

2002

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 9

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Contents

1	Meeting of Senate.....	231
2	Government Documents.....	231
3	Migration Legislation Amendment (Transitional Movement) Bill 2002	231
4	Hours of Meeting and Routine of Business—Variation	232
5	Sport—Winter Olympic and Paralympic Games.....	232
6	Consideration of Legislation	232
7	States Grants (Primary and Secondary Education Assistance) Amendment Bill 2002	234
8	Matters of Public Interest	237
9	Questions	237
10	Questions on Notice—Answers and Explanations	237
11	High Court Judge—Remarks by Senator Heffernan—Answers to Questions..	237
12	Taxation—Plantation Industry—Answer to Question.....	237
13	Petition.....	237
14	Notices.....	238
15	Selection of Bills—Standing Committee—Report No. 2 of 2002.....	240
16	Routine of Business—Variation.....	242
17	Order of Business—Rearrangement	243
18	Postponements	243
19	Economics References Committee—Reference	243
20	Media Representatives and Advisers—Dress Code	244
21	Foreign Affairs—China—Arrest of Australians.....	244
22	Privileges—Standing Committee—Reference	244
23	Princess Margaret Hospital—Magnetic Resonance Imaging	244
24	Health—Nuclear Testing—Order for Production of Documents	245
25	Health—Mental Illness.....	245
26	De Facto Couples—Property Issues.....	246

27	Community Affairs References Committee—Leave to Meet During Sitting ...	247
28	Employment, Workplace Relations and Education References Committee— Reference	247
29	Scrutiny of Bills—Standing Committee—3rd Report and Alert Digest No. 3 of 2002	247
30	President of the Senate—Official Visits to Portugal and Spain—Document...	247
31	Parliament Act—Parliamentary Zone—Capital Works Proposals— Documents	248
32	Commonwealth Parliamentary Association—47th Conference—Document ...	248
33	Documents	248
34	Indexed Lists of Departmental and Agency Files—Order for Production of Documents—Document	248
35	Departmental and Agency Contracts—Order for Production of Documents— Document.....	248
36	Committees—Changes in Membership	249
37	Health—Nuclear Testing—Order for Production of Documents—Statement by Leave	249
38	Notice of Motion Withdrawn	249
39	States Grants (Primary and Secondary Education Assistance) Amendment Bill 2002	249
40	First Speech	250
41	Economics Legislation Committee—Report—Taxation Laws Amendment (Superannuation) Bill (No. 1) 2002 [and] Income Tax (Superannuation Payments Withholding Tax) Bill 2002.....	250
42	States Grants (Primary and Secondary Education Assistance) Amendment Bill 2002	250
43	Taxation Laws Amendment (Baby Bonus) Bill 2002 Therapeutic Goods Amendment Bill (No. 1) 2002 Therapeutic Goods (Charges) Amendment Bill 2002 Therapeutic Goods Amendment (Medical Devices) Bill 2002 Taxation Laws Amendment Bill (No. 1) 2002	254
44	Order of Business—Rearrangement	255
45	Disability Services Amendment (Improved Quality Assurance) Bill 2002	255
46	Migration Legislation Amendment (Transitional Movement) Bill 2002	256
47	Adjournment.....	258
48	Attendance	258

1 MEETING OF SENATE

The Senate met at 9.30 am. The President (Senator the Honourable Margaret Reid) took the chair and read prayers.

2 GOVERNMENT DOCUMENTS

The following government documents were tabled:

Advance to the Finance Minister—Statement and supporting applications for issues—February 2002.

Australian Communications Authority—National relay service provider performance—Report for 2000-01.

Australian Fisheries Management Authority Selection Committee—Report for 2000-01.

Australian Sports Commission—Strategic plan 2002-2005.

Department of Agriculture, Fisheries and Forestry—Report—Innovating rural Australia: Research and development corporation outcomes, 2001.

Maritime Industry Finance Company Limited—Report for the period 1 July to 31 December 2001, under clause 9 of the deed of grant between the Maritime Industry Finance Company and the Commonwealth of Australia.

Productivity Commission—Report—No. 15—Cost recovery by government agencies, 16 August 2001—Addendum.

States Grants (Primary and Secondary Education Assistance) Act 1996—Report on financial assistance granted to each state in respect of 2000.

Takeovers Panel—Report for 2000-01.

Telecommunications Act 1997—Funding of consumer representation and research in relation to telecommunications—Report for 2000-01.

3 MIGRATION LEGISLATION AMENDMENT (TRANSITIONAL MOVEMENT) BILL 2002

A message from the House of Representatives was reported transmitting for the concurrence of the Senate the following bill:

Message no. 33, dated 19 March 2002—A Bill for an Act to amend the *Migration Act 1958*, and for related purposes.

The Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth) 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 Troeth moved—That this bill be now read a second time.

Explanatory memorandum: Senator Troeth tabled a revised explanatory memorandum relating to the bill.

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.

4 HOURS OF MEETING AND ROUTINE OF BUSINESS—VARIATION

The Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth), at the request of the Parliamentary Secretary to the Treasurer (Senator Ian Campbell) and pursuant to notice, moved government business notice of motion no. 1—That, on Wednesday, 20 March 2002:

- (a) the hours of meeting shall be 9.30 am to 6.30 pm and 7.30 pm to midnight;
- (b) the routine of business from 7.30 pm to 11.20 pm shall be government business only; and
- (c) the question for the adjournment of the Senate shall be proposed at 11.20 pm.

Debate ensued.

Question put and passed. Senator Brown, pursuant to standing order 100, recorded his vote for the noes.

5 SPORT—WINTER OLYMPIC AND PARALYMPIC GAMES

The Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth), at the request of the Minister for the Arts and Sport (Senator Kemp) and pursuant to notice, moved government business notice of motion no. 2—That the Senate—

- (a) recognises the outstanding success of the Australian Winter Olympic and Paralympic teams competing at the 2002 Salt Lake City Olympics and Paralympics;
- (b) congratulates the Australian Winter Olympic and Paralympic teams for their outstanding effort in achieving the best ever result for Australian teams in these competitions;
- (c) conveys, on behalf of all Australians, the nation's pride and congratulations for the performances of all athletes who represented Australia at these games, particularly the outstanding performances of our medal winners;
- (d) expresses thanks and gratitude to the Australian Olympic Committee, the Australian Paralympic Committee and the team support staff and others who have worked so hard to prepare Australia's most successful Winter Olympic and Paralympic teams to date; and
- (e) notes the role of the Commonwealth in supporting the preparation of Australian athletes for the Winter Olympic and Paralympic Games, through the Australian Sports Commission and the Australian Institute of Sport.

Question put and passed.

