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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:

Australian Broadcasting Corporation (ABC)—Equity and diversity—Report for the period 1 September 2008 to 31 August 2009.

Australian Law Reform Commission—Report No. 111—Making inquiries: A new statutory framework—Review of the *Royal Commissions Act 1902* and related matters, October 2009.

Gene Technology Regulator—Quarterly report for the period 1 July to 30 September 2009.

International Monetary Agreements Act 1974—Loan agreement between the Australian Government and the Republic of Indonesia for a standby loan for the Australian dollar equivalent of US\$1 billion, 5 November 2009—National interest statement.

National Environment Protection Council (NEPC)—Report for 2008-09.

National Health Act 1953—Report on the impact of the *National Health Amendment (Pharmaceutical Benefits Scheme) Act 2007*—Pharmaceutical Benefits Scheme (PBS) reform.

Northern Territory Fisheries Joint Authority—Report for 2007-08.

Private Health Insurance Administration Council—Report for 2008-09 on the operations of the registered health benefits organisations.

Surveillance Devices Act 2004—Report for 2008-09 on the operation of the Act.

Telecommunications (Interception and Access) Act 1979—Report for 2008-09 on the operation of the Act.

Tiwi Land Council—Report for 2008-09.

Torres Strait Regional Authority—Report for 2008-09.

Treaty—*Multilateral*—Statute of the International Renewable Energy Agency (IRENA)—Bonn, Germany, 26 January 2009—Text, together with national interest analysis.

3 DEFENCE—AFGHANISTAN—CIVILIAN CASUALTIES—STATEMENT BY LEAVE

The Minister for Defence (Senator Faulkner), by leave, made a statement relating to civilian casualties in Afghanistan.

Statements by leave: The Leader of the Australian Greens (Senator Bob Brown) and Senators Boswell and Macdonald, by leave, made statements relating to the matter.

4 FAIRER PRIVATE HEALTH INSURANCE INCENTIVES (MEDICARE LEVY SURCHARGE) BILL 2009 [NO. 2]

FAIRER PRIVATE HEALTH INSURANCE INCENTIVES (MEDICARE LEVY SURCHARGE—FRINGE BENEFITS) BILL 2009 [NO. 2]

Order of the day read for the adjourned debate on the motions of the Special Minister of State (Senator Ludwig)—That these bills be now read a second time—and on the amendment moved by Senator Siewert in respect of the *Fairer Private Health Insurance Incentives (Medicare Levy Surcharge) Bill 2009 [No. 2]*:

At the end of the motion, add “and the Senate calls on the Government to invest the full amount raised by the Medicare Levy Surcharge (approximately \$145 million over 4 years) into mental health programs:

- (a) Communities of Youth, Mental Health (\$30 million per annum) proposed by National Health and Hospitals Reform Commission;
- (b) Headspace (30 new services at \$1 million per annum or \$30 million);
- (c) early psychosis prevention and intervention services (\$26 million per annum); and
- (d) Lifeline suicide hospital discharge and treatment plan (\$15.39 million as a total package over 3 years) and a new Lifeline freecall number (\$17.5 million per annum)”.

Debate resumed.

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

5 QUESTIONS

Questions without notice were answered.

Distinguished visitors: The President welcomed members of a parliamentary delegation from Bangladesh led by the Speaker of the Parliament, the Honourable Mr Abdul Hamid, MP, and, with the concurrence of honourable senators, invited the Speaker to take a seat on the floor of the chamber.

Further questions without notice were answered.

6 MOTIONS TO TAKE NOTE OF ANSWERS

Senator Abetz moved—That the Senate take note of the answers given by the Minister for Immigration and Citizenship (Senator Evans) and the Minister for Employment Participation (Senator Arbib) to questions without notice asked by Opposition senators today relating to the home insulation program and to asylum seekers.

Debate ensued.

Question put and passed.

Senator Ludlam moved—That the Senate take note of the answer given by the Minister for Innovation, Industry, Science and Research (Senator Carr) to a question without notice asked by Senator Ludlam today relating to radioactive waste sites.

Question put and passed.

7 ENVIRONMENT—CLIMATE CHANGE PROGRAMS—GOVERNMENT POLICY— CENSURE

The Leader of the Australian Greens (Senator Bob Brown), by leave, moved—That the Senate—

- (a) censures the Government for its gross and systematic failure in the delivery of its climate change programs, including home insulation, green loans, solar rebate, renewable remote power generation program and the renewable energy target; and

- (b) calls on the Government to put in place a unified ministry and Department of Climate Change and Energy.

Debate ensued.

