

The Senate

Select Committee on
Scrutiny of New Taxes

The Student Amenities Fee – Another Tax by
Another Name

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Senate Select Committee on Scrutiny of New Taxes

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Chapter 1

Background

1.1 On 30 September 2010 the Senate appointed the Select Committee on the Scrutiny of New Taxes to inquire into and report on the following matters:

- (a) new taxes proposed for Australia, including:
 - (i) the minerals resource rent tax and expanded petroleum resource rent tax,
 - (ii) a carbon tax, or any other mechanism to put a price on carbon, and
 - (iii) any other new taxes proposed by Government, including significant changes to existing tax arrangements;
- (b) the short and long term impact of those new taxes on the economy, industry, trade, jobs, investment, the cost of living, electricity prices and the Federation;
- (c) estimated revenue from those new taxes and any related spending commitments;
- (d) the likely effectiveness of these taxes and related policies in achieving their stated policy objectives;
- (e) any administrative implementation issues at a Commonwealth, state and territory level;
- (f) an international comparison of relevant taxation arrangements;
- (g) alternatives to any proposed new taxes, including direct action alternatives; and
- (h) any other related matter.

1.2 Under these terms of reference, particularly term of reference (h), the committee resolved to inquire into the government's proposal to allow higher education providers to charge a compulsory student services and amenities fee. Legislation to implement this proposal has now been introduced into the Parliament on three occasions.

Conduct of the inquiry

1.3 The committee advertised the inquiry in *The Australian* and on the committee's website. It also wrote to stakeholders inviting them to make written submissions. The committee received 59 submissions in relation to the inquiry. A list of these submissions is provided in Appendix 1.

1.4 The committee held a public hearing in Canberra on 9 December 2010 where it took evidence from the National Union of Students, Australian Liberal Students'

Federation, and Universities Australia. A list of the witnesses appearing at the hearing is provided in Appendix 2.

1.5 The committee would like to thank all those who participated in the inquiry.

Overview of submissions

1.6 As noted above, the committee received 59 submissions. A brief overview of the submissions is provided below:

- 30 submissions from universities, student and sports organisations and unions (27 generally supportive of the bill; 3 generally opposed to the bill)
- 28 submissions from individuals (3 generally supportive of the bill; 25 generally opposed to the bill)
- 1 submission from the Department of Education, Employment and Workplace Relations

Previous bills

1.7 The government first introduced legislation seeking to allow universities to charge a compulsory student services and amenities fee in the House of Representatives on 11 February 2009. This bill, the Higher Education Legislation Amendment (Student Services and Amenities, and Other Measures) Bill 2009, was subject to a report of the Senate Standing Committee on Education, Employment and Workplace Relations. The committee tabled its report on 10 March 2009. The Government senators' majority report supported the bill, while Coalition senators recommended that the bill be rejected.¹

1.8 The bill was eventually negatived in the Senate at the third reading on 18 August 2009.

1.9 The government subsequently introduced a new bill into the House on 9 September 2009 – the Higher Education Legislation Amendment (Student Services and Amenities) Bill 2009 – in a renewed attempt to gain Senate support for its proposal. While the bill passed the House on 26 November 2009, it remained under consideration by the Senate at the conclusion of the 42nd Parliament and therefore lapsed immediately before the commencement of the 43rd Parliament.

The current bill

1.10 On the second sitting day of the new Parliament (29 September 2010), the government introduced the Higher Education Legislation Amendment (Student Services and Amenities) Bill 2010 into the House of Representatives. The House

1 Senate Standing Committee on Education, Employment and Workplace Relations, *Higher Education Legislation Amendment (Student Services and Amenities, and Other Measures) Bill 2009 [Provisions]*, March 2009.

Standing Committee on Education and Employment tabled an advisory report on the bill on 15 November 2010. As with the previous Senate report, the Government majority report supported passage of the bill, while the Coalition members' dissenting report recommended that the bill be rejected.²

1.11 The bill passed the House of Representatives on 18 November 2010. It was introduced in the Senate on 22 November 2010 where it remains under consideration.

1.12 The bill seeks to amend the *Higher Education Support Act 2003* to allow higher education providers to charge a compulsory student services and amenities fee. The fee is to be capped at \$250 per student per annum (indexed to \$254 in 2011, and thereafter indexed annually). The bill provides for the establishment of a new component of the Higher Education Loan Program (HELP): Services and Amenities-HELP (SA-HELP), which will provide eligible students with an option to access a loan for the fee through SA-HELP if they wish. In addition, the bill would require higher education providers that receive funding for student places under the Commonwealth Grant Scheme to comply with new benchmarks from 2011 onwards, for the provision of information on and access to basic student support services of a non-academic nature; and requirements to ensure the provision of student representation and advocacy.³

2 House of Representatives Standing Committee on Education and Employment, *Advisory report on the Higher Education Legislation Amendment (Student Services and Amenities) Bill 2010*, November 2010.

3 Higher Education Legislation Amendment (Student Services and Amenities) Bill 2010, *Explanatory Memorandum*, p. 2.

Chapter 2

Concerns in the community

2.1 Before the enactment of the *Higher Education Support Amendment (Abolition of Up-Front Compulsory Student Union Fees) Act 2005* university students were required to fund student unions and services irrespective of whether they wished to join the union, or use the services provided.

