Twelfth Parliament (No. Supp 067)



Fifth Session (638)

REPUBLIC OF KENYA

TWELFTH PARLIAMENT – (FIFTH SESSION)

THE SENATE

SUPPLEMENTARY ORDER PAPER

THURSDAY, OCTOBER 21, 2021 AT 2.30 P.M.

PRAYER

- 1. Administration of Oath
- 2. Communication from the Chair
- 3. Messages
- 4. Petitions (as listed in the Appendix)
- 5. Papers (as listed in the Appendix)
- 6. Notices of Motion (as listed in the Appendix)
- 7. Statements (as listed in the Appendix)
- 8. <u>*THE ELECTION CAMPAIGN FINANCING (AMENDMENT) BILL (SENATE</u> BILL NO. 51 OF 2021)

(Sen. Ledama Olekina, MP)

(First Reading)

9. <u>*THE DISASTER RISK MANAGEMENT BILL (SENATE BILLS NO. 14 OF</u> 2021)

(Sen. Mutula Kilonzo Jr., MP and Sen. Sakaja Johnson, MP)

(Second Reading)

(Resumption of debate interrupted on Wednesday, 29thSeptember, 2021) (Division)

10. <u>*THE KENYA CITIZENSHIP AND IMMIGRATION (AMENDMENT) BILL</u> (SENATE BILLS NO. 33 OF 2021)

(Sen. (Dr.) Irungu Kang'ata, MP)

(Second Reading)

(Resumption of debate interrupted on Thursday, 30th September, 2021) (Division)

...../Bills

(No. Supp 067)

11. *<u>THE LAW OF SUCCESSION (AMENDMENT) BILL (SENATE BILLS NO. 15</u> <u>OF 2021)</u>

(Sen. Abshiro Halake, MP)

(Second Reading)

(Resumption of debate interrupted on Tuesday, 5thOctober, 2021) (Division)

12. <u>***THE PUBLIC PRIVATE PARTNERSHIPS BILL (NATIONAL ASSEMBLY</u> BILLS NO. 6 OF 2021)

(The Senate Majority Leader)

(Second Reading)

(Resumption of debate interrupted on Tuesday, 5thOctober, 2021) (Division)

13. <u>*THE HEALTH (AMENDMENT) BILL (SENATE BILLS NO. 26 OF 2020)</u> (Sen. (Dr.) Abdullahi Ali, MP)

(Second Reading)

(Resumption of debate interrupted on Tuesday, 12thOctober, 2021) (Division)

14. ***THE COUNTY BOUNDARIES BILL, (SENATE BILLS NO. 20 OF 2021)** (Sen. Mutula Kilonzo Jr, MP)

(Second Reading)

(Resumption of debate interrupted on Wednesday, 13thOctober, 2021) (Division)

15. ***THE LIFESTYLE AUDIT BILL (SENATE BILLS NO. 36 OF 2021)** (Sen.(CPA) Farhiya Ali Haji, MP)

(Second Reading)

(Resumption of debate interrupted on Thursday, 14thOctober, 2021) (Division)

- 16. <u>COMMITTEE OF THE WHOLE</u> <u>*THE DISASTER RISK MANAGEMENT BILL (SENATE BILLS NO. 14 OF</u> <u>2021)</u> (Sen Mutule Kilenze Ir, MP and Sen Sakaia Johnson MP)
 - (Sen. Mutula Kilonzo Jr., MP and Sen. Sakaja Johnson, MP)
- 17. <u>COMMITTEE OF THE WHOLE</u> <u>*THE KENYA CITIZENSHIP AND IMMIGRATION (AMENDMENT) BILL</u> <u>(SENATE BILLS NO. 33 OF 2021)</u> (Sen. (Dr.) Irungu Kang'ata, MP)
- 18. <u>COMMITTEE OF THE WHOLE</u> *<u>THE LAW OF SUCCESSION (AMENDMENT) BILL (SENATE BILLS NO. 15</u> <u>OF 2021)</u> (Sen Ababing Heleles, MD)

(Sen. Abshiro Halake, MP)

