

2008-10

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 118

WEDNESDAY, 17 MARCH 2010

Contents

1	Meeting of Senate.....	3345
2	Committee Membership—Ballot.....	3345
3	Trade Practices Amendment (Australian Consumer Law) Bill 2009	3345
4	Social Security and Other Legislation Amendment (Income Support for Students) Bill 2009 [No. 2]	3349
5	Communications—National Broadband Network Implementation Study— Order for Production of Documents—Statement by Leave.....	3355
6	Social Security and Family Assistance Legislation Amendment (Weekly Payments) Bill 2010	3355
7	Matters of Public Interest	3355
8	Questions	3355
9	Motion to Take Note of Answer	3355
10	Notices.....	3356
11	Leave of Absence	3360
12	Postponements	3361
13	Economics—Home Insulation Program—Order for Production of Documents.....	3361
14	Reform of the Australian Federation—Select Committee—Appointment.....	3362
15	Law and Justice—Same-Sex Marriage.....	3363
16	Administration—South Australia—State Elections.....	3364
17	Law and Justice—Whaling Industry	3364
18	Law and Justice—Captain Bethune—Provision of Support.....	3364
19	Communications—National Broadband Network Implementation Study— Order for Production of Document	3365
20	Foreign Affairs—Burma—Human Rights.....	3365
21	Law and Justice—National Human Rights Consultation Report—Order for Production of Document.....	3366
22	Committee Membership.....	3367
23	Discussion of Matter of Public Importance—Education—Building the Education Revolution Program	3367

24	Finance and Public Administration Legislation Committee—Document— Governance of Australian Government Superannuation Schemes Bill 2010 and Related Bills.....	3367
25	Australian Crime Commission—Joint Statutory Committee—Report— Australian Crime Commission—Report for 2008-09.....	3367
26	Scrutiny of Bills—Standing Committee—4th Report and Alert Digest No. 4 of 2010.....	3368
27	Foreign Affairs—Zimbabwe—Ministerial Statement—Document	3368
28	Law and Justice—Whistleblower Protection—Ministerial Statement— Document.....	3368
29	Documents.....	3368
30	Indexed Lists of Departmental and Agency Files—Order for Production of Documents—Documents.....	3369
31	Committee Membership.....	3369
32	Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009.....	3370
33	Economics Legislation Committee—Report—Safe Climate (Energy Efficient Non-Residential Buildings Scheme) Bill 2009	3370
34	Social Security and Family Assistance Legislation Amendment (Weekly Payments) Bill 2010	3370
35	Electoral and Referendum Amendment (Close of Rolls and Other Measures) Bill 2010.....	3372
36	Government Documents—Orders of the Day—Consideration.....	3372
37	Adjournment	3372
38	Attendance.....	3372

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 COMMITTEE MEMBERSHIP—BALLOT

The Special Minister of State (Senator Ludwig), by leave, moved—That the ballot to appoint a senator to the position to be nominated by a minority group or independent senators to the Joint Select Committee on Cyber-Safety which took place on 16 March 2010 (*see entry no. 31, 16 March 2010*) be held again at the completion of discovery of formal business today.

Debate ensued.

Question put and passed.

The President informed the Senate that the ballot would take place at the completion of discovery of formal business today.

3 TRADE PRACTICES AMENDMENT (AUSTRALIAN CONSUMER LAW) BILL 2009

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

In the committee

Consideration resumed of the bill, as amended—*and of the amendments moved by the Minister for Immigration and Citizenship (Senator Evans)*:

Schedule 1, item 1, page 5 (line 29), omit “term.”, substitute “term; and”.

Schedule 1, item 1, page 5 (after line 29), at the end of subsection 3(1), add:

(c) it would cause detriment (whether financial or otherwise) to a party if it were to be applied or relied on.

Schedule 1, item 1, page 6 (lines 4 to 7), omit paragraph 3(2)(a).

Schedule 3, item 7, page 52 (line 28), omit “term.”, substitute “term; and”.

Schedule 3, item 7, page 52 (after line 28), at the end of subsection 12BG(1), add:

(c) it would cause detriment (whether financial or otherwise) to a party if it were to be applied or relied on.

Schedule 3, item 7, page 53 (lines 1 to 4), omit paragraph 12BG(2)(a).

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

On the motion of the Minister for Innovation, Industry, Science and Research (Senator Carr) the following amendments, taken together by leave, were agreed to:

Clause 2, page 2 (table item 2), omit the table item, substitute:

2. Schedule 1 If this Act receives the Royal Assent before 1 January 2010—1 July 2010.
 If this Act does not receive the Royal Assent before 1 January 2010—a single day to be fixed by Proclamation.
 A Proclamation must not specify a day that occurs before 1 July 2010.
 However, if this Act does not receive the Royal Assent before 1 January 2010 and any of the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.

Schedule 1, item 1, page 6 (line 20), before “Without”, insert “(1)”.

Schedule 1, item 1, page 7 (after line 21), at the end of section 4, add:

- (2) Before the Governor-General makes a regulation for the purposes of subsection (1)(n) prescribing a kind of term, or a kind of effect that a term has, the Minister must take into consideration:
- (a) the detriment that a term of that kind would cause to consumers; and
 - (b) the impact on business generally of prescribing that kind of term or effect; and
 - (c) the public interest.

Schedule 1, item 2, page 9 (lines 29 to 31), omit “, and paragraph (b) has not already applied in relation to the contract”.

Schedule 1, item 2, page 10 (line 3), omit “applies to the contract”, substitute “applies to the term”.

Schedule 1, item 2, page 10 (after line 6), after subitem (2), insert:

(2A) If paragraph (2)(b) applies to a term of a contract, subsection 2(2) and section 7 of Schedule 2 to the *Trade Practices Act 1974* applies to the contract.

Schedule 1, item 2, page 10 (line 7), after “paragraphs (2)(a) and (b)”, insert “and subitem (2A)”.

Schedule 1, item 2, page 10 (line 7), after “contract”, insert “, or a term of a contract,”.

Schedule 1, item 11, page 13 (line 16), omit “(1)”.

Schedule 1, item 11, page 13 (lines 18 to 20), omit subsection 130(2).

Schedule 1, item 11, page 13 (line 21), at the end of the heading to section 131, add “etc.”.

Schedule 1, item 11, page 13 (lines 24 to 26), omit subsection 131(2), substitute:

- (2) Despite section 130, Part 2 of the Australian Consumer Law does not apply to, or in relation to:
- (a) contracts that are financial products; or

- (b) contracts for the supply, or possible supply, of services that are financial services.

Schedule 2, item 73, page 50 (line 2), after “paragraph (1)(b)”, insert “or (d)”.

Schedule 3, page 51 (before line 5), before item 1, insert:

1A Subsections 12AE(1) and (3)

Before “Subdivision C”, insert “Subdivision BA (sections 12BF to 12BM),”.

Schedule 3, item 7, page 53 (line 17), before “Without”, insert “(1)”.

