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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

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Contents

| | | |
|----|---|------|
| 1 | Meeting of Senate..... | 2726 |
| 2 | Government Documents | 2726 |
| 3 | Hours of Meeting and Routine of Business—Proposed Variation | 2727 |
| 4 | Electoral Matters—Joint Standing Committee—Leave to Meet During Sitting..... | 2728 |
| 5 | Carbon Pollution Reduction Scheme Bill 2009 [No. 2] Carbon Pollution Reduction Scheme (Consequential Amendments) Bill 2009 [No. 2] Australian Climate Change Regulatory Authority Bill 2009 [No. 2] Carbon Pollution Reduction Scheme (Charges—Customs) Bill 2009 [No. 2] Carbon Pollution Reduction Scheme (Charges—Excise) Bill 2009 [No. 2] Carbon Pollution Reduction Scheme (Charges—General) Bill 2009 [No. 2] Carbon Pollution Reduction Scheme (CPRS Fuel Credits) Bill 2009 [No. 2] Carbon Pollution Reduction Scheme (CPRS Fuel Credits) (Consequential Amendments) Bill 2009 [No. 2] Excise Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2009 [No. 2] Customs Tariff Amendment (Carbon Pollution Reduction Scheme) Bill 2009 [No. 2] Carbon Pollution Reduction Scheme Amendment (Household Assistance) Bill 2009 [No. 2]..... | 2728 |
| 6 | Social Security and Other Legislation Amendment (Income Support for Students) Bill 2009..... | 2730 |
| 7 | Questions..... | 2730 |
| 8 | Motion to Take Note of Answers..... | 2730 |
| 9 | Health—Health Insurance and Medical Services—Answer to Question— Statement by Leave | 2730 |
| 10 | Finance and Public Administration References Committee—Reference— Statement by Leave | 2730 |
| 11 | Notices..... | 2731 |

| | | |
|----|---|------|
| 12 | Legal and Constitutional Affairs Legislation Committee—Extension of Time to Report..... | 2735 |
| 13 | Legal and Constitutional Affairs References Committee—Extensions of Time to Report..... | 2735 |
| 14 | Legal and Constitutional Affairs References Committee—Leave to Meet During Sitting | 2735 |
| 15 | Foreign Affairs, Defence and Trade Legislation Committee—Extension of Time to Report..... | 2736 |
| 16 | Health—Aged Care Providers—General Purpose Accounts—Order for Production of Documents | 2736 |
| 17 | Parliament—Health Insurance Amendment (Revival of Table Items) Bill 2009—Legal Advice—Order for Production of Documents..... | 2737 |
| 18 | Communications—NBN Co—Appointment—Order for Production of Document..... | 2738 |
| 19 | Administration—National Archives of Australia—Office Closures | 2738 |
| 20 | Foreign Affairs—Uighur People..... | 2739 |
| 21 | Environment—Geoscience Australia—Carbon Dioxide Storage Sites—Order for Production of Documents..... | 2739 |
| 22 | Health—Renal Health Services | 2740 |
| 23 | Routine of Business—Variation | 2740 |
| 24 | Social Security and Other Legislation Amendment (Income Support for Students) Bill 2009..... | 2740 |
| 25 | Environment—Montara Oil Spill—Ministerial Statement—Document..... | 2744 |
| 26 | Auditor-General—Audit Report No. 11 of 2009-10—Document..... | 2744 |
| 27 | Public Accounts and Audit—Joint Statutory Committee—415th and 416th Reports..... | 2744 |
| 28 | Intelligence and Security—Joint Statutory Committee—Report—Review of the Re-listing of Hamas’ Brigades, PKK, LeT and PIJ as Terrorist Organisations..... | 2744 |
| 29 | Economics Legislation Committee—Additional Information—Car Dealership Financing Guarantee Appropriation Bill 2009, Corporations Amendment (Improving Accountability on Termination Payments) Bill 2009, National Consumer Credit Protection Bill 2009 and Related Bills and Trade Practices Amendment (Australian Consumer Law) Bill 2009.... | 2744 |
| 30 | Legal and Constitutional Affairs Legislation Committee—Report—Crimes Legislation Amendment (Serious and Organised Crime) Bill (No. 2) 2009—Document..... | 2745 |
| 31 | Treaties—Joint Standing Committee—107th Report | 2745 |
| 32 | Documents..... | 2745 |
| 33 | Committee Membership..... | 2746 |
| 34 | Health Insurance Amendment (Compliance) Bill 2009 Tax Laws Amendment (2009 Budget Measures No. 2) Bill 2009 Income Tax (TFN Withholding Tax (ESS)) Bill 2009..... | 2747 |
| 35 | Routine of Business—Variation | 2747 |
| 36 | Threat Abatement Plan—Disallowance..... | 2747 |
| 37 | Coral Sea Conservation Zone—Proposed Disallowance..... | 2747 |
| 38 | Routine of Business—Variation | 2749 |
| 39 | Coral Sea Conservation Zone—Proposed Disallowance—Statement by Leave | 2749 |

| | | |
|----|--|------|
| 40 | Social Security and Other Legislation Amendment (Income Support for Students) Bill 2009..... | 2749 |
| 41 | Adjournment..... | 2750 |
| 42 | Attendance..... | 2751 |

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 GOVERNMENT DOCUMENTS

The following documents were tabled:

- Aboriginal Hostels Limited—Report for the period 29 June 2008 to 27 June 2009.
- Aged Care Commissioner—Report for 2008-09.
- Aged Care Standards and Accreditation Agency Ltd—Report for 2008-09.
- Airservices Australia—Equity and diversity program 2007-10—Progress report for 2008-09.
- Australian Building and Construction Commissioner—Report for 2008-09.
- Australian Commission for Law Enforcement Integrity—Report of the Integrity Commissioner for 2008-09.
- Australian Communications and Media Authority—Report for 2008-09—Addendum.
- Australian Customs and Border Protection Service (formerly the Australian Customs Service)—Report for 2008-09.
- Australian Fisheries Management Authority—Report for 2008-09.
- Australian Human Rights Commission—Report for 2008-09.
- Australian Institute of Health and Welfare—Australia's welfare 2009—Ninth biennial report.
- Australian Maritime Safety Authority—Report for 2008-09.
- Australian Organ and Tissue Donation and Transplantation Authority—Report for the period 1 January to 30 June 2009.
- Australian Public Service Commissioner—Report for 2008-09, including report of the Merit Protection Commissioner.
- Australian Safeguards and Non-Proliferation Office—Report for 2008-09.
- Department of Defence—Report for 2008-09—
 - Volume 1—Department of Defence, including report on the administration and operation of the *Defence Force (Home Loans Assistance) Act 1990*.
 - Volume 2—Defence Materiel Organisation.
- Department of Health and Ageing—Report for 2008-09, including financial statements for the Therapeutic Goods Administration.
- Food Standards Australia New Zealand—Report for 2008-09.
- Future Fund Board of Guardians and Future Fund Management Agency (Future Fund)—Report for 2008-09.
- General Practice Education and Training Limited—Report for 2008-09.
- Indigenous Business Australia—Report for 2008-09.
- National Australia Day Council Limited—Report for 2008-09.
- National Film and Sound Archive (formerly the Australian Film Commission)—Report for 2008-09.
- National Library of Australia—Report for 2008-09.

National Residue Survey—Report for 2008-09.

Office of the Commonwealth Director of Public Prosecutions—Report for 2008-09.

Old Parliament House—Report for 2008-09.

Privacy Act 1988—Report for 2008-09 on the operation of the Act, including financial statements for the Office of the Privacy Commissioner.

