

Reasons for referral/principal issues for consideration

Examination of the bill as necessary.

Possible submissions or evidence from:**Committee to which bill is referred:**

Employment, Workplace Relations, and Education Legislation Committee

Possible hearing date:

Possible reporting date(s): 3 October 2006

Appendix 2

Proposal to refer a bill to a committee**Name of bill(s):**

Higher Education Legislation Amendment (2006 Budget and Other Measures) Bill 2006

Reasons for referral/principal issues for consideration

Detailed examination of proposals in relation to FEE-HELP limits, student contributions and tuition fee changes and other matters and their impact on students.

Possible submissions or evidence from:

AVCC, NUS, CAPA, NTEU

Committee to which bill is referred:

Employment, Workplace Relations, and Education Legislation Committee

Possible hearing date:

Possible reporting date(s): 3 October 2006

NOTICES**Withdrawal**

Senator WATSON (Tasmania) (9.32 am)—On behalf of the Senate Standing Committee on Regulations and Ordinances and pursuant to notice given on the last day of sitting, I now withdraw business of the Senate notice of motion No. 1 standing in my name for the next day of sitting.

BUSINESS**Rearrangement**

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (9.32 am)—I move:

That the following government business orders of the day be considered from 1.15 p.m. till not later than 2.30 p.m. today:

- | | |
|-------|---|
| No. 4 | International Tax Agreements Amendment Bill (No. 1) 2006 |
| No. 5 | Tax Laws Amendment (Repeal of Inoperative Provisions) Bill 2006 |
| No. 6 | Privacy Legislation Amendment Bill 2006 |

Question agreed to.

Rearrangement

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (9.32 am)—I move:

That the order of general business for consideration today be as follows:

(1) general business notice of motion no. 527 standing in the name of Senator McLucas relating to Medibank Private; and

(2) consideration of government documents.

Question agreed to.

BUDGET**Consideration by Legislation Committees**

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (9.33 am)—I move:

(1) That the 2006-07 supplementary Budget estimates hearings by committees be scheduled as follows:

Monday, 30 October and Tuesday, 31 October (*Group A*)

Wednesday, 1 November and Thursday, 2 November (*Group B*).

(2) That the committees consider the proposed expenditure in accordance with the allocation of departments to committees agreed to by the Senate.

(3) That committees meet in the following groups:

Group A:

Environment, Communications, Information Technology and the Arts

Finance and Public Administration

Legal and Constitutional Affairs

Rural and Regional Affairs and Transport

Group B:

Community Affairs

Economics

Employment, Workplace Relations and Education

Foreign Affairs, Defence and Trade.

Question agreed to.

LOCAL GOVERNMENT IN AUSTRALIA

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (9.34 am)—I move:

That the Senate—

- (a) recognises that local government is part of the governance of Australia, serving communities through locally-elected councils;
- (b) values the rich diversity of councils around Australia, reflecting the varied communities they serve;
- (c) acknowledges the role of local government in governance, advocacy, the provision of infrastructure, service delivery, planning, community development and regulation;
- (d) acknowledges the importance of cooperating and consulting with local government on the priorities of their local communities;
- (e) acknowledges the significant Australian Government funding that is provided to local government to spend on locally determined priorities, such as roads and other local government services; and

- (f) commends local government elected officials who give their time to serve their communities.

Senator CARR (Victoria) (9.34 am)—by leave—I move:

Omit paragraph (a), substitute:

- (a) supports a referendum to extend constitutional recognition to local government in recognition of the essential role it plays in the governance of Australia;

The PRESIDENT—Senator Carr, you have leave to make a short statement.

Senator Bartlett—If there is going to be a debate on the amendment, could we not have formality but, rather, shift it to a later stage in order to have a proper debate? If people are going to speak to it then we would all like to speak to it. If we had known that people were going to speak to that amendment, we would not have given the motion formality.

The PRESIDENT—We have already taken the motion as formal and leave has been granted for a short statement. If you wish to make a short statement, it has already been indicated that leave would be granted to you, too, Senator.

Senator CARR—Today we are considering a resolution to give formal parliamentary recognition to the imports of local government. It is a proposition that the opposition supports. However, in moving the amendment, we are seeking to strengthen this recognition. The opposition further recognise the status and importance of local government to our federal system of government. It has been the longstanding platform of the Australian Labor Party that there ought to be a referendum to give constitutional recognition of local government. We support the greater recognition of the increasing role in the range of social, cultural and human services undertaken by local government. Labor have a long history of implementing closer collaboration and consultation between the various levels of government and appropriately seek that we have a commitment to include that in this resolution.

