

2008

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 50

TUESDAY, 2 DECEMBER 2008

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1 MEETING OF SENATE

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

2 GOVERNMENT DOCUMENTS

The following documents were tabled:

Administrative Review Council—Report no. 49—Administrative accountability in business areas subject to complex and specific regulation, November 2008.

Australian Public Service Commission—State of the service—Report for 2007-08.

Australian Radiation Protection and Nuclear Safety Agency—Quarterly report for the period 1 July to 30 September 2008.

Skills Australia—Report for the period 20 March to 30 June 2008.

Snowy Hydro Limited—Financial report for the period 1 July 2007 to 28 June 2008.

Statutory Fishing Rights Allocation Review Panel Selection Committee—Report for 2007-08.

Sydney Airport Demand Management Act 1997—Quarterly reports on the maximum movement limit for Sydney Airport for the periods—

1 April to 30 June 2008.

1 July to 30 September 2008.

Telstra Sale Company Limited—Report for 2007-08.

3 HOURS OF MEETING AND ROUTINE OF BUSINESS—VARIATION

The Minister for Human Services (Senator Ludwig), pursuant to notice, moved government business notice of motion no. 1—That—

(1) On Tuesday, 2 December 2008:

(a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to 11.40 pm;

(b) the routine of business from 7.30 pm shall be government business only; and

(c) the question for the adjournment of the Senate shall be proposed at 11 pm.

(2) On Wednesday, 3 December 2008, the routine of business from 5.30 pm to not later than 7.20 pm shall be valedictory statements relating to Senator Ellison.

(3) In making valedictory statements in accordance with paragraph (2) above, a senator shall not speak for more than 20 minutes.

Question put and passed.

4 EDUCATION LEGISLATION AMENDMENT BILL 2008

SCHOOLS ASSISTANCE BILL 2008

Order of the day read for the adjourned debate on the motion of the Minister for Superannuation and Corporate Law (Senator Sherry)—That these bills be now read a second time.

Debate resumed.

Senator Milne moved the following amendment in respect of the Schools Assistance Bill 2008:

At the end of the motion, add “but the Senate, in approving the funding provided to non-government schools under this bill, does so on the understanding that the Government will commit additional Commonwealth funding to public schools over the funding period, over and above the indexation measures determined at the Council of Australian Governments, equivalent to the maintained funding and guaranteed funding provided to non-government schools under this bill, calculated to be approximately \$2.7 billion over the next 4 years”.

Debate ensued.

At 2 pm: Debate was interrupted while Senator Kroger was speaking.

5 QUESTIONS

Questions without notice were answered.

6 MOTION TO TAKE NOTE OF ANSWERS

Senator Johnston moved—That the Senate take note of the answers given by the Minister for Climate Change and Water (Senator Wong) to questions without notice asked today.

Debate ensued.

Question put and passed.

7 NOTICES

Notices of motion:

Senator Fisher: To move on the next day of sitting—That there be laid on the table by the Minister for Climate Change and Water, by 30 March 2009, in relation to section 86A of the *Water Act 2007*, a document containing the following:

- (a) a comprehensive, practical definition of the term ‘critical human water needs’ which identifies categories of users of such water and allowable purposes for the use of such water;
- (b) a definition of the core human consumption requirements which would satisfy paragraph 86A(2)(a);
- (c) a definition of the non-human consumption requirements which would satisfy paragraph 86A(2)(b); and
- (d) clear, transparent and equitable criteria the Murray-Darling Basin Authority will apply:
 - (i) in determining whether the definition in paragraph 86A(2)(a) is met,
 - (ii) in determining whether the definition in paragraph 86A(2)(b) is met,
 - (iii) in determining the volume of conveyance water required to deliver water to meet critical human water needs, and
 - (iv) to monitor the use of such water to ensure it is used for the allowable purposes referred to in paragraph (a) of this resolution. (*general business notice of motion no. 315*)

The Special Minister of State (Senator Faulkner): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the *Auditor-General Act 1997*, and for related purposes. ***Auditor-General Amendment Bill 2008***.

The Minister for Superannuation and Corporate Law (Senator Sherry): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the law relating to corporations, and for related purposes. ***Corporations Amendment (No. 1) Bill 2008.***

The Minister for Immigration and Citizenship (Senator Evans): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the law relating to migration, and for related purposes. ***Migration Legislation Amendment Bill (No. 2) 2008.***

The Parliamentary Secretary to the Minister for Health and Ageing (Senator McLucas): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the *Therapeutic Goods Act 1989*, and for related purposes. ***Therapeutic Goods Amendment (Medical Devices and Other Measures) Bill 2008.***

