The Senate

Standing Committee on Finance and Public Administration

Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008

June 2008

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Introduction

Background

1.1 On 18 June 2008, the Senate referred the provisions of the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008 (the bill) to the Senate Finance and Public Administration Standing Committee (the committee) for inquiry and report by 24 June 2008.

Purpose of the bill

1.2 The bill seeks to implement various measures contained on the 2008–09 Budget, including changes to the:

- payment of Family Tax Benefit Part B;
- payment of the 'baby bonus';
- compliance arrangements of the Commonwealth Seniors Health Card;
- income management regime; and
- eligibility for the partner service pension.

1.3 The bill also proposes a number of legislative changes which do not originate from the 2008–09 Budget. Of particular note are amendments which clarify arrangements previously legislated in relation to the assessment of adjusted taxable income for Fringe Benefits Tax (FBT) and Child Care Benefit (CCB). These items are found in Schedule 6 of the bill. Each of the changes listed above are outlined later in this report.

Conduct of the inquiry

1.4 The reporting time for the committee's inquiry meant that advertising for submissions was not possible. However, the Secretariat gauged the interest of a range of potential submitters directly by telephone.

1.5 The committee received three written submissions, listed at Appendix 1, and held a public hearing in Canberra on 20 June 2008. A list of the witnesses who appeared at the hearings is in Appendix 2, and copies of the Hansard transcript are available on the committee's Internet page at: www.aph.gov.au/Senate/committee/fapa_ctte/index.htm.

Acknowledgement

1.6 The committee appreciates the time and work of those community service organisations and government departments who provided written and oral submissions to the inquiry, particularly in light of the tight timeframe. Their work has assisted the committee considerably in its inquiry.

Note on references

1.7 References in this report are to individual submissions as received by the committee. References to the committee Hansard are to the proof Hansard: page numbers may vary between the proof and the official Hansard transcript.

Issues[1]

Family Tax Benefit Part B

1.8 Currently, for sole parents, there is no income test for Family Tax Benefit Part B (FTB-B), regardless of income.[2]

1.9 For partnered families, while there is no eligibility limit on the income of the primary earner, the amount payable under the FTB-B income test is based on the income of the lower earner.[3] The rate payable is dependent on the actual income of the lower earner. On an income of up to $4380 the full rate is paid. Payments are reduced by 20 cents for each dollar of income above that amount. In certain circumstances, the lower earner can earn up to $22 302 and still be eligible for some FTB-B.[4]

1.10 The bill will establish a $150 000 limit on primary earner income for FTB-B and related tax offsets, regardless of whether the family is single or partnered. The amendments index this income limit once a year on 1 July to movements in the Consumer Price Index (CPI). The income test for the secondary earner, in the case of a partnered family, is not altered by these proposed changes. The Explanatory Memorandum reports a $112.8 million saving for the 2008–09 financial year, growing to $141.2 million in 2010–11.[5]

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1 In the preparation of this report extensive reference has been made to the Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008, *Bills Digest*, Parliamentary Library, June 2008,

2 Subclause 29(1) of Schedule 1, *A New Tax System (Family Assistance) Act 1999*.

3 Subclause 3(2), Schedule 3, *A New Tax System (Family Assistance) Act 1999*.

4 Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008, *Bills Digest*, Parliamentary Library, June 2008, pp 3–4.

5 Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008, *Explanatory Memorandum*, p. iii.

1.11 The government has stated that the income test on FTB-B will ensure that family payments are targeted to families on the basis of need.[6] It estimates the FTB-B income test will affect about 40 000 families.[7]

1.12 These measures are positive insofar as they target to families on the basis of need. The Bills Digest raises an issue of equity, however, between partnered families where one partner earns the bulk of the income and the other partner earns comparatively little. Take for example a case where each partner earns $75 000. Neither partner is eligible for FTB-B. Were the same income to be earned solely by one partner, and the other earn nothing, the full FTB-B payment would be received. This was acknowledged by an official from the Department of Families, Housing, Community Services and Indigenous Affairs (the Department) at the 2008–09 Budget Estimates:

> You could have a family where the primary income earner had $145,000 and the secondary earner had $10,000, a total income of $155,000. They would be in the system, whereas, if the primary earner had $155,000 and the secondary earner had none, they would not be in the system. But the reason for that is that the government did not want the decisions about taking up work by the secondary earner to be changed. They did not want it to result in any change of incentives for the secondary earner.[8]

Baby Bonus

1.13 The bill contains four measures relating to baby bonus. An income test of $150 000 per annum per family will be introduced from 1 January 2009. There will be provision for the baby bonus to be paid by instalment, rather than by lump sum. The indexation date for the baby bonus will be changed to 1 July each year (from twice-yearly) after the legislated increase to $5000 on 1 July 2008, and will be based on CPI. Lastly, eligibility for the baby bonus will be extended to parents who adopt children under the age of 16 and an adoptive parent will be able to access the full amount of baby bonus, even if it has been previously paid for the child.[9]

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6 Australian Government, *2008–09 Budget Paper No. 2 Budget Measures*, Better Targeting and delivery of Family Tax Benefit – $150 000 income test of primary earner for FTB, pp 370–371.

7 The Hon. Jenny Macklin, MP, Minister for Families, Housing, Community Services and Indigenous Affairs, Simpler and Fairer Family Payments, *media release,* Canberra, 13 May 2008, www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/budget08_family_13may08.htm.

8 Mr Mark Warburton, Branch Manager, Family Payments and Policy, FaHCSIA, Senate Community Affairs Committee, *Budget Estimates Hansard*, 3 June 2008, p. 116.

9 Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008, *Explanatory Memorandum*, p. 6.

1.14 The Explanatory Memorandum presents estimated savings over the forward estimates of $52.4 million in 2008–09 to $104.7 million in 2010–11.[10] Officials submitted at the 2008–09 Budget Estimates hearings that the cost of administration of the baby bonus scheme would increase by $5 million as a result of the changes, but that for every extra dollar of administration cost, the measures would save $14.[11] This is a total net savings of $354.5 million over four years.[12]

Income test

1.15 Currently, the baby bonus does not have an income test. The government announced the introduction of an income test for the baby bonus in the 2008–09 Budget.[13] The proposed income test is to limit the baby bonus to families with an income of $75 000 or less in the *6 month* period *after* the birth or adoption of a child. This will require the claimant to provide an estimate of anticipated taxable family income for the 6 month period. This will not be an unusual process for FTB and CCB claimants, as they currently have to provide a forward estimate of their income for the financial year.

1.16 The allowable time a person may claim the baby bonus will be extended to 52 weeks. This is mainly to allow for families, who erroneously estimated that their income would be in excess of $75 000 in the 6 month period following the child coming into care, to lodge a claim later.

1.17 Claimants will provide to Centrelink an estimate of their taxable income over the six month period, which will be assessed for reasonability against past income, or in some cases, against a tax return. There will, however, be no reconciliation of actual income against the estimate provided by the claimant.[14]

Numbers affected by the income test

1.18 In 2006–07, the baby bonus was paid in respect of 291 876 children.[15] While the Budget Papers do not directly indicate how many families are expected to become

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10 Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008, *Explanatory Memorandum*, Financial Impact Statement.

11 Mr Mark Warburton, Branch Manager, Family Payments and Policy, FaHCSIA, Senate Community Affairs Committee, *Budget Estimates Hansard*, 3 June 2008, p. 119.

12 Australian Government, *2008–09 Budget Paper No. 2 Budget Measures*, Better targeting and delivery of Baby Bonus, p. 370: www.aph.gov.au/budget/2008-09/content/bp2/html/index.htm.