Finally, Labor welcomes the opportunity to join with other members of the house in acknowledging the dedication and the commitment shown by so many local government officials and office bearers in serving their communities, with little or no anticipation of financial reward. There are important issues and they all warrant recognition. These are of course reassuring sentiments; however, they are well deserved. There needs to be a much greater response than that. While this recognition is a step in the right direction, it is undoubtedly only a very small step and a rather belated one at that.

Our support for this motion is tempered by caution. We are cautious because we do not believe that the government has done enough to support local government—far from it. The opposition are cautious because we are waiting to see what real commitment this gov-

ernment is prepared to put behind the rhetoric of this motion. Our fears are not lessened by the fact that it has taken the government two years to respond to the Hawker report and a further year to bring this motion before the two chambers of this parliament. The current motion stems from just one of the Hawker committee's recommendations. The committee made a total of 18 recommendations and, of those 18 recommendations, the government has fully supported only seven of them. If the recommendations cost any money, it appears that the government takes the view that of course they are something that the states should adopt. In those circumstances, there has to be much more action by this government in terms of its support for local government.

The motion goes to the heart of the current problematic arrangements, such as the suggestion regarding the new methodology for calculating financial assistance for local government and the question of the establishment of a local government liaison unit within the Commonwealth—and what we have seen from the Commonwealth on this is a rejection of that proposition. That is totally inadequate in today's circumstances. It is time for much more. As the President of the Australian Local Government Association, Councillor Paul Bell, has argued, this motion is largely symbolic. It is time to move beyond symbolism. We do not quibble with the bulk of the sentiments contained in this motion—fine sentiments notwithstanding, this is a very timid proposition. It is a document that lacks vision for local government.

Senator Ellison interjecting—

Senator CARR—The minister is saying that leave was granted for a short statement. I am making a short statement.

The PRESIDENT—Senator, leave was granted for a short statement.

Senator Ellison—Mr President, on a point of order: leave was given for a short statement and it is going on, and now Senator Carr is abusing the concession which was afforded him. Can you draw that to the senator's attention—that leave was given for a short statement.

Senator Chris Evans—Mr President, on the point of order: generally, leave for short statements has been granted as a courtesy. Senator Carr indicated that he does not have long to go. I think any suggestion that Senator Carr is abusing the process is unrealistic compared to some of the performances we have heard from others. I think Senator Carr ought to be allowed to finish.

The PRESIDENT—Leave was granted before you came into the chamber. He had been speaking for quite some time. Leave was granted for a short statement. He did say he was winding up, but he wound himself up

again. I just remind Senator Carr that leave was granted for a short statement.

Senator Chris Evans—Mr President, on the point of order: I do not think it is appropriate for the chair to describe a senator as having wound himself up and to run a commentary on it. My point of order is that you have to rule according to the rules of the Senate. If no time was set, then it is within the rights of the senator to speak. I think it is fine for him to be reminded that it was to be a short statement, but for the President to run a commentary on the performance of the senator speaking is quite out of order. I ask you to think about that.

The PRESIDENT—You are now reflecting on the chair, Senator—are you?

Senator Chris Evans—I am making a point of order. My point of order is to you. I do not think it is appropriate for you to comment on the content of a senator's speech.

The PRESIDENT—I was commenting on the fact that leave was granted for a short statement. The senator himself said 'finally' and was winding up, but he did not wind up. That was the point I was trying to make—that he had indicated to the Senate that he was winding up his short statement, but he went on for a lot longer. Senator Carr, would you continue.

Senator CARR—This situation has been raised because the minister approached the opposition about this motion and advised us there would be an opportunity to debate the motion—and there was that opportunity in the House of Representatives. But it has been brought into the Senate under this blunt instrument of a formal motion. I sought leave on the agreement of the government to make a short statement, which I understood could be about five minutes.

Senator Ellison—It has been five minutes.

Senator CARR—It has not been five minutes. What we have here is the government finding complaint on a motion that they said they wanted us to agree to. We have proposed an amendment to provide me with an opportunity to speak to the motion, because of a shifty arrangement to prevent debate on a serious matter. I would like to conclude by making these final points.

My amendment calls for constitutional recognition of local government by way of referendum. It is not a symbolic measure, but it is of practical value. As I have previously argued, such recognition would enable local government to participate more effectively in national programs. It would enable the Commonwealth to address more effectively the vexing issue of financial support for local government. It would revitalise the relationship between the Commonwealth government and its local counterparts. It is true that this issue has been unsuccessful in previous referenda, but we must

all recognise the reason for this failure: this proposal became embroiled in other political issues that predetermined an unfavourable outcome. To succeed, any referendum proposal needs bipartisan support. This is my challenge to the government. This amendment before the Senate acknowledges the importance of cooperation. By carrying this amendment, we would put that into practical effect. A bipartisan approach to constitutional recognition, as we have advocated, would have every reason for success at a future referendum. It is time that the government moved beyond platitudes, and this amendment deserves to be carried.