Senator Hanson-Young: To move on the next day of sitting—That the Senate—

- (a) notes the valuable work of World Vision's youth movement, Vision Generation, in actively educating and empowering young Australian students to take action in the fight against global poverty and injustice;
- (b) recognises:
 - (i) that more than 284 000 children are involved in the worst forms of child labour on cocoa farms in West Africa, and
 - (ii) Vision Generation's current project 'Trek Against Trafficking' which aims to encourage the Australian chocolate industry to take the lead in eradicating exploited labour from cocoa supply chains; and
- (c) calls on the Government to:
 - (i) encourage the Australian chocolate industry to commit to a plan of action that will stop child labour and exploitation in cocoa production, and
 - (ii) look into the feasibility of ensuring fair trade chocolate is available in Parliament House. (*general business notice of motion no. 316*)

Senator Birmingham: To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the *Water Act 2007* to save the Goulburn and Murray Rivers, and for related purposes. ***Water Amendment (Saving the Goulburn and Murray Rivers) Bill 2008.*** (*general business notice of motion no. 317*)

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

- (a) notes that:
 - (i) Wednesday, 3 December 2008 is International Day of People with Disability,
 - (ii) the theme for 2008 is the Convention on the Rights of Persons with Disabilities,
 - (iii) Australia became a signatory to the Convention on the Rights of Persons with Disabilities in July 2008,
 - (iv) the Government is currently developing a national disability strategy, and
 - (v) the recent Council of Australian Governments' funding round provided a welcome increase in the rate of indexation and the overall level of funding to the states and territories for the provision of disability services and support; and

- (b) calls on the Government to ensure that the national disability strategy:
 - (i) contains a strong emphasis on human rights, and
 - (ii) provides a suitable platform through which to address the current lack of consistency between the states and territories in the provision of services, supported accommodation and aids to people with disability.

(general business notice of motion no. 318)

Senator Siewert: To move on the next day of sitting—That the following matters be referred to the Environment, Communications and the Arts Committee for inquiry and report by 25 June 2009:

- (a) an assessment of the environmental, economic and community impacts of existing and proposed forestry and mining operations on the Tiwi Islands including compliance with relevant environmental approvals and conditions;
- (b) a review of governance arrangements relating to existing forestry and mining operations on the Tiwi Islands, including the examination of consent and approval processes to date;
- (c) in respect to forestry operations, an examination of the adequacy of contractual, commercial and legal arrangements between project proponents and operators and the Tiwi Land Council (including examination and reporting on ‘Commercial-in-Confidence’ documentation and land valuations, lease arrangements and royalty payments);
- (d) an examination of the economic opportunity costs associated with existing developments including forestry operations;
- (e) an examination of the prospects for alternative economic development opportunities and impediments for the Tiwi Islands including sale and promotion of cultural products, community development activities, land and sea management, and opportunities for involvement in future carbon trading and emissions offsets schemes; and
- (f) any related matters.

The Minister for Human Services (Senator Ludwig): To move on the next day of sitting—That the following operate as temporary orders until the conclusion of the 2009 sittings:

(1) Adjournment debate on Tuesday

On the question for the adjournment of the Senate on Tuesday, a senator who has spoken once subject to the time limit of 10 minutes may speak again for not more than 10 minutes if no other senator who has not already spoken once wishes to speak, provided that a senator may leave speak for not more than 20 minutes on one occasion.

(2) Divisions on Thursday

If a division is called for on Thursday after 4.30 pm, the matter before the Senate shall be adjourned until the next day of sitting at a time fixed by the Senate.

(3) Substitute members of committees

If a member of a committee appointed under standing order 25 is unable to attend a meeting of the committee, that member may in writing to the chair of the committee appoint a participating member to act as a substitute member of the committee at that meeting. If the member is incapacitated or unavailable, a letter to the chair of a committee appointing a participating member to act as a substitute member of the committee may be signed on behalf of the member by the leader of the party or group on whose nomination the member was appointed to the committee.

The Minister for Human Services (Senator Ludwig): To move on 4 December 2008—That, on Thursday, 4 December 2008:

- (a) the hours of meeting shall be 9.30 am to 6.30 pm and 7.30 pm to adjournment;
- (b) consideration of general business and consideration of committee reports, government responses and Auditor-General's reports under standing order 62(1) and (2) shall not be proceeded with;
- (c) the routine of business from 12.45 pm till not later than 2 pm, and from not later than 3.45 pm shall be government business only;
- (d) divisions may take place after 4.30 pm; and
- (e) if the Senate is sitting at 11 pm, the sitting of the Senate shall be suspended till 9 am on Friday, 5 December 2008.

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

- (a) notes and commends the honesty of the Deputy Prime Minister (Ms Gillard) for saying on ABC TV *Breakfast* on 7 November 2008, 'When we put the Budget together in May, obviously we weren't predicting, and no one was predicting, the global financial crisis which then emerged';
- (b) notes the contradictory statement made by the Minister for Broadband, Communications and the Digital Economy (Senator Conroy) when during question time on 27 November 2008 he said, 'In the May budget the government was acutely aware of the risks posed by the global financial crisis';
- (c) notes, with concern, the Rudd Labor Government's lack of coherent economic strategy in the face of the global financial crisis; and
- (d) calls on the Government to level with the people of Australia and concentrate on managing the Australian economy instead of managing the 24-hour news cycle. (*general business notice of motion no. 319*)

The Minister for Human Services (Senator Ludwig): To move on the next day of sitting—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:

Nation-building Funds Bill 2008

Nation-building Funds (Consequential Amendments) Bill 2008

COAG Reform Fund Bill 2008.

