

The Senate

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Economics  
Legislation Committee

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Budget estimates 2019–20

May 2019

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# Senate Economics Legislation Committee

## Members

Senator Jane Hume ( <i>Chair</i> )	Victoria, LP
Senator Chris Ketter ( <i>Deputy Chair</i> )	Queensland, ALP
Senator Jenny McAllister	New South Wales, ALP
Senator the Hon. Arthur Sinodinos AO	New South Wales, LP
Senator Amanda Stoker	Queensland, LP
Senator Peter Whish-Wilson	Tasmania, AG

## Senators in attendance

Senator Eric Abetz	Tasmania, LP
Senator Slade Brockman	Western Australia, LP
Senator the Hon. Kim Carr	Victoria, ALP
Senator Raff Ciccone	Victoria, ALP
Senator Kristina Keneally	New South Wales, ALP
Senator Sue Lines	Western Australia, ALP
Senator the Hon. Ian Macdonald	Queensland, LP
Senator Deborah O'Neill	New South Wales, ALP
Senator Rex Patrick	South Australia, CA
Senator Janet Rice	Victoria, AG
Senator Rachel Siewert	Western Australia, AG
Senator Duncan Spender	New South Wales, LDP
Senator Tim Storer	South Australia, IND
Senator Peter Whish-Wilson	Tasmania, AG
Senator John Williams	New South Wales, NATS

## Secretariat

Mr Mark Fitt, Secretary  
Ms Sarah Batts, Research Officer

PO Box 6100  
Parliament House  
Canberra ACT 2600  
Ph: 02 6277 3540  
Fax: 02 6277 5719  
E-mail: [economics.sen@aph.gov.au](mailto:economics.sen@aph.gov.au)  
Internet: [www.aph.gov.au/senate\\_economics](http://www.aph.gov.au/senate_economics)



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# Chapter 1

## Overview

1.1 On 2 April 2019, the Senate referred the following documents to the Economics Legislation Committee (the committee) for examination and report in relation to the Treasury portfolio and the Industry, Innovation and Science portfolio:

- Particulars of proposed expenditure in respect of the year ending on 30 June 2020 [Appropriation Bill (No. 1) 2019–2020];
- Particulars of certain proposed expenditure in respect of the year ending on 30 June 2020 [Appropriation Bill (No. 2) 2019–2020]; and
- Particulars of proposed expenditure in relation to the parliamentary departments in respect of the year ending on 30 June 2020 [Appropriation (Parliamentary Departments) Bill (No. 1) 2019–2020].<sup>1</sup>

1.2 The committee is required to report to the Senate on its consideration of 2019–20 Budget Estimates on 14 May 2019.<sup>2</sup>

### Portfolio allocation

1.3 The committee has responsibility for examining the expenditure and outcomes of the Treasury portfolio and the Industry, Innovation and Science portfolio.<sup>3</sup>

### Portfolio Budget Statements 2019–20

1.4 The Portfolio Budget Statements (PBS) 2019–20 for the Treasury portfolio and the Industry, Innovation and Science portfolio were tabled in the Senate on 2 April 2019.<sup>4</sup>

### Hearings

1.5 The committee held hearings on 5 and 10 April 2019 to hear from the Department of the Treasury and the Department of Industry, Innovation and Science in relation to all outcomes, as well as from relevant portfolio agencies.

1.6 The following outcomes and agencies appeared before the committee for the Treasury portfolio:

- Department of the Treasury—Macroeconomic Group and Corporate Group;
- Department of the Treasury—Fiscal Group;
- Department of the Treasury—Markets Group;
- Department of the Treasury—Revenue Group;

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1 *Journals of the Senate*, No. 141, 2 April 2019, pp. 4815–4816.

2 *Journals of the Senate*, No. 133, 29 November 2019, p. 4329.

3 *Journals of the Senate*, No. 118, 17 September 2018, pp. 3768–3769.

4 *Journals of the Senate*, No. 141, 2 April 2019, pp. 4815–4816.

- Australian Taxation Office;
- Australian Charities and Not-for-profits Commission;
- Inspector-General of Taxation;
- Productivity Commission; and
- Australian Securities and Investments Commission.

1.7 The following outcomes and agencies appeared before the committee for the Industry, Innovation and Science portfolio:

- Department of Industry, Innovation and Science—Program 3: Cross-portfolio;
- Department of Industry, Innovation and Science—Program 1: Supporting Science and Commercialisation; and
- Department of Industry, Innovation and Science—Program 2: Growing Business Investment and Improving Business Capability.

1.8 Documents tabled during the hearings are listed in Appendix 1.

1.9 The committee thanks the Ministers and officers who attended the hearings for their assistance.

### **Questions on notice**

1.10 In accordance with Standing Order 26, the committee has drawn the attention of the departments and their agencies to the agreed deadline of Thursday, 30 May 2019 for the receipt of answers to questions taken on notice.

