemic.

*The Virtual House observed a minute of silence.*

- 3. 09h39 The Premier made announcements.
- 4. 09h43 The Speaker read the tabling of the following reports into the record:
  - 4.1 **Office of the Chairperson of Committees:**
    - 4.1.1 Quarterly Report on the Implementation of Resolutions for the First Quarter (April to June) 2020/21.
  - 4.2 **Standing Committee on Quality of Life and Status of Women, Children, Youth, Elderly and People with Disabilities:**
    - 4.2.1 Standing Committee on Quality of Life: Report on Youth Month 2020.
  - 4.3 **Portfolio Committee on Health:**
    - 4.3.1 Health Institutions Functionality Monitoring Programme, 2020/21; 2nd Health

Functionality Monitoring Programme of the Sixth Democratic Parliament; and

**4.3.2** Provincial Report of the 2nd Health Functionality Monitoring Programme of the Sixth Democratic Parliament dated 24 to 26 June 2020, Province of Kwa-Zulu-Natal.

**4.4 Department of Agriculture and Rural Development:**

**4.4.1** Department of Agriculture and Rural Development: Revised Annual Performance Plan for 2020/21.

**4.5 Department of Arts and Culture:**

**4.5.1** Department of Arts and Culture: Revised Annual Performance Plan for 2020/21.

**4.6 Department of Health:**

**4.6.1** Department of Health: Revised Annual Performance Plan for 2020/21 and Strategic Plan for 2020/21 – 2024/25.

5. 09h44 Ms V P Caluza moved a motion without notice under Standing Rule 97(g), with the unanimous concurrence of all Members present and requested the Presiding Officer to put the motion to the vote for adoption as a resolution of the House under Standing Rule 95(2) as follows:

**Noting that:**

Standing Rule 197(1) provides that an *ad hoc* committee may be established by resolution of the House;

The Standing Committee on Public Accounts has recommended that the House establish an *ad hoc* committee to conduct oversight over investigations conducted in provincial departments and public entities; and

The House adopted the recommendation on the 23<sup>rd</sup> of July 2020.

**The House resolves that:**

An *ad hoc* committee is established for a period of twelve (12) months, to oversee the progress and finalisation of:

all forensic and other (internal and external) investigations conducted in provincial departments and public entities in KwaZulu-Natal that are in progress at the time of establishment of the committee; and

implementation of all recommendations emanating from such investigations and from investigations that were concluded before establishment of the committee, in accordance with the terms of reference attached hereto as Annexure “A”.

Political parties must appoint the members of the *ad hoc* committee, as provided for in Standing Rule 131(1), within seven (7) working days of the establishment of the committee.

The Secretary must convene the first meeting of the *ad hoc* committee, as provided for in Standing Rule 136, within seven (7) working days of the appointment of the committee members.

The *ad hoc* committee, before it commences business, must elect one of its members as chairperson, as provided for in Standing Rule 134(1)(b).

The *ad hoc* committee has all the powers listed in Standing Rule 141.

In terms of Standing Rule 142(1)(a)(i), the *ad hoc* committee must report to the House and to the Standing Committee on Public Accounts every three (3) months, the first report to be tabled within three (3) months from date of establishment of the committee and the final report to be tabled at the end of the twelve (12) month period.

Standing Rule 128(1) does not apply to the *ad hoc* committee.

Subject to the express terms of this resolution, all the provisions of the Standing Rules pertaining to portfolio committees, read with the changes required by the circumstances, apply to the *ad hoc* committee.

*Question put:*

That the motion be adopted.

*Agreed to.*

6. 09h52 Debate on the Report by the MEC for Finance on the 3rd Quarter Consolidated Statement of Municipalities' Budget commenced and was concluded at 10h33.
7. 10h34 Debate on the Report of the Health Institutions Monitoring Programme (June 2020) commenced and was concluded at 11h58.
8. 11h59 Debate on the Matter of Public Importance on allegations of corruption, particularly with regard to Covid-19 expenditure, commenced and was concluded at 13h25.