2.2 In 2009, contrary to clear cut commitments made prior to the previous election, the government introduced legislation to bring back compulsory fees to be imposed on university students for non-academic purposes. The Coalition senators' dissenting report to the committee inquiry into the Higher Education Legislation Amendment (Student Services and Amenities, and Other Measures) Bill 2009 argued that the bill was a backward step in that it:

- reintroduces compulsory student unionism (CSU) through students being forced to fund the activities of student unions;
- slugs students with a compulsory fee regardless of their need or even ability to access the services it purportedly funds, and regardless of their means;
- almost certainly ensures the return of compulsory levies funding and supporting marginal and extreme political activities.¹

2.3 Evidence provided to the committee shows that this latest bill to impose a compulsory levy on students is as bad as the 2009 version. Concerns in the community about the impact of a compulsory student services and amenities fee as proposed remain, particularly in relation to:

- the increased financial burden on students;
- access to services funded by the fee for part-time and external students; and
- inadequate protection against an increase in political activity.

The student service 'levy' is in fact a tax

2.4 Merriam-Webster's *Dictionary of Law* clearly defines a tax as 'a charge usually of money imposed by legislative or other public authority upon persons or property for public purposes'.²

1 Senate Standing Committee on Education, Employment and Workplace Relations, *Higher Education Legislation Amendment (Student Services and Amenities, and Other Measures) Bill 2009 [Provisions]*, March 2009, p. 21.

2 *Merriam-Webster's Dictionary of Law*, <http://dictionary.lp.findlaw.com/scripts/results.pl?co=dictionary.lp.findlaw.com&topic=9c/9c9a8bdd7998efe1e133c7ec3693d283> (accessed 4 February 2011).

2.5 The Committee is of the view that the so called student services and amenities fee proposed has all the elements of a tax. It is a compulsory charge to be imposed by legislative authority if this bill is passed. There is no doubt that it is to be imposed for public purposes in so much as it is payable irrespective of whether relevant services are in fact accessed by individual students who are required to pay the levy. The proposal is effectively for universities to act as agents for the Federal government in collecting \$250 million of tax per annum from students across Australia.

Evaluating voluntary student unionism

2.6 The Committee considers that Voluntary Student Unionism has been a success. The evidence received by the Committee is that where it has been embraced by relevant student bodies it has made them more focused and responsive to genuine student needs with those organisations who have adapted continuing to thrive.

2.7 That was certainly the evidence received from Miss Uher from the ALSF:

Miss Uher— ... I do not dispute the right of student unions to exist. I do not even dispute the right of student unions to be highly political if they want to be, provided that membership and financial support of that union is voluntary. If students know what their union is doing and they have the choice to support those activities then it is their right to join. For example, I joined my student union this year because under VSU it has remodelled itself into an organisation that actually provides benefits to students. I am involved in clubs and societies, so it is worthwhile for me to join my union.³

Miss Uher—...at the University of Western Australia union membership is up around 60 per cent. They have operated under VSU for a longer period of time, so the unions there know that they need to provide services that students want. The unions there are pretty decent. The average student wants to join because they gain a benefit out of it. Their membership numbers are quite high, and VSU has been largely responsible for that⁴.

2.8 Ms Drakeford from the National Union of Students conceded in her evidence that Voluntary Student Unionism had not prevented students from accessing sport and recreation services:

Ms Drakeford— ...The Australian National University's gym membership has gone up by 500 per cent since VSU...⁵

³ Miss Sasha Uher, President, Australian Liberal Students Foundation, *Proof Committee Hansard*, 9 December 2010, p.18.

⁴ Miss Sasha Uher, President, Australian Liberal Students Foundation, *Proof Committee Hansard*, 9 December 2010, p. 19.

⁵ Ms Carla Drakeford, National President, National Union of Students, *Proof Committee Hansard*, 9 December 2010, 9/12/2010, p. 9.

2.9 Most students appear to be opposed to the reintroduction of this compulsory student services and amenities fees.⁶ Of the 28 submissions from individuals to this inquiry, only three (11%) were supportive of the bill. This lends weight to statements provided to the committee that the majority of students do not support the reintroduction of compulsory fees.⁷ Further evidence is provided by the Australian Democrats Youth Poll 2008 which showed that 59% of those surveyed did not believe that the voluntary student unionism (VSU) legislation should be reversed.⁸

2.10 Many submissions argued that that the current arrangements under VSU are working and providing the best outcome for students:

Under CSU, student unions were guaranteed an enormous sum of money every year, regardless of whether or not they provided decent services or services that students used or wanted. This meant that no matter how substandard or unwanted the services student unions provided were, they would continue to survive due to compulsorily acquired funds. As such, student unions had no incentive to improve the services they were providing so students were receiving poor value for money. On top of this, student union office bearers were able to ignore the opinions of students and promote (with student money) partisan political causes. Without the threat of insolvency, there was nothing to stop this practice. Since VSU was introduced, student unions have had to rely on voluntary membership fees. This has meant that they have had to remodel themselves to meet the needs and wants of students in order to survive.⁹

2.11 Furthermore, at the hearing, it was suggested that if student unions provide services that are vital to students a large number of students would be willing to pay for these services:

There is absolutely no reason why under VSU student unions cannot survive because there should be broad support of certain services. Obviously, student unions are not going to survive if they are providing services that students do not want.¹⁰

2.12 The committee agrees with these arguments. The committee was not convinced by suggestions that the current voluntary system has failed. As noted above, VSU should not threaten the provision of essential services to students: if there

6 Senate Standing Committee on Education, Employment and Workplace Relations, *Higher Education Legislation Amendment (Student Services and Amenities, and Other Measures) Bill 2009 [Provisions]*, March 2009, p. 22.

