THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 84

MONDAY, 19 MARCH 2012

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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  MINERALS RESOURCE RENT TAX BILL 2011
MINERALS RESOURCE RENT TAX (CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISIONS) BILL 2011
MINERALS RESOURCE RENT TAX (IMPOSITION—GENERAL) BILL 2011
MINERALS RESOURCE RENT TAX (IMPOSITION—CUSTOMS) BILL 2011
MINERALS RESOURCE RENT TAX (IMPOSITION—EXCISE) BILL 2011
PETROLEUM RESOURCE RENT TAX ASSESSMENT AMENDMENT BILL 2011
PETROLEUM RESOURCE RENT TAX (IMPOSITION—GENERAL) BILL 2011
PETROLEUM RESOURCE RENT TAX (IMPOSITION—CUSTOMS) BILL 2011
PETROLEUM RESOURCE RENT TAX (IMPOSITION—EXCISE) BILL 2011
TAX LAWS AMENDMENT (STRONGER, FAIRER, SIMPLER AND OTHER MEASURES) BILL 2011
SUPERANNUATION GUARANTEE (ADMINISTRATION) AMENDMENT BILL 2011

Order of the day read for the adjourned debate on the motion—That these bills be now read a second time—and on the amendment moved by Senator Cormann in respect of the Minerals Resource Rent Tax Bill 2011:

At the end of the motion, add “but the Senate:

(a) notes that the Government has not complied with:
   (i) the order of the Senate made on 1 November 2011, ordering the production of information relating to the cost of all measures attached to the mining tax over the current forward estimates, and
   (ii) a number of other outstanding orders in relation to mining tax revenue estimates and related assumptions; and

(b) declines to consider the bill further until:
   (i) the Government publicly releases all information it holds relating to:
       (A) the commodity price and production volume assumptions it has used in respect of its mining tax revenue estimates,
       (B) the updated estimates of the cost of all measures associated with the mining tax over the forward estimates,
       (C) the cost estimate of its commitment to credit all state and territory royalties against the resource rent tax liabilities, and
       (D) the cost estimate of the upfront tax deductions able to be claimed by mining projects subject to the Minerals Resource Rent Tax on the basis of the market valuation method, and
   (ii) the Senate has passed a resolution that this bill and related bills may be listed for debate”.

Debate resumed.
At 2 pm: Debate was interrupted.

3  QUESTIONS
Questions without notice were answered.
4 MOTION TO TAKE NOTE OF ANSWERS
Senator Boswell moved—That the Senate take note of the answers given by ministers to all questions without notice asked today.
Debate ensued.
Question put and passed.

5 DEATH OF MARGARET ELAINE WHITLAM, AO
Senator Faulkner, by leave, moved—That the Senate expresses its deep regret at the death, on 17 March 2012, of Margaret Elaine Whitlam, AO, wife of former Prime Minister, the Honourable Edward Gough Whitlam, AC, QC, places on record its appreciation of her long and meritorious public service, and tenders its profound sympathy to her family in their bereavement.
The motion was supported and all senators present stood in silence—
Question passed.

6 PETITION
The following petition, lodged with the Clerk by Senator Nash, was received:
From 25 petitioners, requesting that the Senate debate the relationship between the Australian Greens and the Global Greens in light of sections 44 and 45 of the Australian Constitution, and the pre-election statement of the Prime Minister, in refusing to pass the carbon tax legislation.

