

2008-09

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

**JOURNALS OF THE SENATE**

No. 87

WEDNESDAY, 9 SEPTEMBER 2009

**Contents**

1	Meeting of Senate.....	2419
2	Privileges—Standing Committee—Statement by President—Proposed Reference .....	2419
3	Order of Business—Rearrangement.....	2419
4	Health Insurance Amendment (Extended Medicare Safety Net) Bill 2009— Documents .....	2419
5	Health Insurance Amendment (Extended Medicare Safety Net) Bill 2009.....	2420
6	International Monetary Agreements Amendment Bill 2009.....	2420
7	Therapeutic Goods Amendment (2009 Measures No. 2) Bill 2009 .....	2421
8	Military Justice (Interim Measures) Bill (No. 1) 2009 Military Justice (Interim Measures) Bill (No. 2) 2009 .....	2423
9	Consideration of Legislation .....	2424
10	Uranium Royalty (Northern Territory) Bill 2008 .....	2424
11	Matters of Public Interest .....	2427
12	Questions.....	2428
13	Motion to Take Note of Answer.....	2428
14	Petition .....	2428
15	Notices .....	2428
16	Routine of Business—Variation .....	2430
17	Postponements .....	2431
18	Legal and Constitutional Affairs Legislation Committee—Extension of Time to Report.....	2431
19	Fuel and Energy—Select Committee—Leave to Meet During Sitting.....	2431
20	Education, Employment and Workplace Relations References Committee— Reference .....	2431
21	Notice of Motion Withdrawn .....	2432
22	Scrutiny of Bills—Standing Committee—10th Report and Alert Digest No. 11 of 2009.....	2432
23	Community Affairs Legislation Committee—Additional Information— Health Legislation Amendment (Midwives And Nurse Practitioners) Bill 2009 and Related Bills .....	2432

24	Trade—Doha Development Agenda—Ministerial Statement—Document.....	2432
25	Documents.....	2432
26	Indexed Lists of Departmental and Agency Files—Order for Production of Documents—Documents.....	2434
27	Committee Membership .....	2434
28	Aviation Transport Security Amendment (2009 Measures No. 1) Bill 2009 Resale Royalty Right for Visual Artists Bill 2009 Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009 Midwife Professional Indemnity (Commonwealth Contribution) Scheme Bill 2009 Midwife Professional Indemnity (Run-off Cover Support Payment) Bill 2009 .....	2435
29	Energy Efficiency Opportunities Amendment Regulations 2009—Proposed Disallowance .....	2436
30	Legislation Committees—Reports—Annual Reports.....	2436
31	Uranium Royalty (Northern Territory) Bill 2008 .....	2436
32	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 .....	2438
33	Native Title Amendment Bill 2009 .....	2439
34	Adjournment.....	2439
35	Attendance.....	2439

**1 MEETING OF SENATE**

The Senate met at 9.30 am. The President (Senator the Honourable John Hogg) took the chair and read prayers.

**2 PRIVILEGES—STANDING COMMITTEE—STATEMENT BY PRESIDENT—PROPOSED REFERENCE**

The President made a statement relating to a matter of privilege raised by the Legal and Constitutional Affairs References Committee concerning alleged improper interference with a witness and a possible contempt of the Senate.

The President informed the Senate that, pursuant to the procedures provided by standing order 81 and resolutions of the Senate of 25 February 1988, he had determined that a motion relating to the matter may have precedence of all other business on the day for which the notice is given.

---

*Document:* The President tabled the following document:

Privileges—Standing Committee—Proposed reference—Letter from the Chair of the Legal and Constitutional Affairs References Committee (Senator Barnett) to the President, dated 7 September 2009.

---

*Notice of motion:* The Chair of the Legal and Constitutional Affairs References Committee (Senator Barnett) gave a notice of motion as follows: To move on the next day of sitting—That the following matter be referred to the Committee of Privileges:

Having regard to the report of the Legal and Constitutional Affairs References Committee on a possible contempt in relation to a witness to the committee's inquiry into access to justice, whether there was any interference with, or imposition of a penalty on, a witness before that committee, or any threat or attempt to carry out those acts, and whether any contempt was committed in that regard.

**3 ORDER OF BUSINESS—REARRANGEMENT**

The Minister for Defence (Senator Faulkner) moved—That government business notices of motion nos 1 to 3 standing in his name and in the name of the Special Minister of State (Senator Ludwig) for today, proposing the introduction of the Military Justice (Interim Measures) Bill (No. 1) 2009 and a related bill and relating to consideration of legislation, be postponed till a later hour.

Question put and passed.

**4 HEALTH INSURANCE AMENDMENT (EXTENDED MEDICARE SAFETY NET) BILL 2009—DOCUMENTS**

The Minister for Defence (Senator Faulkner) tabled the following documents:

Health Insurance Amendment (Extended Medicare Safety Net) Bill 2009—

Draft Health Insurance (Assisted Reproductive Technologies) Determination 2009 and explanatory statement.

Draft Health Insurance (Extended Medicare Safety Net) Determination 2009 and explanatory statement.

*Statement by leave:* Senator Cormann, by leave, made a statement relating to the matter.

**5 HEALTH INSURANCE AMENDMENT (EXTENDED MEDICARE SAFETY NET) BILL 2009**

Order of the day read for the adjourned debate on the motion of the Minister for Climate Change and Water (Senator Wong)—That this bill be now read a second time—*and on the amendment moved by Senator Cormann:*

At the end of the motion, add “and further consideration of the bill be an order of the day for 3 sitting days after a draft of the final regulations and determinations relating to this bill are laid on the table”.

