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MEETING OF SENATE
The Senate met at 9.30 am. The President (Senator the Honourable John Hogg) took the chair, read prayers and made an acknowledgement of country.

EXTRADITION AND MUTUAL ASSISTANCE IN CRIMINAL MATTERS LEGISLATION AMENDMENT BILL 2011
Order of the day read for the further consideration of the bill in committee of the whole.

In the committee
Consideration resumed of the bill—and of the amendments moved by Senator Wright:
Schedule 3, item 11, page 46 (lines 16 to 27), omit subsection 8(1A), substitute:
(1A) A request by a foreign country for assistance under this Act must be refused if it relates to the investigation, prosecution or punishment of a person for an offence in respect of which the death penalty may be imposed in the foreign country, unless the Attorney-General is of the opinion that the assistance requested should be granted because it is likely to show that the person is not guilty of the offence.

Schedule 3, page 46 (after line 27), after item 11, insert:
11A Subsection 8(1B)
Repeal the subsection.
Debate ensued.
Question—That the amendments be agreed to—put and negatived.
Bill agreed to.
Bill to be reported without amendment.

The Deputy President (Senator Parry) resumed the chair and the Chair of Committees reported accordingly.
On the motion of the Minister for Agriculture, Fisheries and Forestry (Senator Ludwig) the report from the committee was adopted and the bill read a third time.

ORDER OF BUSINESS—REARRANGEMENT
The Minister for Agriculture, Fisheries and Forestry (Senator Ludwig) moved—That intervening business be postponed till after consideration of government business order of the day no. 3 (Telecommunications Universal Service Management Agency Bill 2011 and two related bills).
Question put and passed.
4 **TELECOMMUNICATIONS UNIVERSAL SERVICE MANAGEMENT AGENCY BILL 2011**  
**TELECOMMUNICATIONS LEGISLATION AMENDMENT (UNIVERSAL SERVICE REFORM) BILL 2011**  
**TELECOMMUNICATIONS (INDUSTRY LEVY) BILL 2011**  
Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Prime Minister (Senator Lundy)—That these bills be now read a second time.  
Debate resumed.  
Question put and passed.  
Bills read a second time.  
On the motion of the Minister for Broadband, Communications and the Digital Economy (Senator Conroy) further consideration of the bills was made an order of the day for the next day of sitting.

5 **ORDER OF BUSINESS—REARRANGEMENT**  
The Minister for Broadband, Communications and the Digital Economy (Senator Conroy) moved—That government business order of the day no. 2 (National Radioactive Waste Management Bill 2010) be postponed till the next day of sitting.  
Question put and passed.

6 **EDUCATION SERVICES FOR OVERSEAS STUDENTS LEGISLATION AMENDMENT (TUITION PROTECTION SERVICE AND OTHER MEASURES) BILL 2011**  
**EDUCATION SERVICES FOR OVERSEAS STUDENTS (REGISTRATION CHARGES) AMENDMENT (TUITION PROTECTION SERVICE) BILL 2011**  
**EDUCATION SERVICES FOR OVERSEAS STUDENTS (TPS LEVIES) BILL 2011**  
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.

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_In the committee_  
Bills taken together and as a whole by leave.

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_Explanatory memorandum:_ The Minister for Tertiary Education, Skills, Science and Research (Senator Evans) tabled a supplementary explanatory memorandum relating to the government amendments to be moved to the Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011.

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Bills debated.
At 12.45 pm: The Acting Deputy President (Senator Furner) resumed the chair and the Temporary Chair of Committees reported progress.

7 MATTERS OF PUBLIC INTEREST
Matters of public interest were discussed.
Suspension of sitting: On the motion of the Minister for Tertiary Education, Skills, Science and Research (Senator Evans) the sitting of the Senate was suspended at 1.56 pm till 2 pm.

At 2 pm—

8 QUESTIONS
Questions without notice were answered.

Distinguished visitors: The President welcomed members of a parliamentary delegation from the Former Yugoslav Republic of Macedonia led by the President of the Assembly, His Excellency Mr Trajko Veljanoski, and, with the concurrence of honourable senators, invited Mr Veljanoski to take a seat on the floor of the chamber.

Further questions without notice were answered.

9 MOTIONS TO TAKE NOTE OF ANSWERS
Senator Fierravanti-Wells moved—That the Senate take note of answers given by ministers to questions without notice asked by Opposition senators today.
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, Science and Research (Senator Evans) to a question without notice asked by Senator Ludlam today relating to Mr Julian Assange.
Question put and passed.

