

2008-09

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 82

TUESDAY, 18 AUGUST 2009

Contents

1	Meeting of Senate.....	2315
2	Question Time—Points of Order—Statement by President	2315
3	Higher Education Legislation Amendment (Student Services and Amenities, and Other Measures) Bill 2009.....	2315
4	Order of Business—Rearrangement.....	2316
5	Fairer Private Health Insurance Incentives Bill 2009 Fairer Private Health Insurance Incentives (Medicare Levy Surcharge) Bill 2009 Fairer Private Health Insurance Incentives (Medicare Levy Surcharge— Fringe Benefits) Bill 2009.....	2317
6	Questions.....	2317
7	Motions to Take Note of Answers	2317
8	Education—School Chaplaincy Program—Answer to Question.....	2317
9	Notices.....	2317
10	Rural and Regional Affairs and Transport References Committee— Extension of Time to Report	2319
11	Postponement.....	2319
12	Foreign Affairs, Defence and Trade References Committee—Extension of Time to Report.....	2319
13	Death of Ms Natalya Estemirova.....	2320
14	Health—Chemotherapy Treatment—Budget Cuts—Order for Production of Documents.....	2320
15	Foreign Affairs—Afghanistan and Pakistan—Ministerial Statement— Document.....	2321
16	Social Issues—Reducing Homelessness—Ministerial Statement— Document.....	2321
17	Trade—Pacific Agreement on Closer Economic Relations Plus Negotiations—Ministerial Statement—Document.....	2321
18	Department of the Senate—Senators’ and Members’ Travelling Allowance—Document.....	2321
19	Department of the Senate—Travel Expenditure—Document.....	2322

20	Migration—Joint Standing Committee—Report—Immigration Detention in Australia	2322
21	Treaties—Joint Standing Committee—103rd Report	2322
22	Public Works—Joint Statutory Committee—4th Report of 2009	2322
23	Parliamentary Advisers to Australia’s Permanent Mission to the United Nations—63rd General Assembly—Document.....	2322
24	Documents.....	2322
25	Routine of Business—Variation	2324
26	Renewable Energy (Electricity) Amendment Bill 2009 Renewable Energy (Electricity) (Charge) Amendment Bill 2009	2324
27	Adjournment	2324
28	Attendance	2324

1 MEETING OF SENATE

The Senate met at 12.30 pm. The President (Senator the Honourable John Hogg) took the chair and read prayers.

2 QUESTION TIME—POINTS OF ORDER—STATEMENT BY PRESIDENT

The President made a statement relating to matters raised by senators on 17 August 2009 concerning question time.

Senator Macdonald, by leave, moved—That the Senate take note of the statement.

Debate ensued.

Question put and passed.

3 HIGHER EDUCATION LEGISLATION AMENDMENT (STUDENT SERVICES AND AMENITIES, AND OTHER MEASURES) BILL 2009

Order of the day read for the further consideration of the bill in committee of the whole.

In the committee

Consideration resumed of the bill, as amended.

Senator Hanson-Young moved the following amendment:

Schedule 1, item 5, page 5 (after line 27), at the end of section 19-38, add:

Report on consultations

- (9) Each higher education provider must, as soon as practicable after 31 December each year, prepare and publish a report detailing the consultation which occurred during that year between the provider, its students and its student organisations in relation to the level of the fee, collection of the fee and expenditure of amounts paid.
- (10) Each higher education provider must provide to the department a copy of each report prepared under subsection (9).
- (11) The department must publish on its website a copy of each report received under subsection (10) in a form which allows ready comparison between the reports of different higher education providers.

Debate ensued.

Question—That the amendment be agreed to—put and negatived.

Bill, as amended, debated.

Document: Senator Hanson-Young, by leave, tabled the following document:

Higher Education Legislation Amendment (Student Services and Amenities, and Other Measures) Bill 2009—Copy of letter from the Minister for Early Childhood Education, Child Care and Youth (Ms Ellis) to Senator Hanson-Young, dated 18 August 2009.