Debate resumed.

Question—That the amendment be agreed to—put.

The Senate divided—

**AYES, 41**

Senators—

Abetz	Coonan	Joyce	Ronaldson
Adams	Cormann	Kroger	Ryan
Back	Eggleston	Ludlam	Scullion
Barnett	Ferguson	Macdonald	Siewert
Bernardi	Fielding	Mason	Troeth
Birmingham	Fifield	McGauran	Trood
Boswell	Fisher	Milne	Williams
Brown, Bob	Hanson-Young	Minchin	Xenophon
Bushby	Heffernan	Nash	
Cash	Humphries	Parry (Teller)	
Colbeck	Johnston	Payne	

**NOES, 29**

Senators—

Arbib	Crossin	Hutchins	Polley
Bilyk	Farrell	Ludwig	Pratt
Bishop	Faulkner	Lundy	Stephens
Brown, Carol	Feeney	Marshall	Sterle
Cameron	Forshaw	McEwen	Wortley
Carr	Furner	McLucas	
Collins	Hogg	Moore	
Conroy	Hurley	O'Brien (Teller)	

Question agreed to.

Main question, as amended, put and passed.

Bill read a second time.

**6 INTERNATIONAL MONETARY AGREEMENTS AMENDMENT BILL 2009**

Order of the day read for the adjourned debate on the motion of the Minister for Innovation, Industry, Science and Research (Senator Carr)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

No amendments to the bill were circulated and no senator required that it be considered in committee.

On the motion of the Minister for Broadband, Communications and the Digital Economy (Senator Conroy) the bill was read a third time. All Australian Greens senators, by leave, recorded their votes for the noes in respect of the question for the third reading.

**7 THERAPEUTIC GOODS AMENDMENT (2009 MEASURES NO. 2) BILL 2009**

Order of the day read for the adjourned debate on the motion of the Minister for Climate Change and Water (Senator Wong)—That this bill be now read a second time.  
Debate resumed.

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, debated.

Senator Xenophon moved the following amendments together by leave:

Schedule 1, item 7, page 4 (after line 15), after subsection 52A(2), insert:

- (3) Before the Secretary makes a legislative instrument under subsection (2):
  - (a) the Secretary must ensure that adequate consultation has been undertaken with consumer health and therapeutic goods industry stakeholders; and
  - (b) having regard to that consultation, the Secretary must be satisfied that the proposed instrument will not have a negative impact on the therapeutic goods industry or on access by consumers to therapeutic goods.
- (4) Before the Governor-General makes a regulation for the purposes of any provision in this Part:
  - (a) the Minister must ensure that adequate consultation has been undertaken with consumer health and therapeutic goods industry stakeholders; and
  - (b) having regard to that consultation, the Minister must be satisfied that the proposed regulation will not have a negative impact on the therapeutic goods industry or on access by consumers to therapeutic goods.

Schedule 1, item 12, page 7 (after line 32), at the end of section 52E, add:

- (6) Before exercising a power under subsection 52D(2):
  - (a) the Secretary must ensure that adequate consultation has been undertaken with consumer health and therapeutic goods industry stakeholders; and
  - (b) having regard to that consultation, the Secretary must be satisfied that the proposed exercise of power will not have a negative impact on the therapeutic goods industry or on access by consumers to therapeutic goods.

Debate ensued.

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

Senator Xenophon moved the following amendment:

Schedule 1, item 8, page 4 (after line 25), after subsection 52B(3), insert:

- (3A) The regulations must provide:
- (a) for the Minister to appoint to the Committee a person with expertise in complementary medicines; and
  - (b) for that person to be a member of the Committee only for the purpose of the committee undertaking functions in relation to substances which are, or which contain, complementary medicines.

(3B) In this section:

*complementary medicines* has the same meaning it has in Part 6-4.

Debate ensued.

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

Senator Xenophon moved the following amendment:

Schedule 1, page 9 (after line 16), at the end of the Schedule, add:

**14 At the end of Part 6-3**

Add:

**52EC Review of scheduling regime**

- (1) The Minister must cause an independent review of the operation of this Part to be conducted, with particular reference to the amendments to this Part made by the *Therapeutic Goods Amendment (2009 Measures No. 2) Act 2009 (the amendments)*.
- (2) The review must:
  - (a) start not later than 1 July 2013; and
  - (b) be completed within 6 months.
- (3) The review must report on:
  - (a) the system of access controls for goods containing scheduled substances established by this Part;
  - (b) the outcomes of the administration of scheduled substances by the Secretary and by the committees established by this Part;
  - (c) the effect of the amendments on the therapeutic goods industry and on individual parties within the industry;
  - (d) whether there are adequate avenues for review of decisions made by the Secretary and by the committees established by this Part; and may make recommendations for further changes to the scheduling regime.
- (4) The review must be conducted by a panel which must comprise not less than three, and not more than five, persons with relevant expertise, including a person with expertise in complementary medicines.
- (5) As part of the review, the panel must invite and consider public submissions.
- (6) The panel must give the Minister a written report of the review.
- (7) 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.

Debate ensued.

The Minister for Broadband, Communications and the Digital Economy (Senator Conroy) moved the following amendment to Senator Xenophon's proposed amendment:

Subsection 52EC(4), omit “, including a person with expertise in complementary medicines”.

