

2008

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

JOURNALS OF THE SENATE

No. 34

TUESDAY, 23 SEPTEMBER 2008

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1 MEETING OF SENATE

The Senate met at 12.30 pm. The President (Senator the Honourable John Hogg) took the chair and read prayers.

2 GOVERNMENT DOCUMENTS

The following documents were tabled:

Crimes Act 1914—Authorisations for the acquisition and use of assumed identities—Report for 2007-08—Australian Federal Police.

Export Market Development Grants Scheme Act 1997—Winning in world markets—Review of the Export Market Development Grants scheme—Report by David Mortimer, 1 September 2008.

Surveillance Devices Act 2004—Commonwealth Ombudsman's report on inspections of surveillance device records for the period 1 January to 30 June 2007—Australian Crime Commission and New South Wales Police.

3 HOURS OF MEETING AND ROUTINE OF BUSINESS—VARIATION

The Minister for Human Services (Senator Ludwig) amended government business notice of motion no. 1 by leave and, pursuant to notice, moved—That, on Tuesday, 23 September 2008:

- (a) the hours of meeting shall be 12.30 pm to 6.30 pm, and 7 pm to 10.30 pm;
- (b) the routine of business from 7 pm shall be government business only; and
- (c) the question for the adjournment of the Senate shall be proposed at 9.50 pm.

Question put and passed.

4 TAX LAWS AMENDMENT (LUXURY CAR TAX) BILL 2008

A NEW TAX SYSTEM (LUXURY CAR TAX IMPOSITION—GENERAL) AMENDMENT BILL 2008

A NEW TAX SYSTEM (LUXURY CAR TAX IMPOSITION—CUSTOMS) AMENDMENT BILL 2008

A NEW TAX SYSTEM (LUXURY CAR TAX IMPOSITION—EXCISE) AMENDMENT BILL 2008

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

In the committee

TAX LAWS AMENDMENT (LUXURY CAR TAX) BILL 2008—

Consideration resumed of the bill—and of the requests for amendments moved by Senator Abetz:

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

Schedule 1, item 1, page 3 (lines 7 to 15), omit the formula, substitute:

- (a) if the *luxury car tax value is less than or equal to the *upper LCT threshold:

$$\frac{25}{100} \times \frac{10}{11} \times [\text{Luxury car tax value} - * \text{Lower LCT threshold}]$$

- (b) if the luxury car tax value is greater than the upper LCT threshold, the sum of:

$$\frac{25}{100} \times \frac{10}{11} \times [\text{Upper LCT threshold} - \text{Lower LCT threshold}]$$

$$\text{and } \frac{33}{100} \times \frac{10}{11} \times [\text{Luxury car tax value} - \text{Upper LCT threshold}]$$

Schedule 1, item 2, page 3 (line 18), omit the formula, substitute:

- (a) if the *luxury car tax value is less than or equal to the *upper LCT threshold:

$$\frac{25}{100} \times \frac{10}{11} \times [\text{Luxury car tax value} - * \text{Lower LCT threshold}]$$

- (b) if the luxury car tax value is greater than the upper LCT threshold, the sum of:

$$\frac{25}{100} \times \frac{10}{11} \times [\text{Upper LCT threshold} - \text{Lower LCT threshold}]$$

$$\text{and } \frac{33}{100} \times \frac{10}{11} \times [\text{Luxury car tax value} - \text{Upper LCT threshold}]$$

Schedule 1, item 3, page 3 (lines 19 to 27), omit the item.

Debate resumed.

Question—That the requests be agreed to—put.

The committee divided—

AYES, 34

Senators—

Abetz	Colbeck	Humphries	Parry
Adams (Teller)	Cormann	Johnston	Ronaldson
Barnett	Eggleston	Joyce	Ryan
Birmingham	Ellison	Kroger	Scullion
Boswell	Ferguson	Macdonald	Troeth
Boyce	Fierravanti-Wells	Mason	Trood
Brandis	Fifield	McGauran	Williams
Bushby	Fisher	Minchin	
Cash	Heffernan	Nash	

NOES, 36

Senators—

Arbib	Crossin	Hogg	Moore
Bilyk	Evans	Hutchins	Polley
Bishop	Farrell	Ludlam	Pratt
Brown, Bob	Faulkner	Ludwig	Siewert
Brown, Carol	Feeny	Lundy	Stephens
Cameron	Fielding	Marshall	Sterle
Carr	Forshaw	McEwen (Teller)	Wong
Collins	Furner	McLucas	Wortley
Conroy	Hanson-Young	Milne	Xenophon

Question negatived.