1.11 As the committee is required to report to the Senate before responses to questions are due, this report has been prepared without reference to any of these responses.

1.12 Responses to questions on notice and additional information provided to the committee are tabled in the Senate and uploaded to the committee's website.

### **Public interest immunity claims**

1.13 On 13 May 2009, the Senate passed an order relating to public interest immunity claims.<sup>5</sup> The order sets out the processes to be followed if a witness declines to answer a question. The full text of this order has previously been provided to departments and agencies and was incorporated in the Chair's opening statement at the commencement of each hearing.

### **Record of proceedings**

1.14 This report does not attempt to analyse the evidence presented to the committee over the four days of hearings. However, it does include a brief explanation of the main issues that were raised during the examination of each portfolio.

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5 *Journals of the Senate*, No. 68, 13 May 2009, pp. 1941–1942.



1.15 Copies of the Hansard transcripts and documents tabled at the hearings are available on the committee's website.<sup>6</sup>

**Note on Hansard page referencing**

1.16 Hansard references throughout this report relate to the Proof Estimates Hansard. Please note page numbering may differ between the proof and official Hansard.

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6 Senate Estimates website—Economics Committee—2019–2020 Budget estimates, [https://www.aph.gov.au/Parliamentary\\_Business/Senate\\_Estimates/Economics/2019-20\\_Budget\\_estimates](https://www.aph.gov.au/Parliamentary_Business/Senate_Estimates/Economics/2019-20_Budget_estimates)



## Chapter 2

### Treasury portfolio

2.1 This chapter summarises certain key areas of interest raised during the committee's consideration of budget estimates for the 2019–20 financial year for the Treasury portfolio. The chapter contains an indicative, though not exhaustive, account of issues examined.

2.2 On 5 and 10 April 2019, the committee heard evidence from Senator the Hon. Mathias Cormann, Minister for Finance, Senator the Hon. Zed Seselja, Assistant Minister for Treasury and Finance, and from officers of the Department of the Treasury (Treasury) and agencies of the Treasury portfolio, including:

- Department of the Treasury—Secretary, Macroeconomic Group and Group;
- Department of the Treasury—Fiscal Group;
- Department of the Treasury—Markets Group;
- Department of the Treasury—Revenue Group;
- Australian Taxation Office;
- Australian Charities and Not-for-profits Commission;
- Inspector-General of Taxation;
- Productivity Commission; and
- Australian Securities and Investments Commission.

2.3 Senators present over the course of the two days of hearings included Senator Hume (Chair), Senator Ketter (Deputy Chair), and Senators Abetz, Brockman, Ciccone, Keneally, Lines, Ian Macdonald, McAllister, O'Neill, Patrick, Rice, Siewert, Sinodinos, Spender, Stoker, Storer, Whish-Wilson and Williams.

#### Macroeconomic Group and Corporate Group

##### *Return to budget surplus*

2.4 The committee discussed the forecast surplus of \$7.1 billion in the 2019–20 Budget with officials from Treasury, noting that it will be the first surplus since 2007–08. The Treasury Secretary, Mr Philip Gaetjens, noted that the surplus is forecast to increase to \$11 billion in 2021, with sustained surpluses projected into the medium term.<sup>1</sup> Mr Gaetjens highlighted some of the surplus' contributing factors:

The fiscal outlook continues to benefit, in particular, from commodity prices that have remained at elevated levels, coupled with continued growth in resource exports, which both support further expected improvement in company tax collections in 2018–19 and 2019–20.<sup>2</sup>

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1 *Proof Estimates Hansard*, 5 April 2019, pp. 4–5.

2 *Proof Estimates Hansard*, 5 April 2019, pp. 4–5.

2.5 Mr Gaetjens commented that 'the path returning the budget to surplus has been a long one and reflects the long-lasting fiscal impacts of financial shocks and economic transitions that occur as an economy rebalances'.<sup>3</sup>

2.6 Mr Gaetjens further noted the effect that the improved fiscal outlook would have on reducing Australia's public debt levels. In particular, Mr Gaetjens highlighted the level of debt in relation to GDP over the forward estimates and medium term:

In the budget, gross debt is expected to be 27.9 per cent of GDP in 2019-20, falling to 25 per cent of GDP at the end of the forward estimates and, further, to 12.8 per cent of GDP by the end of the medium term. Net debt is also expected to decline in each year of the forward estimates and the medium term, falling from 18 per cent of GDP in 2019-20 to a projected zero per cent by 2029-30.<sup>4</sup>

### ***Centre for population***

2.7 The committee asked Treasury officials about the new Centre for Population announced in the Budget; due to be established in order to provide detailed analysis and advice on population issues. Mr Gaetjens explained:

I think the new centre will actually look at probably more short-term impacts and what population levels are, both domestic and from overseas migration; what the needs are; the distribution between cities and areas; the distributions between states. Again, the state impact on population at the moment is very different. In Victoria, the population growth is well over two per cent, I think. In the other states I don't think it's as strong. I think the ACT is pretty strong too.<sup>5</sup>

2.8 Treasury officials also noted that the other main activity of the new Centre for Population will be to help devise a population strategy for the Commonwealth government.<sup>6</sup>

## **Australian Taxation Office (ATO) and Revenue Group**

### ***Superannuation guarantee amnesty***

2.9 The committee asked officers from the ATO about the superannuation guarantee (SG) amnesty. The committee noted that although the announcement to provide a 12-month amnesty for non-compliant employers had been made in the previous year's budget, no legislation had passed the Parliament in order to give effect to these changes. The committee pointed out that some media reports indicated that the ATO had been waiving Part 7 penalties for employers that had not complied with their SG obligations, despite no official amnesty being in place.<sup>7</sup>

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3 *Proof Estimates Hansard*, 5 April 2019, p. 5.

4 *Proof Estimates Hansard*, 5 April 2019, p. 5.

5 *Proof Estimates Hansard*, 5 April 2019, p. 22.

6 *Proof Estimates Hansard*, 5 April 2019, p. 23.

7 *Proof Estimates Hansard*, 10 April 2019, p. 34.

2.10 Officers from the ATO advised the committee that the ATO had been assessing and auditing SG payments as usual. Mr James O'Halloran, Deputy Commissioner for Superannuation, explained:

The reference in that article, and some others at the time, certainly did highlight that, as is normal practice under part 7, the commissioner does have discretion to apply a remission of the so-called 200 per cent penalty in accordance with a number of features. One is, obviously, the individual circumstances, the compliance history, and also the voluntary nature—albeit required under law—in terms to bring forward and lodge, without the ATO knowing about it, the super guarantee charge form.<sup>8</sup>

2.11 Mr O'Halloran also noted that, despite there not being an official SG amnesty in place, approximately \$100 million has been returned to employees as a consequence of employers coming forward over the last 12 months.<sup>9</sup> Mr O'Halloran elaborated:

I obviously highlight that it's a current obligation of employers to come forward when they identify or know or realise that they have a late or an overdue payment. In a sense, that momentum perhaps has picked up a little bit. But, equally, so has our audit activity to get to people, off the profile that SG has gained in the community, so that we can continue to close the tax gap but also protect employees who may not be getting paid their due and payable.<sup>10</sup>

2.12 The committee commented that the lack of any supporting legislation to give effect to the amnesty had potentially created some confusion amongst employers. Officers from the ATO advised the committee that they had been doing their best to ensure employers understood the current situation and concluded that 'the fundamental obligation for an employer to come forward to report when they're late or overdue continues to exist and always has'.<sup>11</sup>

### ***Instant asset tax write-off***

2.13 The committee noted that the government has accelerated tax cuts and has included an expansion of the instant asset write-off program to \$30,000 for businesses with turnover below \$50 million rather than \$10 million in the budget. The committee asked how many businesses have previously used the \$20,000 instant asset write-off.<sup>12</sup>

2.14 Officers from the ATO noted that in 2016–17, there were 362,000 claimants of the instant asset write-off; and that this figure represents approximately 10 to 15 per cent of businesses entitled to claim the instant asset write-off.

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8 *Proof Estimates Hansard*, 10 April 2019, p. 35.

9 *Proof Estimates Hansard*, 10 April 2019, p. 36.

10 *Proof Estimates Hansard*, 10 April 2019, p. 36.

11 *Proof Estimates Hansard*, 10 April 2019, p. 36.

12 *Proof Estimates Hansard*, 5 April 2019, p. 61.

2.15 ATO officers confirmed that under the new measure, approximately three million businesses would be entitled to claim the instant asset write-off. Officers from the ATO also noted that, in comparison to previous years, the new cap would cover an additional 22 000 businesses.<sup>13</sup>

***Research and Development tax incentive***

2.16 The committee discussed the proposed changes to the Research and Development (R&D) tax incentive, which were originally introduced in the 2018–19 Budget. The committee noted that the cost of the scheme had dropped by approximately \$400 million since 2017–18.

2.17 Officers from the ATO acknowledged that since the 2018–19 Budget, the ATO and the Department of Finance had become aware that their estimates for 2017–18 and 2016–17 were a little too high. Officers explained:

The estimate that is provided by Finance is lower. So it's \$400 million lower in the 2018–19 year. That's driven by two components. So \$200 million of that is driven by observed outcomes or the claims that are coming in through the door to the ATO for the 2018–19 year. The other half of that is due to a technical accounting treatment of this ETM [Economic Transition Method]-type table.<sup>14</sup>

2.18 The committee also noted that the changes proposed to the R&D tax incentive in the 2018–19 Budget were expected to generate a budget saving of \$2.4 billion; and that this saving would contribute to the 2019–20 Budget's forecast \$7.1 billion surplus.