...../Bills

- 19. COMMITTEE OF THE WHOLE ***THE PUBLIC PRIVATE PARTNERSHIPS BILL (NATIONAL ASSEMBLY BILLS NO. 6 OF 2021) (The Senate Majority Leader)
- 20. COMMITTEE OF THE WHOLE ***THE HEALTH (AMENDMENT) BILL (SENATE BILLS NO. 26 OF 2020)** (Sen. (Dr.) Abdullahi Ali, MP)
- 21. COMMITTEE OF THE WHOLE ***THE COUNTY BOUNDARIES BILL, (SENATE BILLS NO. 20 OF 2021)** (Sen. Mutula Kilonzo Jr, MP)
- 22. COMMITTEE OF THE WHOLE ***THE LIFESTYLE AUDIT BILL (SENATE BILLS NO. 36 OF 2021)** (Sen.(CPA) Farhiya Ali Haji, MP)
- 23. COMMITTEE OF THE WHOLE *THE OFFICE OF THE COUNTY PRINTER BILL (SENATE BILLS NO. 13 OF 2021)

(Sen. Petronila Were Lokorio, MP)

- 24. COMMITTEE OF THE WHOLE ***THE INVESTMENT PROMOTION (AMENDMENT) BILL (SENATE BILLS** NO. 2 OF 2021) (Sen. (Dr.) Alice Milgo, MP)
- 25. COMMITTEE OF THE WHOLE *THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS NO. 25 OF 2020) (Sen. (Dr.) Agnes Zani, MP)
- 26. MOTION RESCINDING THE RESOLUTION OF THE SENATE ON APPROVAL OF SENATORS TO SERVE IN THE COMMITTEE OF POWERS AND PRIVILEGES

(The Senate Majority Whip)

THAT, pursuant to Standing Order 58(2)(a) the Senate rescinds its resolution made on Thursday, 16th September, 2021 on the approval of Senators to serve in the Committee of Powers and Privileges.

...../Motion

(641)

27. <u>MOTION – APPROVAL OF SENATORS TO SERVE IN STANDING</u> <u>COMMITTEES</u>

(The Senate Majority Whip)

THAT, NOTWITHSTANDING, the resolutions of the Senate made on 14th December, 2017; 14th February, 2018; 21st February, 2018; 21st November, 2018; 20th March, 2019; 19th June, 2019; 28th April, 2020; and 24th June, 2020 on the approval of Senators to serve in various Standing Committees of the Senate, and pursuant to Standing Orders189, 218, and the Second Schedule to the Standing Orders, the Senate approves the following Senators nominated by the Senate Business Committee to serve in Standing Committees of the Senate as follows –

(i) Standing Committee on Energy

Sen. Haji Abdul Mohammed, MP to serve as a Member.

(ii) Standing Committee on Justice, Legal Affairs and Human Rights

Sen. Isaac Ngugi Githua, MP to serve as a Member.

(iii) Standing Committee on National Security, Defence and Foreign Relations

Sen. Gideon Moi, CBS, MP to serve as a Member.

28. <u>MOTION - ADOPTION OF THE REPORT OF THE STANDING</u> <u>COMMITTEE ON FINANCE AND BUDGET ON THE STATUS OF KENYA'S</u> <u>STOCK OF PUBLIC DEBT</u>

(Chairperson, Standing Committee on Finance and Budget)

THAT, the Senate adopts the Report of the Standing Committee on Finance and Budget on the Status of Kenya's Stock of Public Debt, laid on the Table of the Senate on Thursday, 14th October, 2021.

(Resumption of debate interrupted on Tuesday, 19th October, 2021)

29. ***THE HERITAGE AND MUSEUM BILL (SENATE BILLS NO. 22 OF 2021)** (Sen. (Dr.) Alice Milgo, MP)

(Second Reading)

(Resumption of debate interrupted on Thursday, 14thOctober, 2021)

30. MOTION – ADJOURNMENT OF THE SENATE

(The Senate Majority Leader)

THAT, pursuant to Standing Orders 28 and 29, the Senate do adjourn until Tuesday, 2nd November, 2021.