The Minister for Broadband, Communications and the Digital Economy (Senator Conroy) moved the following request for an amendment:

That the House of Representatives be requested to make the following amendment: Schedule 1, page 3 (after line 27), at the end of the Schedule, add:

4 Before subsection 25-1(3)

Insert:

*Luxury car tax threshold—general***5 Subsection 25-1(3)**

Omit “The”, substitute “Subject to subsection (4), the”.

6 At the end of section 25-1

Add:

Luxury car tax threshold—fuel efficient cars

- (4) If the *car has a fuel consumption not exceeding 7 litres per 100 kilometres as a combined rating under vehicle standards in force under section 7 of the *Motor Vehicle Standards Act 1989*, the ***luxury car tax threshold*** is the *fuel-efficient car limit for the year in which the supply of the car occurred or the car was *entered for home consumption.
- (5) The ***fuel-efficient car limit*** for the 2008-09 *financial year is \$75,000. The limit is indexed annually using Subdivision 960-M of the *ITAA 1997.
- (6) In indexing the *fuel-efficient car limit, Subdivision 960-M of the *ITAA 1997 applies as if:
 - (a) the table in section 960-265 of that Act included an item referring to the fuel-efficient car limit and to subsection (5) of this section; and
 - (b) the reference in subsection 960-270(1) of that Act to provisions of that Act included a reference to subsection (5) of this section; and
 - (c) section 960-270 of that Act applied, and section 960-285 of that Act did not apply, in relation to the fuel-efficient car limit; and
 - (d) the reference in subsection 960-280(2) of that Act to the car limit included a reference to the fuel-efficient car limit.

7 Section 27-1

Insert:

financial year has the meaning given by section 995-1 of the *ITAA 1997.

8 Section 27-1

Insert:

fuel-efficient car limit has the meaning given by subsection 25-1(5).

9 Section 27-1 (definition of luxury car tax threshold)

After “subsection 25-1(3)”, insert “or (4)”.

10 Application

- (1) The amendments made by items 1 to 3 of this Schedule apply to taxable supplies of luxury cars and taxable importations of luxury cars on or after 1 July 2008.
- (2) The amendments made by items 4 to 9 of this Schedule apply to taxable supplies of luxury cars and taxable importations of luxury cars on or after the day on which this Act receives the Royal Assent (regardless of when contracts for the supplies or importations were entered into).

Debate ensued.

At 2 pm: The President resumed the chair and the Temporary Chair of Committees (Senator Troeth) reported progress.

5 QUESTIONS

Questions without notice were answered.

6 MOTION TO TAKE NOTE OF ANSWERS

Senator Troeth moved—That the Senate take note of the answers given by the Minister for Immigration and Citizenship (Senator Evans) and the President to questions without notice asked by Senators Humphries and Troeth and the Leader of the Australian Greens (Senator Bob Brown) today relating to the age pension.

Debate ensued.

Question put and passed.

7 NOTICES

Notices of motion:

The Leader of The Nationals in the Senate (Senator Joyce): To move on the next day of sitting—That the Senate—

- (a) calls on the Government to amend the Environmental and Natural Resource Management Guidelines in relation to the establishment of trees for the purposes of carbon sequestration, made under subsection 40-1010(3) of the *Income Tax Assessment Act 1997*, in order:
 - (i) to preclude the use of prime agricultural land where the effect of such use will have a detrimental impact on the regional economy,
 - (ii) in the broader sense, not to put greater upward pressure on food inflation through the loss of production capacity, and

- (iii) to ensure that such carbon sinks are noted on the land title; and
- (b) reminds the Government that the Senate has the power to disallow those guidelines should the Government not amend them to achieve the above objectives. (*general business notice of motion no. 214*)

The Minister for Broadband, Communications and the Digital Economy (Senator Conroy): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the law relating to broadcasting, and for other purposes. ***Broadcasting Legislation Amendment (Digital Television Switch-over) Bill 2008.***

The Minister for Immigration and Citizenship (Senator Evans): To move on the next day of sitting—That the following bill be introduced: A Bill for an Act to amend the law relating to migration, and for other purposes. ***Migration Legislation Amendment (Worker Protection) Bill 2008.***

The Leader of the Australian Greens (Senator Bob Brown): To move on the next day of sitting—That the Senate—