10 PETITION
The following petition, lodged with the Clerk by Senator Polley, was received:
From 768 petitioners, requesting that the Senate take action so that legal abandonment of newborn babies is recognised and that ‘baby safe havens’ are provided for.

11 NOTICES
Senator Boyce: To move on the next day of sitting—That the Senate—
(a) recognises:
(i) the importance of World Plumbing Day on 11 March and its aim of highlighting the role that the plumbing industry plays in relation to health through the provision of safe water and sanitation, and
(ii) the environmental role of the industry in water conservation and energy efficiency and the increasing use of renewable sources of energy; 

(b) notes that it is estimated that 3.1 million children die each year as a result of water related diseases; and 

(c) congratulates the World Plumbing Council on its role in promoting the importance of the plumbing industry, both in developed countries and in developing countries where good plumbing could save lives. (general business notice of motion no. 668)

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

(a) supports freedom of religion as a universal human right; 

(b) does not support the imprisonment or persecution of individuals on the basis of their religious belief; 

(c) calls on the Iranian authorities to release Pastor Youcef Nadarkhani, who has been sentenced to death for the sole reason of his refusal to recant his Christian faith; 

(d) recognises that this action is a breach of Iran’s international obligations, its own constitution and stated religious values; and 

(e) stands in solidarity with Pastor Nadarkhani, his family and all those who seek to practise their religion without fear of persecution. (general business notice of motion no. 669)

Senator Brandis: To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to establish a process for assisting victims of overseas terrorist acts, and for related purposes. Assisting Victims of Overseas Terrorism Bill 2012. (general business notice of motion no. 670)

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

(a) notes the deteriorating human rights situation in China and Tibet over recent months, including the following developments:

(i) the imposition of a media blackout by Chinese authorities in Sichuan, Qinghai and the region of Tibet since 24 January 2012, including shutting down the presence of international and non-government media organisations and coverage of pro-Tibetan activities, which has been documented by global press freedom organisation Reporters Without Borders, 

(ii) the continuation of Tibetan people self-immolating as a form of protest that now amounts to 23 self-immolations and 15 deaths since February 2009, 

(iii) the increased Chinese military presence since early 2012 on the streets of Lhasa, Serthar and parts of eastern Tibet which has been described by the exiled Tibetan Prime Minister Lobsang Sangay as a state of ‘undeclared martial law’, and 

(iv) a reported increase in arbitrary arrests of hundreds of Tibetans by Chinese authorities since 6 February 2012 upon the Tibetans’ return from the annual Buddhist Kalachakra ceremony in Bodhgaya, India, which has been condemned by international organisation Human Rights Watch; and
calls on the Australian Government to:

(i) urge the Chinese Government to restore press freedom and release any Tibetan people who have been arbitrarily arrested on account of their political or religious views, and

(ii) support the call by exiled Tibetan Prime Minister Lobsang Sangay on 21 February 2012 for a United Nations special investigator to undertake a fact-finding mission in Tibet to better inform the international community of the situation. (general business notice of motion no. 671)

The Chair of the Rural and Regional Affairs and Transport References Committee (Senator Heffernan): To move on the next day of sitting—That the time for the presentation of the report of the Rural and Regional Affairs and Transport References Committee on the Foreign Investment Review Board national interest test be extended to 27 June 2012. (general business notice of motion no. 672)


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

(a) notes the publication of evidence that a sealed grand jury indictment against Australian citizen Mr Julian Assange has been in existence for more than a year; and

(b) calls on the Government to obtain confirmation of its existence from the Government of the United States of America and report to the Senate. (general business notice of motion no. 673)

Senator Hanson-Young: To move on the next day of sitting—That the following matter be referred to the Environment and Communications References Committee for inquiry and report by 28 June 2012:

The Murray Darling draft Basin Plan, and in undertaking the inquiry the committee must consider:

(a) the science and modelling relevant to the development of the draft Basin Plan;

(b) the outcomes of various scenarios of water recovery, including but not limited to the 2750GL featured in the draft Basin Plan, and the implications of groundwater extraction;

(c) the operation of the review mechanisms contained in the draft Basin Plan;

(d) system constraints that have an impact on the draft Basin Plan, and the information and research available to the Murray-Darling Basin Authority (MDBA) relating to redesigned river management options;

(e) the interaction of the draft Basin Plan with relevant legal requirements;

(f) the MDBA’s engagement with basin communities, including original Indigenous owners; and

(g) any other matters.

