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

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary for Social Inclusion (Senator Stephens)—That this bill be now read a second time.

Debate resumed.

At 2 pm: Debate was interrupted.

3 QUESTIONS

Questions without notice were answered.

4 MOTION TO TAKE NOTE OF ANSWERS

Senator Humphries moved—That the Senate take note of the answers given by the Minister for Climate Change and Water (Senator Wong) to questions without notice asked by Senators Humphries and Back today relating to the proposed emissions trading scheme and grocery prices.

Debate ensued.

Question put and passed.

5 NOTICES

The Chair of the Foreign Affairs, Defence and Trade References Committee (Senator Trood): To move on the next day of sitting—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. (*general business notice of motion no. 516*)

Senator Cormann: To move on the next day of sitting—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 12 pm 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 until 17 August 2009,
 - (ii) any modeling conducted within government in the lead up to the announcements of these budget measures and any subsequent modeling 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 and 17 August 2009, and
 - (v) all correspondence between Department and stakeholders regarding these budget measures from 13 May 2008 and 17 August 2009. (*general business notice of motion no. 517*)

Senators Hanson-Young and Xenophon: To move on 20 August 2009—That the Senate extends an invitation to His Holiness, the Dalai Lama, to sit in the distinguished visitors gallery on the floor of the Senate during Question Time, on Thursday, 26 November 2009, the last sitting day of 2009. (*general business notice of motion no. 518*)

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

- (a) notes that:
- (i) the week beginning Sunday, 23 August 2009 is Hearing Awareness Week,
 - (ii) one in six Australians has some form of hearing impairment, a total of 3.55 million people,
 - (iii) noise injury is the single most common cause of hearing loss, with a total of 37 per cent of hearing loss due to noise injury, and
 - (iv) captioning increases the ability of people with a hearing impairment to access broadcast messages; and
- (b) calls on the Government to:
- (i) ensure access to all suitable technologies to assist people with a hearing impairment,

- (ii) investigate the feasibility of expanding government-funded hearing services and aids to those over the age of 21, and
- (iii) undertake to expand captioning to include all government media. (*general business notice of motion no. 519*)

6 LEAVE OF ABSENCE

Senator O'Brien, by leave, moved—That leave of absence be granted to Senator Carol Brown for today, for personal reasons.

Question put and passed.

Senator Parry, by leave, moved—That leave of absence be granted to Senator Boyce from 17 August to 21 August 2009, for personal reasons.

Question put and passed.

7 POSTPONEMENT

The following item of business was postponed:

General business notice of motion no. 488 standing in the name of Senator Xenophon for today, proposing the introduction of the Food Standards Amendment (Truth in Labelling Laws) Bill 2009, postponed till 19 August 2009.

8 ECONOMICS—TAX CUTS

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. 514—That the Senate—

- (a) concurs with the Opposition Shadow Treasurer, Mr Hockey, that 'there would have been a legitimate justification for the government to say our debt, you know, our recovery, our economic recovery will be slower if we are running a big deficit and I think it [not proceeding with tax cuts] should have been considered as part of the mix'; and
- (b) calls on the Government to reconsider the tax cuts, in particular those for high-income earners.

Question put and negatived.

9 FOREIGN AFFAIRS—CHINA

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. 512—That the Senate calls on the Australian Government to promote with Beijing an act of self-determination for the Uighur people of East Turkistan (Xinjiang Province, China).

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

Question put.

The Senate divided—

AYES, 6

Senators—

Brown, Bob
Hanson-Young

Ludlam
Milne

Siewert (Teller)

Xenophon

NOES, 33

Senators—

Adams	Cormann	Hutchins	Polley
Back	Crossin	Lundy	Pratt
Bilyk	Farrell	Marshall	Stephens
Bishop	Feeney	McEwen	Sterle
Bushby	Ferguson	McLucas	Troeth
Cameron	Fielding	Moore	Wortley
Cash	Fisher	O'Brien	
Colbeck	Furner	Parry (Teller)	
Collins	Hurley	Payne	

Question negatived.