Document: The Minister for Immigration and Citizenship (Senator Evans) tabled the following document:

Administration—Counter-terrorism strategy and home insulation program—
Transcript of a doorstep interview with Senator Birmingham, dated 23 February 2010.

Senator Birmingham moved the following amendment:

Omit paragraph (b).

Debate ensued.

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 31

Senators—

Abetz	Bushby	Fisher	Parry
Adams	Cash	Heffernan	Payne
Back	Colbeck	Humphries	Ronaldson
Barnett	Coonan	Johnston	Scullion
Bernardi	Ferguson	Joyce	Troeth
Boswell	Fielding	Mason	Trood
Boyce	Fierravanti-Wells	McGauran	Williams (Teller)
Brandis	Fifield	Nash	

NOES, 31

Senators—

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

The ayes and noes were equal.

Statement by President: The Acting Deputy President (Senator Barnett) made the following statement:

In keeping with precedents of the Senate, a proposition that lacks majority support is not carried. Therefore paragraph (b) is omitted from the proposed resolution for lack of majority support.

Main question, as amended, put.

The Senate divided—

AYES, 36

Senators—

Abetz	Bushby	Heffernan	Parry
Adams	Cash	Humphries	Payne
Back	Colbeck	Johnston	Ronaldson
Barnett	Coonan	Joyce	Scullion
Bernardi	Fielding	Ludlam	Siewert
Birmingham	Fierravanti-Wells	Mason	Troeth
Boyce	Fifield	McGauran	Trood
Brandis	Fisher	Milne	Williams (Teller)
Brown, Bob	Hanson-Young	Nash	Xenophon

NOES, 25

Senators—

Bilyk	Evans	Marshall	Stephens
Bishop	Farrell	McEwen	Sterle
Brown, Carol	Feeney	McLucas	Wong
Cameron	Forshaw	Moore	Wortley
Collins	Hurley	O'Brien (Teller)	
Conroy	Hutchins	Polley	
Crossin	Lundy	Pratt	

Question agreed to.

The Leader of the Australian Greens (Senator Bob Brown), pursuant to standing order 154, moved—That the resolution relating to the censure of the Government be communicated by message to the House of Representatives for concurrence.

Question put and passed.

8 NOTICES

The Chair of the Select Committee on Fuel and Energy (Senator Cormann): 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 Fuel and Energy, be amended to omit “30 March 2010”, and substitute “30 June 2010”. (*general business notice of motion no. 705*)

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

(a) notes that:

- (i) major flaws in the design of the Federal Government’s renewable energy target legislation have led to a dramatic drop in the price of renewable energy certificates and stalled investment in the renewable energy sector,
- (ii) the Federal Government was warned of these flaws by industry and the Opposition but chose to ignore these warnings, and
- (iii) the Federal Government’s failure to act is now threatening the financial viability of major renewable energy projects such as the Musselroe Bay Wind Farm project in north-east Tasmania; and

(b) condemns the Government accordingly. (*general business notice of motion no. 706*)

The Chair of the Community Affairs Legislation Committee (Senator Moore): To move on the next day of sitting—That the Community Affairs Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 25 February 2010, from 4 pm, to take evidence for the committee’s inquiry into the

provisions of the Social Security and Other Legislation Amendment (Welfare Reform and Reinstatement of Racial Discrimination Act) Bill 2009 and the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2009 Measures) Bill 2009, along with the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (Restoration of Racial Discrimination Act) Bill 2009. (*general business notice of motion no. 707*)

The Chair of the Economics Legislation Committee (Senator Hurley): To move on the next day of sitting—That the Economics Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 25 February 2010, from 7.15 pm, to take evidence for the committee's inquiries into the Safe Climate (Energy Efficient Non-Residential Buildings Scheme) Bill 2009 and the provisions of the Tax Laws Amendment (Confidentiality of Taxpayer Information) Bill 2009. (*general business notice of motion no. 708*)

The Chair of the Community Affairs Legislation Committee (Senator Moore): To move on the next day of sitting—That the time for the presentation of the report of the Community Affairs Legislation Committee on the Plain Tobacco Packaging (Removing Branding from Cigarette Packs) Bill 2009 be extended to 26 August 2010. (*general business notice of motion no. 709*)

The Chair of the Economics Legislation Committee (Senator Hurley): To move on the next day of sitting—That the time for the presentation of the report of the Economics Legislation Committee on the Trade Practices Amendment (Material Lessening of Competition—Richmond Amendment) Bill 2009 be extended to 13 May 2010. (*general business notice of motion no. 710*)

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 18 March 2010. (*general business notice of motion no. 711*)

