THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 45

MONDAY, 22 AUGUST 2011

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1 Meeting of Senate

The Senate met at 10 am. The President (Senator the Honourable John Hogg) took the chair, read prayers and made an acknowledgement of country.

2 Carbon Credits (Carbon Farming Initiative) Bill 2011
Carbon Credits (Consequential Amendments) Bill 2011
Australian National Registry of Emissions Units Bill 2011

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

In the committee

Carbon Credits (Carbon Farming Initiative) Bill 2011—

Consideration resumed of the bill, as amended—and of the amendments moved by Senator Xenophon, also on behalf of Senator Birmingham:

Clause 5, page 12 (after line 9), after the definition of general law land, insert:

Greenhouse Friendly Initiative means the Greenhouse Friendly Initiative for the reduction of greenhouse gases established by the Commonwealth and administered by the Department administered by the Minister administering this Act.

Clause 5, page 17 (after line 9), after the definition of net total number, insert:


Clause 5, page 18 (lines 23 and 24), omit the definition of prescribed non-CFI offsets scheme, substitute:

prescribed non-CFI offsets scheme means:

(a) the New South Wales Greenhouse Gas Scheme; or
(b) the Greenhouse Friendly Initiative; or
(c) a scheme prescribed by the regulations for the purposes of this paragraph.

Clause 95, page 124 (lines 11 to 19), omit subclause (2), substitute:

(2) As soon as practicable after making the declaration, the Administrator must consider the request and may, by written notice given to the person who made the request, determine that this Act has effect, in relation to the project, as if:

(a) if the project is a sequestration project:

(i) paragraphs 89(1)(b), 90(1)(b) and 91(1)(b) had not been enacted; and

(ii) the net total number of Australian carbon credit units mentioned in subsections 89(3), 90(3) and 91(3) were increased by the number specified in the determination; and
(b) if the project is a landfill legacy emissions avoidance offsets project that was accredited under the New South Wales Greenhouse Gas Scheme—the baseline for the purpose of making a methodology determination under section 106 is 20%; and

(c) if the project is a landfill legacy emissions avoidance offsets project that was accredited under the Greenhouse Friendly Initiative—the baseline for the purpose of making a methodology determination under section 106 is 0%.

Debate resumed.

Senator Birmingham, by leave, withdrew the amendments.

Consideration resumed of the following amendments moved by Senator Xenophon and postponed on 16 August 2011:

No. 1—Clause 56, page 81 (line 19), after “Act”, insert “and subject to subsection (1A)”.

No. 2—Clause 56, page 81 (after line 21), after subclause (1), insert:

(1A) Notwithstanding subsection (1), if a project:

(a) was established as, or as part of, a managed investment scheme; or

(b) is determined by the Minister, on the advice of the Domestic Offsets Integrity Committee, to have an adverse impact on:

(i) the availability of water; or

(ii) land and resource access for agricultural production;

the project is deemed to be an excluded offsets project.

(1B) A determination under paragraph (1A)(b) is a disallowable instrument for the purposes of the Legislative Instruments Act 2003.

(1C) In this section:

managed investment scheme has the same meaning as in section 9 of the Corporations Act 2001.

Debate resumed.

Question—That the amendments be agreed to—put.

A division was called for.

Pursuant to the order of the Senate of 22 November 2010 consideration of the matter was postponed.

Senator Xenophon moved the following amendments together by leave:

Clause 76, page 101 (line 11), omit “5 years”, substitute “3 years”.

Clause 76, page 101 (line 24), omit “5 years”, substitute “3 years”.

Debate ensued.

Question—That the amendments be agreed to—put and negatived.
On the motion of Senator Xenophon the following amendment was debated and agreed to:

Clause 112, page 146 (after line 8), after subclause (14), insert:
(14A) Within 28 days of giving a notice under subsection (14), the Domestic Offsets Integrity Committee must publish on its website the reasons for the endorsement of the proposal or the refusal to endorse the proposal, as the case may be.

Senator Xenophon moved the following amendments together by leave:

No. 3—Clause 255, page 271 (after line 16), after paragraph (c), insert:
(c) to monitor scientific research relevant to the issue of permanence and to advise the Minister about best evidence in relation to permanence;

No. 4—Clause 255, page 271 (line 7), before “The”, insert “(1)”.

No. 5—Clause 255, page 271 (after line 18), at the end of the clause, add:
(2) If the Domestic Offsets Integrity Committee gives advice to the Minister under paragraph (1)(ca) about best evidence in relation to permanence, the Minister must, within 28 days after receiving the advice, cause a copy of the advice to be published on the Department’s website.

Debate ensued.

Question—That the amendments be agreed to—put.

A division was called for.

Pursuant to the order of the Senate of 22 November 2010 consideration of the matter was postponed.

Senator Xenophon moved the following amendment:

No. 6—Clause 306, page 303 (after line 6), after subclause (1), insert:
(1A) Any review under subsection (1) must be conducted by the Commonwealth Scientific and Industrial Research Organisation in conjunction with the Productivity Commission.

(1B) The Minister must ensure that the Commonwealth Scientific and Industrial Research Organisation and the Productivity Commission are provided with sufficient additional resources to conduct any such review.

Debate ensued.

Question—That the amendment be agreed to—put.

A division was called for.

Pursuant to the order of the Senate of 22 November 2010 consideration of the matter was postponed.
On the motion of the Minister for Agriculture, Fisheries and Forestry (Senator Ludwig) the following amendments in respect of the Australian National Registry of Emissions Units Bill 2011, taken together by leave, were debated and agreed to:

Clause 66, page 56 (lines 20 and 21), omit “Australian carbon credit”, substitute “non-Kyoto international emissions”.

Clause 82, page 63 (table item 2), after “section”, insert “36 or”.

The Carbon Credits (Consequential Amendments) Bill 2011 and the Australian National Registry of Emissions Units Bill 2011, as amended, agreed to.

**CARBON CREDITS (CARBON FARMING INITIATIVE) BILL 2011**

Consideration resumed of the bill, as amended—and of the questions postponed earlier today.

Question—That amendments nos 1 and 2 moved by Senator Xenophon be agreed to—put.

The committee divided—

**AYES, 30**

Abetz  
Adams (Teller)  
Birmingham  
Boswell  
Boyce  
Bushby  
Cash  
Colbeck  
Cormann  
Edwards  
Eggleston  
Fawcett  
Fierravanti-Wells  
Fifield  
Fisher  
Heffernan  
Humphries  
Johnston  
Joyce  
Kroger  
Macdonald  
Mason  
McKenzie  
Parry  
Payne  
Ronaldson  
Ryan  
Scullion  
Xenophon

**NOES, 35**

Arbib  
Bilyk  
Bishop  
Brown, Bob  
Brown, Carol  
Collins  
Conroy  
Crossin  
Di Natale  
Farrell  
Faulkner  
Feeney  
Furner  
Gallacher  
Hanson-Young  
Hogg  
Hudlam  
Ludwig  
Lundy  
Marshall  
McEwen (Teller)  
Moore  
Polley  
Pratt  
Rhiannon  
Sherry  
Siewert  
Singh  
Stephens  
Sterle  
Thistlethwaite  
Urquhart  
Waters  
Wright

Question negatived.

Senator Xenophon moved the following amendment:

Clause 56, page 81 (line 28), omit paragraph (2)(a).