Schedule 3, item 7, page 54 (after line 20), at the end of section 12BH, add:

- (2) Before the Governor-General makes a regulation for the purposes of paragraph (1)(n) prescribing a kind of term, or a kind of effect that a term has, the Minister must take into consideration:
 - (a) the detriment that a term of that kind would cause to consumers; and
 - (b) the impact on business generally of prescribing that kind of term or effect; and
 - (c) the public interest.

Schedule 3, item 8, page 56 (lines 32 to 34), omit “, and paragraph (b) has not already applied in relation to the contract”.

Schedule 3, item 8, page 57 (lines 5 and 6), omit “applies to the contract”, substitute “applies to the term”.

Schedule 3, item 8, page 57 (after line 8), after subitem (2), insert:

- (2A) If paragraph (2)(b) applies to a term of a contract, subsection 12BF(2) or section 12BK of the *Australian Securities and Investments Commission Act 2001* applies to the contract.

Schedule 3, item 8, page 57 (line 9), after “paragraphs (2)(a) and (b)”, insert “and subitem (2A)”.

Schedule 3, item 8, page 57 (line 10), after “contract”, insert “, or a term of a contract,”.

Schedule 3, item 44, page 80 (line 25), after “paragraph (1)(b)”, insert “or (d)”.

Schedule 3, item 55, page 82 (lines 15 to 20), omit subsection 12GND(1), substitute:

- (1) The Court may, on the application of a party to a consumer contract or on the application of ASIC, declare that a term of such a contract is an unfair term.
- (1A) Subsection (1) does not apply unless the consumer contract is a standard form contract that is:
 - (a) a financial product; or
 - (b) a contract for the supply, or possible supply, of services that are financial services.

Senator Carr moved the following amendment:

Schedule 2, item 74, page 50 (lines 10 to 12), omit subsection 87AC(1), substitute:

- (1) The Court may, on the application of a party to a consumer contract or on the application of the Commission, declare that a term of such a contract is an unfair term.

(1A) Subsection (1) does not apply unless the consumer contract is a standard form contract.

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

After "Commission", insert "or any other person".

Debate ensued.

Question—That Senator Xenophon's amendment to Senator Carr's proposed amendment be agreed to—put and negatived.

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

Senator Xenophon moved the following amendments together by leave:

Schedule 1, item 1, page 6 (after line 18), at the end of section 3, add:

- (5) A term of a consumer contract is presumed not to be unfair if it has been authorised by the Commission in accordance with section 3A.

Schedule 1, item 1, page 6 (after line 18), after section 3, insert:

3A Commission may authorise model terms in consumer contracts

- (1) The Commission may authorise:
 - (a) model industry contracts; and
 - (b) model contract terms; and
 - (c) specific variations of a standard form contract; and
 - (d) specific contract terms of a standard form contract.
- (2) An authorisation under subsection (1) may be made:
 - (a) on application by a party to a potential consumer contract; or
 - (b) on application by an industry association; or
 - (c) on application by or on behalf of persons or classes of persons prescribed by the regulations.
- (3) An application under subsection (2) must:
 - (a) identify the person making the application; and
 - (b) include any other information prescribed by the regulations; and
 - (c) be in the form prescribed by the regulations.
- (4) In considering whether to make an authorisation under subsection (1) the Commission must have regard to:
 - (a) whether the proposed contract terms reflect a reasonable balance between the rights and obligations of the parties of the contract; and
 - (b) where the contract term or terms relate to the imposition of a fee or charge for the provision of a service—whether the fee or charge is reasonably proportional to the justifiable costs or costs of providing the service; and
 - (c) whether the contract term or terms are reasonably necessary to protect the legitimate interests of the larger party; and
 - (d) any other matter prescribed by the regulations.
- (5) Prior to making an authorisation under subsection (1), the Commission must:
 - (a) publish the application on its website for the purposes of public consultation for a minimum of 30 days; and

- (b) accept and consider submissions in relation to the proposed authorisation; and
- (c) do anything else prescribed by the regulations.
- (6) The Commission must notify an applicant under subsection (2), in writing, of a decision to make, or not to make, an authorisation, within 42 days of the end of the consultation period.
- (7) The Commission must keep a register of authorisations which are made in accordance with subsection (1) and publish the register on its website.
- (8) An authorisation made under subsection (1) is not a legislative instrument.

Schedule 3, item 7, page 53 (after line 15), at the end of section 12BG, add:

- (5) A term of a consumer contract is presumed not to be unfair if it has been authorised by the Australian Competition and Consumer Commission in accordance with section 3A of Schedule 2 of the *Trade Practices Act 1974*.

Debate ensued.

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

Senator Xenophon moved the following amendment:

Schedule 1, item 1, page 9 (after line 23), after section 8, insert:

8A This Part applies to contracts of insurance

Despite section 15 of the *Insurance Contracts Act 1984*, this Part applies to contracts of insurance.

Debate ensued.

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

Senator Xenophon moved the following amendments together by leave:

Schedule 2, item 18, page 31 (line 9), omit “(other than an award of damages)”.

Schedule 3, item 26, page 69 (line 4), omit “(other than an award of damages)”.

Debate ensued.

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

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

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

4 **SOCIAL SECURITY AND OTHER LEGISLATION AMENDMENT (INCOME SUPPORT FOR STUDENTS) BILL 2009 [NO. 2]**

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.

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.

Explanatory memoranda: The Minister for Innovation, Industry, Science and Research (Senator Carr) tabled supplementary explanatory memoranda [2] relating to the government amendments and requests for amendments to be moved to the bill.

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

Schedule 1, item 3, page 4 (line 23), after “(10B)”, insert “, (10BA)”.

Schedule 1, item 3, page 5 (after line 4), after paragraph 1067A(10B), insert:

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

Schedule 1, item 5, page 6 (line 20), after “(10B)”, insert “, (10BA)”.

Debate ensued.

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

Senator Carr moved the following amendment:

Schedule 1, item 3, page 6 (after line 9), after subsection 1067A(10D), insert:

(10E) This subsection applies to a person if:

- (a) the person’s family home is in a location categorised under the Remoteness Structure as Outer Regional Australia, Remote Australia or Very Remote Australia; and
- (b) the person is required to live away from home (see section 1067D); and
- (c) the person is undertaking full-time study (see section 541B); and
- (d) the person’s combined parental income (as defined in point 1067G-F10 of the Youth Allowance Rate Calculator in section 1067G) for the appropriate tax year (see Submodule 3 of Module F of that Calculator) is less than \$150,000.

(10F) For the purposes of paragraph (10E)(a), **Remoteness Structure** means the Remoteness Structure described in:

- (a) the document entitled “Statistical Geography Volume 1 Australian Standard Geographical Classification (ASGC) July 2006”, published by the Australian Statistician, that was effective 1 July 2006; or
- (b) a document specified in a determination under subsection (10G) to be a replacement document.

(10G) The Secretary may, by written determination, specify a document for the purposes of paragraph (10F)(b). The document must be one published by the Australian Statistician.

(10H) A determination under subsection (10G) is not a legislative instrument.

Debate ensued.