Document: Senator Ludwig tabled the following document:

Consideration of legislation—Statement of reasons for introduction and passage of the bills in the 2008 spring sittings.

Senator Hanson-Young: To move on the next day of sitting—That the Senate—

- (a) notes:
 - (i) the recent announcement by receiver McGrathNicol that 386 of the ABC Learning's 1 042 centres are 'subject to further operational review', with no guarantee that they would remain open in 2009, and
 - (ii) ABC Learning accounts for more than 100 000 long day-care places;
- (b) recognises that there are less than 30 days remaining until the Government's \$22 million 'prop-up' of ABC Learning expires; and

- (c) calls on the Minister for Education (Ms Gillard) to immediately table the Government's contingency plan for beyond 31 December 2008. (*general business notice of motion no. 320*)

The Leader of the Australian Greens (Senator Bob Brown): To move on the next day of sitting—That the Senate notes that Australia's native forests and woodlands are a vital carbon bank and biodiversity habitat which should be conserved. (*general business notice of motion no. 321*)

Notice of motion withdrawn: Senator Milne withdrew general business notice of motion no. 313 standing in her name for today, proposing an order for the production of documents relating to new feed-in-tariff schemes.

8 LEAVE OF ABSENCE

Senator McEwen, by leave, moved—That leave of absence be granted to Senators Bishop and Farrell for today, for family reasons.

Question put and passed.

Senator Parry, by leave, moved—That leave of absence be granted to Senator Joyce for today, for personal reasons.

Question put and passed.

9 ENVIRONMENT—SOUTH AUSTRALIA—TREES FOR LIFE

Senator Hanson-Young, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 312—That the Senate—

- (a) notes:
 - (i) the valuable work of Trees For Life in South Australia, including the management of more than 4 000 hectares of threatened bushland and the training of 2 500 community bush carers, and
 - (ii) that Trees For Life's 10 000 members have volunteered approximately 100 000 hours to protect and enhance the South Australian environment; and
- (b) calls on the Government to reinstate funding to Trees For Life to provide for the protection of sites of conservation significance in South Australia.

Statement by leave: The Minister for Human Services (Senator Ludwig), by leave, made a statement relating to the motion.

Question put and passed.

10 FOREIGN AFFAIRS—ISRAEL—GAZA STRIP

The Leader of the Australian Greens (Senator Bob Brown), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 307—That the Senate—

- (a) notes that the Foreign Press Association has grave concerns about the actions of the Israeli Government that have made access to the Gaza Strip inaccessible to foreign media; and
- (b) calls on the Australian Government to make representations to the Israeli Government to allow proper access for the media into Gaza.

Question put and negated.

Statement by leave: Senator Bob Brown, by leave, made a statement relating to the motion.

11 FUEL AND ENERGY—SELECT COMMITTEE—LEAVE TO MEET DURING SITTING

The Chair of the Select Committee on Fuel and Energy (Senator Cormann), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 309—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 2 December 2008, from 4 pm.

Question put and passed.

12 CULTURE AND THE ARTS—AUSTRALIAN NATIONAL ACADEMY OF MUSIC

Senator Milne, also on behalf of Senator Ronaldson, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 314—That the Senate—

- (a) notes:
 - (i) the extraordinary expressions of support from around the world for the excellent standard of tuition offered by the Australian National Academy of Music,
 - (ii) that the Government, having said that the academy must be closed down, has now appropriated its name and reputation for its replacement institution, undermining any credibility in the Government's claims that the new institution would be a 'better alternative' than the existing academy,
 - (iii) that, as of 1 December 2008, there are still no appropriate transitional arrangements in place for the students from the academy whose plans for 2009 have been destroyed, and
 - (iv) the extreme distress of some of our most outstanding young musicians, who have no idea what they will do in 2009 or where they will be sent, having already missed the audition deadlines for the great majority of other music schools; and
- (b) calls on the Government to:
 - (i) acknowledge its mistake, and
 - (ii) immediately impose a 12-month moratorium on the closure of the Australian National Academy of Music with a view to continuing the excellent standards of the academy while undertaking a proper consultation process in 2009 of ways to implement the findings of the two independent reviews which both recommended expansion and increased funding for the academy.

Statement by leave: The Minister for Human Services (Senator Ludwig), by leave, made a statement relating to the motion.

Question put and passed.