Debate ensued.

Question—That Senator Conroy's amendment to Senator Xenophon's proposed amendment be agreed to—put and passed.

Question—That the amendment, as amended, be agreed to—put and passed.

Bill, as amended, agreed to.

Bill to be reported with an amendment.

---

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

On the motion of Senator Conroy the report from the committee was adopted and the bill read a third time.

8 **MILITARY JUSTICE (INTERIM MEASURES) BILL (NO. 1) 2009**  
**MILITARY JUSTICE (INTERIM MEASURES) BILL (NO. 2) 2009**

The Minister for Broadband, Communications and the Digital Economy (Senator Conroy), at the request of the Minister for Defence (Senator Faulkner) and pursuant to notice, moved government business notices of motion nos 1 and 2—That the following bills be introduced:

A Bill for an Act to amend legislation relating to military justice, and for related purposes.

A Bill for an Act relating to military justice, and for related purposes.

Question put and passed.

Senator Conroy presented the bills and 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 Conroy moved—That these bills be now read a second time.

---

*Explanatory memoranda:* Senator Conroy tabled explanatory memoranda [2] relating to the bills.

---

*Consideration of legislation:* Pursuant to order, the debate was adjourned and the resumption of the debate made an order of the day for the first day in the next period of sittings (*but see entry no. 9*).

## 9 CONSIDERATION OF LEGISLATION

The Minister for Broadband, Communications and the Digital Economy (Senator Conroy), at the request of the Special Minister of State (Senator Ludwig) and pursuant to notice, moved government business notice of motion no. 3—That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

- Military Justice (Interim Measures) Bill (No. 1) 2009
- Military Justice (Interim Measures) Bill (No. 2) 2009.

Question put and passed.

## 10 URANIUM ROYALTY (NORTHERN TERRITORY) BILL 2008

Order of the day read for the adjourned debate on the motion of the Special Minister of State (Senator Ludwig)—That this bill be now read a second time—and on the amendment moved by Senator Ludlam:

At the end of the motion, add “but the Senate calls on the Government to provide for the orderly phasing-out of uranium mining in the Northern Territory”.

Debate resumed.

---

*Explanatory memorandum:* The Parliamentary Secretary for Social Inclusion (Senator Stephens) tabled an addendum and a correction to the explanatory memorandum relating to the bill.

---

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, debated.

Senator Ludlam moved the following amendment:

Page 12 (after line 19), at the end of the bill, add:

### **20 Uranium Mine Remediation Fund**

#### *Establishment of Fund and Special Account*

- (1) The Uranium Mine Remediation Fund is established by this subsection.
- (2) The Uranium Mine Remediation Fund Special Account is established by this subsection.
- (3) The Fund is a Special Account for the purposes of the *Financial Management and Accountability Act 1997*.

*Credits to the Fund*

- (4) There must be credited to the Fund amounts equal to the amounts of remediation payments received by the Commonwealth under section 21.
- (5) If interest is received by the Commonwealth from the investment of an amount standing to the credit of the Fund, an amount equal to the interest must be credited to the Fund.

*Administration of the Fund*

- (6) The Fund is to be managed by the Minister.
- (7) Monies from the Fund are to be applied to management, rehabilitation and monitoring of the sites of mining operations to which this Act applies.
- (8) Monies from the Fund are to be paid from funds appropriated by the Parliament for the purpose.

**21 Rate of remediation payment**

- (1) A remediation payment is payable as an additional royalty amount in respect of any designated substance obtained from a production unit in any financial year.
- (2) The holders of mining tenements that form part of a production unit are jointly and severally liable for the payment of royalty in respect of the production unit.
- (3) The remediation payment is 5 percent of the net value of a saleable mineral commodity sold or removed without sale from a production unit in a financial year.
- (4) For the purposes of subsection (3), the *net value* in a financial year is calculated in accordance with the following formula:

$$GR - (OC + CRD + EEE + AD)$$

Where:

GR is the gross realisation from the production unit in the royalty year;  
 OC is the operating costs of the production unit for the royalty year;  
 CRD is the capital recognition deduction;  
 EEE is eligible exploration expenditure, if any; and  
 AD is the additional deduction, if any, under section 4CA of the applied law.

**22 Remediation**

- (1) Despite any other law, any agreement between the Commonwealth or the Northern Territory (or both) and another party or parties allowing mining operations on land in the Northern Territory to obtain any designated substance must be made subject to the conditions specified in subsection (2).
- (2) The conditions are that the other party or parties to the agreement:
  - (a) recognise the timeframe and toxicity associated with uranium mining by ensuring that the tailings from any such mining operation are physically isolated from the environment for at

least 10,000 years, and that any contaminants arising from the tailings will not result in any detrimental environmental impacts for at least 10,000 years; and

- (b) agree to pay the amounts payable under section 21 as a contribution to the management, rehabilitation and monitoring of the sites of any such mining operations.

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

Senator Ludlam moved the following amendment:

Page 12 (after line 19), at the end of the bill, add:

### **23 Accountability**

- (1) Despite any other law, any agreement between the Commonwealth or the Northern Territory (or both) and another party or parties allowing mining operations on land in the Northern Territory to obtain any designated substance must be made subject to the conditions specified in subsection (2).
- (2) The conditions specified by this subsection are that the other party or parties to the agreement agree to cooperate fully with any requirement:
  - (a) of the Auditor-General, undertaking any of his or her functions under this Act, including by providing full access to all financial and administrative records; and
  - (b) of the Supervising Scientist, undertaking any of his or her functions under this Act, including by providing full access to all mining, processing, transport and related operations, and to all related sites.