Senator Mason moved the following amendment to Senator Carr’s proposed amendment:

Paragraph (10E)(a), after “Remoteness Structure as”, insert “Inner Regional Australia,”.

Debate ensued.

Question—That Senator Mason’s amendment to Senator Carr’s proposed amendment be agreed to—put.

The committee divided—

AYES, 32

Senators—

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

NOES, 32

Senators—

Arbib	Conroy	Hutchins	Polley
Bilyk	Crossin	Ludlam	Pratt
Bishop	Farrell (Teller)	Marshall	Siewert
Brown, Bob	Faulkner	McEwen	Stephens
Brown, Carol	Forshaw	McLucas	Sterle
Cameron	Furner	Milne	Wong
Carr	Hanson-Young	Moore	Wortley
Collins	Hurley	O’Brien	Xenophon

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

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

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

Amendments:

Clause 2, page 2 (table), omit the table, substitute:

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
2. Schedule 1, items 1 and 1A	1 April 2010.	1 April 2010
3. Schedule 1, items 2 to 3A	1 July 2010.	1 July 2010
4. Schedule 1, Part 1, Division 2	1 April 2010.	1 April 2010
5. Schedule 1, Part 2, Divisions 1 and 2	1 July 2010.	1 July 2010
6. Schedule 1, Part 2, Divisions 3 and 4	1 July 2012.	1 July 2012
7. Schedule 2, Part 1	1 April 2010.	1 April 2010
8. Schedule 2, items 5 to 16	1 April 2010.	1 April 2010
9. Schedule 2, item 17	Immediately after the commencement of the provision(s) covered by table item 2.	1 April 2010
10. Schedule 2, items 18 to 34	1 April 2010.	1 April 2010
11. Schedule 3	Immediately after the commencement of Schedule 1 to the <i>Social Security Amendment (Training Incentives) Act 2009</i> .	1 July 2009
12. Schedule 4	The day after this Act receives the Royal Assent.	

Schedule 1, item 1, page 4 (lines 8 to 11), omit subsection 1067A(4), substitute:

- (4) For the purposes of Part 2.11, this Part and section 1070G, a person is independent at a time in a period specified in an item of the table if at the time the person is at least the age specified in the item:

Age when person becomes independent		
Item	Period	Age
1	The period starting at the start of 1 April 2010 and ending at the end of 31 December 2010	24 years
2	The year 2011	23 years
3	A year after 2011	22 years

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

1A Application of amendment affecting independence age

Subsection 1067A(4) of the *Social Security Act 1991* as amended by item 1 applies for the purposes of working out a person's eligibility for, or amount of, youth allowance for a day, or fares allowance for a journey on a day, that is on or after 1 April 2010.

Schedule 1, item 3, page 4 (line 23), omit "or (10C)", substitute ", (10C) or (10E)".

Schedule 1, item 3, page 5 (line 1), omit "January", substitute "July".

Schedule 1, page 6 (before line 10), after item 3, insert:

3A Application of amendments about workforce participation

- (1) Subsections 1067A(10), (10A), (10B), (10C) and (10D) of the *Social Security Act 1991* as amended by items 2 and 3 apply for the purposes of working out a person's eligibility for, or amount of, youth allowance for a day, or fares allowance for a journey on a day, that is on or after 1 July 2010.
- (2) Subsections 1067A(10E) and (10F) of the *Social Security Act 1991* as amended by item 3 apply for the purposes of working out a person's eligibility for, or amount of, youth allowance for a day, or fares allowance for a journey on a day, that is on or after 1 January 2011.

Schedule 1, heading to Division 3, page 6 (lines 14 and 15), omit the heading.

Schedule 1, item 5, page 6 (lines 16 to 23), omit the item, substitute:

5 Application of amendment

The amendment made by this Division applies for the purposes of working out a person's eligibility for, or amount of, fares allowance for a journey on a day that is on or after 1 April 2010.

Schedule 1, item 11, page 8 (line 7), omit "January", substitute "July".

Schedule 1, item 18, page 13 (line 3), omit "January", substitute "July".

Schedule 2, item 4, page 20 (line 19), omit "\$717", substitute "\$650".

Schedule 2, item 4, page 20 (line 22), omit "\$1,127", substitute "\$1,064".

Schedule 2, item 14, page 27 (line 25), omit "1 March", substitute "15 April".

Requests:

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

Schedule 2, Part 1, page 24 (after line 33), at the end of the Part, add:

4A Transitional rule for student scholarship start-up payment

- (1) Subsection 592G(1) of the *Social Security Act 1991* does not prevent a person from being qualified exactly twice in 2010 for a student start-up scholarship payment if:
 - (a) the person undertakes full-time study in an approved scholarship course on 1 April 2010; and
 - (b) the person becomes qualified for youth allowance on or after 1 July 2010 but before 29 July 2010; and
 - (c) when the person becomes qualified for youth allowance, the person is not independent (see section 1067A of that Act).

- (2) To avoid doubt, subitem (1) does not allow a person to qualify more than twice in 2010 for a student start-up scholarship payment.

4B Transitional rule for relocation scholarship payment

- (1) This item applies if:
- (a) a person qualifies for a relocation scholarship payment on or after 1 July 2010 but before 29 July 2010 because the person is not independent (see section 1067A of the *Social Security Act 1991*) but is required to live away from home (see section 1067D of that Act); and
 - (b) the person undertakes full-time study in an approved scholarship course on 1 April 2010; and
 - (c) the earliest time at which the person was required to live away from home (see section 1067D of that Act) in connection with the course was not more than 6 months before the person started full-time study in the course in 2010.
- (2) Subsection 592L(2) of the *Social Security Act 1991* does not apply to affect the amount of the first relocation scholarship payment to the person.

Note: The amount of that relocation scholarship payment to the person will therefore be \$4,000 (under subsection 592L(1) of the *Social Security Act 1991*) unless subsection 592L(3) of that Act applies.

Page 35 (after line 11), at the end of the bill, add:

Schedule 4—Higher education assistance for rural and regional students

Social Security Act 1991

1 After Chapter 2B

Insert:

Chapter 2BA—Higher education assistance for rural and regional students

Part 2BA.1—Higher education assistance for rural and regional students

1061ZZFW Scheme for higher education assistance for rural and regional students

- (1) The Minister must, by legislative instrument, determine a scheme for paying \$20 million, in the period starting on 1 January 2011 and ending at the end of 30 June 2013, for assistance for the undertaking of higher education by people under 25 years old who both:
- (a) have their main place of residence in a rural or regional area; and
 - (b) would experience financial hardship in undertaking higher education without the assistance.
- (2) Without limiting the generality of subsection (1), the scheme may deal with the following:
- (a) the form of the assistance;
 - (b) the circumstances in which payment is to be made, or assistance is to be provided, to particular persons;
 - (c) the amounts of payments to, or assistance for, particular persons;

- (d) which persons qualify for payments or assistance;
 - (e) administrative matters, such as determination of entitlement and how and when payments will be made or assistance will be provided.
- (3) The Minister may, by legislative instrument, vary the scheme, but not so as to reduce the total of payments to less than \$20 million or delay the day by which that amount is to be paid.