Productivity Commission—Report for 2008-09.

Social Security Appeals Tribunal—Report for 2008-09.

Supervising Scientist—Report for 2008-09 on the operation of the *Environment Protection (Alligator Rivers Region) Act 1978*.

Torres Strait Protected Zone Joint Authority—Report for 2007-08.

Workplace Authority—Report for 2008-09.

Workplace Ombudsman—Report for 2008-09 [Final report].

3 HOURS OF MEETING AND ROUTINE OF BUSINESS—PROPOSED VARIATION

The Special Minister of State (Senator Ludwig), pursuant to notice, moved government business notice of motion no. 1—That, on Tuesday, 17 November 2009:

- (a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7 pm to 11.40 pm;
- (b) the routine of business from 7 pm shall be government business only; and
- (c) the question for the adjournment of the Senate shall be proposed at 11 pm.

Debate ensued.

Question put.

The Senate divided—

AYES, 26

Senators—

| | | | |
|--------------|----------|-----------------|----------|
| Arbib | Feeney | Lundy | Sherry |
| Brown, Carol | Forshaw | Marshall | Stephens |
| Carr | Furner | McEwen (Teller) | Sterle |
| Collins | Hogg | McLucas | Wong |
| Crossin | Hurley | Moore | Wortley |
| Farrell | Hutchins | O'Brien | |
| Faulkner | Ludwig | Polley | |

NOES, 38

Senators—

| | | | |
|----------------|-------------------|-----------|-----------|
| Adams (Teller) | Colbeck | Joyce | Ronaldson |
| Back | Cormann | Kroger | Ryan |
| Bernardi | Ferguson | Ludlam | Scullion |
| Birmingham | Fielding | Macdonald | Siewert |
| Boswell | Fierravanti-Wells | Mason | Troeth |
| Boyce | Fifield | Milne | Trood |
| Brandis | Fisher | Minchin | Williams |
| Brown, Bob | Hanson-Young | Nash | Xenophon |
| Bushby | Heffernan | Parry | |
| Cash | Humphries | Payne | |

Question negatived.

4 ELECTORAL MATTERS—JOINT STANDING COMMITTEE—LEAVE TO MEET DURING SITTING

The Special Minister of State (Senator Ludwig), by leave and on behalf of the Joint Standing Committee on Electoral Matters, moved—That the Joint Standing Committee on Electoral Matters be authorised to hold a public meeting during the sitting of the Senate today to take evidence for the committee's inquiry into the 2007 Federal Election and matters related thereto.

Question put and passed.

**5 CARBON POLLUTION REDUCTION SCHEME BILL 2009 [No. 2]
CARBON POLLUTION REDUCTION SCHEME (CONSEQUENTIAL AMENDMENTS) BILL 2009 [No. 2]
AUSTRALIAN CLIMATE CHANGE REGULATORY AUTHORITY BILL 2009 [No. 2]
CARBON POLLUTION REDUCTION SCHEME (CHARGES—CUSTOMS) BILL 2009 [No. 2]
CARBON POLLUTION REDUCTION SCHEME (CHARGES—EXCISE) BILL 2009 [No. 2]
CARBON POLLUTION REDUCTION SCHEME (CHARGES—GENERAL) BILL 2009 [No. 2]
CARBON POLLUTION REDUCTION SCHEME (CPRS FUEL CREDITS) BILL 2009 [No. 2]
CARBON POLLUTION REDUCTION SCHEME (CPRS FUEL CREDITS) (CONSEQUENTIAL AMENDMENTS) BILL 2009 [No. 2]
EXCISE TARIFF AMENDMENT (CARBON POLLUTION REDUCTION SCHEME) BILL 2009 [No. 2]
CUSTOMS TARIFF AMENDMENT (CARBON POLLUTION REDUCTION SCHEME) BILL 2009 [No. 2]
CARBON POLLUTION REDUCTION SCHEME AMENDMENT (HOUSEHOLD ASSISTANCE) BILL 2009 [No. 2]**

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

Message no. 433, dated 16 November 2009—A Bill for an Act to reduce pollution caused by emissions of carbon dioxide and other greenhouse gases, and for other purposes.

Message no. 434, dated 16 November 2009—A Bill for an Act to deal with consequential matters arising from the enactment of the *Carbon Pollution Reduction Scheme Act 2009*, and for other purposes.

Message no. 435, dated 16 November 2009—A Bill for an Act to establish the Australian Climate Change Regulatory Authority, and for other purposes.

Message no. 436, dated 16 November 2009—A Bill for an Act to impose charges for the issue of Australian emissions units under the *Carbon Pollution Reduction Scheme Act 2009*, so far as those charges are duties of customs.

Message no. 437, dated 16 November 2009—A Bill for an Act to impose charges for the issue of Australian emissions units under the *Carbon Pollution Reduction Scheme Act 2009*, so far as those charges are duties of excise.

Message no. 438, dated 16 November 2009—A Bill for an Act to impose charges for the issue of Australian emissions units under the *Carbon Pollution Reduction Scheme Act 2009*, so far as those charges are neither duties of customs nor duties of excise.

Message no. 439, dated 16 November 2009—A Bill for an Act about CPRS fuel credits, and for related purposes.

Message no. 440, dated 16 November 2009—A Bill for an Act to deal with consequential matters arising from the enactment of the *Carbon Pollution Reduction Scheme (CPRS Fuel Credits) Act 2009*, and for other purposes.

Message no. 441, dated 16 November 2009—A Bill for an Act to amend the *Excise Tariff Act 1921*, and for related purposes.

Message no. 442, dated 16 November 2009—A Bill for an Act to amend the *Customs Tariff Act 1995*, and for related purposes.

Message no. 443, dated 16 November 2009—A Bill for an Act to amend the law relating to social security, family assistance, veterans' affairs, military rehabilitation and compensation and taxation, and for related purposes.

The Parliamentary Secretary for Social Inclusion (Senator Stephens) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.

Senator Parry requested that the motion be divided—

Question—That these bills may proceed without formalities—debated.

Question put.

The Senate divided—

AYES, 32

Senators—

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

NOES, 32

Senators—

| | | | |
|----------------|-------------------|-----------|-----------|
| Abetz | Bushby | Heffernan | Parry |
| Adams (Teller) | Colbeck | Humphries | Payne |
| Back | Cormann | Joyce | Ronaldson |
| Bernardi | Ferguson | Kroger | Ryan |
| Birmingham | Fielding | Macdonald | Scullion |
| Boswell | Fierravanti-Wells | Mason | Troeth |
| Boyce | Fifield | McGauran | Trood |
| Brandis | Fisher | Nash | Williams |

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

Question—That these bills may be taken together—put and passed.

Question—That these bills be now read a first time—put and passed.

Bills read a first time.

Senator Ludwig moved—That the second reading of the bills be made an order of the day for the next day of sitting.

Question put and passed.

6 SOCIAL SECURITY AND OTHER LEGISLATION AMENDMENT (INCOME SUPPORT FOR STUDENTS) BILL 2009

Order of the day read for the adjourned debate on the motion of the Minister for Defence (Senator Faulkner)—That this bill be now read a second time—and on the amendment moved by Senator Hanson-Young:

At the end of the motion, add “but the Senate calls on the Government to commit to an increase in the 2010-11 Budget to bring Youth Allowance in line with other social welfare payments such as Newstart, which provides a maximum fortnightly payment of \$456”.

Debate resumed.

On the motion of Senator Faulkner the debate was adjourned till a later hour.

Suspension of sitting: On the motion of Senator Faulkner the sitting of the Senate was suspended at 1.56 pm till 2 pm.