13 Australian Government, *2008–09 Budget Paper No. 2 - Budget Measures*, Better targeting and delivery of Baby Bonus, Canberra, 13 May 2008, pp. 370: www.aph.gov.au/budget/2008-09/content/bp2/html/index.htm

14 Mr David Hazlehurst, Group Manager, Families, FaHCSIA, *Proof Committee Hansard*, 20 June 2008, p. 44.

15 Department of Families and Community Services and Indigenous Affairs, *2006–07 Annual Report,* Canberra, 2007, p. 169: www.facs.gov.au/annualreport/2007/pdf.htm

ineligible for the baby bonus from 1 January 2009, the committee notes evidence received during Budget Estimates that the Government expected the means test to affect only 16 000 of the 293 000 births forecast for 2008–09.[16] The Budget Papers elsewhere estimate 285 000 children and families to be paid the baby bonus in 2008–09.[17]

1.19 At the committee's public hearing, Catholic Social Services expressed no concerns with the introduction of the baby bonus means test.[18]

Instalments

1.20 Currently, the baby bonus is usually paid as a one-off benefit. The bill would see the baby bonus delivered in 13 fortnightly instalments. Although the instalment option currently exists, it is rarely used except in the case of applicants aged 17 or under in which case the baby bonus is paid automatically in instalments.

1.21 With the baby bonus rate scheduled to increase to $5000 from 1 July 2008, this will then mean 13 payments of $384.62 per fortnight. The level of savings due to new approach could not be specifically identified.[19]

Indexation

1.22 Currently, the baby bonus is indexed twice a year on the basis of the CPI on 20 March and 20 September. The amendments propose to alter this to annual CPI indexation on 1 July.[20] This change will bring the baby bonus indexation into line with the current indexation for most other family assistance payment rates and income test limits, which are indexed once a year on 1 July to annual movements in the CPI. The Department has identified savings of $80 million over 4 years made possible by the indexation changes.[21]

Adopted children

1.23 When the original baby bonus measure was introduced from 1 July 2004, it was only payable in respect of a child who entered care (was born to parents, or went

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16 Senator the Hon. Joseph Ludwig, Minister for Human Services, Finance and Public Administration Committee, *Budget Estimates Hansard*, 29 May 2008, p. 48.

17 Australian Government, *Portfolio Budget Statements 2008–09, Budget related paper No. 1.7,* Families, Housing, Community Services and Indigenous Affairs Portfolio, Canberra, 13 May 2008, p. 88: www.fahcsia.gov.au/internet/

18 *Proof Committee Hansard*, 20 June 2008, p. 15.

19 Mr Mark Warburton, Branch Manager, Family Payments and Policy, FaHCSIA, *Proof Committee Hansard*, 20 June 2008, p. 42.

20 Schedule 2, Part 3.

21 Mr Mark Warburton, Branch Manager, Family Payments and Policy, FaHCSIA, *Proof Committee Hansard*, 20 June 2008, p. 42.

to live with new adoptive parents) within their first 26 weeks of life. This effectively excluded most adopted children because only a minority were adopted before that age. Overseas adoptions were particularly affected. This was altered in 2005 to allow claims up to 2 years of age.[22] The bill proposes to raise the age for which an adopted child can qualify from age 2 to under the age of 16.[23]

1.24 The Budget Papers estimate that about 330 adoptive children and families will be paid the baby bonus in 2008–09, up from 315 in 2006–07.[24] The Department estimated that about 130 of these adoptive families would be accounted for by the extension to the program.[25]

Seniors health card

1.25 At its inception in 1994, the purpose of the Commonwealth Seniors' Health Card (CSHC) was to provide assistance to retired aged persons who were on low income but were not eligible for the age or service pension. When introduced, the income limits for the CSHC were the same as for the age pension, so the vast majority of retired persons issued with a CSHC were those who were low income but couldn't access the pension because they were asset rich but income poor.

1.26 The CSHC primarily provides access to concessional prescription medicines under the Pharmaceutical Benefits Scheme. The CSHC may also provide access to other services which may include bulk-billed medical appointments, reduced cost out-of-hospital medical expenses and additional health, household, transport, education and recreation concessions. These services may be offered by State or Territory and local governments and private providers.

1.27 A CSHC holder may also be entitled to receive a Seniors Concession Allowance of $500 per year, and a Telephone Allowance if the card holder has a telephone connected in Australia in their own or their partner's name.

1.28 From January 1999, the income test for the CSHC was changed to one based on adjusted taxable income, which entailed a substantial change to prior assessment for CSHC which had taken place under the Social Security Act. Adjusted taxable income refers to net taxable income with three elements added back in. These are

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22 Dale Daniels, Family and Community Services Legislation Amendment (Family Assistance and Related Measures) Bill 2005, *Bills Digest No. 182 2004–05*, Parliamentary Library, June 2005: www.aph.gov.au/library/pubs/bd/2004-05/05bd182.htm#Contact.

23 Schedule 2, Part 4.

24 Australian Government, *Portfolio Budget Statements 2008–09, Budget related paper No. 1.7*, Families, Housing, Community Services and Indigenous Affairs Portfolio, Canberra, 13 May 2008, p. 88. www.fahcsia.gov.au/internet/. See also Department of Families and Community Services and Indigenous Affairs, *2006–07 Annual Report,* Canberra, 2007, p. 169. www.facs.gov.au/annualreport/2007/pdf.htm

25 Mr Mark Warburton, Branch Manager, Family Payments and Policy, FaHCSIA, Senate Community Affairs Committee, *Budget Estimates Hansard*, 3 June 2008, p. 117.

foreign income, employer provided fringe benefits and negatively geared property losses. Current income test limits are $50 000 per annum for a single claimant and $80 000 per annum for a partnership.[26]

1.29 The bill provides for the collection of tax file numbers (TFN) as part of a new compliance regime for the CSHC. Amendments would allow a relevant departmental secretary to collect TFNs both from current holders of, and claimants for CSHCs, to ensure eligibility under the income test. A relevant departmental secretary would also be able to cancel holders' cards or not grant cards to claimants in the event that TFNs are not provided within 28 days of a request.

1.30 The provision of a TFN is a common requirement for claimants for an income support or income supplement payment and has been in place since the late 1980s. It provides support for the identity of the claimant and also allows data matching with Australian Tax Office (ATO) records. Data matching allows the comparison of income information provided to claim the CSHC and like information provided to the ATO. The provision of a TFN by CSHC claimants will allow a relevant departmental secretary to obtain information from the ATO about adjusted taxable income.

1.31 The main impetus to require the provision of a TFN by CSHC claimants is to identify those with income from superannuation income stream from a taxed source. Since 1 July 2007, superannuation income from a taxed superannuation fund source for those aged 60 or more has not been taxable income.[27]

1.32 The committee heard that the current system relied on CSHC cardholders advising the Department that they had exceeded the income limit, and that out of a total cardholder population of about 277 000, some 13 000 were expected to lose eligibility for the card in 2008–09 and 14 000 in 2009–10 because of the TFN measure.[28]

Income management regime

1.33 Income Management Regime (IMR) provisions apply differently in different parts of Australia. An individual can become subject to an IMR for one of the following reasons:

- for the protection of the child of that individual;

26 Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008, *Bills Digest*, Parliamentary Library, June 2008, p. 17.

27 Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008, *Bills Digest*, Parliamentary Library, June 2008, p. 15.

28 Ms Diana Lindenmeyer, Section Manager, Concessions and Allowances, FaHCSIA, *Proof Committee Hansard*, 20 June 2008, p. 47. Officials also told the committee that an additional 22 000 people would lose eligibility as a result of the changes to the adjustable taxable income tests.

- the individual's child is deemed to have unsatisfactory school attendance;
- the individual is a resident of a specified area of the NT; or
- the individual is subject to the jurisdiction of the Queensland Family Responsibilities Commission and the Commission requests that the provisions be applied.

1.34 Currently, certain conditions must be met before an individual may be subject to an IMR. This is the case even where an individual wishes to be subject to an IMR. The proposed amendments will allow for a person to volunteer to have their welfare payments provided under the IMR processes.