13 ENVIRONMENT, COMMUNICATIONS AND THE ARTS—STANDING COMMITTEE—EXTENSION OF TIME TO REPORT

The Chair of the Environment, Communications and the Arts Committee (Senator McEwen), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 308—That the time for the presentation of the report of the Environment, Communications and the Arts Committee on the Commonwealth Radioactive Waste Management (Repeal and Consequential Amendment) Bill 2008 be extended to 18 December 2008.

Question put and passed.

14 DEATH OF MR JOERN UTZON

Senator McEwen, at the request of Senator Hutchins and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 311—That the Senate—

- (a) notes:
 - (i) with sadness, the passing of the architect of the Sydney Opera House, Mr Joern Utzon, on 29 November 2008, and
 - (ii) the immense contribution that he made to Australia's architecture and international image;
- (b) commends the reconciliation between Mr Utzon and the New South Wales Government following their 1966 fallout; and
- (c) offers its condolences to his family, including his wife, children and grandchildren.

Question put and passed.

15 FINANCE AND PUBLIC ADMINISTRATION—STANDING COMMITTEE—EXTENSION OF TIME TO REPORT

Senator Parry, at the request of Senator Humphries and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 310—That the time for the presentation of the report of the Finance and Public Administration Committee on residential and community aged care in Australia be extended to 29 April 2009.

Question put and passed.

16 URGENCY MOTION WITHDRAWN

The Deputy President (Senator Ferguson) informed the Senate that Senator Milne had withdrawn the urgency motion which she had indicated she intended to move today relating to the Australian National Academy of Music.

17 SOCIAL ISSUES—DRAFT DISABILITY (ACCESS TO PREMISES – BUILDINGS) STANDARDS—MINISTERIAL STATEMENT—DOCUMENTS

The Minister for Human Services (Senator Ludwig) tabled the following documents:

Social issues—Tabling and referral of Draft Disability (Access to Premises – Buildings) Standards—

Ministerial statement by the Attorney-General (Mr McClelland), dated 2 December 2008.

A model process to administer building access for people with a disability—The protocol, 2008 [Draft].

Disability (Access to Premises – Buildings) Standards 2009 [Draft].

Disability (Access to Premises – Buildings) Standards Guidelines 2009 [Draft].

Disability Standards for Accessible Public Transport Amendment 2009 [Draft].

Regulation impact statement—Proposal to formulate Disability (Access to Premises – Buildings) Standards and amend the access provisions of the Building Code of Australia (RIS2008-02), October 2008.

Summary of main Australian standards referenced in the Access Code.

Statement by leave: Senator Brandis, by leave, made a statement relating to the documents.

18 AUDITOR-GENERAL—AUDIT REPORT NO. 10 OF 2008-09—DOCUMENT

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

Auditor-General—Audit report no. 10 of 2008-09—Performance audit—Administration of the Textile, Clothing and Footwear Post-2005 (SIP) Scheme—Department of Innovation, Industry, Science and Research.

19 COMMUNITY AFFAIRS REFERENCES COMMITTEE—ADDITIONAL INFORMATION—CHILDREN IN INSTITUTIONAL CARE

Senator McEwen, at the request of the Chair of the Community Affairs Committee (Senator Moore), tabled the following document:

Community Affairs References Committee—Report—Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children—Additional information.

20 NATIONAL BROADBAND NETWORK—SELECT COMMITTEE—INTERIM REPORT

Senator Parry, at the request of the Chair of the Select Committee on the National Broadband Network (Senator Fisher), tabled the following report:

National Broadband Network—Select Committee—Interim report, dated December 2008.

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

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

Debate ensued.

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

21 PUBLIC WORKS—JOINT STATUTORY COMMITTEE—9TH REPORT OF 2008

Senator Williams, on behalf of the Parliamentary Standing Committee on Public Works, tabled the following report:

Public Works—Joint Statutory Committee—9th report of 2008—Referrals tabled between June and September 2008, dated November 2008.

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

Question put and passed.

22 FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE—REPORT—REVIEW OF THE DEFENCE ANNUAL REPORT 2006-07

Senator McEwen, on behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade, tabled the following report:

Foreign Affairs, Defence and Trade—Joint Standing Committee—Review of the Defence annual report 2006-07—Report, dated December 2008.

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

Question put and passed.

23 CORPORATIONS AND FINANCIAL SERVICES—JOINT STATUTORY COMMITTEE—REPORT—FRANCHISING CODE OF CONDUCT

Senator Williams, on behalf of the Parliamentary Joint Committee on Corporations and Financial Services, tabled the following report:

Corporations and Financial Services—Joint Statutory Committee—Opportunity not opportunism: Improving conduct in Australian franchising—Report, dated December 2008, Hansard record of proceedings, documents presented to the committee, additional information and submissions.

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

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

Debate ensued.

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

24 MIGRATION—JOINT STANDING COMMITTEE—REPORT—IMMIGRATION DETENTION

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

Migration—Joint Standing Committee—Immigration detention in Australia: A new beginning—Criteria for release from detention—First report of the inquiry into immigration detention in Australia—Report, dated December 2008, Hansard record of proceedings, documents presented to the committee, additional information and submissions.