Bill, as amended, agreed to, subject to requests.

Bill to be reported with amendments and requests for amendments.

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

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

5 COMMUNICATIONS—NATIONAL BROADBAND NETWORK IMPLEMENTATION STUDY—ORDER FOR PRODUCTION OF DOCUMENTS—STATEMENT BY LEAVE

The Minister for Broadband, Communications and the Digital Economy (Senator Conroy), by leave, made a statement relating to the order of the Senate of 11 March 2010 for the production of documents concerning the National Broadband Network Implementation Study (*see entry no. 11, 11 March 2010*).

6 SOCIAL SECURITY AND FAMILY ASSISTANCE LEGISLATION AMENDMENT (WEEKLY PAYMENTS) BILL 2010

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

Debate resumed.

Question put and passed.

Bill read a second time.

At 12.45 pm—

7 MATTERS OF PUBLIC INTEREST

Matters of public interest were discussed.

At 2 pm—

8 QUESTIONS

Questions without notice were answered.

9 MOTION TO TAKE NOTE OF ANSWER

Senator Fisher moved—That the Senate take note of the answer given by the Minister for Climate Change, Energy Efficiency and Water (Senator Wong) to a question without notice asked by Senator Ferguson today relating to the upcoming South Australian election.

Debate ensued.

Question put and passed.

10 NOTICES

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

- (a) recognises that 22 March is World Water Day, an initiative of the United Nations Conference on Environment and Development to draw attention to the plight of the estimated 2.6 billion people lacking access to basic sanitation and the 884 million people who lack access to safe and clean drinking water;
- (b) notes:
 - (i) that the theme for World Water Day 2010 is ‘Clean Water for a Healthy World’, and
 - (ii) the United Nations Children’s Fund/World Health Organization report *Progress on sanitation and drinking-water – 2010 Update*, released in the week beginning 14 March 2010, and expresses concern that the sanitation Millennium Development Goal target is likely to be met 30 years and one billion people too late;
- (c) expresses concern that more than 1.4 million children die each year as a result of unclean water and poor sanitation, which is one child every 20 seconds dying from diarrhoea;
- (d) notes that for every dollar invested in sanitation, the United Nations development program estimates \$8 is returned in increased productivity;
- (e) acknowledges the important role Australia is playing in delivering improved sanitation to communities in Asia and Africa under the Water and Sanitation Initiative;
- (f) encourages the Australian Government to take a proactive role and send a high level delegation to the Sanitation and Water for All meeting in Washington, DC in April 2010; and
- (g) calls on the Australian Government and AusAID to report annually on its water and sanitation program, as it already does for its health and education programs, including reporting on the proportion of development aid spent on sanitation. (*general business notice of motion no. 757*)

The Chair of the Select Committee on the National Broadband Network (Senator Macdonald): To move on the next day of sitting—That the resolution of the Senate of 25 June 2008, as amended, appointing the Select Committee on the National Broadband Network, be amended to omit “30 April 2010”, and substitute “12 May 2010”. (*general business notice of motion no. 758*)

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

- (a) notes with concern the recent death of an 18-year-old Murri youth in Brisbane after his repeated requests for medical attention were allegedly denied by staff at the Arthur Gorrie Correctional Centre;
- (b) expresses concern at the growing disproportionate and alarmingly high rates of incarceration of Indigenous Australians, with a national rate of 171 per 100 000 incarcerated and a staggering 646 per 100 000 incarcerated in the Northern Territory;
- (c) notes that new ‘tough on crime’ laws introduced by state and territory governments invariably lead to higher rates of Indigenous incarceration but produce little change in Australia’s comparatively low rates of serious crime; and

- (d) calls on the Federal Government and the Council of Australian Governments to act to implement the recommendations of the 1991 Royal Commission into Aboriginal Deaths in Custody. (*general business notice of motion no. 759*)

The Chair of the Economics References Committee (Senator Eggleston): To move on the next day of sitting—That the time for the presentation of the report of the Economics References Committee on the Australian dairy industry be extended to 13 May 2010. (*general business notice of motion no. 760*)

Senators Pratt and Birmingham: To move on the next day of sitting—That the Senate—

(a) notes:

- (i) nuclear weapons are one of the most serious threats faced by humankind,
- (ii) the unanimous finding of the International Court of Justice in its 1996 Advisory Opinion that, ‘There exists a clear obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control’,
- (iii) the Nuclear Non-Proliferation Treaty (NPT) Review Conference to be held at the United Nations (UN) in New York from 3 May to 28 May 2010,
- (iv) the letter dated 24 February 2010 to parliamentarians from the UN Secretary-General (Mr Ban-Ki Moon) encouraging greater involvement of parliamentarians and highlighting his five-point proposal for nuclear disarmament founded on a fundamental principle that nuclear disarmament and nuclear non-proliferation are mutually reinforcing and inseparable, which was supported by the Inter-Parliamentary Union in April 2009, and
- (v) parliamentarians across the political spectrum and from around the world are concerned about the rising threats from the proliferation of nuclear weapons to new countries, the potential for terrorists to acquire or produce nuclear weapons, and the maintenance of nuclear weapons and policies to use them by states currently possessing such weapons;

(b) recalls:

- (i) the report of the 1995 Canberra Commission on the Elimination of Nuclear Weapons,
- (ii) the unanimous recommendations of the 2009 Joint Standing Committee on Treaties inquiry into nuclear non-proliferation and disarmament, and
- (iii) the report of the 2009 International Commission on Nuclear Non-proliferation and Disarmament;

(c) affirms:

- (i) that all NPT parties have an obligation to fulfil their undertaking under Article VI of the NPT ‘to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective control’, and
- (ii) that all states have an enduring interest in the central role of the NPT in the international nuclear disarmament and non-proliferation regime, and attaining at the NPT Review Conference meaningful progress on each of the NPTs three pillars, namely nuclear disarmament, nuclear non-proliferation and the peaceful use of nuclear energy;

- (d) welcomes the intention of Australia and Japan to take forward a package of practical nuclear disarmament and non-proliferation measures for the NPT Review Conference; and
- (e) calls for:
 - (i) an unequivocal commitment by all states to the goal of a world free of nuclear weapons,
 - (ii) the nuclear weapons states to commit to reducing the role of nuclear weapons in their national security strategies, including strengthened negative security assurances not to use nuclear weapons against non-nuclear weapons states,
 - (iii) all states that have not yet signed and ratified the Comprehensive Nuclear Test-Ban Treaty to do so with a view to its early entry into force, and
 - (iv) the immediate commencement and early conclusion of negotiation of a fissile material cut-off treaty. (*general business notice of motion no. 761*)

Senators Fifield and Bernardi: To move on the next day of sitting—That the Senate—

- (a) notes with great sadness the passing of respected disability advocate Dr Paul Collier;
- (b) offers its sincere condolences to the friends and family of Dr Collier, particularly his mother Wendy, sister Joanne, brother-in-law David and his three nephews for their tragic loss; and
- (c) notes his tireless and passionate work in seeking to improve the lives of people with disabilities and the valuable contribution he made to the community. (*general business notice of motion no. 762*)