9. 13h26 Ms V P Caluza tabled the following Terms of Reference relating to the establishment of an *ad hoc* committee to conduct oversight over investigations conducted in provincial departments and public entities:

## **TERMS OF REFERENCE FOR *AD HOC* COMMITTEE ON OVERSIGHT OF INVESTIGATIONS**

### **1. INTRODUCTION**

- 1.1 The number of forensic and internal investigations pertaining to fraud and corruption or other forms of criminal conduct, as well irregularities, transgressions of the Public Finance Management Act, 1999 and other types of misconduct committed by officials, causing financial losses or negative audit findings within provincial departments and public entities in KwaZulu-Natal, has been on the increase in recent times and is a cause for concern.
- 1.2 Some of the investigations pertain to incidents that occurred several years ago and some investigations take an inordinately long time to conclude.
- 1.3 Once the investigations are concluded, some departments and public entities seem reluctant or are slow in implementing the recommendations of the investigative reports fully or are selective in their implementation, culminating in a lack of consequence management and resultant negative audit findings, as well as inculcating a culture of tolerance towards criminal behaviour or other forms of misconduct by government officials.

- 1.4 The lack of swift intervention and appropriate action taken against offenders identified in investigations, often also results in irrecoverable financial losses by government.
- 1.5 Lack of implementation of recommendations of investigative reports often also culminates in a failure to address inadequate systems of control and the failure to implement adequate risk management strategies.
- 1.6 These issues have prompted the Standing Committee on Public Accounts (SCOPA), during its consideration of the 2019/20 audit reports in October 2019, to resolve that all departments report on progress made in finalisation of investigations and implementation of recommendations, amongst other things.
- 1.7 In May 2020, SCOPA further resolved to recommend that an *ad hoc* committee be established by the House to oversee these investigations and matters arising therefrom.
- 1.8 The House adopted the recommendation on 23 July 2020.
- 1.9 These terms of reference must be read in conjunction with the resolution of the House whereby the *ad hoc* committee is established.

## 1. DURATION OF *AD HOC* COMMITTEE

- 1.1 The *ad hoc* committee will be established for a period of twelve (12) months.

# 1. FUNCTIONS AND DUTIES OF THE *AD HOC* COMMITTEE

1.1 The committee must oversee the progress and finalisation of: -

- (a) all forensic and other (internal or external) investigations conducted in provincial government departments and public entities in KwaZulu-Natal that are in progress at the time of establishment of the committee; and
- (b) implementation of all recommendations emanating from such investigations and from investigations that were concluded before establishment of the committee.

1.2 The duty to oversee investigations includes but is not limited to reviewing, assessing and reporting on the following: -

- (a) progress made in the completion of investigations that are underway and time frames for finalisation of investigations;
- (b) the reasons for delays in finalising investigations, steps taken to remedy this, time frames for implementation of remedial action and whether the remedial steps are adequate;
- (c) where the delay in finalising an investigation is attributable to any official, whether disciplinary steps have been taken and whether the steps are adequate;



- (d) steps taken to fully implement the recommendations of investigative reports, time frames for implementation and finalisation of implementation;
- (e) whether the steps taken to implement recommendations of investigative reports are adequate/appropriate and timely, including initiating disciplinary action against erring officials, recovery of monies or losses, initiating criminal charges and any other intervention;
- (f) the reasons for any delay or failure to fully implement all recommendations of investigative reports, steps taken to remedy this and time frames for remedial action and implementation of all recommendations;
- (g) where losses or monies are irrecoverable, the amount thereof and the reasons;
- (h) where the delay or failure to fully implement all recommendations of investigative reports is attributable to any official, whether disciplinary steps have been taken and whether the steps taken are adequate; and
- (i) whether any other interventions or controls were put in place to prevent a recurrence or to address any shortcomings in policies, systems, processes and procedures, as well as the adequacy thereof, whether or not this was recommended in the investigative reports.

## **2. REPORTING**

2.1 The committee must report to the House and to SCOPA:

- (a) every three (3) months, the first report to be tabled within three (3) months from date of establishment of the committee and the final report to be tabled at the end of the twelve (12) month period for which the committee is established; and
- (b) as and when requested or resolved by SCOPA.

## **3. REVIEW OF TERMS OF REFERENCE**

3.1 SCOPA and the committee may from time to time review these terms of reference and recommend amendments, as needed, to the House for approval.

- 10. 13h27 The Speaker made an announcement and remarks.
- 11. 13h28 The House was adjourned until Wednesday, 16 September 2020 at 14h00.