Bill, as amended, further debated and agreed to.

Bill to be reported with an amendment.

The Acting Deputy President (Senator Marshall) resumed the chair and the Temporary Chair of Committees reported accordingly.

On the motion of the Minister for Innovation, Industry, Science and Research (Senator Carr) the report from the committee was adopted.

Senator Carr moved—That this bill be now read a third time.

Debate ensued.

Question put.

The Senate divided—

AYES, 34

Senators—

Arbib	Crossin	Lundy	Sherry
Bilyk	Faulkner	Marshall	Siewert
Bishop	Feeney	McEwen (Teller)	Stephens
Brown, Bob	Furner	McLucas	Sterle
Brown, Carol	Hanson-Young	Milne	Wong
Cameron	Hogg	Moore	Wortley
Carr	Hutchins	O'Brien	Xenophon
Collins	Ludlam	Polley	
Conroy	Ludwig	Pratt	

NOES, 34

Senators—

Abetz	Colbeck	Heffernan	Payne
Back	Coonan	Humphries	Ronaldson
Barnett	Cormann	Johnston	Ryan
Bernardi	Eggleston	Kroger	Scullion
Birmingham	Ferguson	Macdonald	Troeth
Boswell	Fielding	Mason	Trood
Brandis	Fierravanti-Wells	McGauran	Williams (Teller)
Bushby	Fifield	Minchin	
Cash	Fisher	Parry	

The ayes and noes were equal and so the question was negatived.

4 ORDER OF BUSINESS—REARRANGEMENT

The Parliamentary Secretary for Social Inclusion (Senator Stephens) moved—That the order of consideration of government business orders of the day for the remainder of today be as follows:

No. 4 Fairer Private Health Insurance Incentives Bill 2009 and two related bills.

No. 3 Health Insurance Amendment (Extended Medicare Safety Net) Bill 2009.

No. 2 Migration Amendment (Abolishing Detention Debt) Bill 2009 [No. 2].

Debate ensued.

Question put and passed.

- 5 **FAIRER PRIVATE HEALTH INSURANCE INCENTIVES BILL 2009**
FAIRER PRIVATE HEALTH INSURANCE INCENTIVES (MEDICARE LEVY SURCHARGE) BILL 2009
FAIRER PRIVATE HEALTH INSURANCE INCENTIVES (MEDICARE LEVY SURCHARGE—FRINGE BENEFITS) BILL 2009
- Order of the day read for the adjourned debate on the motion of the Minister for Defence (Senator Faulkner)—That these bills be now read a second time.
- Debate resumed.
- At 2 pm:* Debate was interrupted while Senator Cormann was speaking.
- 6 **QUESTIONS**
- Questions without notice were answered.
- 7 **MOTIONS TO TAKE NOTE OF ANSWERS**
- Senator Fierravanti-Wells moved—That the Senate take note of the answer given by the Minister for Climate Change and Water (Senator Wong) to a question without notice asked by Senator Fierravanti-Wells today relating to the proposed emissions trading scheme and the steel industry.
- Debate ensued.
- Question put and passed.
- Senator Siewert moved—That the Senate take note of the answer given by the Assistant Treasurer (Senator Sherry) to a question without notice asked by Senator Siewert today relating to fisheries and sea bottom trawling.
- Question put and passed.
- 8 **EDUCATION—SCHOOL CHAPLAINCY PROGRAM—ANSWER TO QUESTION**
- The Minister for Innovation, Industry, Science and Research (Senator Carr), by leave, provided a further answer to a question without notice asked by Senator Parry today relating to the school chaplaincy program.
- Statement by leave:* Senator Parry, by leave, made a statement relating to the matter.
- 9 **NOTICES**
- Notices of motion:*
- The Chair of the Community Affairs References Committee (Senator Siewert): To move on the next day of sitting—That the Community Affairs References Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 20 August 2009, from 3.30 pm, to take evidence for the committee's inquiry into the impact of gene patents on the provision of healthcare in Australia. (*general business notice of motion no. 520*)
- The Chair of the Environment, Communications and the Arts References Committee (Senator Birmingham): To move on the next day of sitting—That the time for the presentation of the report of the Environment, Communications and the Arts References Committee on forestry and mining operations on the Tiwi Islands be extended to 26 October 2009. (*general business notice of motion no. 521*)