7 NOTICES
Senator Bushby: To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to provide for equity in relation to the provision of certain dental services, and for related purposes. *Health Insurance (Dental Services) Bill 2012.* (general business notice of motion no. 710)
The Chair of the Joint Select Committee on Cyber Safety (Senator Bilyk): To move on the next day of sitting—That the Joint Select Committee on Cyber Safety be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 9 May 2012, from 4.15 pm. (general business notice of motion no. 711)
Senator Furner: To move on the next day of sitting—That the Joint Standing Committee on Foreign Affairs, Defence and Trade be authorised to hold a public meeting during the sitting of the Senate on Thursday, 22 March 2012, from 10.30 am, to take evidence for the committee’s inquiry into Australia’s trade and investment relationship with Japan and the Republic of Korea. (general business notice of motion no. 712)
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, 9 May 2012, from 10.30 am. (general business notice of motion no. 713)
Senators Pratt and Rhiannon: To move on 22 March 2012—That the Senate—
(a) recognises that 24 March 2012 is World Tuberculosis Day, in observance of a preventable and treatable disease that still claims the lives of up to 1.5 million people every year, mostly in developing countries and that:
(i) one third of the world’s population is currently infected with tubercle bacillus,
(ii) the World Health Organization (WHO) estimates that the largest number of new tuberculosis cases in 2008 occurred in the southeast Asian region, accounting for 35 per cent of incident cases globally, and

(iii) the number of new cases of tuberculosis each year is still increasing in Africa, the Eastern Mediterranean and southeast Asia;

(b) acknowledges that tuberculosis is responsible for 1 in 4 AIDS-related deaths, making it the leading killer of people living with HIV and that:

(i) less than 7 per cent of people living with HIV are screened for tuberculosis,

(ii) people living with both HIV and tuberculosis infection are much more likely to develop tuberculosis, and

(iii) WHO estimates that, by scaling up services and providing integrated HIV and tuberculosis care, it is possible to save the lives of up to 1 million people living with HIV by 2015;

(c) notes that:

(i) more than two-thirds of international financing for tuberculosis services is currently provided by the Global Fund to Fight AIDS, Tuberculosis and Malaria,

(ii) the Global Fund is a key international body providing critical basic services to support many developing countries in the fight against tuberculosis, and

(iii) Australia is a strong supporter of the Global Fund; and

(d) encourages Australia to continue to work bilaterally and with other international donors to address tuberculosis, including through the Global Fund. (general business notice of motion no. 714)

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

(a) notes:

(i) that there is uncertainty about the level of leakage, flaring and venting of methane during coal seam gas prospecting, extraction, transport and processing, and

(ii) an accurate measurement of these ‘fugitive’ emissions is necessary to assess the claims of the coal seam gas industry that electricity production fuelled by coal seam gas is substantially less emission intensive than electricity production fuelled by coal; and

(b) orders that there be laid on the table, by 22 March 2012, the study by George Wilkenfeld and Associates Pty Ltd titled Updated scope 3 emissions factors for natural gas consumed in Australia, based on NGERS data, redacting where necessary any aspects of the study that are commercially sensitive. (general business notice of motion no. 715)

8 RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION COMMITTEE—
LEAVE TO MEET DURING SITTING

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 Rural and Regional Affairs and Transport Legislation Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Tuesday, 20 March 2012, from 1 pm.

Question put and passed.
9 Postponements
The following items of business were postponed:

General business notice of motion no. 438 standing in the name of Senator Siewert for 20 March 2012, relating to the North West Slope Trawl Fishery, postponed till 9 May 2012.

General business notice of motion no. 442 standing in the name of Senator Siewert for 20 March 2012, proposing the introduction of the Fisheries Management Amendment (North West Slope Fishery Partial Closure) Bill 2011, postponed till 9 May 2012.

General business notice of motion no. 706 standing in the name of Senator Fierravanti-Wells for today, proposing an order for the production of documents by the Leader of the Government in the Senate, postponed till 20 March 2012.

10 Gambling Reform—Joint Select Committee—Leave to Meet During Sitting
Senator McEwen, at the request of Senator Crossin and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 703—that the Joint Select Committee on Gambling Reform be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Tuesday, 20 March 2012, from 4 pm, followed by an in camera hearing.

Question put and passed.

11 Foreign Affairs, Defence and Trade Legislation Committee—Leave to Meet During Sitting
Senator McEwen, at the request of the Chair of the Foreign Affairs, Defence and Trade Legislation Committee (Senator Stephens) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 707—that the Foreign Affairs, Defence and Trade Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 21 March 2012, from 5.30 pm, to take evidence for the committee’s inquiry into the provisions of the Defence Trade Controls Bill 2011.

Question put and passed.