1.35 The bill provides for a relevant departmental secretary and a person to enter voluntarily into an agreement of up to 12 months under which the person agrees to be subject to the IMR under Part 3B of the *Social Security (Administration) Act 1999* (the voluntary scheme of income management). The bill also includes an amendment relating to payment of the credit balance of a person's income management account upon the death of the person. This is to ensure that the credit balance is paid to an appropriate person within the 12 month period provided for under the Act.

1.36 The amendments allow the welfare payment recipient, who has volunteered to be placed under IMR payment arrangements, to elect to relinquish the IMR arrangements at any time.[29]

Eligibility for partner service pension

1.37 A person can qualify for partner service pension if they are:

- legally married to and living with a veteran, or
- living with a veteran as their partner; and
- the veteran is receiving an age service pension or an invalidity service pension.

1.38 A person is also eligible if they are a member of a couple where their partner is a veteran having rendered qualifying service *and* the person is eligible for an age pension. If the partner does not qualify for an age pension, they must also meet one of the following criteria:

- be at least 50 years of age;
- have a dependent child or children when the claim is made;
- their veteran partner receives the totally and permanently incapacitated (T&PI) disability pension; or

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29 Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008, *Explanatory Memorandum*, p. 21.

- their veteran partner is receiving, or eligible to receive, a Special Rate Disability Pension under the *Military Rehabilitation and Compensation Act 2004*.

1.39 A Partner service pension may be paid to a former partner who is legally married to, but separated from a veteran. Former partners are eligible if the veteran is receiving or is eligible to receive the service pension, and

- the partner is at least 50 years of age; or
- the partner has a dependent child or dependent children.[30]

1.40 Amendments will increase the eligible qualifying age for partner service pension claimants and recipients.[31] Around 400 spouses are expected to be affected in first year after the measure is introduced.[32] Nobody already in receipt of pension will have their entitlement removed as a result of the measure.[33] The amendments presented in Schedule 5 will raise the qualifying age for access to the partner service pension from age 50 to the service pension age. This is age 60 for males or age 58.5 years for females. This change will not apply where the person is a partner of a T&PI disability pensioner or has a dependent child. The estimated cost savings for this initiative are $34.6 million over four years.[34] According to the Department of Veterans' Affairs, no consultations took place prior to the announcement of the measure.[35]

1.41 However, the actual saving will likely be somewhat less as partners who would otherwise qualify for the partner service pension will probably claim Newstart Allowance, which is not drawn from the Veterans' Affairs appropriation.

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30 Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008, *Bills Digest*, Parliamentary Library, June 2008, pp 15–16.

31 Australian Government, *200–-09 Budget Paper No. 2 Budget Measures*, Partner service pension – align partner and veteran age eligibility, p. 409. www.aph.gov.au/budget/2008-09/content/bp2/html/index.htm

32 Mr Sean Farrelly, National Manager, Compensation and Income Support Policy, Department of Veterans' Affairs, *Proof Committee Hansard*, 20 June 2008, p. 52.

33 Mr Sean Farrelly, Manager, Compensation and Income Support Policy, Department of Veterans' Affairs, *Proof Committee Hansard*, 20 June 2008, p. 52.

34 Australian Government, *200–-09 Budget Paper No. 2 Budget Measures*, Partner service pension – align partner and veteran age eligibility, p. 409. www.aph.gov.au/budget/2008-09/content/bp2/html/index.htm

35 Mr Sean Farrelly, Manager, Compensation and Income Support Policy, Department of Veterans' Affairs, *Proof Committee Hansard*, 20 June 2008, p. 53.

1.42 This reflects a trend over the past decade for dependency-based income support payments to be superseded by arrangements which look to the qualification of the individual in their own right, for income support.[36]

Schedule 6 changes

1.43 The bill seeks to make some minor technical amendments to arrangements previously legislated in relation to the assessment of adjusted taxable income for Fringe Benefits Tax (FBT) and Child Care Benefit (CCB). These measures were originally announced by the former government in the 2006–07 Budget. The *Child Support Legislation Amendment (Reform of the Child Support Scheme – New Formula and Other Measures) Act 2006* made changes to the definition of reportable fringe benefits for the income assessment for Family Tax Benefit (FTB), CCB and also for the Child Support Scheme.[37] That legislation sets 1 July 2008 as the commencement date for those provisions, one of which requires that income assessments must refer to gross reportable fringe benefits. That is, the net fringe benefit 'grossed up' by a multiple of either 1.9417 or 2.1292 before they are reported to the Australian Tax Office.[38] The grossing up is designed to factor in the equivalent of the gross amount for fringe benefit provided to the employee, as if they had been paid in wages or salary, rather as in a fringe benefit.

1.44 In some circumstances, for the assessment of income for FTB and CCB, an indexed estimate of the future adjusted taxable income can be made by Centrelink.[39] The amendments provide for estimates for 2008–09 income and onwards to be based on gross amounts of reportable fringe benefits. The estimate would be made according to the grossed up amount with reference to the highest marginal income tax rate plus the Medicare levy (46.5 per cent).[40] That would occur even where the taxpayer's own marginal tax rate is lower, such as for those in the not-for-profit sector (NFP).

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36 For further elaboration, see Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008, *Bills Digest*, Parliamentary Library, June 2008, p.17.

37 Peter Yeend, Child Support Legislation Amendment (Reform of the Child Support Scheme - New Formula and Other Measures) Bill 2006, *Bills Digest No. 43 2006-07*, Parliamentary Library, Canberra, October 2006. www.aph.gov.au/library/pubs/SearchResults.asp

38 The lower rate is used if the benefit provider is not entitled to claim GST credits, whereas the higher rate is used where the benefit provider is entitled to a GST credit in respect of the provisions of a benefit. Regardless of whether the benefits provided are type 1 or type 2, only the lower gross-up rate is used for reporting on employees' payment summaries.

39 *A New Tax System (Family Assistance) (Administration) Act 1999*, Section 20A.

40 Mr David Hazlehurst, Group Manager, Families, FaHCSIA, *Proof Committee Hansard*, 20 June 2008, pp 27–28.

'Grossing up' impacts

1.45 The committee heard considerable evidence of the harm the changes would have on employees in the NFP sector, a significant number of whom 'salary package' a proportion of their income.[41] In so doing, workers in the sector are able to take advantage of a concession on the payment of FBT by certain Public Benevolent Institutions.[42] This has the effect of increasing the net income of those employees, while avoiding an FBT liability on the part of the employer. As a result, NFP sector employers are able to bridge some of the remuneration gap between themselves and the private and government sectors.

1.46 Mr Bicknell explained the significant financial losses that would be suffered by low wage earners in the NFP sector if the changes from 'net' to 'gross' income assessment were to take place:

> Salary sacrifice is really important for a lot of people who work for us in making up their total package. For example, if we have a worker who has a spouse with no income and two children and earns $35,000 a year, salary sacrifice, as it has been operating now, would typically add $110 per fortnight to their salary package. If the proposed changes had gone ahead, that person would have lost $59 per fortnight, and $59 per fortnight on that sort of income is a very significant cost.[43]

1.47 The Department was unable to provide the committee with the number of people employed in the NFP sector; representatives submitted that the information necessary for such a calculation was not collected. Nor, presumably for the same reason, did the Department conduct sector-specific analysis of the impact of the provisions in Schedule 6. As a result, officials told the committee that they were unaware of the widespread impacts that grossing up would have on the NFP sector until quite recently.[44]

1.48 The NFP witnesses told the committee that they too had only recently realised the extent to which the 'grossing up' changes would impact the remuneration of their employees. It was only when several NFP employees raised concerns directly with their employer (after employees were notified of the changes, along with 1.4 million

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41 See, for example, Messrs Quinlan, Macfie, Minnett and Bicknell, *Proof Committee Hansard*, 20 June 2008, pp 5–10.