7 See, for example, Mr James Hicks, *Submission 28*, p. 1.

8 *Australian Democrats Youth Poll 2008*, p. 8, http://www.natashastottdespoja.com/cms_resources/Youth%20Poll%202008%20final.pdf (accessed 11 January 2011).

9 Australian Liberal Students' Federation, *Submission 30*, pp 10–11.

10 Miss Sasha Uher, President, Australian Liberal Students' Federation, *Proof Committee Hansard*, 9 December 2010, p. 19.

is demand among students for such services they will choose to use (and pay for) them.

An increased financial burden on students

2.13 Many submissions to the inquiry raised concerns about the financial burden that would be placed on students by the introduction of a compulsory student services and amenities fee:

Poorer students will struggle as it is to meet the costs of getting an education. Hitting those vulnerable students with an expensive tax for a service they will seldom use (because of need to work off campus) would mean that the poor students will subsidise the wealthy who do not need to work and can enjoy campus life more fully.¹¹

I have seen repeated cases of prospective students and their families having to opt for additional time away from study, or simply to forego study completely due to financial pressures. Many of those who do make it over those initial hurdles have to work long hours to fund their studies, and to make ends meet. It therefore seems ludicrous that the government would propose a further levy on these hard working individuals, when voluntary student unionism has been shown to work, and to work well, over recent years.¹²

2.14 Furthermore, many submissions argued that the introduction of the SA-HELP scheme would not ameliorate the impact of the fee:

The UQ Union does not support the Federal Government's statement that the implementation of the SA-HELP debt in a time of economic meltdown. The total increase in student's HELP debts will be \$750 on a minimum 3 year course plus the accumulative interest that is placed upon HELP debts. Furthermore, the proposed Compulsory Student Amenities Fee is a regressive form of taxation that does not take into account the different income levels of students or a student's ability to use those services.¹³

2.15 The yearly indexation of the maximum fee payable means that the total burden for a three year degree will soon reach \$1000. Of course, many students take much longer than three years to complete their degrees and will therefore be facing an even larger debt on entry into the workforce.

2.16 The committee believes it is unfair to expect students to be burdened with more debt in order to pay for services that they may never use. Furthermore, if students chose to pay the fee up-front in order to avoid increasing their level of debt, a compulsory amenities fee would force students to reduce expenditure on other things

11 Mr Grant Ross, *Submission 3*, p. 1.

12 Mr Craig Buchanan, *Submission 13*, p. 1.

13 The University of Queensland Union, *Submission 50*, p. 11.

that they may consider to be more important, such as books and participation in groups external to university.

Part-time and external students

2.17 Of particular concern to the committee is the significant percentage of students who will have limited, if any, access to student services and amenities funded by the compulsory fee. In 2008, of the 1,066,095 higher education students in Australia:

- 206,307 (19.4%) were part-time internal students;
- 132,300 (12.4%) were external students; and
- 76,285 (7.2%) studied both internally and externally.¹⁴

2.18 Many submissions raised concerns that these students would be unfairly charged for services they may not have the opportunity to use:

I am currently studying an undergraduate degree part time, I work full time during the day and attend classes 2/3 nights a week. Due to me not being on campus full time and certainly not in the day time I do not have the option of using the amenities that this new compulsory tax is supposedly funding. So I will be forced to pay a fee towards facilities I do not even have the option of using!¹⁵

There are many students who study part-time or by correspondence and therefore rarely, if ever, set foot on campus. These students have no capacity to use or benefit from the services provided by their student union but will still be forced to pay this fee. There are also those students who are not involved in extra-curricular activities at university and simply attend classes to get their degree. These students receive absolutely no benefit from their student union and should not be forced to prop up support services they do not use.¹⁶

2.19 In response to these concerns the Department of Education, Employment and Workplace Relations states that:

Higher education providers will be able to charge different fees for different groups of students, for example, a lower fee for students studying off-campus compared to the fee for students studying on-campus. The Administration Guidelines made under the Act will require providers to charge part-time students a lower fee than full-time students.¹⁷

14 Department of Education, Employment and Workplace Relations, *Students: 2008 Summary of Higher Education Statistics*, p. 38.

15 Ms Alyson Richards, *Submission 42*, p. 1.

16 Australian Liberal Students' Federation, *Submission 30*, p. 4.

17 Department of Education, Employment and Workplace Relations, *Submission 51*, p. 3.

2.20 An exposure draft of the instrument to amend the Administration Guidelines has not been released by the government so it is not possible to confirm whether the guidelines will also address the fee that could be charged to external students (or the specific amount that could be charged to part-time students). The committee believes the Senate should not be expected to consider the bill without this important information.

Recommendation 1

2.21 The committee recommends that the government publicly release an exposure draft of the instrument to amend the Administration Guidelines made under the *Higher Education Support Act 2003* as soon as possible.

Recommendation 2

2.22 The committee recommends that the Senate postpone consideration of the Higher Education Legislation Amendment (Student Services and Amenities) Bill 2010 until the draft instrument to amend the Administration Guidelines made under the *Higher Education Support Act 2003* is publicly released.

Activities to be funded by the fee

2.23 The bill specifically provides that the fee must not be used (by the higher education provider itself or a third party provider) to support a political party, or the election of a person to the legislature of the Commonwealth, a state or territory, or a local government body.