Question—That the amendment be agreed to—put.
The committee divided—

AYES, 30

Senators—

Abetz
Adams (Teller)
Birmingham
Boswell
Boyce
Bushby
Cash
Colbeck

Cormann
Edwards
Eggleston
Fawcett
Fierravanti-Wells
Fifield
Fisher
Heffernan

Humphries
Johnston
Joyce
Kroger
Macdonald
Mason
McKenzie
Nash

Parry
Payne
Ronaldson
Ryan
Scullion
Seylon
Xenophon

NOES, 35

Senators—

Arbib
Bilyk
Bishop
Brown, Bob
Brown, Carol
Cameron
Collins
Conroy
Crossin

Di Natale
Farrell
Faulkner
Feeley
Furner
Gallacher
Hanson-Young
Hogg
Ludlam

Ludwig
Lundy
Marshall
McEwen (Teller)
Moore
Polley
Pratt
Rhiannon
Sherry

Siewert
Singh
Stephens
Sterle
Thistlethwaite
Urquhart
Waters
Wright

Question negatived.

Question—That amendments nos 3, 4 and 5 moved by Senator Xenophon be agreed to—put.

The committee divided—

AYES, 30

Senators—

Abetz
Adams (Teller)
Birmingham
Boswell
Boyce
Bushby
Cash
Colbeck

Cormann
Edwards
Eggleston
Fawcett
Fierravanti-Wells
Fifield
Fisher
Heffernan

Humphries
Johnston
Joyce
Kroger
Macdonald
Mason
McKenzie
Nash

Parry
Payne
Ronaldson
Ryan
Scullion
Seylon
Xenophon

NOES, 35

Senators—

Arbib
Bilyk
Bishop
Brown, Bob
Brown, Carol
Cameron
Collins
Conroy
Crossin

Di Natale
Farrell
Faulkner
Feeley
Furner
Gallacher
Hanson-Young
Hogg
Ludlam

Ludwig
Lundy
Marshall
McEwen (Teller)
Moore
Polley
Pratt
Rhiannon
Sherry

Siewert
Singh
Stephens
Sterle
Thistlethwaite
Urquhart
Waters
Wright

Question negatived.
Question—That amendment no. 6 moved by Senator Xenophon be agreed to—put.
The committee divided—

**AYES, 30**

Senators—

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**NOES, 35**

Senators—

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Question negatived.

Question—That the bill, as amended, be agreed to—put.
The committee divided—

**AYES, 36**

Senators—

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**NOES, 29**

Senators—

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Question agreed to.
The Carbon Credits (Carbon Farming Initiative) Bill 2011 and the Australian National Registry of Emissions Units Bill 2011 to be reported with amendments and the Carbon Credits (Consequential Amendments) Bill 2011 to be reported without amendments.

The President resumed the chair and the Chair of Committees (Senator Parry) reported accordingly.
On the motion of Senator Ludwig the report from the committee was adopted.
Senator Ludwig moved—That these bills be now read a third time.
Debate ensued.
At 2 pm: Debate was interrupted while Senator Colbeck was speaking.

3 QUESTIONS
Questions without notice were answered.

4 QUESTIONS ON NOTICE—ANSWERS AND EXPLANATION
Senator Humphries, pursuant to standing order 74, asked the Minister representing the Minister for Trade (Senator Conroy) for an explanation of answers not being provided to questions on notice nos 246 and 288 (notice given 29 November 2010).
The Minister for Agriculture, Fisheries and Forestry (Senator Ludwig), on behalf of Senator Conroy, provided an explanation.
Senator Humphries moved—That the Senate take note of the explanation.
Question put and passed.

5 MOTIONS TO TAKE NOTE OF ANSWERS
Senator Brandis moved—That the Senate take note of the answers given by the Minister for Sport (Senator Arbib) and the Minister for Tertiary Education, Skills, Jobs and Workplace Relations (Senator Evans) to questions without notice asked by Senators Ronaldson and Fierravanti-Wells today relating to the House of Representatives Member for Dobell, Mr Thomson.
Debate ensued.
Question put and passed.
Senator Ludlam moved—That the Senate take note of the answer given by the Minister for Tertiary Education, Skills, Jobs and Workplace Relations (Senator Evans) to a question without notice asked by Senator Ludlam today relating to information concerning Australian troops injured in Afghanistan.
Question put and passed.

6 PETITION
The following petition, lodged with the Clerk by Senator Back, was received:
From 1 986 petitioners, requesting that the Senate conduct an inquiry into operating procedures relating to Medicare auditing processes and take action to halt prosecutions currently underway.
7 NOTICES

The Leader of the Australian Greens (Senator Bob Brown): To move on the next day of sitting—That the Senate upholds the democratic principle that consumers should be free to buy or not buy goods based on personal ethics. (general business notice of motion no. 361)

Senator Singh: To move on the next day of sitting—That the Joint Standing Committee on Treaties be authorised to hold a public meeting during the sitting of the Senate on Monday, 12 September 2011, from 10.30 am to noon. (general business notice of motion no. 362)

Senator Singh: To move on the next day of sitting—That the Joint Standing Committee on Migration be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 14 September 2011, from 10.30 am to noon. (general business notice of motion no. 363)

Senator Stephens: To move on the next day of sitting—That the Joint Standing Committee on the National Broadband Network be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Tuesday, 23 August 2011, from 6 pm. (general business notice of motion no. 364)

The Chair of the Legal and Constitutional Affairs Legislation Committee (Senator Crossin): To move on the next day of sitting—That the time for the presentation of the report of the Legal and Constitutional Affairs Legislation Committee on the Patent Amendment (Human Genes and Biological Materials) Bill 2010 be extended to 21 September 2011. (general business notice of motion no. 365)

The Chair of the Education, Employment and Workplace Relations Legislation Committee (Senator Marshall): To move on the next day of sitting—That the Education, Employment and Workplace Relations Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 23 August 2011, from 7 pm, to take evidence for the committee’s inquiry into the provisions of the Safety, Rehabilitation and Compensation Amendment (Fair Protection for Firefighters) Bill 2011. (general business notice of motion no. 366)

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

(a) notes:

(i) the opening statement made by the President of Fair Work Australia on 1 June 2010 during his appearance at an estimates hearing of the Education, Employment and Workplace Relations Legislation Committee, and

(ii) in particular, the request made in that statement that the Senate reconsider its order of 28 October 2009 which requires that, on each occasion on which the Education, Employment and Workplace Relations Legislation Committee meets to consider estimates in relation to Fair Work Australia, the President of Fair Work Australia appear before the committee to answer questions; and
(b) modifies the order of 28 October 2009 by indicating that the Senate expects that the President of Fair Work Australia will appear should his or her presence be requested by the Education, Employment and Workplace Relations Legislation Committee in the future, while relaxing the requirement that the President attend to answer questions on all occasions when the Education, Employment and Workplace Relations Legislation Committee meets to consider estimates in relation to Fair Work Australia. *general business notice of motion no. 367*

The Chair of the Legal and Constitutional Affairs References Committee (Senator Humphries): To move on the next day of sitting—That the time for the presentation of the report of the Legal and Constitutional Affairs References Committee on the agreement between Australia and Malaysia in relation to asylum seekers be extended to 11 October 2011. *general business notice of motion no. 368*

The Chair of the Community Affairs References Committee (Senator Siewert): To move on the next day of sitting—That the Community Affairs References Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 25 August 2011, from 1 pm. *general business notice of motion no. 369*

The Chair of the Community Affairs References Committee (Senator Siewert): To move on the next day of sitting—That the time for the presentation of the report of the Community Affairs References Committee on the Professional Services Review Scheme be extended to 12 October 2011. *general business notice of motion no. 370*

8 **LEAVE OF ABSENCE**

Senator McEwen, by leave, moved—That leave of absence be granted to Senator McLucas from 22 August to 25 August 2011, for personal reasons.

