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Contents

1	Meeting of Senate	2727
2	Government Documents	2727
3	Family and Community Services (Closure of Student Financial Supplement Scheme) Bill 2003	
	Student Assistance Amendment Bill 2003	2727
4	Matters of Public Interest	2728
5	Questions	2728
6	Defence—Answers to Questions	2728
7	Finance—Deposit Bonds—Answer to Question	2728
8	Petitions	2728
9	Notices	2729
10	Selection of Bills—Standing Committee—Report No. 15 of 2003	2733
11	Postponements	2734
12	Environment, Communications, Information Technology and the Arts	
	References Committee—Proposed Reference	2734
13	Postponement	2735
14	Treaties—Joint Standing Committee—Reference	2735
15	Indigenous Australians—National Aboriginal and Torres Strait Islander Sports Awards	2735
16	Indigenous Australians—Council of Australian Governments	2736
17	Employment—Unemployment Rate	2737
18	Discussion of Matter of Public Importance—Heiner Matter—Child Abuse	2737
19	Scrutiny of Bills—Standing Committee—14th Report and Alert Digest No. 15 of 2003	2737
20	Public Works—Joint Statutory Committee—12th and 13th Reports of 2003	2737
21	Public Accounts and Audit—Joint Statutory Committee—397th Report	2738
22	Australia's Development Cooperation Program—Ministerial Statement—Document	2738
23	Health—Tobacco—Document	2738
24	Parliamentary Zone—Capital Works Proposal—Document	2738
25	Documents	2738

26	Australia's Development Cooperation Program—Ministerial Statement— Consideration.....	2739
27	Medical Indemnity Amendment Bill 2003 Medical Indemnity (IBNR Indemnity) Contribution Amendment Bill 2003.....	2739
28	Environment, Communications, Information Technology and the Arts Legislation Committee—Report—Plastic Bag Levy (Assessment and Collection) Bill 2002 [No. 2] and Plastic Bag (Minimisation of Usage) Education Fund Bill 2002 [No. 2]	2739
29	Order of Business—Rearrangement.....	2740
30	Spam Bill 2003 Spam (Consequential Amendments) Bill 2003	2740
31	Government Documents—Consideration	2743
32	Adjournment	2743
33	Attendance.....	2743

1 MEETING OF SENATE

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

2 GOVERNMENT DOCUMENTS

The following government documents were tabled:

Companies Auditors and Liquidators Disciplinary Board—Report for 2002-03.

Employment National Limited—Report for 2002-03.

States Grants (Primary and Secondary Education Assistance) Act 2000—Report on financial assistance granted to each State in respect of 2002.

Telecommunications (Interception) Act 1979—Report—Review of named person warrants and other matters, June 2003.

**3 FAMILY AND COMMUNITY SERVICES (CLOSURE OF STUDENT FINANCIAL SUPPLEMENT SCHEME) BILL 2003
STUDENT ASSISTANCE AMENDMENT BILL 2003**

Order of the day read for the adjourned debate on the motion—That these bills be now read a second time.

Debate resumed.

Senator Nettle moved the following amendment:

At the end of the motion, add “but the abolition of the Student Financial Supplement Scheme be opposed until such time as the Commonwealth moves to improve student financial support measures to meet the need this scheme currently addresses and that the Commonwealth move to improve current financial support measures in the following ways:

- (a) that the Commonwealth Government replace Youth Allowance and Austudy with one simple payment that incorporates the following measures:
 - (i) the age of independence be reduced to 18,
 - (ii) the eligibility criteria should not be based upon previous personal earnings,
 - (iii) the personal income threshold (currently set at \$236 per fortnight, without affecting benefit payments) should be increased to a more realistic figure,
 - (iv) the parental income test cut-off threshold should be increased to allow greater access to higher education,
 - (v) that same sex couples be recognised as de facto relationships for the purposes of income support measures including student income support,
 - (vi) all postgraduate awards be redefined as ‘approved courses’ for the purposes of rent assistance,
 - (vii) as a minimum, students be provided with benefits consistent with the Henderson poverty line, and
 - (viii) that these benefits be indexed to the Consumer Price Index, with reference to the Henderson poverty line; and

further, that Abstudy be maintained as a separate scheme, and that within this payment structure:

- (b) all supplementary benefits, allowances and payments available under the Abstudy scheme be maintained;
- (c) all payment structures be endorsed and approved by Indigenous community organisations;
- (d) any future rationalisation of the Abstudy allowances only occur after sustained and authentic dialogue with Indigenous communities across Australia; and
- (e) the changes made to Abstudy in the 1997-98 Commonwealth Budget should be reversed”.