12 Community Affairs References Committee—Extension of Time to Report
The Chair of the Community Affairs References Committee (Senator Siewert), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 704—that the time for the presentation of the report of the Community Affairs References Committee on health services and medical professionals in rural areas be extended to 27 June 2012.

Question put and passed.

13 Immigration—Detention Centres—Serco Training Manuals—Proposed Order for Production of Documents
Senator Hanson-Young, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 708—that there be laid on the table, no later than 22 March 2012, by the Minister representing the Minister for Immigration and Citizenship (Senator Lundy), the following documents:

(a) Serco Induction Training Course Student Manual 2011;
(b) Serco Induction Training Course Teaching Materials 2011;
(c) Serco Staff Refresher Training Manual 2011;
(d) Serco Induction Training Course Student Manual 2012;
(e) Serco Induction Training Course Teaching Materials 2012; and
(f) Serco Staff Refresher Training Manual 2012.

Question put.

The Senate divided—

AYES, 10

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<td>Hanson-Young</td>
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NOES, 33

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Question negatived.

14 FOREIGN AFFAIRS—EGYPT—AUSTRALIAN JOURNALIST MR AUSTIN MACKELL

Senator Rhiannon amended general business notice of motion no. 709 by leave and, pursuant to notice of motion not objected to as a formal motion, moved—That the Senate—

(a) notes that:

(i) Australian journalist, Austin Mackell, his translator Ailya Alwi, post-graduate student Derek Ludovic and taxi driver Zakaria Ahmad were arrested in Mahalla al-Kubra, Egypt, on 11 February 2012, where Mr Mackell was due to interview labour organiser Kamal Elfayoumi,

(ii) while Mr Mackell has been released he is still under investigation for allegedly instigating vandalism, causing unrest and providing funds to demonstrators,

(iii) the Australian Embassy in Cairo is pressing Egyptian authorities to ascertain the legal status of Mr Mackell, including travel limitations, while the investigation continues, and

(iv) a free and independent media will play a critical role in the development of a democratic Egypt; and

(b) calls on the Minister for Foreign Affairs, Senator Bob Carr, to urge the Egyptian authorities to diligently pursue their investigations in a timely manner and to ensure that fair and due process is accorded Mr Mackell in any legal proceedings, should charges be laid, and that all travel restrictions are lifted.

Question put and passed.
Statement by leave: Senator Rhiannon, by leave, made a statement relating to the motion.

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

Senator Bushby, at the request of the Leader of the Opposition in the Senate (Senator Abetz) and pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 2—That the provisions of the Road Safety Remuneration Bill 2011 and the Road Safety Remuneration (Consequential Amendments and Related Provisions) Bill 2011 be referred to the Education, Employment and Workplace Relations Legislation Committee for inquiry and report by 10 May 2012.

Question put.

The Senate divided—

AYES, 31

Senators—

Abetz
Back
Bernardi
Birmingham
Boswell
Boyce
Brandis
Bushby (Teller)
Cash
Colbeck
Cormann
Edwards
Eggleston
Fawcett
Fisher
Heffernan
Humphries
Johnston
Joyce
Kroger
Macdonald
Mason
McKenzie
Nash
Parry
Payne
Ronaldson
Ryan
Scullion
Sinodinos
Williams

NOES, 38

Senators—

Bishop
Brown, Bob
Brown, Carol
Cameron
Carr, Bob
Carr, Kim
Collins
Conroy
Crossin
Di Natale
Farrell
Faulkner
Furner
Gallacher
Hanson-Young
Hogg
Ladlam
Ladwig
Landy
Madigan
Marshall
McEwen (Teller)
McLucas
Milne
Moore
Polley
Pratt
Rhiannon
Siewert
Singh
Stephens
Sterle
Thistlethwaite
Urquhart
Waters
Wong
Wright

Question negatived.