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

(a) notes that:

(i) solar hot water is among the most cost-effective way to reduce householders’ power bills and cut greenhouse gas emissions,
(ii) the Australian solar water heating industry employs more than 1 000 people in manufacturing and many more in installation around the country, and is beginning to develop as an export industry, and

(iii) the Australian solar water heating industry is already under pressure from the high Australian dollar, low renewable energy certificate prices and imports of instantaneous gas hot water systems; and

(b) calls on the Government to:

(i) immediately reinstate and extend the Renewable Energy Bonus Scheme which has helped a quarter of a million Australians to reduce their power bills and which has supported the development of a clean manufacturing and installation industry, and

(ii) release information about the extent to which the scheme’s forecast expenditure will exceed actual spending in the 2011-12 and 2012-13 financial years. (general business notice of motion no. 674)

12 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—EXTENSION OF TIME TO REPORT

Senator McEwen, by leave and at the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Sterle), moved—That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the Air Navigation and Civil Aviation Amendment (Aircraft Crew) Bill 2011 and the Qantas Sale Amendment (Still Call Australia Home) Bill 2011 be extended to 14 March 2012.

Question put and passed.

13 LEAVE OF ABSENCE

Senator Siewert, by leave, moved—That leave of absence be granted to Senator Milne for 1 March 2012, for personal reasons.

Question put and passed.

14 NATIVE TITLE AMENDMENT (REFORM) BILL (NO. 1) 2012

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 646—That the following bill be introduced:

A Bill for an Act to amend the Native Title Act 1993 to further the interests of Aboriginal peoples and Torres Strait Islanders, and for related purposes.

Question put and passed.

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

Question put and passed.

Bill read a first time.

Senator Siewert moved—That this bill be now read a second time.
Explanatory memorandum: Senator Siewert, by leave, tabled an explanatory memorandum relating to the bill.

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

15 CORPORATIONS AND FINANCIAL SERVICES—JOINT STATUTORY COMMITTEE—REFERENCE

Senator Cormann, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 663—That the provisions of the Superannuation Legislation Amendment (Trustee Obligations and Prudential Standards) Bill 2012 be referred to the Parliamentary Joint Committee on Corporations and Financial Services for inquiry and report by 13 March 2012.
Question put and passed.

16 WOMEN—INTERNATIONAL WOMEN’S DAY 2012

Senator Kroger, also on behalf of Senators Cash and Boyce, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 664—That the Senate—

(a) notes that 8 March is International Women’s Day (IWD) and that the theme for IWD 2012 is ‘Empower Rural Women – End Hunger and Poverty’;

(b) acknowledges the work that UN Women, the United Nations (UN) organisation dedicated to gender equality and the empowerment of women, undertakes to improve the conditions of women, both domestically and internationally;

(c) notes the statement made by Kofi Annan, former UN Secretary-General on International Women’s Day 2005 that ‘study after study has taught us that there is no tool for development more effective than the empowerment of women. No other policy is as likely to raise economic productivity, or to reduce infant and maternal mortality. No other policy is as sure to improve nutrition and promote health – including the prevention of HIV/AIDS. No other policy is as powerful in increasing the chances of education for the next generation’;

(d) acknowledges:

(i) that despite the many rights and privileges Australian women enjoy, there remain challenges that we must strive to overcome, and

(ii) that rural women with disabilities are particularly at risk;

(e) notes, with concern, that in Australia, violence against women is still far too common, with Australian Bureau of Statistics data continuing to show that 1 in 3 women have experienced physical violence since the age of 15; and

(f) recognises that Australians have a fundamental obligation to speak out and protect the human rights of women, both in Australia and overseas.

Question put and passed.

17 ADMINISTRATION—MR JULIAN ASSANGE—RECOGNITION AS A JOURNALIST

Senator Ludlam, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 666—That the Senate notes that Australian citizen Julian Assange has been recognised as a journalist by the:

(a) Queen’s Bench Division of the British High Court ruling of 2 November 2011;
(b) Australian Walkley Award for Most Outstanding Contribution to Journalism 2011;
(c) Martha Gellhorn Prize for Journalism 2011;
(d) Italian International Piero Passetti Journalism Prize of the National Union of Italian Journalists 2011;
(e) Spanish José Couso Press Freedom Award 2011;
(f) Spanish Voice of the West Freedom of Expression Award 2011; and
(g) Amnesty International UK Media Award 2009.

Question put.

The Senate divided—

**AYES, 11**

- Brown, Bob
- Di Natale
- Hanson-Young
- Ladlam
- Rhiannon
- Wright

**NOES, 25**

- Arbib
- Back
- Birmingham
- Brown, Carol
- Cameron
- Colbeck
- Crossin
- Edwards
- Farrell
- Fawcett
- Feeney
- Fifield
- Funnell
- Gallacher
- Kroger
- Lundy
- Marshall
- McEwen (Teller)
- McKenzie
- McLucas
- Moore

Question negatived.

