The Senate

Economics Legislation Committee

Fuel Indexation (Road Funding) Bill 2014 [Provisions] and related bills

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Chapter 1

Introduction

Referral

1.1 On 19 June 2014, pursuant to the Selection of Bills Committee's report, the Senate referred the provisions of the following bills to the Economics Legislation Committee for inquiry and report by 7 July 2014:

- Excise Tariff Amendment (Fuel Indexation) Bill 2014;
- Customs Tariff Amendment (Fuel Indexation) Bill 2014;
- Fuel Indexation (Road Funding) Bill 2014; and
- Fuel Indexation (Road Funding) Special Account Bill 2014.[1]

1.2 The main reason for supporting the referral of this legislation to a parliamentary committee was to consider the distributional analysis of fuel excise increases.[2]

Conduct of the inquiry

1.3 The committee advertised the inquiry on its website and wrote to relevant stakeholders and other interested parties inviting submissions. The committee received 16 submissions as well as additional information including answers to questions on notice. These documents are listed at Appendix 1.

1.4 The committee held a public hearing in Canberra on 2 July 2014. The names of the witnesses that gave evidence are at Appendix 2.

Background to the bill

1.5 As a key initiative of the 2014–15 Budget, the Treasurer announced the government's intention to establish 'a sustainable source of future productivity-enhancing road funding' through the reintroduction of the bi-annual indexation of fuel excise to the Consumer Price Index (CPI) from 1 August 2014'.[3] This measure was part of the government's broader commitment to achieving a stable and growing

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1 *Journals of the Senate, 19 June* 2014, p. 914.

2 Selection of Bills Committee, *Report No. 3 of 2014*, Appendix 2, 20 March 2014.

3 Budget 2014–15, Overview, 13 May 2014, p. iv, http://www.budget.gov.au/2014-15/content/overview/download/Budget_Overview.pdf and Budget 2014–15, *Building Australia's Infrastructure*, May 2014, p. 2, http://www.budget.gov.au/2014-15/content/glossy/infrastructure/download/Infrastructure.pdf (accessed 30 June 2014).

funding source for major infrastructure development. More specifically, the proposed legislation is intended 'to create a more stable and secure source of Commonwealth funding for road infrastructure over the longer term'.[4] According to the government, this measure would secure $2.2 billion over the forward estimates to start immediately to invest in Australia's future 'by building new roads and upgrading existing roads'. The Budget papers explained further:

> Funding constraints at all levels of government have become a significant impediment to the provision of the infrastructure that Australia needs to bolster the productive capacity of the economy and prosperity for the 21st century.
>
> Accordingly, the Government will move to amend the Excise Act 1901 to ensure that the amount spent on road infrastructure is greater than the net revenue raised by the reintroduction of indexation on fuel excise and excise-equivalent customs duty.

1.6 The Budget Overview noted that, under difficult budget circumstances, this measure was the responsible way to start building immediately 'the productivity boosting road infrastructure that Australia needs'.[5]

Purpose of the bills

1.7 The package of four bills (the bills) would give effect to the government's stated intention to secure funding for 'additional productivity-enhancing road infrastructure'.[6]

1.8 The first two bills propose to amend the *Excise Tariff Act 1921* and the *Customs Tariff Act 1995* to index the rate of excise and excise-equivalent customs duty applying to fuels to CPI. The excise and excise-equivalent levies on fuel are set out in these acts.

1.9 The Fuel Indexation (Road Funding) Bill 2014 would amend the *Fuel Tax Act 2006* to ensure that taxpayers generally use the same rate of duty that was payable on the fuel for determining the amount of their fuel tax credits.

1.10 The Fuel Indexation (Road Funding) Special Account Bill 2014 would establish a special account to ensure that the net additional revenue raised from the reintroduction of fuel indexation would be used for road infrastructure funding.

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4 Budget 2014–15, Overview, 13 May 2014, p. 15, http://www.budget.gov.au/2014-15/content/overview/download/Budget_Overview.pdf and Budget 2014–15, *Building Australia's Infrastructure*, May 2014, p. 2, http://www.budget.gov.au/2014-15/content/glossy/infrastructure/download/Infrastructure.pdf (accessed 30 June 2014).

5 Budget 2014–15, Overview, 13 May 2014, p. 8, http://www.budget.gov.au/2014-15/content/overview/download/Budget_Overview.pdf (accessed 30 June 2014).