16 ENVIRONMENT—WESTERN AUSTRALIA—EXPORT FISHING LICENCES

Senator Siewert, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 705—That the Senate—

(a) notes that:

(i) there are less than 12,500 Australian sea lions left in Australian waters and that the 2,000 left in Western Australian waters are extremely vulnerable,

(ii) one of the greatest threats to the survival of Australian sea lions is gillnets,

(iii) the Western Australian Department of Fisheries has failed to meet the Government’s conditions to put an observer program in place on boats within its gillnet fisheries to establish how many sea lions and dolphins are killed each year,
(iv) without observers, the number of Australian sea lions and dolphins dying in gillnets is likely to be grossly under-reported, given that the example from the South Australian shark gillnet fishery demonstrated that few deaths were reported until observer-based studies identified up to 374 sea lions and 56 dolphins were dying every 18 months,

(v) the South Australian shark gillnet fishery now has compulsory video or observer coverage on every vessel, as well as new rules to protect Australian sea lions, and

(vi) the Western Australian Department of Fisheries is currently re-applying to the Department of Sustainability, Environment, Water, Population and Communities for export approval for Western Australia’s Temperate Demersal Gillnet and Demersal Longline Fisheries;

(b) is concerned that, before any re-approval of export licensing, the Western Australian Department of Fisheries should identify its impact on sea lions and safeguard vulnerable and protected marine life from the fishery’s impacts; and

(c) calls on the Government to refuse the grant of the export licence for this fishery until an observer program is put in place and designated buffer zones are created around sea lion breeding colonies.

Question put.
The Senate divided—

AYES, 9

Senators—

Brown, Bob
Di Natale
Hanson-Young
Ladlam
Milne
Rhiannon
Stewart (Teller)
Waters
Wright

NOES, 42

Senators—

Abetz
Back
Bernardi
Bilyk
Birmingham
Bishop
Brown, Carol
Bushby
Carr, Bob
Carr, Kim
Cash
Colbeck
Collins
Cornmann
Crossin
Edwards
Faulkner
Fawcett
Fisher
Furner
Gallacher
Hogg
Humphries
Ludwig
Lundy
Madigan
Marshall
McEwen (Teller)
McKenzie
McLucas
Moore
Nash
Payne
Pratt
Ryan
Singh
Stephens
Sterle
Thistlethwaite
Unquhart

Question negatived.

17 EMPLOYMENT—WORKPLACE DEATHS—MINISTERIAL STATEMENT—DOCUMENT

The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins) tabled the following document:

Employment—Workplace deaths—Ministerial statement by the Minister for Employment and Workplace Relations (Mr Shorten).

The Leader of the Opposition in the Senate (Senator Abetz), by leave, moved—That the Senate take note of the document.

Debate ensued.

Question put and passed.
18 WOMEN—INTERNATIONAL WOMEN’S DAY—MINISTERIAL STATEMENT—DOCUMENT
The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins) tabled the following document:

Women—International Women’s Day 2012—Supporting women’s economic empowerment—Ministerial statement by the Minister for the Status of Women (Ms Collins), dated 14 March 2012.

Senator Cash, by leave, moved—That the Senate take note of the document.
Question put and passed.

19 COMMUNICATIONS—SPECIAL BROADCASTING SERVICE—DOCUMENT
The Acting Deputy President (Senator Furner) tabled the following document:

Communications—Special Broadcasting Service—Letter to the President of the Senate from the Minister for Broadband, Communications and the Digital Economy (Senator Conroy) responding to the resolution of the Senate of 23 November 2011, dated 14 March 2012.

Senator Ludlam, by leave, moved—That the Senate take note of the document.
Question put and passed.

20 REGIONAL AUSTRALIA—AUSTRALIAN YEAR OF THE FARMER 2012—DOCUMENT
The Acting Deputy President (Senator Furner) tabled the following document:

Regional Australia—Australian Year of the Farmer 2012—Letter to the President of the Senate from the Minister for Agriculture, Fisheries and Forestry (Senator Ludwig) responding to the resolution of the Senate of 9 February 2012, dated 12 March 2012.

Senator Nash, by leave, moved—That the Senate take note of the document.
Question put and passed.