### **24 Auditor General's functions**

- (1) The Auditor-General's functions include the functions set out in this section.
- (2) The Auditor-General's functions include auditing:
  - (a) the arrangements for the calculation, payment and collection of any amount payable under this Act or under any applied law or corresponding law;
  - (b) the adequacy of the remediation fund established by section 20 to meet its objectives;
  - (c) the adequacy of contributions to the remediation fund.
- (3) In performing these functions the Auditor-General:
  - (a) may perform or exercise any of the functions and powers conferred upon him or her by the *Auditor-General Act 1997*; and
  - (b) may seek, and must be granted, access to all financial and administrative records of any party to any agreement relating to mining operations to which this Act applies.
- (4) As soon as practicable after completing any report on any audit performed under this Act, the Auditor-General must:
  - (a) cause a copy to be tabled in each House of the Parliament;
  - (b) give a copy to the responsible Minister;
  - (c) give a copy to the responsible Northern Territory Minister;
  - (d) give a copy to any Land Council which is a party to any arrangement to receive any royalty under this Act.

## 25 Supervising Scientist's functions

- (1) The Supervising Scientist's powers and functions are expanded as set out in this section.
- (2) To the extent that, under the *Environment Protection (Alligator Rivers Region) Act 1978*, the powers and functions of the Supervising Scientist are constrained by reference to a particular geographic region, those powers and functions are expanded so that the Supervising Scientist may perform and exercise any of those functions and powers in relation to:
  - (a) any mining operation to which this Act applies; and
  - (b) any region affected by any such mining operation.
- (3) In performing these functions the Supervising Scientist may seek, and must be granted, access to all mining, processing, storage, transport and related operations, and all related sites under the control of any party to any agreement relating to any mining operation to which this Act applies.
- (4) The Supervising Scientist may report to the Minister on any matter relating to any mining operation to which this Act applies, including:
  - (a) supervision, inspection and audit of operations and sites; and
  - (b) radiological, biological and chemical monitoring of sites; and
  - (c) rehabilitation and mine closure; and
  - (d) research activities;in relation to both present and past uranium mining activities.
- (5) As soon as practicable after the Minister is given a report made under subsection (4), the Minister must:
  - (a) cause a copy to be laid before each House of the Parliament;
  - (b) give a copy to the responsible Northern Territory Minister;
  - (c) give a copy to the any Land Council which is a party to any arrangement to receive any royalty under this Act.

Debate ensued.

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

---

*At 12.45 pm:* The Acting Deputy President (Senator Trood) resumed the chair and the Temporary Chair of Committees reported progress.

## 11 MATTERS OF PUBLIC INTEREST

Matters of public interest were discussed.

---

*Document:* Senator Milne, by leave, tabled the following document:

Environment—The climate is changing: Why don't you?—Study by students from Class 8 Gold (2009), Huonville High School, Tasmania.

---

Further matters of public interest were discussed.

*Suspension of sitting:* On the motion of the Assistant Treasurer (Senator Sherry) the sitting of the Senate was suspended at 1.55 pm till 2 pm.

---

At 2 pm—

## 12 QUESTIONS

Questions without notice were answered.

## 13 MOTION TO TAKE NOTE OF ANSWER

Senator Back moved—That the Senate take note of the answer given by the Minister for Innovation, Industry, Science and Research (Senator Carr) to a question without notice asked by Senator Back today relating to the Australian Biosecurity Cooperative Research Centre for Emerging Infectious Disease.

Debate ensued.

Question put and passed.

## 14 PETITION

The following petition, lodged with the Clerk by Senator Hogg, was received:

From 22 petitioners, requesting that the Senate take action to allow early childhood teachers working in non-government preschools, kindergartens and long day care services to remain under the Early Childhood Education Award.

## 15 NOTICES

*Notices of motion:*

The Leader of the Australian Greens (Senator Bob Brown): To move on the next day of sitting—That the Senate—

- (a) supports the protection of farming and conservation areas from coal exploration and mining and its effects in the Galilee Basin in Queensland;
- (b) declares that it does not support the massive increase in coal exports flowing from the Galilee Basin through Abbot Point and Hay Point because of the climate change ramifications of burning more coal; and
- (c) expresses concern about the potential impact of the industrialisation of Abbot Point on the Caley Valley wetlands and the endangered and vulnerable bird species that depend on that area. (*general business notice of motion no. 543*)

The Chair of the Community Affairs References Committee (Senator Siewert): To move on the next day of sitting—That the following matter be referred to the Community Affairs References Committee for inquiry and report by the last sitting day in February 2010:

Hearing health in Australia, with particular reference to:

- (a) the extent, causes and costs of hearing impairment in Australia;
- (b) the implications of hearing impairment for individuals and the community;
- (c) the adequacy of access to hearing services, including assessment and support services, and hearing technologies;
- (d) the adequacy of current hearing health and research programs, including education and awareness programs; and
- (e) specific issues affecting Indigenous communities.