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...../Notice

NOTICE

- 1. <u>**THAT**</u>, pursuant to Standing Order 251A and 251B, the sitting will be a hybrid sitting consisting of Senators who are physically present in the Senate Chamber and Senators participating virtually from a remote location through **Zoom** online meeting platform, as per guidelines issued by the Speaker pursuant to Standing Order 251A(4).
- 2. The Senate resolved on 10th February, 2021, as follows:-

<u>THAT</u>, pursuant to Standing Order 106 (1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Committee shall be limited in the following manner:-

A maximum of three hours with not more than twenty minutes for the Mover, twenty minutes for the Majority Party Official Responder, twenty minutes for the Minority Party Official Responder and fifteen minutes for each other Senator speaking and that fifteen minutes before the time expires, the Mover shall be called upon to reply. –

3. The Senate resolved on 10th February, 2021, as follows:-

THAT, notwithstanding the provisions of Standing Order 106 (1), the debate on any Motion for the adjournment of the Senate to a day other than the next normal sitting day in accordance with the calendar of the Senate shall be limited to a maximum of two hours with not more than fifteen minutes for each Senator speaking after which the Senate shall adjourn without question put; Provided that when the period of recess proposed by any such Motion does not exceed nine calendar days, the debate shall be limited to a maximum of thirty (30) minutes, and shall be confined to the question of adjournment.

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<u>KEY</u>

****- Denotes a Majority /Minority Party Bill

***- Denotes a National Assembly Bill

**- Denotes a Committee Bill

*- Denotes any other Bill

...../Notice of Amendments

NOTICE OF AMENDMENTS

A. THE HEALTH (AMENDMENT) BILL (SENATE BILLS NO. 26 OF 2020)

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

NOTICE is given that the Chairperson, Standing Committee on Health, intends to move the following amendments to the Health (Amendment) Bill, Senate Bills No. 26 of 2020, at the Committee Stage –

CLAUSE 2

THAT clause 2 of the Bill be amended—

- (a) by deleting paragraph (a);
- (b) by deleting the words "therefore the word three" appearing immediately after the words "and substituting" in paragraph (c) and substituting therefor the words "therefor the word two";
- (c) by inserting the following new paragraph immediately after paragraph (c)
 - (d) inserting the following new subsection immediately after subsection (1)
 - (1A) The Cabinet Secretary shall appoint the members nominated under subsection (1) (a), (c), (f), (g), (h) and (i) by notice in the *Gazette*.

NEW CLAUSES

THAT the Bill be amended by inserting the following new clause immediately after clause 3 -

Amendment of section 33 of No. 21 of 2017.	4. Section 33 the principal Act be amended —
	(a) in subsection (2) deleting paragraph (a) and substituting therefor the following new paragraph—
	(a) holds at least a degree in a health related field from a university recognized in Kenya, and
	(aa)is registered by the relevant health professional regulatory body and is in good standing;
	(b) by deleting subsection (4).

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B. THE COUNTY BOUNDARIES BILL (SENATE BILLS NO. 20 OF 2021)

(Sen. Mutula Kilonzo Jr, MP)

NOTICE is given that the Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights, intends to move the following amendments to the County Boundaries Bill, Senate Bills No. 20 of 2021, at the Committee Stage —

CLAUSE 10

THAT clause 10 of the Bill be amended in subclause (2) by inserting the word "mediation" immediately after the words "a member of the" in the introductory clause.

CLAUSE 12

THAT clause 12 of the Bill be amended in subclause (5) by inserting the word "mediation" immediately after the words "directions of the".

CLAUSE 23

THAT clause 23 of the Bill be amended in subclause (7) by deleting the words "county boundaries parliamentary" appearing immediately after the words "establishment of a".

CLAUSE 25

THAT clause 25 of the Bill be amended -

- (a) in subclause (2) by deleting the expression "25(1)(d)" appearing immediately after the words "under section" and substituting therefor the expression "25(1)(e)"; and
- (b) in subclause (3) by deleting the expression "25(1)(a), (c) or (d)" appearing immediately after the words "under section" and substituting therefor the expression "25(1)(a), (e) or (f)".