42 See www.ato.gov.au/print.asp?doc=/Content/48583.htm, accessed 20 June 2008.

43 Mr Peter Bicknell, UnitingCare Wesley Port Adelaide, *Proof Committee Hansard*, 20 June 2008, p. 9.

44 Mr Mark Warburton, Branch Manager, Family Payments and Policy Branch, FaHCSIA, *Proof Committee Hansard*, 20 June 2008, p. 30.

other Australians, by a Centrelink mail out[45]) that the implications become fully apparent to the sector.[46] Mr Macfie's view was that:

> I think that this was a measure that was buried. It was not made clear at the time. It was only when Centrelink started taking action that people first became acutely aware of it. I think anyone would acknowledge that issues around child support and fringe benefit tax, in particular in areas like grossing up, are extremely complex.[47]

1.49 The committee was left in no doubt as to the effect the changes would have among those working in and managing the NFP sector. Mr Minnett, representing the Salvation Army, submitted that:

> If left unaddressed, the situation from 1 July 2008 will create a negative impact on our staff's ability to fully access benefits under family tax benefit A and B, child care benefits and rent assistance. If the government does not act to amend the necessary legislation, staff will lose benefits, or parts of their benefits…[W]e understand that an employee earning approximately $35,000 could lose around $59 a fortnight as a result. Our employees work for us for a reduced salary because they want to make a difference in society. Many of them could earn more elsewhere, and taking employment in the not-for-profit sector is a chosen sacrifice.[48]

1.50 These sentiments were echoed by Mr Peter Bicknell, from UnitingCare:

> UnitingCare Wesley Port Adelaide has 872 staff and we employ staff in a wide range of areas—aged care, mental health, youth work, family work, homeless young people, and a number of other areas such as that throughout South Australia. Of the 872 staff we employ, 820 have a gross pay of less than $50,000, so we are really talking about people who are on the lower income levels. Of those, 390 salary sacrifice. Salary sacrifice is really important for a lot of people who work for us in making up their total package. For example, if we have a worker who has a spouse with no income and two children and earns $35,000 a year, salary sacrifice, as it has been operating now, would typically add $110 per fortnight to their salary package. If the proposed changes had gone ahead, that person would have lost $59 per fortnight, and $59 per fortnight on that sort of income is a very significant cost.[49]

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45 Examples of the Centrelink correspondence are available on the committee's website - www.aph.gov.au/Senate/committee/fapa_ctte/index.htm

46 See, for example, Mr Peter Bicknell, UnitingCare Wesley Port Adelaide, *Proof Committee Hansard*, 20 June 2008, p. 14.

47 *Proof Committee Hansard*, 20 June 2008, p. 17.

48 *Proof Committee Hansard*, 20 June 2008, p. 8.

49 *Proof Committee Hansard*, 20 June 2008, p. 9.

1.51 Representatives were quick to correct any misapprehension on the committee's part about the role played by salary packaging in the NFP sector. As Mr Quinlan said:

> The charitable and not-for-profit sector is currently reliant upon these special taxation arrangements to attract and retain staff and deliver services. In effect, these fringe benefits arrangements, which were originally designed for the top end of town, have been extended to the charitable and not-for-profit sector specifically for this purpose. To explode a particular myth in relation to the charities and not-for-profit sector, when we are talking about fringe benefits tax we are not talking about expensive cars, flash holidays or expense accounts. We are talking about fringe benefits acquired by salary packaging, which is usually contributed in terms of mortgages, rents, household expenses and so on. There is a paucity of data available about the actual impacts, but I can give you figures from at least one of our agencies, our largest metropolitan agency, where recent data suggest that 80 per cent of the staff currently utilising salary packaging arrangements are earning $50,000 or less.[50]

1.52 The committee takes the view that provision of support to the NFP sector seems unlikely to be best achieved through manipulation of the fringe benefits tax system. The transaction costs associated with salary packaging were noted by witnesses, a number of whom reported that the burden of administering salary sacrifice arrangements was burdensome enough to warrant outsourcing.[51] The committee speculates that the expense associated with the need to take this course would only exacerbate the sector's ability to pay market rates to staff.

1.53 The committee also notes evidence adduced that indicates that the FBT concession arrangements benefits least those NFP employees in the lowest income brackets. Mr Quinlan told the committee that:

> ...in at least one of our agencies, who employ 3,000 staff, 88 per cent of the workers on salary packages were earning $50,000 or less. I can add to that that 64 per cent of them were earning $40,000 or less, and 30 per cent of them were earning $30,000 or less. This really is affecting workers at the hard end of the services that we are delivering.[52]

Fringe benefits tax concession cap

1.54 Organisations appearing before the committee noted that they are limited by the $30 000 grossed up cap on the value of benefits that can be paid without attracting FBT. The committee heard that this cap is unindexed and that it had not been

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50 Mr Frank Quinlan, Catholic Social Services Australia, *Proof Committee Hansard*, 20 June 2008, p. 7.

51 See, for example, Messrs Quinlan and Minnett, *Proof Committee Hansard*, 20 June 2008, p. 18.

52 Mr Frank Quinlan, Catholic Social Services Australia, *Proof Committee Hansard*, 20 June 2008, p. 12.

reviewed since its introduction in April 2000. As a result, organisations highlighted that the FBT mechanism which enabled them to improve the remuneration of their employees was being eroded over time.[53]

Restoring the net reportable fringe benefits definition

1.55 The Treasurer, Hon. Wayne Swan MP, together with the Minister for Families, Housing, Community Services and Indigenous Affairs, the Hon. Jenny Macklin MP, announced on 19 June 2008 that the Government would move amendments to the bill in the Senate so that the changes scheduled for 1 July 2008 would not take place.[54] This significantly addressed the concerns expressed by representatives of the NFP sector, who generally welcomed the government's announcement.[55]

However, quite apart from the concerns highlighted by the bill, significant concerns exist in the sector for its future, mainly because of the inability to meet market expectations of reimbursement. In this regard, the committee welcomes the Treasurer's announcement that he would refer the matter to the Henry Review (titled Australia's Future Tax System) which he tasked to 'examine the complexity of existing arrangements and make recommendations to improve equity and simplicity in the system for the long term.'[56]

1.56 Ms White, representing the Australian Services Union, cited a survey which found that 52 per cent community services sector employees reported that they were not committed to stay in the sector beyond 5 years, and 75 per cent claimed that low wages were the reason for leaving.[57] In the event the situation is left unchecked, Ms White predicted a 'significant crisis' in the sector.[58]

1.57 Mr Quinlan made the point that the broader employment conditions in the sector compare just as unfavourably to other sectors as does the remuneration.

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53 Mr Frank Quinlan, Catholic Social Services Australia, *Proof Committee Hansard*, 20 June 2008, p. 7.

54 Joint Press Conference, Parliament House, 19 June 2008, transcript available at www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/measures_impacting_charitable_sector_19june08.htm, accessed 21 June 2008.

55 See, for example, Mr Gregor Macfie, ACOSS, *Proof Committee Hansard*, 20 June 2008, p. 5.

56 Joint Press Conference, Parliament House, 19 June 2008, transcript available at www.jennymacklin.fahcsia.gov.au/internet/jennymacklin.nsf/content/measures_impacting_charitable_sector_19june08.htm, accessed 21 June 2008.

57 *Building Social Inclusion in Australia: Priorities for the Social and Community Services Sector Workforce*, Australian Services Union, April 2007, pp 10, 19.

58 Ms Linda White, Australian Services Union, *Proof Committee Hansard*, 20 June 2008, p. 9.

Abandoned community buildings and old primary schools were commonly used to house staff, and a disused convent forms the Catholic Social Services' headquarters.[59]

Treatment of salary sacrificing and investment losses

1.58 Although it does not form part of the bill before the committee, it is worth noting for completeness the concerns raised by the NFP sector over a measure contained in the 2008–09 Budget which alters the treatment of salary sacrifice into superannuation and investment losses for the purposes of family tax benefits.[60] The measure, which is yet to be legislated and which will come into affect on 1 July 2009, is intended to close a loophole which currently allows families or individuals to reduce their income for family assistance purposes by making large pre-tax contributions to superannuation. This measure is entirely separate from the FBT concessions discussed above and is not affected by the 19 June announcement by the government.