- (a) recognises that the current global economic downturn, and particularly, the crisis in the banking and insurance industry in the United States of America, will have serious negative implications for Australia and the rest of the world;
- (b) notes that:
 - (i) executive pays in Australia have risen exponentially in the past 10 years, with the average total remuneration package approximately \$4.56 million in 2006,
 - (ii) in 2006 the average remuneration package of the 10 highest paid chief executive officers (CEOs) in Australia was \$11 749 074,
 - (iii) the average salary for the top 100 CEOs, including those working for companies which are failing, was \$1.8 million in 2006,
 - (iv) the average Australian adult annual salary is \$58 864, and
 - (v) pensioners and other low income earners are currently experiencing considerable financial hardship yet the Government will not give them an additional \$30 a week; and
- (c) calls on the Government to urgently introduce measures to address this inequity and restrict the unjustified and extravagant salaries paid to executives, including options such as capping the most extravagant executive salaries and investigating loopholes in taxation legislation for such salary earners. (*general business notice of motion no. 215*)

The Minister for Human Services (Senator Ludwig): To move on the next day of sitting—That the provisions of paragraphs (5) to (8) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

AusLink (National Land Transport) Amendment Bill 2008
 Australian Research Council Amendment Bill 2008
 Safe Work Australia Bill 2008
 Safe Work Australia (Consequential and Transitional Provisions) Bill 2008.

Documents: Senator Ludwig tabled the following documents:

Consideration of legislation—Statements of reasons [3] for introduction and passage of the bills in the 2008 spring sittings.

The Chairman of the Standing Committee on Regulations and Ordinances (Senator Wortley): To move 15 sitting days after today—That the Social Security (Public Interest Certificate Guidelines) (DEEWR) Amendment Determination 2008, made under subparagraph 209(a)(i) and paragraph 209(b) of the *Social Security (Administration) Act 1999*, be disallowed.

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

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

- (a) notes that:
 - (i) Friday, 10 October 2008 is the sixth annual World Day Against the Death Penalty, and
 - (ii) this day of action was established in 2003 by the World Coalition Against the Death Penalty in a commitment to the universal abolition of capital punishment; and
- (b) calls on the Rudd Government to urge the 60 remaining nation states that continue to use the death penalty as a form of punishment to abolish the death penalty as a matter of urgency and halt all executions of those sentenced to death. (*general business notice of motion no. 216*)

Notices of motion withdrawn: The Chairman of the Standing Committee on Regulations and Ordinances (Senator Wortley), pursuant to notice of intention given on 22 September 2008, withdrew notices of motion standing in her name as follows:

Business of the Senate notice of motion no. 1 for today for the disallowance of the Film Certification Advisory Board Rules 2008, made under subsection 376-260(1) of the *Income Tax Assessment Act 1997*.

Business of the Senate notice of motion no. 1 for 7 sitting days after today for the disallowance of the Student Assistance (Public Interest Certificate Guidelines) Determination 2008, made under paragraph 356(1)(a) of the *Student Assistance Act 1973*.

Business of the Senate notices of motion nos 1 and 2 for 10 sitting days after today for the disallowance of the following instruments:

Family Assistance (Public Interest Certificate Guidelines) (FaHCSIA) Determination 2008, made under subparagraph 169(1)(a)(i) and paragraph 169(1)(b) of the *A New Tax System (Family Assistance) (Administration) Act 1999*.

Social Security (Public Interest Certificate Guidelines) (FaHCSIA) Determination 2008, made under subparagraph 209(a)(i) and paragraph 209(b) of the *Social Security (Administration) Act 1999*.

8 POSTPONEMENT

The following item of business was postponed:

General business notice of motion no. 123 standing in the name of the Leader of the Family First Party (Senator Fielding) for today, relating to an amendment to the reporting date for the Joint Standing Committee on Electoral Matters inquiry into the Commonwealth Electoral Amendment (Political Donations and Other Measures) Bill 2008, postponed till 24 September 2008.

9 LEAVE OF ABSENCE

Senator Parry, by leave, moved—That leave of absence be granted to Senator Payne from 22 September to 25 September 2008, on account of parliamentary business overseas.

Question put and passed.