At 2 pm—

7 QUESTIONS

Questions without notice were answered.

8 MOTION TO TAKE NOTE OF ANSWERS

Senator McGauran moved—That the Senate take note of the answers given by the Minister for Immigration and Citizenship (Senator Evans) to questions without notice asked by Opposition senators today.

Debate ensued.

Question put and passed.

9 HEALTH—HEALTH INSURANCE AND MEDICAL SERVICES—ANSWER TO QUESTION—STATEMENT BY LEAVE

Senator Cormann, by leave, made a statement relating to the further answer given by the Minister for Defence (Senator Faulkner) today to a question without notice asked by Senator Cormann on 16 November 2009 concerning the Medicare rebate for cataract surgery.

10 FINANCE AND PUBLIC ADMINISTRATION REFERENCES COMMITTEE—REFERENCE—STATEMENT BY LEAVE

The Special Minister of State (Senator Ludwig), by leave, made a statement relating to the order of the Senate of 16 November 2009 (*see entry no. 17, 16 November 2009*) concerning a reference to the Finance and Public Administration References Committee.

11 NOTICES

Notices of motion:

The Chair of the Select Committee on Agricultural and Related Industries (Senator Heffernan): To move on the next day of sitting—That the Select Committee on Agricultural and Related Industries be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 18 November 2009, from 4 pm, to take evidence for the committee's inquiry into food production in Australia. (*general business notice of motion no. 619*)

The Chair of the Select Committee on the National Broadband Network (Senator Fisher): To move on the next day of sitting—That the Select Committee on the National Broadband Network be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 19 November 2009, from 5 pm. (*general business notice of motion no. 620*)

Senator Fisher: To move on the next day of sitting—

- (1) That there be laid on the table by the Minister representing the Minister for Employment and Workplace Relations, no later than 3 pm on Thursday, 19 November 2009, copies of any bilateral intergovernmental agreement entered into, or final text agreed, between the Commonwealth Government and any referring state government or any territory government, in relation to the Fair Work Amendment (State Referrals and Other Measures) Bill 2009.
- (2) That a copy of the final text of each such agreement proposed to be entered into between the Commonwealth Government and any referring state government or any territory government on or after 3 pm on Thursday, 19 November 2009, be laid on the table within 24 hours of the final text being agreed.
- (3) That a copy of each such signed agreement entered into between the Commonwealth Government and any referring state government or any territory government on or after 3 pm on Thursday, 19 November 2009, be laid on the table within 24 hours of the agreement being signed. (*general business notice of motion no. 621*)

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 sustainable management by the Commonwealth of water resources be extended to 3 February 2010. (*general business notice of motion no. 622*)

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 the impact of mining operations on the Murray-Darling Basin be extended to 26 November 2009. (*general business notice of motion no. 623*)

The Chair of the Environment, Communications and the Arts References Committee (Senator Birmingham): To move on the next day of sitting—That the Environment, Communications and the Arts References Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 19 November 2009, from 12.45 pm to 2 pm, to take evidence for the committee's inquiry into the impact of mining operations on the Murray-Darling Basin. (*general business notice of motion no. 624*)

The Chair of the Environment, Communications and the Arts References Committee (Senator Birmingham): To move on the next day of sitting—That the order of the Senate of 29 October 2009 referring a matter to the Environment, Communications and the Arts References Committee on Australia Post’s treatment of injured and ill workers, be varied as follows:

Omit paragraph (a), substitute:

“(a) allegations that injured staff have been forced back to work in inappropriate duties before they have recovered from workplace injuries;”.

Senators Barnett, Colbeck and Parry: To move on the next day of sitting—That the Senate—

(a) notes:

- (i) the Australian Technical College Northern Tasmania (ATCNT) has been a highly successful model of education for students who wish to learn a trade and complete their Tasmanian Certificate of Education,
- (ii) the ATCNT, with campuses in Launceston and Burnie, is currently set to close on 31 December 2009 with the loss of 35 staff jobs and the displacement of more than 270 students,
- (iii) the options being offered to students for 2010 by the Tasmanian Government are in no way comparable to current courses offered by the ATCNT and further place at risk the education and employment prospects of students,
- (iv) the Federal Government has invested more than \$26 million for the establishment and operation of the ATCNT, including \$14 million on the building of the Launceston and Burnie facilities,
- (v) the outstanding performance of the ATCNT in its first 3 years of operation, including winning more than 40 awards by students and staff, as well as the 2007 Tasmanian and Australian School Based Apprentice of the Year and being named the 2009 Registered Training Organisation of the Year for Tasmania, and
- (vi) the ATCNT has achieved a retention rate of 95 per cent between Year 11 and Year 12 and a 94 per cent success rate for completing students in securing full-time employment; and

(b) calls on the Government to support the ongoing operation of the Australian Technical College Northern Tasmania. (*general business notice of motion no. 625*)

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

(a) notes:

- (i) that Thursday, 19 November 2009, is World Toilet Day – a day to celebrate the importance of sanitation and raise awareness for the world’s population who do not have access to toilets and proper sanitation,
- (ii) that 2.5 billion people worldwide are without access to proper sanitation, risking their health, stripping their dignity and killing 1.8 million people (mostly children) a year,
- (iii) a lack of proper sanitation is the world’s biggest cause of malnutrition and infection, causing diseases such as diarrhoea, cholera, typhoid and worm infections that kill 5 000 children each day,

- (iv) that clean toilets contribute to poverty eradication by protecting one's health and ability to work,
 - (v) that safe collection and treatment of human waste and other various wastewaters protects drinking water sources and eco-systems, creating clean and healthy living environments, particularly in urban areas,
 - (vi) the Millennium Development Goals (supported by all parties in the Australian Parliament) cannot be reached unless sanitation conditions are rapidly improved, and
 - (vii) the upcoming Global Framework for Action on Water and Sanitation meeting in Washington in April 2010 is an opportunity for global support of the sanitation policy leadership of the United Kingdom, Dutch and Australian Governments; and
- (b) calls on the Government to:
- (i) invest through its aid program in programs and projects aimed at improving sanitation levels, increasing the number of public toilets and improving their cleanliness and accessibility,
 - (ii) ensure that it plays a constructive, proactive role at the highest ministerial level at the Global Framework for Action on Water and Sanitation meeting, and
 - (iii) fast-track the development of sanitation policy by disaggregating sanitation spending from water spending in its budget reporting on official development aid. (*general business notice of motion no. 626*)

Senator Milne: To move on the next day of sitting—

- (1) That the Senate:
- (a) recalls that:
 - (i) the return to order motion moved on 16 September 2009 seeking a map of Australian forest cover (using the Kyoto definition of forest) for each year since 1990, at the highest available resolution, in any widely used GIS format, to be tabled by 26 October 2009, was supported, and
 - (ii) the Government tabled a response which said 'The Government is pursuing this matter however we are currently unable to satisfy the timeline for the production of these documents owing to the inter-departmental consultations that the order has required'; and
 - (b) notes that:
 - (i) 9 weeks have now passed since the motion was supported, and
 - (ii) scrutiny of the forest cover maps is essential for consideration of the Carbon Pollution Reduction Scheme bills.
- (2) That there be laid on the table, no later than 4 pm on 19 November 2009, a map of Australian forest cover (using the Kyoto definition of forest) for each year since 1990, at the highest available resolution, in any widely used GIS format. (*general business notice of motion no. 627*)

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

- (a) notes that:
- (i) neither the former Howard Government nor the Rudd Government has implemented the first recommendation of the 2007 Standing Committee on Rural and Regional Affairs and Transport Committee report, *Australia's future oil supply and alternative transport fuels*, namely, that Geoscience Australia, the Australian Bureau of Agricultural and