Debate ensued.

At 12.45 pm: Debate was interrupted while the Minister for Family and Community Services (Senator Patterson) was speaking.

4 MATTERS OF PUBLIC INTEREST

Matters of public interest were discussed.

—————
At 2 pm—

5 QUESTIONS

Questions without notice were answered.

6 DEFENCE—ANSWERS TO QUESTIONS

Senator Evans moved—That the Senate take note of the answers given by the Minister for Defence (Senator Hill) to questions without notice asked by Senators Evans, Ludwig and Hogg today relating to defence.

Debate ensued.

Question put and passed.

7 FINANCE—DEPOSIT BONDS—ANSWER TO QUESTION

The Leader of the Australian Democrats (Senator Bartlett) moved—That the Senate take note of the answer given by the Minister for Revenue and Assistant Treasurer (Senator Coonan) to a question without notice asked by Senator Bartlett today relating to deposit bonds and the property market.

Question put and passed.

8 PETITIONS

The following 4 petitions, lodged with the Clerk by the senators indicated, were received:

Senator Kemp, from 5 petitioners, requesting that the Senate oppose any change in the design or colour of the Australian national flag.

Senator Lundy, from 2 073 petitioners, requesting that the Senate oppose any proposals to introduce pay parking in the Parliamentary Zone and adjacent areas of Barton and Forrest.

Senator Stott Despoja, from 608 petitioners, requesting that the Senate take action to ensure the principle of equitable access to universities remains fundamental to higher education policy and oppose any bill to further increase fees.

Senator Wong, from 878 petitioners, requesting that the Senate oppose the proposed changes to Medicare and the introduction of up-front fees for general practitioner consultations.

9 NOTICES

Notices of motion:

The Minister for the Arts and Sport (Senator Kemp): To move on the next day of sitting—That the Senate—

- (a) congratulates the Australian Rugby Union on staging the most successful Rugby World Cup since its inception in 1987;
- (b) congratulates the Australian Wallabies on an outstanding 2003 Rugby World Cup campaign;
- (c) conveys, on behalf of all Australians, the nation's pride and congratulations for the performances of all the team members who played in the team over the course of the competition;
- (d) expresses its thanks to all the team support staff and others who have contributed to the success of the team;
- (e) thanks the Australian people who supported teams from all countries that participated in the 2003 Rugby World Cup;
- (f) notes the contribution made by Commonwealth agencies and departments to the successful staging of the 2003 Rugby World Cup; and
- (g) acknowledges the contribution of the Australian Sports Commission to the development of young Australian rugby players, particularly through the rugby program at the Australian Institute of Sport.

The Chair of the Community Affairs References Committee (Senator Hutchins): To move on the next day of sitting—That the time for the presentation of reports of the Community Affairs References Committee be extended as follows:

- (a) poverty and financial hardship—to 4 March 2004;
- (b) children in institutional care—to 30 April 2004; and
- (c) Hepatitis C in Australia—to 17 June 2004. (*general business notice of motion no. 712*)

The Chair of the Foreign Affairs, Defence and Trade References Committee (Senator Cook): To move on the next day of sitting—That the Foreign Affairs, Defence and Trade References Committee be authorised to hold public meetings during the sittings of the Senate to take evidence for the committee's inquiry into the performance of government agencies in the assessment and dissemination of security threats in South East Asia in the period 11 September 2001 to 12 October 2002, on the following days:

Thursday, 27 November 2003, from 6.30 pm

Friday, 28 November 2003, from 9 am to 4.25 pm. (*general business notice of motion no. 713*)

The Chair of the Environment, Communications, Information Technology and the Arts References Committee (Senator Cherry): To move on the next day of sitting—That the time for the presentation of the report of the Environment, Communications, Information Technology and the Arts References Committee on the Australian telecommunications network be extended to 12 February 2004. (*general business notice of motion no. 714*)

The Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Heffernan): To move on the next day of sitting—That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the draft Aviation Transport Security Regulations 2003 be extended to 2 December 2003. (*general business notice of motion no. 715*)