The Leader of the Australian Greens (Senator Bob Brown): To move on 17 June 2010—That the following bill be introduced: A Bill for an Act to establish the office of the National Integrity Commissioner, and for related purposes. ***National Integrity Commissioner Bill 2010***. (*general business notice of motion no. 763*)

Senators Barnett and Crossin: To move on the next day of sitting—That the Senate—

- (a) notes that:
 - (i) World Tuberculosis Day on 24 March 2010 represents an important opportunity to acknowledge the global impacts of tuberculosis (TB), which causes 2 million deaths annually,
 - (ii) the Western Pacific region accounts for more than 20 per cent of the global burden of TB, with an estimated 1.4 million new cases each year,
 - (iii) Australia is not exempt from the impacts of TB, in particular, due to the proximity of the Torres Strait Islands and Papua New Guinea where TB rates are very high, and
 - (iv) 2010 marks the halfway point for the Global Plan to Stop TB; and
- (b) calls on the Government to maintain its efforts to achieve the important targets laid out by the Global Plan to Stop TB. (*general business notice of motion no. 764*)

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

- (a) notes that:
 - (i) the over-allocation of water within the Murray-Darling Basin, combined with the emerging impacts of climate change, has led to significant environmental problems, including those faced in the Lower Lakes and the Coorong,

- (ii) improving the health of Australia's rivers requires us to take less water from them and that the fastest way to improve river health is by purchasing water entitlements from willing sellers,
 - (iii) in the longer term, the historic over-allocation and emerging climate change must be addressed under the forthcoming Murray-Darling Basin Plan, with a new lower limit on water use that is based on science, and
 - (iv) there have been recent calls by politicians that seek to undermine the need for scientific integrity in determining this limit by demanding that less additional water be provided to the environment; and
- (b) urges:
- (i) the Government to maintain its purchase program, and
 - (ii) the Murray-Darling Basin Authority to set new diversion limits that are based on science to ensure the key environmental assets in the basin are protected as set out in the *Water Act 2007*. (*general business notice of motion no. 765*)

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 amend the *Commonwealth Electoral Act 1918* before the next federal election to incorporate a Truth in Political Advertising Unit to monitor and regulate political advertising to ensure it is true and accurate. (*general business notice of motion no. 766*)

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

- (a) the 'unequivocal undertaking by the nuclear-weapon States to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament to which all States parties are committed under Article VI', agreed by consensus at the 2000 Nuclear Non-Proliferation Treaty (NPT) Review Conference;
- (b) the statement made by Australia on 30 April 2008 at the NPT Preparatory Committee meeting that, 'at an appropriate time, the international community will likely need to consider complementary legal frameworks, including a possible nuclear weapons convention, for the eventual abolition of nuclear weapons';
- (c) the statement made by the then Australian Labor Party foreign affairs spokesperson, Mr Robert McClelland, on 17 September 2007, that the proposal to establish a Nuclear Weapons Convention is 'timely and responsible' and that '[u]ltimately the question to be asked is not why there should be a nuclear weapons convention but why the international community has not yet agreed to start negotiating one';
- (d) the recommendation contained in report 106 of the Joint Standing Committee on Treaties that, 'the Australian Government make clear in international fora its support for the adoptions of a Nuclear Weapons Convention' and 'allocate research and consultation resources to the development of a Nuclear Weapons Convention with a clear legal framework and enforceable verification';
- (e) the Australian Government sponsored International Commission on Nuclear Non-Proliferation and Disarmament report statement that, 'An important project for the medium term will be to develop, refine and build international understanding and acceptance of the need for a Nuclear Weapons Convention – a comprehensive international legal regime to accompany the final move to elimination';
- (f) the first proposal in the United Nations Secretary-General's five-point proposal on nuclear disarmament urges, 'all NPT parties, in particular the nuclear weapon-states, to fulfil their obligation under the treaty to undertake

negotiations on effective measures leading to nuclear disarmament. They could pursue this goal by agreement on a framework of separate, mutually reinforcing instruments. Or they could consider negotiating a nuclear-weapons convention, backed by a strong system of verification, as has long been proposed at the United Nations'; and

- (g) the 10 March 2010 resolution of the European Parliament on Treaty on the Non-Proliferation of Nuclear Weapons which noted:
- 'a. a distinct lack of progress in achieving concrete objectives in pursuit of the goals of the NPT Treaty ... coupled with greater demand for, and availability of, nuclear technology and the potential for such technology and radioactive material to fall into the hands of criminal organisations and terrorists,
 - b. that nuclear weapons states that are signatories to the NPT are delaying action to reduce or eliminate their nuclear arsenals and decrease their adherence to a military doctrine of nuclear deterrence,
 - c. called on Member States to make a coordinated, positive and visible contribution to the 2010 NPT Review Conference discussions, in particular by proposing an ambitious timetable for a nuclear-free world and concrete initiatives for revitalising the UN Conference on Disarmament and by promoting disarmament initiatives based on the "Statement of Principles and Objectives" agreed at the end of the 1995 NPT Review Conference and on the "13 Practical Steps" unanimously agreed at the 2000 Review Conference'. (*general business notice of motion no. 767*)

The Special Minister of State (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:

Trans-Tasman Proceedings Bill 2009

Trans-Tasman Proceedings (Transitional and Consequential Provisions) Bill 2009.

Document: Senator Ludwig tabled the following document:

Consideration of legislation—Statement of reasons for introduction and passage of the bills in the 2010 autumn sittings.

The Special Minister of State (Senator Ludwig): To move on the next day of sitting—That, on the release by the Government of any exposure draft of legislation relating to the implementation of its announced paid parental leave scheme, the document or documents stand referred to the Community Affairs Legislation Committee for inquiry and report by 3 June 2010.

11 LEAVE OF ABSENCE

Senator O'Brien, by leave, moved—That leave of absence be granted to Senators Lundy and Sherry for 17 March and 18 March 2010, for personal reasons.

Question put and passed.

Senator Parry, by leave, moved—That leave of absence be granted to Senator Johnston from 17 March to 19 March 2010, on account of parliamentary business and for personal reasons.

Question put and passed.

12 POSTPONEMENTS

The following items of business were postponed:

General business notice of motion no. 694 standing in the name of the Leader of the Family First Party (Senator Fielding) for today, proposing the introduction of the Protection of Personal Information Bill 2010, postponed till 18 March 2010.

General business notice of motion no. 738 standing in the name of the Leader of the Family First Party (Senator Fielding) for today, proposing the introduction of the Responsible Takeaway Alcohol Hours Bill 2010, postponed till 18 March 2010.