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

18 **FOREIGN AFFAIRS—MALAYSIA—RARE EARTH PROCESSING PLANT**

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. 667—That the Senate—

(a) notes:
   (i) the public protests in Malaysia against the establishment of a rare earth processing plant by the Australian company Lynas Corporation Ltd,
   (ii) the protests are supported by the Malaysian Opposition leader Anwar Ibrahim, and
   (iii) the concerns of the protestors include the radioactive by-product that will be produced by the plant and disposed of in Malaysia, the lack of benefit to the local communities particularly given the 12-year tax break granted to the project and the threat from the plant to the local environment, including the Balok River; and

(b) calls on the Australian Government to report to the Senate by Thursday, 1 March 2012 on what assistance has been provided to Lynas Corporation Ltd and what due diligence has or will be done on Lynas Corporation Ltd.

Question put.
The Senate divided—

AYES, 11

Senators—

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

Wright

NOES, 25

Senators—

Arbib
Back
Birmingham
Brown, Carol
Cameron
Colbeck
Crossin
Edwards
Farrell
Fawcett
Feeney
Fifield
Furner
Gallacher
Kroger
Lundy
Marshall
McEwen (Teller)
McKenzie
McLucas
Moore

Parry

Question negatived.

19 ENVIRONMENT—MURRAY DARLING BASIN COMMUNITIES

Senator McKenzie amended general business notice of motion no. 665 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—that the Senate—

(a) notes the presence of the Women for a Living Basin delegation in Canberra on Wednesday, 29 February 2012, representing women and families from Murray Darling Basin (MDB) communities in southern New South Wales;

(b) recognises:

(i) the widespread concern that the draft Basin Plan is having on MDB communities, and

(ii) that these concerns include mental stress, job and business uncertainty, loss of skills, bank pressure, impact on land prices and equity, families relocating and pressure on schools; and

(c) supports:

(i) the call for more comprehensive consultation in all MDB communities by the Murray-Darling Basin Authority (MDBA) than allowed for by the number of meetings held so far,

(ii) the call for the MDBA to publicly release details of planned consultation meetings weeks in advance to allow communities to plan ahead so that they can attend,

(iii) deeply held community concerns at the MDBA’s decision to hold consultation meetings during various harvests making it difficult for farmers to attend,

(iv) the call on the Parliament by communities, such as those represented by the Women for a Living Basin, to recognise the importance of MDB communities and their long-term survival, sustainability and certainty,

(v) the call to ensure the final plan does not lead to significant economic impact in terms of loss of jobs, skills and the impact on families,

(vi) the call by MDB communities to ensure a final basin plan balances the needs of communities with those of the environment, and
(vii) the call on the Government to listen to, not ignore, community and farmer concerns about non-strategic water buybacks.

Question put and passed.

20 **SCRUTINY OF BILLS—STANDING COMMITTEE—2ND REPORT AND ALERT DIGEST NO. 2 OF 2012**

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

- Scrutiny of Bills—Standing Committee—
  - 2nd report of 2012, dated 29 February 2012.
- Alert Digest No. 2 of 2012, dated 29 February 2012.

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

21 **COMMUNITY AFFAIRS REFERENCES COMMITTEE—REPORT—COMMONWEALTH CONTRIBUTION TO FORMER FORCED ADOPTION POLICIES**

The Chair of the Community Affairs References Committee (Senator Siewert) tabled the following report:

- Community Affairs References Committee—Commonwealth contribution to former forced adoption policies and practices—Report, dated February 2012.

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

Senator Siewert moved—that the Senate take note of the report.

Debate ensued.

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

22 **FREEDOM OF SPEECH—STATEMENT BY PRESIDENT**

The President made a statement relating to a point of order raised by the Leader of the Australian Greens (Senator Bob Brown) during the adjournment debate on 27 February 2012 concerning remarks made by Senator Macdonald and a matter of privilege.

*Statements by leave:* Senator Bob Brown, the Leader of the Opposition in the Senate (Senator Abetz) and Senators Milne and Macdonald, by leave, made statements relating to the matter.

23 **SENATE COMMITTEE REPORTS—REGISTER 2011 SUPPLEMENT—DOCUMENT**

The President tabled the following document:

- Senate committee reports—Register of Senate committee reports—2011 supplement.

24 **DOCUMENT**

The following document was tabled by the Clerk:

25 **Indexed Lists of Departmental and Agency Files—Order for Production of Documents—Document**

The following document was tabled pursuant to the order of the Senate of 30 May 1996, as amended:

Indexed lists of departmental and agency files for the period 1 July to 31 December 2011—Statement of compliance—Office of the Official Secretary to the Governor-General.