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

- (a) acknowledges that Monday, 1 December 2003 is World AIDS Day;
- (b) notes that a report released by the Joint United Nations Program on HIV/AIDS and the World Health Organization on 25 November 2003 indicates that:
 - (i) 42 million people around the world are infected with HIV,
 - (ii) 8 000 people die of AIDS-related illnesses every day,
 - (iii) 14 000 new HIV infections occur every day,
 - (iv) 13.2 million children are now orphans as a result of the AIDS virus, and
 - (v) 95 per cent of people with AIDS live in the world's poorest countries;
- (c) acknowledges the crucial role played by the Global Fund to Fight AIDS, Tuberculosis and Malaria (the 'Global Fund') in combating the AIDS pandemic;
- (d) notes that:
 - (i) in its first three rounds of funding, the Global Fund approved \$3 billion over 2 years for more than 220 programs in 121 of the worst affected countries, including \$555 million to programs in South Asia, East Asia and the Pacific,
 - (ii) \$224 million has already been disbursed to more than 60 countries, and
 - (iii) the Global Fund is facing a significant shortfall in funding which is jeopardising its ability to disburse funds to countries who have had program proposals approved, and to fund new rounds of grants;
- (e) expresses its concern that Australia is one of only two of the world's wealthiest countries yet to make a contribution to the Global Fund; and
- (f) urges the Australian Government to support the Global Fund as a key global initiative that is enabling countries to strengthen their own national response to HIV/AIDS, and to seriously consider making a significant contribution to the Global Fund by the end of 2004. (*general business notice of motion no. 716*)

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

- (a) notes that:
 - (i) a draft import risk assessment on the importation of Filipino bananas released in July 2002 concluded, based on the best science available, that such imports should not be approved due to the unmanageable risk of the introduction of diseases like black sigatoka and moko, and
 - (ii) the Filipino Government has challenged the Australian Government at the highest levels to overturn this decision; and
- (b) calls on the Australian Government to:
 - (i) defend the science-based analysis of the import risk assessment process and to release the final report on Filipino bananas as soon as possible, and
 - (ii) defend Australia's quarantine standards in trade negotiations against pressure to water them down. (*general business notice of motion no. 717*)

Senator Nettle: To move on 1 December 2003—That the Senate—

- (a) notes that:
 - (i) Monday, 1 December 2003 is World AIDS Day,
 - (ii) there are 42 million people living with HIV/AIDS globally, with more than 95 per cent of these people living in developing countries,
 - (iii) it is expected that programs funded by the Global Fund to Fight AIDS, Tuberculosis and Malaria (the 'Global Fund') will enable 700 000 people living with HIV/AIDS to access vital antiretroviral treatment for HIV/AIDS,
 - (iv) without substantially increased funding, the Global Fund's capacity to make a sustained impact on these three diseases will be lost,
 - (v) Australia has endorsed the United Nations Declaration of Commitment on HIV/AIDS (2001) which called for the creation of a global fund for HIV/AIDS and health, and
 - (vi) despite this commitment, the Federal Government has not yet committed any funds to the Global Fund; and
- (b) calls on the Federal Government to provide \$110 million for the period 2002 to 2004 to the Global Fund (in addition to its existing overseas aid commitments) in accordance with the fund's Equitable Contributions Framework. (*general business notice of motion no. 718*)

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

- (a) notes that the European Union has recently introduced labelling of animal feed and of highly processed ingredients derived from genetically-engineered (GE) crops, neither of which are currently labelled under the Australian regulatory system; and
- (b) calls on the Australian Government to:
 - (i) exempt any changes to the GE regulatory and labelling system in Australia from the current free trade agreement negotiations with the United States of America,
 - (ii) ensure that the Government maintains the ability to improve and extend the labelling laws, to bring them into line with international best practice, and
 - (iii) ensure that the federal regulatory system protects the rights of Australian consumers and farmers to GE-free food and farming systems. (*general business notice of motion no. 719*)

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

- (a) notes that:
 - (i) the Government's revised Medicare package proposes to increase the patient rebate for general practitioner services for two groups of Australians as an incentive to encourage bulk billing for these people, and
 - (ii) the Government proposes to introduce discriminatory safety nets which endorse substantial out-of-pocket expenses for medical services;
- (b) condemns the Government for:
 - (i) undermining the principle of universality by failing to propose measures to increase bulk billing for all Australians,

- (ii) encouraging higher private fees for medical services, which will cause hardship for many Australians and discourage them from seeing doctors, and
- (iii) relying on safety nets in place of strengthening Medicare; and
- (c) calls on the Government to:
 - (i) increase the patient rebate for all Australians, and
 - (ii) develop a plan to promote bulk billing as an essential means of ensuring timely, affordable access to primary health care. (*general business notice of motion no. 720*)