The PRESIDENT—I call Senator Bartlett.

Senator Ian Macdonald—Mr President, I just indicate that I will accede to Senator Bartlett, but I am going to seek leave to make a short statement as well.

The PRESIDENT—The point is that, if formality had not been granted, the matter could have been debated. Giving leave for short statements may lead to misunderstandings between the parties. I call Senator Bartlett.

Senator BARTLETT (Queensland) (9.43 am)—by leave—I start by agreeing with your comment, Mr President, and I encourage senators—without sounding too pompous—to learn the basics of how procedure works in this place. This is a government motion and, if you want to debate it, you deny formality and it comes up under order of government business notice of motion No. 2, part 9, on the red. You could have spoken as long as you wanted and not had the rest of us sitting here in what is supposed to be the formal business. Perhaps there should be a short tutorial for members of the opposition to figure out how procedure works in this place.

The amendment before us, nonetheless, is supported by the Democrats, despite all the unnecessary flurry around it. Indeed, it would be better for the amendment and the substantive motion that the debate were conducted in a way that recognised that there is strong multiparty support for what is being put forward here, rather than drawing attention to the one per cent where there is disagreement. Local government is terribly under-recognised. The Democrats have long held a view that we should be strengthening local government, building up to regional government, and, quite frankly, looking for opportunities to abolish states altogether. I think that the latest election in my home state of Queensland has done little other than to prove that we could do without states altogether. We would all be better off probably once we strengthened—

Senator Ian Macdonald—Hear! Hear!

Senator BARTLETT—I note the interjection from Senator Macdonald. Doing away with the states altogether would involve proper recognition of local government along the way. I do not want to over-inject our

view as a party into the intent of this motion, which is to get recognition across all party lines of the strong support for local government. That is the intent and we take the opportunity to indicate our particular view as a party on that issue.

It is also our view that a referendum on constitutional recognition would be valuable, and in an ideal world maybe that could be combined with a referendum to downgrade the states as well. But we are not here to beat up on the states; we are here to support local government, and the Democrats welcome the opportunity to do that and to speak in support of this amendment.

Senator IAN MACDONALD (Queensland) (9.46 am)—by leave—I want to say a few words on this on behalf of government, as a former local government minister and a member of a council for 11 years—and in saying that, Mr President, I recognise your distinguished career as Warden of Clarence, a very significant council in Tasmania. At the Local Government Association of Queensland meeting last week the association asked that I might say a few words, and I am delighted to do that. I am one who believes that local government performs a magnificent role in the governance of Australia. Unfortunately, time does not permit me to give local government the credit that it deserves in Australian governance, but the motion is an expression of the government's support for local government and it is adopted by the Labor Party and by all other parties in this chamber, I understand.

Senator Carr has moved an amendment to seek constitutional recognition by referendum. There are many in local government who want formal constitutional recognition. This proposition has been unsuccessful in two referenda and the government is not convinced that another referendum at this stage would produce a different result. And the reason for that—and I just want to make this point before I sit down—is that unless you have the bipartisan support that Senator Carr talks about you will never get a referendum through. Ask any one of the Labor state governments whether they would support a referendum and the answer is no. It is state governments that fear what Senator Bartlett mentioned: if there were formal recognition given to local government, it would not be long before there would be movement to get rid of the states. For that reason, and any number of other reasons, the Labor state governments want to keep local government under their thumb. They want to make sure that local governments are absolutely subservient to the state Labor governments, and that is why the state Labor governments, in spite of occasional lip service, will never agree to this—and if you do not have the states agreeing on a constitutional referendum you know what the outcome is going to be.

I give credit to the President of the ALGA, who is also the President of the LGAQ, Councillor Paul Bell, a great man and a very distinguished statesman almost. I have said to him that if he wants to have constitutional recognition there has to be agreement by all of the states first. When that happens then he can seriously think about constitutional recognition. Until that time, it is simply not feasible. In concluding, I again commend this motion to the Senate. I congratulate all parties for supporting it. It is recognition of the fabulous work that local government does in Australia. So many committed people right across our nation give their time and efforts to make sure that our governance at local level is world class and even better.

Senator ALLISON (Victoria—Leader of the Australian Democrats) (9.50 am)—by leave—What local government wants is a seat at the table and, whether that is federal or state, that is what this is all about. It would not need constitutional recognition if it were offered that. So often, decisions are made that impact on local government but they are not at the table discussing them.