2.24 Universities Australia supports this provision:

Individual students hold a range of party-political views, and it would be inappropriate for funds collected from the entire student body to be used for partisan purposes.¹⁸

2.25 In addition, the bill further restricts the types of activities that can be funded by the fee to those set out below:

- providing food or drink to students on a campus of the higher education provider
- supporting a sporting or other recreational activity by students
- supporting the administration of a club most of whose members are students
- caring for children of students
- providing legal services to students
- promoting the health or welfare of students
- helping students secure accommodation

18 Universities Australia, *Submission 33*, p. 2.

- helping students obtain employment or advice on careers
- helping students with their financial affairs
- helping students obtain insurance against personal accidents
- supporting debating by students
- providing libraries and reading rooms (other than those provided for academic purposes) for students
- supporting an artistic activity by students
- supporting the production and dissemination to students of media whose content is provided by students
- helping students develop skills for study, by means other than undertaking courses of study in which they are enrolled
- advising on matters arising under the higher education provider's rules
- advocating students' interests in matters arising under the higher education provider's rules
- giving students information to help them in their orientation
- helping meet the specific needs of overseas students relating to their welfare, accommodation and employment.¹⁹

2.26 The fact that the types of activities that can be funded by the fee is now set out in the bill is regarded by the Scrutiny of Bills Committee as an improvement on the previous versions of the bill which left the determination of approved purposes to delegated legislation. In this regard, the Scrutiny of Bills Committee was:

...pleased to note that the reintroduced version of the bill increases Parliamentary scrutiny by listing in the Bill categories of approved purposes for the expenditure of student services and amenities fees. This replaces the previous approach in which it was left to the Minister to specify approved purposes in delegated legislation.²⁰

2.27 The Department of Education, Employment and Workplace Relations states that 'the Vice-Chancellor or Chief Executive Officer of the higher education provider will be required to ensure that third parties also comply with the requirements of the bill in expending the funds'.²¹

Inadequate protection against political activity

2.28 The committee, however, remains concerned that the bill provides inadequate protection against political activity. When asked whether he could rule out any money

19 Proposed subsection 19-38(4).

20 Senate Standing Committee for the Scrutiny of Bills, *Alert Digest No. 8 of 2010*, 27 October 2010, p. 39.

21 Department of Education, Employment and Workplace Relations, *Submission 51*, p. 2.

collected through the legislation going to the National Union of Students, the Chief Executive Officer of Universities Australia stated that he 'cannot guarantee that a single dollar would not go to the National Union of Students...'²²

2.29 As highlighted in the submissions, student unions are highly political:

Office-bearer positions on student unions are almost without exception won by student politicians who are able to mobilise their activist support bases. However, the vast majority of students are apathetic to political causes and do not participate in university elections. It is extremely rare for more than 10% of students to vote in student elections, even at the most politically active universities. At Melbourne and Sydney Universities, two of the most politically-oriented in Australia, voter turnout can be 5% or less. The resulting consequence is student unions being run by student politicians, elected by a small proportion of students, who spend the wider student body's money promoting partisan political causes.²³

2.30 Given the political nature of student unions, the committee remains concerned that the fee could be used for political purposes, particularly through cross-subsidisation:

Student unions can direct the funds they were previously spending on the services listed in subsection 19-38(4) of the Bill to political activities. They can then use the newly acquired compulsory fees to fund those existing services which are allowable in the Bill. Therefore, there would be no increase in spending on vital services, but an increase in spending on political activities, facilitated by these compulsory fees.

Student unions could also direct profits made as a result of a compulsory fee-supported income to fund political activities, as the spending of profits is not regulated by the Bill. For example, a student union may make an additional \$10,000 profit as a result of an increase in spending on the clubs and societies program, facilitated by compulsory fees. This \$10,000 profit then becomes unregulated, and can be spent on whatever political purposes student union office bearers see fit.²⁴

2.31 At the hearing, the National Union of Students agreed that there is the potential for this to occur:

Senator WILLIAMS—And then the student union would be able to receive the profits of that coffee shop and then disburse the moneys as they wished. Is that correct?

22 Dr Glenn Withers, Chief Executive Officer, Universities Australia, *Proof Committee Hansard*, 9 December 2010, p. 36.

23 Australian Liberal Students' Federation, *Submission 30*, pp 7–8.

24 Australian Liberal Students' Federation, *Submission 30*, p. 9.

Ms Drakeford—I would see that as a likely scenario in that case.²⁵

2.32 The committee believes that it is inappropriate for any political activity – whether party political or otherwise – to be funded directly or indirectly through a compulsory student services and amenities fee. Evidence provided to the committee shows that such funding could occur if the compulsory fee is introduced. A compulsory amenities fee forces students to indirectly support student unions; it is an indirect form of compulsory unionism.

Conclusion

2.33 Of particular concern to the committee is the evidence provided by some organisations which suggests that they would like to remove the few protections contained in the current proposal and reintroduce fully-fledged compulsory student unionism:

CHAIR—When you say in your opening statement that this legislation does not go far enough, is that because you think it should go closer to compulsory student unionism?

Ms Drakeford—Yes.²⁶

2.34 For the reasons outlined above the committee believes that any attempts to allow for the establishment of compulsory student services and amenities fees should be rejected. Evidence provided to the committee shows that students do not support the introduction of such a fee, particularly given the increased financial burden the fee would place on them. The committee is also concerned that part-time and external students, who make up almost 40 per cent of the student population, will be expected to pay for services that they may never be able to use. Furthermore, the protections against use of the funds for political activity are inadequate.

Recommendation 3

2.35 The committee recommends that the Senate reject the Higher Education Legislation Amendment (Student Services and Amenities) Bill 2010.