Senator Harris: To move on 3 December 2003—

- (1) That a select committee, to be known as the Select Committee on the Lindeberg Grievance, be appointed to inquire into and report on the following matters:
 - (a) whether any false or misleading evidence was given to the Select Committee on Public Interest Whistleblowing, the Select Committee on Unresolved Whistleblower Cases or the Committee of Privileges in respect of its 63rd and 71st reports;
 - (b) whether any contempt was committed in that regard, having regard to previous inquiries by Senate committees relating to the shredding of the Heiner documents, the fresh material that has subsequently been revealed by the Dutney Memorandum, and Exhibits 20 and 31 tabled at the Forde Commission of Inquiry into the Abuse of Children in Queensland Institutions, and any other relevant evidence; and
 - (c) whether this matter should be taken into account in framing the proposed legislation on whistleblower protection recommended by the Select Committee on Public Interest Whistleblowing.
- (2) That the committee consist of 7 senators, 2 nominated by the Leader of the Government in the Senate, 2 nominated by the Leader of the Opposition in the Senate, 1 nominated by the Leader of the Australian Democrats, 1 nominated by the One Nation Party and 1 nominated by the Australian Greens or Senator Harradine.
- (3) That the committee may proceed to the dispatch of business notwithstanding that not all members have been duly nominated and appointed and notwithstanding any vacancy.
- (4) That:
 - (a) the chair of the committee be elected by and from the members of the committee;
 - (b) in the absence of agreement on the selection of a chair, duly notified to the President, the allocation of the chair be determined by the Senate;
 - (c) the deputy chair of the committee be elected by and from the members of the committee immediately after the election of the chair;
 - (d) the deputy chair act as chair when there is no chair or the chair is not present at a meeting; and
 - (e) in the event of the votes on any question before the committee being equally divided, the chair, or deputy chair when acting as chair, have a casting vote.
- (5) That the quorum of the committee be a majority of the members of the committee.

- (6) That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings and the evidence taken, and such interim recommendations as it may deem fit.
- (7) That the committee have power to appoint subcommittees consisting of 3 or more of its members and to refer to any such subcommittee any of the matters which the committee is empowered to consider, and that the quorum of the subcommittee be a majority of the members appointed to the subcommittee.
- (8) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint investigative staff and persons, including senior counsel, with specialist knowledge for the purposes of the committee, with the approval of the President.
- (9) That the committee have access to, and have power to make use of, the evidence and records of the Select Committee on Public Interest Whistleblowing, the Select Committee on Unresolved Whistleblower Cases and the Committee of Privileges in respect of its 63rd and 71st reports.
- (10) That the committee be empowered to print from day to day such documents and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public. (*general business notice of motion no. 721*)

Notices of motion withdrawn:

The Leader of the Australian Democrats (Senator Bartlett), at the request of Senator Allison, withdrew business of the Senate notice of motion no. 2 standing in the name of Senator Allison for today, relating to the reference of matters to the Community Affairs Legislation Committee.

Senator Brown withdrew business of the Senate notice of motion no. 1 standing in his name for today, relating to the reference of matters to the Legal and Constitutional References Committee.

10 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 15 OF 2003

Senator Lightfoot, at the request of the Chairman of the Selection of Bills Committee (Senator Ferris), tabled the following report:

SELECTION OF BILLS COMMITTEE

REPORT NO. 15 OF 2003

1. The committee met on Tuesday, 25 November 2003.
2. The committee resolved to recommend—That—
 - (a) the Kyoto Protocol Ratification Bill 2003 [No. 2] be *referred immediately* to the Environment, Communications, Information Technology and the Arts Legislation Committee for inquiry and report on 4 March 2004;
 - (b) the Financial Services Reform Amendment Bill 2003 be *referred immediately* to the Economics Legislation Committee but was unable to reach agreement on a reporting date; and
 - (c) the following bills *not* be referred to committees:
 - Broadcasting Services Amendment (Media Ownership) Bill 2002
[No. 2]
 - Medical Indemnity Amendment Bill 2003

Medical Indemnity (IBNR Indemnity) Contribution Amendment Bill 2003

Workplace Relations Amendment (Termination of Employment) Bill 2002 [No. 2].

The committee recommends accordingly.

3. The committee *deferred* consideration of the following bills to the next meeting:

Bill deferred from meeting of 12 August 2003

Civil Aviation Legislation Amendment (Mutual Recognition with New Zealand and Other Matters) Bill 2003.

Bill deferred from meeting of 19 August 2003

National Animal Welfare Bill 2003.

Bill deferred from meeting of 28 October 2003

Intelligence Services Amendment Bill 2003.