26 **Departmental and Agency Contracts—Order for Production of Documents—Documents**

The following documents were tabled pursuant to the order of the Senate of 20 June 2001, as amended:

Departmental and agency contracts for 2011—Letters of advice—
Department of Human Services.
Infrastructure and Transport portfolio.
Prime Minister and Cabinet portfolio.
Treasury portfolio.

27 **Antarctic Treaty (Environment Protection) Amendment Bill 2011**

**Customs Amendment (Anti-Dumping Improvements) Bill (No. 2) 2011**

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


Message no. 355, dated 28 February 2012—A Bill for an Act to amend the *Customs Act 1901*, and for related purposes.

The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins) 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 Collins moved—that these bills be now read a second time.

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

*Consideration of legislation:* Senator Collins moved—that the bills be listed on the *Notice Paper* as separate orders of the day.

Question put and passed.

28 **Personally Controlled Electronic Health Records Bill 2011**

**Personally Controlled Electronic Health Records (Consequential Amendments) Bill 2011**

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

Message no. 360, dated 29 February 2012—A Bill for an Act to provide for a system of access to electronic health records, and for related purposes.
Message no. 359, dated 29 February 2012—A Bill for an Act to make amendments consequential on the enactment of the *Personally Controlled Electronic Health Records Act 2011*, and for related purposes.

The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins) 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 Collins moved—That these bills be now read a second time.

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

**29 SOCIAL SECURITY LEGISLATION AMENDMENT BILL 2011**

**STONGER FUTURES IN THE NORTHERN TERRITORY BILL 2012**

**STRONGER FUTURES IN THE NORTHERN TERRITORY (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2011**

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

Message no. 353, dated 27 February 2012—A Bill for an Act to amend the law relating to social security, and for related purposes.

Message no. 363, dated 29 February 2012—A Bill for an Act to build stronger futures for Aboriginal people in the Northern Territory, and for related purposes.

Message no. 352, dated 27 February 2012—A Bill for an Act to amend laws, and deal with transitional matters, in connection with the *Stronger Futures in the Northern Territory Act 2011*, and for related purposes.

The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins) 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 Collins moved—That these bills be now read a second time.

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

**30 SOCIAL SECURITY AND OTHER LEGISLATION AMENDMENT (DISABILITY SUPPORT PENSION PARTICIPATION REFORMS) BILL 2012**

**SOCIAL SECURITY AND OTHER LEGISLATION AMENDMENT (INCOME SUPPORT AND OTHER MEASURES) BILL 2012**

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

Message no. 358, dated 29 February 2012—A Bill for an Act to amend the law relating to social security, family assistance, child support and veterans’ entitlements, and for related purposes.
Message no. 357, dated 29 February 2012—A Bill for an Act to amend the law relating to social security and Indigenous education, and for related purposes.

The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins) 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 Collins moved—That these bills be now a second time.

Consideration of legislation: Pursuant to order, the debate was adjourned and the resumption of the debate made an order of the day for the first day in the next period of sittings.

Senator Collins moved—That the bills be listed on the Notice Paper as separate orders of the day.

Question put and passed.

31 APPROPRIATION BILL (NO. 3) 2011-2012

APPROPRIATION BILL (NO. 4) 2011-2012

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

Message no. 361, dated 29 February 2012—A Bill for an Act to appropriate additional money out of the Consolidated Revenue Fund for the ordinary annual services of the Government, and for related purposes.

Message no. 362, dated 29 February 2012—A Bill for an Act to appropriate additional money out of the Consolidated Revenue Fund for certain expenditure, and for related purposes.

The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins) 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 Collins moved—That these bills be now read a second time.

Consideration of legislation: Pursuant to order, the debate was adjourned and the resumption of the debate made an order of the day for the first day in the next period of sittings.

32 EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS LEGISLATION COMMITTEE—PROPOSED REFERENCE

The Leader of the Opposition in the Senate (Senator Abetz), pursuant to notice, moved business of the Senate notice of motion no. 1—That the Building and Construction Industry Improvement Amendment (Transition to Fair Work) Bill 2012, as passed by the House of Representatives on 16 February 2012, be referred to the Education, Employment and Workplace Relations Legislation Committee for inquiry and report by 8 May 2012.

Debate ensued.