2.19 As part of the committee's consideration of the Treasury Laws Amendment (Making Sure Multinationals Pay Their Fair Share of Tax in Australia) Bill 2018 (the bill), the committee received evidence from stakeholders that raised considerable concerns about the method used to calculate R&D intensity. Consequently, the committee recommended in its bill inquiry report that the proposed changes to the R&D tax incentive should not be adopted. The committee noted that because the proposed changes had not taken effect, that the associated savings had not been realised.<sup>15</sup>

2.20 ATO officers confirmed that since the committee's recommendation not to proceed with the changes to the R&D tax incentive, no actual policy change has occurred, and the savings from the R&D incentive measures are present in the Budget.<sup>16</sup> Officers from Treasury noted that the budget documents must reflect the decisions that have been taken by government.<sup>17</sup>

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13 *Proof Estimates Hansard*, 5 April 2019, p. 61.

14 *Proof Estimates Hansard*, 5 April 2019, p. 63.

15 *Proof Estimates Hansard*, 5 April 2019, pp. 67–68.

16 *Proof Estimates Hansard*, 5 April 2019, p. 67.

17 *Proof Estimates Hansard*, 5 April 2019, p. 68.

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## **Australian Charities and Not-for-profits Commission (ACNC)**

### ***Staffing***

2.21 The committee noted that a number of staff at the ACNC had recently left their positions. In particular, the committee noted the departure of Mr David Locke, Assistant Commissioner, Charities Services and of Mr Murray Baird, Assistant Commissioner, General Counsel.

2.22 Ms Catherine Willis, who appeared at estimates on behalf of ACNC Commissioner the Hon. Dr Gary Johns, confirmed that she would be acting in Mr Baird's role for a short period of three to six months. Ms Willis also noted that Mr Locke's position would not be refilled.<sup>18</sup>

2.23 Ms Jacqui Curtis, Acting Commissioner of the ATO, noted that the reason for Mr Baird's departure from the ACNC was related to a disagreement about leadership style between Dr Johns and Mr Baird:

They don't see eye-to-eye, and we wanted to resolve this at the lowest level possible to try and resolve the conflict. We agreed with Mr Baird and Dr Johns, that the best thing to do was that, while we worked through that, we would offer Mr Baird an opportunity to come back into the ATO, into a legal role, which his skill sets do suit, and that is what has actually happened.<sup>19</sup>

2.24 The committee asked Ms Willis about what the next steps would be in relation to finding a resolution to this issue. Ms Willis advised the committee that there is a 'structure that's evolving at the moment'.<sup>20</sup>

### **Inspector-General of Taxation (IGT)**

2.25 The committee discussed the IGT's recent review into the ATO's use of garnishee notices, which was released in March 2019.

2.26 The committee discussed a number of issues raised in the review with officers from the IGT. In particular, the committee discussed, the tone and nature of an email sent to ATO staff, regarding the issuing of garnishee notices; ATO's planning for garnishee notice targets; and the use of casual staff in some ATO offices.<sup>21</sup>

2.27 The committee also asked officers from the IGT whether Mr Richard Boyle had made a complaint about the ATO to the IGT. Mr Andrew McLoughlin, the Acting IGT made a public interest immunity claim in relation to this matter, noting:

The nature of ombudsmans' offices is that they receive complaints from people in a private capacity. They are entitled to have that completely private and confidential. The agencies aren't allowed to disclose that when people complain to us and we raise that complaint with the agency. We

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18 *Proof Estimates Hansard*, 10 April 2019, p. 46.

19 *Proof Estimates Hansard*, 10 April 2019, p. 54.

20 *Proof Estimates Hansard*, 10 April 2019, p. 47.

21 *Proof Estimates Hansard*, 10 April 2019, pp. 65–66.

operate as the ombudsman's office in seeking to care for people and to make sure that they're treated appropriately and that their anonymity is preserved at all times. It's not just the taxation ombudsman. Any ombudsman's office would be forced into a similar situation to defend the individuals who come to make complaints to us. With respect to their own complaints, they are their complaints. If we were nominating whether people had actually come to us, that could have other implications in litigation or elsewhere. It also has the potential for them to have their own matters, where they may or may not understand the nature of their issues appropriately, opened out into public forum, where they could be seen to be denigrated or to have made something that may be regarded as being a spurious claim which could actually impact upon their own identity and their good right to enjoyment where people may feel that they didn't understand the tax system or didn't have an appropriate claim to make as a complaint. Not every complainant who comes to us necessarily understands the tax system, and people can say some things that other people may regard as not being very smart or not very clever. I would hate to see a situation where we were in a position where it was expected that complainants to any ombudsman's office could be disclosed, because there may be detriment to the party being disclosed at first instance, and certainly to talk about the nature of their complaint would render otiose the nature of ombudsman's processes generally.<sup>22</sup>