Bills deferred from meeting of 25 November 2003

Building and Construction Industry Improvement Bill 2003

Building and Construction Industry Improvement (Consequential and Transitional) Bill 2003

Workplace Relations Amendment (Better Bargaining) Bill 2003.

Jeannie Ferris

Chair

26 November 2003.

Senator Lightfoot moved—That the report be adopted.

Question put and passed.

11 POSTPONEMENTS

Items of business were postponed as follows:

General business notice of motion no. 466 standing in the name of Senator Lees for 2 December 2003, relating to the introduction of the Protection of Biodiversity on Private Land Bill 2003, postponed till 3 March 2004.

General business notice of motion no. 702 standing in the name of Senator Lees for 1 December 2003, relating to the introduction of the Broadcasting Services (Safeguarding Local Content and Local Audience Needs) Amendment Bill 2003, postponed till 3 December 2003.

General business notice of motion no. 704 standing in the name of Senator Stott Despoja for 27 November 2003, relating to the People's Republic of China and Falun Gong practitioners, postponed till 1 December 2003.

12 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS REFERENCES COMMITTEE—PROPOSED REFERENCE

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 3—That the Ozone Protection and Synthetic Greenhouse Gas Legislation Amendment Bill 2003, the Ozone Protection (Licence Fees—Imports) Amendment Bill 2003, and the Ozone Protection (Licence Fees—Manufacture) Amendment Bill 2003 be referred to the Environment, Communications, Information Technology and the Arts References Committee for inquiry and report by 31 March 2004, with particular reference to:

- (a) the need to phase out ozone-depleting substances and synthetic greenhouse gases;
 - (b) the means by which the use of air conditioning can be reduced and the transition to natural refrigerants can be encouraged;
 - (c) the desirability of banning imports of split system refrigeration and air conditioning equipment ‘pre-charged’ with hydrofluorocarbons and hydrochlorofluorocarbons; and
 - (d) standards for installation, operation and maintenance of refrigeration systems.
- Question put and negatived.

13 POSTPONEMENT

Senator Nettle, by leave, moved—That general business notice of motion no. 711 standing in her name for today, relating to public and community housing, be postponed till the next day of sitting.

Question put and passed.

14 TREATIES—JOINT STANDING COMMITTEE—REFERENCE

Senator Ludwig, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 707—That the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment be referred to the Joint Standing Committee on Treaties for inquiry and report by 23 March 2004.

Question put and passed.

15 INDIGENOUS AUSTRALIANS—NATIONAL ABORIGINAL AND TORRES STRAIT ISLANDER SPORTS AWARDS

Senator Ridgeway, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 705—That the Senate—

- (a) congratulates the following winners of the 9th National Aboriginal and Torres Strait Islander Sports Awards:
 - National Sportsman Award: Anthony Mundine, Sydney, New South Wales: WBA super middleweight champion;
 - National Sportswoman Award: Bo De La Cruz, Darwin, Northern Territory: Australian touch football representative since 1998;
 - National Junior Sportswoman Award: Kathleen Logue, Tennant Creek, Northern Territory: co-winner of world mixed pairs darts championship;
 - National Junior Sportsman Award: Kyle Anderson, Maddington, Western Australia: world darts champion;
 - National Disabled Sportsman Award: Troy Murphy, Kirwan, Queensland: national tenpin bowling champion;
 - National Disabled Sportswoman Award: Tegan Blanch, Stuarts Point, New South Wales: all rounder – member of the Australian deaf tennis squad, swimmer, shot-putter, javelin and discus thrower;
 - National Coach Award: John Roe, Australian Capital Territory: head coach of the Australian gridiron squad;
 - National Official Award: Stacey Campton, Australian Capital Territory: netball umpire; and

State Achievers:

Western Australia: Bianca Franklin: state netball representative;

Australian Capital Territory: Katrina Fanning: rugby league;

Victoria: Mungara Brown: Australian rules;

New South Wales: David Peachey: rugby league;

Northern Territory: Sarrita King: netball;

South Australia: Joseph Milera: Australian rules;

Queensland: Ashley Anderson: swimming;

Tasmania: Nathan Polley: boxing;

- (b) recognises the important role that sport and physical activity plays in the social well-being of Indigenous communities, especially among young people; and
- (c) recognises also that Indigenous sports champions are valuable role models for young Indigenous people and that their achievements are a source of pride for all Australians, particularly Indigenous communities.

Question put and passed.