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

Debate ensued.

Question put and passed.

25 DOCUMENTS

The following documents were tabled by the Clerk:

Lands Acquisition Act—Statement describing property acquired by agreement for specified public purposes under section 125.

Sydney Airport Curfew Act—Dispensation Report 13/08.

26 WATER AMENDMENT BILL 2008

A message from the House of Representatives was reported as follows:

Message no. 220, dated 1 December 2008—Water Amendment Bill 2008, agreeing to amendments nos 1, 9 and 12 made by the Senate, disagreeing to amendments nos 2, 3, 4, 5, 6, 7, 8, 10, 11, 13, 14 and 15 and agreeing to amendment no. 16 with an amendment.

On the motion of the Minister for Immigration and Citizenship (Senator Evans) consideration of the message in committee of the whole was made an order of the day for a later hour.

27 ECONOMICS—STANDING COMMITTEE—REPORT—JOINT MARKETING ARRANGEMENTS ON THE NORTH WEST SHELF PROJECT

Pursuant to order, Senator McEwen, at the request of the Chair of the Economics Committee (Senator Hurley), tabled the following report and documents:

Economics—Standing Committee—Joint marketing arrangements on the North West Shelf project—Report, dated December 2008, Hansard record of proceedings, document presented to the committee and submissions.

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

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

Debate ensued.

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

28 ECONOMICS—STANDING COMMITTEE—REPORT—NATION-BUILDING FUNDS BILL 2008 AND RELATED BILLS

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

Economics—Standing Committee—Nation-building Funds Bill 2008 [Provisions], Nation-building Funds (Consequential Amendments) Bill 2008 [Provisions] and COAG Reform Fund Bill 2008 [Provisions]—Report, dated December 2008, Hansard record of proceedings, additional information and submissions.

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

29 AGRICULTURAL AND RELATED INDUSTRIES—SELECT COMMITTEE—INTERIM REPORT—PRICING AND SUPPLY ARRANGEMENTS IN THE AUSTRALIAN AND GLOBAL FERTILISER MARKET

Pursuant to order, the Chair of the Select Committee on Agricultural and Related Industries (Senator Heffernan) tabled the following report:

Agricultural and Related Industries—Select Committee—Pricing and supply arrangements in the Australian and global fertiliser market—Interim report, dated December 2008.

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

Extension of time to report: Senator Heffernan, by leave, moved—That the time for the presentation of the final report of the Select Committee on Agricultural and Related Industries on pricing and supply arrangements in the Australian and global fertiliser market be extended to 30 June 2009.

Question put and passed.

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

Declaration of interest: Senator Heffernan declared an interest in relation to the matter under discussion.

Question put and passed.

30 COMMUNITY AFFAIRS—STANDING COMMITTEE—REPORT—PROTECTING CHILDREN FROM JUNK FOOD ADVERTISING (BROADCASTING AMENDMENT) BILL 2008

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

Community Affairs—Standing Committee—Protecting Children from Junk Food Advertising (Broadcasting Amendment) Bill 2008—Report, dated December 2008, Hansard record of proceedings, documents presented to the committee, additional information and submissions.

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

**31 EDUCATION LEGISLATION AMENDMENT BILL 2008
SCHOOLS ASSISTANCE BILL 2008**

Order of the day read for the adjourned debate on the motion of the Minister for Superannuation and Corporate Law (Senator Sherry)—That these bills be now read a second time—and on the amendment moved by Senator Milne in respect of the Schools Assistance Bill 2008 (see entry no. 4).

Debate resumed.

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 6

Senators—

Brown, Bob
Fielding

Hanson-Young
Ludlam

Milne

Siewert (Teller)

NOES, 32

Senators—

Arbib
Bilyk
Boyce
Brown, Carol
Cameron
Carr
Cash
Collins

Crossin
Feeney
Ferguson
Furner
Humphries
Hurley
Hutchins
Johnston

Kroger
Ludwig
Lundy
Marshall
Mason
McEwen
McLucas
Moore

Parry
Payne
Pratt
Ronaldson
Troeth
Trood
Williams (Teller)
Wortley

Question negatived.

Main question put and passed.

Bills read a second time.

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

—
In the committee

EDUCATION LEGISLATION AMENDMENT BILL 2008—

Bill, taken as a whole by leave, agreed to.

—

SCHOOLS ASSISTANCE BILL 2008—

Bill, taken as a whole by leave, debated.

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

Bill further debated.

Senator Milne moved the following amendment:

Clause 1, page 1 (line 8), omit “*Schools Assistance Act*”, substitute “*Non-Government Schools Assistance Act*”.

Debate ensued.

Question—That the amendment be agreed to—put and negatived. All Australian Greens senators, by leave, recorded their votes for the ayes.