6 CONSIDERATION OF LEGISLATION

The Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth), pursuant to notice, moved government business notice of motion no. 3—That the provisions of paragraphs (5) to (7) of standing order 111 not apply to the Migration Legislation Amendment (Transitional Movement) Bill 2002, allowing it to be considered during this period of sittings.

Debate ensued.

Question put.

The Senate divided—

AYES, 45

Senators—

Abetz	Crane	Hutchins	Ray
Barnett	Crossin	Knowles	Reid
Bishop	Crowley	Lightfoot	Scullion
Brandis	Denman	Ludwig	Sherry
Buckland	Eggleston	Lundy	Tchen
Calvert (Teller)	Evans	Macdonald, Sandy	Tierney
Campbell, George	Forshaw	Mackay	Troeth
Carr	Harradine	Mason	Watson
Colbeck	Harris	McGauran	West
Collins	Heffernan	McLucas	
Cook	Herron	O'Brien	
Cooney	Hogg	Payne	

NOES, 9

Senators—

Allison	Brown	Lees	Murray
Bartlett	Greig	Murphy	Ridgeway
Bourne (Teller)			

Question agreed to.

The Special Minister of State (Senator Abetz), at the request of Senator Troeth and pursuant to notice, moved government business notice of motion no. 4—That the provisions of paragraphs (5) to (7) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

- Appropriation (Parliamentary Departments) Bill (No. 2) 2001-2002
- Appropriation Bill (No. 3) 2001-2002
- Appropriation Bill (No. 4) 2001-2002
- Financial Corporations (Transfer of Assets and Liabilities) Amendment Bill 2002
- Quarantine Amendment Bill 2002
- Taxation Laws Amendment (Baby Bonus) Bill 2002
- Taxation Laws Amendment Bill (No. 1) 2002
- Therapeutic Goods Amendment Bill (No. 1) 2002
- Therapeutic Goods (Charges) Amendment Bill 2002
- Therapeutic Goods Amendment (Medical Devices) Bill 2002
- Veterans' Entitlements Amendment (Gold Card Extension) Bill 2002
- Veterans' Affairs Legislation Amendment (Further Budget 2000 and Other Measures) Bill 2002.

Debate ensued.

Question put and passed.

7 **STATES GRANTS (PRIMARY AND SECONDARY EDUCATION ASSISTANCE) AMENDMENT BILL 2002**

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Treasurer (Senator Ian Campbell)—That this bill be now read a second time—and on the amendment moved by Senator Allison:

At the end of the motion, add “but the Senate calls on the Government to undertake that from 2003 the Commonwealth will establish a Planned Educational Resource Allocation Committee to assess applications for funding for the establishment of new schools in each state and territory, and this committee:

- (a) will comprise representatives of the Commonwealth Department of Education, Science and Training, government and non-government school employing authorities, parents and teacher unions;
- (b) shall advise the Minister on the funding of new schools, taking into consideration the following:
 - (i) the duplication of educational services in an area,
 - (ii) the impact of the establishment of the new school on surrounding schools,
 - (iii) the willingness of the school to cooperate with other schools in the sharing of resources,
 - (iv) the level of determined community need for the new school,
 - (v) the financial viability of the new school,
 - (vi) the size of the new school, and
 - (vii) specific local, community or educational needs; and
- (c) shall provide an annual report to Parliament on its assessments”.

Debate resumed.

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

Main question, as amended, put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

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

Schedule 1, page 3 (after line 5), before item 1, insert:

1A After paragraph 15(b)

Insert:

- (ba) The prescribed requirements for performance information to be reported in accordance with paragraph 15(b) shall include a requirement to report annually on progress being made to implement

the detailed plan setting out the procedures for dealing with the physical, sexual and emotional abuse of students required by section 15A.

Schedule 1, page 3 (after line 5), before item 1, insert:

1B After section 15

Insert:

15A Specific condition: responsibilities of States in dealing with abuse of students

- (1) A further condition is that a State must do each of the following not later than a date or dates determined by the Minister for the purposes of each paragraph:
 - (a) provide to the Minister a report on the administration of such legislation as is administered by the State relating to the protection of children and young persons in government and non-government schools;
 - (b) provide to the Minister a detailed plan setting out the procedures for and responsibilities of government schools in dealing with the physical, sexual and emotional abuse of students, either within or outside schools.
- (2) A plan provided in accordance with paragraph (1)(b) must:
 - (a) indicate the ways in which government schools will seek to create an anti-abuse environment; and
 - (b) indicate the means by which government schools will communicate with students about their rights in relation to abuse; and
 - (c) indicate how the plan will be implemented; and
 - (d) be reviewed at least every four years by the Minister, with the first review being completed before the expiration of the 2008 program year; and
 - (e) be approved by the Minister; and
 - (f) be in accordance with the standards set out in the regulations to this Act.
- (3) A further condition is that a State must have enacted legislation requiring the protection of children and young persons to receive grants in accordance with this Act.
- (4) A further condition is that a current law of the State must require that teachers promptly report instances of abuse of students of which they become aware in the course of their employment.
- (5) The requirement in subsection (4) to report may be either a requirement to report to the police or to a relevant government department or agency.
- (6) The Minister shall consult with the relevant State Ministers about the application of the legislation referred to in subsection (4) to other employees of schools in addition to teachers.
- (7) The conditions in this section are to apply to payments made to a State from the beginning of the program year 2003.

- (8) This section is not intended to exclude or limit the concurrent operation of any law of a State or Territory.

Schedule 1, page 3 (after line 5), before item 1, insert:

1C After paragraph 23(b)

Insert:

- (ba) The prescribed requirements for performance information to be reported in accordance with paragraph 23(b) shall include a requirement to report annually on progress being made to implement the detailed plan setting out the procedures for dealing with the physical, sexual and emotional abuse of students required by section 23A.

Schedule 1, page 3 (after line 5), before item 1, insert:

1D After section 23

Insert:

23A Specific condition: responsibilities of relevant authorities in dealing with abuse of students

- (1) A section 18 agreement must require the relevant authority to provide to the Minister not later than a date determined by the Minister a detailed plan setting out the procedures for and responsibilities of schools for which it is the relevant authority for the purpose of this section (*relevant schools*) in dealing with the physical, sexual and emotional abuse of students, either within or outside schools.
- (2) A plan provided in accordance with subsection (1) must:
- (a) indicate the ways in which the relevant schools will seek to create an anti-abuse environment; and
 - (b) indicate the means by which the relevant schools will communicate with students about their rights in relation to abuse; and
 - (c) indicate how the plan will be implemented; and
 - (d) be reviewed at least every four years by the Minister, with the first review being completed before the expiration of the 2008 program year; and
 - (e) be approved by the Minister; and
 - (f) be in accordance with the standards set out in the regulations to this Act.
- (3) The conditions in this section are to apply to payments to a State from the beginning of the program year 2003.
- (4) This section is not intended to exclude or limit the concurrent operation of any law of a State or Territory.