The Deputy Chair of the Parliamentary Joint Committee on Corporations and Financial Services (Senator Mason): To move on the next day of sitting—That the Parliamentary Joint Committee on Corporations and Financial Services be authorised to meet during the sitting of the Senate on Wednesday, 19 August 2009, from 5.30 pm, for a private briefing. (*general business notice of motion no. 522*)

Senators Cormann and Barnett: To move on the next day of sitting—That there be laid on the table by the Minister representing the Minister for Health and Ageing, no later than 12 pm on Thursday, 20 August 2009, the report of the Government's National Preventative Health Taskforce as received by the Government on 30 June 2009. (*general business notice of motion no. 523*)

Senator Cormann: To move on the next day of sitting—That the Senate—

(a) notes that:

- (i) the Department of Health and Ageing has been collecting audited General Purpose Accounts from aged care providers since the 2004-05 financial year,
- (ii) this information has to be submitted by aged care providers as a condition of receiving Conditional Adjustment Payments (CAP),
- (iii) national de-identified comparative data from those accounts was expected to be made available every financial year to assist in performance benchmarking and in industry planning and investment decisions,
- (iv) only the 2004-05 data was made available to the aged care industry (Bentleys MRI report), and
- (v) subsequently, even though the information has been collected and analysed (in 2005-06 by Grant Thornton, in 2006-07 by Access Economics and KPMG) these reports, and any subsequent analysis, do not appear to have been made publicly available;

(b) considers publication of the national de-identified data from the audited General Purpose Accounts to be in the public interest; and

(c) orders that there be laid on the table by the Minister representing the Minister for Health and Ageing, by no later than noon on 20 August 2009, the following documents:

National de-identified data from the audited General Purpose Accounts of aged care providers for:

- 2005-06, including report/analysis by Grant Thornton,
- 2006-07, including report/analysis by Access Economics and KPMG,
- 2007-08, including any report/analysis by the department and/or any third party consultant, and
- 2008-09, including any report/analysis by the department and/or any third party consultant. (*general business notice of motion no. 524*)

Senator Colbeck: To move on the next day of sitting—That the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 14 September 2009:

The Australian Government's management of the removal of the 40 per cent fee rebate for the Australian Quarantine and Inspection Service (AQIS) export certification functions, having regard to:

- (a) the level of industry support for the removal of the 40 per cent rebate prior to the implementation of comprehensive reform of AQIS's export inspection and certification services;
- (b) the adequacy of consultation by the Government in the development of industry work plans;
- (c) the capacity of the Government, including AQIS, to implement efficiency proposals;
- (d) the adequacy of government funding to implement industry work plans;
- (e) any progress on meeting targets in industry work plans;
- (f) the financial or other impact on industry sectors of the failure to meet reform targets; and
- (g) any other relevant matter.

Notice of motion withdrawn: The Special Minister of State (Senator Ludwig) withdrew government business notice of motion no. 1 standing in his name for today, proposing the conclusion of the Select Committee on Agricultural and Related Industries.

10 RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES COMMITTEE— EXTENSION OF TIME TO REPORT

Senator Parry, by leave and at the request of the Chair of the Rural and Regional Affairs and Transport References Committee (Senator Nash), moved—That the time for the presentation of the report of the Rural and Regional Affairs and Transport References Committee on natural resource management and conservation challenges be extended to 26 October 2009.

Question put and passed.