Senator Milne moved the following amendments together by leave:

Clause 3, page 2 (line 9), omit “2012”, substitute “2010”.

Clause 4, page 8 (line 11) (definition of *program year*), omit “, 2010, 2011 or 2012”, substitute “or 2010”.

Clause 71, page 62 (table items 3 and 4), omit the table items.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 5

Senators—

Brown, Bob
Hanson-Young

Ludlam

Milne

Siewert (Teller)

NOES, 42

Senators—

Arbib	Crossin	Hutchins	Pratt
Barnett	Eggleston	Kroger	Ronaldson
Bilyk	Evans	Lundy	Scullion
Birmingham	Feeaney	Marshall	Stephens
Boswell	Ferguson	Mason	Sterle
Boyce	Fielding	McEwen	Trood
Brown, Carol	Fierravanti-Wells	McGauran	Williams
Bushby	Fisher	McLucas	Wortley
Cameron	Furner	Moore	Xenophon
Carr	Humphries	Nash	
Cash	Hurley	Parry (Teller)	

Question negatived.

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

Clause 15, page 19 (line 20), before “The Minister may”, insert “(1)”.

Clause 15, page 20 (lines 4 and 5), omit “if a law of the Commonwealth or a State requires the body or authority to be audited—”, substitute “a law of the Commonwealth or a State requires the body or authority to be audited, and the Minister determines that this paragraph applies because”.

Clause 15, page 20 (after line 8), at the end of the clause, add:

(2) A determination made under paragraph (1)(c) is not a legislative instrument, but is a disallowable instrument for the purposes of section 46B of the *Acts Interpretation Act 1901*.

Question—That the bill, as amended, be agreed to—divided in respect of clause 22.

Clause 22 debated.

Question—That clause 22 stand as printed—put.

The committee divided—

AYES, 32

Senators—

Arbib	Crossin	Hutchins	Moore
Bilyk	Evans	Ludlam	Pratt
Brown, Bob	Faulkner	Ludwig	Siewert
Brown, Carol	Feehey	Lundy	Stephens
Cameron	Forsyth	Marshall	Sterle
Carr	Furner	McEwen (Teller)	Wong
Collins	Hanson-Young	McLucas	Wortley
Conroy	Hurley	Milne	Xenophon

NOES, 32

Senators—

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

The ayes and noes were equal and so the clause was negative.

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

Clause 24, page 26 (line 16), after subclause (1), insert:

(1A) A funding agreement must not require a report mentioned in subsection (1) to include any information that would identify a particular donor as a funding source of any non-government school or non-government body.

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

Clause 66, page 57 (line 6), omit “the amount worked out under subsection 67(1)”, substitute “the amounts worked out under subsections 67(1) and 67(1A)”.

Clause 67, page 57 (after line 23), after subclause 67(1), insert:

- (1A) The regulations may specify, by reference to an amount or a formula for calculating an amount:
 - (a) an additional amount of assistance for each Indigenous student from a remote area receiving primary education at a non-remote campus;
 - (b) an additional amount of assistance for each Indigenous student from a very remote area receiving primary education at a non-remote campus.

Clause 68, page 59 (line 3), omit “the amount worked out under subsection 69(1)”, substitute “the amounts worked out under subsections 69(1) and 69(1A)”.

Clause 69, page 59 (after line 20), after subclause 69(1), insert:

- (1A) The regulations may specify, by reference to an amount or a formula for calculating an amount:
 - (a) an additional amount of assistance for each Indigenous student from a remote area receiving secondary education at a non-remote campus;
 - (b) an additional amount of assistance for each Indigenous student from a very remote area receiving secondary education at a non-remote campus.

Bill, as amended, agreed to.

The Education Legislation Amendment Bill 2008 to be reported without amendments and the Schools Assistance Bill 2008 to be reported with amendments.

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

On the motion of Senator Carr the report from the committee was adopted.

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

Debate ensued.

Question put and passed.

Bills read a third time.

32 WATER AMENDMENT BILL 2008

Order of the day read for the consideration of message no. 220 from the House of Representatives in committee of the whole (*see entry no. 26*).

In the committee

SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE TO WHICH
THE HOUSE OF REPRESENTATIVES HAS DISAGREED

(2) **Xenophon (1) [Sheet 5649]**

Page 2 (after line 11), after clause 3, insert:

4 Review of operation of *Water Act 2007* as amended by this Act

- (1) The Productivity Commission must, by 30 June 2010, and each 30 June thereafter, prepare a report on the operation of the *Water Act 2007* as amended by this Act and provide it to the Minister.
- (2) In preparing a report required under subsection (1), the Productivity Commission must consider but is not limited to the following matters:
 - (a) the environmental impact on inflows;
 - (b) the economic sustainability of Basin water resources;
 - (c) the environmental sustainability of Basin water resources;
 - (d) the relative efficiency of water trading rules;
 - (e) the effectiveness of the Authority in carrying out its functions;
 - (f) the adequacy of the powers of the Authority;
 - (g) alternative models buying back tradeable water rights;
 - (h) the effectiveness of infrastructure projects and other water-saving measures funded (in whole or in part) by the Commonwealth;
 - (i) any other matter relevant to the objects of the *Water Act 2007*.
- (3) The Minister must ensure that the Productivity Commission has sufficient resources to prepare a report required under subsection (1).
- (4) The Minister must cause a copy of a report prepared under subsection (1) to be tabled in each House of the Parliament within 5 sitting days of that House after receiving the report.