Bill, as amended, further debated.

At 12.45 pm: The Deputy President (Senator West) resumed the chair and the Temporary Chair of Committees (Senator Crowley) reported progress.

8 MATTERS OF PUBLIC INTEREST

Matters of public interest were discussed.

Suspension of sitting: On the motion of the Parliamentary Secretary to the Minister for Transport and Regional Services (Senator Boswell) the sitting of the Senate was suspended till 2 pm.

At 2 pm—

9 QUESTIONS

Questions without notice were answered.

10 QUESTIONS ON NOTICE—ANSWERS AND EXPLANATIONS

The Minister for Communications, Information Technology and the Arts (Senator Alston), by leave, provided explanations for answers not being provided to questions on notice nos 105 (Senator Hutchins), 107 (Senator Harris) and 115 (Senator Harris).

11 HIGH COURT JUDGE—REMARKS BY SENATOR HEFFERNAN—ANSWERS TO QUESTIONS

The Leader of the Opposition in the Senate (Senator Faulkner) moved—That the Senate take note of the answers given by the Special Minister of State (Senator Abetz) and the Minister for Justice and Customs (Senator Ellison) to questions without notice asked today relating to remarks made by Senator Heffernan concerning a judge of the High Court of Australia.

Debate ensued.

Question put and passed.

12 TAXATION—PLANTATION INDUSTRY—ANSWER TO QUESTION

Senator Murphy moved—That the Senate take note of the answer given by the Minister for Revenue and Assistant Treasurer (Senator Coonan) to a question without notice asked by Senator Murphy today relating to taxation and the plantation industry.

Question put and passed.

13 PETITION

The following petition, lodged with the Clerk by Senator Ian Campbell, was received:

From 2 939 petitioners, requesting that the Senate take action to grant to Princess Margaret Hospital a licence to operate a magnetic resonance imaging machine.

14 NOTICES

Senator Bishop: To move on the next day of sitting—That the Senate notes that:

- (a) the French Government plans to construct a new three runway airport, estimated to cost \$A19 billion, in Northern France covering eight World War I cemeteries containing 1 200 graves, including those of 61 Australians who fell in action;
- (b) these plans will also affect a large unknown number of those lost in action but never found;
- (c) this proposal has enormous consequences for the memories of many Australian families and therefore must be resisted;
- (d) the Australian Government has had significant prior notice of these plans and has been dilatory in protesting to the French;
- (e) the Australian Government has only in recent days made representations to the Commonwealth War Graves Commission; and
- (f) as yet no formal representations have been made to the French Government by the Australian Government to register Australian objection to the desecration of this land by such a development. (*general business notice of motion no. 46*)

The Chairman of the Standing Committee for the Scrutiny of Bills (Senator Cooney): To move on the next day of sitting—That the Standing Committee for the Scrutiny of Bills be authorised to hold a public hearing on the provisions of the Criminal Code Amendment (Espionage and Related Offences) Bill 2002, the Security Legislation Amendment (Terrorism) Bill 2002 [No. 2] and the Suppression of the Financing of Terrorism Bill 2002 for the purposes of clarifying points raised by the committee's legal adviser in relation to the above bills. (*general business notice of motion no. 47*)

Senator Bartlett: To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the *Great Barrier Reef Marine Park Act 1975* to provide for an extension of the boundaries of the Marine Park. ***Great Barrier Reef Marine Park (Boundary Extension) Amendment Bill 2002***. (*general business notice of motion no. 48*)

The Chair of the Finance and Public Administration References Committee (Senator Forshaw): To move on the next day of sitting—

- (1) That the following matter be referred to the Finance and Public Administration References Committee for inquiry and report by 12 December 2002:
Recruitment and training in the Australian Public Service (APS).
- (2) That, in considering this matter, the committee examine and report on the following issues:
 - (a) recruitment, including:
 - (i) the trends in recruitment to the APS over recent years,
 - (ii) the trends, in particular, in relation to the recruitment to the APS of young people, both graduates and non graduates,
 - (iii) the employment opportunities for young people in the APS, and
 - (iv) the efficiency and effectiveness of the devolved arrangements for recruitment in the APS;
 - (b) training and development, including:

- (i) the trends in expenditure on training and development in the APS over recent years,
 - (ii) the methods used to identify training needs in the APS,
 - (iii) the methods used to evaluate training and development provided in the APS,
 - (iv) the extent of accredited and articulated training offered in the APS,
 - (v) the processes used in the APS to evaluate training providers and training courses,
 - (vi) the adequacy of training and career development opportunities available to APS employees in regional areas,
 - (vii) the efficiency and effectiveness of the devolved arrangements for training in the APS,
 - (viii) the value for money represented by the training and development dollars spent in the APS, and
 - (ix) the ways training and development offered to APS employees could be improved in order to enhance the skills of APS employees;
- (c) the role of the Public Service Commissioner pursuant to section 41(1)(i) of the *Public Service Act 1999* in coordinating and supporting APS-wide training and career development opportunities in the APS; and
- (d) any other issues relevant to the terms of reference but not referred to above which arise in the course of the inquiry.

The Chair of the Rural and Regional Affairs and Transport Legislation Committee (Senator Crane): To move on the next day of sitting—That the Rural and Regional Affairs and Transport Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 21 March 2002, from 4 pm, to take evidence for the committee's inquiry into the administration by the Department of Transport and Regional Services of Australian Motor Vehicle Standards under the *Motor Vehicles Standards Act 1989* and Regulations. (*general business notice of motion no. 49*)

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

(a) notes:

- (i) that illegal coltan mining in the World Heritage areas of Kahuzi-Biega National Park and the Okapi Reserve is destroying wildlife, forests and habitat, particularly the Grauer gorilla, the forest antelope, the elephant and the chimpanzee, in the Democratic Republic of the Congo,
- (ii) that world demand for coltan is exploding for use in the electronics industry, in particular for mobile phones,
- (iii) the call by the World Conservation Union to boycott coltan produced in World Heritage sites in the Democratic Republic of the Congo,
- (iv) the report to the United Nations (UN) Security Council by a UN-appointed panel of experts for a moratorium for a specific period on the purchase and importing of precious products such as coltan, diamonds, gold, copper, cobalt, timber and coffee originating in areas where foreign troops are present in the Democratic Republic of the Congo and in territories under the control of rebels, and

(v) that the Democratic Republic of the Congo produces less than a quarter of the world's coltan while Australia currently meets 40 per cent of world demand and is capable of producing up to 60 per cent of world demand from reserves in Western Australia; and

(b) calls on the Government to ban the importation into Australia of all mobile phones and electronic goods that contain coltan produced outside Australia. (*general business notice of motion no. 50*)

Senator Brown: To move on the next day of sitting—That photographs of any senator may be taken by the media in the chamber whenever that senator has the call. (*general business notice of motion no. 51*)

Senator Brown: To move on the next day of sitting—That the Senate considers that Basslink should be required to place powerlines underground in Victoria and Tasmania if it should proceed. (*general business notice of motion no. 52*)

The Chairman of the Standing Committee on Regulations and Ordinances (Senator Tchen): To move 15 sitting days after today—That the Fuel Quality Standards Regulations 2001, as contained in Statutory Rules 2001 No. 236 and made under the *Fuel Quality Standards Act 2000*, be disallowed.