Question put.
The Senate divided—

AYES, 30

Senators—

Abetz  Colbeek  Heffernan  Payne
Back  Cormann  Humphries  Ronaldson
Birmingham  Edwards  Johnston  Ryan
Boswell  Eggleston  Kroger  Sinodinos
Boyce  Fawcett  Macdonald  Williams
Brandis  Fieravanti-Wells  Mason  Xenophon
Busby (Teller)  Fifield  McKenzie
Cash  Fisher  Parry

NOES, 36

Senators—

Arbib  Di Natale  Ludwig  Pratt
Bilyk  Farrell  Lundy  Rhiannon
Brown, Bob  Faulkner  Madigan  Siewert
Brown, Carol  Feeney  Marshall  Singh
Cameron  Furner  McEwen (Teller)  Sterle
Carr  Gallacher  McLucas  Thistlethwaite
Collins  Hanson-Young  Milne  Urquhart
Conroy  Hogg  Moore  Waters
Crossin  Laidler  Polley  Wright

Question negatived.

33 EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS LEGISLATION COMMITTEE—REPORT—BUILDING AND CONSTRUCTION INDUSTRY IMPROVEMENT AMENDMENT (TRANSITION TO FAIR WORK) BILL 2011

Pursuant to order, Senator McEwen, at the request of the Chair of the Education, Employment and Workplace Relations Legislation Committee (Senator Marshall), tabled the following report and documents:


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

34 EDUCATION SERVICES FOR OVERSEAS STUDENTS LEGISLATION AMENDMENT (TUITION PROTECTION SERVICE AND OTHER MEASURES) BILL 2011

EDUCATION SERVICES FOR OVERSEAS STUDENTS (REGISTRATION CHARGES) AMENDMENT (TUITION PROTECTION SERVICE) BILL 2011

EDUCATION SERVICES FOR OVERSEAS STUDENTS (TPS LEVIES) BILL 2011

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

In the committee

Consideration resumed of the bills.

Bills further debated.
On the motion of the Parliamentary Secretary for Defence (Senator Feeney) the following amendments in respect of the Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011, taken together by leave, were debated and agreed to:

Schedule 1, item 1, page 8 (line 10), omit “24 hours”, substitute “3 business days”.
Schedule 1, item 1, page 8 (after line 10), at the end of subsection 46B(2), add:

Note: For the definition of business day, see section 2B of the Acts Interpretation Act 1901.

Schedule 1, item 1, page 13 (line 9), omit “24 hours”, substitute “5 business days”.
Schedule 1, item 1, page 13 (after line 9), at the end of subsection 47C(2), add:

Note: For the definition of business day, see section 2B of the Acts Interpretation Act 1901.

On the motion of Senator Rhiannon the following amendments in respect of the Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011, taken together by leave, were debated and agreed to:

Schedule 1, item 1, page 12 (line 19), omit “Note”, substitute “Note 1”.
Schedule 1, item 1, page 12 (after line 19), at the end of subsection 47A(1), add:

Note 2: For an exception to subparagraph (1)(c)(iii), see subsection (3).
Schedule 1, item 1, page 12 (after line 24), at the end of section 47A, add:

(3) An overseas student or intending overseas student does not default under subparagraph (1)(c)(iii) unless the registered provider accords the student natural justice before refusing to provide, or continue providing, the course to the student at the location.

Senator Xenophon moved the following amendments in respect of the Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011 together by leave:

Schedule 1, item 1, page 20 (after line 9), after subsection 50A(4), insert:

Student incidental costs

(4A) A call is made on the OSTF if:

(a) a call is made on the OSTF under subsection (2), (3) or (4); and
(b) the Minister determines that the student should be paid an amount in respect of reasonable incidental costs (including accommodation fees and travel expenses) incurred by the student in connection with the course; and
(c) the Minister notifies the TPS Director of the determination and the amount.

(4B) The Minister must consult the TPS Director before making a determination under subsection (4A), and must not make such a determination if the TPS Director advises the Minister that to do so would jeopardise the sustainability of the OSTF.

Schedule 1, item 1, page 20 (line 13), omit “or (4)”, substitute “, (4) or (4A)”.
Schedule 1, item 1, page 20 (line 17), after “OSTF”, insert “(other than under subsection 50A(4A))”. 
Schedule 1, item 1, page 21 (after line 15), after subsection 50B(4), insert:

(4A) If a call is made on the OSTF under subsection 50A(4A) (incidental costs), then, as soon as practicable, the TPS Director must pay out of the OSTF an amount equal to the amount determined by the Minister under that subsection.

(4B) The TPS Director must, in accordance with a legislative instrument made under subsection (5), pay the amount to the student.

Schedule 1, item 1, page 21 (line 30), after “section 50B”, insert “(other than under subsection 50B(4B))”.

Debate ensued.

Question—That the amendments be agreed to—put.