Resource Economics and the Department of the Treasury reassess both the official estimates of future oil supply and the ‘early peak’ arguments and report to the Government on the probabilities and risks involved, comparing early mitigation scenarios with business as usual,

- (ii) of the nine recommendations of that report, only recommendation 6 relating to incentives for fuel efficient vehicles has even been considered, let alone addressed,
 - (iii) in the week beginning 8 November 2009, the International Energy Agency (IEA) issued its annual ‘World Energy Outlook’, predicting that global oil demand is forecast to rise from 85 million barrels per day in 2008 to 105 million barrels per day in 2030, and
 - (iv) a whistleblower at the IEA has claimed ‘it has been deliberately underplaying a looming shortage for fear of triggering panic buying’ and that a ‘senior official claims the US has played an influential role in encouraging the watchdog to underplay the rate of decline from existing oil fields while overplaying the chances of finding new reserves’; and
- (b) calls on the Government immediately to develop a national plan to respond to the challenge of peak oil and Australia’s dependence on imported foreign oil. (*general business notice of motion no. 628*)

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

(a) notes:

- (i) statements from the Minister for Innovation, Industry, Science and Research (Senator Carr) in support of freedom of expression for scientists,
- (ii) the Minister’s stated support for the publication of peer-reviewed research, even if it has negative implications for government policy, and
- (iii) Dr Megan Clarke’s statement that the Commonwealth Scientific and Industrial Research Organisation (CSIRO) will work with Dr Clive Spash to ensure that his paper analysing the efficacy of emissions trading systems meets CSIRO internal review standards and the guidelines of the Public Research Agency Charter between the CSIRO and the Federal Government; and

(b) calls on the Minister to:

- (i) immediately give effect to his support for the publication of peer-reviewed research by acknowledging that the internal review standards of the CSIRO and guidelines of the charter are being applied to effect censorship, and
- (ii) table Dr Spash’s uncensored research paper in the Senate. (*general business notice of motion no. 629*)

Senator Hanson-Young: To move on the next day of sitting—That the Senate calls on the Australian Government to conduct an audit of Australian funds used to support Indonesia in asylum seeker management and people smuggling efforts, and subsequent compliance with international human rights standards, with particular reference to:

- (a) detention facilities and conditions;
- (b) operational equipment and training; and
- (c) the interception of suspected illegal entry vessels. (*general business notice of motion no. 630*)

Contingent notice of motion: The Leader of the Australian Greens (Senator Bob Brown): To move (contingent on business being called on 3 February 2010)—That so much of the standing orders be suspended as would prevent the senator moving—That:

- (a) Senator Bob Brown may immediately move a motion on the involvement and deployment of Australian troops in Afghanistan; and
- (b) the motion have precedence over all other business until determined.

Notice of motion withdrawn: Senator Parry, at the request of Senator Abetz and pursuant to notice of intention given on 16 November 2009, withdrew business of the Senate notice of motion no. 2 standing in the name of Senator Abetz for today for the disallowance of Schedule 2 of the Fair Work Amendment Regulations 2009 (No. 1), as contained in Select Legislative Instrument 2009 No. 164 and made under the *Fair Work Act 2009*.

12 LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE—EXTENSION OF TIME TO REPORT

Senator O'Brien, at the request of the Chair of the Legal and Constitutional Affairs Legislation Committee (Senator Crossin) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 608—That the time for the presentation of the report of the Legal and Constitutional Affairs Legislation Committee on the provisions of the Crimes Amendment (Working With Children—Criminal History) Bill 2009 be extended to 19 November 2009.

Question put and passed.

13 LEGAL AND CONSTITUTIONAL AFFAIRS REFERENCES COMMITTEE—EXTENSIONS OF TIME TO REPORT

Senator Parry, at the request of the Chair of the Legal and Constitutional Affairs References Committee (Senator Barnett) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 609—That the time for the presentation of the following reports of the Legal and Constitutional Affairs References Committee be extended to 26 November 2009:

- (a) access to justice; and
- (b) Australia's judicial system and the role of judges.

Question put and passed.

14 LEGAL AND CONSTITUTIONAL AFFAIRS REFERENCES COMMITTEE—LEAVE TO MEET DURING SITTING

Senator Parry, at the request of the Chair of the Legal and Constitutional Affairs References Committee (Senator Barnett) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 610—That the Legal and Constitutional Affairs References Committee be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 17 November 2009, from 4 pm to 5.30 pm, to take evidence for the committee's inquiry into Australia's judicial system and the role of judges.

Question put and passed.

15 FOREIGN AFFAIRS, DEFENCE AND TRADE LEGISLATION COMMITTEE—EXTENSION OF TIME TO REPORT

Senator Parry, at the request of the Deputy Chair of the Foreign Affairs, Defence and Trade Legislation Committee (Senator Trood) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 616—That the time for the presentation of the report of the Foreign Affairs, Defence and Trade Legislation Committee on the Defence Amendment (Parliamentary Approval of Overseas Service) Bill 2008 [No. 2] be extended to 25 February 2010.

Question put and passed.

16 HEALTH—AGED CARE PROVIDERS—GENERAL PURPOSE ACCOUNTS—ORDER FOR PRODUCTION OF DOCUMENTS

Senator Cormann, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 611—That the Senate—

(a) Notes that:

- (1) the Rudd Government is ignoring the accelerating crisis in aged care, in particular the serious financial viability challenges faced by aged care providers involved in the provision of high care beds;
- (2) the Government appears to justify its inaction by pointing to advice from the Department of Health and Ageing, also submitted to various Senate committees, that “efficient” aged care providers are financially viable;
- (3) the Senate has sought to verify those claims by seeking access to the de-identified data from the audited General Financial Purpose Accounts, which the Department of Health and Ageing has been collecting from aged care providers since the 2004-05 financial year;
- (4) on 13 August 2009, in answer to question on notice 1688, the Minister indicated that the de-identified data from the General Purpose Accounts was available on the Department of Health and Ageing website – when in fact it wasn’t;
- (5) on 19 August 2009 the Senate ordered that the de-identified data from the General Purpose Accounts and associated reports from the years 2005-06 to 2008-09 be laid on the table;
- (6) the Government eventually made the 2006-07 de-identified unit record data available; and
- (7) the Government refused to table the remaining information part of the Senate’s order, providing the following reasons in a letter dated 20 September 2009:
 - (a) information from 2005-06 was of ‘poor quality’ and ‘could be misleading and not contribute to the public understanding of these issues’;
 - (b) Access Economic and KPMG reports of the 2006-07 data were to ‘inform the Cabinet’s deliberations’; and
 - (c) information from 2007-08 is incomplete, awaiting some late returns.

- (b) Considers that the above grounds are either not supported by precedent or insufficient justification for the refusal to provide the requested information and documents to the Senate, noting in particular that:
 - (1) the Senate has previously explicitly rejected the proposition that information that may ‘confuse the public debate’ is a sufficient ground not to release information;
 - (2) not every document placed before Cabinet reveals the deliberations of Cabinet, and only if the reports in question revealed Cabinet deliberations would they conform with the recognised ground; and
 - (3) incomplete material can (and should) be tabled with a caveat as to its incompleteness.
- (c) Rejects the Ministers grounds for withholding the national de-identified data and associated reports.
- (d) Considers publication of the national de-identified data from the audited General Purpose Accounts and associated reports to be in the public interest.
- (e) Again orders that there be laid on the table by the Minister representing the Minister for Health and Ageing by no later than noon on 18 November 2009, the following documents:
 - (1) National de-identified data from the audited General Purpose Accounts of aged care providers for:
 - (i) 2005-06; and
 - (ii) 2007-08, including any report/analysis by the department and/or any third party consultant; and
 - (2) the report/analysis by Access Economics and KPMG based on the 2006-07 de-identified unit record data from the audited General Purpose Accounts of aged care providers.