2.28 The committee resolved to reconsider the public interest immunity claim made by the IGT at a future private meeting.<sup>23</sup>

### **Australian Securities and Investments Commission (ASIC)**

2.29 Mr James Shipton, Chair of ASIC, made an opening statement which highlighted the recommendations of the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Royal Commission), and noted that 'ASIC's work in maintaining the momentum for reform and improvement in the financial services sector continues'.<sup>24</sup>

2.30 Mr Shipton also noted \$400 million in additional funding for ASIC, which would assist ASIC in achieving its goals including: increasing the number of cases ASIC can pursue; accelerating the speed of court-based enforcement outcomes; implementing reforms following the Royal Commission; and using the full extent of ASIC's new powers and penalties.<sup>25</sup>

2.31 The committee noted some new legislation that had come into effect which would assist ASIC in its duties, in particular, the *Treasury Laws Amendment (Strengthening Corporate and Financial Sector Penalties) Act 2019* and the *Treasury*

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22 *Proof Estimates Hansard*, 10 April 2019, p. 68.

23 *Proof Estimates Hansard*, 10 April 2019, p. 69.

24 *Proof Estimates Hansard*, 10 April 2019, p. 73.

25 *Proof Estimates Hansard*, 10 April 2019, pp. 73–74.



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*Laws Amendment (Design and Distribution Obligations and Product Intervention Powers) Act 2019.*

2.32 Mr Shipton noted that the powers and penalties contained in the new Acts, along with the new budget allocation, were 'very powerful' and would enable ASIC to be more effective and efficient in their regulatory output.<sup>26</sup>

2.33 Mr Shipton highlighted the new penalty for the fair, honest and efficient provision of section 912A of the Corporations Act:

There was no penalty for that cornerstone provision to enable or require honest, efficient and fair conduct of financial services businesses in Australia. We now have meaningful deterrents; we now have meaningful penalties, and part of our enforcement priority moving forward will be to pursue cases of this nature.<sup>27</sup>

2.34 Mr Shipton also noted that Australia's new design and distribution powers, which have existed overseas for some time, would 'allow us to more directly and more quickly intervene when we see detriment happening in the market to consumers'.<sup>28</sup>

2.35 The committee asked ASIC for an update on ASIC's work in relation to the aftermath of the Royal Commission. In particular, the committee asked what progress had been made on the referrals made by the Royal Commission to ASIC for investigation of potential criminal offences.<sup>29</sup>

2.36 Officers from ASIC noted that there were 13 matters referred following the Royal Commission, as well as 14 case studies identified. ASIC advised the committee that these matters are either under investigation currently or are being assessed in order to determine whether any investigation is required.<sup>30</sup>

2.37 ASIC officials stated that a compulsory notice is sent to the relevant financial service provider early in the investigative process informing them of the investigation into their business and the nature of ASIC's inquiries.

2.38 In relation to other ASIC investigations stemming from the Royal Commission, officers noted that there are approximately 90 investigations underway:

Since September, that's an increase of 45 investigations and, since this time last year, it's about 129, 130 per cent increase in the number that we had on at that time, so it is a significant amount. There are currently 14 matters in litigation with six of those being civil penalty matters, two of those are criminal matters and then there are six administrative banning matters, four of which are appeals before the Administrative Appeals Tribunals or the Federal Court. We've got two other matters that we've referred off for action, one being a criminal matter and one being an administrative banning

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26 *Proof Estimates Hansard*, 10 April 2019, p. 78.

27 *Proof Estimates Hansard*, 10 April 2019, p. 78.

28 *Proof Estimates Hansard*, 10 April 2019, p. 78.

29 *Proof Estimates Hansard*, 10 April 2019, p. 80.