The committee divided—

AYES, 11

Senators—
Brown, Bob   Ludlam   Rhiannon   Wright
Di Natale   Madigan   Siertrew   Xenophon (Teller)
Hanson-Young   Milne   Waters

Senators—
Back   Crossin   Hogg   Pratt
Bilyk   Edwards   Lundy   Singh
Boyce   Evans   Marshall   Stephens
Brown, Carol   Farrell   Mason   Sterle
Cameron   Fawsett   McEwen (Teller)   Thistlethwaite
Cash   Fierravantti-Well   McKenzie   Urquhart
Colbeck   Fisher   McLucas   Williams
Collins   Furner   Moore
Cormann   Gallacher   Polley

NOES, 34

Question negatived.

Senator Rhiannon moved the following amendment in respect of the Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011:

Schedule 1, item 1, page 31 (after line 17), after subsection 55C(2), insert:

(2A) In appointing a Board member under paragraph (1)(b), the Minister must ensure that the Board members appointed under that paragraph, as a group, have qualifications or experience relevant to the operations of providers from across the international education and training sector, including providers of English language intensive courses for overseas students.

The Minister for Tertiary Education, Skills, Science and Research (Senator Evans) moved—That the committee report progress and ask leave to sit again.

Question put and passed.
The Acting Deputy President (Senator Fisher) resumed the chair and the Temporary Chair of Committees reported that the committee had considered the bills, made progress and asked leave to sit again.

Ordered, on the motion of Senator Evans, that the committee have leave to sit again at a later hour.

35 ROUTINE OF BUSINESS—VARIATION

The Minister for Tertiary Education, Skills, Science and Research (Senator Evans), by leave, moved—That consideration of government business continue from 6.50 pm till 7.20 pm today.

Question put and passed.

36 EDUCATION SERVICES FOR OVERSEAS STUDENTS LEGISLATION AMENDMENT (TUITION PROTECTION SERVICE AND OTHER MEASURES) BILL 2011

EDUCATION SERVICES FOR OVERSEAS STUDENTS (REGISTRATION CHARGES) AMENDMENT (TUITION PROTECTION SERVICE) BILL 2011

EDUCATION SERVICES FOR OVERSEAS STUDENTS (TPS LEVIES) BILL 2011

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

In the committee

Consideration resumed of the Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011, as amended, and two related bills—and of the amendment in respect of the Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011 moved by Senator Rhiannon (see entry no. 34).

Debate ensued.

Senator Rhiannon, by leave, amended the amendment to read as follows:

Schedule 1, item 1, page 31 (after line 17), after subsection 55C(2), insert:

(2A) In appointing a Board member under paragraph (1)(b), the Minister must ensure that the Board members appointed under that paragraph, as a group, have qualifications or experience relevant to the operations of providers from across the international education and training sector.

Debate continued.

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

Senator Rhiannon moved the following amendments in respect of the Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011 together by leave:

Schedule 3, item 2, page 90 (line 10), after “tuition fees”, insert “and accommodation fees”.

Schedule 3, item 4, page 91 (line 1), after “tuition fees”, insert “and any accommodation fees”.

Schedule 3, item 5, page 92 (line 12), after “begun the course”, insert “, or accommodation fees in relation to a study period before the student has begun the study period.”.
Schedule 3, item 5, page 92 (line 25), after “begun the course”, insert “, or accommodation fees in relation to a study period before the student has begun the study period.”.

Schedule 3, item 5, page 93 (line 6), after “tuition fees”, insert “and accommodation fees”.

Schedule 3, item 5, page 93 (line 8), after “tuition fees”, insert “or accommodation fees”.

Schedule 3, item 5, page 93 (line 23), at the end of subsection 29(4), add:

; or (d) the amount is withdrawn to make a payment directly related to the provision of accommodation to a relevant student.

Schedule 3, item 5, page 93 (line 24), after “Tuition fees”, insert “and accommodation fees”.

Schedule 3, item 5, page 94 (after line 10), after paragraph 30(a), insert:

(aa) accommodation fees for a study period for a course received by a provider, in respect of an overseas student or intending overseas student, before the student has begun the study period; or

Schedule 3, item 6, page 95 (line 14), after “tuition fees”, insert “or accommodation fees”.

Schedule 3, item 7, page 96 (line 3), before “The amendments”, insert “(1)”.

Schedule 3, item 7, page 96 (after line 7), at the end of the item, add:

(2) The amendments made by this Schedule apply in relation to any accommodation fees for a study period for a course that are received, after Division 1 of Part 1 of this Schedule commences, by a registered provider, in respect of an overseas student or intending overseas student, before the student has begun the study period.