10 CONSIDERATION OF LEGISLATION

Senator Milne, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 513—

- (1) That so much of the standing orders be suspended as would prevent this resolution having effect.
- (2) That immediately upon receipt of the Renewable Energy (Electricity) Amendment Bill 2009 and the Renewable Energy (Electricity) (Charge) Amendment Bill 2009 from the House of Representatives the bills have precedence over all government business until determined.

Question put.

The Senate divided—

AYES, 6

Senators—

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

NOES, 34

Senators—

Adams	Cormann	Hutchins	Payne
Back	Crossin	Ludwig	Polley
Bilyk	Farrell	Lundy	Pratt
Bishop	Feeney	Marshall	Stephens
Bushby	Ferguson	McEwen	Sterle
Cameron	Fielding	McLucas	Troeth
Cash	Fisher	Moore	Wortley
Colbeck	Furner	O'Brien (Teller)	
Collins	Hurley	Parry	

Question negatived.

11 ENVIRONMENT—AUSTRALIAN TERRESTRIAL BIODIVERSITY ASSESSMENT 2008—
ORDER FOR PRODUCTION OF DOCUMENTS

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 507—That there be laid on the table by the Minister representing the Minister for the Environment, Heritage and the Arts (Senator Wong) by 20 August 2009, the Australian Terrestrial Biodiversity Assessment 2008 and all documents used in its preparation, including drafts.

Statement by leave: The Special Minister of State (Senator Ludwig), by leave, made a statement relating to the motion.

Question put and passed.

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

12 AUSTRALIAN CRIME COMMISSION—JOINT STATUTORY COMMITTEE—REPORT—INQUIRY INTO THE LEGISLATIVE ARRANGEMENTS TO OUTLAW SERIOUS AND ORGANISED CRIME GROUPS

The Chair of the Parliamentary Joint Committee on the Australian Crime Commission (Senator Hutchins) tabled the following report and documents:

Australian Crime Commission—Joint Statutory Committee—Inquiry into the legislative arrangements to outlaw serious and organised crime groups—Report, dated August 2009, Hansard record of proceedings, additional information and submissions.

Report ordered to be printed on the motion of Senator Hutchins.

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

Debate ensued.

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

13 DOCUMENTS

The following documents were tabled by the Clerk:

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

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

Part 105—

AD/A320/232—Rudder Side Shell Skin [F2009L03068]*.

AD/A330/103—Main Landing Gear Pin W1 [F2009L03066]*.

AD/A330/104—PW4000 Engine – Lower Aft Pylon Fairing Firewall [F2009L03065]*.

AD/A330/105—Outboard Flap – Sensor Strut at Flap Track 4 [F2009L03064]*.

AD/AMD 50/47 Amdt 1—Crew and Passenger Oxygen Lines [F2009L03120]*.

AD/B717/18 Amdt 1—Passenger Oxygen Release System [F2009L03114]*.

AD/B737/359—Outboard Landing Light Wire Bundles [F2009L03128]*.

AD/BEECH 18/22—Main Landing Gear Drag Legs, Drag Leg Bolts and Retract Slide Assemblies – Inspection [F2009L03062]*.

AD/BEECH 23/3—Stabilator Hinge Assembly [F2009L03061]*.

AD/BEECH 23/13—Main Nose Landing Gear Shock Absorber [F2009L03060]*.

AD/BO 105/28—Tail Rotor Balance Weights [F2009L03112]*.

AD/CL-600/116—Air Driven Generator Strut [F2009L03111]*.

AD/DAUPHIN/29—Main Rotor Mast [F2009L03047]*.

AD/DAUPHIN/30—Baggage Hold Fire Detectors [F2009L03046]*.

