



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



## **THE SENATE**

### **TAX LAWS AMENDMENT (TEMPORARY FLOOD AND CYCLONE RECONSTRUCTION LEVY) BILL 2011**

### **INCOME TAX RATES AMENDMENT (TEMPORARY FLOOD AND CYCLONE RECONSTRUCTION LEVY) BILL 2011**

**In Committee**

## **SPEECH**

**Monday, 21 March 2011**

BY AUTHORITY OF THE SENATE

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## SPEECH

**Date** Monday, 21 March 2011  
**Page** 1356  
**Questioner**  
**Speaker** Xenophon, Sen Nick

**Source** Senate  
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**Responder**  
**Question No.**

**Senator XENOPHON** (South Australia) (8.39 pm)—There is no great secret to this. On 3 March, when agreement was reached between the government and me in relation to the whole issue of Natural Disaster Relief and Recovery Arrangements, I put out a media release. I attached to the media release a copy of the letter from the Prime Minister and also the new guidelines to the Natural Disaster Relief and Recovery Arrangements which are attached to the determination 2011, version 1. I can indicate there has been complete openness and transparency in that process.

Essentially the determination itself has been amended. I understand the Attorney-General will also table it tomorrow in the other place. It requires a number of things. Firstly, a state must have reasonably adequate capital or access to capital. That can be done through a number of measures including but not limited to the following mechanisms: commercial insurance or reinsurance or any state COAG reinsurance fund or pool and state department contributions—that is, internal state funds. We know, given the questions of Senator Macdonald, the issue here is one of the Commonwealth having to bear 75 per cent of the brunt of any natural disasters under the arrangements that were in place from 2007 until now, arrangements that were largely in place for a number of years under both this government and the previous Howard government. The state must submit an independent assessment of state insurance arrangements and that includes having state Auditor-Generals being involved, for example, so the states need to tell the Commonwealth what they are doing in relation to insurance. The states must publish the outcome of any independent assessment, which in turn is assessed independently by the Commonwealth, and the Department of Finance and Deregulation has a role in that. I will refer to that process as well.

The first independent assessment must be published and provided to the Attorney-General's Department by 30 September 2011, with further assessments required no greater than every three years. If there is any significant change in the insurance arrangements of a state, including any reduction of the policy limit purchased, then there will need to be a review of that state's independent assessment in conjunction with the state. The review will be guided by principles including: that the state has a responsibility to put in place insurance arrangements which are cost-effective for both the state and the Commonwealth for the financial exposure borne by taxpayers at both levels of government; that the onus is on the state to explore a range of insurance options in the marketplace and assess available options on a cost-benefit basis; and that, in the event as a result of that review the Attorney-General makes a determination, which must be published and transparent, and the state fails to follow that recommendation, the amount that a state would be reimbursed under this determination will be reduced in accordance with these principles. In other words, the rate of assistance will need to be reduced if the states fail to take prudential steps in relation to that.

In terms of the mechanism and how it will work there is a 15 paragraph document which relates to the guidelines which sets that out. It would involve a whole range of steps and safeguards including using the Attorney-General and the Department of Finance and Deregulation and 'utilising such external actuarial expertise required in order to ensure a full and rigorous assessment.' In other words, it is anticipated that there will be some external expert advice. Each review will include an examination of matters such as the following: the nature of any insurance or reinsurance sought and offered, the amounts of any premiums and excesses, the events and extent of assets covered, the amount covered per event, the maximum possible loss, the reinstatement terms, and the claims experienced in any related matters. It is very comprehensive. The document does have in it any insurance sought and offered because if a state or territory wants to be disingenuous and to say, 'We got this premium offer which is totally unrealistic,' it depends what they sought.

For instance, if Senator Macdonald wants to insure his home and insure every nook and cranny and wants full replacement value for every item in that home, replacing items such as antiques—I do not know what he has in his home; I have not been there—he can load the dice so that he will get an extraordinarily high premium if he is seeking an unrealistic term of insurance. There needs to be a question of reasonableness, because I think some of the statements made by the Queensland government have been quite extraordinary where it is saying, 'It's going to cost us billions to insure the state's assets.' That is patently absurd, from the discussions I have

had with those in the insurance industry. I am very sad that the Queensland Treasurer has resorted to personal abuse in relation to my position.

*Senator Ian Macdonald interjecting—*

**Senator XENOPHON**—I think it is unfortunate that that is the approach. Senator Macdonald needs to know that the Commonwealth government will ask the Commonwealth Auditor-General to periodically conduct audits at intervals no greater than three years to assess the adequacy of the Australian government's responsibilities under the NDRRA, including determining whether the processes are appropriately transparent and whether there is best practice in determining when material is commercial-in-confidence. I really am grateful for the hard work of the advisers in the Prime Minister's office. I am sure they got pretty sick of me towards the end of the process, maybe earlier in the process. They diligently and in good faith conducted this process with the aim of having a good outcome. That was my primary concern. If there is going to be a flood levy, I want it to be the last flood levy we have.

No longer can states hide behind the previous arrangements which were that the Commonwealth will always pick up the bill to the tune of 75 per cent. There has been a huge moral hazard here and that moral hazard has been quite apparent as a result of these terrible natural disasters in Queensland. I find the attitude of the Queensland government to be quite extraordinary. But this is a fair, robust and transparent process. It requires a review to be published within 90 days of receipt by the Department of Finance and Deregulation. The Attorney will consider the report and make recommendations to the states in light of that report. If the Commonwealth Attorney-General does not accept any part of the recommendations in that report, the Attorney will table a statement in the parliament explaining the grounds for rejecting the recommendation. The Commonwealth Attorney-General will advise the state in writing of his or her final decision, including any decision not to reduce the rate of assistance provided, to be published within 14 days. There are some tremendous transparency mechanisms here, and I think this is a very good piece of public policy.

This is not a criticism of the coalition but, back in 2007, a decision was made by the Commonwealth not to self-insure their assets. I wonder whether these new criteria, while not directly applying to the Commonwealth, will set a new benchmark in how we determine these issues—although, to be fair to the Commonwealth, the assets that the Commonwealth has in terms of roads and infrastructure are much, much less than what states and territories have. So I hope this has answered Senator Macdonald's concerns in relation to the document, but that was my key concern. I am looking at the big policy picture. The reason why we are having this debate and why we are having this levy in the first place is, I think, because the Queensland government decided, quite foolishly, not to take out insurance on its assets. I would like to think this will stand Australian taxpayers in good stead for a number of years. The transparency mechanisms are quite extraordinary. Again, I think this is the result of negotiations with the Prime Minister's office which were hard, but which were conducted in good faith.