The Chair of the Community Affairs References Committee (Senator Siewert): To move on the next day of sitting—That the following matter be referred to the Community Affairs References Committee for inquiry and report by the last sitting day in April 2010:

The impact of suicide on the Australian community including high risk groups such as Indigenous youth and rural communities, with particular reference to:

- (a) the personal, social and financial costs of suicide in Australia;
- (b) the accuracy of suicide reporting in Australia, factors that may impede accurate identification and recording of possible suicides (and the consequences of any under-reporting on understanding risk factors and providing services to those at risk);
- (c) the appropriate role and effectiveness of agencies, such as police, emergency departments, law enforcement and general health services in assisting people at risk of suicide;
- (d) the effectiveness, to date, of public awareness programs and their relative success in providing information, encouraging help-seeking and enhancing public discussion of suicide;
- (e) the efficacy of suicide prevention training and support for front-line health and community workers providing services to people at risk;
- (f) the role of targeted programs and services that address the particular circumstances of high-risk groups;
- (g) the adequacy of the current program of research into suicide and suicide prevention, and the manner in which findings are disseminated to practitioners and incorporated into government policy; and
- (h) the effectiveness of the National Suicide Prevention Strategy in achieving its aims and objectives, and any barriers to its progress.

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

- (a) notes that:
  - (i) Australia has an ageing population, which will cause a significant increase in demand for aged care services over the coming decades, including aged care facilities,
  - (ii) the Federal Government has direct responsibility for the provision of aged care, while the states have responsibility for a range of matters, including the provision of education,
  - (iii) the Rudd Government has failed to do anything to tackle the capital funding crisis in the aged care sector,
  - (iv) the Rudd Government's reckless and irresponsible inaction, if left unaddressed, means that the current crisis in aged care will only get worse into the future, and
  - (v) the Rudd Government has wasted significant sums of money on the poorly-designed and poorly-implemented Building the Education Revolution program, while failing to tackle the significant challenges faced by the aged care sector;
- (b) is very concerned that the failure of the Rudd Government to act and address the significant challenges ahead in aged care means that elderly Australians will not be able to get access to affordable, high-quality aged care places in the future; and

- (c) calls on the Government to take decisive action forthwith to address the significant challenges facing aged care. (*general business notice of motion no. 544*)

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

- (a) notes:
- (i) that United States of America company, First Solar, has signed a memorandum of understanding to build a 2GW solar power station in China and that this single plant will be eight times larger than projects called for by the Solar Flagship Program (the program),
  - (ii) that the program depends for success on significant levels of private sector capital,
  - (iii) that the global financial crisis is exacerbating difficulties Australian companies are experiencing in accessing private sector capital for innovative renewable technologies,
  - (iv) that, in Australia, Solar Systems has gone into voluntary administration because of a lack of investment capital, and
  - (v) the lack of a comprehensive or coherent policy framework to encourage private sector investment in renewable energy; and
- (b) calls on the Government to underpin the success of the program by:
- (i) providing loan guarantees for commercial-scale demonstration projects,
  - (ii) implementing a gross national feed-in tariff for small to utility scale renewable energy projects, and
  - (iii) planning and funding electricity grid extensions to connect remote utility scale projects. (*general business notice of motion no. 545*)

Senator Hanson-Young: To move on the next day of sitting—That the Senate calls on the Minister for Home Affairs (Mr O'Connor), the Minister for Defence (Senator Faulkner) and the Minister for Immigration and Citizenship (Senator Evans) to conduct a review of the current protocols for the interception of Suspected Illegal Entry Vessels in Australian waters and report back to the Senate by 26 November 2009. (*general business notice of motion no. 546*)

The Leader of the Australian Greens (Senator Bob Brown): To move on the next day of sitting—That the Senate calls on the Government to ensure alleged war criminal Mr Guy Campos remains in Australia until investigations into the allegations about his actions in occupied Timor Leste are completely finalised. (*general business notice of motion no. 547*)

The Special Minister of State (Senator Ludwig): To move on the next day of sitting—That the government business orders of the day relating to the Federal Court of Australia Amendment (Criminal Jurisdiction) Bill 2008 and the Federal Justice System Amendment (Efficiency Measures) Bill (No. 1) 2008 may be taken together for their remaining stages.

*Notice of motion withdrawn:* At a later hour, pursuant to standing order 77(3), Senator Ludwig withdrew the notice of motion.

## 16 ROUTINE OF BUSINESS—VARIATION

The Special Minister of State (Senator Ludwig), by leave, moved—That consideration of government business continue from 6.50 pm till 7.20 pm today.

Question put and passed.

**17 POSTPONEMENTS**

The following items of business were postponed:

Business of the Senate notice of motion no. 2 standing in the name of Senator Siewert for today, proposing the disallowance of the Threat Abatement Plan for disease in natural ecosystems caused by *Phytophthora cinnamomi* (2009), postponed till 16 September 2009.

Business of the Senate notice of motion no. 3 standing in the name of Senator O'Brien for today, proposing a reference to the Economics References Committee, postponed till 10 September 2009.

**18 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. 541—That the time for the presentation of the report of the Legal and Constitutional Affairs Legislation Committee on annual reports tabled by 30 April 2009 be extended to 15 September 2009.

Question put and passed.

**19 FUEL AND ENERGY—SELECT COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator Parry, at the request of the Chair of the Select Committee on Fuel and Energy (Senator Cormann) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 540—That the Select Committee on Fuel and Energy be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 10 September 2009.

Question put and passed.