Senator Ian Macdonald—But they are at ministerial councils.

Senator ALLISON—That is true, but by and large their views are not heard, as I understand it. That seems to be the complaint. Their views are not heard in a substantial way and that is a pretty superficial involvement of local government. So I make that point. That is my understanding of what this issue is all about.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.51 am)—by leave—The Greens wholeheartedly support the motion and the opposition's amendment for supporting a referendum for constitutional recognition of local government. I absolutely do not accept the excuse given by Senator Macdonald on behalf of the coalition that a referendum would fail. The only thing that would make a referendum fail—

Senator Ian Macdonald—It failed twice before, Bob.

Senator BOB BROWN—That is because the coalition did not support it. When we get all parties together supporting a referendum initiative, local government will get recognition. We have got the support in the Senate and we should stand up for carrying that through to justice under the Constitution, giving local government the constitutional recognition that it deserves. The government is letting down local government by not giving that support to this amendment today.

Question put:

That the amendment (**Senator Carr's**) be agreed to.

The Senate divided. [9.56 am]

(The President—Senator the Hon. Paul Calvert)

Ayes.....	34
Noes.....	<u>38</u>
Majority.....	4

AYES

Allison, L.F.	Bartlett, A.J.J.
Bishop, T.M.	Brown, B.J.
Campbell, G. *	Carr, K.J.
Conroy, S.M.	Crossin, P.M.
Evans, C.V.	Faulkner, J.P.
Forshaw, M.G.	Hogg, J.J.
Hurley, A.	Hutchins, S.P.
Kirk, L.	Ludwig, J.W.
Lundy, K.A.	Marshall, G.
McEwen, A.	McLucas, J.E.
Milne, C.	Moore, C.
Murray, A.J.M.	Nettle, K.
O'Brien, K.W.K.	Polley, H.
Ray, R.F.	Siewert, R.
Stephens, U.	Sterle, G.
Stott Despoja, N.	Webber, R.
Wong, P.	Wortley, D.

NOES

Abetz, E.	Adams, J.
Barnett, G.	Bernardi, C.
Boswell, R.L.D.	Brandis, G.H.
Calvert, P.H.	Campbell, I.G.
Chapman, H.G.P.	Coonan, H.L.
Eggleston, A.	Ellison, C.M.
Ferguson, A.B.	Ferris, J.M. *
Fielding, S.	Fierravanti-Wells, C.
Fifield, M.P.	Heffernan, W.
Humphries, G.	Johnston, D.
Joyce, B.	Kemp, C.R.
Lightfoot, P.R.	Macdonald, I.
Macdonald, J.A.L.	Mason, B.J.
McGauran, J.J.J.	Nash, F.
Parry, S.	Patterson, K.C.
Payne, M.A.	Ronaldson, M.
Santoro, S.	Scullion, N.G.
Troeth, J.M.	Trood, R.
Vanstone, A.E.	Watson, J.O.W.

PAIRS

Brown, C.L.	Minchin, N.H.
Sherry, N.J.	Colbeck, R.

* denotes teller

Question negatived.

Original question agreed to.

BUSINESS**Rearrangement**

Senator ELLISON (Western Australia—Manager of Government Business in the Senate) (9.58 am)—I move:

That, on Thursday, 7 September 2006, the routine of business be varied to provide that questions without notice be called on at 2.30 pm.

Question agreed to.

GENEVA CONVENTION

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.59 am)—I move:

That the Senate supports the Geneva Convention and opposes the failure to implement the convention regardless of by whom or where they may be breached.

Question agreed to.

**MIGRATION LEGISLATION AMENDMENT
(END OF MANDATORY DETENTION) BILL
2006**

First Reading

Senator BARTLETT (Queensland) (10.00 am)—I move:

That the following bill be introduced: A Bill for an Act to end the mandatory detention of visa applicants and asylum seekers, and for related purposes.

Question agreed to.

Senator BARTLETT (Queensland) (10.00 am)—I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator BARTLETT (Queensland) (10.00 am)—I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The speech read as follows—

**MIGRATION LEGISLATION AMENDMENT (END OF
MANDATORY DETENTION) BILL 2006**

This Private Senator's Bill is one of a number of Migration Act Amendment Bills which I will table in the course of this parliamentary year. This bill seeks to eliminate mandatory detention which was introduced by the Migration Reform Act 1992.

The Democrats are fundamentally opposed to the system of mandatory detention of asylum seekers and we opposed the legislation which put it in place, which was passed with the support of both major parties.

The existing law regarding mandatory detention is a fundamental breach of the United Nations Refugee Convention Article 31, which states that:

The Contracting States shall not impose penalties, on account of their illegal entry or

presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.