6 Budget 2014–15, *Building Australia's Infrastructure*, May 2014, p. 8, http://www.budget.gov.au/2014-15/content/glossy/infrastructure/download/Infrastructure.pdf (accessed 30 June 2014).

Structure of this report

1.11 To provide context for the examination of the provisions of the bills, the committee presents a brief history of excise on fuel including the circumstances around removing fuel indexation in 2001. The committee then looks in turn at the provisions of each bill and considers the arguments in favour of the proposed legislation and those against it.

Acknowledgements

1.12 The committee thanks all those who participated in, and assisted the committee with, the inquiry. The committee notes the short inquiry and reporting timeframes and acknowledges the contribution of all submitters and witnesses who worked to such a tight schedule.

Chapter 2

History of the excise levy

2.1 An excise is 'a commodity-based tax levied on the manufacture or production of selected goods in Australia'.[1] They include liquid fuel, tobacco and some alcoholic beverages. An excise-equivalent customs duty is imposed on imported equivalents.

Introduction of excise and duty on fuels

2.2 Since Federation, customs duty has been imposed on imported gasoline and other oils used generally as industrial solvents. As cars became more popular in the 1920s, revenue from this duty was 'effectively a tax on petroleum products used as fuel'.[2] According to a history of fuel taxation in Australia, excise duty on oil was not imposed until the late 1920s when Australia began to refine oil domestically. It stated:

> In 1929, when domestic refineries were established and locally produced petroleum products entered the market, the Government of the day introduced an excise on petrol at the rate of one penny per gallon—0.18 cents per litre (cpl). This excise was hypothecated to road funding.[3]

2.3 Periodic changes to arrangements for imposing duties and excise continued throughout the century. For example, in 1940 rates on excise were increased and an excise introduced on heavy fuel with the revenue raised to assist in funding the war effort. Also, in 1957 excise on diesel was introduced for on-road use only—the revenue to be used for road funding—with an exemption certificate scheme established for off-road diesel users. Two years later, the formal hypothecation of fuel taxes was abolished so that excise became 'a form of general revenue'.[4]

Indexation of excise–1983

2.4 Two major changes occurred to the excise system in the 1983 Budget—the then Labor government introduced an excise duty on heating oil, kerosene and fuel oil

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1 Ken Henry, *Australia's future tax system*, Report to the Treasurer, Part One, December 2009, p. 172.

2 Background Papers, Fuel Taxation Inquiry, History of Fuel Taxation In Australia, 2001, p. 2, http://fueltaxinquiry.treasury.gov.au/content/backgnd/download/002.pdf (accessed 30 June 2014).

3 Background Papers, Fuel Taxation Inquiry, History of Fuel Taxation In Australia, 2001, p. 2, http://fueltaxinquiry.treasury.gov.au/content/backgnd/download/002.pdf (accessed 30 June 2014).

4 Background Papers, Fuel Taxation Inquiry, History of Fuel Taxation In Australia, 2001, p. 2, http://fueltaxinquiry.treasury.gov.au/content/backgnd/download/002.pdf (accessed 30 June 2014).

and the introduction of indexation of excise rates with the CPI.[5] The Hon. Paul Keating, then Treasurer, explained that in the past discretionary increases in traditional excise rates (beer, potable spirits, tobacco products and certain petroleum products) had 'not been sufficiently frequent or, in aggregate, large enough to counteract the eroding effects of inflation'. As a consequence, real rates of excise had tended to fall.[6]

2.5 At that time, the government decided to initiate two measures intended to counter the declining trend in excise revenues—increase certain nominal excises and introduce a system of six-monthly indexation of traditional excise rates in line with CPI. The indexation of excise, including the excise-equivalent component of customs duties on imports of comparable products, was to 'allow for the maintenance of the real value of excise rates in a non-destabilising fashion'. According to the then Treasurer:

> The new system will afford a greater degree of stability for consumers and industry alike.
>
> These traditional excises will rise gradually in line with inflation and as wages and other incomes themselves increase.[7]

2.6 Indexation remained until 2001 when the government abolished indexation for petroleum products excise rates as part of a package of decisions relating to fuel taxation.[8]

Abolition of indexation of excise—2001

2.7 In 2001, the automatic indexation of rates and customs duty was provided for in specific provisions of the *Excise Tariff Act 1921* and the *Customs Tariff Act 1995*.[9]

2.8 On 1 March 2001, the then Prime Minister, the Hon. John Howard, announced a package of measures to cut fuel prices.[10] They included a reduction of 1.5 cents a litre in excise and the abolition of future indexation which was then indexed to

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5 The Hon John Anderson MP, Speech delivered at the Natroad and Queensland Trucking Association, 2001 Annual Conference, ANA Hotel, Gold Coast, 1 September 2001.