AD/EMB-120/49—Fuel Quantity Indication System [F2009L03110]*.
 AD/F406/19—Flap Push Rod Assemblies [F2009L03104]*.
 AD/GBK 117/5 Amdt 1—Electrical Bonding and Static Dischargers [F2009L03103]*.
 AD/JBK 117/4 Amdt 1—Landing Gear Electrical Bonding [F2009L03096]*.
 AD/JBK 117/32 Amdt 1—Tail Rotor Gearbox Bevel Gear [F2009L03005]*.
 AD/SF340/108 Amdt 2—Hydraulic System Accumulators [F2009L03072]*.
 AD/S-PUMA/82 Amdt 1—Hydraulic Hoist Cable [F2009L03152]*.
 AD/TBM 700/52 Amdt 1—Oxygen – Pilot Operating Handbook [F2009L03071]*.
 AD/VG-RV/1—Elevator Trim Tab [F2009L03020]*.

Part 106—

AD/ARRIEL/32 Amdt 2—Engine – Module M04 Power Turbine Blades [F2009L03202]*.
 AD/THIELERT/13—Engine/Propeller – Constant Speed Unit – Propeller Control Valve [F2009L03070]*.

Part 107—AD/PR/40—Propeller Backplate Sealant [F2009L03126]*.

Commissioner of Taxation—Public Rulings—

Class Ruling CR 2009/41.

Self Managed Superannuation Funds Product Ruling SMSFPR 2009/1.

Customs Act—

Select Legislative Instrument 2009 No. 199—Customs (Prohibited Imports) Amendment Regulations 2009 (No. 4) [F2009L03130]*.
 Tariff Concession Order 0903184 [F2009L02877]*.

Food Standards Australia New Zealand Act—Australia New Zealand Food Standards Code – Amendment No. 111 – 2009 [F2009L03145]*.

Marriage Act—Select Legislative Instrument 2009 No. 200—Marriage Amendment Regulations 2009 (No. 1) [F2009L03119]*.

Migration Act—Select Legislative Instruments 2009 Nos—

202—Migration Amendment Regulations 2009 (No. 9) [F2009L03143]*.
 203—Migration Amendment Regulations 2009 (No. 5) Amendment Regulations 2009 (No. 1) [F2009L03139]*.

Private Health Insurance Act—Private Health Insurance (Prostheses) Amendment Rules 2009 (No. 2) [F2009L03198]*.

Remuneration Tribunal Act—Determination 2009/09: Remuneration and Allowances for Holders of Public Office, Judicial and Related Offices, Members of Parliament, and Specified Statutory Officers [F2009L03118] [*in substitution for legislative instrument tabled on 12 August 2009 (see entry no. 26, 12 August 2009)*]*.

Safety, Rehabilitation and Compensation Act—Safety, Rehabilitation and Compensation (Definition of Employee) Notice 2009 (1) [F2009L03173]*.

Governor-General's Proclamations—Commencement of provisions of an Act

Migration Amendment (Protection of Identifying Information) Act 2009—Schedule 1—14 September 2009 [F2009L03098].*

* Explanatory statement tabled with legislative instrument.

14 UNPROCLAIMED LEGISLATION—ORDER FOR PRODUCTION OF DOCUMENT—DOCUMENT

The following document was tabled pursuant to standing order 139(2):

Unproclaimed legislation—Document providing details of all provisions of Acts which come into effect on proclamation and which have not been proclaimed, including statements of reasons for their non-proclamation and information relating to the timetable for their operation, as at 31 July 2009, dated August 2009.

15 DEPARTMENTAL AND AGENCY CONTRACTS—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT

The following document was tabled pursuant to the order of the Senate of 20 June 2001, as amended:

Departmental and agency contracts for 2009—Letter of advice—Veterans' Affairs portfolio.

16 INDEXED LISTS OF DEPARTMENTAL AND AGENCY FILES—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT

The following document was tabled pursuant to the order of the Senate of 30 May 1996, as amended:

Indexed lists of departmental and agency files for the period 1 January to 30 June 2009—Statement of compliance—Australian Trade Commission.