Senator Tchen, by leave, made a statement relating to the notice of motion.

Senator Greig: To move on 16 May 2002—That the following bill be introduced: A Bill for an Act to prohibit certain conduct involving the vilification and incitement to hatred of people on the ground of sexuality, and for related purposes. ***Sexuality Anti-Vilification Bill 2002***. (*general business notice of motion no. 53*)

15 SELECTION OF BILLS—STANDING COMMITTEE—REPORT NO. 2 OF 2002

The Chairman of the Selection of Bills Committee (Senator Calvert) tabled the following report:

SELECTION OF BILLS COMMITTEE

REPORT NO. 2 OF 2002

1. The committee met on Tuesday, 19 March 2002.
2. The committee resolved to reconsider its proposed Report no. 2 of 2002, for the presentation of which leave was refused on 14 March 2002.
3. The committee considered a proposal to refer the provisions of the Migration Legislation Amendment (Transitional Movement) Bill 2002 to a committee but was unable to reach agreement on a reporting date. Senator Ian Campbell, noting the reasons why leave had been refused for the presentation of the committee's draft report on 14 March 2002, expressed a view that the referral of the Migration Legislation Amendment (Transitional Movement) Bill 2002 should not now proceed. He also noted standing order 33(1)(b) (about voting at deliberative meetings held during sittings of the Senate) and that the committee's usual method of proceeding was to reserve disagreements for resolution by the Senate.

4. The committee resolved to recommend—

(a) That the provisions of the following bills be *referred* to committees as follows:

Bill title	Stage at which referred	Legislation Committee	Reporting date
Criminal Code Amendment (Espionage and Related Offences) Bill 2002	Immediately	Legal and Constitutional	26 April 2002
Family Law Amendment (Child Protection Convention) Bill 2002	Immediately	Legal and Constitutional	15 May 2002
Migration Legislation Amendment (Procedural Fairness) Bill 2002	Immediately	Legal and Constitutional	15 May 2002
Migration Legislation Amendment Bill (No. 1) 2002	Immediately	Legal and Constitutional	15 May 2002
Security Legislation Amendment (Terrorism) Bill 2002 [No. 2]	Immediately	Legal and Constitutional	3 May 2002
Suppression of the Financing of Terrorism Bill 2002			
Criminal Code Amendment (Suppression of Terrorist Bombings) Bill 2002			
Border Security Legislation Amendment Bill 2002			
Telecommunications Interception Legislation Amendment Bill 2002			
Workplace Relations Amendment (Fair Termination) Bill 2002	Immediately	Employment, Workplace Relations and Education	14 May 2002
Workplace Relations Amendment (Genuine Bargaining) Bill 2002	Immediately	Employment, Workplace Relations and Education	14 May 2002
Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002	Immediately	Employment, Workplace Relations and Education	14 May 2002
Workplace Relations Amendment (Secret Ballots for Protected Action) Bill 2002	Immediately	Employment, Workplace Relations and Education	14 May 2002

(b) That the following bills be *referred* to committees as follows:

Bill title	Stage at which referred	Legislation committee	Reporting date
Migration Legislation Amendment (Transitional Movement) Bill 2002	Immediately	Legal and Constitutional	
Workplace Relations Amendment (Fair Dismissal) Bill 2002	Immediately	Employment, Workplace Relations and Education	14 May 2002

(c) That the following bills *not* be referred to committees:

Aboriginal and Torres Strait Islander Commission Amendment Bill 2002

Financial Corporations (Transfer of Assets and Liabilities) Amendment Bill 2002
 Horticulture Marketing and Research and Development Services (Amendment) Bill 2002
 Ministers of State (Post-Retirement Employment Restrictions) Bill 2002
 Quarantine Amendment Bill 2002
 Space Activities Amendment Bill 2002
 Taxation Laws Amendment (Baby Bonus) Bill 2002
 Trade Practices Amendment (Small Business Protection) Bill 2002
 Veterans' Entitlements Amendment (Gold Card Extension) Bill 2002.

The committee recommends accordingly.

5. The committee *deferred* consideration of the following bills to the next meeting:

Bills deferred from meeting of 19 March 2002

Aviation Legislation Amendment Bill 2002
 Commonwealth Electoral Amendment Bill (No. 1) 2002
 Copyright Amendment (Parallel Importation) Bill 2002
 Electoral and Referendum Amendment (Roll Integrity and Other Measures) Bill 2002
 Jurisdiction of Courts Legislation Amendment Bill 2002
 Plant Breeder's Rights Amendment Bill 2002
 Social Security and Veterans' Entitlements Legislation Amendment (Disposal of Assets—Integrity of Means Testing) Bill 2002
 Taxation Laws Amendment Bill (No. 2) 2002.

Paul Calvert
 Chair
 20 March 2002.

Senator Calvert moved—That the report be adopted.

The Special Minister of State (Senator Abetz) moved the following amendment:

At the end of the motion, add “and, in respect of the Migration Legislation Amendment (Transitional Movement) Bill 2002, the bill not be referred to the Legal and Constitutional Legislation Committee”.

Debate ensued.

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

Main question, as amended, put and passed.

16 ROUTINE OF BUSINESS—VARIATION

The Special Minister of State (Senator Abetz), by leave, moved—That consideration of the business before the Senate today be interrupted at approximately 5 pm, but not so as to interrupt a senator speaking, to enable Senator Barnett to make his first speech without any question before the chair.

Question put and passed.

17 ORDER OF BUSINESS—REARRANGEMENT

Senator Calvert, by leave and at the request of the Chair of the Economics Legislation Committee (Senator Brandis), moved—That business of the Senate order of the day no. 1, relating to the presentation of the report of the committee on the Taxation Laws Amendment (Superannuation) Bill (No. 1) 2002 and a related bill, be postponed till a later hour.

Question put and passed.

18 POSTPONEMENTS

Items of business were postponed as follows:

Business of the Senate notice of motion no. 2 standing in the name of the Leader of the Australian Democrats (Senator Stott Despoja) for today, relating to the reference of matters to the Standing Committee of Privileges, postponed till 21 March 2002.

General business notice of motion no. 24 standing in the name of Senator Bourne for today, relating to measures to resolve tensions between India and Pakistan, postponed till 21 March 2002.