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

- (a) congratulates the Leader of the Opposition, Tony Abbott, and the President of the United States of America, Barack Obama, for meeting His Holiness, the Dalai Lama in December 2009 and February 2010 respectively; and
- (b) calls on the Prime Minister, Kevin Rudd, to meet His Holiness, the Dalai Lama at the earliest possible opportunity. (*general business notice of motion no. 712*)

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

- (1) The Carbon Pollution Reduction Scheme Bill 2010 and 10 related bills be referred to the Economics Legislation Committee for inquiry and report by 11 May 2010.
- (2) In undertaking the inquiry, the committee should consider.
 - (a) the package of amendments announced by the Government on 24 November 2009 and incorporated in current proposed legislation, including the impact of the bills on the Australian resources sector, Australian exports, the competitiveness of Australian industry, employment levels and electricity prices;
 - (b) the modelling underpinning the Carbon Pollution Reduction Scheme (CPRS) including the lower projected carbon price and the cost of the CPRS package over the current budget period to 2014-15;
 - (c) the outcome of the United Nations Framework Convention on Climate Change held in Copenhagen in December 2009;

- (d) the current state of progress of other countries in implementing emissions and abatement measures to meet non-binding emissions reduction targets; and
 - (e) the status of, and likely prospects for, the United States of America's emissions trading legislation.
- (3) The committee should seek evidence from, but not limited to, the Productivity Commission, Frontier Economics, the Minerals Council of Australia, the Australian Coal Association and the Energy Supply Association of Australia.

Senator Milne and Leader of the Australian Greens (Senator Bob Brown): To move on the next day of sitting—That the following matter be referred to the Rural and Regional Affairs and Transport References Committee for inquiry and report by 17 June 2010:

The toxicity of the George River in north-east Tasmania, with particular reference to:

- (a) possible causes, including the potential impact of leachate from *Eucalyptus nitens* plantations;
- (b) the impact of the toxicity on human health, wildlife and regional oyster farms;
- (c) previous investigations into the toxicity of the George River and any consequent actions, including whether the actions of local, state and federal governments and the private sector have been adequate;
- (d) whether past selective breeding or genetic modification of plantation trees has deliberately or inadvertently increased the trees' toxicity and whether any risk assessments or monitoring of impacts have been conducted;
- (e) the current breeding programs for eucalyptus species and any ecological and human health implications of current research into reducing foliage palatability;
- (f) possible short- and long-term mitigation measures; and
- (g) any related matters.

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 Carbon Pollution Reduction Scheme Bill 2010 and 10 related bills, allowing them to be considered during this period of sittings.

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.

Senator Milne: To move on the next day of sitting—That the following bill be introduced: A Bill for an Act relating to water heaters and phantom renewable energy certificates, and for related purposes. ***Renewable Energy—Electricity (Water Heaters and Phantom Certificates) Bill 2010.*** (*general business notice of motion no. 713*)

9 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 24 February 2010.

General business notice of motion no. 702 standing in the name of Senator Hanson-Young for today, proposing the introduction of the Social Security and Other Legislation Amendment (Scholarship Payments) Bill 2010, postponed till 24 February 2010.

10 WILD RIVERS (ENVIRONMENTAL MANAGEMENT) BILL 2010 [No. 2]

Senator Scullion, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 685—That the following bill be introduced:

A Bill for an Act to protect the interests of Aboriginal traditional owners in the management, development and use of native title land situated in wild river areas, and for related purposes.

Question put and passed.

Senator Scullion presented the bill and moved—That this bill may proceed without formalities and be now read a first time.

Question put and passed.

Bill read a first time.

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

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

11 PUBLIC ACCOUNTS AND AUDIT—JOINT STATUTORY COMMITTEE—LEAVE TO MEET DURING SITTINGS

Senator O'Brien, at the request of Senator Lundy and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 699—That the Joint Committee of Public Accounts and Audit be authorised to hold public meetings during the sittings of the Senate, to take evidence for the committee's inquiry into the review of Auditor-General's reports, as follows:

(a) Wednesday, 10 March and 17 March 2010, from 11.30 am to 1.30 pm; and

(b) Thursday, 11 March 2010, from 9.30 am to 12.30 pm.

Question put and passed.

12 ECONOMICS LEGISLATION COMMITTEE—EXTENSION OF TIME TO REPORT

Senator O'Brien, at the request of the Chair of the Economics Legislation Committee (Senator Hurley) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 700—That the time for the presentation of the report of the Economics Legislation Committee on the provisions of the Tax Laws Amendment (Confidentiality of Taxpayer Information) Bill 2009 be extended to 11 March 2010.

Question put and passed.