11 POSTPONEMENT

The following item of business was postponed:

General business notice of motion no. 519 standing in the name of Senator Siewert for today, relating to Hearing Awareness Week, postponed till 19 August 2009.

12 FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE—EXTENSION OF TIME TO REPORT

The Chair of the Foreign Affairs, Defence and Trade References Committee (Senator Trood), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 516—That the time for the presentation of the report of the Foreign Affairs, Defence and Trade References Committee on the economic and security challenges facing Papua New Guinea and the island states of the southwest Pacific be extended to 29 October 2009.

Question put and passed.

13 DEATH OF MS NATALYA ESTEMIROVA

The Leader of the Australian Greens (Senator Bob Brown), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 511—That the Senate—

- (a) condemns the murder of Russian human rights campaigner, Ms Natalya Estemirova; and
- (b) supports transparent debate on human rights abuses in Chechnya that is free from intimidation or violence.

Question put and passed.

14 HEALTH—CHEMOTHERAPY TREATMENT—BUDGET CUTS—ORDER FOR PRODUCTION OF DOCUMENTS

Senator Cormann amended general business notice of motion no. 517 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- (a) notes that:
 - (i) the Government announced during Senate question time on 12 August 2009 that it remains committed to its \$100 million budget cut to chemotherapy treatment,
 - (ii) the Government repeated its assertion that it only wants to fund the ‘actual quantity’ of chemotherapy medicines that are delivered to cancer patients,
 - (iii) chemotherapy drugs are delivered in standard vial sizes, while different cancer patients, with different body weights and different physiological requirements will need different dosages of a particular life saving chemotherapy drug,
 - (iv) at times a portion of an opened vial will be left unused,
 - (v) consistent with Therapeutic Goods Administration requirements any unused portion of an opened vial containing those dangerous chemotherapy drugs has to be discarded and will not be able to be used for any other patient,
 - (vi) unless there is a change in vial sizes, no change in government funding arrangements will be able to remove that inefficiency and somebody will have to pay for the \$100 million budget cut,
 - (vii) this chemotherapy budget cut was part of both the 2008-09 and 2009-10 budgets with an original implementation date of 1 July 2009, deferred to 1 September 2009, and
 - (viii) the Government still has not been able to come up with a sensible way to implement this ill-considered budget cut;
- (b) is concerned about the potential impact of this budget cut on cancer patients and considers that the ongoing uncertainty surrounding this measure has led to unnecessary concerns for cancer patients, their families and health care professionals involved in the preparation and use of chemotherapy drugs;
- (c) calls on the Government to end the ongoing uncertainty as soon as possible; and

- (d) orders that there be laid on the table by the Minister representing the Minister for Health and Ageing by no later than noon on 19 August, copies of:
- (i) all advice from the Department of Health and Ageing to the Minister for Health and Ageing in relation to the budget measures set out above from 13 May 2008 to 17 August 2009,
 - (ii) any modelling conducted within government in the lead up to the announcements of these budget measures and any subsequent modelling undertaken by the government since 13 May 2008,
 - (iii) all correspondence between the Minister and/or her department with state and territory governments in relation to these budget measures from 13 May 2008 to 17 August 2009,
 - (iv) all correspondence between the Minister and stakeholders regarding these budget measures from 13 May 2008 to 17 August 2009, and
 - (v) all correspondence between department and stakeholders regarding these budget measures from 13 May 2008 to 17 August 2009.

Question put and passed.

Statement by leave: Senator O'Brien, by leave, made a statement relating to the motion.

15 FOREIGN AFFAIRS—AFGHANISTAN AND PAKISTAN—MINISTERIAL STATEMENT—DOCUMENT

The Special Minister of State (Senator Ludwig) tabled the following document:

Foreign affairs—Afghanistan and Pakistan—Ministerial statement by the Minister for Foreign Affairs (Mr Smith), dated 18 August 2009.

The Leader of the Australian Greens (Senator Bob Brown), by leave, moved—That the Senate take note of the document.