1.59 This measure was elaborated on by Senator the Hon. Chris Evans, representing the Hon. Jenny Macklin, Minister for Families, Housing, Community Services and Indigenous Affairs, in an answer to a question without notice on 18 June 2008:

> Our budget is designed to make income tests for various tax and transfer programs fairer and better targeted to those in need of government assistance. Around 2.2 million families with 4.3 million children receive family tax benefits. Therefore, approximately 3.5 per cent of families receiving family tax benefit payments will be affected by the changes to salary sacrifice into superannuation. This also brings the treatment of salary sacrifice into superannuation into line with the rules that already exist for pensioners and the rules that already exist for the self-employed. The self-employed are already under this regime. This brings the rest of the population into that same system. It also ensures that parents cannot reduce or avoid their child support obligations by voluntarily salary sacrificing part of their remuneration into superannuation. It is making sure we test their real income. It is not the purpose of the social security system to provide further incentives, over and above those provided by the tax system, to make voluntary contributions to superannuation.[61]

1.60 The committee is of the view that the government is right to pursue these measures, and that it should consult with the NFP sector in developing the amendments to ensure that there are no unintended consequences for the sector.

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59 Mr Frank Quinlan, Catholic Social Services Australia, *Proof Committee Hansard*, 20 June 2008, p. 12.

60 See, for example the exchange between Senator Fifield and Mr Gregor Macfie, ACOSS, *Proof Committee Hansard*, 20 June 2008, p. 11.

61 Senate Hansard, 18 June 2008, p. 45.

Conclusion

1.61 The contribution made by the not-for-profit sector to Australia's well-being needs little explanation, but the committee would like to acknowledge the sacrifices, by way of pay and conditions, made by the many thousands of individuals working in the sector.[62] The committee is therefore pleased to note the government's announcement that the changes planned for 1 July 2008 will not occur.

1.62 The committee has made note of the need to improve the efficiency with which government assists the NFP sector in securing and retaining staff, specifically that the fringe benefit tax exemption is not the 'be all and end all'. Salary sacrificing through the provision of favourable fringe benefits tax status is not ideal, and active consideration should be given to devising a more efficient mechanism. This would seem a move highly consistent with the Government's increased emphasis on social inclusion, as well as the intention to engage the community sector more closely.[63] However, in lieu of such an innovation being made in the short term, the committee considers that the two actions are necessary. Firstly, the Senate should endorse the changes proposed by the government so that the FBT changes scheduled for 1 July 2008 do not take place.

1.63 Secondly, the existing cap on the amount which may be 'packaged' by employees should be raised to bring it up to a more reasonable level and then indexed to the CPI. This will assist NFPs to attract and retain staff in the short- to medium-term and alleviate the perilous position some NFP organisations find themselves in. In the committee's view this should not be rushed through in the bill currently before the Parliament, but should be given more time in order to determine exactly the level of the new cap, in consultation with the NFP sector. The committee notes that it may be possible for the government to consider this issue as part of the Henry Review and that separate consideration may be needed.

1.64 The committee makes a recommendation in both of these areas. It also makes a third recommendation for the government to consult the NFP sector in relation to the 2008–09 Budget measure regarding the treatment of salary sacrifice of superannuation and investment losses for the purposes of family tax benefits.

Recommendation 1

1.65 The committee recommends that in light of the serious concerns raised during the committee's hearing, the Senate pass the bill subject to the

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62 Mr Macfie told the committee that placing an economic value on the NFP sector 'is a complex issue because we do not really have a definition of the sector and whether you have a value input for the amount of voluntary work that is done in the sector, which is enormous. If you put all of that together and you include the very broad what is called the third or non-profit sector, it can be as high as $30 billion.' *Proof Committee Hansard*, 20 June 2008, p. 21.

63 See, for example, Mr Frank Quinlan, Catholic Social Services Australia, *Proof Committee Hansard*, 20 June 2008, p. 16.

amendments announced by the government to restore the use of net reportable fringe benefits in income definitions for family assistance purposes.

Recommendation 2

1.66 The committee recommends that the government consider the appropriate level of the cap on FBT-exempt benefits for NFP sector employees and whether the cap should be indexed to the CPI.

Recommendation 3

1.67 The committee recommends that the government consult with the not-for-profit sector, as well as other stakeholders, in developing the amendments to change the family benefits tax treatment of salary sacrifice to superannuation and investment losses so as to avoid unintended consequences.

Senator Helen Polley

Chair

Opposition Senators' Minority Report

Fringe Benefits Tax changes relating to charitable organisations (Schedule 6)

Opposition Senators acknowledge charity worker concern at the prospect their family payments would be cut by changes to the way income is calculated for these payments.

From 1 July 2008, more fringe benefits are being included in the income that is used to calculate family payments (Family Tax Benefit A and B and Child Care Benefit). This has a significant impact for employees of some charities.

The Coalition implemented this change in response to a report in 2006 by experts on the Ministerial Taskforce on Child Support, chaired by Professor Patrick Parkinson.[1] That report recommended that calculations of income for child support should include all fringe benefits, to ensure that parents couldn't avoid their child support obligations by converting normal income into fringe benefits.

The report also recommended that the method for calculating child support be extended to the method for calculating family tax benefits, to ensure consistency. It was argued that it would be complex to have different methods for calculating child support and family payments.

The Coalition accepted both of these recommendations and implemented them in legislation in 2006.[2] At the time, the Labor Party supported the package of legislation that included this change.

It is this broadening of the income definition for family payments that caused concern. This change was done in the context of substantial increases in child support measures and large increases in family benefits during the term of the Howard Government.

Labor supported this measure. On 12 October 2006, the relevant Shadow Minister, Senator Evans, indicated support for the package of changes that included this measure.[3]

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1 *In the Best Interests of Children - Reforming the Child Support Scheme - Report of the Ministerial Taskforce on Child Support*, 14 June 2005. Full text available at: http://www.facs.gov.au/internet/facsinternet.nsf/family/childsupport.htm

2 *Child Support Legislation Amendment (Reform of the Child Support Scheme - New Formula and Other Measures) Act 2006.*

3 Senator the Hon. Chris Evans, *Media Release*, 12 October 2006.

The legislation was introduced on 14 September 2006 and was passed by the Parliament on 27 November 2006.

Labor also introduced legislation[4] on 29 May 2008 that supports the 2006 change. The explanatory memorandum to the Labor Bill:

- discusses the change to the calculation of income for family payments;
- explicitly states that the change will result in higher calculated incomes for some people; and
- gives a worked example of how the change produces a higher income for the calculation of family payments.[5]

The Labor legislation allows Centrelink to use this higher income to determine family payments. Without this change by Labor the payments to some families would have been higher. Labor cannot therefore claim that this change was all the former Government's doing.

Opposition Senators note that whilst the Coalition's 2006 change broadens the income that is used to calculate family payments, Labor's changes in the 2008 Budget do the same thing. The Government is proposing to include salary sacrifice into superannuation and investment losses in the calculation of income for family payments. The Government therefore cannot argue that their 2008 changes are completely separate from the Coalition's changes in 2006.

In particular, any charity worker who salary sacrifices into superannuation or has losses on investments will be affected by Labor's changes in the 2008 Budget. Labor's measures will result in a much larger reduction in family payments than the Coalition's changes from 2006.

Opposition Senators are concerned that Labor is reducing support for families in the 2008 Budget, in contrast with the dramatically increased support for families during the period of the previous government.