(3) **Opp (1) [Sheet 5657]**

Schedule 1, item 1, page 11 (after line 2), after subsection 18H(1), insert:

- (1A) Until the States of New South Wales, Victoria and South Australia have each achieved the objective of increasing the flow of water in the River Murray as required by the *Living Murray Initiative*, these States' water savings programs are to be independently audited and, as soon as the saved water becomes available, the water must be allocated to the *Living Murray Initiative* and must not be used for any other purpose.

(4) **Opp (1) [Sheet 5650]/AG (1) [Sheet 5659]**

Schedule 1, item 2, page 11 (lines 28 to 35), omit subsection 86A(2), substitute:

- (2) **Critical human water needs** are the needs for a minimum amount of water, that can only reasonably be provided from Basin water resources, required to meet human drinking, sanitation and health requirements in urban and rural areas.

(5) **Xenophon (3) [Sheet 5649]**

Schedule 2, page 293 (after line 7), after item 45, insert:

45A Before paragraph 20(a)

Insert:

- (aa) the Authority to take a whole of Basin approach in managing Basin water resources, taking into account environmental, social, economic and hydrological considerations; and

(6) **Opp and AG (1) [Sheet 5622 Revised 3] (As amended by Opp (2) on sheet 5657)**

Schedule 2, page 294 (after line 2), after item 50, insert:

50A At the end of section 21

Add:

Basin Plan not to permit taking water for additional uses outside Basin

- (8) The Basin Plan must ensure that no water is taken from Basin water resources for use outside the Murray-Darling Basin unless, prior to 3 July 2008, water would have been taken from Basin water resources for that use.

Note: 3 July 2008 is the date the Commonwealth, the Basin States and the Australian Capital Territory entered into an intergovernmental agreement on Murray-Darling Basin Reform.

- (9) The Basin Plan must not permit:

- (a) the construction or operation of water infrastructure; or
- (b) work in the nature of a river flow control work;

if the primary purpose of that construction, operation or work is to enable water to be taken contrary to subsection (8).

Note 1: *water infrastructure* is defined in section 7(3).

Note 2: *river flow control work* is defined in section 8 but has a meaning affected by subsection (10).

- (10) For the purposes of this section, *river flow control work* has the meaning it would have if paragraph 8(2)(b) were repealed.

(10A) To avoid doubt:

- (a) the delivery of water for the initiatives of the Water for Rivers project was an existing use of water prior to 3 July 2008; and
- (b) the taking of water for the initiatives of the Water for Rivers project is not contrary to subsection 21(8); and
- (c) the construction and operation of water infrastructure for the initiatives of the Water for Rivers project is not contrary to subsection 257(1); and
- (d) all commenced and provisionally agreed Snowy River environmental flows are preserved and excluded from the provisions of subsections 21(8), 21(9) and 257(1).

(7) AG (2) [Sheet 5659]

Schedule 2, page 294 (after line 2), after item 50, insert:

50B At the end of section 21

Add:

Basin Plan to provide for reduction in use in additional population centres outside Basin

(11) The Basin Plan must provide for a reduction over time in the amount of water taken from Basin water resources to meet the needs of population centres outside the Murray-Darling Basin.

(8) Xenophon (2) [Sheet 5649]

Schedule 2, page 306 (after line 1), after item 97, insert:

97D Before paragraph 172(1)(a)

Insert:

(aa) to pursue and, where appropriate, make recommendations to other agencies to pursue the objects of the Act as set out in section 3;

(10) AG (22) [Sheet 5629]

Schedule 2, page 308 (after line 5), after item 106, insert:

106B Before paragraph 175(2)(a)

Insert:

(aa) those aspects of the Basin Plan excluded from Ministerial direction under subsection 44(5);

(11) AG (23) [Sheet 5629]

Schedule 2, page 308 (after line 5), after item 106, insert:

106C Subsection 178(6)

Omit “must”, substitute “may”.

(13) Opp and AG (2) [Sheet 5622 Revised 3]

Schedule 2, page 318 (after line 32), after item 162, insert:

162A At the end of Part 12

Add:

257 Prohibited water infrastructure operations

(1) An infrastructure operator must not:

(a) construct or operate water infrastructure; or
(b) undertake work in the nature of a river flow control work;

if the primary purpose of that construction, operation or work is to enable water to be taken from Basin water resources for use outside the Murray-Darling Basin.