Question put and passed.

Senator Kroger, by leave, moved—That leave of absence be granted to the following senators:

(a) Senators Bushby and Boyce for 23 August 2011, for personal reasons; and

(b) Senators Eggleston and Scullion for 25 August 2011, on account of parliamentary business.

Question put and passed.

9 **SCRUTINY OF NEW TAXES—SELECT COMMITTEE—LEAVE TO MEET DURING SITTING**

The Chair of the Select Committee on the Scrutiny of New Taxes (Senator Cormann), by leave, moved—That the Select Committee on the Scrutiny of New Taxes be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Tuesday, 23 August 2011, from 1:45 pm.

Question put and passed.
10 EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS REFERENCES COMMITTEE—REFERENCE

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 1—That the following matter be referred to the Education, Employment and Workplace Relations References Committee for inquiry and report by 22 November 2011:

The administration and purchasing of Disability Employment Services (DES) in Australia, with particular reference to the Government’s 2011-12 budget announcement to undertake a competitive tender of the Disability Employment Services – Employment Support Services program for contracts with a performance rating of 3 stars and below under the Department of Education, Employment and Workplace Relations’ DES Performance Framework, including:

(a) the impact of tendering more than 80 per cent of the current DES on the clients with disability and employers they support under the current contracts;
(b) the potential impact of losing experienced staff;
(c) whether competitive tendering of more than 80 per cent of the market delivers the best value for money and is the most effective way in which to meet the stated objectives of:
   (i) testing the market,
   (ii) allowing new ‘players’ into the market, and
   (iii) removing poor performers from the market;
(d) whether the DES Performance Framework provides the best means of assessing a provider’s ability to deliver services which meet the stated objectives of the Disability Services Act 1986 such as enabling services that are flexible and responsive to the needs and aspirations of people with disabilities, and encourage innovation in the provision of such services;
(e) the congruency of 3-year contracting periods with the long-term relationship based nature of the Disability Employment Services – Employment Support Services program, and the impact of moving to 5-year contract periods as recommended in the 2009 Education, Employment and Workplace Relations References Committee report, DEEWR tender process to award employment services contracts; and
(f) the timing of the tender process given the role of DES providers in implementing the Government’s changes to the disability support pension.

Question put and passed.

11 ADMINISTRATION—ACT OF GRACE PAYMENTS—ANSWER TO QUESTION ON NOTICE—ORDER FOR PRODUCTION OF DOCUMENTS

Senator Cormann, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 357—That the Senate—

(a) notes that the Government has refused to provide an answer to question on notice no. 671 regarding act of grace payments without properly raising a claim of public interest immunity; and
(b) orders that there be laid on the table by noon on Tuesday, 23 August 2011, all information about:
   (i) the number of act of grace payments approved by the Minister since 24 November 2007 where the department recommended against approval; and
(ii) the reason for approval, the date of approval and value of each of the above act of grace payments.

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

Paragraph (b)(i), omit “2007”, substitute “1996”.

Statement by leave: Senator Cormann, by leave, made a statement relating to the matter.

Question—That the amendment be agreed to—put.

The Senate divided—

AYES, 36

Senators—

Arbib  Bilyk  Bishop  Brown, Bob  Brown, Carol  Cameron  Carr  Collins  Crossin

Di Natale  Farrell  Faulkner  Feehey  Furner  Gallacher  Hanson-Young  Hogg  Ludlam

Ludwig  Lundy  Marshall  McEwen (Teller)  Milne  Moore  Polley  Pratt  Rhiannon

Sherry  Siewert  Singh  Stephens  Sterle  Thistlethwaite  Urquhart  Waters  Wright

NOES, 32

Senators—

Adams  Back  Bernardi  Birmingham  Boswell  Bushby  Cash  Colbeck

Coonan  Cormann  Edwards  Eggleston  Fawcett  Fierravanti-Wells  Fifeild  Fisher

Heffernan  Humphries  Johnston  Joyce  Kroger (Teller)  Macdonald  Madigan  Mason  McKern

Parry  Payne  Ronaldson  Ryan  Scullion  Williams

Question agreed to.

Main question, as amended, put and passed.

12 CORRECTION OF DIVISIONS—PROPOSED AMENDMENT OF STANDING ORDER 104

The Leader of the Australian Greens (Senator Bob Brown), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 76—That standing order 104, relating to the correction of divisions, be amended to read as follows:

104 Correction of divisions

(1) If there is misadventure, or in case of confusion or error concerning the numbers reported (unless it can be otherwise corrected), the Senate shall proceed to another division.

(2) A division under this standing order must be taken as early as is convenient.

Question put.
The Senate divided—

**AYES, 9**

- Brown, Bob
- Di Natale
- Hanson-Young
- Ludlam
- Milne
- Rhiannon (Teller)
- Siewert (Teller)
- Waters
- Wright

**NOES, 49**

- Adams
- Arbib
- Bernardi
- Bilyk
- Birmingham
- Bishop
- Boswell
- Brown, Carol
- Bushby
- Cameron
- Carr
- Cash
- Colbeck
- Collins
- Cormann
- Crossin
- Eggleston
- Farrell
- Fawcett
- Feeney
- Fierravanti-Wells
- Fifield
- Furner
- Gallacher
- Hogg
- Kroger (Teller)
- Ludwig
- Lundy
- Madigan
- Marshall
- Mason
- McEwen
- McKenzie
- Moore
- Nash
- Parry
- Payne
- Polley
- Pratt
- Ronaldson
- Ryan
- Scullion
- Sherry
- Singh
- Stephens
- Sterle
- Thistlethwaite
- Urquhart

Question negatived.

13 **ENVIRONMENT—TASMANIAN FORESTS INTERGOVERNMENTAL AGREEMENT**

The Leader of the Australian Greens (Senator Bob Brown), by leave, amended general business notice of motion no. 359 to read as follows:

That the Senate condemns the Opposition’s:

(a) ongoing attacks on the *Tasmanian Forests Intergovernmental Agreement between the Commonwealth of Australia and the State of Tasmania*; and

(b) failure to provide a constructive alternative for scores of contractors facing market downturn, closures of three export woodchip mills and regional areas of Tasmania welcoming the development opportunities the package will provide.

*Motion determined as not formal:* Senator Bob Brown requested that general business notice of motion no. 359 standing in his name for today, relating to the Tasmanian Forests Intergovernmental Agreement, be taken as formal.

An objection was raised and the motion was not proceeded with as a formal motion.

Proposed suspension of standing orders: Senator Bob Brown, pursuant to contingent notice, moved—that so much of the standing orders be suspended as would prevent him moving a motion relating to the conduct of the business of the Senate, namely a motion to give precedence to general business notice of motion no. 359.

Debate ensued.

Question put and negatived.