**10 ENVIRONMENT, COMMUNICATIONS AND THE ARTS—STANDING COMMITTEE—
LEAVE TO MEET DURING SITTING**

The Chair of the Environment, Communications and the Arts Committee (Senator McEwen), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 207—That the Environment, Communications and the Arts Committee be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 24 September 2008, from 4.30 pm to 5.30 pm, to take evidence for the committee's inquiry into the Renewable Energy (Electricity) Amendment (Feed-in-Tariff) Bill 2008.

Question put and passed.

**11 RURAL AND REGIONAL AFFAIRS AND TRANSPORT—STANDING COMMITTEE—
LEAVE TO MEET DURING SITTING**

Senator McEwen, at the request of the Chair of the Rural and Regional Affairs and Transport Committee (Senator Sterle) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 208—That the Rural and Regional Affairs and Transport Committee be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 24 September 2008, from 3.30 pm, to take evidence for the committee's inquiry into the Horse Disease Response Levy Bill 2008 and two related bills.

Question put and passed.

12 ECONOMICS—STANDING COMMITTEE—EXTENSION OF TIME TO REPORT

Senator McEwen, at the request of the Chair of the Economics Committee (Senator Hurley) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 209—That the time for the presentation of the report of the Economics Committee on matters relating to the gas explosion at Varanus Island, Western Australia, be extended to 13 November 2008.

Question put and passed.

**13 ECONOMICS—STANDING COMMITTEE—LEAVE TO MEET DURING SITTING—
VARIATION**

Senator McEwen, at the request of the Chair of the Economics Committee (Senator Hurley) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 210—That the order of the Senate of 16 September 2008, authorising the Economics Committee to hold a public meeting during the sitting of the Senate on Tuesday, 23 September 2008, be varied to provide for the committee to continue to meet from 6 pm to take evidence for the committee's inquiry into Australia's space science and industry sector.

Question put and passed.

14 ENVIRONMENT—MURRAY-DARLING BASIN SYSTEM

Senator Hanson-Young, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 211—That the Senate—

- (a) notes that:
 - (i) the mismanagement of the Murray-Darling river system is shaping up to be Australia's largest environmental catastrophe, and
 - (ii) on Sunday, 28 September 2008 a rally for the Murray River will be held in Adelaide to highlight the need for immediate, decisive action; and
- (b) calls on the Government to establish a taskforce to evaluate the options of the current Senate inquiry into the Lower Lakes and Coorong, and develop an action plan to put the solutions into place.

Question put and passed.

15 FOREIGN AFFAIRS—INTERNATIONAL DAY OF PEACE

Senator Ludlam, pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 213—That the Senate—

- (a) notes that:
 - (i) Sunday, 21 September 2008, was the International Day of Peace, declared by the United Nations (UN) General Assembly in 2002 as a day of non-violence and a global ceasefire, commemorating and strengthening the ideals of peace both within and among all nations and peoples,
 - (ii) on this day, a general ceasefire across Afghanistan lasted from midnight Saturday through to midnight Sunday, 21 September 2008, and was observed by the military forces of the United States of America, the North Atlantic Treaty Organization, the Afghan Government and the Taliban, and
 - (iii) on Thursday, 18 September 2008, the Senate voted against a motion calling on the Government to participate in the International Day of Peace ceasefire and encourage other nations to likewise; and
- (b) calls on the Government to reconsider its support for UN initiatives such as the International Day of Peace.

Question put.

The Senate divided—

AYES, 6

Senators—

Brown, Bob
Hanson-Young

Ludlam
Milne

Siewert (Teller)

Xenophon

NOES, 43

Senators—

Adams	Colbeck	Fierravanti-Wells	Moore
Arbib	Collins	Fifield	Nash
Bernardi	Coonan	Fisher	Parry (Teller)
Bilyk	Cormann	Forshaw	Polley
Birmingham	Crossin	Furner	Pratt
Bishop	Eggleston	Humphries	Ryan
Boyce	Ellison	Kroger	Sterle
Brown, Carol	Farrell	Ludwig	Troeth
Bushby	Feeny	Lundy	Williams
Cameron	Ferguson	McEwen	Wortley
Cash	Fielding	McLucas	

Question negatived.

16 ENVIRONMENT—QUEENSLAND—MARY RIVER—PROPOSED DAM

The Leader of the Australian Greens (Senator Bob Brown), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 206—That the Senate calls on the Minister for the Environment, Heritage and Water (Mr Garrett) to ensure that the assessment of the proposed dam on the Mary River in Queensland includes all prudent and feasible alternatives.