**20 EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS REFERENCES COMMITTEE—REFERENCE**

Senator Barnett amended business of the Senate notice of motion no. 4 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the following matters be referred to the Education, Employment and Workplace Relations References Committee for inquiry and report:

- (a) consideration of the Federal Government's Primary Schools for the 21st Century program, with particular reference to:
  - (i) the conditions and criteria for project funding,
  - (ii) the use of local and non-local contractors,
  - (iii) the role of state governments,
  - (iv) timing and budget issues, including duplication,
  - (v) requirements for school signs and plaques,
  - (vi) the management of the program; and
- (b) other related matters.

Question put and passed.

**21 NOTICE OF MOTION WITHDRAWN**

Senator Marshall withdrew business of the Senate notice of motion no. 5 standing in his name for today, proposing a reference to the Education, Employment and Workplace Relations References Committee.

**22 SCRUTINY OF BILLS—STANDING COMMITTEE—10TH REPORT AND ALERT DIGEST NO. 11 OF 2009**

Senator Parry, at the request of the Chairman of the Standing Committee for the Scrutiny of Bills (Senator Coonan), tabled the following report and document:

Scrutiny of Bills—Standing Committee—

10th report of 2009, dated 9 September 2009.

Alert Digest No. 11 of 2009, dated 9 September 2009.

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

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

Question put and passed.

**23 COMMUNITY AFFAIRS LEGISLATION COMMITTEE—ADDITIONAL INFORMATION—HEALTH LEGISLATION AMENDMENT (MIDWIVES AND NURSE PRACTITIONERS) BILL 2009 AND RELATED BILLS**

Senator O'Brien, at the request of the Chair of the Community Affairs Legislation Committee (Senator Moore), tabled the following document:

Community Affairs Legislation Committee—Report—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]—Additional information.

**24 TRADE—DOHA DEVELOPMENT AGENDA—MINISTERIAL STATEMENT—DOCUMENT**

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

Trade—Injection of momentum into the Doha Round of negotiations resulting from the meeting of trade ministers in New Delhi, India—Ministerial statement by the Minister for Trade (Mr Crean), dated 9 September 2009.

**25 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. 231—Airports Legislation Amendment Regulations 2009 (No. 2) [F2009L03476]\*.

Broadcasting Services Act—

Broadcasting Services (Australian Content) Standard Variation 2009 (No. 1) [F2009L03394]\*.

Children's Television Standards 2009 [F2009L03416]\*.

Variations to Licence Area Plans for—

Bendigo Radio – No. 1 of 2009 [F2009L03342]\*.

Rockhampton – Gladstone Radio – No. 1 of 2009 [F2009L03343]\*.

Spencer Gulf North Radio – No. 1 of 2009 [F2009L03340]\*.

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

105—

- AD/A330/106—Rudder Side Shell Skin [F2009L03405]\*.
- AD/BAe 146/137 Amdt 1—Nose Landing Gear [F2009L03480]\*.
- AD/BEECH 56/1 Amdt 2—Rudder Spar and Hinges [F2009L03382]\*.
- AD/BN-2/21 Amdt 1—Elevator Trim Lever Box Cracking and Loose Rivets [F2009L03381]\*.
- AD/BN-2/85 Amdt 1—Elevator Tip Assemblies [F2009L03380]\*.
- AD/BO 105/7 Amdt 1—Fatigue Life Limitations [F2009L03379]\*.
- AD/BO 105/12—Rotating Control Rod End Bearing [F2009L03378]\*.
- AD/CESSNA 310/32 Amdt 3—Lower Wing Skin Rivets [F2009L03377]\*.
- AD/CESSNA 310/35 Amdt 1—Main Landing Gear Aft Trunnion Support Spar – Inspection and Modification [F2009L03376]\*.
- AD/CESSNA 320/20—Main Landing Gear Aft Trunnion Support Spar – Inspection and Modification [F2009L03375]\*.
- AD/CESSNA 337/17—Bench Seat Locking Placard – Installation [F2009L03374]\*.
- AD/CESSNA 337/18—Fifth Seat Restraint – Modification [F2009L03373]\*.
- AD/F28/92—Landing Gear – Brake Quick Disconnect Couplings [F2009L03258]\*.

106—

- AD/TPE 331/22—Fuel Control Bracket – Shimming and Increased Torque [F2009L03417]\*.
- AD/TPE 331/38—Second Stage Turbine Wheel Assembly [F2009L03411]\*.
- AD/TPE 331/42 Amdt 1—Torque Sensor [F2009L03410]\*.
- AD/TPE 331/43 Amdt 2—Fuel Manifold Assembly P/N 3102469-2 [F2009L03409]\*.
- AD/TPE 331/51 Amdt 1—Fuel Manifold Assemblies [F2009L03408]\*.
- AD/TPE 331/60—Cycle Life Counting – Special Use Operations [F2009L03407]\*.
- AD/TURMO/3—Gas Generator Rear Bearing – Permeability Checks [F2009L03406]\*.

## Criminal Code Act—Select Legislative Instruments 2009 Nos—

- 212—Criminal Code Amendment Regulations 2009 (No. 13) [F2009L03396]\*.
- 213—Criminal Code Amendment Regulations 2009 (No. 14) [F2009L03397]\*.
- 214—Criminal Code Amendment Regulations 2009 (No. 15) [F2009L03398]\*.
- 215—Criminal Code Amendment Regulations 2009 (No. 16) [F2009L03399]\*.

## Currency Act—Currency (Royal Australian Mint) Determination 2009 (No. 6) [F2009L03468]\*.

## Customs Act—

## Tariff Concession Orders—

- 0803137 [F2009L03386]\*.
- 0906539 [F2009L03280]\*.

