



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – (FOURTH SESSION)

THE SENATE

VOTES AND PROCEEDINGS

THURSDAY, NOVEMBER 05, 2020 AT 2:30 PM

1. The Senate assembled at thirty minutes past Two O'clock.
2. The proceedings were opened with Prayer said by the Speaker.
3. **COMMUNICATION FROM THE CHAIR ON THE STATE OF THE NATION
ADDRESS TO PARLIAMENT BY HIS EXCELLENCY THE PRESIDENT**

The Speaker conveyed the following communication;

“Honourable Senators,

By a letter referenced SH/1/15, dated 23rd October, 2020, addressed to the Speaker of the National Assembly and copied to the Speaker of the Senate, the Office of the President informed Parliament of the intention to have His Excellency the President address a Joint Sitting of Parliament pursuant to Article 132 of the Constitution, on Thursday, 12th November, 2020.

As you may be aware, Article 132(1) (b) of the Constitution and Standing Order 22(1) of the Senate require the President to address a Special Sitting of Parliament once every year and at any other time.

Honourable Senators,

The State of the Nation Address is a crucial event in the calendar of Parliament as it affords His Excellency the President an opportunity to address the Legislature and the people of Kenya on critical matters concerning the country and set out the Government’s priorities, policies and legislative agenda. In furtherance of Article 132 (1) (c) of the Constitution, Parliament also receives from His Excellency the President –

- i) A report on all the measures taken and progress achieved in the realization of the national values referred to in Article 10,
- ii) Report on the progress made in fulfilling the international obligations of the Republic.

In addition, Article 240(7) of the Constitution requires the President, in his capacity as the Chairperson of the National Security Council (NSC), to report to Parliament annually on the state of the security of the Republic.

Honourable Senators,

Following consultations with the Speaker of the National Assembly, this is to inform you that a Special Sitting of Parliament will be held on Thursday, 12th November, 2020 at 2.30 pm, in the National Assembly Chamber, Main Parliament Buildings. In view of the limited sitting space in the Chamber due to the COVID-19 Public Health Guidelines, the Offices of the Speakers and Clerks of both Houses of Parliament are making the requisite arrangements to facilitate the Special Sitting.

Please note that unlike previous occasions where Senators and Members of the National Assembly are at liberty to invite one guest each for the occasion, in this instance, that will not be possible due to the prevailing COVID – 19 situation in the country.

The Special Sitting has also necessitated a re-arrangement of parking slots and as a result, the Senators' parking area here at the Main Parliament Buildings will not be available for parking by Senators on Thursday, 12th November, 2020. Alternative parking arrangements within the precincts of Parliament will be made, and will be communicated to Senators through the Office of the Clerk before the Special Sitting.

I thank you.”

4. PAPERS

The following Papers were laid on the Table of the Senate -

- i) The Crops (Sugar) (General) Regulations, Legal Notice No. 99 of 2020.

(The Senate Majority Leader)

- ii) Statement on the business of the Senate for the week commencing Tuesday, 10th November, 2020.

(The Senate Majority Whip)

5. STATEMENTS

(a) Pursuant to Standing Order 48 (1)

- i) The Senator for Lamu County (Sen. Anuar Loitiptip, MP), sought a Statement from the Standing Committee on Roads and Transportation regarding the lack of exploitation of maritime job opportunities by the youth residing in the coastal region of the country.
- ii) Nominated Senator (Sen. Petronilla Were Lokorio, MP), sought a statement from the Standing Committee on Tourism, Trade and

Industrialization concerning alleged monopolistic tendencies by the East Africa Breweries Limited (EABL) in beer packaging.

- iii) The Senator for Nandi County (Sen. Samson Cherarkey, MP) sought a statement from the Standing Committee on Energy concerning the alleged loss of Ksh. 2.3 Billion at the National Oil Corporation of Kenya (NOCK).

(b) Pursuant to Standing Order 51 (1) (b)

The Chairperson of the Standing Committee on Tourism, Trade and Industrialization made a statement relating to the activities of the Committee for the period 1st March to 31st October, 2020.

(c) Pursuant to Standing Order 52 (1)

The Senate Majority Whip issued, on behalf of the Senate Majority Leader, a Statement on the business of the Senate for the week commencing Tuesday, 10th November, 2020.