Question put and passed.

16 SOCIAL ISSUES—REDUCING HOMELESSNESS—MINISTERIAL STATEMENT—DOCUMENT

The Special Minister of State (Senator Ludwig) tabled the following document:

Social issues—Reducing homelessness—Ministerial statement by the Minister for Housing (Ms Plibersek), dated 18 August 2009.

17 TRADE—PACIFIC AGREEMENT ON CLOSER ECONOMIC RELATIONS PLUS NEGOTIATIONS—MINISTERIAL STATEMENT—DOCUMENT

The Special Minister of State (Senator Ludwig) tabled the following document:

Trade—Commencement of PACER Plus negotiations—Ministerial statement by the Minister for Trade (Mr Crean), dated 18 August 2009.

18 DEPARTMENT OF THE SENATE—SENATORS' AND MEMBERS' TRAVELLING ALLOWANCE—DOCUMENT

The Deputy President (Senator Ferguson) tabled the following document:

Department of the Senate—Travelling allowance payments to senators and members, 1 July 2008 to 30 June 2009, dated August 2009.

19 DEPARTMENT OF THE SENATE—TRAVEL EXPENDITURE—DOCUMENT

The Deputy President (Senator Ferguson) tabled the following document:

Department of the Senate—Travel expenditure, 1 July 2008 to 30 June 2009, dated August 2009.

**20 MIGRATION—JOINT STANDING COMMITTEE—REPORT—IMMIGRATION
DETENTION IN AUSTRALIA**

Senator McEwen, on behalf of the Joint Standing Committee on Migration, tabled the following report:

Migration—Joint Standing Committee—Immigration detention in Australia: Facilities, services and transparency—Report, dated August 2009.

Senator McEwen, by leave, moved—That the Senate take note of the report.

Debate ensued.

Question put and passed.

21 TREATIES—JOINT STANDING COMMITTEE—103RD REPORT

Senator Birmingham, on behalf of the Joint Standing Committee on Treaties, tabled the following report:

Treaties—Joint Standing Committee—103rd report—Treaties tabled on 12 March and 13 May 2009, dated August 2009.

Senator Birmingham, by leave, moved—That the Senate take note of the report.

Debate ensued.

Question put and passed.

22 PUBLIC WORKS—JOINT STATUTORY COMMITTEE—4TH REPORT OF 2009

The Chair of the Parliamentary Standing Committee on Public Works (Senator McLucas) tabled the following report:

Public Works—Joint Statutory Committee—4th report of 2009—Referrals made June 2009: Construction of a new Australian embassy complex, Jakarta, Indonesia, dated August 2009.

Senator McLucas, by leave, moved—That the Senate take note of the report.

Question put and passed.

**23 PARLIAMENTARY ADVISERS TO AUSTRALIA'S PERMANENT MISSION TO THE
UNITED NATIONS—63RD GENERAL ASSEMBLY—DOCUMENT**

Senator McEwen, by leave, tabled the following document:

Parliamentary advisers to Australia's Permanent Mission to the United Nations—Report on the 63rd General Assembly of the United Nations, 14 September to 23 December 2008, dated August 2009.

24 DOCUMENTS

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]

Airports Act—Statement about certain decisions under section 243, dated 17 July 2009.

Australian Prudential Regulation Authority Act—Australian Prudential Regulation Authority (Confidentiality) Determination No. 11 of 2009—Information provided by trustees under Reporting Standard SRS 200.0 (2005), SRS 210.0 (2005), SRS 210.1 (2005), SRS 230.0 (2005), SRS 240.0 (2005) and SRS 250.0 (2005) [F2009L03211]*.

Civil Aviation Act—Civil Aviation Safety Regulations—Airworthiness Directives—Part 105—

AD/BEECH 23/43—Trailing Edge Flaps [F2009L03059]*.

AD/BELL 206/178—Flight Control Bearings [F2009L03192]*.