General business notice of motion no. 16 standing in the name of Senator Brown for today, relating to the introduction of the Parliamentary Commission of Inquiry into Forestry Tasmania Bill 2002, postponed till 15 May 2002.

General business notice of motion no. 14 standing in the name of Senator Harris for today, relating to the establishment of a select committee on the Lindeberg grievance, postponed till 16 May 2002.

General business notice of motion no. 43 standing in the name of Senator Bartlett for today, proposing an order for the production of documents relating to the proposed Paradise Dam, postponed till 21 March 2002.

General business notice of motion no. 10 standing in the name of Senator Murphy for today, relating to the establishment of a select committee on forestry and plantation matters, postponed till 21 March 2002.

19 ECONOMICS REFERENCES COMMITTEE—REFERENCE

Senator Mackay, at the request of the Chair of the Economics References Committee (Senator Collins), amended Senator Collins' notice of motion by leave and, 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 Economics References Committee for inquiry and report by 27 August 2002:

- (a) the impact of public liability insurance for small business and community and sporting organisations; and
- (b) the impact of professional indemnity insurance, including Directors and Officers Insurance, for small business;

with particular reference to:

- (c) the cost of such insurance;
- (d) reasons for the increase in premiums for such insurance; and
- (e) schemes, arrangements or reforms that can reduce the cost of such insurance and/or better calculate and pool risk.

Question put and passed.

20 MEDIA REPRESENTATIVES AND ADVISERS—DRESS CODE

Senator Brown, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 45—That the Senate does not require media representatives in the Senate gallery, or senators' advisers, to wear coats.

Question put and passed.

21 FOREIGN AFFAIRS—CHINA—ARREST OF AUSTRALIANS

Senator Brown amended his notice of motion by leave and, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 38—That the Senate—

- (a) expresses its concern about reports that two Australians, amongst a party of ten members of Falun Gong arrested by police in Beijing on 8 March 2002, were beaten by the police; and
- (b) calls on the Australian Government to obtain an explanation from China.

Question put and passed.

22 PRIVILEGES—STANDING COMMITTEE—REFERENCE

The Chair of the Standing Committee of Privileges (Senator Ray), pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 4—That the following matter be referred to the Committee of Privileges:

The desirability and efficacy of engaging counsel to represent the Senate in court and other tribunal proceedings on questions involving parliamentary privilege affecting the Senate or senators.

Question put and passed.

23 PRINCESS MARGARET HOSPITAL—MAGNETIC RESONANCE IMAGING

Senator Cook, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 44—That the Senate—

- (a) notes:
 - (i) that Princess Margaret Hospital is the only major children's hospital in Australia without a magnetic resonance imaging (MRI) machine,
 - (ii) the unsatisfactory situation in which 200 Western Australian children are awaiting MRI appointments at another public hospital without specialist services for children,
 - (iii) that the Western Australian Government has agreed to fund the purchase of an MRI machine at a cost of \$2 million, provided the Commonwealth provides a Medicare licence for it,
 - (iv) the refusal of the Minister for Health and Ageing (Senator Patterson) to provide a Medicare licence for an MRI machine at Princess Margaret Hospital, and
 - (v) that the Commonwealth has provided four Medicare licences for MRI machines to private health providers in Western Australia and only two to public hospitals, none of which provide specialist paediatric services; and

- (b) calls on the Minister to alleviate the chronic need for the provision of an MRI machine at Princess Margaret Hospital by immediately providing a Medicare licence for such an MRI machine.

Question put and passed.

24 HEALTH—NUCLEAR TESTING—ORDER FOR PRODUCTION OF DOCUMENTS

Senator Bartlett, at the request of Senator Allison and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 31—That there be laid on the table by the Minister for Defence (Senator Hill), no later than immediately after motions to take note of answers on 20 March 2002, the following documents:

R225.040	Health Physics - Tolerances Ingested and Inhaled Materials
R225.041	Health Physics - External Radiations
R216.010	Chemical Warfare Testing Sites - Report by Joint Aus/US Survey Team
R217.025	Effect on Personnel of Atomic Testing at Maralinga
R100.018	DCMO Brisbane and Amberley
R208.010	Certificates for wounds and hurts
R065.015	Likelihood of Clandestine Introduction of Nuclear Weapons into Australia
R065.046	UK Testing at Woomera of Missiles with Nuclear Warheads
R210.004	Radiation Dose Records
R010.002	Comparison of UK Personnel Listings Against Exposure Records in Australia
R228.022	Safety Procedures and Health Effects - Investigations
R009.011	Weapons Atomic Test Program Investigation of Safety and Health Effect.

Question put and passed.

25 HEALTH—MENTAL ILLNESS

Senator Bartlett, at the request of Senator Allison and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 41—That the Senate—

(a) notes that:

- (i) Sane Australia, a national charity helping people affected by mental illness, said in the week beginning 17 March 2002 that despite two national mental health plans and a 30 per cent increase in funding in the 1990s, there has been very little real progress in the care of people with mental illness,
- (ii) many Australians are not receiving effective treatment from public mental health systems, often leading to tragic situations,
- (iii) there is no coherent Australia-wide system of rehabilitation for people with a psychiatric disability,
- (iv) there are few specialist programs to help those with a mental illness and coexisting alcohol and drug problems,

- (v) family and other carers are not routinely provided with education and support,
 - (vi) Australia still has eight different Mental Health Acts not in harmony with each other, and
 - (vii) Australia spends only 5 per cent of its health budget on psychiatric services while other Organisation for Economic Co-operation and Development countries allocate closer to 10 per cent; and
- (b) urges the Federal Government to take a national approach to seriously address these issues.

Question put and passed.

26 DE FACTO COUPLES—PROPERTY ISSUES

Motion determined as not formal: Senator Greig requested that general business notice of motion no. 35 standing in his name for today, relating to the jurisdiction for settlement of property issues for de facto couples, 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 Greig, at the request of the Leader of the Australian Democrats (Senator Stott Despoja) and pursuant to contingent notice, moved—That so much of the standing orders be suspended as would prevent Senator Stott Despoja 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. 35.

Debate ensued.

Question put.

The Senate divided—

AYES, 7

Senators—

Allison	Bourne (Teller)	Greig	Ridgeway
Bartlett	Brown	Murray	

NOES, 42

Senators—

Abetz	Coonan	Hutchins	Patterson
Barnett	Cooney	Kemp	Payne
Bishop	Crane	Knowles	Ray
Bolkus	Crossin	Lightfoot	Schacht
Brandis	Crowley	Lundy	Scullion
Buckland	Eggleston	Macdonald, Sandy	Tchen
Campbell, George	Evans	Mackay (Teller)	Troeth
Carr	Ferguson	Mason	Watson
Colbeck	Forshaw	McGauran	West
Collins	Harradine	McLucas	
Cook	Hogg	O'Brien	

Question negatived.