14 **POSTPONEMENT**

The following item of business was postponed:

General business notice of motion no. 227 standing in the name of the Leader of the Australian Greens (Senator Bob Brown) for today, proposing the introduction of the Protecting Children from Junk Food Advertising (Broadcasting and Telecommunications Amendment) Bill 2011, postponed till 13 September 2011.
15 COMMUNICATIONS—TASMANIA—WIN TELEVISION

Senator Carol Brown, also on behalf of Senator Milne, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 358—That the Senate—

(a) deplores the actions of WIN Television in Tasmania, which has cut its weekend statewide news service, leading to:

(i) some 10 Tasmanians losing their jobs in the state’s media industry, jobs which would have become future jobs for young Tasmanians, and

(ii) a marked cutting of media diversity in the state on weekends, with only ABC TV and Southern Cross Television providing local news and nightly bulletins; and

(b) notes that:

(i) WIN Television in 2010 celebrated 50 years of television history in the state, but in its 51st year WIN has cut the ‘guts’ out of its local coverage with no weekend news services, resulting in a loss of 28 per cent of the weekly news coverage, local news, local sport and local politics,

(ii) Tasmanian viewers, some of whom have been loyal to WIN Television for the full 50 years of its existence, are now being served up an irrelevant news service, broadcasting Victorian news on Saturdays and Sundays, and

(iii) this makes Tasmania the only state in the WIN Television network without a home-state-based weekend news service.

Question put and passed.

16 HEALTH—HEARING AWARENESS WEEK

Senator Siewert, also on behalf of Senators Fifield and McLucas, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 360—That the Senate—

(a) notes:

(i) that the week beginning 21 August 2011 is national Hearing Awareness Week and the theme for 2011 is ‘I’m ready for anything! Is anything ready for me?’,

(ii) that the theme recognises that for the 3.55 million Australians with hearing impairment, technology is providing more possibilities than ever before to assist their inclusion in society,

(iii) that improvements in technology have minimised the barriers to communication,

(iv) that technology is also making huge inroads into improving the quality of educational access and employers have more support than ever to make their workplace inclusive and accessible for Australians with a hearing impairment,

(v) the incredible innovations that have been made by a number of Australian organisations into assistive technologies,

(vi) the ‘Hear Us’ inquiry undertaken by the Community Affairs References Committee in 2010,

(vii) the ongoing work that is required to improve hearing health in Australia as well as ensuring that Australians with a hearing impairment are not excluded,
(viii) the funding commitments to the Better Start for Children with Disability program which provides flexible funding for early intervention services to parents of children with hearing impairment, and

(ix) the additional funding provided to the Hearing Services Program which provides extended eligibility for young people to hearing aids, services and cochlear speech processors, increased access to hearing aids and cochlear speech processors for more children, and additional hearing services and aids for Indigenous adults and people with complex hearing problems; and

(b) seeks the Australian Government to:

(i) continue raising awareness of hearing impairment and chronic ear disorders in order to:

(A) reduce the incidence of hearing loss and/or chronic ear disorders,

(B) increase the public awareness of the needs and aspirations of hearing impaired Australians, and

(C) promote inclusion and understanding of hearing impaired Australians,

(ii) provide access to technologies, organisations and communities that can improve engagement in education, employment and community,

(iii) continue to support organisations that provide assistance to hearing impaired individuals, their families, communities, employers and schools,

(iv) continue to support and fund Australian hearing health research and innovation, and

(v) continue to implement the recommendations of the Hear Us: Inquiry into Hearing Health in Australia report with an emphasis on inclusion.

Question put and passed.

17 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—ADMINISTRATION—GILLARD GOVERNMENT

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

The Gillard Government’s breach of trust with the Australian people through its record of broken promises and maladministration.

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

After 5 pm: Discussion was interrupted.

18 FIRST SPEECH

Pursuant to order (see entry no. 8, 7 July 2011), Senator Fawcett made his first speech.

19 DISCUSSION OF MATTER OF PUBLIC IMPORTANCE—ADMINISTRATION—GILLARD GOVERNMENT

Discussion of the matter of public importance proposed by Senator Fifield (see entry no. 17) concluded.

20 SENATE—SENATOR COONAN—IMMINENT RETIREMENT—STATEMENTS BY LEAVE

Senator Kroger and the Minister for Sport (Senator Arbib), by leave, made statements relating the imminent retirement of Senator Coonan.
21 GOVERNMENT DOCUMENT
The Minister for Sport (Senator Arbib) tabled the following document:
Australian Meat and Live-stock Industry Act 1997—Live-stock mortalities during
exports by sea—Report for the period 1 January to 30 June 2011 [Replacement for
document tabled on 16 August 2011].

22 ECONOMICS LEGISLATION COMMITTEE—DRAFT BUSINESS NAMES REGISTRATION
BILL 2011 AND RELATED BILLS—DOCUMENT
Senator Kroger, by leave, tabled the following document:
Economics Legislation Committee—Drafts settled with state/territory officials of
the Business Names Registration Bill 2011, the Business Names Registration
(Transitional and Consequential Provisions) Bill 2011 and the Business Names
Registration (Fees) Bill 2011—Report, dated August 2011—Additional comments
by Opposition senators.
Document ordered to be printed on the motion of Senator Kroger.

23 DOCUMENTS
The following documents were tabled by the Clerk:
[Legislative instruments are identified by a Federal Register of Legislative Instruments
(FRLI) number. An explanatory statement is tabled with an instrument unless
otherwise indicated by an asterisk.]
Australian Film, Television and Radio School Act—Determination of Degrees,
Diplomas and Certificates No. 2011/1 [F2011L01674].
Commissioner of Taxation—Public Rulings—
Class Rulings—
Addendum—CR 2011/46A.
CR 2011/76—CR 2011/78.
Taxation Rulings—
Addendum—TR 97/9.
Errata—TR 2006/10AE and TR 2006/11AE.
Notice of Withdrawal—TR 95/4.
Customs Act—Tariff Concession Orders—
1101644 [F2011L01681].
1102984 [F2011L01677].
1102990 [F2011L01676].
1103346 [F2011L01678].
1103423 [F2011L01680].
1103437 [F2011L01690].
1103549 [F2011L01670].
1103551 [F2011L01672].
1104052 [F2011L01689].
1104052 [F2011L01680].
1105239 [F2011L01688].
1105240 [F2011L01682].
1105241 [F2011L01675].
1106114 [F2011L01687].
Environment Protection and Biodiversity Conservation Act—Amendments of lists of exempt native specimens—

Financial Management and Accountability Act—Financial Management and Accountability Determinations—
2011/14—Section 32 (Transfer of Functions from DEEWR to TEQSA) [F2011L01673].
2011/15—Section 32 (Transfer of Functions from FHCSIA to SEWPaC) [F2011L01689].

Higher Education Support Act—VET Provider Approval No. 18 of 2011—
Gurkhas Institute of Technology Pty Ltd [F2011L01692].

Independent Contractors Act—Select Legislative Instrument 2011 No. 155—
Independent Contractors Amendment Regulations 2011 (No. 1) [F2011L01694].

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

Private Health Insurance Act—Private Health Insurance (Benefit Requirements) Amendment Rules 2011 (No. 6) [F2011L01683].

Student Assistance Act—Student Assistance (Education Institutions and Courses) Amendment Determination 2011 (No. 1) [F2011L01693].