Senator Mathias Cormann Chair

25 Ms Carla Drakeford, President, National Union of Students, *Proof Committee Hansard*, 9 December 2010, p. 14.

26 Ms Carla Drakeford, President, National Union of Students, *Proof Committee Hansard*, 9 December 2010, p. 6.

Government Senators' Dissenting Report

Introduction

1.1 The Howard Government introduced Voluntary Student Unionism legislation in December 2005, with effect from July 2006. At that time, the higher education sector broadly opposed the legislation and argued it would have a detrimental impact on the provision of essential student services and representation.

1.2 Following the election of a Labor Government in 2007, the then Minister for Youth, Kate Ellis MP, launched an extensive consultation of the higher education sector to determine the impact of the Howard Government legislation and canvass opinion on models to restore student services and representation on Australian university campuses.

1.3 The result of these extensive consultations was the Higher Education Legislation Amendment (Student Services and Amenities, and other measures) Bill 2009 and the subsequent Higher Education Legislation Amendment (Student Services and Amenities) Bill 2010. The Government has proposed to allow higher education providers to charge up to \$250 per student per annum, and will allow students to access a loan from the Government to cover the fee via the new Services and Amenities-HELP component of the Higher Education Loan Program. The proposal also requires higher education providers to comply with benchmarks for minimum service provision for students as well as meeting standards of student representation and advocacy.

1.4 We strongly support the proposed Bill and urge all Senators to support its passing in the Senate. It is a sensible and balanced solution to the devastating effects of the Howard Government legislation on student support services, student representation and 'student life' more broadly.

1.5 Furthermore, this issue has already undergone extensive consultations in the higher education sector and community at large. This includes not only direct Government consultation with the sector in 2008, but also consultation and review via the Senate Standing Committee on Education, Employment and Workplace Relations and the House of Representatives Standing Committee on Education and Employment.

1.6 The time for considering and debating the merits of the Government's proposed measures has well expired. Coalition Senators should stop fighting the ideological battles of their University days; they should no longer delay the passing of this Bill. It is time to stop playing politics with the restoration of vital funds and essential student services to Australian universities.

Why the Student Services Levy is not a tax

1.7 We are strongly of the view that the proposed Student Services and Amenities Levy is not in fact a tax but rather a fee for educational support services to be provided by higher education institutions and not the Government.

1.8 This view was shared by many of the submissions received. Indeed, the Clerk of the Senate in providing advice to the committee declared bluntly that:

...strictly speaking, the proposed compulsory student union levy is not a tax.¹

1.9 Furthermore, advice provided by the Acting Secretary of the Department of Education, Employment and Workplace Relations (DEEWR), Kathryn Campbell, argued that:

The fees and student contribution amounts required under the Higher Education Support Act 2003 would not be considered taxes as they constitute payments for educational services to be provided by a higher education provider to the person enrolling in its courses.

The Bill, which provides for the fee and the loan scheme similarly does not have the purpose of raising general revenue for the Government...

...the monies to be paid are not payable for a public purpose of the Commonwealth.²

1.10 Such a view was also shared by the National Union of Students in its testimony to the committee,³ and the National Tertiary Education Union in its written submission.⁴ Dr Glenn Withers of Universities Australia argued that even if one accepts a very broad definition of taxation, the student services levy is really a

...compulsory insurance charge, at its core.⁵

1.11 Indeed it is our view that consideration of the Bill by this committee was inappropriate and motivated by ideological dogma and a desire amongst Coalition Senators to delay the Senate's ultimate consideration and vote on the Bill.

1 Dr Rosemary Laing, Clerk of the Senate, *The Committee's Terms of Reference*, Advice to the Select Committee on the Scrutiny of New Taxes, 11 October 2010.

2 Department of Education, Employment and Workplace Relations, *Submission 51*, p. 1.

3 Mr Graham Hastings, Education Research Officer, National Union of Students, *Committee Hansard*, 9 December 2010, p. 4.

4 National Tertiary Education Union, *Submission 4*, p. 2.

5 Dr Glenn Withers, Chief Executive Officer, Universities Australia, *Committee Hansard*, 9 December 2010, p. 33.

1.12 Regardless of whether it is indeed a fee for service or a tax, it is important to outline the sensible and logical rationale for passing this Bill.

The detrimental impact of the Howard Government's Voluntary Student Unionism legislation

1.13 It has been well documented from previous Senate Committee inquiries and from DEEWR consultations that the existing Voluntary Student Unionism legislation introduced by the Howard Government had an immediate negative impact on the provision of essential support services for university students in Australia.

1.14 Indeed, the Summary Report of the DEEWR consultations in 2008 outlined that:

Most submissions concluded that the abolition of upfront compulsory student union fees had impacted negatively on the provision of amenities and services to university students, with the greatest impact at smaller and regional universities and campuses.⁶

1.15 Submissions to this committee also shed light on the devastating impact of Voluntary Student Unionism. The AUS/ACUMA submission referred to its 2007 VSU Impact Study which showed that within the first year alone of Voluntary Student Unionism there was:

- an overall 30% reduction in employment in the campus services sector (involving a loss of about 370 full-time jobs and about 1,300 part-time jobs nationally)
- 100 sporting and 261 student union services lost nationally
- 17% reduction in the number of students in sporting clubs and 14% reduction in the number in social and cultural clubs.⁷

1.16 Many individual student organisation and university submissions outlined the direct impact on their campus and listed a variety of support services that are no longer able to be provided due to a lack of funds thanks to the Howard Government legislation. We were shocked to see the depth and breadth of important student services that are no longer provided, or have been drastically cut, since 2006.