6 The Hon Paul Keating, *House of Representatives Hansard*, 23 August 1983, p. 52.

7 The Hon Paul Keating, *House of Representatives Hansard*, 23 August 1983, p. 53.

8 Background Papers, Fuel Taxation Inquiry, History of Fuel Taxation In Australia, 2001, p. 11, http://fueltaxinquiry.treasury.gov.au/content/backgnd/download/002.pdf (accessed 30 June 2014).

9 Explanatory Memorandum, *Excise Tariff Amendment Bill (No. 2) 2001, Customs Tariff Amendment Bill (No. 3) 2001*, 1998–1999–2000–2001, paragraph 2.3.

10 Explanatory Memorandum, *Excise Tariff Amendment Bill (No. 2) 2001, Customs Tariff Amendment Bill (No. 3) 2001*, 1998–1999–2000–2001, paragraphs 2.1–2.2.

movements in the consumer price index (CPI) twice a year. This decision came after community discontent with high petrol prices, especially in the bush.[11]

2.9 That year legislation was introduced and passed in the parliament that abolished indexation of excise and customs duty for all petroleum fuels.[12] The cost to the Budget of the abolition of this indexation for petroleum fuels was expected to be $150 million in 2001–2002, $425 million in 2002–2003, $785 million in 2003–2004 and $1,135 million in 2004–2005.[13] The 2001 Explanatory Memorandum noted that:

> Retail prices of fuels used by individual non-business consumers, for example, petrol and home heating oil, should in the future be lower than they otherwise would be, had indexation not been abolished. This could affect consumption patterns.
>
> Industries that use duty-paid petroleum fuels as inputs to production, including the aviation and transportation industries, should benefit from lower costs than would otherwise be the case. The extent of the impact across industry sectors and for individual operators will vary. Lower input costs could result in lower retail prices for products and could affect consumption patterns.[14]

2.10 Mr Howard also announced the establishment of an inquiry into the total structure of fuel indexation in Australia. Interestingly, the inquiry, which handed down its report in 2002, recommended the reintroduction of twice yearly fuel excise 'to preserve the real value of fuel taxation revenue'. It stated:

> If fuel taxation is to continue as a source of revenue for government, it should not be eroded by inflation over time.[15]

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11 See for example, 7.30 report, http://www.abc.net.au/7.30/stories/s249853.htm;7.30 report, Transcript, 1/3/2001, 'Howard and Anderson perform backflip on petrol pricing', http://www.abc.net.au/7.30/stories/s253466.htm and Transcript No. 2001/016, Transcript of the Hon. Peter Costello MP, Treasurer, Doorstop, Melbourne, Friday 2 March 2001, http://parlinfo.parl.net/parlInfo/download/media/pressrel/WVK36/upload_binary/wvk362.pdf;fileType=application%2Fpdf#search=%22fuel%20indexation%22 and Peter Aldren MP, Independent Member for Calare, Media Release, 1 March 2001, 'Excise Cut Welcome—But What About the Differential?', http://parlinfo.parl.net/parlInfo/download/media/pressrel/IYK36/upload_binary/iyk361.pdf;fileType=application%2Fpdf#search=%22fuel%20indexation%22 (accessed 23 June 2014).

12 Explanatory Memorandum, *Excise Tariff Amendment Bill (No. 2) 2001*, *Customs Tariff Amendment Bill (No. 3) 2001*, 1998–1999–2000–2001, paragraph 2.2.

13 Explanatory Memorandum, *Excise Tariff Amendment Bill (No. 2) 2001*, *Customs Tariff Amendment Bill (No. 3) 2001*, 1998–1999–2000–2001, paragraph 2.8.

14 Explanatory Memorandum, *Excise Tariff Amendment Bill (No. 2) 2001*, *Customs Tariff Amendment Bill (No. 3) 2001*, 1998–1999–2000–2001, paragraphs 2.9–2.10.