24 DEPARTMENTAL AND AGENCY GRANTS—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT
The following document was tabled pursuant to the order of the Senate of 24 June 2008:

Departmental and agency grants—Budget and additional estimates 2008-09 and 2009-10—Letter of advice and revised information for documents previously tabled—Department of Infrastructure and Transport.

25 COMMITTEE MEMBERSHIP
The Acting Deputy President (Senator Bishop) informed the Senate that the President had received letters requesting changes in the membership of committees.

The Minister for Sport (Senator Arbib), by leave, moved—That senators be discharged from and appointed to committees as follows:

Environment and Communications References Committee—
Appointed—
Substitute member: Senator Ludlam to replace Senator Waters for the committee’s inquiry into recent programming decisions made by the Australian Broadcasting Corporation
Participating member: Senator Waters

Legal and Constitutional Affairs References Committee—
Appointed—
Substitute member: Senator Hanson-Young to replace Senator Wright for the committee’s inquiry into the agreement between Australia and Malaysia in relation to asylum seekers
Participating member: Senator Wright.

Question put and passed.
26 CUSTOMS AMENDMENT (ANTI-DUMPING IMPROVEMENTS) BILL 2011
INDUSTRIAL CHEMICALS (NOTIFICATION AND ASSESSMENT) AMENDMENT (INVENTORY) BILL 2011
NATIONAL HEALTH REFORM AMENDMENT (NATIONAL HEALTH PERFORMANCE AUTHORITY) BILL 2011

Messages from the House of Representatives were reported transmitting for the concurrence of the Senate the following bills:

Message no. 234, dated 18 August 2011—A Bill for an Act to amend the Customs Act 1901, and for other purposes.
Message no. 236, dated 22 August 2011—A Bill for an Act to amend the National Health and Hospitals Network Act 2011, and for other purposes.

The Minister for Sport (Senator Arbib) moved—That these bills may proceed without formalities, may be taken together and be now read a first time.
Question put and passed.

Bills read a first time.

Senator Arbib moved—That these bills be now read a second time.

Explanatory memorandum: Senator Arbib tabled a revised explanatory memorandum relating to the National Health Reform Amendment (National Health Performance Authority) Bill 2011.

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

Consideration of legislation: Senator Arbib moved—That the bills be listed on the Notice Paper as separate orders of the day.
Question put and passed.

27 LEGAL AND CONSTITUTIONAL AFFAIRS LEGISLATION COMMITTEE—REPORT—FAMILY LAW LEGISLATION AMENDMENT (FAMILY VIOLENCE AND OTHER MEASURES) BILL 2011

Pursuant to order, Senator Carol Brown, at the request of the Chair of the Legal and Constitutional Affairs Legislation Committee (Senator Crossin), tabled the following report and documents:


Report ordered to be printed on the motion of Senator Carol Brown.
28 **CARBON CREDITS (CARBON FARMING INITIATIVE) BILL 2011**

**CARBON CREDITS (CONSEQUENTIAL AMENDMENTS) BILL 2011**

**AUSTRALIAN NATIONAL REGISTRY OF EMISSIONS UNITS BILL 2011**

Order read for the adjourned debate on the motion of the Minister for Agriculture, Fisheries and Forestry (Senator Ludwig)—That these bills be now read a third time.

Debate resumed.

Question put.

The Senate divided—

**AYES, 33**

- Arbib
- Bilyk
- Bishop
- Brown, Bob
- Brown, Carol
- Collins
- Crossin
- Di Natale
- Faulknor
- Feeney
- Gallacher
- Hanson-Young
- Hogg
- Ludlam
- Ludwig
- Lundy
- Marshall
- McEwen (Teller)
- Milne
- Moore
- Polley
- Pratt
- Rhiannon
- Sherry
- Siewert
- Singh
- Stephens
- Sterle
- Thistlethwaite
- Urquhart
- Waters
- Wright
- Xenophon

**NOES, 26**

- Abetz
- Adams (Teller)
- Back
- Bernardi
- Birmingham
- Boswell
- Bushby
- Colbeck
- Cormann
- Edwards
- Eggleston
- Fawcett
- Fisher
- Humphries
- Johnston
- Joyce
- Kroger
- Macdonald
- Madigan
- Mason
- McKenzie
- Nash
- Ryan
- Scullion
- Williams

Question agreed to.

Bills read a third time.

29 **TAX LAWS AMENDMENT (RESEARCH AND DEVELOPMENT) BILL 2010**

**INCOME TAX RATES AMENDMENT (RESEARCH AND DEVELOPMENT) BILL 2010**

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary for Defence (Senator Feeney)—That these bills be now read a second time.

Debate resumed.

Question put and passed.

Bills read a second time.

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

—in the committee

**TAX LAWS AMENDMENT (RESEARCH AND DEVELOPMENT) BILL 2010**—

Bill taken as a whole by leave.
Explanatory memorandum: The Minister for Innovation, Industry, Science and Research (Senator Carr) tabled a supplementary explanatory memorandum relating to the government amendments and requests for amendments to be moved to the bills.

Statement by Chair of Committees: The Chair of Committees (Senator Parry) made a statement indicating that as the Government amendment inserting Schedule 3A, circulated as a request, did not have a direct effect on an appropriation, it could not be regarded as an increase in a charge or burden on the people with the meaning of section 53 of the Constitution. Under the precedents of the Senate, it should therefore not be moved as a request and would be treated as an amendment.

Senator Colbeck moved the following amendments together by leave:

Clause 3, page 2 (table), omit the table (but not the note), substitute:

<table>
<thead>
<tr>
<th>Commencement information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Column 1</td>
</tr>
<tr>
<td>Provision(s)</td>
</tr>
<tr>
<td>1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table</td>
</tr>
<tr>
<td>2. Schedules 1, 2, 3 and 4</td>
</tr>
</tbody>
</table>

Schedule 1, item 1, page 12 (line 11), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 1, item 1, page 12 (line 13), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 1, item 1, page 29 (line 31), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 1, item 1, page 29 (line 33), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 1, item 1, page 38 (line 21), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 1, item 1, page 38 (line 23), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 3, page 99 (line 2), omit the Division heading.
Schedule 3, item 42, page 99 (lines 6 and 7), omit the note.
Schedule 4, item 1, page 112 (line 7), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 1, page 112 (lines 9 and 10), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 1, page 112 (line 14), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 1, page 112 (lines 15 and 16), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 1, page 112 (lines 18 and 19), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 1, page 112 (line 21), omit “2010-11”, substitute “2011-12”.


Schedule 4, item 3, page 113 (line 29), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 3, page 113 (line 31), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 3, page 113 (line 34), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 3, page 113 (line 35), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 3, page 113 (line 38), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 3, page 114 (line 2), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 3, page 114 (line 15), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 3, page 114 (line 18), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 3, page 114 (line 21), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 3, page 114 (line 23), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 8, page 116 (line 10), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 12, page 118 (line 6), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 12, page 120 (line 21), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 14, page 123 (line 13), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 124 (line 18), omit “2010-11”, substitute “2011-12”.
Schedule 4, item 15, page 124 (line 24), omit “2010-11”, substitute “2011-12”.
Schedule 4, item 15, page 124 (line 27), omit “2010-11”, substitute “2011-12”.
Schedule 4, item 15, page 124 (line 28), omit “2010-11”, substitute “2011-12”.
Schedule 4, item 15, page 125 (line 17), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 128 (line 22), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 132 (line 10), omit “2010-11”, substitute “2011-12”.
Schedule 4, item 15, page 132 (line 12), omit “2010-11”, substitute “2011-12”.
Schedule 4, item 15, page 132 (line 17), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 132 (line 27), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 132 (line 33), omit “1 July 2010”, substitute “1 July 2011”.