Question put and passed.

**17 PARLIAMENT—HEALTH INSURANCE AMENDMENT (REVIVAL OF TABLE ITEMS)
BILL 2009—LEGAL ADVICE—ORDER FOR PRODUCTION OF DOCUMENTS**

Senator Cormann, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 612—That the Senate—

- (a) Notes that:
 - (1) the Health Insurance Amendment (Revival of Table Items) Bill 2009 passed the Senate on 28 October 2009;
 - (2) the Clerk of the Senate provided advice that there was no constitutional barrier to the Senate introducing (and passing) this bill;
 - (3) the Minister for Health and Ageing told the House of Representatives on 29 October 2009, that the Government had legal advice that this bill was unconstitutional, that it should not have been introduced in the Senate and had not been appropriately passed;
 - (4) the Minister also told the House of Representatives that the Government, was “happy to provide that legal advice” (9.59 am, 29/10/2009);
 - (5) subsequent and repeated requests to obtain a copy of the legal advice the Minister relied upon to make her claims on 29 October 2009 that the bill passed by the Senate was unconstitutional have been unsuccessful; and

- (6) eventually a copy of departmental advice dated 4 November 2009 was provided, advice which clearly had been drafted well after the Minister made her claims based on 'legal advice' on 29 October 2009, and after requests for a copy of that legal advice had been put to the Minister.
- (b) Orders that there be laid on the table by the Minister representing the Minister for Health and Ageing in the Senate, by no later than 5 pm on 17 November 2009, a copy of the legal advice referred to by the Minister on 29 October 2009, indicating that the Health Insurance Amendment (Revival of Table Items) Bill 2009 was unconstitutional.

Question put and passed.

Statement by leave: Senator O'Brien, by leave, made a statement relating to general business notices of motion nos 611, 612 and 613.

18 COMMUNICATIONS—NBN Co—APPOINTMENT—ORDER FOR PRODUCTION OF DOCUMENT

Senator Parry, at the request of the Leader of the Opposition in the Senate (Senator Minchin) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 613—That there be laid on the table by the Minister for Broadband, Communications and the Digital Economy, no later than 10 am on Wednesday, 18 November 2009, a document outlining:

- (a) the selection process undertaken to appoint Mr Mike Kaiser as the Principal – Government Relations and External Affairs for NBN Co., as announced on 13 November 2009, including where and when the position was advertised, when the Minister became aware of the proposed appointment, whether there were any communications between the Prime Minister, the Treasurer, the Minister and/or the office of the Prime Minister, the office of the Treasurer or the office of the Minister, regarding the appointment and/or with the Executive Chairman of NBN Co., Mr Mike Quigley, about the appointment and the nature and timing of this communication; and
- (b) the annual starting salary for the position of Principal – Government Relations and External Affairs for NBN Co.

Question put and passed.

19 ADMINISTRATION—NATIONAL ARCHIVES OF AUSTRALIA—OFFICE CLOSURES

The Leader of the Australian Greens (Senator Bob Brown), also on behalf of Senator Hanson-Young, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 614—That the Senate—

- (a) does not support the non-consultative process which has led to the closures of the Tasmanian, South Australian and Northern Territory offices of the National Archives of Australia;
- (b) recognises:
 - (i) the disadvantages that will be faced by researchers, organisations and the general public as a result of the office closures, and
 - (ii) that the number of reading room visits has remained steady over the past 5 years despite an increase in online requests and viewing; and
- (c) calls on the Government to reverse the decision to close the three offices to ensure all Australians have access to the archive collection in their state or territory.

Question put and passed.

20 FOREIGN AFFAIRS—UIGHUR PEOPLE

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. 615—That the Senate—

- (a) congratulates the nation of Palau for giving a temporary home to six Uighur men who have been held by the United States of America (US) in Guantanamo Bay prison;
- (b) recognises that the men were cleared of all charges of war crimes and that the US acknowledges they cannot be sent back to China because of the risk of persecution;
- (c) notes the strong and vibrant Uighur community in Australia; and
- (d) calls on the Australian Government to consider the resettlement of the men in Australia.

Question put.

The Senate divided—

AYES, 6

Senators—

| | | | |
|--------------|--------|------------------|----------|
| Brown, Bob | Ludlam | Siewert (Teller) | Xenophon |
| Hanson-Young | Milne | | |

NOES, 33

Senators—

| | | | |
|--------------|-------------------|----------------|----------|
| Back | Ferguson | Ludwig | Polley |
| Birmingham | Fielding | Lundy | Sherry |
| Boswell | Fierravanti-Wells | Marshall | Troeth |
| Brown, Carol | Forshaw | Mason | Trood |
| Bushby | Furner | McEwen | Williams |
| Carr | Humphries | McLucas | Wortley |
| Cash | Hurley | Moore | |
| Crossin | Hutchins | O'Brien | |
| Feeney | Kroger | Parry (Teller) | |

Question negatived.

Statements by leave: Senator Bob Brown and the Special Minister of State (Senator Ludwig), by leave, made statements relating to the motion.

21 ENVIRONMENT—GEOSCIENCE AUSTRALIA—CARBON DIOXIDE STORAGE SITES—ORDER FOR PRODUCTION OF DOCUMENTS

Senator Milne, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 618—That there be laid on the table, no later than 4 pm on 18 November 2009, the assessment by Geoscience Australia reportedly identifying prospective sites for underground carbon dioxide storage sites in Victoria, Queensland and Western Australia, referred to in an article, 'New hope for viable clean coal projects' published in *The Australian* on 24 October 2009.

Question put and passed.

22 HEALTH—RENAL HEALTH SERVICES

Senator Siewert amended general business notice of motion no. 617 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

- (a) notes the recent decision by the Northern Territory Government to refuse to provide renal health services to new interstate patients in the border regions of Western Australia and South Australia is leading to significant hardship and poor health outcomes and potentially putting lives at risk;
- (b) raises concern over the plight of Mr Patrick Tjungurrayi, a renown member of the Pupunya Tula group of artists who together raised a million dollars to establish dialysis services in Alice Springs and Kintore, which Patrick is now unable to access;
- (c) calls on the Minister for Health and Ageing, Nicola Roxon, to negotiate an outcome to this impasse and an end to the interstate ban;
- (d) suggests that the Federal, Northern Territory, Western Australian and South Australian Governments put in place interim measures to address unmet demand prior to the establishment of the new 15 seat renal unit in Alice Springs, including the provision of additional resources to enable night dialysis; and
- (e) highlights the rising demand for kidney dialysis by Aboriginal Australians in central Australia and other regions and recommends that a longer term planning process is needed to assess and respond to projected growth in the need for renal services.

Question put and passed.

Statement by leave: Senator O'Brien, by leave, made a statement relating to general business notices of motion nos 617 and 618.

23 ROUTINE OF BUSINESS—VARIATION

The Special Minister of State (Senator Ludwig), by leave, moved—That the matter of public importance proposed by Senator Parry today not be proceeded with and, instead, the routine of business be varied to give precedence to the consideration of government business for one hour only.

Question put and passed.