## Tariff Concession Revocation Instruments—

- 39/2009 [F2009L03315]\*.
- 40/2009 [F2009L03317]\*.

Environment Protection and Biodiversity Conservation Act—Amendment of list of exempt native specimens—EPBC303DC/SFS/2009/XX [F2009L03461]\*.

Export Control Act—Export Control (Orders) Regulations—Live Export (Merino) Repeal Orders 2009 [F2009L03462]\*.

Federal Financial Relations Act—Federal Financial Relations (National Specific Purpose Payments) Determination 2009 No. 1 [F2009L03324]\*.

Higher Education Support Act—Higher Education Provider Approval (No. 7 of 2009)—Australian Institute of Management South Australian Division Inc [F2009L03470]\*.

Migration Act—Select Legislative Instrument 2009 No. 230—Migration Amendment Regulations 2009 (No. 5) Amendment Regulations 2009 (No. 2) [F2009L03389]\*.

Remuneration Tribunal Act—Determination 2009/12: Remuneration and Allowances for Holders of Public Office [F2009L03478]\*.

Renewable Energy (Electricity) Act—Select Legislative Instruments 2009 Nos—  
221—Renewable Energy (Electricity) Amendment Regulations 2009 (No. 2) [F2009L03474]\*.

222—Renewable Energy (Electricity) Amendment Regulations 2009 (No. 3) [F2009L03475]\*.

Social Security (International Agreements) Act—Social Security (International Agreements) Act 1999 Amendment Regulations 2009 (No. 1)—Commencement (Agreement between Australia and Chile on Social Security) Instrument 2009 [F2009L03482]\*.

\* Explanatory statement tabled with legislative instrument.

## 26 INDEXED LISTS OF DEPARTMENTAL AND AGENCY FILES—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENTS

The following documents were 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—Statements of compliance—

Agriculture, Fisheries and Forestry portfolio agencies.

Department of Broadband, Communications and the Digital Economy.

Finance and Deregulation portfolio agencies.

Human Services portfolio agencies.

Prime Minister and Cabinet portfolio agencies [5].

## 27 COMMITTEE MEMBERSHIP

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

The Special Minister of State (Senator Ludwig), by leave, moved—That senators be discharged from and appointed to the Education, Employment and Workplace Relations References Committee as follows:

Discharged—Senator Collins

Appointed—

Senator Bilyk

Participating member: Senator Collins.

Question put and passed.

**28 AVIATION TRANSPORT SECURITY AMENDMENT (2009 MEASURES NO. 1) BILL 2009**  
**RESALE ROYALTY RIGHT FOR VISUAL ARTISTS BILL 2009**  
**HEALTH LEGISLATION AMENDMENT (MIDWIVES AND NURSE PRACTITIONERS)**  
**BILL 2009**  
**MIDWIFE PROFESSIONAL INDEMNITY (COMMONWEALTH CONTRIBUTION) SCHEME**  
**BILL 2009**  
**MIDWIFE PROFESSIONAL INDEMNITY (RUN-OFF COVER SUPPORT PAYMENT)**  
**BILL 2009**

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

Message no. 395, dated 9 September 2009—A Bill for an Act to amend the *Aviation Transport Security Act 2004*, and for related purposes.

Message no. 396, dated 9 September 2009—A Bill for an Act to create a right to resale royalty in relation to artworks, and for related purposes.

Message no. 392, dated 8 September 2009—A Bill for an Act to amend the law relating to health and to make amendments consequential on the enactment of the *Midwife Professional Indemnity (Commonwealth Contribution) Scheme Act 2009*, and for related purposes.

Message no. 393, dated 8 September 2009—A Bill for an Act to make provision in relation to professional indemnity cover for certain midwives, and for related purposes.

Message no. 394, dated 8 September 2009—A Bill for an Act to impose a tax on premium payments for midwife professional indemnity cover, and for related purposes.

The Special Minister of State (Senator Ludwig) 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 Ludwig moved—That these bills be now read a second time.

---

*Explanatory memorandum:* Senator Ludwig tabled a revised explanatory memorandum relating to the Resale Royalty Right for Visual Artists Bill 2009.

---

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

*Consideration of legislation:* Senator Ludwig moved—That the Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009, the Midwife Professional Indemnity (Commonwealth Contribution) Scheme Bill 2009 and the Midwife Professional Indemnity (Run-off Cover Support Payment) Bill 2009 be listed on the *Notice Paper* as one order of the day, and the remaining bills be listed as separate orders of the day.

Question put and passed.

**29 ENERGY EFFICIENCY OPPORTUNITIES AMENDMENT REGULATIONS 2009—  
PROPOSED DISALLOWANCE**

Senator Milne, pursuant to notice, moved business of the Senate notice of motion no. 1—That the Energy Efficiency Opportunities Amendment Regulations 2009 (No. 1), as contained in Select Legislative Instrument 2009 No. 119 and made under the *Energy Efficiency Opportunities Act 2006*, be disallowed.

Debate ensued.

Question put.