No. 45—22 August 2011
Schedule 4, item 15, page 133 (line 6), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 133 (line 24), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 133 (lines 29 and 30), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 134 (line 16), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 134 (line 25), omit “1 July 2010”, substitute “1 July 2011”.

Debate ensued.

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

Question—That the bill be agreed to—divided, at the request of Senator Colbeck, in respect of Schedule 3, Division 2.

Schedule 3, Division 2 debated and agreed to.

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

Schedule 1, item 1, page 12 (line 11), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 1, item 1, page 12 (line 13), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 1, item 1, page 29 (line 31), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 1, item 1, page 29 (line 33), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 1, item 1, page 38 (line 21), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 1, item 1, page 38 (line 23), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 1, page 112 (line 7), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 1, page 112 (lines 9 and 10), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 1, page 112 (line 14), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 1, page 112 (lines 15 and 16), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 1, page 112 (lines 18 and 19), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 1, page 112 (line 21), omit “2010-11”, substitute “2011-12”.
Schedule 4, item 3, page 113 (line 29), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 3, page 113 (line 31), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 3, page 113 (line 34), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 3, page 113 (line 35), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 3, page 113 (line 38), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 3, page 114 (line 2), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 3, page 114 (line 15), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 3, page 114 (line 18), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 3, page 114 (line 21), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 3, page 114 (line 23), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 8, page 116 (line 10), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 12, page 118 (line 6), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 12, page 120 (line 21), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 14, page 123 (line 13), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 124 (line 24), omit “2010-11”, substitute “2011-12”.
Schedule 4, item 15, page 124 (line 28), omit “2010-11”, substitute “2011-12”.
Schedule 4, item 15, page 125 (line 17), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 128 (line 22), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 132 (line 12), omit “2010-11”, substitute “2011-12”.
Schedule 4, item 15, page 132 (line 17), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 132 (line 27), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 132 (line 33), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 133 (line 6), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 133 (line 24), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 133 (lines 29 and 30), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 134 (line 16), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 134 (line 25), omit “1 July 2010”, substitute “1 July 2011”.

Schedule 4, item 15, page 133 (line 29), omit “2010-11”, substitute “2011-12”.
Schedule 4, item 15, page 133 (line 33), omit “2010-11”, substitute “2011-12”.
Schedule 4, item 15, page 133 (line 6), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 133 (line 24), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 133 (lines 29 and 30), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 134 (line 16), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 134 (line 25), omit “1 July 2010”, substitute “1 July 2011”.

Schedule 4, item 15, page 133 (line 29), omit “2010-11”, substitute “2011-12”.
Schedule 4, item 15, page 133 (line 33), omit “2010-11”, substitute “2011-12”.
Schedule 4, item 15, page 133 (line 6), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 133 (line 24), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 133 (lines 29 and 30), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 134 (line 16), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 134 (line 25), omit “1 July 2010”, substitute “1 July 2011”.

Schedule 4, item 15, page 133 (line 29), omit “2010-11”, substitute “2011-12”.
Schedule 4, item 15, page 133 (line 33), omit “2010-11”, substitute “2011-12”.
Schedule 4, item 15, page 133 (line 6), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 133 (line 24), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 133 (lines 29 and 30), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 134 (line 16), omit “1 July 2010”, substitute “1 July 2011”.
Schedule 4, item 15, page 134 (line 25), omit “1 July 2010”, substitute “1 July 2011”.
Senator Colbeck moved the following amendment:

Schedule 1, item 1, page 5 (lines 12 to 23), omit section 355-5, substitute:

355-5 Object

(1) The object of this Division is to increase the number of businesses that conduct research and development activities and to increase the level of such activities that individual businesses conduct, where this is likely to benefit the Australian economy.

(2) This object is to be achieved by providing a tax incentive for industry to conduct, in a scientific way:

(a) research activities for the purpose of generating new knowledge or information in either a basic or applied form; or

(b) experimental development activities to develop new or improved materials, products, devices, processes or services;

that, if successful, may be able to be commercialised for the benefit of the Australian economy.

Debate ensued.

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

Senator Colbeck moved the following requests for amendments together by leave:

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

Schedule 1, item 1, page 7 (line 14), omit “(1)”.

Schedule 1, item 1, page 7 (lines 16 to 21), subsection 355-30(2), omit the subsection.

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

Senator Colbeck moved the following requests for amendments together by leave:

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

Schedule 1, item 1, page 8 (table item 1), after “apply)”, insert “where, in calculating aggregate turnover, references in section 328-125 to at least 40% are read as references to greater than 50%”.

Schedule 1, item 1, page 9 (table before line 1, table item 2), omit paragraph (a), substitute:

(a) references in section 328-125 to at least 40% were references to greater than 50%; and

Debate ensued.

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

Senator Colbeck moved the following request for an amendment:

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

Schedule 1, item 1, page 15 (lines 27 to 29), omit paragraph 355-225(1)(a), substitute:

(a) expenditure of a capital nature that is incurred to acquire or construct:

(i) a building or a part of a building; or

(ii) an extension, alteration or improvement to a building;
that is to be *held by the R&D entity;
Question—That the request be agreed to—put and negatived.
Senator Colbeck moved the following request for an amendment:
   That the House of Representatives be requested to make the following amendment:
   Schedule 1, item 1, page 21 (line 8) to page 22 (line 4), section 355-405, omit the section.
Question—That the request be agreed to—put and negatived.
Senator Colbeck moved the following amendments together by leave:
   Schedule 1, item 1, page 22 (line 36), omit “only”.
   Schedule 1, item 1, page 23 (line 4), omit “only”.
   Schedule 1, item 1, page 23 (line 9), omit “otherwise”, substitute “if neither of paragraphs (a) and (b) apply”.
   Schedule 4, item 15, page 131 (table, after line 31), insert:
   
   **Schedule 4, item 15, page 131 (after line 32), before section 355-415, insert:**
   
   **355-410 Disposal of results of R&D activities under old Act**
   If an R&D entity under the *Income Tax Assessment Act 1997* (the *new Act*) made claims under the former section 73B of the *Income Tax Assessment Act 1936* (the *old Act*) in relation to R&D activities under the old Act, then section 355-410 of the new Act applies in relation to the results of those activities as if they were R&D activities for the new Act.

Debate ensued.
Question—That the amendments be agreed to—put and negatived.
Senator Colbeck moved the following amendments together by leave:
   Schedule 1, item 1, page 27 (line 6) to page 29 (line 7), omit Subdivision 355-H, substitute:
   **Subdivision 355-H—Feedstock adjustments**

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**355-460 What this Subdivision is about**

Where an R&D activity that is an experimental production activity produces product held for sale, applied to own use or further processing, then the value of the tax offset for that R&D activity is reduced by the lower of:

(a) the expenditure on feedstock goods, materials and energy that are transformed or processed into the stock or assets; and

(b) the value of the feedstock output produced by the R&D activity.
Feedstock adjustment to R&D expenditure

(1) This section applies to an *R&D entity and an *experimental production activity for an income year if:
   (a) the entity incurs expenditure in the income year in acquiring or producing feedstock inputs for the *experimental production activity; and
   (b) the entity obtains under section 355-100 *tax offsets for one or more income years for deductions under this Division in relation to the *experimental production activity:
      (i) for expenditure on feedstock inputs for the *experimental production activity; or
      (ii) for expenditure it incurs on any energy input directly into the transformation or processing of such feedstock inputs; and
   (c) the entity recovers value in the income year from feedstock outputs of the *experimental production activity by:
      (i) sale of the feedstock outputs; or
      (ii) using them as feedstock inputs into further processing or transformation; or
      (iii) applying them to its own use.