24 SOCIAL SECURITY AND OTHER LEGISLATION AMENDMENT (INCOME SUPPORT FOR STUDENTS) BILL 2009

Order of the day read for the adjourned debate on the motion of the Minister for Defence (Senator Faulkner)—That this bill be now read a second time—and on the amendment moved by Senator Hanson-Young (see entry no. 6).

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

Main question put and passed.

Bill read a second time.

The Senate resolved itself into committee for the consideration of the bill.

In the committee

Bill taken as a whole by leave.

Explanatory memorandum: The Minister for Innovation, Industry, Science and Research (Senator Carr) tabled a correction to the explanatory memorandum relating to the bill.

Bill debated.

On the motion of Senator Hanson-Young the following amendment was debated and agreed to:

Page 3 (after line 2), after clause 3, insert:

3A Review of impact of student income arrangements

- (1) The Minister must cause a comprehensive review to be undertaken of the impact of the student income arrangements implemented by this Act on equity, with a particular focus on the impact on rural and regional students.
- (2) The review must:
 - (a) start not later than 30 June 2012; and
 - (b) be completed within 3 months.
- (3) The Minister must cause a written report about the review to be prepared.
- (4) The Minister must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Minister receives the report.

On the motion of Senator Hanson-Young the following amendment was debated and agreed to:

Schedule 1, page 4 (after line 14), after item 1, insert:

1A Paragraph 1067A(10)(a)

Omit “at least 30 hours per week”, substitute “on average 30 hours per week”.

The Leader of the Family First Party (Senator Fielding) moved the following amendments together by leave:

Schedule 1, item 2, page 4 (line 20), after “(10B)”, insert “, (10BA)”.

Schedule 1, item 2, page 4 (after line 24), after paragraph 1067A(10B), insert:

- (10BA) This subsection applies if the Secretary is satisfied that the person is required to live away from home and has had to relocate a distance of not less than 100 kilometres from their main place of residence to attend a higher education institution.

Schedule 1, item 4, page 6 (line 4), after “(10B)”, insert “, (10BA)”.

Debate ensued.

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

Senator Fielding moved the following amendments together by leave:

Schedule 1, item 2, page 4 (line 20), omit “or (10C)”, substitute “, (10C) or (10CA)”.

Schedule 1, page 5 (after line 25), at the end of item 2, add:

- (10CA) This subsection applies to a person if the Secretary is satisfied that:
- (a) in 2008 the person completed a course of education determined under section 5D of the *Student Assistance Act 1973* to be a secondary course for the purposes of that Act; and
 - (b) the person is undertaking full-time study because of his or her enrolment at a higher education institution in a course of education (the *chosen course*) determined under section 592N to be an approved scholarship course.

Note: For *undertaking full-time study* see section 541B.

Schedule 1, item 4, page 6 (line 4), omit “and (10C)”, substitute “, (10C) and (10CA)”.

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

Senator Hanson-Young moved the following amendment:

Schedule 1, page 5 (after line 25), at the end of item 2, add:

Students required to move away from home

- (10D) A person is independent if the Secretary is satisfied:
- (a) that the person is required to move away from the family home in order to undertake a course at a higher education institution; and
 - (b) that the time required to travel between the higher education institution and the family home would exceed 90 minutes.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 7

Senators—

| | | | |
|------------|--------------|------------------|----------|
| Brown, Bob | Hanson-Young | Milne | Xenophon |
| Fielding | Ludlam | Siewert (Teller) | |

NOES, 29

Senators—

| | | | |
|--------------|----------|----------|-------------------|
| Birmingham | Feeney | McGauran | Sherry |
| Boyce | Forshaw | McLucas | Stephens |
| Brown, Carol | Furner | Moore | Troeth |
| Carr | Hutchins | Nash | Williams (Teller) |
| Colbeck | Lundy | O'Brien | Wortley |
| Cormann | Marshall | Parry | |
| Crossin | Mason | Payne | |
| Farrell | McEwen | Polley | |

Question negatived.

On the motion of Senator Mason the following amendments, taken together by leave, were debated and agreed to:

Schedule 1, item 2, page 4 (lines 17 to 20), omit subsection (10A), substitute:

(10A) Paragraph (10)(b) does not apply for the purposes of determining whether a person is to be regarded as independent for the purposes of Part 2.11, this Part or section 1070G, unless subsection (10B) or (10C) applies to the person.

(10AA) Paragraph (10)(c) does not apply for the purposes of determining whether a person is to be regarded as independent for the purposes of Part 2.11, this Part or section 1070G, unless subsection (10B), (10BA) or (10C) applies to the person.

Schedule 1, item 2, page 4 (after line 24), after paragraph 1067A(10B), insert:

(10BA) This subsection applies to a person if the Secretary is satisfied that the person is required to live away from home to pursue his or her chosen course of education.

Schedule 1, page 5 (after line 25), at the end of item 2, add:

(10D) The regulations may prescribe an audit process to enable the Secretary to verify that a person who is to be regarded as independent for the purposes of Part 2.11, this Part or section 1070G because of subsections (10AA) and (10BA) continues to meet the requirements of those subsections.

(10E) Regulations made for the purposes of subsection (10D) may include a requirement that such a person periodically provide relevant information to the Secretary, including evidence capable of satisfying the Secretary that the person continues to live away from home.

(10F) If:

(a) a person fails to meet a requirement prescribed by regulations made for the purpose of subsection (10D); or

(b) the Secretary is no longer satisfied that the person meets the requirements of subsections (10AA) and (10BA);

the Secretary may determine that the person is no longer to be regarded as independent for the purposes of Part 2.11, this Part or section 1070G because of subsections (10AA) and (10BA).

Schedule 1, item 4, page 6 (line 4), omit “, (10B)”, substitute “, (10AA), (10B), (10BA)”.

Senator Carr moved—That the committee report progress and ask leave to sit again.

Question put and passed.

The Acting Deputy President (Senator Marshall) resumed the chair and the Temporary Chair of Committees reported that the committee had considered the bill, made progress and asked leave to sit again.

Ordered, on the motion of Senator Carr, that the committee have leave to sit again at a later hour.

25 ENVIRONMENT—MONTARA OIL SPILL—MINISTERIAL STATEMENT—DOCUMENT

The Minister for Innovation, Industry, Science and Research (Senator Carr) tabled the following document:

Environment—Montara oil spill—An update on the Montara oil spill incident and response—Ministerial statement by the Minister for Resources and Energy (Mr Ferguson), dated 17 November 2009.

Senator Siewert, by leave, moved—That the Senate take note of the document.

Question put and passed.

26 AUDITOR-GENERAL—AUDIT REPORT NO. 11 OF 2009-10—DOCUMENT

The Acting Deputy President (Senator Bernardi) tabled the following document:

Auditor-General—Audit report no. 11 of 2009-10—Performance audit—Garrison support services—Department of Defence.

27 PUBLIC ACCOUNTS AND AUDIT—JOINT STATUTORY COMMITTEE—415TH AND 416TH REPORTS

Senator Lundy, on behalf of the Joint Committee of Public Accounts and Audit, tabled the following reports:

Public Accounts and Audit—Joint Statutory Committee—

415th report—Review of Auditor-General's reports tabled between September 2008 and January 2009, dated November 2009.

416th report—Review of the major projects report 2007-08, dated November 2009.

Senator Lundy, by leave, moved—That the Senate take note of the reports.

Question put and passed.

28 INTELLIGENCE AND SECURITY—JOINT STATUTORY COMMITTEE—REPORT—REVIEW OF THE RE-LISTING OF HAMAS' BRIGADES, PKK, LET AND PIJ AS TERRORIST ORGANISATIONS

Senator Marshall, on behalf of the Parliamentary Joint Committee on Intelligence and Security, tabled the following report:

Intelligence and Security—Joint Statutory Committee—Review of the re-listing of Hamas' Brigades, PKK, LeT and PIJ as terrorist organisations—Report, dated November 2009.