13 ECONOMICS—HOME INSULATION PROGRAM—ORDER FOR PRODUCTION OF DOCUMENTS

Senator Cormann, also on behalf of Senator Birmingham, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 748—That the Senate—

(a) notes:

- (i) the persistent and continuing refusal of the Prime Minister and several other ministers to clarify when they were first told about inadequate training and safety issues for workers involved in the home insulation program,
- (ii) reports that direct advice was provided to the Prime Minister and other ministers involved in Labor's home insulation fiasco about fraud, safety risks and training inadequacies in relation to the ill-fated program, and
- (iii) reports that the home insulation program implemented was redesigned from that initially recommended by the Department of the Environment, Water, Heritage and the Arts so as to spend the funds allocated faster as part of the stimulus package;

(b) considers that public release of all information about what the Government knew about inadequate training and safety issues for workers is in the public interest; and

(c) orders that there be laid on the table by noon on Thursday, 18 March 2010, any information, including, but not limited to, letters, emails, spreadsheets, minutes of meetings, reports, and briefing notes, held by the Prime Minister, the Minister for the Environment, Heritage and the Arts, the Minister for Climate Change, the Minister Assisting the Prime Minister for Government Service Delivery, the Minister Assisting the Minister for Climate Change, and their respective offices and departments, concerning:

- (i) safety warnings in relation to the home insulation program,
- (ii) training issues in relation to the home insulation program,
- (iii) fraud in the home insulation program,
- (iv) the design of the home insulation program initially proposed by the Department of the Environment, Water, Heritage and the Arts, and

- (v) changes made to the design of the home insulation program initially proposed by the Department of the Environment, Water, Heritage and the Arts.

Question put and passed.

Statements by leave: Senator O'Brien, the Special Minister of State (Senator Ludwig) and Senator Cormann, by leave, made statements relating to the motion.

14 REFORM OF THE AUSTRALIAN FEDERATION—SELECT COMMITTEE— APPOINTMENT

Senator Payne amended general business notice of motion no. 751 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—

- (1) That a select committee, to be known as the Select Committee on the Reform of the Australian Federation, be appointed at the conclusion of the Select Committee on the National Broadband Network to:
 - (a) inquire into and report by 24 August 2010 on key issues and priorities for the reform of relations between the three levels of government within the Australian federation; and
 - (b) explore a possible agenda for national reform and to consider ways it can best be implemented in relation to, but not exclusively, the following matters:
 - (i) the distribution of constitutional powers and responsibilities between the Commonwealth and the states (including territories),
 - (ii) financial relations between federal, state and local governments,
 - (iii) possible constitutional amendment, including the recognition of local government,
 - (iv) processes, including the Council of Australian Governments, and the referral of powers and procedures for enhancing cooperation between the various levels of Australian government, and
 - (v) strategies for strengthening Australia's regions and the delivery of services through regional development committees and regional grant programs.
- (2) That the committee consist of 6 senators, 2 nominated by the Leader of the Government in the Senate, 3 nominated by the Leader of the Opposition in the Senate, and 1 nominated by any minority group or groups or independent senator or independent senators.
- (3) That:
 - (a) participating members may be appointed to the committee on the nomination of the Leader of the Government in the Senate, the Leader of the Opposition in the Senate and minority groups and independent senators;
 - (b) participating members may participate in hearings of evidence and deliberations of the committee, and have all the rights of members of the committee, but may not vote on any questions before the committee; and
 - (c) a participating member shall be taken to be a member of the committee for the purpose of forming a quorum of the committee if a majority of members of the committee is not present.
- (4) 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.

- (5) That the committee elect as chair one of the members nominated by the Leader of the Opposition in the Senate.
- (6) That the committee elect a Government member as its deputy chair who shall act as chair of the committee at any time when the chair is not present at a meeting of the committee, and at any time when the chair and deputy chair are not present at a meeting of the committee the members present shall elect another member to act as chair at that meeting.
- (7) That, in the event of an equally divided vote, the chair, or the deputy chair when acting as chair, has a casting vote.
- (8) That 3 members of the committee constitute a quorum of the committee.
- (9) That the committee have power to appoint subcommittees consisting of 3 or more of its members and to refer to any subcommittee any matter which the committee is empowered to examine.
- (10) That 2 members of a subcommittee constitute a quorum of that subcommittee.
- (11) 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, the evidence taken and such interim recommendations as it may deem fit.
- (12) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.
- (13) 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.

The Leader of the Australian Greens (Senator Bob Brown), by leave, moved the following amendments:

Paragraph (1), omit “That a select committee, to be known as the Select Committee on the Reform of the Australian Federation, be appointed at the conclusion of the Select Committee on the National Broadband Network to”, substitute “That the following matter be referred to the Legal and Constitutional Affairs References Committee”.

Omit paragraphs (2) to (13).

Statement by leave: The Leader of the Family First Party (Senator Fielding), by leave, made a statement relating to the matter.

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

Main question put and passed. All Australian Greens senators, by leave, recorded their votes for the noes.

15 LAW AND JUSTICE—SAME-SEX MARRIAGE

Senator Hanson-Young, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 755—That the Senate—

(a) notes:

- (i) the first same-sex marriages were celebrated in Mexico City in the week beginning 7 March 2010, following the recent passage of legislation removing discrimination on the basis of sexual orientation, under that city’s Marriage Act, and

- (ii) Mexico City joins Portugal, Canada, the Netherlands, Sweden, Belgium, Norway, Spain, South Africa and many states in the United States of America that already recognise same-sex marriage as a reality;
- (b) recognises that all Australians deserve to be treated fairly and equally, regardless of their sexual orientation and that Australia is becoming increasingly isolated internationally, by refusing to remove discrimination on the basis of sexual orientation from the *Marriage Act 1961* (the Act); and
- (c) calls on the Australian Government to remove all discrimination from the Act on the basis of sexuality and gender identity and extend the legal right to marry to all.

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

Question put and negatived. All Australian Greens senators, by leave, recorded their votes for the ayes.

16 ADMINISTRATION—SOUTH AUSTRALIA—STATE ELECTIONS

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. 756—That the Senate—

- (a) notes Labor’s advertising attacking Liberal opponents in South Australia and the Greens in Tasmania using inferences of support for criminality; and
- (b) deplores this desperate tactic and calls on Labor to restore decency to its campaigning and to not mislead voters on the way to the elections on Saturday, 20 March 2010.

Question put and passed.

Statements by leave: Senators O’Brien and Bob Brown, by leave, made statements relating to the motion.

17 LAW AND JUSTICE—WHALING INDUSTRY

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 749—That the Senate calls on the Government to investigate, through the processes of the International Whaling Commission, the recent claims by Greenpeace and the ‘Tokyo Two’ Junichi Sato and Toru Suzuki of corruption and embezzlement within the whaling industry.

Question put and negatived.

18 LAW AND JUSTICE—CAPTAIN BETHUNE—PROVISION OF SUPPORT

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. 747—That the Senate—

- (a) notes the courage of Pete Bethune, the captain of the Sea Shepherd boat the *Ady Gil*, which was sunk in the Southern Ocean while trying to protect whales from illegal poaching; and
- (b) calls on the Australian Government to use all diplomatic channels to provide support for Captain Bethune following his arrest in Japan on trespass charges.

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

Question put.