6. THE COOPERATIVE SOCIETIES (AMENDMENT BILL) (SENATE BILLS NO. 11 OF 2020)

(Sen. (Dr.) Agnes Zani, MP)

Order for First Reading read;

Bill read a First time and committed to the Standing Committee on Tourism, Trade and Industrialization.

7. MOTION - RECOGNIZING AND APPRECIATING THE ELDERLY BY COUNTY GOVERNMENTS

Motion made;

THAT, AWARE that in 2006, the National Government initiated the Older Persons Cash Transfer (OPCT) Programme, popularly known as *Pesa ya Wazee*, which is an unconditional cash transfer programme to destitute elderly persons above the age of 65 years to cater for their subsistence needs;

NOTING THAT the beneficiaries receive a monthly stipend of Kshs. 2,000, delivered every two months through appointed payment agents, and also entitled to medical insurance through the National Health Insurance Fund (NHIF);

CONCERNED HOWEVER THAT the programme's credibility is marred by issues of delayed payments to beneficiaries, difficulties in processing of payments through the stipulated agents and payments to unregistered persons;

NOW THEREFORE, the Senate recommends that the County Governments complement the efforts of the National Government and assist in resolving these challenges by:-

1. Developing legislation and policies to protect the elderly including ensuring all elderly persons in their counties are registered in the OPCT programme; and
2. Organise value addition mechanisms such as financial training to help the beneficiaries of the programme to efficiently utilise this allowance.

(Sen. Rose Nyamunga, MP – 04.11.2020)

Order deferred;

8. **MOTION – OPERATIONALIZATION OF SECTION 46 OF THE BASIC EDUCATION ACT, 2013**

Order read;

Motion made and Question proposed;

THAT, AWARE THAT Section 46 of the Basic Education Act, 2013 mandates the county education boards to provide for Education Assessment and Research Centres (EARCs), including a special needs service in identified clinics in the respective counties.

FURTHER AWARE, THAT the functions of the EARCs as provided by the Act include; the study of children with special education needs within the county; the giving of advice to parents and teachers as to appropriate methods of education for such children; in suitable cases, provision for the special education needs of such children in the identified clinics; and, the giving of advice to county education boards regarding the assessment of the needs of any child under special needs education for purposes of any of the provisions of the Basic Education Act, 2013.

NOTING THAT, given the critical role EARCs play in assessment, placement and early intervention of children with special needs, EARCs countrywide are currently in a dilapidated and dysfunctional state.

NOW THEREFORE, the Senate calls upon the county governments to operationalize Section 46 of the Basic Education Act, 2013 by:

- i. Ensuring that EARCs in the respective counties are fully furnished and adequately staffed; and
- ii. Working in tandem with the National Government to develop a national policy on EARCs that will define the expected service delivery in accordance with internationally set standards and regulate the terms of employment for the staff.

(Sen. (Dr.) Gertrude Musuruve Inimah, MP)

Debate arising;

And there being no other Senator wishing to contribute;

The Mover replied;

Before the Question was put and pursuant to Standing Order 79 (1), the Temporary Speaker (Sen. (Dr.) Lelegwe Ltumbesi, MP) ruled that the Motion did not affect Counties.

Question put and, agreed to

RESOLVED ACCORDINGLY

THAT, AWARE THAT Section 46 of the Basic Education Act, 2013 mandates the county education boards to provide for Education Assessment and Research Centres (EARCs), including a special needs service in identified clinics in the respective counties.

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9. **MOTION – ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON ROADS AND TRANSPORTATION ON ITS INQUIRY INTO THE OPERATIONALIZATION OF THE NATIONAL CONSTRUCTION AUTHORITY (DEFECTS LIABILITY) REGULATIONS, 2020.**

(Chairperson, Standing Committee on Roads and Transportation)

THAT, the Senate adopts the report of the Standing Committee on Roads and Transportation on its inquiry into the operationalization of National

Construction Authority (Defects Liability) Regulations, 2020, laid on the table of the Senate, on Thursday, 24th September, 2020.

Order deferred.