15 David Trebeck, Chairman, *Fuel Tax Inquiry*, Commonwealth of Australia, 2002, p. 19.

Review of Australia's future tax system—2009

2.11 In 2009, the review of Australia's future tax system recommended that revenue from fuel tax imposed for general government purposes 'should be replaced over time with revenue from more efficient broad-based taxes'. The review explained:

> If a decision were made to recover costs of roads from road users through fuel tax, it should be linked to the cost of efficiently financing the road network, less costs that can be charged directly to road users or collected through a network access charge. Fuel tax should apply to all fuels used in road transport on the basis of energy content, and be indexed to the CPI. Heavy vehicles should be exempt from fuel tax and the network access component of registration fees if full replacement charges are introduced.[16]

2.12 This review also noted that current road tax arrangements would 'not meet Australia's future transport challenges'. It stated:

> Poorly functioning road networks harm the amenity, sustainability, liveability and productivity of our society. Moving from indiscriminate taxes to efficient prices would allow Australia to leverage the value of its existing transport infrastructure. Less congested roads, shorter travel times and investment in road infrastructure that addresses user demand would provide a foundation for further productivity growth, improved living standards and more sustainable cities.[17]

2.13 According to the review, transport in Australia faced significant challenges. It noted, in particular, that under 'business as usual' assumptions, 'the avoidable costs of urban congestion may grow to around $20 billion in 2020'. The review argued that this problem could not be reduced 'simply by building more city infrastructure, as most new road space induces new traffic'. In its assessment:

> Helping to manage road use, through efficient prices, provides the best long-term approach to reducing congestion.
>
> If fuel tax is used as a variable road charge, it should apply to all transport fuels. Equally, fuel taxes should not exceed the levels justified by broadly defined social costs of use (whether of roads or environmental costs).[18]

Proposed reintroduction of indexation and road infrastructure

2.14 As noted in the previous chapter, the Treasurer announced in his May 2014 budget speech the reintroduction of fuel indexation in line with CPI. The Regulation impact statement on the package of bills noted that since the cessation of fuel

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16 Ken Henry, *Australia's future tax system*, Report to the Treasurer, Part One, December 2009, p. 93.

17 Ken Henry, *Australia's future tax system*, Report to the Treasurer, Part One, December 2009, p. 53.

18 Ken Henry, *Australia's future tax system*, Report to the Treasurer, Part One, December 2009, p. 53.

indexation in March 2001, the real value of fuel tax had declined with inflation, 'creating significant difficulties for the government to fund spending commitments, such as new road infrastructure projects'. It pointed out:

> At the time of the indexation freeze, fuel tax represented 43.4 per cent of the average national petrol price. By March 2014 this proportion had fallen to 25 per cent.[19]

2.15 In respect of funding infrastructure, the Regulation impact statement referred to the government's commitment in its 2014–15 Budget to increasing road expenditure. It also drew attention to the connection between the revenue to be raised from the indexation and road infrastructure projects:

> An increase in the rate of fuel tax would be used to help these infrastructure projects. This would create a link between users of the road infrastructure and the payers of fuel tax whilst ensuring a predictable and growing source of revenue.[20]

2.16 The Treasurer explained that to pay for building the productive infrastructure that is going to make Australia more efficient and productive into the future, the government had to make hard decisions, including reintroducing a fuel indexation. He noted that the increase in the excise on fuel represented for the average family 40 cents a week:

> Forty cents a week increase in the cost of fuel to start getting the roads, getting the infrastructure that is going to build our economy and build the jobs. And the infrastructure package we've put in place, we're spending $50 billion over the next six years that's going to lead to $125 billion of new infrastructure in six years.[21]

2.17 In the following chapter, the committee examines the provisions of each of the four bills.

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19 Regulation impact statement, *CPI indexation of fuel excise and excise-equivalent customs duty*, paragraph 2.5.

20 Regulation impact statement, *CPI indexation of fuel excise and excise-equivalent customs duty*, paragraph 2.6.

21 Hon. J.B. Hockey, Treasurer, Post-Budget Address to Higgins 200 Club, Melbourne, Friday, 16 May 2014, http://parlinfo.parl.net/parlInfo/download/media/pressrel/3175103/upload_binary/3175103.pdf;fileType=application%2Fpdf#search=%22fuel%20indexation%22 (accessed 20 June 2014).