The Senate divided—

AYES, 7

Senators—

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

NOES, 43

Senators—

Arbib	Colbeck	Forshaw	Parry (Teller)
Back	Collins	Furner	Polley
Barnett	Conroy	Hurley	Pratt
Bernardi	Cormann	Joyce	Ryan
Bilyk	Crossin	Ludwig	Stephens
Bishop	Farrell	Marshall	Sterle
Brown, Carol	Faulkner	McEwen	Troeth
Bushby	Feeney	McLucas	Williams
Cameron	Ferguson	Moore	Wong
Carr	Fifield	Nash	Wortley
Cash	Fisher	O'Brien	

Question negatived.

19 COMMUNICATIONS—NATIONAL BROADBAND NETWORK IMPLEMENTATION STUDY—ORDER FOR PRODUCTION OF DOCUMENT

Senator Parry, at the request of the Leader of the Opposition in the Senate (Senator Minchin) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 753—That there be laid on the table by the Minister for Broadband, Communications and the Digital Economy, no later than 9.30 am on Thursday, 18 March 2010, the interim report of the National Broadband Network Implementation Study provided to the department in August 2009.

Statements by leave: The Leader of the Australian Greens (Senator Bob Brown) and Senator Parry, by leave, made statements relating to the motion.

Question put and passed.

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

20 FOREIGN AFFAIRS—BURMA—HUMAN RIGHTS

Senator Ludlam amended general business notice of motion no. 750 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate:

(a) notes that:

- (i) the 5 March 2010 report of the United Nations Special Rapporteur on the situation of human rights in Myanmar documents 'a pattern of gross and systematic violation of human rights which has been in place for many years and still continues',
- (ii) the Special Rapporteur states that 'the possibility exists that some of these human rights violations may entail categories of crimes against humanity or war crimes under the terms of the Statute of the International Criminal Court',
- (iii) the Special Rapporteur recommends that 'UN institutions may consider the possibility to establish a commission of inquiry with a specific fact finding mandate to address the question of international crimes',

- (iv) on 9 March 2010 Burma announced the election laws for the forthcoming election based on the 2008 constitution that:
 - (A) excludes persons serving prison terms and public servants from standing for election,
 - (B) may prevent the National League for Democracy (NLD), headed by Aung San Suu Kyi, and winners of the country's last election, from registering if Aung San Suu Kyi remains a party member, and
 - (C) annuls the results of the 1990 election, which saw the NLD win more than 80 per cent of the vote, and
- (v) on 10 March 2010 the United States of America (US) Assistant Secretary of State, Mr Kurt Campbell, said that the election laws were 'disappointing and regrettable', and the US State Department spokesperson, Dr Philip Crowley, said 'given the tenor of the election laws that they put forward, there's no hope that this election will be credible'; and
- (b) welcomes:
 - (i) the Government's statement on 15 March 2010 to the UN Human Rights Council expressing its support for 'investigating possible options for the establishment of a United Nations commission of inquiry', and
 - (ii) the statement of the US acknowledging the significance of the Special Rapporteur's recommendations to create a commission of inquiry which 'underscores the seriousness of the human rights problems in the country, and the pressing need for the international community to find an effective way to address challenges there'.

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

Question put and passed.

21 LAW AND JUSTICE—NATIONAL HUMAN RIGHTS CONSULTATION REPORT—ORDER FOR PRODUCTION OF DOCUMENT

Senator Hanson-Young, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 754—That the Senate—

- (a) notes that:
 - (i) the National Human Rights Consultation delivered its report to the Attorney-General (Mr McClelland) on 30 September 2009, more than 6 months ago, and
 - (ii) the Attorney-General released a statement that the Government will provide a response in the coming months; and
- (b) orders that there be laid on the table by the Minister representing the Attorney-General, no later than 4 pm on 11 May 2010, the Government's response to the National Human Rights Consultation report which was delivered to the Attorney-General on 30 September 2009.

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

Question put and passed.

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

Leave refused: Senator Hanson-Young sought leave to make a statement relating to the motion.

An objection was raised and leave was not granted.

22 COMMITTEE MEMBERSHIP

Pursuant to the order agreed to earlier today (*see entry no. 2*), the Senate proceeded to a ballot to appoint a senator to the position to be nominated by a minority group or independent senators to the Joint Select Committee on Cyber-Safety.

The Deputy President (Senator Ferguson) indicated that there were two nominations, Senators Fielding and Ludlam.

The President reported the result as follows:

Senator Fielding: 35

Senator Ludlam: 37

The President declared that Senator Ludlam had been chosen to serve as a member of the committee.

23 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—EDUCATION—BUILDING THE EDUCATION REVOLUTION PROGRAM

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

The Rudd Labor Government's continued failure to implement its 'education revolution' in a timely, efficient and cost effective manner, including its failure to:

- (a) deliver and connect computers in schools;
- (b) establish the trade training centres;
- (c) improve learning outcomes; and
- (d) create jobs through the Building the Education Revolution program.

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

24 FINANCE AND PUBLIC ADMINISTRATION LEGISLATION COMMITTEE—DOCUMENT—GOVERNANCE OF AUSTRALIAN GOVERNMENT SUPERANNUATION SCHEMES BILL 2010 AND RELATED BILLS

Senator Farrell, at the request of the Chair of the Finance and Public Administration Legislation Committee (Senator Polley), tabled the following document:

Finance and Public Administration Legislation Committee—Report—Governance of Australian Government Superannuation Schemes Bill 2010 [Provisions], ComSuper Bill 2010 [Provisions] and Superannuation Legislation (Consequential Amendments and Transitional Provisions) Bill 2010 [Provisions]—Correction.

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

25 AUSTRALIAN CRIME COMMISSION—JOINT STATUTORY COMMITTEE—REPORT—AUSTRALIAN CRIME COMMISSION—REPORT FOR 2008-09

Senator Hutchins, on behalf of the Parliamentary Joint Committee on the Australian Crime Commission, tabled the following report:

Australian Crime Commission—Joint Statutory Committee—Examination of the annual report for 2008-09 of the Australian Crime Commission—Report, dated March 2010, Hansard record of proceedings and additional information.

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

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

Question put and passed.

26 SCRUTINY OF BILLS—STANDING COMMITTEE—4TH REPORT AND ALERT DIGEST NO. 4 OF 2010

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

Scrutiny of Bills—Standing Committee—
4th report of 2010, dated 17 March 2010.
Alert Digest No. 4 of 2010, dated 17 March 2010.

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

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

Question put and passed.

27 FOREIGN AFFAIRS—ZIMBABWE—MINISTERIAL STATEMENT—DOCUMENT

The Parliamentary Secretary for Social Inclusion (Senator Stephens) tabled the following document:

Foreign affairs—Zimbabwe—Ministerial statement by the Minister for Foreign Affairs (Mr Smith), dated 16 March 2010.

28 LAW AND JUSTICE—WHISTLEBLOWER PROTECTION—MINISTERIAL STATEMENT—DOCUMENT

The Parliamentary Secretary for Social Inclusion (Senator Stephens) tabled the following documents:

Law and justice—Statement and government response to the House of Representatives Standing Committee on Legal and Constitutional Affairs report, *Whistleblower Protection: A comprehensive scheme for the Commonwealth public sector*—Ministerial statement by the Special Minister of State (Senator Ludwig), dated 17 March 2010.