30 *Proof Estimates Hansard*, 10 April 2019, p. 80.

matter, and then 60 matters that are under investigation and they are at different stages.<sup>31</sup>

2.39 The committee noted the significant public interest in these investigations and asked for a timeline on their potential completion. ASIC officials stated that 'matters of this nature have varying degrees of complexity, which sometimes makes it difficult to say we will have it done by a particular date'. Officials elaborated:

Setting targets can sometimes be frustrated by that sort of action, but we do like to prioritise matters, and we do have in place a prioritisation exercise which is aiming to get a number of matters finalised by mid-May and a further number by 30 June this year.<sup>32</sup>

### **Other topics raised**

2.40 The committee discussed a wide range of topics during the two days of hearings with the Treasury portfolio. The above reporting of discussions is not complete. Other topics discussed by the committee included:

- Wages growth and reduction in unemployment
- Free Trade Agreements
- GDP per capita declining
- Company tax receipts and effect on decrease of deficit
- Treasury's incoming Government briefs
- Budget Speech logistics—times to printing; distributed at beginning of lock up etc.
- Climate Solutions Package
- Housing market
- Petroleum Resource Rent Tax
- Expenditure on advertising campaigns—Better tax system
- Income tax cuts
- Cost of policy decisions taken since the Mid-Year Economic and Fiscal Outlook (MYEFO)
- Public infrastructure investment
- Extension of the Energy Assistance Payment to New Start recipients
- Defence share of total capital spending
- Public interest disclosure
- Multinational tax avoidance

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31 *Proof Estimates Hansard*, 10 April 2019, p. 80.

32 *Proof Estimates Hansard*, 10 April 2019, p. 81.

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- Superannuation accounts (active and inactive)
  - Recommendations from the banking Royal Commission
  - Foreign Investment Review Board
  - Consumer data right
  - ATO's management of tax cuts
  - Virgin and Qantas flights
  - ACNC administration and staffing
  - ATO's Gosford office
  - Director Identification Numbers
  - ASIC's funding
  - Misleading and deceptive statements to the ASX and ASIC's role in investigating these
  - Helloworld matter
  - Product intervention powers
  - Extension of the Banking Executive Accountability Regime
  - Queensland Nickel and Clive Palmer
  - Open banking



## Chapter 3

### Industry, Innovation and Science portfolio

3.1 This chapter summarises certain key areas of interest raised during the committee's consideration of budget estimates for the 2019–20 financial year for the Industry, Innovation and Science portfolio. This chapter of the report follows the order of proceedings and is an indicative, not exhaustive, account of issues examined.

3.2 On 5 April 2019, the committee heard evidence from Senator the Hon. Matthew Canavan, Minister for Resources and Northern Australia, along with officers from the Department of Industry, Innovation and Science (the department) and agencies including:

- Department of Industry, Innovation and Science—Program 3: Cross-portfolio;
- Department of Industry, Innovation and Science—Program 1: Supporting Science and Commercialisation; and
- Department of Industry, Innovation and Science—Program 2: Growing Business Investment and Improving Business Capability.

3.3 Senators present during the hearing included Senator Hume (Chair), Senator Ketter (Deputy Chair), and Senators Carr and Patrick.

#### Department of Industry, Innovation and Science—Programs 1, 2, and 3

##### *Complementary medicines*

3.4 The committee asked the department for an update on the Australian Made logo and its application to complementary medicines.

3.5 Departmental officials explained that the government proposes to make new regulations to address this issue. Specifically, the new regulations will define particular processes as meeting the test for substantial transformation of a product under the Australian consumer law.<sup>1</sup> Officials noted:

We have been required to undertake research and seek legal advice to ensure that the proposed solution is effective in terms of meeting industry's desire to have access to the Australian made logo for export markets.<sup>2</sup>

3.6 The decision to proceed with the creation of new regulations was signed off by the Prime Minister on 2 April 2019, following the recommendation of the Complementary Medicine Taskforce.<sup>3</sup>

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1 *Proof Estimates Hansard*, 5 April 2019, p. 87.

2 *Proof Estimates Hansard*, 5 April 2019, p. 88.

3 *Proof Estimates Hansard*, 5 April 2019, p. 88.

3.7 Departmental officials highlighted that the introduction of new regulations would rely not only on the Federal government, but on the state and territory governments as well:

...the Australian consumer law is a single law administered by both the Commonwealth and the state and territory governments. To amend that law, there is an intergovernmental agreement that requires the support of the Commonwealth and three of the state and territory governments. To make regulations or to change the law, the government is required to consult with the Ministerial Council on Consumer Affairs.<sup>4</sup>

3.8 The committee also asked the department about possible implications of the proposed regulations on current compliance activities in relation to the Australian Made logo. Officials noted that compliance activities are undertaken by the Australian Competition and Consumer Commission (ACCC), and explained:

...the ACCC is an independent regulator which sets its particular compliance activities and its priorities. The ACCC, in seeing that the government has proposed a significant change, would take that into account in determining their compliance activities.<sup>5</sup>

### ***Research and Development tax incentive***

3.9 The committee discussed the proposed legislation for changes to the Research and Development (R&D) tax incentive; noting the committee's recent inquiry into this legislation contained in the Treasury Laws Amendment (Making Sure Multinationals Pay Their Fair Share of Tax in Australia) Bill 2018 (the bill). In its report on the bill, the committee made the following recommendation:

#### **Recommendation 1**

The committee recommends that the Senate defer consideration of the bill until further examination and analysis of the impact of schedules 1–3 is undertaken. In particular, the committee recommends that:

- the approach to the cap on the refundable portion of the Research and Development (R&D) tax incentive is refined, noting investment decisions already taken; and
- the formula for R&D intensity is refined, noting inherent differences in R&D intensity across industries and impacts on businesses with large operating costs.<sup>6</sup>

3.10 Departmental officials advised the committee that the government is considering the committee's recommendation. Officials highlighted that the Australian

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4 *Proof Estimates Hansard*, 5 April 2019, p. 88.