1.17 The National Union of Students submission⁸ provided a comprehensive overview of some of the services that have been cancelled around the country, particularly at regional universities:

6 Department of Education, Employment and Workplace Relations, *The Impact of Voluntary Student Unionism on Services, Amenities and Representation for Australian University Students Summary Report*, April 2008, p. 2.

7 Australian University Sport and the Australian Campus Union Managers Association, *Joint Submission 55*, p. 2.

- loss of 30 staff, independent academic rights advocacy service and second-hand book store at Charles Sturt University;
- loss of 200 jobs, dental service, independent advocacy, textbook loans, and scholarships at Southern Cross University;
- loss of parent room, print services, emergency loans, and second hand book store at Newcastle University;
- loss of student publications, social activities and community programs at the University of New England; and
- closure of legal service and reduction of student publications and orientation services at James Cook University.

1.18 It is clear that the current Voluntary Student Unionism legislation created a vicious cycle of cuts to student support services. Indeed, it appears that the initial instability and uncertainty regarding funding of services following VSU caused many services to be immediately cancelled. This in turn made voluntary contributions less enticing as less was able to be offered to students, and this subsequently led to even further cutbacks of vital support services.

1.19 Furthermore many submissions outlined that on campuses where support services continue to be offered to the student body it is as a result of substantial university financial support. This was usually by way of tied grants or service level agreements with student associations. Some universities have made extremely generous contributions to student bodies to allow them to continue providing essential services, which has been to the detriment of teaching and research funds and is generally regarded as an unsustainable solution.

1.20 For example The University of Sydney submission stated:

By the end of 2010, we estimate that our direct financial support for services and amenities provided by our six student organisations will have amounted to \$38 million over the four years 2007 to 2010....

Despite the University's strong belief in the value and importance of the services historically provided by student bodies, we cannot commit indefinitely to supporting them by redirecting funds from competing teaching, research and other priorities.⁹

1.21 It is clear that the current situation facing Australian higher education providers is unsustainable and detrimental to the wider student body by not having access to such vital support services.

8 National Union of Students, *Submission 27*, pp 11–42.

9 University of Sydney, *Submission 57*, pp 1–2.

1.22 Even submissions from organisations opposed to the fee, such as the Australian Liberal Students Federation, concede that universities have been propping up essential services since the introduction of Voluntary Student Unionism.

In the cases where services have collapsed, if they were deemed essential or beneficial to students, the university or private sector providers have generally stepped in and provided those services.¹⁰

1.23 This concession implies that even the Australian Liberal Students Federation recognises the importance of supporting certain student services so they are available to all students on campus.

1.24 For these reasons the Government was sensible to, following extensive consultation, propose a new Student Services Levy and national benchmarks for higher education providers, to revitalise student services and advocacy.

The benefits of the proposed Student Services Levy to higher education in Australia

1.25 Many submissions to the committee outlined a variety of positive impacts of the Bill beyond merely restoring funding for student services. Indeed, it is our view that this Bill provides many broader benefits to the higher education sector.

1.26 In particular, Dr Glenn Withers from Universities Australia in his testimony to the committee gave a good overview of the range of benefits the Bill would provide. These include:

- improved student retention and graduation rates
One single improvement that is well documented is the strong research evidence in North America that more spending on student amenities and services has a highly responsive increase in completion and graduation rates of the students, so that, when you calculate the savings in what is otherwise under-rewarded funding for those students and their increased lifetime incomes from completion, that is way ahead of modest costs in support of student services and amenities.¹¹
- particular benefits for the participation and support of international students and students from regional Australia:
They [international and regional students] are the ones who need more access to these services and benefit most from them because they do not have their well-established networks outside in the ordinary community in quite the same way.¹²

10 Australian Liberal Students Federation, *Submission 30*, p. 12.

11 Dr Glenn Withers, Chief Executive Officer, Universities Australia, *Committee Hansard*, 9 December 2010, p. 32

12 Dr Glenn Withers, Chief Executive Officer, Universities Australia, *Committee Hansard*, 9 December 2010, p. 38

- general benefits for students health and wellbeing via the provision of specialist on-campus services:

If, for instance, you are confused and worried about a number of matters such as health and identity and you are not benefiting from expert guidance from people who are well used to helping people through these matters then your studies are totally and utterly distracted. You cannot focus on your studies so that your productivity as a student is substantially reduced.¹³

1.27 DEEWR also cited research from North America which demonstrates benefits to students from low-SES backgrounds:

Quantitative research from the United States of America shows that students from low SES backgrounds are those that benefit the most from additional expenditure on student services and activities that contribute to students' emotional and physical well-being and to their intellectual, cultural and social development outside of the institution's formal instructional program.¹⁴

1.28 Furthermore, the National Union of Students in its written submission outlined the benefits broadly to the establishment of "world-class" universities in Australia and compared the Australian context to elite North American universities, such as Harvard, where compulsory student service fees have always been charged (at a considerably higher level than those ever charged in Australia). The NUS argued that providing a range of student services is part of providing "world-class" higher education:

Those who are genuine about creating more diversity, student choice and having world class universities in Australia should assist in this by repealing the current legislation.¹⁵

1.29 We are of the view that this Bill aligns with the Government's broader participation agenda in higher education. It will contribute positively not only the experience of Australian students but also international students, and it will assist in developing world-class institutions.

Why the Student Services and Amenities Bill 2010 is not compulsory student unionism

1.30 Opponents of the Bill have interpreted it as a return to compulsory student unionism and a violation of freedom of association:

13 Dr Glenn Withers, Chief Executive Officer, Universities Australia, *Committee Hansard*, 9 December 2010, p. 41.

14 Department of Education, Employment and Workplace Relations, *Submission 51- Attachment A*, p. 1.

15 National Union of Students, *Submission 27*, p. 27.

The ALSF believes that although this Bill doesn't explicitly force students to become student union members, it forces them to support their student union financially, which amounts to the same thing...