17 COMMITTEE MEMBERSHIP

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

The Assistant Treasurer (Senator Sherry), by leave, moved—That senators be discharged from and appointed to the Environment, Communications and the Arts Legislation Committee as follows:

Substitute member: Senator Macdonald to replace Senator Troeth for the period 6 October to 23 October 2009

Participating member: Senator Troeth.

Question put and passed.

18 NATIONAL GREENHOUSE AND ENERGY REPORTING AMENDMENT BILL 2009

A message from the House of Representatives was reported transmitting for the concurrence of the Senate the following bill:

Message no. 376, dated 13 August 2009—A Bill for an Act to amend the *National Greenhouse and Energy Reporting Act 2007*, and for related purposes.

The Assistant Treasurer (Senator Sherry) moved—That this bill may proceed without formalities and be now read a first time.

Question put and passed.

Bill read a first time.

Senator Sherry moved—That this bill be now read a second time.

Explanatory memorandum: Senator Sherry tabled a revised explanatory memorandum relating to the bill.

On the motion of Senator Sherry the debate was adjourned and the resumption of the debate made an order of the day for a later hour.

**19 BUILDING AND CONSTRUCTION INDUSTRY IMPROVEMENT AMENDMENT
(TRANSITION TO FAIR WORK) BILL 2009
ROAD TRANSPORT REFORM (DANGEROUS GOODS) REPEAL BILL 2009**

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

Message no. 378, dated 13 August 2009—A Bill for an Act to amend the *Building and Construction Industry Improvement Act 2005*, and for related purposes.

Message no. 377, dated 13 August 2009—A Bill for an Act to repeal the *Road Transport Reform (Dangerous Goods) Act 1995*, and for related purposes.

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

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

Consideration of legislation: Senator Sherry moved—That the bills be listed on the *Notice Paper* as separate orders of the day.

Question put and passed.

20 ECONOMICS REFERENCES COMMITTEE—REPORT—EMPLOYEE SHARE SCHEMES

Pursuant to order, the Chair of the Economics References Committee (Senator Eggleston) tabled the following report and documents:

Economics References Committee—Employee share schemes—Report, dated August 2009, Hansard record of proceedings, documents presented to the committee and submissions.

Report ordered to be printed on the motion of Senator Eggleston.

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

Debate ensued.

Debate adjourned till the next day of sitting, Senator Hurley in continuation.

**21 ENVIRONMENT, COMMUNICATIONS AND THE ARTS LEGISLATION COMMITTEE—
REPORT—TELECOMMUNICATIONS LEGISLATION AMENDMENT (NATIONAL
BROADBAND NETWORK MEASURES NO. 1) BILL 2009**

Pursuant to order, Senator Farrell, at the request of the Chair of the Environment, Communications and the Arts Legislation Committee (Senator McEwen), tabled the following report and documents:

Environment, Communications and the Arts Legislation Committee—Telecommunications Legislation Amendment (National Broadband Network Measures No. 1) Bill 2009—Report, dated August 2009, Hansard record of proceedings, documents presented to the committee, additional information and submissions.

Report ordered to be printed on the motion of Senator Farrell.

**22 COMMUNITY AFFAIRS LEGISLATION COMMITTEE—REPORT—HEALTH
LEGISLATION AMENDMENT (MIDWIVES AND NURSE PRACTITIONERS) BILL 2009
AND RELATED BILLS**

Pursuant to order, Senator Farrell, at the request of the Chair of the Community Affairs Legislation Committee (Senator Moore), tabled the following report and documents:

Community Affairs Legislation Committee—Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009 [Provisions], Midwife Professional Indemnity (Commonwealth Contribution) Scheme Bill 2009 [Provisions] and Midwife Professional Indemnity (Run-off Cover Support Payment) Bill 2009 [Provisions]—Report, dated August 2009, Hansard record of proceedings, additional information and submissions.

Report ordered to be printed on the motion of Senator Farrell.

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

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary for Social Inclusion (Senator Stephens)—That this bill be now read a second time.

Debate resumed.

Document: Senator Xenophon, 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 Youth (Ms Ellis) to Senator Xenophon, and attachment.