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

Question put and passed.

29 ECONOMICS LEGISLATION COMMITTEE—ADDITIONAL INFORMATION—CAR DEALERSHIP FINANCING GUARANTEE APPROPRIATION BILL 2009, CORPORATIONS AMENDMENT (IMPROVING ACCOUNTABILITY ON TERMINATION PAYMENTS) BILL 2009, NATIONAL CONSUMER CREDIT PROTECTION BILL 2009 AND RELATED BILLS AND TRADE PRACTICES AMENDMENT (AUSTRALIAN CONSUMER LAW) BILL 2009

Senator McEwen, at the request of the Chair of the Economics Legislation Committee (Senator Hurley), tabled the following documents:

Economics Legislation Committee—Reports—

Car Dealership Financing Guarantee Appropriation Bill 2009—Additional information.

Corporations Amendment (Improving Accountability on Termination Payments) Bill 2009 [Provisions]—Additional information.

National Consumer Credit Protection Bill 2009 [Provisions], National Consumer Credit Protection (Fees) Bill 2009 [Provisions] and National Consumer Credit Protection (Transitional and Consequential Provisions) Bill 2009 [Provisions]—Additional information.

Trade Practices Amendment (Australian Consumer Law) Bill 2009 [Provisions]—Additional information.

**30 LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE—REPORT—
CRIMES LEGISLATION AMENDMENT (SERIOUS AND ORGANISED CRIME) BILL
(NO. 2) 2009—DOCUMENT**

Senator McEwen, at the request of the Chair of the Legal and Constitutional Affairs Legislation Committee (Senator Crossin), tabled the following document:

Legal and Constitutional Affairs Legislation Committee—Crimes Legislation Amendment (Serious and Organised Crime) Bill (No. 2) 2009 [Provisions]—Report—Errata.

Document ordered to be printed on the motion of Senator McEwen.

31 TREATIES—JOINT STANDING COMMITTEE—107TH REPORT

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

Treaties—Joint Standing Committee—107th report—Treaties tabled on 20 August (2) and 15 September 2009, dated October 2009.

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

Question put and passed.

32 DOCUMENTS

The following documents were tabled by the Clerk:

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

Airports Act—Select Legislative Instrument 2009 No. 307—Airports Amendment Regulations 2009 (No. 3) [F2009L04110]*.

Commissioner of Taxation—Public Ruling—Class Ruling CR 2009/63.

Corporations Act—Auditing Standards—

ASA 500—Audit Evidence [F2009L04084]*.

ASA 570—Going Concern [F2009L04095]*.

ASA 580—Written Representations [F2009L04096]*.

ASA 610—Using the Work of Internal Auditors [F2009L04098]*.

ASA 700—Forming an Opinion and Reporting on a Financial Report [F2009L04100]*.

Customs Act—Select Legislative Instrument 2009 No. 298—Customs (Prohibited Imports) Amendment Regulations 2009 (No. 5) [F2009L04182]*.

Energy Efficiency Opportunities Act—Select Legislative Instrument 2009 No. 312—Energy Efficiency Opportunities Amendment Regulations 2009 (No. 2) [F2009L04166]*.

Environment Protection and Biodiversity Conservation Act—

Amendment of list of exempt native specimens—EPBC303DC/SFS/2009/40 [F2009L04232]*.

Conservation themes for prioritising nominations for listing threatened species, threatened ecological communities and key threatening processes for the assessment period commencing 1 October 2010, dated 1 November 2009 [F2009L04196]*.

Select Legislative Instrument 2009 No. 302—Environment Protection and Biodiversity Conservation Amendment Regulations 2009 (No. 3) [F2009L04193]*.

Fair Work Act—Select Legislative Instrument 2009 No. 300—Fair Work Amendment Regulations 2009 (No. 3) [F2009L04157]*.

Financial Management and Accountability Act—Financial Management and Accountability Determinations Nos—

2009/32—Services for Other Entities and Trust Moneys – Organ and Tissue Authority Special Account Establishment 2009 [F2009L04223]*.

2009/33—Australian Geological Survey Organisation Account Variation and Abolition 2009 [F2009L04222]*.

2009/34—Joint Australian U.S. Geological and Geophysical Research Station Special Account Establishment 2009 [F2009L04224]*.

Great Barrier Reef Marine Park Act—Select Legislative Instrument 2009 No. 303—Great Barrier Reef Region (Prohibition of Mining) Repeal Regulations 2009 [F2009L04192]*.

Health Insurance Act—Select Legislative Instrument 2009 No. 306—Health Insurance Amendment Regulations 2009 (No. 4) [F2009L03987]*.

National Transport Commission Act—Select Legislative Instruments 2009 Nos—

310—National Transport Commission (Model Amendments Regulations: Heavy Vehicles Registration – Package No. 1) Regulations 2009 [F2009L04188]*.

311—National Transport Commission (Model Amendments to the National Driver Licensing Scheme (Supporting Principles) – Package No. 1) Regulations 2009 [F2009L04187]*.

Radiocommunications Act—Radiocommunications Labelling (Electromagnetic Compatibility) Amendment Notice 2009 (No. 1) [F2009L04211]*.

Social Security (Administration) Act—Social Security (Administration) (Declared voluntary income management area – Cape York) Determination 2009 (No. 1) [F2009L04213]*.

* Explanatory statement tabled with legislative instrument.

33 COMMITTEE MEMBERSHIP

The Acting Deputy President (Senator Bernardi) informed the Senate that the President had received a letter requesting changes in the membership of a committee.

Senator McEwen, by leave, moved—That Senator Ludlam replace Senator Siewert on the Finance and Public Administration References Committee for the committee's inquiry into the process for determining public interest immunity claims, and Senator Siewert be appointed as a participating member.

Question put and passed.

**34 HEALTH INSURANCE AMENDMENT (COMPLIANCE) BILL 2009
TAX LAWS AMENDMENT (2009 BUDGET MEASURES NO. 2) BILL 2009
INCOME TAX (TFN WITHHOLDING TAX (ESS)) BILL 2009**

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

Message no. 447, dated 16 November 2009—A Bill for an Act to amend the *Health Insurance Act 1973*, and for related purposes.

Message no. 445, dated 16 November 2009—A Bill for an Act to amend the law relating to taxation and superannuation, and for related purposes.

Message no. 446, dated 16 November 2009—A Bill for an Act to impose tax on certain amounts relating to employee share schemes, and for related purposes.

Senator McEwen, at the request of the Assistant Treasurer (Senator Sherry), 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 McEwen moved—That these bills be now read a second time.

On the motion of Senator McEwen the debate was adjourned till the next day of sitting.

Consideration of legislation: Senator McEwen moved—That the Health Insurance Amendment (Compliance) Bill 2009 be listed on the *Notice Paper* as a separate order of the day.

Question put and passed.

35 ROUTINE OF BUSINESS—VARIATION

Senator Parry, by leave, moved—That business of the Senate notice of motion no. 1 (proposed disallowance of the Proclamation dated 14 May 2009 [Coral Sea Conservation Zone]) be postponed till after consideration of business of the Senate order of the day no. 2 (proposed disallowance of the Threat Abatement Plan for disease in natural ecosystems caused by *Phytophthora cinnamomi* (2009)).

Question put and passed.