Freedom of association is a fundamental right in Australian society. It would be considered completely unacceptable to force individuals in the workforce to pay a compulsory fee to their respective unions – so why should students be exempt from this fundamental right?¹⁶

1.31 This argument, however, completely ignores fundamental and important features of the Bill. Indeed, the Bill does not in any way represent a return to compulsory student unionism:

- The provisions in the existing legislation that prohibit universities requiring students to be members of their relevant student organisations are maintained. This Bill does not violate the principle of freedom of association as students are still free to voluntarily become a member, or not become a member, of their student organisation.
- The levy is directed to universities, not student organisations. It is up to universities to meet the benchmarks for student services and representation and the money is directed to them, not student organisations, for that purpose.
- It is up to universities, not student associations, to decide whether or not to even charge the fee and, if they do, at what rate. The Government has set a cap at \$250 (indexed annually), but universities can theoretically decide not to charge the fee or charge the fee at a lower rate than \$250.

1.32 Furthermore, this Bill is not about freedom of association – it is about introducing a new levy so that all university students contribute to services provided for the common good. Indeed, the services supported by the levy will benefit the entire university student community – whether or not an individual university student uses each service on a daily basis, the availability of these services for all students fosters a supportive educational experience for all students.

1.33 The Australian Liberal Students Federation have also argued that universities will be able to pass on the levy funds to student organisations to use at their discretion on political causes:

The implication of this is that once this money is handed over to student unions by the university, it becomes unregulated and can therefore be spent on political causes.¹⁷

1.34 This again ignores key features of the Bill. As advice from the DEEWR makes clear:

16 Australian Liberal Students Federation, *Submission 30*, p. 7.

17 Australian Liberal Students Federation, *Submission 30*, p. 8.

- The Bill prohibits the fee being spent by a higher education provider on supporting a political party or candidate for election to the Commonwealth, State or Territory parliament or local government.
- The Bill allows higher education providers to spend the fee only on a list of allowable expenditures outlined in the Bill (such as legal, financial, employment and orientation services).
- If a Higher education provider chooses to contract third parties, such as student organisations, to provide any of the listed allowable services, the Vice-Chancellor or Chief Executive Officer of the institution will be required to ensure that the third party also complies with the requirements of the Bill in expending the funds.¹⁸

1.35 Indeed, during his oral testimony to the committee, Dr Withers from Universities Australia reassured the committee that universities are well-placed to oversee the proper use of the funds, and are accustomed to rigorous Government reporting and auditing procedures:

Universities... are highly transparent institutions who account for themselves to parliamentary committees, ombudsmen, auditors-general and more, and within that we think there is a framework for ensuring responsible administration of these fees through the universities for the purposes of student services and amenities.¹⁹

1.36 Indeed, we have full confidence that university Vice Chancellors will ensure the proper use of the levy funds in accordance with the legislation if the Bill is passed.

The fair and flexible nature of the proposed compulsory fee

1.37 Another argument put forward by opponents of the Bill is that a new fee for university students is inequitable and could deter participation in higher education:

... the reintroduction of compulsory amenities fees will deter low socio-economic students at the margins from seeking university qualifications, effectively pricing thousands of poor students out of a degree, in much the same way as an equivalent rise in tuition fees would.²⁰

1.38 This argument is odd, if not hypocritical, coming from an organisation that supported the Howard Government and its dramatic increases in higher education contribution fees during its years in power (increases far beyond the modest \$250 annual levy proposed in this Bill).

18 Department of Education, Employment and Workplace Relations, *Submission 51*, p. 2.

19 Dr Glenn Withers, Chief Executive Officer, Universities Australia, *Committee Hansard*, 9 December 2010, p. 33.

20 Australian Liberal Students Federation, *Submission 30*, p. 4.

1.39 Furthermore, this argument disregards the provisions in the Bill which allow students to defer payment of the fee so there need not be any up front financial burden each year.

1.40 DEEWR also made clear in its submission that that:

The Administration Guidelines made under the Act will require providers to charge part-time students a lower fee than full-time students.²¹

1.41 We share the view of the National Union of Students on this point. They have argued that the levy will actually support students from low socio-economic backgrounds through their education at university:

Not only is [the fee] deferrable; it offers essential services to students from low socioeconomic status backgrounds. It will see not only funding go back into agency and welfare services, but also the return to collective student buying power, enabling food and beverages to be made cheaper on campus for those students who struggle. It will have longer term effects for low socioeconomic students, as well as for students from regional and Indigenous backgrounds, by providing adequate support services on campus as well as a range of activities to raise retention rates.²²

1.42 We also support Dr Withers' assessment that a compulsory levy will lead to greater "economies of specialisation and scale tailored to the particular clientele and their needs in their learning life"²³ and this is beneficial because ultimately "such services will provide a safety net for those students who had begun their study with no need for the services, but whose situations change for the worse during the course of their study."²⁴

1.43 It is clear that this fee will not only assist in the restoration of essential support services for all students to access in times of need, but also is tailored fairly to allow students to defer upfront payment and pay at a lower rate if they do not study full-time.

Concerns regarding the protection of independent student advocacy

1.44 Some submissions to the committee commented that the Bill does not go far enough to safeguard independent student advocacy and representation on university campuses.