21 BROADCASTING SERVICES AMENDMENT (REGIONAL COMMERCIAL RADIO) BILL 2011 [2012]—TELECOMMUNICATIONS UNIVERSAL SERVICE MANAGEMENT AGENCY BILL 2011 AND RELATED BILL—EXPLANATORY MEMORANDA
The Parliamentary Secretary for Disabilities and Carers (Senator McLucas) tabled the following documents:

Broadcasting Services Amendment (Regional Commercial Radio) Bill 2011 [2012]—Supplementary explanatory memorandum and revised supplementary explanatory memorandum relating to the government amendments to be moved to the bill.

Telecommunications Universal Service Management Agency Bill 2011—Supplementary explanatory memorandum relating to the government amendments and requests for amendments to be moved to the bill.

Telecommunications Legislation Amendment (Universal Service Reform) Bill 2011—Supplementary explanatory memorandum relating to the government amendments to be moved to the bill.
22 **PRIVILEGES—STANDING COMMITTEE—150TH REPORT**

The Chair of the Standing Committee of Privileges (Senator Johnston) tabled the following report and documents:

- Privileges—Standing Committee—150th report—Whether there was any improper influence in relation to political donations made by Mr Graeme Wood and questions without notice asked by Senator Bob Brown and Senator Milne, dated March 2012 and documents published by the committee.

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

Senator Johnston, by leave, moved—That—

(a) the Senate endorse the findings at paragraphs 1.56 and 1.59 of the 150th report of the Committee of Privileges and the conclusion, at paragraph 1.60, that no question of contempt arises in regard to the matter referred; and

(b) the Procedure Committee review the processes for raising and referring matters of privilege, as set out in paragraphs 2.23 and 2.24.

Debate ensued.

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

23 **ELECTORAL MATTERS—JOINT STANDING COMMITTEE—REPORT—ELECTORAL AND REFERENDUM AMENDMENT (PROTECTING ELECTOR PARTICIPATION) BILL 2012**

Senator Carol Brown, on behalf of the Joint Standing Committee on Electoral Matters, tabled the following report:


Senator Carol Brown, by leave, moved—That the Senate take note of the report.

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

24 **FOREIGN AFFAIRS, DEFENCE AND TRADE—JOINT STANDING COMMITTEE—REPORT—VISIT TO THE MIDDLE EAST AREA OF OPERATIONS**

Senator Furner, on behalf of the Joint Standing Committee on Foreign Affairs, Defence and Trade, tabled the following report:


Senator Furner, by leave, moved—That the Senate take note of the report.

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

25 **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.]


Civil Aviation Act—
Civil Aviation Regulations—Instruments Nos CASA—
64/12—Instructions – GNSS as primary means of navigation for NDB and VOR (overlay) approach – Qantas Airways Limited [F2012L00589].
78/12—Permission and direction – helicopter operations (Aeropower) [F2012L00579].
Civil Aviation Safety Regulations—
Revocation of Airworthiness Directives—Instruments Nos CASA ADCX—
005/12 [F2012L00586].
006/12 [F2012L00588].
Environment Protection and Biodiversity Conservation Act—Amendment of list of threatened species, dated 3 March 2012 [F2012L00582].
Higher Education Support Act—
Revocation of Approval as a Higher Education Provider—Oceania Polytechnic Institute of Education Pty Ltd [F2012L00581].
VET Provider Approval No. 2 of 2012—Nicolie O’Neill Kinesiology Pty Ltd [F2012L00580].
Lands Acquisition Act—Statement describing property acquired by agreement for specified purposes under section 125.
Renewable Energy (Electricity) Act—Renewable Energy (Electricity) Regulations—Determination of the method to be used to determine the number of certificates that may be created for a particular model of solar water heater, dated 8 March 2012 [F2012L00591].
Taxation Administration Act 1953—PAYG withholding—Payment summary deferral – Employment termination and departing Australia superannuation payments [F2012L00584].

26 INDEXED LISTS OF DEPARTMENTAL AND AGENCY FILES—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENTS

The following documents were 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—Statements of compliance—
Broadband, Communications and the Digital Economy portfolio.
Department of Human Services.
Department of the Prime Minister and Cabinet.
Department of Veterans’ Affairs.
Immigration and Citizenship portfolio.
Regional Australia, Local Government, Arts and Sport portfolio.
Treasury portfolio.