CLAUSE 40

THAT clause 40 of the Bill be amended -

- (a) in subclause (1)
 - (i) by deleting paragraph (c) and substituting therefor the following new paragraph
 - (c) an assessment of the effect of the proposed alteration of the boundary of a county and recommendations on the following in relation to a county government, where applicable, -

...../Amendments

(i) assets and liabilities;

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- (645)
- (ii) employees in the respective county public service;
- (iii) decisions made including licenses, permits, authorisations, rates, certificates, consents and contracts;
- (iv) pending and potential legal proceedings;
- (v) constituency and ward boundaries;
- (vi) the basis for allocating among the counties the share of national revenue allocated to county governments; and
- (vii) such other matter as the commission may determine.
- (ii) by inserting the following new paragraph immediately after paragraph (c)
 - (ca) mechanisms for the implementation and timelines within which the proposed alteration shall be implemented;
- (b) in subclause (2)(a)(ii) by deleting the word "gazette" appearing immediately after the words "Kenya Gazette and the" and substituting therefor the words "gazettes of the respective counties affected by the proposed alteration of the boundaries of a county".

CLAUSE 41

THAT clause 41 of the Bill be amended in subclause (1) by inserting the following new paragraph immediately after paragraph (a) –

(aa) recommending that the boundaries of a county do not be altered;

CLAUSE 42

THAT clause 42 of the Bill be amended by inserting the following new subclause immediately after subclause (3) –

(4) A resolution by either House of Parliament to amend a recommendation of the commission to alter the boundaries of a county shall be supported by at least two-thirds of all the delegations in the Senate and two-thirds of all the members of the National Assembly.

CLAUSE 46

THAT the Bill be amended by deleting clause 46 and substituting therefor the following new clause –

Coming into **46.** (1) A resolution for the alteration of the effect of the boundaries of a county under section 42(3) shall take effect in such manner as shall be set out in the resolution.

(2) Upon the gazettement of the resolution of Parliament under section 42(3), the Independent Electoral and Boundaries Commission shall –

- (a) revise the register of voters provided for under the Elections Act;
- (b) in its report under section 36(5) of the Independent Electoral and Boundaries Commission Act, state how the resolution has been taken into account in the constituency and ward boundaries review process; and
- (c) submit a report referred under subsection(2)(b) to the Senate and the National Assembly for consideration.

(3) The Independent Electoral and Boundaries Commission, in preparing its final report under section 36(8) Independent Electoral and Boundaries Commission Act, shall take into account the views of the Senate and the National Assembly.

CLAUSE 47

THAT clause 47 of the Bill be amended in the introductory clause by inserting the words "of the Senate" immediately after the words "Where the Speaker".

(No. Supp 067)

(647)

C. <u>THE PUBLIC PRIVATE PARTNERSHIPS BILL (NATIONAL ASSEMBLY BILLS</u> <u>NO. 6 OF 2021)</u>

(The Senate Majority Leader)

NOTICE is given that the Chairperson, Standing Committee on Finance and Budget, intends to move the following amendments to the Public Private Partnerships Bill, National Assembly Bills No. 6 of 2021, at the Committee Stage-

CLAUSE 6

THAT clause 6 of the Bill be amended by deleting paragraph (c) and substituting therefor the following new paragraph-

(c) the Principal Secretary in the State department responsible for matters relating to infrastructure.

CLAUSE 33

THAT clause 33 of the Bill be amended in subclause (3) by inserting the words "within twenty-one days of receipt of the evaluation report" immediately after the words "the Committee shall".

CLAUSE 75

THAT clause 75 of the Bill be amended-

- (a) in subclause (2)-
 - (i) by deleting the word "five" appearing immediately before the words "other persons with" in paragraph (bb) and substituting therefor the word "four"; and
 - (ii) by deleting the word "one person" appearing immediately before the words "not being a member" in paragraph (cc) and substituting therefor the words "two persons".
- (b) by inserting the following new subclause immediately after subclause (6) (6A) A person aggrieved by the decision of the Committee may, within seven days of the decision, make an application for review to the Committee in the prescribed form.