1.45 We support the Group of 8's comment in their submission that:

21 Department of Education, Employment and Workplace Relations, *Submission 51*, p. 3.

22 Ms Carla Drakeford, President, National Union of Students, *Committee Hansard*, 9 December 2010, p. 2.

23 Dr Glenn Withers, Chief Executive Officer, Universities Australia, *Committee Hansard*, 9 December 2010, p. 34.

24 Universities Australia, *Submission 33*, p. 2.

Quite separately from student politics, student organisations have an important role in representing the interests of students as consumers, and to advocate for fair provision and due process for their members, in academic, administrative and other areas. VSU has greatly weakened this advocacy function, with undesirable effects on students' rights both as consumers and as citizens.²⁵

1.46 In particular, the National Union of Students²⁶ and the National Tertiary Education Union²⁷ argued that the Government's proposed National Student Representation Protocols do not go far enough to ensure that student representation on campus is adequately supported and resourced so that there is an effective independent voice for students on university campuses and in the community more broadly.

1.47 While we are sympathetic to this view, the focus of our consideration has been the proposed levy rather than the representation protocols. The Select Committee on the Scrutiny of New Taxes has been tasked with assessing the benefits of new taxes – in this case a student services levy, considered (wrongly) to be a tax by our Coalition colleagues. For that reason we have chosen not to discuss broader education policy concerns (such as best practice student representation) that are more appropriate for consideration by the Senate Standing Committee on Education, Employment and Workplace Relations.

1.48 We do, however, encourage the Government to take notice of these concerns and the detailed recommendations on this matter already provided by Government colleagues in the Senate Standing Committee on Education, Employment and Workplace Relations' inquiries into the matter.

Recommendation 1

1.49 That the Government re-consider the recommendations regarding amendments to the student representation protocols made by Government Senators from the Senate Standing Committee on Education, Employment and Workplace Relations' inquiries into this Bill.

Conclusion and recommendations

1.50 We would like to thank all the organisations and individuals who wrote submissions to the committee, and in particular thank Universities Australia, the National Union of Students and the Australian Liberal Students Federation for sending representatives to present oral testimony to the committee.

1.51 We would like to note that the vast majority of submissions from representative groups and organisations support the passing of this Bill. Coalition

25 The Group of Eight Ltd, *Submission 2*, p. 1.

26 National Union of Students, *Submission 27*, p. 19.

27 National Tertiary Education Union, *Submission 4*, p. 3.

Senators have pointed to a handful of individual submissions opposed to the Bill as evidence of widespread student opinion. We do not share this view. Student representative organisations, staff unions and peak university bodies such as Universities Australia support the introduction of a new levy for student services and together they represent a far greater majority of students and staff within the higher education sector.

1.52 We believe there is an overwhelming case for the passing of this Bill. The proposed levy has clear benefits not only to university students current and future, but to the higher education sector more broadly via the support the student services levy would provide to students from a variety of backgrounds and experiences throughout their education.

1.53 We strongly recommend that all Senators support the passing of this Bill.

Recommendation 2

1.54 Government Senators recommend that the Bill be supported.

Senator Steve Hutchins
Deputy Chair

Senator Doug Cameron

APPENDIX 1

Submissions Received

Submission Number	Submitter
1	Mr Stephen Gream
2	The Group of Eight Ltd
3	Mr Grant Ross
4	National Tertiary Education Union
5	Mr Matthew Scott
6	Mr Michael Bartosiak
7	Edith Cowan University
8	Mr Ben Allen
9	Australian National University
10	Arc@UNSW Limited
11	Mr Nicholas Lonergan
12	Name Withheld
13	Mr Craig Buchanan
14	Name Withheld
15	Mr Robert Langdon
16	Mr Kim Thomas-Francis
17	Name Withheld
18	JCU Student Association
19	Mr Matthew Incerti
20	La Trobe University Guild
21	Name Withheld
22	Students' Representative Council, The University of Sydney
23	Name Withheld
24	ANU Students' Association
25	Mr Yoni Cukierman
26	Mr Peter Gangemi
27	National Union of Students

28	Melbourne University Liberal Club
29	Griffith University
30	Australian Liberal Students' Federation
31	The University of Melbourne
32	Australian Technology Network
33	Universities Australia
34	Deakin University
35	Mr Morgan Forrest
36	Ms Arabella Hasson-Casey
37	Mr Cameron Sinclair
38	Mr James Hicks
39	Dr Michael Ayling
40	Mr Daniel Parsons
41	Mr Alex Butterworth
42	Ms Alyson Richards
43	Undergraduates of New England Guild Inc
44	Innovative Research Universities
45	Confidential
46	University of Newcastle
47	University of South Australia
48	University of Tasmania
49	University of Adelaide
50	University of Queensland Union
51	Department of Education, Employment and Workplace Relations
52	Council of Australian Postgraduate Associations
53	James Cook University
54	Mr Jonathan Richards
55	Australian University Sport and the Australasian Campus Union Managers Association
56	Australian Olympic Committee
57	University of Sydney
58	Australian Catholic University
59	Mr Andrew Oliver

APPENDIX 2

Public Hearing and Witnesses

CANBERRA, 9 DECEMBER 2010

DRAKEFORD, Ms Carla Isobel, National President,
National Union of Students

HARTMANN, Mr Michael, Director, Communication and Government Relations,
Universities Australia

HASTINGS, Mr Graham, Education Research Officer,
National Union of Students

UHER, Miss Sasha, President,
Australian Liberal Students Federation

WITHERS, Dr Glenn Alexander, Chief Executive Officer,
Universities Australia