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

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

29 DOCUMENTS

The following documents were tabled by the Clerk:

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

Australian Bureau of Statistics Act—Proposal No. 2 of 2010—Vineyards Census.

Commissioner of Taxation—Public Rulings—

Goods and Services Tax Rulings—Addenda—GSTR 2006/7, GSTR 2006/8, GSTR 2009/1 and GSTR 2009/2.

Product Ruling PR 2010/4.

Taxation Determinations—

Addenda—TD 92/174 and TD 93/126.

Notices of Withdrawal—TD 58, TD 92/183, TD 95/43 and TD 2004/29.

Taxation Rulings (old series)—Notices of Withdrawal—IT 2518, IT 2523, IT 2556, IT 2597 and IT 2598.

Customs Act—Tariff Concession Order 0924092 [F2010L00376]*.

Defence Act—Determination under section 58B—Defence Determination 2010/12—Disturbance allowance – amendment.

Federal Court of Australia Act—Select Legislative Instrument 2010 No. 47—Federal Court (Corporations) Amendment Rules 2010 (No. 1) [F2010L00655]*.

Financial Sector (Collection of Data) Act—Financial Sector (Collection of Data) (Reporting Standard) Determination No. 1 of 2010—Reporting Standard GRS 170.1 (2010) Maximum Event Retention and Risk Charge for Lenders Mortgage Insurers [F2010L00672]*.

Fisheries Management Act—Northern Prawn Fishery Management Plan 1995—NPF Directions Nos—

133—Gear requirements [F2010L00658]*.

134—Protected area closures [F2010L00660]*.

135—First season closures [F2010L00661]*.

136—Gear trials [F2010L00662]*.

137—Prohibition on fishing [F2010L00663]*.

138—Bug size limits [F2010L00664]*.

139—Prohibition on fishing (prior to seasons) [F2010L00665]*.

Insurance Act—Insurance (Prudential Standard) Determination No. 1 of 2010—Prudential Standard GPS 116 Capital Adequacy: Concentration Risk Capital Charge [F2010L00673]*.

Migration Act—Select Legislative Instrument 2010 No. 38—Migration Amendment Regulations 2010 (No. 1) [F2010L00638]*.

Renewable Energy (Electricity) Act—Select Legislative Instrument 2010 No. 46—Renewable Energy (Electricity) Amendment Regulations 2010 (No. 1) [F2010L00654]*.

Water Act—Accreditation of amendment of transitional water resource plan – River Murray Prescribed Watercourse Water Allocation Plan, dated 11 February 2010 [F2010L00626]*.

* Explanatory statement tabled with legislative instrument.

30 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 July to 31 December 2009—Statements of compliance—

Australian Public Service Commission.

Department of the Prime Minister and Cabinet.

Infrastructure, Transport, Regional Development and Local Government portfolio agencies.

31 COMMITTEE MEMBERSHIP

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

The Parliamentary Secretary for Social Inclusion (Senator Stephens), by leave, moved—That Senator Birmingham replace Senator Boswell on the Environment, Communications and the Arts References Committee for the committee's inquiries into sustainable management by the Commonwealth of water resources, and the administration and effectiveness of the Green Loans Program, and Senator Boswell be appointed as a participating member.

Question put and passed.

32 HEALTH LEGISLATION AMENDMENT (MIDWIVES AND NURSE PRACTITIONERS) BILL 2009

A message from the House of Representatives was reported agreeing to the amendments made by the Senate to the following bill:

Message no. 545, dated 16 March 2010—Health Legislation Amendment (Midwives and Nurse Practitioners) Bill 2009.

33 ECONOMICS LEGISLATION COMMITTEE—REPORT—SAFE CLIMATE (ENERGY EFFICIENT NON-RESIDENTIAL BUILDINGS SCHEME) BILL 2009

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

Economics Legislation Committee—Safe Climate (Energy Efficient Non-Residential Buildings Scheme) Bill 2009—Report, dated March 2010, Hansard record of proceedings, documents presented to the committee and submissions.

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

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

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

34 SOCIAL SECURITY AND FAMILY ASSISTANCE LEGISLATION AMENDMENT (WEEKLY PAYMENTS) BILL 2010

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

In the committee

Bill taken as a whole by leave.

Explanatory memorandum: The Parliamentary Secretary for Social Inclusion (Senator Stephens) tabled a supplementary explanatory memorandum relating to the government requests for amendments to be moved to the bill.

Bill debated.

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

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

Clause 2, page 1 (lines 7 to 9), omit the clause, substitute:

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedules 1 and 2	The day this Act receives the Royal Assent.	
3. Schedule 3	Immediately after the commencement of Schedule 1 to the <i>Family Assistance Legislation Amendment (Participation Requirement) Act 2009</i> .	1 January 2010

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

Page 14 (after line 10), at the end of the bill, add:

Schedule 3—Family assistance participation requirement

Family Assistance Legislation Amendment (Participation Requirement) Act 2009

1 Subitem 13(2) of Schedule 1

Omit “1 May 2010”, substitute “1 July 2010”.

2 Subitem 14(1) of Schedule 1

Omit “1 May 2010”, substitute “1 July 2010”.

3 Subitem 14(3) of Schedule 1

Omit “30 April 2010”, substitute “30 June 2010”.

Bill agreed to, subject to requests.

Bill to be reported with requests for amendments.

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

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

35 ELECTORAL AND REFERENDUM AMENDMENT (CLOSE OF ROLLS AND OTHER MEASURES) BILL 2010

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

Debate resumed.

At 6.50 pm: Debate was interrupted while Senator Hanson-Young was speaking.

36 GOVERNMENT DOCUMENTS—ORDERS OF THE DAY—CONSIDERATION

The following orders of the day relating to government documents were considered:

Regional Forest Agreements between the Commonwealth of Australia and New South Wales—Final report on progress with implementation of New South Wales regional forest agreements—Report of the independent assessor, dated November 2009. Motion to take note of document moved by Senator Abetz. Debate adjourned till Thursday at general business, Senator Abetz in continuation.

Australian Competition and Consumer Commission—Telstra's compliance with the price control arrangements—Report for 2008-09. Motion to take note of document moved by Senator McEwen. Debate adjourned till Thursday at general business, Senator McEwen in continuation.

Department of Infrastructure, Transport, Regional Development and Local Government—National aviation policy: Flight path to the future—White paper, dated December 2009. Motion to take note of document moved by Senator Parry. Debate adjourned till Thursday at general business, Senator Parry in continuation.

General business orders of the day nos 40, 42 to 45, 47 to 49 and 51 relating to government documents were called on but no motion was moved.

37 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 7.16 pm till Thursday, 18 March 2010 at 9.30 am.

38 ATTENDANCE

Present, all senators except Senators Johnston*, Kroger*, Lundy* and Sherry* (* on leave).

ROSEMARY LAING
Clerk of the Senate