NEW CLAUSES

THAT the Bill be amended by inserting the following new clauses immediately after clause 75-

Secretary.	75A. (1) The Cabinet Secretary shall
	designate a public officer to serve as the
	Secretary to the Committee
	/Amendments

(2) A person designated under subsection (1) shall be an Advocate of the High Court of Kenya of at least seven years standing.

- Remuneration. **75B.** The members of the Committee shall be paid such salaries and allowances as the Cabinet Secretary shall, in consultation with the Salaries and Remuneration Committee, determine.
- Conflict of **75C.** A member of the Committee who has a direct or indirect interest in a matter before the Committee shall declare the interest and shall not participate in any proceedings of the Committee on the matter.
- Offences. **75D.** (1) A person shall not—
 - (a) without reasonable cause or lawful excuse, obstruct or hinder, assault or threaten a member of the Committee acting under this Act;
 - (b) without justification, fail to provide information required by the Committee under this Act;
 - (c) without justification, fail to provide information within reasonable time that is required by the Committee under this Act;
 - (d) submit false or misleading information to the Committee;
 - (e) misrepresent to or knowingly mislead a member of the Committee acting under this Act; or
 - (f) interfere with or exert undue influence on any member of the Committee.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year, or to both.

Decree.

75E. The Committee shall issue a decree setting out its decision in a particular matter and the decree shall be enforceable in the same manner as a decree of the Court.

(650)

D. <u>THE INVESTMENT PROMOTION (AMENDMENT) BILL, (SENATE BILLS NO.</u> <u>2 OF 2021)</u>

(Sen. (Dr.) Alice Milgo, MP)

NOTICE is given that the Chairperson, Committee on Trade, Tourism and Industrialization intends to move the following amendments to the Investment Promotion (Amendment) Bill (Senate Bills No. 2 of 2021), at the Committee Stage-

CLAUSE 4

THAT clause 4 of the Bill be amended in the proposed new section 16 by deleting paragraph (g) and substituting therefor the following new paragraph-

(g) three members, who shall include a person with disability and at least one person of the opposite gender, nominated by the Council of County Governors and appointed by the Cabinet Secretary.

CLAUSE 6

THAT clause 6 of the Bill be amended in the proposed new section 17 by deleting the word "four" appearing immediately after the words "for a term of" and substituting therefor the word "three".

CLAUSE 16

THAT clause 16 of the Bill be amended-

(a) in the proposed new section 26C by deleting the word "county" appearing immediately after the words "by notice in the" in subsection (1);

(b) in the proposed new section 26D by -

- (i) renumbering the existing provision as sub clause (1);
- (ii) inserting the words "including identifying and addressing barriers that hinder investment" immediately after the words "in the county" in paragraph (b); and
- (iii) inserting the following new sub clause immediately after sub clause (1) –

(2) The Unit shall, in carrying out its functions under subsection (1), undertake public participation through the modalities and platforms set out under section 91 of the County Governments Act.

(No. Supp 067)

E. <u>THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS</u> NO. 25 OF 2020)

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

NOTICE is given that the Chairperson, Standing Committee on Land, Environment and Natural Resources, intends to move the following amendments to the Natural Resources (Benefit Sharing) Bill (Senate Bills No. 25 of 2020), at the Committee Stage—

CLAUSE 10

THAT clause 10 of the Bill be amended—

(a) by inserting the following new sub clause immediately after sub clause (2)—

(3A) The members of the County Benefit Sharing Committee elected under subsection (2)(d) shall serve for one single term of five years.

(b) In sub clause (4) by deleting the expression "(2)(c)" appearing immediately after the words "elected under subsection" and substituting therefor the expression "(2)(d)".

CLAUSE 12

THAT clause 12 of the Bill be amended in sub clause (2) by deleting the words "county and local community" appearing immediately after the word "Each".