Statements by leave: The Minister for Human Services (Senator Ludwig), the Leader of The Nationals in the Senate (Senator Joyce), and Senators Bob Brown and Macdonald, by leave, made statements relating to the motion.

Question put and passed.

17 ADMINISTRATION—GOOGONG DAM—MINISTERIAL STATEMENT—DOCUMENT

The Minister for Human Services (Senator Ludwig) tabled the following document:

Administration—Googong Dam—Ministerial statement by the Minister for Finance and Deregulation (Mr Tanner), dated 23 September 2008.

18 DEFENCE—MORTIMER REVIEW INTO DEFENCE PROCUREMENT AND SUSTAINMENT—MINISTERIAL STATEMENT—DOCUMENTS

The Minister for Human Services (Senator Ludwig) tabled the following documents:

Defence—Mortimer Review into defence procurement and sustainment —

Ministerial statement by the Minister for Defence (Mr Fitzgibbon), dated 23 September 2008.

Report of the Defence Procurement and Sustainment Review—Going to the next level, dated 18 September 2008.

19 AUDITOR-GENERAL—AUDIT REPORT NO. 3 OF 2008-09—DOCUMENT

The Deputy President (Senator Ferguson) tabled the following document:

Auditor-General—Audit report no. 3 of 2008-09—Performance audit—Establishment and management of the Communications Fund—Department of Broadband, Communications and the Digital Economy; Department of Finance and Deregulation.

20 ECONOMICS—STANDING COMMITTEE—REPORT—OFFSHORE PETROLEUM AMENDMENT (GREENHOUSE GAS STORAGE) BILL 2008 AND RELATED BILLS

Senator McEwen, at the request of the Chair of the Economics Committee (Senator Hurley), tabled the following report and documents:

Economics—Standing Committee—Offshore Petroleum Amendment (Greenhouse Gas Storage) Bill 2008 [Provisions], Offshore Petroleum (Annual Fees) Amendment (Greenhouse Gas Storage) Bill 2008 [Provisions], Offshore Petroleum (Registration Fees) Amendment (Greenhouse Gas Storage) Bill 2008 [Provisions], Offshore Petroleum (Safety Levies) Amendment (Greenhouse Gas Storage) Bill 2008 [Provisions]—Report, dated September 2008, Hansard record of proceedings, document presented to the committee and submissions.

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

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

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

21 PUBLIC WORKS—JOINT STATUTORY COMMITTEE—7TH REPORT OF 2008

Senator Williams, on behalf of the Parliamentary Standing Committee on Public Works, tabled the following report:

Public Works—Joint Statutory Committee—7th report of 2008—Update report: The Christmas Island immigration detention centre project, dated September 2008.

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

Debate ensued.

Question put and passed.

22 DOCUMENTS

The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]

Aged Care Act—

Aged Care (Residential Care Subsidy — Amount of Accommodation Charge Top-up Supplement) Determination 2008 (No. 2)—ACA Ch. 3 No. 29/2008 [F2008L03514]*.

Aged Care (Residential Care Subsidy — Amount of Accommodation Supplement) Determination 2008 (No. 2)—ACA Ch. 3 No. 23/2008 [F2008L03508]*.

Aged Care (Residential Care Subsidy — Amount of Concessional Resident Supplement) Determination 2008 (No. 2)—ACA Ch. 3 No. 24/2008 [F2008L03509]*.

Aged Care (Residential Care Subsidy — Amount of Pensioner Supplement) Determination 2008 (No. 2)—ACA Ch. 3 No. 28/2008 [F2008L03513]*.

Aged Care (Residential Care Subsidy — Amount of Respite Supplement) Determination 2008 (No. 2)—ACA Ch. 3 No. 25/2008 [F2008L03510]*.

Aged Care (Residential Care Subsidy — Amount of Transitional Accommodation Supplement) Determination 2008 (No. 2)—ACA Ch. 3 No. 26/2008 [F2008L03511]*.

Aged Care (Residential Care Subsidy — Amount of Transitional Supplement) Determination 2008 (No. 2)—ACA Ch. 3 No. 27/2008 [F2008L03512]*.