27 **DEPARTMENTAL AND AGENCY CONTRACTS—ORDER FOR PRODUCTION OF DOCUMENTS—DOCUMENT**

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

28 **COMMITTEE MEMBERSHIP**

The Acting Deputy President (Senator Back) informed the Senate that the President had received a letter requesting changes in the membership of a committee.
The Minister for Finance and Deregulation (Senator Wong), by leave, moved—That Senator Johnston be discharged from and Senator Humphries be appointed to the Standing Committee of Privileges.

Question put and passed.

29 **EDUCATION, EMPLOYMENT AND WORKPLACE RELATIONS REFERENCES COMMITTEE—PROPOSED REFERENCE**

Senator Fisher, pursuant to notice, 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 10 May 2012:

Debate ensued.
Question put.
The Senate divided—

**AYES, 30**

Senators—

Abetz  Back  Bernardi  Birmingham  Boswell  Boyce  Bushby  Cash

Colbeck  Edwards  Eggleston  Fawcett  Fierravanti-Wells  Fisher  Heffernan

Johnston  Joyce  Kroger (Teller)  Macdonald  Madigan  McKenzie  Nash

Payne  Ronaldson  Ryan  Scullion  Sinodinos  Xenophon
Senator—

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Question negatived.

30 **COMMUNITY AFFAIRS LEGISLATION COMMITTEE—REPORT—PERSONALLY CONTROLLED ELECTRONIC HEALTH RECORDS BILL 2011 AND PERSONALLY CONTROLLED ELECTRONIC HEALTH RECORDS (CONSEQUENTIAL AMENDMENTS) BILL 2011**

Pursuant to order, Senator Polley, at the request of the Chair of the Community Affairs Legislation Committee (Senator Moore), tabled the following report and documents:


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

31 **COMMUNITY AFFAIRS LEGISLATION COMMITTEE—REPORT—SOCIAL SECURITY AND OTHER LEGISLATION AMENDMENT (INCOME SUPPORT AND OTHER MEASURES) BILL 2012**

Pursuant to order, Senator Polley, at the request of the Chair of the Community Affairs Legislation Committee (Senator Moore), tabled the following report and documents:


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

32 **CORPORATIONS AND FINANCIAL SERVICES—JOINT STATUTORY COMMITTEE—REPORT—SUPERANNUATION LEGISLATION AMENDMENT (MYSUPER CORE PROVISIONS) BILL 2011 AND SUPERANNUATION LEGISLATION AMENDMENT (TRUSTEE OBLIGATIONS AND PRUDENTIAL STANDARDS) BILL 2012**

Pursuant to order, Senator Boyce, on behalf of the Parliamentary Joint Committee on Corporations and Financial Services, tabled the following report and documents:


Report ordered to be printed on the motion of Senator Boyce.
Senator Boyce, by leave, moved—that the Senate take note of the report.

Debate ensued.

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

33 **MINERALS RESOURCE RENT TAX BILL 2011**

MINERALS RESOURCE RENT TAX (CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISIONS) BILL 2011

MINERALS RESOURCE RENT TAX (IMPOSITION—GENERAL) BILL 2011

MINERALS RESOURCE RENT TAX (IMPOSITION—CUSTOMS) BILL 2011

MINERALS RESOURCE RENT TAX (IMPOSITION—EXCISE) BILL 2011

PETROLEUM RESOURCE RENT TAX ASSESSMENT AMENDMENT BILL 2011

PETROLEUM RESOURCE RENT TAX (IMPOSITION—GENERAL) BILL 2011

PETROLEUM RESOURCE RENT TAX (IMPOSITION—CUSTOMS) BILL 2011

PETROLEUM RESOURCE RENT TAX (IMPOSITION—EXCISE) BILL 2011

**TAX LAWS AMENDMENT (STRONGER, FAIRER, SIMPLER AND OTHER MEASURES) BILL 2011**

**SUPERANNUATION GUARANTEE (ADMINISTRATION) AMENDMENT BILL 2011**

Order of the day read for the adjourned debate on the motion—that these bills be now read a second time—and on the amendment moved by Senator Cormann in respect of the Minerals Resource Rent Tax Bill 2011 (see entry no. 2).