27 COMMUNITY AFFAIRS REFERENCES COMMITTEE—LEAVE TO MEET DURING SITTING

The Chair of the Community Affairs References Committee (Senator Crowley), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 42—That the Community Affairs References Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 21 March 2002, from 3.30 pm, to take evidence for the committee's inquiry into nursing.

Question put and passed.

28 EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION REFERENCES COMMITTEE—REFERENCE

The Chair of the Employment, Workplace Relations and Education References Committee (Senator George Campbell), pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 3—That the following matter be referred to the Employment, Workplace Relations and Education References Committee for inquiry and report by 19 November 2002:

Small business employment, with particular reference to:

- (a) the effect of government regulation on employment in small business, specifically including the areas of workplace relations, taxation, superannuation, occupational health and safety, local government, planning and tenancy laws;
- (b) the special needs and circumstances of small businesses, and the key factors that have an effect on the capacity of small businesses to employ more people;
- (c) the extent to which the complexity and duplication of regulation by Commonwealth, state and territory governments inhibits growth or performance in the small business sector; and
- (d) measures that would enhance the capacity of small businesses to employ more people.

Question put and passed.

29 SCRUTINY OF BILLS—STANDING COMMITTEE—3RD REPORT AND ALERT DIGEST NO. 3 OF 2002

Senator Mackay, at the request of the Chairman of the Standing Committee for the Scrutiny of Bills (Senator Cooney), tabled the following report and document:

- Scrutiny of Bills—Standing Committee—
3rd report of 2002, dated 20 March 2002.
- Alert Digest No. 3 of 2002, dated 20 March 2002.

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

30 PRESIDENT OF THE SENATE—OFFICIAL VISITS TO PORTUGAL AND SPAIN—DOCUMENT

The Acting Deputy President (Senator Hogg) tabled the following document:

- Official visits to Portugal and Spain—Report on the visits, by the President of the Senate, to Portugal and Spain, 13 to 18 January 2002, dated February 2002.

31 PARLIAMENT ACT—PARLIAMENTARY ZONE—CAPITAL WORKS PROPOSALS—DOCUMENTS

The Special Minister of State (Senator Abetz) tabled the following documents:

Parliament Act—Proposal, together with supporting documentation relating to temporary works associated with the National Capital Canberra 400 V8 Supercar race carnival, 7-9 June 2002.

Notice of motion: Senator Abetz, by leave, gave a notice of motion as follows: To move on the next day of sitting—That, in accordance with section 5 of the *Parliament Act 1974*, the Senate approves the proposal by the National Capital Authority and the Canberra Tourism and Events Corporation, for temporary works within the Parliamentary Zone, associated with the National Capital Canberra 400 V8 Supercar race carnival.

32 COMMONWEALTH PARLIAMENTARY ASSOCIATION—47TH CONFERENCE—DOCUMENT

Senator Lightfoot, by leave, tabled the following document:

Commonwealth Parliamentary Association—Report of the delegation to the 47th Commonwealth Parliamentary Conference, Australia, 2 to 14 September 2001.

33 DOCUMENTS

The following documents were tabled by the Clerk:

Airports Act—Regulations—Statutory Rules 2002 No. 49.

Civil Aviation Act—Civil Aviation Regulations—Airworthiness Directives—Part 105, dated 27 [5] and 28 February; and 6 and 7 [2] March 2002.

Defence Act—Determination under section 58B—Defence Determination 2002/3.

Renewable Energy (Electricity) Act—Regulations—Statutory Rules 2002 No. 48.

34 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 3 December 1998:

Indexed lists of departmental and agency files for the period 1 January to 30 June 2001—Statements of compliance—

Australian Electoral Commission.

Commonwealth Grants Commission.

ComSuper.

Department of Finance and Administration.

35 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 on 27 September 2001:

Departmental and agency contracts—Letters of advice—

Department of Industry, Tourism and Resources.

Geoscience Australia.

Industrial Property Australia.

36 COMMITTEES—CHANGES IN MEMBERSHIP

The Acting Deputy President (Senator Hogg) informed the Senate that the President had received letters requesting changes in the membership of various committees.

The Special Minister of State (Senator Abetz), by leave, moved—That senators be discharged from and appointed to committees as follows:

A Certain Maritime Incident—Select Committee—

Appointed: Senator Ferguson

Discharged: Senator Heffernan

Community Affairs References Committee—

Substitute member: Senator West to replace Senator Gibbs from 21 March to 28 March 2002.

Question put and passed.

37 HEALTH—NUCLEAR TESTING—ORDER FOR PRODUCTION OF DOCUMENTS—STATEMENT BY LEAVE

The Special Minister of State (Senator Abetz), by leave, made a statement relating to the order of the Senate agreed to earlier today for the production of documents concerning health and nuclear testing (*see entry no. 23*).

38 NOTICE OF MOTION WITHDRAWN

Senator Bartlett, by leave, made a statement relating to business of the Senate notice of motion no. 5 standing in his name for today, proposing the reference of the Migration Legislation Amendment (Transitional Movement) Bill 2002 to the Legal and Constitutional Legislation Committee, and withdrew the notice.

39 STATES GRANTS (PRIMARY AND SECONDARY EDUCATION ASSISTANCE) AMENDMENT BILL 2002

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, as amended.

On the motion of Senator Carr the following amendment was agreed to:

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

(4A) Where the Minister varies the list in accordance with this section, the Minister must do so in accordance with such criteria for the identification of a new school as shall be prescribed.

Senator Brown moved the following amendment:

Schedule 1, page 3 (after line 5), before item 1, insert:

1A After subsection 18(5)

Insert:

- (6) The Minister must refuse to authorise, or may delay, a payment to a State under this Act for a non-government school if:
- (a) the school has an enrolment policy which would exclude a child on the grounds of:
 - (i) academic ability;
 - (ii) behavioural difficulty or special need including physical or intellectual disability or learning difficulty; or
 - (b) the school has a discipline policy which would exclude or expel a child on the grounds of:
 - (i) academic ability;
 - (ii) behavioural difficulty or special need including physical or intellectual disability or learning difficulty.

If the school changes its enrolment or discipline policies within five years of receiving an establishment grant and such change contravenes paragraph (a) or (b), any payment is subject to section 27.

Debate ensued.

At 5 pm: The President resumed the chair and the Temporary Chair of Committees (Senator Hogg) reported progress.

40 FIRST SPEECH

Pursuant to order (*see entry no. 16*), Senator Barnett made his first speech.