36 THREAT ABATEMENT PLAN—DISALLOWANCE

Order of the day read for the adjourned debate on the motion of Senator Siewert—That the Threat Abatement Plan for disease in natural ecosystems caused by *Phytophthora cinnamomi* (2009), made under section 279 of the *Environment Protection and Biodiversity Conservation Act 1999*, be disallowed.

Debate ensued.

Question put and passed.

37 CORAL SEA CONSERVATION ZONE—PROPOSED DISALLOWANCE

Senator Boswell, also on behalf of Senator Macdonald, pursuant to notice, moved business of the Senate notice of motion no. 1—That the Proclamation dated 14 May 2009 [Coral Sea Conservation Zone], made under subsection 390D(1) of the *Environment Protection and Biodiversity Conservation Act 1999* declaring an area to be a conservation zone, be disallowed.

Debate ensued.

The Special Minister of State (Senator Ludwig) moved—That the debate be adjourned.

Question put.

The Senate divided—

AYES, 31

Senators—

| | | | |
|--------------|--------------|------------------|----------|
| Arbib | Feeney | Ludwig | Polley |
| Brown, Bob | Forshaw | Lundy | Siewert |
| Brown, Carol | Furner | Marshall | Stephens |
| Carr | Hanson-Young | McEwen | Sterle |
| Collins | Hogg | McLucas | Wong |
| Crossin | Hurley | Milne | Wortley |
| Farrell | Hutchins | Moore | Xenophon |
| Faulkner | Ludlam | O'Brien (Teller) | |

NOES, 31

Senators—

| | | | |
|------------|-------------------|-----------|-------------------|
| Adams | Cormann | Humphries | Payne |
| Back | Eggleston | Joyce | Ronaldson |
| Barnett | Ferguson | Kroger | Ryan |
| Bernardi | Fielding | Macdonald | Scullion |
| Birmingham | Fierravanti-Wells | Mason | Troeth |
| Boswell | Fifield | McGauran | Trood |
| Bushby | Fisher | Nash | Williams (Teller) |
| Cash | Heffernan | Parry | |

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

Closure: The Leader of the Australian Greens (Senator Bob Brown) moved—That the question be now put.

Question—That the question be now put—put.

The Senate divided—

AYES, 32

Senators—

| | | | |
|--------------|--------------|----------|------------------|
| Arbib | Feeney | Ludlam | O'Brien (Teller) |
| Brown, Bob | Fielding | Ludwig | Polley |
| Brown, Carol | Forshaw | Lundy | Siewert |
| Carr | Furner | Marshall | Stephens |
| Collins | Hanson-Young | McEwen | Sterle |
| Crossin | Hogg | McLucas | Wong |
| Farrell | Hurley | Milne | Wortley |
| Faulkner | Hutchins | Moore | Xenophon |

NOES, 30

Senators—

| | | | |
|------------|-------------------|-----------|-------------------|
| Adams | Cormann | Joyce | Ronaldson |
| Back | Eggleston | Kroger | Ryan |
| Barnett | Ferguson | Macdonald | Scullion |
| Bernardi | Fierravanti-Wells | Mason | Troeth |
| Birmingham | Fifield | McGauran | Trood |
| Boswell | Fisher | Nash | Williams (Teller) |
| Bushby | Heffernan | Parry | |
| Cash | Humphries | Payne | |

Question agreed to.

Question—That the motion for disallowance be agreed to—put.

The Senate divided—

AYES, 31

Senators—

| | | | |
|------------|-------------------|-----------|-------------------|
| Adams | Cormann | Humphries | Payne |
| Back | Eggleston | Joyce | Ronaldson |
| Barnett | Ferguson | Kroger | Ryan |
| Bernardi | Fielding | Macdonald | Scullion |
| Birmingham | Fierravanti-Wells | Mason | Troeth |
| Boswell | Fifield | McGauran | Trood |
| Bushby | Fisher | Nash | Williams (Teller) |
| Cash | Heffernan | Parry | |

NOES, 31

Senators—

| | | | |
|--------------|--------------|----------|------------------|
| Arbib | Faulkner | Ludlam | O'Brien (Teller) |
| Brown, Bob | Feeney | Ludwig | Polley |
| Brown, Carol | Forshaw | Lundy | Siewert |
| Carr | Furner | Marshall | Stephens |
| Collins | Hanson-Young | McEwen | Sterle |
| Crossin | Hogg | McLucas | Wortley |
| Evans | Hurley | Milne | Xenophon |
| Farrell | Hutchins | Moore | |

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

38 ROUTINE OF BUSINESS—VARIATION

The Special Minister of State (Senator Ludwig), by leave, moved—That—

- (a) consideration of government documents not be proceeded with today; and
- (b) the routine of business from 6.50 pm till 7.20 pm shall be government business orders of the day.

Question put and passed.

39 CORAL SEA CONSERVATION ZONE—PROPOSED DISALLOWANCE—STATEMENT BY LEAVE

Senator Xenophon, by leave, made a statement relating to the motion for disallowance of the Proclamation dated 14 May 2009 [Coral Sea Conservation Zone] (*see entry no. 37*).

40 SOCIAL SECURITY AND OTHER LEGISLATION AMENDMENT (INCOME SUPPORT FOR STUDENTS) BILL 2009

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

—————
In the committee

Consideration resumed of the bill, as amended.

On the motion of Senator Mason the following amendments, taken together by leave, were debated and agreed to:

Schedule 1, item 2, page 5 (lines 13 and 14), omit “30 June 2010”, substitute “31 December 2010”.

Schedule 1, item 2, page 5 (lines 18 to 20), omit paragraph 1067A(10C)(e).

Schedule 1, item 2, page 5 (line 23), omit “1 July 2010”, substitute “1 January 2011”.

Senator Hanson-Young moved the following requests for amendments together by leave:

That the House of Representatives be requested to make the following amendments:

Clause 2, page 2 (table item 4, columns 2 and 3), omit “1 July 2012”, substitute “1 January 2011”.

Schedule 1, item 23, page 14 (line 10), omit “1 July 2012”, substitute “1 January 2011”.

Schedule 1, item 31, page 16 (line 6), omit “1 July 2012”, substitute “1 January 2011”.

Debate ensued.

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

Senator Mason moved the following amendment:

Schedule 2, item 4, page 20 (line 17), omit “\$1,127”, substitute “\$500”.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee proceeded to divide—

The call for the division was withdrawn, by leave.

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

Senator Hanson-Young moved the following amendments together by leave:

Schedule 2, item 13, page 26 (lines 31 and 32), omit “to the extent that the payment does not exceed the person’s threshold amount for that year;”.

Schedule 2, item 14, page 27 (lines 19 to 34), omit subsection 8(8AB).

Debate ensued.

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

Bill, as amended, agreed to.

Bill to be reported with amendments.

The Acting Deputy President (Senator Moore) 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 and the bill read a third time.

At 7.20 pm—

41 ADJOURNMENT

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

Debate ensued.

Document: Senator Barnett, by leave, tabled the following document:

Education—Australian Technical College Northern Tasmania—Petitioning document from 4 685 signatories relating to the ongoing operation of the Australian Technical College Northern Tasmania.

Debate continued.

Documents: Senator Xenophon, by leave, tabled the following documents:

Law and justice—Church of Scientology—Copies of letters from persons associated with the Church of Scientology to Senator Xenophon [8].

Debate continued.

The Senate adjourned at 9.04 pm till Wednesday, 18 November 2009 at 9.30 am.

42 ATTENDANCE

Present, all senators except Senators Bilyk*, Bishop*, Cameron*, Conroy*, Johnston* and Pratt* (* on leave).

HARRY EVANS
Clerk of the Senate