Schedule 4, heading, page 97 (line 1), at the end of the heading, add “and accommodation fees”.

Schedule 4, page 97 (after line 3), before item 1, insert:

1A Section 5

Insert:

accommodation fees:

(a) means fees a provider receives, directly or indirectly, from:

(i) an overseas student or intending overseas student; or

(ii) another person who pays the fees on behalf of an overseas student or intending overseas student;

that are directly related to the provision of accommodation to the student; and

(b) without limiting paragraph (a), includes any classes of fees prescribed by the regulations for the purposes of this paragraph; and

(c) without limiting paragraph (a), excludes any classes of fees prescribed by the regulations for the purposes of this paragraph.

Schedule 4, item 5, page 98 (line 2), after “tuition fees”, insert “and accommodation fees”.

Schedule 4, item 6, page 98 (line 4), after “tuition fees”, insert “or accommodation fees”.

Schedule 4, item 7, page 98 (line 11), after “tuition fees”, insert “and accommodation fees”.

Schedule 4, item 7, page 98 (line 24), after “tuition fees”, insert “or accommodation fees”.
Schedule 4, page 98 (after line 8), after item 8, insert:

8A At the end of subsection 21(1)

Add “or any accommodation fees for a study period for a course provided by the provider”.

Schedule 4, item 11, page 99 (line 3), before “The amendments”, insert “(1)”. Schedule 4, item 11, page 99 (after line 5), at the end of the item, add:

(2) The amendments made by this Schedule apply in relation to any accommodation fees for a study period for a course that are received by a registered provider after this item commences.

Debate ensued.

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

On the motion of the Minister for Tertiary Education, Skills, Science and Research (Senator Evans) the following amendment in respect of the Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011 was debated and agreed to:

Schedule 3, item 5, page 91 (line 23) to page 92 (line 6), omit subsections 27(3) and (4), substitute:

Limit on when remaining tuition fees may be required

(3) Once an overseas student begins a course, the registered provider for the course must not require any of the remaining tuition fees for the course to be paid, in respect of the overseas student, more than 2 weeks before the beginning of the student’s second study period for the course.

Senator Rhiannon moved the following requests for amendments in respect of the Education Services for Overseas Students (TPS Levies) Bill 2011 together by leave:

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

Clause 4, page 2 (line 18), omit “registered”.

Clause 4, page 3 (line 1), omit “registered”.

Clause 4, page 3 (line 10), omit “registered”.

Clause 5, page 4 (lines 29 and 30), omit paragraphs (4)(a) and (b), substitute:

(a) the provider’s administrative fee component for the year (see section 6);

(b) the provider’s base fee component for the year (see section 7).

Clause 6, page 5 (line 2), omit “registered”.

Clause 6, page 5 (lines 5 and 6), omit paragraph (b), substitute:

(b) $2 multiplied by whichever of the following applies:

(i) for a registered provider—the total enrolments for the provider for the previous year;

(ii) for a provider who is not yet registered—the likely total enrolments for the provider for the year (assuming the provider becomes registered).

Clause 7, page 5 (line 10), omit “registered”.

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Clause 7, page 5 (lines 13 and 14), omit paragraph (b), substitute:

(b) $5 multiplied by whichever of the following applies:

(i) for a registered provider—the total enrolments for the provider for the previous year;

(ii) for a provider who is not yet registered—the likely total enrolments for the provider for the year (assuming the provider becomes registered).

Debate ensued.

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

The Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011, as amended, the Education Services for Overseas Students (Registration Charges) Amendment (Tuition Protection Service) Bill 2011 and the Education Services for Overseas Students (TPS Levies) Bill 2011 agreed to.

The Education Services for Overseas Students Legislation Amendment (Tuition Protection Service and Other Measures) Bill 2011 to be reported with amendments, the Education Services for Overseas Students (Registration Charges) Amendment (Tuition Protection Service) Bill 2011 to be reported without amendments and the Education Services for Overseas Students (TPS Levies) Bill 2011 to be reported without requests for amendments.

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

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

37 ADMINISTRATION—ASSISTANT TREASURER—DOCUMENT

Senator Fierravanti-Wells, by leave, tabled the following document:

Administration—Assistant Treasurer—Copy of video still of Senator Arbib as “Freddy” on the Channel 7 television program, Home and Away, dated 8 April 1989.

38 ADJOURNMENT

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

The Senate adjourned at 7.59 pm till Thursday, 1 March 2012 at 9.30 am.
39 ATTENDANCE

Present, all senators except Senators Adams*, Nash* and Sherry* (* on leave).

ROSEMARY LAING
Clerk of the Senate

Printed by authority of the Senate