5 *Proof Estimates Hansard*, 5 April 2019, p. 90.

6 Senate Economics Legislation Committee, *Treasury Laws Amendment (Making Sure Multinationals Pay Their Fair Share of Tax in Australia) Bill 2018 [Provisions]*, February 2019, p. 34.

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Taxation Office (ATO) and AusIndustry, the co-administrators of the program, have established a Research and Development Tax Incentive Roundtable.<sup>7</sup>

3.11 Departmental officials noted that the roundtable had so far held one meeting which took place on 7 March 2019. At this meeting, the roundtable had considered a number of items and reported a number of actions for the next meeting, including:

We were asked to look at the type of information that we can provide to the round table. We'll be providing some more numbers on various aspects next time. We've sought feedback on the draft terms of reference, and we're receiving some of that at the moment. We agreed to have a further discussion on the software development. We agreed to have a discussion about the revised registration form for the program. And there were also some administrative matters around co-chair arrangements.<sup>8</sup>

### ***Women in STEM***

3.12 The committee asked departmental officials about the 2019–20 budget allocation for women in STEM (science, technology, engineering and mathematics) initiatives. Departmental officials advised the committee of several new initiatives:

The 2019–20 budget has announced \$3.4 million over four years to increase girls' and women's participation in STEM study and careers. That's made up of two specific measures. One is \$1.8 million over three years to continue support for the Science In Australia Gender Equity initiative, SAGE, to enable the higher education and research sector to continue to improve gender equity policies and practices. The second initiative is \$1.5 million over three years for a national digital awareness-raising campaign to increase the visibility of girls and women in STEM.<sup>9</sup>

3.13 The digital awareness-raising campaign will be led by the women in STEM ambassador, Professor Lisa Harvey-Smith.<sup>10</sup>

3.14 Departmental officials noted that this funding builds on the \$13 million invested since 2016–17 through the National Innovation and Science Agenda.<sup>11</sup>

### ***Funding for the Australian Nuclear Science and Technology Organisation***

3.15 The committee discussed funding for the Australian Nuclear Science and Technology Organisation (ANSTO). Departmental officials noted that the 2019–20 Budget contained a total of \$112 million in funding for ANSTO and provided the following breakdown of the funding:

\$38.4 million is for high-priority activities focused on short-term safety and operational requirements. It also includes \$13.9 million for proactive maintenance work for the nuclear medicine processing and distribution

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7 *Proof Estimates Hansard*, 5 April 2019, p. 94.

8 *Proof Estimates Hansard*, 5 April 2019, p. 94.

9 *Proof Estimates Hansard*, 5 April 2019, p. 96.

10 *Proof Estimates Hansard*, 5 April 2019, p. 96.

11 *Proof Estimates Hansard*, 5 April 2019, p. 96.

facility. It includes \$12.6 million to address recommendations from the ARPANSA review, \$5.9 million for managing radioactive waste, \$1.2 million for managing spent fuel and \$4.9 million for decommissioning and demolishing a contaminated building.<sup>12</sup>

3.16 Departmental officials confirmed that a portion of the funding would go towards addressing some of the safety issues identified in the *Independent Safety Review of the ANSTO Health Approach to Occupational Radiation Safety and Operational Procedures*, which was provided to the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA report).<sup>13</sup>

3.17 The ARPANSA report also noted that some of ANSTO's facilities would require upgrading, in particular, that building '23' would need to be replaced with some urgency.<sup>14</sup>

3.18 Officials noted that the increased equity that ANSTO would receive was also in recognition of the 'unforeseen expenses that ANSTO experienced last year in responding to nuclear medicine supply disruptions'.<sup>15</sup>

### ***Australian Space Agency***

3.19 The committee asked representatives from the Australian Space Agency (ASA) for an update on the new agency's progress. Mr Murfett, Deputy Head of the ASA commented that the 10 months since the establishment of the ASA had been a 'pretty busy time'.<sup>16</sup> Mr Murfett noted that during this time, ASA had put in place governance arrangements, established a charter, and formulated its strategy for the next 10 years. Mr Murfett explained:

It outlines a path to grow Australia's space industry to become a greater part of the \$350 billion global market. The way that that will be achieved is by focusing on an international dimension. A premise of the agency is to open doors internationally, and I can say that we've done that. We've signed four MOUs with the likes of the Canadian Space Agency, the UK space agency, the French space agency and, most recently, the UAE.<sup>17</sup>

3.20 Mr Murfett also emphasised that the ASA's role is around growing and transforming the industry:

We have a target of growing and creating up to another 20,000 jobs by 2030 and tripling the size of the space sector, which is currently \$3.9 billion. We have a goal by 2030 to get it to \$12 billion. As part of that, we've been working with industry and we've been signing statements of intent which outline where industry and partners can see investments in

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12 *Proof Estimates Hansard*, 5 April 2019, p. 97.

13 *Proof Estimates Hansard*, 5 April 2019, p. 98.

14 *Proof Estimates Hansard*, 5 April 2019, p. 99.

15 *Proof Estimates Hansard*, 5 April 2019, p. 98.

16 *Proof Estimates Hansard*, 5 April 2019, p. 104.

17 *Proof Estimates Hansard*, 5 April 2019, p. 105.



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Australia. They are with companies such as Airbus, Lockheed and, interestingly, a non-traditional space sector, Woodside Energy.<sup>18</sup>

3.21 Mr Murfett noted the establishment of the ASA's headquarters in Adelaide, at the old site of the Royal Adelaide Hospital, also called 'Lot 14'. He advised the committee that construction had commenced and noted that despite some delays the site was due to be ready in late October 2019.<sup>19</sup>

3.22 The committee discussed the \$19.5 million budget allocation made to the Space Infrastructure Fund, noting that only two projects had so far been announced.

3.23 Mr Murfett confirmed that of the \$19.5 million total, two projects had been announced: \$6 million for a mission control facility; and \$2 million to support future space manufacturing capability.<sup>20</sup> Mr Murfett also advised the committee that the remaining \$11.5 million had been allocated to a further five projects which are still subject to negotiation.<sup>21</sup>

### **Other topics raised**

3.24 The committee discussed a range of topics during the hearing with the Industry, Innovation and Science portfolio. The above reporting of discussions is not complete. Other topics discussed by the committee included:

- Business research and development initiatives
- Budget measures
- Cooperative research centres program
- Expansion of Questacon activities
- Science in Australia Gender Equity (SAGE) initiative
- Innovation Games
- National Measurement Institute
- Manufacturing Growth Fund
- Radioactive Waste Management Facility

### **Senator Jane Hume Chair**

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18 *Proof Estimates Hansard*, 5 April 2019, p. 105.

19 *Proof Estimates Hansard*, 5 April 2019, p. 105.

20 *Proof Estimates Hansard*, 5 April 2019, p. 99.

21 *Proof Estimates Hansard*, 5 April 2019, p. 103.



# Appendix 1

## Tabled documents

### Treasury portfolio

1. Opening Statement, tabled by Mr Philip Gaetjens, Secretary of the Department of the Treasury, 5 April 2019.
2. Tables: Capital spending on defence and non-defence; Defence 2019–10 PBS (Table 45); Defence and non-defence spending from 2007-08 to 2022–23, tabled by Senator Janet Rice, 5 April 2019.
3. Page 37 from Budget Paper No. 1 2017–18, tabled by Senator Chris Ketter, 5 April 2019.
4. ATO submission to the Australian Small Business and Family Enterprise Ombudsman: review on early debt recovery action on a small business disputing a debt at the AAT, tabled by Ms Melinda Smith, Chief Service Delivery Officer, Australian Taxation Office, 5 April 2019.
5. Response to a letter requesting information from Senator Ketter, dated 9 April 2019; answers to questions taken on notice at the estimates hearing on 5 April 2019, tabled by Ms Jacqui Curtis, Acting Commissioner, Australian Taxation Office, 10 April 2019.
6. Opening Statement, tabled by Ms Catherine Willis, Acting Commissioner, Australian Charities and Not-for-profits Commission, 10 April 2019.
7. Tables: Environment Victoria-extract of financial statements (2017–18); Tides Foundation-list of grants, tabled by Senator Eric Abetz, 10 April 2019.
8. Opening Statement, tabled by Mr Andrew McLoughlin, Acting Inspector-General of Taxation, 10 April 2019.
9. Opening Statement, tabled by Mr James Shipton, Chair, Australian Securities and Investments Commission, 10 April 2019.
10. ASIC enforcement update—July to December 2018, tabled by Mr James Shipton, Chair, Australian Securities and Investments Commission, 10 April 2019.

### Industry, Innovation and Science portfolio

11. Response to a letter from Senator Chris Ketter, tabled by Dr Heather Smith, Secretary, Department of Industry, Innovation and Science, 5 April 2019.