Opposition Senators note that the Minister for Families, Housing, Community Services and Indigenous Affairs (the minister) cleared the Explanatory Memorandum for this Bill prior to its presentation to the House on 29 May 2008.[6] The Opposition notes that the Minister's awareness of the impact of the 2006 legislation was not aroused by her clearance of the Memorandum prior to 29 May 2008 which mentions

4 The Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008.

5 Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008, *Explanatory Memorandum* pp 30, 35-37.

6 *Committee Hansard*, 20 June 2006, p. 31.

that notification letters to recipients of Family Tax Benefit and Child Care Benefit were being issued from April 2008.[7]

Evidence presented to the Committee clearly established that no officers of the Department of Families, Housing, Community Services and Indigenous Affairs (FHCSIA) were aware prior to May 2008 of the extent of the impact of the legislated but not yet operative provisions relating to the treatment of fringe benefits for the purpose of calculating family assistance payments.

It was acknowledged by FHCSIA that when the changes were proposed in the 2006–07 Budget, the Department was only aware of the general impact of changes, rather than the impact on specific groups of individuals with particular circumstances. Mr Hazlehurst of FHCSIA acknowledged that:

> …we did not at that time [2006] do an analysis sector by sector of how many people would be affected.[8]

And later that:

> …we did not do any sector-specific analysis. So, we did not look at how employees in different sectors would be affected.[9]

The Opposition notes the evidence provided to the Committee that the Minister's office was provided an oral briefing on the impacts on employees in charitable organisations on 29 May 2008.[10] Yet neither the Minister nor the Treasurer made any attempts to raise the matter publicly until the publication of an article in *The Australian* newspaper on 18 June 2008, [11] prompting a joint press conference that day and an announcement on 19 June 2008.[12]

It remains unclear whether the Minister or the Treasurer intended to act on this issue before 1 July, or at all, if the issue had not received considerable public interest following the media coverage from 18 June 2008.

The Minister through her attempts to deny having supported these changes, indicated that she does not understand her own legislation.

In principle, Opposition Senators support the Government's intention as announced to introduce relevant amendments to ensure that employees in charitable organisations are not adversely affected by changes to the treatment of fringe benefits for the

7 Families, Housing, Community Services and Indigenous Affairs and Other Legislation Amendment (2008 Budget and Other Measures) Bill 2008, *Explanatory Memorandum* p. 37.

8 *Committee Hansard*, 20 June 2006, p. 28.

9 *Committee Hansard*, 20 June 2006, p. 35.

10 *Committee Hansard*, 20 June 2006, p. 30.

11 *The Australian*, 'Tax changes to hit charity staff', 18 June 2008.

12 The Hon Wayne Swan MP and the Hon Jenny Macklin MP, Media Release, 19 June 2008.

purpose of calculating family assistance payments.[13] Opposition Senators will closely examine the detail of the Government's amendments with a view to supporting change that corrects the anomaly with respect to employees in charitable organisations but does not reinstate previously closed loopholes.

Commonwealth Seniors Health Card (Schedule 3)

Opposition Senators are concerned at the impact on older Australians of the Government's introduction of a new compliance regime for the Commonwealth Seniors Health Card (CSHC).

The CSHC establishes the eligibility of older Australians for a range of benefits to assist them with the cost of living, including discounted pharmaceuticals through the PBS, the Seniors Concession Allowance and the Telephone Allowance.

Opposition Senators acknowledge that rising cost of living pressures place proportionately higher burdens on those with low incomes. Opposition Senators are particularly mindful of the impact of these pressures on pensioners.

Evidence provided to the Committee during this inquiry indicated that, as a result of the Government's changes in this Bill to require the provision of a Tax File Number (TFN), 27 000 people will lose their CSHC between 1 July 2008 and 30 June 2010. FHCSIA further acknowledged that this number will increase.[14]

Opposition Senators consider that the TFN requirements in Schedule 3 could be seen as a de facto means test. Such a measure is a sneaky and underhanded way of stripping older Australians of the CSHC. This is against the backdrop of the neglect of pensioners in the Budget.

Whilst it is acknowledged that changes to the adjusted taxable income test are not specifically dealt with in the Bill before the Committee, Opposition Senators nonetheless express grave concern at the evidence presented to the Committee that a further 22 000 people will lose eligibility for the CSHC as a result of this change.[15]

Opposition Senators note that FHCSIA has not modelled how many people will no longer be eligible for the CSHC in future years beyond the forward estimates, meaning that the true number of people adversely affected is likely to end up much higher.[16]

Opposition Senators further note that the proposed eligibility changes to the CSHC were not flagged by the then Opposition prior to the election.

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13 The Hon Wayne Swan MP and the Hon Jenny Macklin MP, Media Release, 19 June 2008.

14 *Committee Hansard*, 20 June 2006, p. 47.

15 *Committee Hansard*, 20 June 2006, p. 47.

16 *Committee Hansard*, 20 June 2006, p. 52.

Partner Service Pension (Schedule 5)

Opposition Senators acknowledge the contribution made to Australia by veterans and their partners, particularly recognising that often the roles of the partners of veterans are as carers.

It is in view of this that Opposition Senators are concerned at the evidence provided to the Committee that approximately 930 partners of veterans would be affected by the changes in this Bill.[17] It is considered that the savings generated from this measure are insignificant and that the measure is mean-spirited.

Opposition Senators were disappointed at the Prime Minister's lack of awareness of this issue, confirmed in the House of Representatives on 19 June 2008.[18] Opposition Senators were surprised that the Minister for Veterans' Affairs, the Hon Alan Griffin MP characterised the impact of this change on affected veterans as 'minor'.[19]

It is noted that the proposed changes are justified by the Government as necessary to align the partner service pension with arrangements in place for social security benefits. The Opposition considers this to be an inappropriate rationale and are conscious of the concern in the veteran community that they be treated separately from welfare or social security recipients. The Opposition supports the wishes of veterans in that regard.

Opposition Senators note the evidence to the Committee that no consultation was conducted with ex-service organisations over these changes.[20]

It is further noted that the proposed changes to the partner service pension were not flagged by the then Opposition prior to the election.

The Baby Bonus (Schedule 2)

Opposition Senators express their concern at the blunt means test proposed by the Government for the Baby Bonus. The means test lacks a taper, meaning that an extra dollar of income can make the difference between receiving the full Baby Bonus and receiving nothing. Evidence to the Committee indicates that the Government failed to commission any modelling on tapering the Baby Bonus means test.[21]

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17 *Committee Hansard*, 20 June 2006, p. 54.

18 *House of Representatives Hansard*, 19 June 2008, p. 54.

19 *House of Representatives Hansard*, 19 June 2008, p. 54.

20 *Committee Hansard*, 20 June 2006, p. 53.

21 *Committee Hansard*, 20 June 2006, pp 37-8.

Opposition Senators also note the Government's decision to strip $80 million over four years from Baby Bonus recipients by proposing to index the bonus once yearly rather than the status quo of twice yearly.[22]

Opposition Senators note the time limit extension in claiming can allow for people who thought they would exceed the $75 000 threshold to backdate and claim. It may allow for people to get around the threshold by organising for salary/benefits etc to be paid after the six month deadline to receive the benefit of the Baby Bonus.

In her second reading speech Minister Macklin clearly states that if the income estimate is incorrect and the household goes over the $75 000, families do not have to worry that a debt will be raised against them because their income changes, however should false or misleading information be provided then the usual welfare sanctions will apply.[23]

This demonstrates that the new Baby Bonus scheme will be almost impossible to administer and police, making the new criteria almost pointless, but will cost $22.6 million to administer.[24]

It is further noted that the proposed changes to the baby bonus were not flagged prior to the election. Just two days before the 2007 election a constituent contacted the Labor Party via their website asking whether Labor was considering any changes to the Baby Bonus. The response was:

> We have no plans to make any other changes to the way the Baby Bonus is structured, either in terms of eligibility or payment methods.[25]

An article in *The Australian* further reported that:

> Wayne Swan this week ruled out any change to the baby bonus and said Australia's middle class did not receive too much welfare.[26]

Family Tax Benefit – Part B (Schedule 1)

The Government flagged a means test to Family Tax Benefit Part B in January of this year as part of their 'razor gang' process. The Finance Minister, the Hon Lindsay Tanner MP, was reported by ABC Online on 25 January 2008 as saying:

> We have undertaken to put a means test at a very generous level for Tax Benefit B.[27]

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22 *Committee Hansard*, 20 June 2006, p. 39.