16 INDIGENOUS AUSTRALIANS—COUNCIL OF AUSTRALIAN GOVERNMENTS

Senator Ridgeway, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 706—That the Senate—

- (a) notes:
 - (i) the release of the Productivity Commission report, ‘Overcoming Indigenous Disadvantage’, which allows the Council of Australian Governments (COAG) to monitor outcomes and measure governments’ performance in addressing Indigenous disadvantage, and
 - (ii) that, for the first time, COAG will focus on whether Indigenous programs and funding are having an impact on the lives of Indigenous people;
- (b) recognises that this report provides policy-makers with a broad view of the current state of Indigenous disadvantage and what changes are needed to ensure that Indigenous people enjoy the same life expectancy and overall standard of living as other Australians; and
- (c) calls on:
 - (i) the Prime Minister, as Chairman of the Council of Australian Governments, to secure a commitment from COAG members regarding the timing and implementation of action plans that will provide the mechanism for achieving advances in the key indicators outlined in the report, and
 - (ii) the premiers and chief ministers of each state and territory to commit to the COAG Communiqué for Reconciliation, and ensure that realistic, sustainable and implementable action plans are prepared as soon as practicable but prior to the next COAG meeting.

Statement by leave: The Minister for Local Government, Territories and Roads (Senator Ian Campbell), by leave, made a statement relating to the motion.

Question put and passed.

17 EMPLOYMENT—UNEMPLOYMENT RATE

Senator Nettle amended her notice of motion by leave and, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 710—That the Senate—

- (a) notes that the official unemployment rate fell to 5.6 per cent in October 2003;
- (b) further notes the report released by the Australian Council of Social Service on 13 November 2003, which found the official unemployment rate gravely underestimates the true level of joblessness and insufficient hours of work, and that the real level of unemployment is more than double the official rate; and
- (c) calls on the Federal Government to review the official definition of unemployment with the objective of developing, in consultation with the community, a more realistic measure of joblessness and insufficient hours of work.

Question put and passed.

18 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—HEINER MATTER—CHILD ABUSE

The Deputy President (Senator Hogg) informed the Senate that Senator Harris had proposed that the following matter of public importance be submitted to the Senate for discussion:

The Heiner Affair and the Lindeberg grievance, which leave unresolved issues relating to child abuse in Queensland and raise the necessity of bringing to the Australian public the seriousness of this issue, to ensure that Senate process, and the rule of law are respected and the issue of child abuse is discussed.

The proposal was supported by four senators and the matter was discussed.

19 SCRUTINY OF BILLS—STANDING COMMITTEE—14TH REPORT AND ALERT DIGEST NO. 15 OF 2003

The Chairman of the Standing Committee for the Scrutiny of Bills (Senator Crossin) tabled the following report and document:

Scrutiny of Bills—Standing Committee—

14th report of 2003, dated 26 November 2003.

Alert Digest No. 15 of 2003, dated 26 November 2003.

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

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

Question put and passed.

20 PUBLIC WORKS—JOINT STATUTORY COMMITTEE—12TH AND 13TH REPORTS OF 2003

Senator Scullion, on behalf of the Parliamentary Standing Committee on Public Works, tabled the following reports:

Public Works—Joint Statutory Committee—

12th report of 2003—New main entrance at the Lucas Heights Science and Technology Centre, Lucas Heights, NSW, dated November 2003.

13th report of 2003—Redevelopment of radiopharmaceutical building no. 23 at Lucas Heights, Sydney, NSW, dated November 2003.

Senator Scullion moved—That the Senate take note of the reports.

Question put and passed.

21 PUBLIC ACCOUNTS AND AUDIT—JOINT STATUTORY COMMITTEE—397TH REPORT

Senator Scullion, on behalf of the Joint Committee on Public Accounts and Audit, tabled the following report:

Public Accounts and Audit—Joint Statutory Committee—397th report—Annual report 2002-03, dated November 2003.

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

Question put and passed.

22 AUSTRALIA'S DEVELOPMENT COOPERATION PROGRAM—MINISTERIAL STATEMENT—DOCUMENT

The Minister for Family and Community Services (Senator Patterson) tabled the following document:

Australia's development cooperation program—Twelfth annual statement to Parliament—Statement by the Minister for Foreign Affairs (Mr Downer), dated November 2003.

23 HEALTH—TOBACCO—DOCUMENT

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

Health—Tobacco—Letter to the President of the Senate from the Victorian Minister for Health (Ms Bronwyn Pike) responding to the resolution of the Senate of 11 September 2003, dated 19 November 2003.

24 PARLIAMENTARY ZONE—CAPITAL WORKS PROPOSAL—DOCUMENT

The Minister for Family and Community Services (Senator Patterson) tabled the following document:

Parliament Act—Parliamentary Zone—Capital works—Proposal, together with supporting documentation, for security upgrade works to the Parliament House loading dock.