AD/BELL 222/45—Flight Control Bearings [F2009L03197]*.

AD/BELL 407/37—Flight Control Bearings [F2009L03199]*.

AD/BELL 427/11—Flight Control Bearings [F2009L03200]*.

AD/BELL 430/14—Flight Control Bearings [F2009L03201]*.

AD/DAUPHIN/23—Tail Rotor Gearbox Mounting Tripod Internal Surfaces [F2009L03049]*.

AD/DAUPHIN/25—MGB Support Bar Shackle [F2009L03048]*.

AD/JETSTREAM/106 Amdt 1—Main Landing Gear Radius Rod [F2009L03203]*.

AD/MCH/6—Pitot Head Assembly – Modification [F2009L03082]*.

Export Market Development Grants Act—Export Market Development Grants (Democratic People’s Republic of Korea Sanctions) Declaration 2009 [F2009L02986]*.

Fair Work Act—Select Legislative Instrument 2009 No. 207—Fair Work Amendment Regulations 2009 (No. 2) [F2009L03140]*.

Health Insurance Act—

Health Insurance (Positron Emission Tomography) Determination 2009 [F2009L03134]*.

Health Insurance (Positron Emission Tomography) Facilities Determination 2009 [F2009L03207]*.

Lighthouses Act—Select Legislative Instrument 2009 No. 204—Lighthouses Amendment Regulations 2009 (No. 1) [F2009L03156]*.

Migration Act—Select Legislative Instruments 2009 Nos—

143—Migration Amendment Regulations 2009 (No. 6) [F2009L02518]*.

201—Migration Amendment Regulations 2009 (No. 8) [F2009L03097]*.

National Health Act—Instruments Nos PB—

76 of 2009—Amendment determination – pharmaceutical benefits [F2009L03149]*.

77 of 2009—Amendment determination – responsible persons [F2009L03150]*.

81 of 2009—Amendment determination – conditions [F2009L03153]*.

Navigation Act—Select Legislative Instrument 2009 No. 205—Navigation (Supplementary) Amendment Regulations 2009 (No. 1) [F2009L03157]*.

Protection of the Sea (Civil Liability) Act—Select Legislative Instrument 2009 No. 206—Protection of the Sea (Civil Liability) Amendment Regulations 2009 (No. 1) [F2009L03159]*.

Sydney Airport Curfew Act—Dispensation Report 06/09.

* Explanatory statement tabled with legislative instrument.

25 ROUTINE OF BUSINESS—VARIATION

The Minister for Innovation, Industry, Science and Research (Senator Carr), by leave, moved—That consideration of government business continue from 6.50 pm till 7.20 pm today.

Question put and passed.

**26 RENEWABLE ENERGY (ELECTRICITY) AMENDMENT BILL 2009
RENEWABLE ENERGY (ELECTRICITY) (CHARGE) AMENDMENT BILL 2009**

Messages from the House of Representatives were reported transmitting for the concurrence of the Senate the following bills:

Message no. 379, dated 18 August 2009—A Bill for an Act to amend the *Renewable Energy (Electricity) Act 2000*, and for related purposes.

Message no. 380, dated 18 August 2009—A Bill for an Act to increase the rate of renewable energy shortfall charge, and for related purposes.

The Minister for Innovation, Industry, Science and Research (Senator Carr) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Question put and passed.

Bills read a first time.

Senator Carr moved—That these bills be now read a second time.

Explanatory memorandum: Senator Carr tabled a revised explanatory memorandum relating to the Renewable Energy (Electricity) Amendment Bill 2009.

Debate ensued.

At 7.20 pm: Debate was interrupted.

27 ADJOURNMENT

The Acting Deputy President (Senator Trood) proposed the question—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 8.34 pm till Wednesday, 19 August 2009 at 9.30 am.

28 ATTENDANCE

Present, all senators except Senators Boyce* and Forshaw* (* on leave).

HARRY EVANS
Clerk of the Senate