CLAUSE 13

THAT clause 13 of the Bill be amended—

- (a) in sub clause (1) by inserting the words "two of whom shall be of the opposite gender" immediately after the words "of five persons"; and
- (b) by deleting sub clause (6) and substituting therefor the following new sub clause—

(6) The local community benefit sharing forum shall ensure that the respective local community benefits from the exploitation of natural resources and shall, for this purpose—

- (a) collect and collate the views of the local community and represent the interests of the local community in the negotiations with the respective County Benefit Sharing Committee and in the implementation of a Benefit Sharing Agreement;
- (b) in consultation with the local community, identify local community projects to be supported by money allocated to the local community by the County Benefit Sharing Committee under this Act; and

(c) oversee the implementation of projects undertaken in the relevant local community using funds devolved under this Act.

CLAUSE 15

THAT clause 15 of the Bill be amended by deleting sub clause (2).

CLAUSE 2

THAT clause 2 of the Bill be amended in the definition of the word "benefit sharing agreement" by inserting the words "the exploitation of" appearing immediately after the words "revenue accruing from".

APPENDIX

1. <u>PETITION</u>

Petition to the Senate by Residents of Migori County concerning continuous exclusion of Persons with Disabilities in the Migori County Budget.

(Sen. (Dr.) Ochilo Ayacko, MP)

2. PAPERS

- Report of the Auditor General on the Financial Statements of Kiambu County Youth, Women and People with Disability Enterprise Development Fund (Kiambu County Jijenge Fund) for the year ended 30th June, 2019.
- ii) Report of the Auditor General on the Financial Statements of the Kirinyaga County Education Bursary Fund for the year ended 30th June, 2019.
- iii) Report of the Auditor General on the Financial Statements of the Kirinyaga County Emergency Fund for the year ended 30th June, 2019.
- iv) Report of the Auditor General on the Financial Statements of Kwale County Disaster Management Fund for the year ended 30th June, 2019.

(The Senate Majority Leader)

3. <u>NOTICE OF MOTION - APPOINTMENT OF SENATORS TO SERVE IN</u> <u>STANDING COMMITTEES</u>

(The Senate Majority Whip)

THAT, NOTWITHSTANDING, the resolutions of the Senate made on 14th December, 2017; 14th February, 2018; 21st February, 2018; 21st November, 2018; 20th March, 2019; 19th June, 2019; 28th April, 2020; and 24th June, 2020 on the approval of Senators to serve in various Standing Committees of the Senate, and pursuant to Standing Orders189, 218, and the Second Schedule to the Standing Orders, the Senate approves the following Senators nominated by the Senate Business Committee to serve in Standing Committees of the Senate as follows –

(i) Standing Committee on Energy

Sen. Haji Abdul Mohammed, MP to serve as a Member.

(ii) Standing Committee on Justice, Legal Affairs and Human Rights

Sen. Isaac Ngugi Githua, MP to serve as a Member.

(iii) Standing Committee on National Security, Defence and Foreign Relations

Sen. Gideon Moi, CBS, MP to serve as a Member.

...../Appendix

4. STATEMENTS

a) Pursuant to Standing Order 48 (1)

- i) Nominated Senator (Sen. Petronila Were Lokorio, MP) to seek a statement from the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration concerning public appointments made by Mr. James Macharia to Parastatals and State Corporations during his tenure as the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works.
- ii) Nominated Senator (Sen. Beatrice Kwamboka, MP) to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations concerning the state of police stations in the Country.
- iii) Nominated Senator (Sen. Isaac Ngugi Githua, MP) to seek a statement from the Standing Committee on Labour and Social Welfare concerning youth and special groups Access to Government Procurement Opportunities (AGPO) Programme as provided for in Article 55 of the Constitution of Kenya and the Public Procurement and Asset Disposal Act, 2015.
- iv) Nominated Senator (Sen. Mary Seneta, MP) to seek a statement from the Standing Committee on Agriculture, Livestock and Fisheries concerning the status of operationalization of the Isinya Tannery in Kaputiei North Ward, Kajiado County.
- v) The Senator for Bungoma County (Sen. Moses Wetang'ula, MP) to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations concerning security of students of Masinde Muliro University of Science and Technology while in and around the University.

b) <u>Pursuant to Standing Order 52(1)</u>

The Senate Majority Leader to issue a Statement on the Business of the Senate for the week commencing Tuesday, 2nd November, 2021.

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