41 ECONOMICS LEGISLATION COMMITTEE—REPORT—TAXATION LAWS AMENDMENT (SUPERANNUATION) BILL (NO. 1) 2002 [AND] INCOME TAX (SUPERANNUATION PAYMENTS WITHHOLDING TAX) BILL 2002

Pursuant to order, Senator Calvert, at the request of the Chair of the Economics Legislation Committee (Senator Brandis), tabled the following report:

Economics Legislation Committee—Taxation Laws Amendment (Superannuation) Bill (No. 1) 2002 [and] Income Tax (Superannuation Payments Withholding Tax) Bill 2002—Report, dated March 2002.

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

42 STATES GRANTS (PRIMARY AND SECONDARY EDUCATION ASSISTANCE) AMENDMENT BILL 2002

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, as amended—and of the amendment moved by Senator Brown (*see entry no. 38*).

Debate resumed.

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

Senator Allison moved the following amendments together by leave:

Schedule 1, item 1, page 4 (line 14), omit the formula, substitute the following formula:

$$\text{Establishment amount for the program year} \times \left(\begin{array}{l} \text{Number of primary} \\ \text{students for the school} \\ \text{for the program year} \\ \text{not exceeding 60} \\ \text{students} \end{array} + \begin{array}{l} \text{Number of secondary} \\ \text{students for the school} \\ \text{for the program year} \\ \text{not exceeding 60 students} \\ \text{where the school is a} \\ \text{secondary school or 30} \\ \text{students where the school} \\ \text{is a combined primary and} \\ \text{secondary school} \end{array} \right)$$

Schedule 1, item 1, page 4 (line 26), omit the formula, substitute the following formula:

$$\text{Establishment amount for the program year} \times \left(\begin{array}{l} \text{Number of primary} \\ \text{students for the school} \\ \text{for the program year} \\ \text{not exceeding 60} \\ \text{students} \end{array} + \begin{array}{l} \text{Number of secondary} \\ \text{students for the school} \\ \text{for the program year} \\ \text{not exceeding 60 students} \\ \text{where the school is solely} \\ \text{a secondary school or 30} \\ \text{students where the school} \\ \text{is a combined primary and} \\ \text{secondary school} \end{array} \right)$$

Debate ensued.

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

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

Schedule 1, item 1, page 4 (lines 16 to 21), omit the definition of *establishment amount*, substitute the following definition:

establishment amount for the program year is as prescribed in accordance with the principle that the amount of a grant allocated to each school will be in direct proportion to the SES score for the school set out in Schedule 4 of this Act so that the largest grant is made to the school with the lowest ranked SES score and the smallest grant is made to the school with the highest ranked SES score.

Schedule 1, item 1, page 4 (line 28) to page 5 (line 2), omit the definition of *establishment amount*, substitute the following definition:

establishment amount for the program year is as prescribed in accordance with the principle that the amount of a grant allocated to each school will be in direct proportion to the SES score for the school set out in Schedule 4 of this Act so that the largest grant is made to the school with the lowest ranked SES score and the smallest grant is made to the school with the highest ranked SES score.

On the motion of Senator Carr the following amendment was debated and agreed to:

Schedule 1, item 1, page 5 (after line 2), after subsection (6), insert:

- (7) Expenditure of a payment made in accordance with this section shall be restricted to the purposes of such recurrent establishment costs as may be prescribed.

On the motion of Senator Carr the following amendment was agreed to:

Schedule 1, item 1, page 5 (after line 2), after subsection (6), insert:

- (8) A school is ineligible for establishment grant funding where:
- (a) the school derives income from student fees; and
 - (b) the average level of the amount of fees derived by a school in paragraph (a) is equal to or in excess of the amount equivalent to per capita AGSRC.

Statement by Chair of Committees: The Temporary Chair of Committees (Senator Forshaw) indicated that the request for an amendment circulated by Senator Allison was accompanied by statements of the kind required by the order of the Senate of 26 June 2000 (see entry no. 30, 26 June 2000). With the concurrence of the committee the statements were incorporated in *Hansard*.

Senator Allison moved the following request for an amendment:

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

Schedule 1, page 5 (after line 6), after item 3, insert:

3A Schedule 3 (table)

Repeal the table, substitute:

Capital grants for government schools	
Column 1	Column 2
Program year	Amount of grants (\$'000)
2002	232,321
2003	232,321
2004	232,321
2005	
2006	
2007	

Note 1: Amounts for 2005, 2006 and 2007 will be inserted by an amending Act.

Note 2: The operation of section 106 may affect the amount of the grants.

Debate ensued.

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

Senator Brown moved the following amendment:

Schedule 1, item 1, page 5 (after line 2), after subsection (6), insert:

- (7) Where a new school applies for an establishment amount in accordance with this section:
 - (a) the Minister must cause all government schools within a 10 kilometre radius of the school making the application to be notified of that application;
 - (b) a school which has been notified in accordance with paragraph (a) may make a submission notifying that payment of an establishment amount is a risk to its viability, diversity or enrolment numbers;
 - (c) a submission made in accordance with paragraph (b) will be considered by the Ministerial Council on Education and Youth Affairs or its delegate;
 - (d) following consideration in accordance with paragraph (c), the Council may make a determination that a school is ineligible for establishment grant funding.
- (8) The Minister may not make a determination in accordance with subsection (1) or (2) until the requirements in subsection (7) have been met.

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

Senator Brown moved the following amendment:

Schedule 1, item 1, page 5 (after line 2), after subsection (6), insert:

- (9) Where a new school receives an establishment amount in accordance with this section:
 - (a) all government schools shall be eligible for a stabilisation grant if they are within a 10 kilometre radius of a new school receiving an establishment amount;
 - (b) the amount under paragraph (a) for a program year in relation to a school must not exceed the amount worked out using the formula:

$$\text{Establishment amount for the program year} \times \left(\begin{array}{l} \text{Number of primary} \\ \text{students for the school} \\ \text{for the program year} \end{array} + \begin{array}{l} \text{Number of secondary} \\ \text{students for the school} \\ \text{for the program year} \end{array} \right) \times 2.33$$

Debate ensued.

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

On the motion of Senator Carr the following amendment was debated and agreed to:

Schedule 1, item 1, page 5 (after line 2), after section 75, insert:

75A Review of grants to provide establishment assistance

- (1) The Minister must cause a review of establishment grants to be conducted by the Department of Education, Science and Training.

- (2) The review is to include an assessment of the extent to which payments made in accordance with this Act have been successful in meeting the recurrent establishment costs of new schools, with particular reference to the:
 - (a) eligibility; and
 - (b) accountability and transparency; and
 - (c) administration of the payment of establishment grants.
- (3) In conducting the review required by this section, the Department must establish and consult with an external reference group representative of school authorities and organisations.
- (4) A report of the review conducted in accordance with this section must be made publicly available before the expiration of the 2003 calendar year.

Question—That the bill, as amended, be agreed to—divided in respect of Schedule 1, item 4.