The Senate divided—

AYES, 6

Senators—

Brown, Bob  
Hanson-Young

Ludlam  
Milne

Siewert (Teller)

Xenophon

NOES, 39

Senators—

Adams  
Back  
Bilyk  
Birmingham  
Bishop  
Brown, Carol  
Bushby  
Cameron  
Cash  
Collins

Cormann  
Crossin  
Farrell  
Feeney  
Fielding  
Fisher  
Forshaw  
Hurley  
Hutchins  
Johnston

Joyce  
Kroger  
Lundy  
Marshall  
McEwen  
McLucas  
Minchin  
Moore  
Nash  
O'Brien

Parry  
Polley  
Ronaldson  
Ryan  
Stephens  
Troeth  
Trood  
Williams (Teller)  
Wortley

Question negatived.

**30 LEGISLATION COMMITTEES—REPORTS—ANNUAL REPORTS**

Pursuant to order, Senator McEwen, at the request of the chairs of the respective committees, tabled the following reports:

Reports on annual reports referred to legislation committees—No. 2 of 2009, dated September 2009—

Economics Legislation Committee.

Education, Employment and Workplace Relations Legislation Committee.

Environment, Communications and the Arts Legislation Committee.

Finance and Public Administration Legislation Committee.

Foreign Affairs, Defence and Trade Legislation Committee.

Rural and Regional Affairs and Transport Legislation Committee.

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

**31 URANIUM ROYALTY (NORTHERN TERRITORY) BILL 2008**

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

---

*In the committee*

Consideration resumed of the bill.

Senator Ludlam moved the following amendment:

Page 12 (after line 19), at the end of the bill, add:

**26 Review of the costs and benefits of uranium mining royalty arrangements**

- (1) The Minister must cause independent reviews of the costs and benefits of uranium mining royalty arrangements to be conducted in accordance with this section.
- (2) The first review must begin as soon as practicable after the fifth anniversary of the commencement of this section, and a further review must begin as soon as practicable after each third anniversary of that date.
- (3) Each review must be completed within 6 months.
- (4) Each review must:
  - (a) identify the costs and benefits of the application of laws and the operation of the royalty arrangements made by this Act;
  - (b) in particular, identify the costs and benefits to:
    - (i) the Commonwealth;
    - (ii) the Northern Territory Government;
    - (iii) Indigenous communities, in general;
    - (iv) Indigenous communities affected by mining operations to which this Act applies;
    - (v) Indigenous communities which are party to any arrangement to receive any royalty under this Act; and
    - (vi) corporate and other bodies involved in mining operations to which this Act applies.
- (5) Each review must be undertaken by a panel comprising not less than 5 members, including:
  - (a) a person with expertise in royalty models and arrangements; and
  - (b) a person with expertise in mining law; and
  - (c) a person with expertise in the financial, managerial, infrastructure and service-delivery challenges of Aboriginal communities; and
  - (d) representatives of affected communities.
- (6) The panel must give the Minister a written report of each review, and the Minister must cause a copy of the report to be laid before each House of Parliament within 15 sitting days of receiving the report.

Debate ensued.

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

Bill agreed to.

Bill to be reported without amendment.

---

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

On the motion of the Parliamentary Secretary for Social Inclusion (Senator Stephens) the report from the committee was adopted.

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

Question put.

The Senate divided—

AYES, 37

Senators—

Back	Cash	Hurley	Parry
Barnett	Colbeck	Hutchins	Polley
Bernardi	Cormann	Joyce	Ryan
Bilyk	Crossin	Kroger	Stephens
Birmingham	Farrell	Lundy	Troeth
Bishop	Feeney	Marshall	Wortley
Brown, Carol	Fielding	McEwen (Teller)	Xenophon
Bushby	Fierravanti-Wells	Moore	
Cameron	Furner	Nash	
Carr	Heffernan	O'Brien	

NOES, 5

Senators—

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

Question agreed to.

Bill read a third time.

**32 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.

Senator Xenophon moved the following amendment:

At the end of the motion, add “but the Senate:

- (a) notes that the measures in these bills pre-empt the findings of the Productivity Commission inquiry into the relative performance of the public and private hospital systems; and
- (b) resolves that further consideration of the bills be an order of the day for the first sitting day after the final report of the Productivity Commission on that matter is laid on the table”.

Debate ensued.

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

Main question put.

The Senate divided—

**AYES, 25**

Senators—

Arbib	Crossin	Hutchins	Polley
Bilyk	Farrell	Ludwig	Sherry
Bishop	Feeney	Lundy	Stephens
Brown, Carol	Forshaw	McEwen (Teller)	Wortley
Cameron	Furner	McLucas	
Collins	Hogg	Moore	
Conroy	Hurley	O'Brien	

**NOES, 37**

Senators—

Abetz	Colbeck	Joyce	Ryan
Adams (Teller)	Cormann	Ludlam	Scullion
Back	Eggleston	Macdonald	Siewert
Barnett	Ferguson	McGauran	Troeth
Bernardi	Fielding	Milne	Trood
Birmingham	Fifield	Minchin	Williams
Boswell	Fisher	Nash	Xenophon
Brown, Bob	Hanson-Young	Parry	
Bushby	Heffernan	Payne	
Cash	Johnston	Ronaldson	

Question negatived.

**33 NATIVE TITLE AMENDMENT 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.

Debate resumed.

On the motion of the Special Minister of State (Senator Ludwig) the debate was adjourned till the next day of sitting.

**34 ADJOURNMENT**

The Special Minister of State (Senator Ludwig) moved—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 7.51 pm till Thursday, 10 September 2009 at 9.30 am.

**35 ATTENDANCE**

Present, all senators except Senator Boyce (on leave).

**HARRY EVANS**  
Clerk of the Senate