Note 1: *infrastructure operator* and *water infrastructure* are defined in section 7.

Note 2: *river flow control work* is defined in section 8 but has a meaning affected by subsection (3).

(2) Subsection (1) does not apply if, prior to 3 July 2008, water would have been taken from Basin water resources for that use.

(3) For the purposes of this section, *river flow control work* has the meaning it would have if paragraph 8(2)(b) were repealed.

(14) Opp (5) [Sheet 5640] (As amended by AG)

Schedule 2, page 318 (after line 32), after item 162, insert:

162E At the end of Part 12

Add:

261 Water market transparency

The Minister must, by legislative instrument, determine a scheme to ensure transparent operation of the water market in respect of the purchase of water entitlements by the Commonwealth.

(15) Opp (1) [Sheet 5664 Revised]

Schedule 2, page 318 (after line 32), after item 162, insert:

162G At the end of Part 12

Add:

263 Lower Lakes and Coorong emergency assistance

- (1) As soon as practicable after the commencement of this section, the Government must determine an assistance package of a minimum \$50 million for Lower Lakes and Coorong communities to help farmers, small businesses, tourism and community sectors to respond to the crisis caused by the lack of water.
- (2) Payments of assistance in accordance with a scheme determined under subsection (1) are to be made from money appropriated by the Parliament for that purpose.

SCHEDULE OF THE AMENDMENT MADE BY THE HOUSE OF REPRESENTATIVES
TO AMENDMENT NO. 16 MADE BY THE SENATE

- (1) Senate amendment (16) (heading to proposed new Schedule 4 to the *Water Act 2007*):
Omit “**the recognition of Indigenous water rights**”, substitute “**Indigenous representation on the Basin Community Committee**”.

The Minister for Climate Change and Water (Senator Wong) moved—That the committee does not insist on its amendments to which the House of Representatives has disagreed and agrees to the amendment made by the House to its amendment no. 16.

Debate ensued.

Question put.

The committee divided—

AYES, 40

Senators—

Arrib	Crossin	Hurley	Parry
Barnett	Eggleston	Hutchins	Payne
Bilyk	Evans	Kroger	Pratt
Boyce	Faulkner	Ludwig	Scullion
Brandis	Feehey	Lundy	Stephens
Brown, Carol	Ferguson	Marshall	Sterle
Bushby	Fierravanti-Wells	McEwen (Teller)	Troeth
Cameron	Fisher	McLucas	Trood
Cash	Furner	Minchin	Wong
Collins	Humphries	Moore	Wortley

NOES, 7

Senators—

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

Question agreed to.

Resolution to be reported.

The Acting Deputy President (Senator Crossin) resumed the chair and the Chair of Committees (Senator Ferguson) reported that the committee had considered message no. 220 from the House of Representatives relating to the Water Amendment Bill 2008 and had resolved not to insist on the amendments made by the Senate to which the House had disagreed and had agreed to the amendment made by the House to Senate amendment no. 16.

Senator Wong moved—That the report from the committee be adopted.

The Leader of the Opposition in the Senate (Senator Minchin) moved the following amendment:

At the end of the motion, add “but, due to the Government’s failure to support in the House the amendments made by the Senate, the Senate calls on the Government to immediately:

- (a) prohibit construction of the North-South Pipeline and extraction of water from the Goulburn and Murray rivers for use in that pipeline;
- (b) ensure that water saved through the Living Murray Initiative is immediately guaranteed and then released for environmental flows in the Goulburn and Murray rivers and to replenish the Lower Lakes; and
- (c) deliver \$50 million in emergency relief funding to the Lower Lakes and Coorong communities”.

Senator Siewert moved the following amendment to Senator Minchin’s proposed amendment:

After paragraph (a), insert:

- (aa) encourage and support other populations outside the basin who currently rely on the extraction of water from the basin to broaden their water security by expanding their use of other water sources such as stormwater capture and recycling;

Question—That Senator Siewert's amendment to Senator Minchin's proposed amendment be agreed to—put and passed.

Senator Xenophon moved the following amendment to Senator Minchin's proposed amendment:

After paragraph (c), add:

- (d) direct the Commonwealth Scientific and Industrial Research Organisation (CSIRO) to undertake a comprehensive hydrological assessment of the proposed North-South pipeline project, and the proposed extraction of water for the pipeline, including an audit of the water savings to be achieved by the Victorian Food Bowl Modernisation Project and its impact on the water resources and environment of the Murray-Darling Basin; and
- (e) ensure that the CSIRO is adequately funded to undertake that assessment.

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

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

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

33 ADJOURNMENT

The Minister for Climate Change and Water (Senator Wong) moved—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 11.37 pm till Wednesday, 3 December 2008 at 9.30 am.

34 ATTENDANCE

Present, all senators except Senators Adams*, Bishop*, Farrell*, Joyce*, O'Brien* and Polley* (* on leave).

HARRY EVANS
Clerk of the Senate