(2) The expenditure eligible for the *tax offset under section 355-100 for the *experimental production activity is reduced in the income year by the lesser of:
   (a) the total expenditure giving rise to the deductions mentioned in paragraph (1)(b), apart from expenditure that has already been used under this paragraph; and
   (b) the value recovered under paragraph (1)(c), worked out as follows:
      (i) if the feedstock output is sold in that year without further transformation or processing after the *experimental production activity, then the value is the consideration received for the goods or materials produced by this *experimental production activity;
      (ii) otherwise, the value is the market value of the feedstock output at the first point it is able to be valued after the completion of the *experimental production activity.

(3) For this section, feedstock inputs are goods or materials that are transformed or processed during an *experimental production activity into one or more tangible products (the feedstock outputs).

Experimental production activity

(1) An experimental production activity is the collection of all the necessary *R&D activities needed to be carried out to achieve the objective of a production trial, except for those activities that are only to acquire or produce feedstock inputs.

(2) An *experimental production activity includes all *R&D activities required to undertake the trial and produce the feedstock outputs to the point that these can reasonably be valued as finished goods or materials or intermediate goods or materials to be further processed or transformed in activities after the production trial.
355-475 Application to connected entities and affiliates

This Subdivision applies to a "supply or use of the marketable product by:
(a) an entity "connected with the "R&D entity; or
(b) an "affiliate of the R&D entity or an entity of which the R&D entity is an affiliate;
as if it were by the R&D entity.

Schedule 1, item 4, page 43 (line 30), omit the definition of feedstock revenue, substitute:

experimental production activity has the meaning given by section 355-470.

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

Senator Colbeck moved the following amendments together by leave:

Schedule 2, item 1, page 47 (line 3) to page 48 (line 31), omit sections 27A and 27B, substitute:

27A Registering R&D entities for R&D activities

(1) The Board must, on application by an R&D entity, decide whether to register or refuse to register the entity for one or more specified R&D activities for an income year.

Note 1: A decision under this subsection is reviewable (see Division 5).
Note 2: For requirements of applications, see section 27D.

(2) If the Board decides under subsection (1) to register the R&D entity, the Board must do so consistently with:
(a) any findings already in force under subsection 27B(1) in relation to the application; and
(b) any findings already in force under subsection 28A(1) (advance findings about the nature of activities) in relation to the R&D entity.

27B Findings about applications for registration

(1) The Board may make one or more findings in relation to an R&D entity’s application for the purposes of subsection 27A(1) to the effect that all or part of the activities satisfy the definition of R&D activities in section 355-20 of the Income Tax Assessment Act 1997.

Note: A finding is reviewable (see Division 5).

(2) If the Board makes a finding under subsection (1) in relation to the R&D entity’s registration, the Board may specify in the finding the times to which the finding relates.

Example: A finding under subsection (1) could specify the times during the registration year that a registered activity was an R&D activity.

(3) This section has effect subject to section 32B (findings cannot be inconsistent with any earlier findings).
Schedule 2, item 1, page 52 (lines 3 to 37), omit section 27J, substitute:

**27J Findings about a registration**

(1) The Board may make one or more findings about an R&D entity’s registration under section 27A for an income year to the effect that all or part of the activities satisfy the definition of R&D activities in section 355-20 of the *Income Tax Assessment Act 1997*.

   Note: A finding is reviewable (see Division 5).

(2) If the Board makes a finding under subsection (1) in relation to the R&D entity’s registration, the Board may specify in the finding the times to which the finding relates.

   Example: A finding under subsection (1) could specify the times during the registration year that a registered activity was an R&D activity.

(3) This section has effect subject to section 32B (findings cannot be inconsistent with any earlier findings).

Schedule 2, item 1, page 56 (line 20) to page 57 (line 3), omit subsection 28A(1), substitute:

(1) The Board must, on application by an R&D entity for a finding under this subsection about an activity, either:

   (a) find that all or part of the activity satisfies the definition of R&D activities in section 355-20 of the *Income Tax Assessment Act 1997* for which the entity has been or could be registered under section 27A for an income year; or

   (b) find that all or part of the activity does not satisfy the definition of R&D activities in section 355-20 of the *Income Tax Assessment Act 1997* for which the entity has been or could be registered under section 27A for an income year.

Debate ensued.

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

Senator Carr moved the following amendments together by leave:

Clause 2, page 2 (table item 7), omit “Schedule 4”, substitute “Schedules 3A and 4”.

Page 111 (after line 24), after Schedule 3, insert:

**Schedule 3A—Quarterly credits**

**Part 1—Introduction**

**1 Definitions**

(1) In this Schedule:

   *net refund assessment position*: an entity is in a *net refund assessment position* for an income year if:

   (a) an excess remains after the entity’s tax offsets for the income year are applied against its basic income tax liability for the income year; and

   (b) that excess is wholly or partly refundable.

   Note: The excess will be wholly or partly refundable if some or all of the tax offsets are refundable tax offsets.

   *quarterly credit* means a credit referred to in item 3.
refundable R&D tax offset: an entity is entitled to a refundable R&D tax offset for an income year if:
(a) the entity is an R&D entity that is entitled under section 355-100 of the Income Tax Assessment Act 1997 to a tax offset for the income year; and
(b) that tax offset is a refundable tax offset.

refundable tax offset means a tax offset that is subject to the refundable tax offset rules.

relevant Acts means the following Acts:
(a) the Income Tax Assessment Act 1936;
(b) the Income Tax Assessment Act 1997;
(c) the Industry Research and Development Act 1986;
(d) the Taxation Administration Act 1953.

total credits: an entity’s total credits for an income year is an amount equal to the sum of the entity’s quarterly credits for the income year.

(2) Subject to subitem (1), an expression used in this Schedule that is also used in the Income Tax Assessment Act 1997 has the same meaning in this Schedule as it has in that Act.

Part 2—Power to make regulations to modify operation of Acts

2 Regulations may modify operation of Acts to allow quarterly credits

(1) The Governor-General may make regulations modifying the operation of one or more of the relevant Acts for the purpose of achieving the objectives set out in this Part. The regulations have effect accordingly.

(2) The Minister must recommend to the Governor-General that the Governor-General make regulations under subitem (1) before 1 January 2014.

3 First objective—quarterly credits in anticipation of refundable tax offset

(1) The first objective is that an R&D entity will be credited by the Commissioner quarterly amounts for an income year if particular requirements are satisfied.

Note 1: These requirements include the R&D entity satisfying eligibility criteria and other matters (for example, see Part 3).

Note 2: Receiving quarterly credits may result in the R&D entity being paid an amount out of the Consolidated Revenue Fund (see section 16 of the Taxation Administration Act 1953).