Debate continued.

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 supplementary explanatory memorandum relating to the government amendment to be moved to the bill.

On the motion of Senator Carr the following amendment was debated and agreed to:

Schedule 2, item 2, page 18 (line 16), after “debts”, insert “(incurred before, on or after the commencement of the amendment)”.

The Leader of The Nationals in the Senate (Senator Joyce) moved the following amendments together by leave:

Schedule 1, item 4, page 3 (line 21), omit “not of an academic nature”, substitute “of the kind specified in subsection (7)”.

Schedule 1, item 4, page 4 (line 6), omit “\$125”, substitute “\$75”.

Schedule 1, item 4, page 4 (line 8), omit “\$250”, substitute “\$150”.

Schedule 1, item 4, page 4 (line 13), omit “\$250”, substitute “\$150”.

Schedule 1, item 4, page 4 (after line 26), after subsection 19-37(6), insert:

- (7) The services and amenities specified by this subsection are services and amenities associated with sporting and recreational activities and facilities provided by, or on the campus of, the higher education provider.
- (8) The Student Services and Amenities Fee Guidelines must not provide for the calculation or inclusion of a fee amount for the provision of services and amenities other than those of the kind specified in subsection (7).
- (9) A higher education provider must not require a person enrolled, or seeking to enrol, with the provider to pay a student services and amenities fee if that person is a *distance education student, unless the person chooses to use the amenities or services for which the fee is charged.
- (10) In this section, *distance education student* means a person who is not required to attend the campus of the higher education provider to meet the academic requirements of the course of study in which the person is enrolled, or is seeking to enrol.

Schedule 1, item 5, page 4 (after line 30), before subsection 19-38(1), insert:

- (1A) A higher education provider must not spend an amount paid to the provider as a *student services and amenities fee to support the provision to students of services and amenities other than those of the kind specified in subsection 19-37(7).

Debate ensued.

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

Senator Hanson-Young moved the following amendment:

Schedule 1, item 6, page 6 (lines 14 to 16), omit subsection 19-67(3).

Debate ensued.

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

Senator Hanson-Young moved the following amendment:

Schedule 1, item 5, page 5 (after line 16), after subsection (3), insert:

- (3A) A higher education provider must consult its *student representative body and must not spend an amount paid to the provider as a *student services and amenities fee other than in accordance with a decision of that body.
- (3B) For the purposes of this section, *student representative body* means the body of students elected by students to represent their interests to the higher education provider.

Debate ensued.

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

Senator Hanson-Young moved the following amendment:

Schedule 1, item 5, page 5 (after line 28), at the end of section 19-38, add:

Accountability of expenditure

- (6) Each higher education provider must include in each report it prepares for the purposes of section 19-10 the following information in relation to the period covered by the report:
 - (a) details of amounts collected as student services and amenities fees during that period;
 - (b) details of the expenditure of such amounts paid to the provider.
- (7) Each higher education provider must provide a copy of that information to the department in the form approved by the Minister.
- (8) The department must publish on its website the information it receives under subsection (7).

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 6

Senators—

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

NOES, 41

Senators—

Back	Crossin	Joyce	Polley
Bernardi	Farrell	Kroger	Pratt
Bilyk	Feeny	Ludwig	Ryan
Birmingham	Ferguson	Mason	Stephens
Bishop	Fielding	McEwen	Troeth
Boswell	Fifield	McLucas	Trood
Bushby (Teller)	Furner	Moore	Williams
Cameron	Heffernan	Nash	Wortley
Carr	Hogg	O'Brien	
Collins	Hurley	Parry	
Cormann	Hutchins	Payne	

Question negatived.

After 9.50 pm: The President resumed the chair and the Chair of Committees (Senator Ferguson) reported progress.

24 ADJOURNMENT

The President proposed the question—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 10.17 pm till Tuesday, 18 August 2009 at 12.30 pm.

25 ATTENDANCE

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

HARRY EVANS
Clerk of the Senate