- User Rights Amendment Principles 2008 (No. 2) [F2008L03516]*.
- Civil Aviation Act—Select Legislative Instrument 2008 No. 192—Civil Aviation Safety Amendment Regulations 2008 (No. 1) [F2008L03483]*.
- Commissioner of Taxation—Public Rulings—
Class Rulings—CR 2008/58 and CR 2008/59.
Product Ruling PR 2008/64.
Taxation Determination—Erratum—TD 2008/22.
- Corporations Act—Select Legislative Instrument 2008 No. 194—Corporations Amendment Regulations 2008 (No. 5) [F2008L03458]*.
- Defence Act—Select Legislative Instrument 2008 No. 184—Defence Force Amendment Regulations 2008 (No. 3) [F2008L03462]*.
- Defence Force Discipline Act—Select Legislative Instruments 2008 Nos—
185—Defence Force Discipline Amendment Regulations 2008 (No. 1) [F2008L03463]*.
196—Summary Authority Rules [F2008L03493]*.
- Defence Force Discipline Appeals Act—Select Legislative Instrument 2008 No. 186—Defence Force Discipline Appeals Amendment Regulations 2008 (No. 1) [F2008L03464]*.
- Defence (Visiting Forces) Act—Select Legislative Instrument 2008 No. 187—Defence (Visiting Forces) Amendment Regulations 2008 (No. 1) [F2008L03468]*.
- Health Insurance Act—Determinations HIB—
11/2008 [F2008L03498]*.
12/2008 [F2008L03499]*.
13/2008 [F2008L03500]*.
14/2008 [F2008L03501]*.
16/2008 [F2008L03503]*.
17/2008 [F2008L03504]*.
- Private Health Insurance Act—
Private Health Insurance (Benefit Requirements) Amendment Rules 2008 (No. 3) [F2008L03505]*.
Private Health Insurance (Complying Product) Amendment Rules 2008 (No. 2) [F2008L03506]*.

* Explanatory statement tabled with legislative instrument.

23 COMMITTEE MEMBERSHIP

The Acting Deputy President (Senator Troeth) informed the Senate that the President had received a letter requesting changes in the membership of committees.

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

Foreign Affairs, Defence and Trade—Joint Standing Committee—

Discharged—Senator Cormann

Appointed—Senator Johnston

Selection of Bills—Standing Committee—

Discharged—Senator Ellison

Appointed—Senator Coonan.

Question put and passed.

24 SAFE WORK AUSTRALIA BILL 2008**SAFE WORK AUSTRALIA (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2008**

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

Message no. 154, dated 22 September 2008—A Bill for an Act to establish Safe Work Australia, and for related purposes.

Message no. 155, dated 22 September 2008—A Bill for an Act to deal with transitional and consequential matters in connection with the *Safe Work Australia Act 2008*, and for related purposes.

The Minister for Immigration and Citizenship (Senator Evans) 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 Evans moved—That these bills be now read a second time.

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

25 GOVERNOR-GENERAL'S MESSAGES—ASSENT TO LAWS

Messages from Her Excellency the Governor-General were reported, informing the Senate that she had assented to the following laws:

15 September 2008—Message—

No. 30—*National Greenhouse and Energy Reporting Amendment Act 2008* (Act No. 84, 2008).

No. 31—*Migration Legislation Amendment Act (No. 1) 2008* (Act No. 85, 2008).

26 RURAL AND REGIONAL AFFAIRS AND TRANSPORT—STANDING COMMITTEE—REPORT—CARBON SINK FORESTS

Pursuant to order, the Chair of the Rural and Regional Affairs and Transport Committee (Senator Sterle) tabled the following report and documents:

Rural and Regional Affairs and Transport—Standing Committee—Implementation, operation and administration of the legislation underpinning carbon sink forests—Report, dated September 2008, Hansard record of proceedings, documents presented to the committee, additional information and submissions.

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

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

Debate ensued.

Document: Senator Milne, by leave, tabled the following document:

Regional Australia—*The Preolenna and Meunna Story: Where will the food come from?*—Report by Rena Dare, dated September 2008.

Debate continued.

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

27 TAX LAWS AMENDMENT (LUXURY CAR TAX) BILL 2008
A NEW TAX SYSTEM (LUXURY CAR TAX IMPOSITION—GENERAL) AMENDMENT
BILL 2008
A NEW TAX SYSTEM (LUXURY CAR TAX IMPOSITION—CUSTOMS) AMENDMENT
BILL 2008
A NEW TAX SYSTEM (LUXURY CAR TAX IMPOSITION—EXCISE) AMENDMENT
BILL 2008

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

In the committee

TAX LAWS AMENDMENT (LUXURY CAR TAX) BILL 2008—

Consideration resumed of the bill—*and of the request for an amendment moved by the Minister for Broadband, Communications and the Digital Economy (Senator Conroy) (see entry no. 4).*

Debate resumed.