23 *House of Representatives Hansard*, 29 May 2008, p. 3851.

24 Budget Measures 2008–09, *Budget Paper No. 2,* p. 370.

25 Please refer to correspondence at the end of the minority report.

26 *The Australian*, 'Time to re-think baby bonus', 14 March 2008.

27 ABC Online, "Govt to means test family tax benefit," Accessed on 23 June 2008, www.abc.net.au/news/stories/2008/01/25/2146231.htm

Additionally, it was reported in the *Herald Sun* that the limit would be $250 000.[28]

There was no mention during the election campaign by Labor that there would be a means test. However during the passage of the Family Assistance, Social Security and Veterans' Affairs Legislation Amendment (2005 Budget and Other Measures) Bill 2006 the ALP proposed an amendment that Family Tax Benefit Part B be subjected to a modified income test where a couple's combined income exceeded $250 000.[29]

Opposition Senators condemn the Government's broken promise on the Family Tax Benefit Part B means test. The means test is set at $150 000, when the Government's pre-election commitment was to means test this payment at $250 000.[30]

The $150 000 income test the bill proposes will not just apply to partnered couples with the primary earner, it will now include sole parents as well. Previously sole parents were exempt from any income testing.

Treasurer Wayne Swan's Media Release on 18 May 2008 reported that a total of 40 000 families would lose eligibility for Family Tax Benefit Part B.[31]

Other Issues

Opposition Senators also express their regret at Treasury's last minute decision to cancel their appearance before the Committee. Opposition Senators believe that scrutiny of this legislation was diminished when the witnesses before it were unable to answer particular questions citing that they were issues for Treasury.

It is disappointing that Treasury declined to appear to give evidence to this inquiry. On multiple occasions throughout the public hearing at which Treasury was originally scheduled to give evidence, FHCSIA could not answer questions directed to it citing that they were questions that would need to be directed to Treasury.[32]

Given that many issues before the Committee were jointly handled by the Treasurer and the Family Services Minister, the Treasury should have made itself available to answer questions on this Bill.

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28 *Herald Sun*, 'New limit on family payment', 26 January 2008.

29 *House of Representatives Hansard*, 28 March 2006, p. 99.

30 Senator the Hon. Chris Evans, *Media Release*, 28 March 2006.

31 The Hon. Wayne Swan MP, *Media Release*, 18 May 2008.

32 *Committee Hansard,* 20 June 2008, pp 27, 39-41, 45, 49, 50-51, 55-57.

Senator Mitch Fifield – Deputy Chair

Senator John Watson

Senator Concetta Fierravanti-Wells

Constituent correspondence with the Australian Labor Party regarding the Baby Bonus

----Original Message-----

From: ALP Campaign Information [mailto:Info@syd.alp.org.au]

Sent: Thursday, 22 November 2007 4:00 PM

*To: *******@optusnet.com.au*

Subject: RE: Comments from KEVIN07

Dear *******

Thank you for your email.

Federal Labor supports the maternity payment. We understand that many parents need support when their baby is born, and that's why we believe that the maternity payment makes life a little easier for new parents.

The maternity payment is due to increase to $5000 from 1 July 2008, and if elected Labor will ensure this increase is passed on to parents.

Recently the Federal Parliament considered legislation that made some minor changes to the maternity payment. One of these was to change the name of the payment so that it officially is known as the Baby Bonus. Everyone calls it that anyway, so it makes sense to have that as the official name. The other change was to pay the Bonus in instalments for mothers under the age of 18. Federal Labor called for this change last year, as we heard some worrying cases of vulnerable younger mothers being exploited. Government has a responsibility to make sure that efforts to help families at a critical time are directed for the benefit of children.

We have no plans to make any other changes to the way the Baby Bonus is structured, either in terms of eligibility or payment methods.

In addition, Labor has released a range of initiatives to help new parents.

Labor knows that child care has become an integral part of modern Australian family life.

Under a Rudd Labor Government, our children's early years will be a national priority.

If elected, a Rudd Labor Government will:

- Increase the Child Care Tax Rebate to 50 per cent - covering up to $7,500 a year of out-of-pocket costs for each child in child care;
- Pay the 50% Child Care Tax Rebate quarterly - so parents no longer have to wait one or two years to receive their money;
- Build 260 new child care centers in areas of need to help improve access to child care;
- Invest $450 million in preschool for our four-year olds, with 15 hours a week for forty weeks a year of fun, play-based learning delivered by a qualified teacher;
- Implement tough national child care quality standards including a quality improvement system that assesses child care services from A to E and regular unannounced spot checks;
- Invest $73.5 million in incentives and opportunities to improve the qualifications of child care workers to ensure our children receive expert early learning and care.

Labor knows that parents can't work - no matter how much they want to - if there is not enough high quality, affordable childcare to go around.

If you would like more information about Labor's policies for parents please visit the ALP website: www.alp.org.au

ALP Campaign Information Services

Disclaimer

This information is intended for the recipient only.

Every effort has been made to respond to your query in full. Please monitor the Australian Labor Party website (www.alp.org.au) for further information

----- Forwarded Message -----

From: KEVIN07 <admin@kevin07.com.au>

To: info@kevin07.com.au

Subject: New form submission has arrived from KEVIN07!

(Contact Us)

Date: Thu, 22 Nov 2007 11:12:55 +1100

New form submission has arrived from KEVIN07!

Form: Contact Us

First Name: *******

Last Name: ******

Street Address: ******

Suburb: ******

State: QLD

Postcode: ****

Email Address: *******@optusnet.com.au

Telephone Number: *

Mobile Number:

Opt In Email: No

Opt In SMS: No

Your Comments Or Enquiry: If Labour is elected, will the 'baby bonus' still be available at the current rate? Please email a response. Thank you

Additional Comments by the Australian Greens

Senator Rachel Siewert

These additional comments specifically address Fringe Benefits Tax and Public Benevolent Institutions (PBIs), charities and other relevant not-for-profit organisations.

The Australian Greens note that the main issue of concern to us when this Bill was referred to Committee related to changes that altered the income test for Family Tax Benefits so that fringe benefits were grossed up, where they had previously been calculated on a net basis.

Subsequent to this referral the Minister for Family Services, Jenny Macklin announced that the Government would reverse the changes to the income definition for Family Tax Benefit A and B and the Child Care Benefit. The Australian Greens welcome the announcement by the Government.

The unintended consequences of these changes would have been to effectively reduce the disposable income of many families of community sector employees, especially those in the $40,000 to $80,000 income range where the primary income test for Family Tax Benefit is applied.

This change would have impacts on the ability of a wide range of community service organisations to attract and retain suitably qualified and motivated staff, their ability to deliver services efficiently to their disadvantaged clients, and the ongoing viability of the wider community sector.

The value of the community sector to the Australian economy is conservatively estimated to be in the order of $50 billion per year – consisting of $20 billion in expenditure[1] (of which approximately 62 per cent is public funds and 38 per cent donations and other income) and at least another estimated $30 billion in unpaid voluntary work.

It is important to note that wages and conditions within the community sector are substantially below those offered in both the public and private sectors. This implies that, if there were a decision by government to attempt to provide these services by other means, the cost of delivering the same level of services (which are currently purchased by government for an estimated $12 billion) would be substantially more than $50 billion.