(2) Three of the eligibility criteria for a quarterly credit for an income year are:
(a) that it is reasonable to expect that the R&D entity will be entitled to a refundable R&D tax offset for the income year relating to R&D activities conducted during the income year; and
(b) if Innovation Australia makes one or more findings about the R&D activities or purported R&D activities—that those findings are positive; and
(c) that the quarter begins on or after 1 January 2014.

Note: There may be additional eligibility criteria (for example, see subparagraph 5(1)(a)(ii)).
4 Second objective—tax neutral consequences

(1) The second objective is that, as far as practicable, there be tax-neutral consequences for an R&D entity receiving quarterly credits.

Note 1: This objective is for the R&D entity to be in the same position, for income tax purposes, whether:

(a) the R&D entity receives quarterly credits for an income year; or
(b) the R&D entity does not receive those quarterly credits, and becomes entitled, after the end of the income year, to the refundable R&D tax offset for the income year.

Note 2: Achieving this objective could include providing for a reconciliation and other integrity measures (for example, see paragraphs 5(1)(l) and (p) and subitem 5(4)).

(2) For the purposes of subitem (1), disregard consequences relating to time.

Part 3—Modified Acts may provide for certain matters

5 Some matters the modified Acts may provide for

(1) As a result of the regulations, the collective operation of the relevant Acts may provide for any or all of the following matters:

(a) eligibility criteria for quarterly credits, including:
   (i) matters relevant to working out when paragraph 3(2)(b) is satisfied; and
   (ii) additional criteria to those mentioned in subitem 3(2);

(b) how applications for quarterly credits may be made, including that:
   (i) applications must be in an approved form; and
   (ii) applications may be varied;

(c) that Innovation Australia may make findings (the IA findings) about the activities that relate to an application, or proposed application, for quarterly credits;

(d) how IA findings may be made, including that IA findings may be made on application in an approved form;

(e) fees relating to applications for quarterly credits or applications for IA findings, and a method for indexing the fees;

(f) how applications for quarterly credits or IA findings are considered (and approved or rejected);

(g) that applicants for quarterly credits or IA findings are notified of specified decisions or matters;

(h) that further information may be requested from applicants for quarterly credits or IA findings;

(i) deadlines for doing things in relation to quarterly credits or the making of IA findings;

(j) how amounts of quarterly credits are worked out;

(k) that each quarterly credit is a credit the R&D entity is entitled to under a taxation law for the purposes of Part IIB of the Taxation Administration Act 1953;

(l) that an R&D entity’s total credits for an income year become a debt due to the Commonwealth at a specified time after the end of the income year;

(m) that each of the following may be varied or revoked:
   (i) an approval of an application for quarterly credits;
(ii) an IA finding;
(n) that internal review may be sought of specified decisions relating to quarterly credits or the making of IA findings;
(o) that review by the Administrative Appeals Tribunal may be sought of internal review decisions relating to quarterly credits or the making of IA findings;
(p) integrity measures;
(q) that specified findings, decisions or requests made by Innovation Australia relating to quarterly credits are binding on the Commissioner (or vice versa);
(r) that Innovation Australia is authorised to disclose to the Commissioner (or vice versa) information relating to quarterly credits or the making of IA findings;
(s) matters of a transitional, application or saving nature;
(t) matters of a consequential, ancillary or incidental nature.

Note 1: Innovation Australia’s findings (see paragraph (c)) could be made before, during or after the consideration of an application for quarterly credits.

Note 2: Innovation Australia could make decisions on its own initiative or on application. For example, Innovation Australia could make a finding, or vary a finding or an approval, on its own initiative.

(2) Without limiting paragraph (1)(a), examples of additional eligibility criteria include the following:
(a) that it is reasonable to expect that the R&D entity will be in a net refund assessment position for the income year;
(b) that the R&D entity has been assessed as being entitled under section 355-100 of the Income Tax Assessment Act 1997 to a tax offset (whether a refundable tax offset or not) for an earlier income year.

(3) Fees referred to in paragraph (1)(e) must not be such as to amount to taxation.

(4) Without limiting paragraph (1)(p), examples of integrity measures include the following:
(a) if an R&D entity’s total credits for an income year exceeds the amount of the R&D entity’s entitlement to a refundable R&D tax offset for the income year—that the R&D entity may be liable to pay a penalty on the excess;
(b) if the approval of an R&D entity’s application for quarterly credits for an income year is revoked—that the R&D entity’s total credits for the income year become a debt due to the Commonwealth at a specified time.

(5) As a result of the regulations, the collective operation of the relevant Acts may provide that a disclosure referred to in paragraph (1)(r) may be made despite:
(a) subsection 47(1) of the Industry Research and Development Act 1986; and
(b) sections 355-25, 355-155 and 355-265 in Schedule 1 to the Taxation Administration Act 1953.
6 Other matters the modified Acts may provide for

(1) As a result of the regulations, the collective operation of the relevant Acts may make different provision for a matter for different kinds of entities.

Note: For example, different provision could be made for members of consolidated groups or MEC groups.

(2) As a result of the regulations, the collective operation of the relevant Acts may make provision for a matter by:
   (a) empowering a person to make a decision of an administrative character; and
   (b) if appropriate, requiring the person to make that decision in accordance with decision-making principles.

Any decision-making principles must be legislative instruments.

(3) This item does not limit item 2.

Part 4—Alternative constitutional basis

7 Alternative constitutional basis

(1) Without limiting its effect apart from this subitem, the modified operation of each relevant Act as a result of the regulations has the effect it would have if:
   (a) subitem (2) had not been enacted; and
   (b) the relevant Act applied so that quarterly credits could only be worked out for an R&D entity that:
      (i) is a constitutional corporation; or
      (ii) has its registered office (within the meaning of the Corporations Act 2001) or principal place of business (within the meaning of that Act) located in a Territory.

(2) Without limiting its effect apart from this subitem, the modified operation of each relevant Act as a result of the regulations has the effect it would have if:
   (a) subitem (1) had not been enacted; and
   (b) the relevant Act applied so that quarterly credits could only be worked out in respect of activities, or parts of activities, conducted or to be conducted:
      (i) solely in a Territory; or
      (ii) solely outside of Australia; or
      (iii) solely in a Territory and outside of Australia; or
      (iv) for the dominant purpose of supporting core R&D activities conducted, or to be conducted, solely in a Territory.

Part 5—Other matters

8 Varying the regulations

The Governor-General may vary, in accordance with subsection 33(3) of the Acts Interpretation Act 1901, regulations made under item 2. However, the Governor-General must not repeal those regulations.

Note: Those regulations may be varied on or after 1 January 2014.
9 Another way of dealing with transitional, application or saving matters

(1) The Governor-General may make regulations dealing with matters of a transitional, application or saving nature relating to the making of regulations under item 2.

Note: This is another way of dealing with these kinds of matters. These kinds of matters could also be dealt with under item 2. That is, as a result of regulations made under item 2, the collective operation of the relevant Acts could make provision for some or all of these kinds of matters (see paragraph 5(1)(s)).

(2) Item 7 applies to regulations made under subitem (1) in a corresponding way to the way it applies to the modified operation of a relevant Act.

Debate ensued.

At 9.50 pm: The President resumed the chair and the Chair of Committees (Senator Parry) reported progress.

30 ADJOURNMENT

The President proposed the question—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 10.11 pm till Tuesday, 23 August 2011 at 12.30 pm.

31 ATTENDANCE

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

ROSEMARY LAING

Clerk of the Senate

Printed by authority of the Senate