Debate resumed.

**Limitation of debate:** The time allotted for the consideration of these bills expired.

**Proposed suspension of standing orders:** Senator Cormann, at the request of the Leader of the Opposition in the Senate (Senator Abetz) and pursuant to contingent notice, moved—that so much of standing order 142 be suspended as would prevent further consideration of the bills without limitation of time.

**Closure:** The Parliamentary Secretary for School Education and Workplace Relations (Senator Collins) moved—that the question be now put.

Question—that the question be now put—put.

The Senate divided—

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Question agreed to.

Question—That the motion to suspend standing orders be agreed to—put.

The Senate divided—

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Question negatived.

Question—That the amendment moved by Senator Cormann be agreed to—put.

The Senate divided—

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Question negatived.

The following amendment in respect of the Minerals Resource Rent Tax Bill 2011 circulated by the Australian Greens was considered:

At the end of the motion “That these bills be now read a second time”, add “but the Senate calls on the Government:

(a) to apply the Minerals Resource Rent Tax equally to all minerals and set it at a uniform rate of 40 per cent;
(b) to ensure that other design aspects of the tax are more in line with the recommendations of the (Henry) Review of Australia’s Future Tax System; and
(c) to thereby raise additional revenue which could be used to fund important needs such as high speed rail, increased funding for dental care and education and a national disability insurance scheme, and for contributions to a sovereign wealth fund”.

Question—That the amendment be agreed to—put.

The Senate divided—

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Question negatived.
The following amendment in respect of the Minerals Resource Rent Tax Bill 2011 circulated by Senator Xenophon was considered:

At the end of the motion “That these bills be now read a second time”, add “but the Senate calls on the Government to release at least a detailed summary of the legal advice it has received on the minerals resource rent tax package of bills, to confirm the Government’s advice to Parliament that this package is constitutionally sound”.

Question—That the amendment be agreed to—put.

The Senate divided—

**AYES, 42**

Senators—

Abetz
Back
Bernardi
Birmingham
Boswell
Boyce
Brandis
Brown, Bob
Bushby
Cash
Colbeck
Cormann
Di Natale
Edwards
Eggleston
Fawcett
Fierravanti-Wells
Fifield
Fisher
Hanson-Young
Humphries
Johnston

Joyce
Kroger
Ludlam
Macdonald
Madigan
Mason
McKenzie
Milne
Nash
Parry
Payne

Rhiannon
Ronaldson
Ryan
Scullion
Siewert
Waters
Williams
Wright
Xenophon (Teller)

**NOES, 28**

Senators—

Bilyk
Bishop
Brown, C (Teller)
Cameron
Carr, Kim
Collins
Crossin
Evans
Farrell
Feeney
Furner
Gallacher
Hogg

Ludwig
Lundy
Marshall
McEwen
Moore
Polley
Pratt

Sherry
Singh
Stephens
Sterle
Thistlethwaite
Urquhart
Wong

Question agreed to.

Question—That these bills be now read a second time—put.

The Senate divided—

**AYES, 38**

Senators—

Bilyk
Bishop
Brown, Bob
Brown, C (Teller)
Cameron
Carr, Kim
Collins
Crossin
Di Natale
Evans
Farrell
Faulkner
Feeney
Furner
Gallacher
Hanson-Young
Hogg
Ludlam
Ludwig
Lundy
Marshall
McEwen
Milne
Moore
Polley
Pratt
Sherry
Siewert

Stephens
Sterle
Thistlethwaite
Urquhart
Waters
Wong
Xenophon

Singh
Wright


No. 84—19 March 2012

NOES, 32

Senators—

Abetz
Back
Bernardi
Birmingham
Bosswell
Boyce
Brandis
Bushby

Cash
Colbeck
Cormann
Edwards
Eggleston
Fawcett
Fierravanti-Wells
Fifield

Fisher
Humphries
Johnston
Joyce
Kroger (Teller)
Macdonald
Madigan
Mason

McKenzie
Nash
Parry
Payne
Ronaldson
Ryan
Sculion
Williams

Question agreed to.