Question—That the request be agreed to—put.

The committee divided—

AYES, 33

Senators—

Arbib	Evans	Ludlam	Pratt
Bilyk	Farrell	Ludwig	Siewert
Bishop	Feeney	Lundy	Stephens
Brown, Bob	Fielding	Marshall	Sterle
Brown, Carol	Forshaw	McEwen (Teller)	Wortley
Cameron	Furner	McLucas	Xenophon
Carr	Hanson-Young	Milne	
Collins	Hogg	Moore	
Crossin	Hutchins	Polley	

NOES, 31

Senators—

Abetz	Bushby	Fisher	Nash
Adams	Cash	Heffernan	Parry
Barnett	Colbeck	Johnston	Ryan
Bernardi	Cormann	Joyce	Scullion
Birmingham	Eggleston	Macdonald	Troeth
Boswell	Ferguson	Mason	Trood
Boyce	Fierravanti-Wells	McGauran	Williams (Teller)
Brandis	Fifield	Minchin	

Question agreed to.

Senator Abetz moved the following request for an amendment:

That the House of Representatives be requested to make the following amendment:
Schedule 1, page 3 (after line 27), at the end of the Schedule, add:

4 Subsection 25-1(3)

Repeal the subsection, substitute:

- (3) The luxury car tax threshold for the 2008-09 financial year is \$57,180.
(4) The threshold referred to in subsection (3) is indexed for each year of tax after the year of tax commencing on 1 July 2008 in accordance with the CPI indexation method provided for by Subdivision 960-M of the *ITAA 1997, calculated using the index number referred to in subsection 960-280(1) of that Act.

Debate ensued.

Question—That the request be agreed to—put.

The committee divided—

AYES, 32

Senators—

Abetz	Cash	Heffernan	Minchin
Adams	Colbeck	Humphries	Nash
Barnett	Cormann	Johnston	Parry
Bernardi	Eggleston	Joyce	Ryan
Birmingham	Ferguson	Kroger	Scullion
Boswell	Fierravanti-Wells	Macdonald	Troeth
Boyce	Fifield	Mason	Trood
Bushby	Fisher	McGauran	Williams (Teller)

NOES, 34

Senators—

Arbib	Farrell	Ludlam	Pratt
Bilyk	Faulkner	Ludwig	Siewert
Bishop	Feeney	Lundy	Stephens
Brown, Bob	Fielding	Marshall	Sterle
Brown, Carol	Forshaw	McEwen (Teller)	Wong
Cameron	Furner	McLucas	Wortley
Collins	Hanson-Young	Milne	Xenophon
Conroy	Hogg	Moore	
Crossin	Hutchins	Polley	

Question negatived.

On the motion of Senator Xenophon the following request for an amendment was debated and agreed to:

That the House of Representatives be requested to make the following amendment:
Schedule 1, page 3 (after line 27), at the end of the Schedule, add:

11 Subsection 25-1(3)

After “Subject to subsection” , add “(3A) and”.

12 After subsection 25-1(3)

Insert:

- (3A) On and from 1 July 2012 the luxury car tax threshold is the luxury car tax threshold as at 30 June 2012 indexed according to a factor to be determined by the Parliament and to apply from

1 July 2012 or, if such a factor is not determined by the Parliament, indexed annually in accordance with the CPI indexation method provided for by Subdivision 960-M of the *ITAA 1997, calculated using the index number referred to in subsection 960-280(1) of that Act.

On the motion of Senator Xenophon the following request for an amendment was debated and agreed to:

That the House of Representatives be requested to make the following amendment:
Schedule 1, page 3 (after line 27), at the end of the Schedule, add:

13 Application

The amendments made by this Schedule do not apply where the contract to make the taxable supply or taxable importation of the luxury car was entered into before 7.30 pm, by legal time in the Australian Capital Territory, on 13 May 2008.

On the motion of the Leader of the Family First Party (Senator Fielding) the following request for an amendment was debated and agreed to:

That the House of Representatives be requested to make the following amendment:
Page 3 (after line 27), at the end of the bill, add:

Schedule 2—Refunds for primary producers and tourism operators

A New Tax System (Luxury Car Tax) Act 1999

1 At the end of section 2-10

Add:

- (4) Refunds can arise for primary producers and tourism operators in certain circumstances. (Division 18).