Notice of motion: Senator Patterson, by leave, gave a notice of motion as follows: To move on the next day of sitting—That, in accordance with section 5 of the *Parliament Act 1974*, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone, being security upgrade works proposed by the Joint House Department for the Parliament House loading dock.

25 DOCUMENTS

The following documents were tabled by the Clerk:

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

105, dated 23 [2] and 31 October; and 6 [2], 12 [9], 13 [10] and 14 [10] November 2003.

106, dated 12 and 14 [2] November 2003.

107, dated 12 and 13 November 2003.

Family Law Act—Family Law (Superannuation) Regulations—

Family Law (Superannuation) (Methods and Factors for Valuing Particular Superannuation Interests) Amendment Approval 2003 (No. 1).

Family Law (Superannuation) (Provision of Information — SA Local Government Superannuation Scheme) Determination 2003.

Financial Management and Accountability Act—

Financial Management and Accountability (Determination 2003/04) Childcare Centre Capital Replacement and Upgrade Special Account – Establishment.

Financial Management and Accountability (Determination 2003/05) Superannuation Productivity Benefits Aboriginal Tutorial Assistance Scheme Tutors Special Account – Establishment.

26 AUSTRALIA'S DEVELOPMENT COOPERATION PROGRAM—MINISTERIAL STATEMENT—CONSIDERATION

Senator Ridgeway, by leave, moved—That the Senate take note of the document tabled earlier today (*see entry no. 22*).

Debate ensued.

Question put and passed.

27 MEDICAL INDEMNITY AMENDMENT BILL 2003

MEDICAL INDEMNITY (IBNR INDEMNITY) CONTRIBUTION AMENDMENT BILL 2003

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

Message no. 446, dated 25 November 2003—A Bill for an Act to amend the *Medical Indemnity Act 2002*, and for related purposes.

Message no. 447, dated 25 November 2003—A Bill for an Act to amend the *Medical Indemnity (IBNR Indemnity) Contribution Act 2002*, and for related purposes.

The Minister for the Arts and Sport (Senator Kemp) 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 Kemp moved—That these bills be now read a second time.

On the motion of Senator Crossin the debate was adjourned.

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

28 ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS LEGISLATION COMMITTEE—REPORT—PLASTIC BAG LEVY (ASSESSMENT AND COLLECTION) BILL 2002 [NO. 2] AND PLASTIC BAG (MINIMISATION OF USAGE) EDUCATION FUND BILL 2002 [NO. 2]

Pursuant to order, Senator Scullion, at the request of the Chair of the Environment, Communications, Information Technology and the Arts Legislation Committee (Senator Eggleston), tabled the following report and documents:

Environment, Communications, Information Technology and the Arts Legislation Committee—Plastic Bag Levy (Assessment and Collection) Bill 2002 [No. 2] and the Plastic Bag (Minimisation of Usage) Education Fund Bill 2002 [No. 2]—Report, dated November 2003, *Hansard* record of proceedings [3 vols], documents presented to the committee and submissions [274].

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

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

Debate ensued.

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

29 ORDER OF BUSINESS—REARRANGEMENT

The Minister for the Arts and Sport (Senator Kemp) moved—That government business order of the day no. 1 (Family and Community Services (Closure of Student Financial Supplement Scheme) Bill 2003 and a related bill) be postponed till the next day of sitting.

Question put and passed.

30 SPAM BILL 2003**SPAM (CONSEQUENTIAL AMENDMENTS) BILL 2003**

Order of the day read for the consideration of the bills in committee of the whole.

In the committee

SPAM BILL 2003—

Bill taken as a whole by leave.

Senator Greig moved the following amendments together by leave:

Clause 6, page 10 (lines 3 to 32), omit subclause (1), substitute:

(1) For the purposes of this Act, a *commercial electronic message* is an electronic message, where either :

(a) the substance of the content of the electronic message is sent to a large number of electronic addresses; or

(b) having regard to:

(i) the content of the message; and

(ii) the way in which the message is presented; and

(iii) the content that can be located using the links, telephone numbers or contact information (if any) set out in the message;

it would be concluded that the purpose, or one of the purposes, of the message is:

(iv) to offer to supply goods or services; or

(v) to advertise or promote goods or services; or

(vi) to advertise or promote a supplier, or prospective supplier, of goods or services; or

(vii) to offer to supply land or an interest in land; or

(viii) to advertise or promote land or an interest in land; or

(ix) to advertise or promote a supplier, or prospective supplier, of land or an interest in land; or

(x) to offer to provide a business opportunity or investment opportunity; or

(xi) to advertise or promote a business opportunity or investment opportunity; or

(xii) to advertise or promote a provider, or prospective provider, of a business opportunity or investment opportunity; or

(xiii) to assist or enable a person, by a deception, to dishonestly obtain property belonging to another person; or

(xiv) to assist or enable a person, by a deception, to dishonestly obtain a financial advantage from another person; or

- (xv) to assist or enable a person to dishonestly obtain a gain from another person; or
- (xvi) a purpose specified in the regulations.