10. **MOTION- REPORT OF THE PARLIAMENT OF KENYA DELEGATION TO THE 141ST ASSEMBLY OF THE INTER-PARLIAMENTARY UNION (IPU) AND RELATED MEETINGS, HELD IN BELGRADE, SERBIA FROM 13TH TO 17TH OCTOBER, 2019**
(Sen. Susan Kihika, MP)

THAT, the Senate notes the report of the Parliament of Kenya Delegation to the 141st Assembly of the Inter-Parliamentary Union (IPU) and related meetings, held in Belgrade, Serbia, from 13th to 17th October, 2019 laid on the Table of the House on Wednesday, 4th March, 2020.

Order deferred.

11. **MOTION - REPORT OF THE THIRD ORDINARY SESSION OF THE 5TH PARLIAMENT OF THE PAN - AFRICAN PARLIAMENT HELD FROM 7TH TO 18TH OCTOBER, 2019, IN MIDRAND, SOUTH AFRICA.**
(Sen. (Dr.) Abdullahi Ali, MP)

THAT, the Senate notes the Report of the Third Ordinary Session of the 5th Parliament of the Pan-African Parliament held from 7th to 18th October, 2019 in Midrand, South Africa.

Order deferred.

12. **MOTION - ALLOCATION BY COUNTIES OF AT LEAST 10 PERCENT OF THEIR BUDGET ON EARLY CHILDHOOD DEVELOPMENT EDUCATION (ECDE) TOWARDS VULNERABLE GROUPS IN THE COUNTIES AND DEVELOPMENT OF A POLICY TO INCORPORATE THE NEEDS OF CHILDREN WHO ARE LESS THAN THREE YEARS OF AGE**
(Sen. (Dr.) Alice Milgo, MP)

Order read;

THAT, AWARE THAT, Constitution of Kenya (Article 53) affirms that children have basic rights, including the right to education, nutrition, shelter, health care and parental care, provisions that are aligned with those cited in both the Convention on the Rights of the Child and the Africa Charter on the Rights and Welfare of the Child, to which Kenya is a signatory;

CONCERNED THAT, the current status of day care facilities in the Country are not child friendly or habitable and there is need to bridge this gap to capture the play group class in the new 2-6-3-3-3 curriculum that is replacing the 32-year-old 8-4-4 system;

ACKNOWLEDGING THAT, most parents lack access to quality daycare facilities, which would provide a safe and stimulating environment to take care of their children while they are at work;

NOW THEREFORE, the Senate urges that County Governors in conjunction with the Ministry of Education to ensure that:

- i) Counties allocate at least 10 percent of their budget on Early Childhood Development Education (ECDE) towards this vulnerable group; and,
- ii) Policy is developed to incorporate the needs of children who are less than three years of age.

Order deferred.

13. **MOTION – PARKING CHARGES IN PUBLIC INSTITUTIONS OFFERING ESSENTIAL SERVICES**

(Sen. (Dr.) Abdullahi Ali, MP)

AWARE THAT, many urban areas and towns in Kenya lack designated car parking areas as a result of imbalance between parking supply and demand mainly due to ineffective land use planning and miscalculations of space requirements, thereby leading to exorbitant parking fees;

NOTING that, most essential services offered in hospitals, educational institutions and other public utilities are offered in urban centers, shopping malls and other designated areas that charge parking fees to access;

ACKNOWLEDGING, that whether they are delivered by public or private providers, essential services such as health, banking, education and other utilities are considered to be public services because they are public goods that sustain the well-being of every citizen and help in the development of the society as a whole;

CONCERNED, that access to hospitals, educational institutions and other places offering essential services might be hindered due to exorbitant parking fees levied on motorists accessing these services;

FURTHER CONCERNED, that charging entry fees amount to double taxation as the motorists who would have paid the parking fees will still pay for the services they seek;

NOW THEREFORE, the Senate urges the Cabinet Secretary for Lands, Housing and Physical Planning together with the Council of Governors to come up with a policy framework to create an enabling environment for protection of motorists accessing essential services from paying exorbitant fees for parking.

Order deferred.

And there being no other business, the Temporary Speaker (Sen. (Dr.) Lelegwe Ltumbesi, MP) adjourned the Senate at twenty minutes past Five O'clock without question put, pursuant to the Standing Orders.

14. SENATE ROSE – at twenty minutes past Five O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Tuesday, November 10, 2020 at 2.30 p.m.*

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