Bills read a second time.

The following amendments in respect of the Minerals Resource Rent Tax Bill 2011 circulated by the Australian Greens were considered:

Clause 2-1, page 3 (lines 20 and 21), omit “Commonwealth, State and Territory mining royalty amounts”, substitute “mining royalty amounts under Commonwealth, State and Territory laws as in force on 1 July 2011”.

Clause 60-25, page 52 (after line 27), at the end of the clause, add:

(3) If a *Commonwealth law, a *State law or a *Territory law under which expenditure constituting a *mining royalty is made is modified on or after 1 July 2011, disregard the modification for the purposes of working out the amount of a *royalty credit under this section to the extent that the modification results in the amount of the mining royalty being greater than would have been the case had the modification not been made.

(4) Subsection (3) applies whether the law is modified by the insertion, omission, repeal, substitution or relocation of words or matter, or by any other means.

Question—That the amendments be agreed to—put.

The Senate divided—

AYES, 9

Senators—

Brown, Bob
Di Natale
Hanson-Young

Ludlam
Milne
Siewert (Teller)

Rhiannon
Waters
Wright
No. 84—19 March 2012

NOES, 58

Senators—
Abetz  Cormann  Johnston  Polley
Back  Crossin  Joyce  Pratt
Bernardi  Edwards  Kroger (Teller)  Ronaldson
Bilyk  Eggleston  Ludwig  Ryan
Birmingham  Evans  Lundy  Scullion
Bishop  Farrell  Macdonald  Sherry
Boswell  Faulkner  Madigan  Singh
Boyce  Fawcett  Marshall  Stephens
Brandis  Feeley  Mason  Sterle
Brown, Carol  Fieravanti-Wells  McEwen  Thistlethwaite
Bushby  Fifield  McKenzie  Uren
Cameron  Fisher  Moore  Wong
Carr, Kim  Furner  Nash  Xenophon
Cash  Gallacher  Parry
Colbeck  Hogg  Payne

Question negatived.

Statement by President: The President made a statement concerning a proposed Australian Greens amendment to the Minerals Resource Rent Tax Bill 2011, as follows:

The amendment to the Minerals Resource Rent Tax Bill 2011 circulated by the Leader of the Australian Greens, Senator Bob Brown, is not in order. It broadens the tax base to include gold and other minerals and therefore imposes taxation within the meaning of section 53 of the Constitution. Section 53 provides that “Proposed laws ... imposing taxation, shall not originate in the Senate”.

The Minerals Resource Rent Tax Bill 2011 does not itself impose tax but, by proposing to tax substances that are not currently subject to the tax, the request for the amendment transforms the bill into a bill imposing taxation. According to a ruling of President Calvert in 2003, in similar circumstances, such an amendment may not be moved in the Senate, even as a request, because it is contrary to the Constitution. The amendment is out of order and the question therefore will not be put on it.

Proposed suspension of standing orders: Senator Cormann moved—that so much of the standing orders be suspended as would prevent debate taking place on the constitutionality of the bill and the matters raised by the President’s statement.

Closure: Senator Collins moved—that the question be now put.

Question—that the question be now put—put.
The Senate divided—

**AYES, 37**

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Question agreed to.

Question—That the motion to suspend standing orders be agreed to—put.

The Senate divided—

**AYES, 33**

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Question negatived.
No. 84—19 March 2012

Question—That the remaining stages of these bills be agreed to and these bills be now passed—put.

The Senate divided—

AYES, 38

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Question agreed to.

Bills read a third time.

34 ADJOURNMENT

The Senate adjourned at 10.33 pm till Tuesday, 20 March 2012 at 11 am.

35 ATTENDANCE

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

Rosemary Laing
Clerk of the Senate

Printed by authority of the Senate