Clause 6, page 10 (after line 32), after subclause (1), insert:

- (1A) For the purposes of paragraph (1)(a), the apparent source of an electronic message is disregarded for the purpose of determining whether the electronic message is sent to a large number of electronic addresses.

Debate ensued.

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

Senator Lundy moved the following amendment:

Clause 16, page 15 (line 14), omit “a commercial”, substitute “an unsolicited commercial”.

Debate ensued.

Question—That the amendment be agreed to—put.

The committee divided—

AYES, 35

Senators—

Allison	Crossin	Ludwig	O'Brien
Bartlett	Denman	Lundy	Ray
Bishop	Evans	Mackay (Teller)	Ridgeway
Brown	Forshaw	Marshall	Sherry
Buckland	Greig	McLucas	Stephens
Campbell, George	Hogg	Moore	Stott Despoja
Cherry	Hutchins	Murphy	Webber
Conroy	Kirk	Murray	Wong
Cook	Lees	Nettle	

NOES, 33

Senators—

Abetz	Coonan	Kemp	Scullion
Alston	Eggleston	Lightfoot	Tchen
Barnett	Ferguson	Macdonald, Sandy	Tierney
Boswell	Ferris (Teller)	Mason	Troeth
Brandis	Harradine	McGauran	Vanstone
Calvert	Harris	Minchin	Watson
Campbell, Ian	Heffernan	Patterson	
Chapman	Humphries	Payne	
Colbeck	Johnston	Santoro	

Question agreed to.

Senator Greig moved the following amendment:

Clause 18, page 18 (line 14), omit “a commercial”, substitute “an unsolicited commercial”.

Debate ensued.

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

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

Clause 16, page 15 (after line 19), after subclause (1), insert:

- (1A) For the purposes of subsection (1), a commercial electronic message is not unsolicited if at the time the message was sent, the sender had ascertained with reasonable diligence that the addressee had a specific commercial interest in receiving the message.

Clause 16, page 16 (line 3), after “subsection”, insert “(1A),”.

Senator Greig moved the following amendments together by leave:

Clause 18, page 19 (after line 6), after subclause (1), insert:

- (1A) For the purposes of subsection (1), a commercial electronic message is not unsolicited if at the time the message was sent, the sender had ascertained with reasonable diligence that the addressee had a specific commercial interest in receiving the message.

Clause 18, page 19 (line 19), after “subsection”, insert “(1A),”.

Debate ensued.

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

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

Clause 18, page 18 (line 16), omit “and”.

Clause 18, page 18 (line 17), omit paragraph 18(1)(b).

Senator Greig moved the following amendment:

Page 30 (after line 24), after clause 29, insert:

29A Action for damages

- (1) A person who suffers loss or damage by conduct of another person that was done in contravention of a provision of Part 2 may recover the amount of the loss or damage by action against that other person or against any person involved in the contravention.
- (2) An action under subsection (1) may be commenced at any time within 6 years after the day on which the cause of action that relates to the conduct arose.

Debate ensued.

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

Senator Greig moved the following amendment:

Schedule 1, clause 2, page 39 (line 17), after “**information**”, insert “**and functional unsubscribe facility**”.

Debate ensued.

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

Senator Lundy moved the following amendment:

Schedule 1, page 40 (line 18), at the end of paragraph 3(a), add:
 (v) not for profit political lobby groups;
 (vi) trade unions;

Debate ensued.

At 6.50 pm: The Deputy President (Senator Hogg) resumed the chair and the Temporary Chair of Committees (Senator Brandis) reported progress.

31 GOVERNMENT DOCUMENTS—CONSIDERATION

The government documents tabled earlier today (*see entry no. 2*) were called on but no motion was moved.

32 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 7.30 pm till Thursday, 27 November 2003 at 9.30 am.

33 ATTENDANCE

Present, all senators except Senators Carr and Knowles* (* on leave).

HARRY EVANS
Clerk of the Senate