2 After Division 17

Insert:

Division 18—Refunds

18-1 What this Division is about

Refunds under this Division may be available to primary producers and tourism operators for the supply of certain cars.

18-5 Refunds for tax borne—primary producers

- (1) You are entitled to a refund under this section if:
- (a) you have a refund entitlement under this section; and
 - (b) you are *registered; and
 - (c) no one else has made a valid claim for a refund in relation to the refund entitlement.
- (2) You have a refund entitlement if:
- (a) you have *borne luxury car tax on the supply, or *importation, of a *refund-eligible car; and
 - (b) at the time of the supply or importation you are carrying on a *primary production business.

- (3) The amount of the refund for a refund entitlement under subsection (2) is the lesser of:
 - (a) $\frac{8}{33}$ of the luxury car tax *borne by you as described in paragraph (2)(a); and
 - (b) \$3,000.
- (4) You cannot have a refund entitlement under subsection (2) for more than one *car in a *financial year.

18-10 Refunds for tax borne—tourism operators

- (1) You are entitled to a refund under this section if:
 - (a) you have a refund entitlement under this section; and
 - (b) you are *registered; and
 - (c) no one else has made a valid claim for a refund in relation to the refund entitlement.
- (2) You have a refund entitlement if:
 - (a) you have *borne luxury car tax on the supply, or *importation, of a *refund-eligible car; and
 - (b) the Commissioner is satisfied that:
 - (i) you will use the car solely for the purpose of carrying on a business; and
 - (ii) the principal purpose of the business is carrying tourists for *tourist activities.
- (3) The amount of the refund for a refund entitlement under subsection (2) is the lesser of:
 - (a) $\frac{8}{33}$ of the luxury car tax *borne by you as described in paragraph (2)(a); and
 - (b) \$3,000.

18-15 Claiming refunds

- (1) You must claim a refund within 4 years of becoming entitled to the refund.
- (2) A claim for a refund must be in the *approved form.

18-20 Payment of refunds

If you are entitled to a refund under this Division and you have claimed the refund, the Commissioner must, on behalf of the Commonwealth, pay the amount of the refund to you.

3 Section 27-1

Insert:

primary production business has the meaning given by section 995-1 of the *ITAA 1997.

4 Section 27-1

Insert:

refund-eligible car means a 4 wheel drive, or all wheel drive, *car of a kind specified in regulations made for the purposes of this definition.

5 Section 27-1

Insert:

tourist activity has the meaning set out in regulations made for the purposes of this definition.

6 Application

The amendments made by this Schedule apply to taxable supplies of luxury cars and taxable importations of luxury cars on or after 1 July 2008.

Bill agreed to, subject to requests.

A NEW TAX SYSTEM (LUXURY CAR TAX IMPOSITION—GENERAL) AMENDMENT BILL 2008

A NEW TAX SYSTEM (LUXURY CAR TAX IMPOSITION—CUSTOMS) AMENDMENT BILL 2008

A NEW TAX SYSTEM (LUXURY CAR TAX IMPOSITION—EXCISE) AMENDMENT BILL 2008—

Bills, taken together and as a whole by leave, agreed to.

The Tax Laws Amendment (Luxury Car Tax) Bill 2008 to be reported with requests for amendments and the remaining bills to be reported without requests.

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

On the motion of Senator Conroy the report from the committee was adopted and A New Tax System (Luxury Car Tax Imposition—General) Amendment Bill 2008, A New Tax System (Luxury Car Tax Imposition—Customs) Amendment Bill 2008 and A New Tax System (Luxury Car Tax Imposition—Excise) Amendment Bill 2008 read a third time.

28 ADJOURNMENT

The Minister for Immigration and Citizenship (Senator Evans) moved—That the Senate do now adjourn.

Debate ensued.

Documents: Senator Heffernan, by leave, tabled the following documents:

Transport—New heavy vehicle driver fatigue reforms—Copies of—

Information paper—New South Wales Farmers Association, dated 8 September 2008.

Media release—New South Wales Farmers Association—‘RTA fails farmers on red tape’, dated 23 September 2008.

Debate continued.

The Senate adjourned at 10.12 pm till Wednesday, 24 September 2008 at 9.30 am.

29 ATTENDANCE

Present, all senators except Senators Hurley, O'Brien* and Payne* (* on leave).

HARRY EVANS
Clerk of the Senate