Schedule 1, item 4 debated and agreed to.

Bill, as amended, agreed to.

Bill to be reported with amendments.

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

On the motion of the Special Minister of State (Senator Abetz) the report from the committee was adopted and the bill read a third time.

43 TAXATION LAWS AMENDMENT (BABY BONUS) BILL 2002
THERAPEUTIC GOODS AMENDMENT BILL (NO. 1) 2002
THERAPEUTIC GOODS (CHARGES) AMENDMENT BILL 2002
THERAPEUTIC GOODS AMENDMENT (MEDICAL DEVICES) BILL 2002
TAXATION LAWS AMENDMENT BILL (NO. 1) 2002

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

Message no. 34, dated 19 March 2002—A Bill for an Act to amend the law relating to taxation, and for related purposes.

Message no. 35, dated 20 March 2002—A Bill for an Act to amend the *Therapeutic Goods Act 1989*, and for related purposes.

Message no. 36, dated 20 March 2002—A Bill for an Act to amend the *Therapeutic Goods (Charges) Act 1989*, and for related purposes.

Message no. 37, dated 20 March 2002—A Bill for an Act to amend the *Therapeutic Goods Act 1989*, and for related purposes.

Message no. 38, dated 20 March 2002—A Bill for an Act to amend the law relating to taxation, and for related purposes.

The Special Minister of State (Senator Abetz) 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 Abetz moved—That these bills be now read a second time.

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

Consideration of legislation: Senator Abetz moved—That the Therapeutic Goods (Charges) Amendment Bill 2002 and the Therapeutic Goods Amendment (Medical Devices) Bill 2002 be listed on the *Notice Paper* as one order of the day, and the remaining bills be listed as separate orders of the day.

Question put and passed.

44 ORDER OF BUSINESS—REARRANGEMENT

The Minister for Family and Community Services (Senator Vanstone) moved—That intervening business be postponed till after consideration of government business order of the day no. 3 (Disability Services Amendment (Improved Quality Assurance) Bill 2002) and the government business order of the day relating to the Migration Legislation Amendment (Transitional Movement) Bill 2002.

Question put and passed.

45 DISABILITY SERVICES AMENDMENT (IMPROVED QUALITY ASSURANCE) BILL 2002

Order of the day read for the adjourned debate on the motion of the Parliamentary Secretary to the Treasurer (Senator Ian Campbell)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

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

In the committee

Bill, taken as a whole by leave, debated and agreed to.

Bill to be reported without amendment.

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

On the motion of the Minister for Family and Community Services (Senator Vanstone) the report from the committee was adopted and the bill read a third time.

46 MIGRATION LEGISLATION AMENDMENT (TRANSITIONAL MOVEMENT) BILL 2002

Order read for the adjourned debate on the motion of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry (Senator Troeth)—That this bill be now read a second time.

Debate resumed.

Question put and passed.

Bill read a second time.

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

In the committee

Bill taken as a whole by leave.

Explanatory memorandum: The Minister for Justice and Customs (Senator Ellison) tabled a supplementary explanatory memorandum relating to the government amendment to be moved to the bill.

On the motion of Senator Ellison the following amendment was debated and agreed to:

Schedule 1, item 5, page 5 (after line 18), after section 198B, insert:

198C Certain transitory persons entitled to assessment of refugee status

- (1) If a transitory person is brought to Australia under section 198B and remains in Australia for a continuous period of 6 months, then the person is entitled to make a request under this section.
- (2) The person may make a request to the Refugee Review Tribunal for an assessment of whether the person is covered by the definition of *refugee* in Article 1A of the Refugees Convention as amended by the Refugees Protocol.
- (3) On receiving such a request, the Tribunal must notify the Secretary. The Tribunal cannot commence the assessment earlier than 14 days after notifying the Secretary.
- (4) The Tribunal cannot commence, or continue, the assessment at any time when a certificate by the Secretary is in force under section 198D.
- (5) Divisions 4, 6, 7 and 7A of Part 7 apply for the purposes of the assessment in the same way as they apply to a review by the Tribunal under Part 7.
- (6) Subject to section 441G, the Tribunal must notify the person and the Minister of its decision on the request.
- (7) The decision of the Tribunal is final and cannot be challenged in any court. However, this is not intended to affect the jurisdiction of the High Court under section 75 of the Constitution.

- (8) If the Tribunal decides that the person is covered by the definition of *refugee* in Article 1A of the Refugees Convention as amended by the Refugees Protocol:
- (a) the Minister must determine a class of visa in relation to the person for the purposes of this subsection; and
 - (b) if the person later makes an application for a visa of that class, then section 46B does not apply to the application.
- (9) A person who has made a request under this section is not entitled to make any further request under this section while the person remains in Australia.

198D Certificate of non-cooperation

- (1) If the Secretary is satisfied that a transitory person has engaged in uncooperative conduct, either before or after the person was brought to Australia, then the Secretary may issue a certificate to that effect to the Tribunal.
- (2) A decision of the Secretary to issue, revoke or vary a certificate is final and cannot be challenged in any court. However, this is not intended to affect the jurisdiction of the High Court under section 75 of the Constitution.

Note: Subsection 33(3) of the *Acts Interpretation Act 1901* allows the certificate to be revoked or varied.

- (3) In this section:

uncooperative conduct means refusing or failing to cooperate with relevant authorities in connection with any of the following:

- (a) attempts to return the person to a country where the person formerly resided;
- (b) attempts to facilitate the entry or stay of the person in another country;
- (c) the detention of the person in a country in respect of which a declaration is in force under subsection 198A(3).

Senator Bartlett moved the following amendments together by leave:

Schedule 1, item 3, page 4 (lines 28 to 31), omit subsection (7).

Schedule 1, item 6, page 6 (lines 5 and 6), omit subsection (2).

Debate ensued.

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

Senator Bartlett moved the following amendment:

Schedule 1, page 6 (after line 15), at the end of the Schedule, add:

7 Cessation of operation of Schedule

The amendments made by this Schedule cease to operate on 30 June 2002.

Debate ensued.

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

Bill, as amended, further debated and agreed to.

Bill to be reported with an amendment.

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

On the motion of Senator Ellison the report from the committee was adopted.

Senator Ellison moved—That this bill be now read a third time.

Debate ensued.

At 11.20 pm: Debate was interrupted while Senator Bartlett was speaking.

47 ADJOURNMENT

The Acting Deputy President (Senator Lightfoot) proposed the question—That the Senate do now adjourn.

Debate ensued.

The Senate adjourned at 11.48 pm till Thursday, 21 March 2002 at 9.30 am.

48 ATTENDANCE

Present, all senators except Senators Chapman*, Cherry, Ferris*, Gibbs*, McKiernan* and Stott Despoja* (* on leave).

HARRY EVANS
Clerk of the Senate