13 EDUCATION—EDUCATION SERVICES FOR OVERSEAS STUDENTS ASSURANCE FUND—ORDER FOR PRODUCTION OF DOCUMENTS

Senator Cormann amended general business notice of motion no. 698 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

(a) notes that:

(i) after sustained pressure in the Senate, the Rudd Government has finally released information about the financial position of the Education Services for Overseas Students (ESOS) Assurance Fund as at 31 January 2010,

- (ii) the Government also announced additional funding for the ESOS Assurance Fund of \$5.1 million,
 - (iii) no information about the financial position of the ESOS Assurance Fund after 31 December 2008 had been made publicly available until 22 February 2010,
 - (iv) in 2008 the ESOS Assurance Fund lost \$1.3 million and was left with only about \$1.8 million in cash and cash equivalents,
 - (v) the financial position of the ESOS Assurance Fund would have been impacted by successive closures of private training colleges throughout 2009 and early 2010, and
 - (iv) in 2009 other than the regular ESOS Assurance Fund levies imposed on relevant education services providers the Government had to go back to providers on an ad hoc basis to impose additional levies; and
- (b) orders that there be laid on the table, by 12pm on Wednesday, 24 February 2010:
- (i) any documents and information about the target to be raised through regular contributions to the ESOS Assurance Fund set by fund managers in 2009,
 - (ii) total contributions made by relevant providers to the ESOS Assurance Fund in regular annual fund contributions in the 2009 calendar year,
 - (iii) any documents and information about the target to be raised through any additional special contributions to the ESOS Assurance Fund set by fund managers in 2009,
 - (iv) the total contributions made by relevant providers by way of additional special levies in the 2009 calendar year,
 - (v) the current estimated contributions of providers to the ESOS Assurance Fund and total estimated liabilities as a result of college closures for the 2010 calendar year,
 - (vi) the cost of managing the fund in 2009 and the estimated cost of managing the fund in 2010, and
 - (vii) all communications between the Minister, her office and the department and the ESOS Assurance Fund from 1 September 2009 to 22 February 2010 regarding:
 - (A) the financial viability of the fund,
 - (B) government contributions to the fund,
 - (C) annual contributions, and/or
 - (D) special levies.

Question put and passed.

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

14 **COMMUNITY AFFAIRS REFERENCES COMMITTEE—EXTENSIONS OF TIME TO REPORT**

The Chair of the Community Affairs References Committee (Senator Siewert), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 701—That the time for the presentation of reports of the Community Affairs References Committee be extended as follows:

- (a) impact of gene patents on the provision of healthcare in Australia—to 17 June 2010;
- (b) hearing health in Australia—to 13 May 2010; and
- (c) suicide in Australia—to 24 June 2010.

Question put and passed.

15 INDIGENOUS PEOPLES—HUMAN RIGHTS

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 703—That the Senate—

- (a) notes the 170th anniversary of the signing of the Treaty of Waitangi between the Crown and Maori leaders in New Zealand;
- (b) congratulates the first peoples of Aotearoa on the progress they have made in the recognition of their human rights and in closing the gap on health disadvantage;
- (c) recalls that directions from the Crown to negotiate a similar treaty with Australia's first peoples were never enacted by our colonial governors; and
- (d) calls on the Australian Government to recognise the human rights of Indigenous Australians, to test via a referendum the inclusion of recognition of former occupation and sovereignty in the Australian Constitution, and to commence formally negotiating a treaty once a national representative body is elected.

Question put and negatived.

16 CULTURE AND THE ARTS—AUSTRALIA'S NATIONAL ARCHIVES—MINISTERIAL STATEMENT

The Special Minister of State (Senator Ludwig), by leave, made a statement relating to Australia's National Archives.

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

Debate adjourned till the next day of sitting, Senator Hanson-Young in continuation.

17 GOVERNMENT DOCUMENTS—CONSIDERATION

The following government documents tabled earlier today (*see entry no. 2*) were considered:

National Environment Protection Council (NEPC)—Report for 2008-09. Motion to take note of document moved by Senator Parry. Debate adjourned till Thursday at general business, Senator Parry in continuation.

Australian Broadcasting Corporation (ABC)—Equity and diversity—Report for the period 1 September 2008 to 31 August 2009. Motion to take note of document moved by Senator Parry. Debate adjourned till Thursday at general business, Senator Parry in continuation.

Northern Territory Fisheries Joint Authority—Report for 2007-08. Motion to take note of document moved by Senator Parry. Debate adjourned till Thursday at general business, Senator Parry in continuation.

18 ADJOURNMENT

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

Debate ensued.

The Senate adjourned at 8.18 pm till Wednesday, 24 February 2010 at 9.30 am.

19 ATTENDANCE

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

ROSEMARY LAING
Clerk of the Senate