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1 Australian Institute of Health and Welfare, *Australia's Welfare 2007*

The community sector cannot compete with public sector employment or private enterprise on wages and conditions, and this gap continues to widen alarmingly. The community sector has increasingly relied on employees voluntarily forgoing the possibility of higher wages elsewhere for the opportunity to 'do some good' and 'make a difference'. However, with rising cost of living and other financial pressures there are limitations on the degree of sacrifice employees are able to sustain and still meet their family commitments.

The recent ACOSS Community Sector Survey (June 2008) found that 68 per cent of respondent agencies had experienced difficulty in attracting staff in the past year, and 43 per cent of respondents named staffing as one of the three most important issues facing their services. A significant proportion of respondents expressed concern about wage levels and indicated that they had trouble attracting and retaining staff.

The committee inquiry received submissions and heard evidence from a number of service provision organisations within the sector, including Catholic Social Services, Salvation Army and Uniting Care, that fringe benefits were crucial in their ability to attract and retain senior and middle management staff.

Skilled occupations that require appropriately qualified staff, such as psychologists, social workers and accountants are reportedly becoming increasingly difficult to fill as skill shortages in these areas continue to bite and the salary gap with the public and private sectors continues to widen.

The Australian Greens agree with the wider principle put forward in the submission from the Australian Council of Social Services that our tax and social security systems need to be both fair and consistent in the way in which they confer benefits and attribute costs. We also note that relying on tax exemptions to remedy the poor remuneration offered by the community sector is a poor substitute for a properly costed and resourced welfare system.

On this basis we welcome the proposed Henry review of Australia's tax system and hope that it will provide fair and consistent remedy to the existing inequities of our tax system and of the wider issue of sustainable funding for the community sector.

However, in the meantime we believe that it is imperative to deal with the current sector viability crisis brought into focus by potential changes to the assessment of fringe benefit tax. One of these is the ongoing reduction in real terms of the cap on tax-free fringe benefits.

Indexation of Fringe Benefit Tax exemptions

During the course of the Committee hearings, representatives of the community sector raised a number of other issues relating to the funding and ongoing viability of the sector with the Committee, including the need to raise the current tax-free ceiling on fringe benefits for public benevolent institutions, charities, not-for-profit hospitals and other relevant not-for-profit organisations.

The capped exemption on fringe benefits tax for public benevolent institutions has played a pivotal role in the capacity of organisations to offer more attractive pay and conditions to their staff. It has allowed those organisation that qualify as PBIs or rebatable non-profit employers[2] (or those who qualify for a lesser capped exemption as public or not-for-profit hospitals or ambulance services[3]) to effectively offer higher salaries than they otherwise would have been able to, while at the same time reducing the cost to the purchasers of those services (be they governments, philanthropic donations or fee-for-service clients).

The Committee heard that the current tax-free ceiling of $30,000 is not indexed and has not been increased since it was first introduced in 2000.

Our calculations indicate if the current ceiling had been indexed to the Consumer Price Index (CPI) it would now be $38,557.84, and if indexed to Average Weekly Ordinary Time Earnings (AWOTE) it would now be $43,043.15. Given the importance of this benefit to the ability of charitable organisations to attract and retain staff and deliver services, we believe the ceiling should be immediately lifted to $40,000 and indexation introduced into the legislation.

A proposed new tax-free ceiling of $40,000 is in between the two different measures for indexing. We believe that this is a fair figure given the current cap public benevolent institutions, has not moved in 8 years.

As far as public or not-for-profit hospitals or ambulance services are concerned, they currently have a different fringe benefits tax-free ceiling of $17,000, which also isn't indexed and hasn't changed in eight years.

Our calculations indicate if the current ceiling had been indexed to CPI it would now be $21,849.05 and if indexed to AWOTE it would now be $24,391.12. Given the importance of this benefit to the ability of not-for-profit hospitals to attract and retain staff and deliver services, we believe the ceiling should be immediately lifted to $23,000 and indexation introduced into the legislation.

Once the issue of reducing the gap created by the lack of indexing for the fringe benefits tax-free threshold has been addressed, this still leaves open the issue of indexation going forward.

The Australian Greens support indexation to Average Weekly Ordinary Time Earnings (AWOTE). This is because the issue at hand is a benefit directly related to employment and wages, and hence AWOTE is the appropriate indexation reference.

Given the value of the sector to the Government as discussed above, particularly in the provision of much needed services at a cost far cheaper than Government could either

2 As described under Section 65 J of the Fringe Benefits Tax Assessment Act.

3 As described under Section 57A subsection 4 of the Fringe Benefits Tax Assessment Act.

provide or source them, we do not believe the extra cost of this measure is a great impost onto Government nor provides any reason to reject it.

The capped exemption from Fringe Benefits Tax for public benevolent institutions 'cost' the government $250 million in forgone taxes in 2005–06.[4] Even with an increase in this figure with raising the cap to $40,000, this is still a small amount compared to the value the community sector contribute as discussed above.

While the Australian Greens are pleased that the Majority Report raises the issue of the cap, we are disappointed that the Report recommends that the issue be addressed at a later date and not as part of this Bill. This issue is a matter of urgency for the sector, the Greens believe it should be addressed now as a matter of urgency.

To this end the Australian Greens will be moving amendments to increase the cap on exempted level of fringe benefits tax for these two groups.

Recommendation 1

That the ceiling on tax-free fringe benefits is increased from $30,000 to $40,000 for Public Benevolent Institutions, charities and other relevant non-for-profit organisations and from $17,000 to $23,000 for not-for-profit and public hospitals and public ambulance services.

Recommendation 2

That the ceiling on tax-free fringe benefits for Public Benevolent Institutions, charities and other relevant non-for-profit organisations and not-for-profit and public hospitals and public ambulance services is indexed annually to Average Weekly Ordinary Time Earnings (AWOTE).

Senator Rachel Siewert

4 …out of a total tax expenditure for welfare services of $25.74 billion. 2008-09 Budget Paper No.2.

Appendix 1

Submissions Received

Submission No.	Submitter
1	UnitingCare Australia
2	Anglicare Sydney
3	Australian Council of Social Service

Appendix 2

Public Hearings and Witnesses

Friday, 20 June 2008 – Canberra

BICKNELL, Mr Peter Ernest,
Chair, UnitingCare Australia

CASSIDY, Mr Wayne,
Acting Branch Manager, Social Security Policy Branch, Department of Families, Housing, Community Services and Indigenous Affairs

FARRELLY, Mr Sean,
National Manager, Compensation and Income Support Policy Group, Department of Veterans' Affairs

HARMER, Dr Jeff,
Secretary, Department of Families, Housing, Community Services and Indigenous Affairs

HATFIELD DODDS, Ms Lin,
National Director, UnitingCare Australia

HAZLEHURST, Mr David,
Group Manager, Families, Department of Families, Housing, Community Services and Indigenous Affairs

KENNEDY, Mr Stuart,
Director, Income Support Policy Development and Advice, Department of Veterans' Affairs

LINDENMAYER, Ms Diana,
Section Manager, Concessions and Allowances, Social Security Policy Branch, Department of Families, Housing, Community Services and Indigenous Affairs

MACFIE, Mr Gregor,
Acting Chief Executive Officer, Australian Council of Social Service

MAHONY, Mr Dennis,
National Manager, Families and Child Care Services, Centrelink

McINTOSH, Mr John,
Principal, Charities Tax Advisory Service

MINNETT, Mr Ian Charles,
Chief Financial Officer, Australia Eastern Territory, Salvation Army

QUINLAN, Mr Francis Gerard (Frank),
Executive Director, Catholic Social Services Australia

WARBURTON, Mr Mark,
Branch Manager, Family Payments and Policy Branch, Department of Families, Housing, Community Services and Indigenous Affairs

WHITE, Ms Linda,
Assistant National Secretary, Australian Services Union