Chapter 3

Provisions of the bills

3.1 The proposed legislation comprises four bills. In this chapter, the committee considers the provisions of each bill.

Excise Tariff Amendment (Fuel Indexation) Bill 2014 and Customs Tariff Amendment (Fuel Indexation) Bill 2014

3.2 The Excise Tariff Amendment (Fuel Indexation) Bill 2014 and Customs Tariff Amendment (Fuel Indexation) Bill 2014 would index the rate of excise and excise-equivalent customs duty applying to fuels, including gaseous fuels, in line with changes in the CPI. The amendments would apply indexation to duty on domestically manufactured and imported fuel with effect from 1 August 2014 and thereafter on 1 February and 1 August of each subsequent year.[1] The duty payable on petroleum products is generally calculated by applying the duty at a set rate of cents per litre or kilogram of the product.[2]

3.3 This indexation would be consistent with the way in which indexation of the rates of excise and excise-equivalent customs duty applies to alcohol—that is, indexation occurs bi-annually based on changes in the CPI as published by the Australian Statistician.[3] The intention of the proposed legislation is to maintain the real value of excise and excise-equivalent customs duty collections and to ensure that this additional revenue is dedicated to funding investment in road infrastructure.[4]

3.4 According to the Explanatory Memorandum, indexation would apply to the following fuels:

- petroleum condensate and stabilised crude petroleum oil used as a fuel;
- topped crude petroleum oil;
- refined or semi-refined liquid products derived from petroleum;
- liquid hydrocarbon products;
- liquefied petroleum gas;
- liquefied and compressed natural gas;
- denatured ethanol for use in an internal combustion engine;
- biodiesel; and

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1 Explanatory Memorandum, General outline and financial impact, p. 3 and paragraph 1.6.

2 Explanatory Memorandum, paragraph 1.13.

3 Explanatory Memorandum, paragraph 1.10.

4 See for example, Explanatory Memorandum, paragraph 1.9.

- blends of the above products.[5]

The measure was estimated to result in a gain to revenue over the forward estimates of $2,197.5 million comprising:

2014–15	2015–16	2016–17	2017–18[6]
$157.5m	$375m	$675m	$990m

3.5 The Regulation impact statement suggested that:

> By the end of the forward estimates period in July 2018 the biannual indexation of fuel excise and excise-equivalent customs duty is estimated to result in a total increase in petrol and diesel prices of 4.1 cents per litre, which includes a 0.4 cent per litre increase in GST which is levied on the duty-inclusive price.[7]

3.6 The ATO is to calculate the indexed rates of fuel tax every indexation period. According to the ATO, it has a range of online calculators and an established process for early notification and announcement of what the CPI rate is. The ATO would follow a process similar to what it has done prior to indexation for other excise issues.[8]

Blended fuels

3.7 Blended fuels would also be subject to indexation. The rate of excise for fuel blends is to be worked out using a five-step process. The bill sets out the method for determining the duty payable on blended fuels at the time the duty on the blended goods is payable. It refers to subsection 6G(1) but with a note that the rate appearing on the face of step 3 would be indexed under section 6A—the indexation of CPI indexed rates.

Step 1. Add up the amount of duty that would be payable on each constituent of the blended goods, that is classified to item 10 of the Schedule, if the constituent had not been included in the blended goods.

Step 2. Work out the volume, in litres, of the blended goods that is not attributable to those constituents or to water added to manufacture the blended goods.

Step 3. Multiply the result of step 2 by (as indexed under section 6A)

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5 Explanatory Memorandum, paragraph 1.11.

6 Explanatory Memorandum, p. 3.

7 Regulation impact statement, paragraph 2.11.

8 See Mr James O'Halloran, *Proof Committee Hansard*, 2 July 2014, p. 26.

Step 4. Total the results of steps 1 and 3.

Step 5. Subtract from the total any duty paid on a constituent of the blended goods that is classified to item 10 or 15 of the Schedule.[9]

Rounding of duty payable

3.8 Under the proposed legislation the indexed rates of excise and excise-equivalent customs duty for fuels, excluding aviation fuel, are to be rounded to one decimal point of a cent. The Explanatory Memorandum noted that:

> This simplifies the fuel tax credit claim calculation for claimants of fuels such as petrol and diesel that currently have a rate of duty calculated to three decimal places of a cent.[10]

3.9 The current rounding rules still apply for 'the purposes of calculating the CPI index rate of duty for each indexation period'. Thus, while the calculation of CPI indexed rates uses rates expressed to three decimal places of a cent for fuels such as petrol and diesel, the result of the calculation would be rounded to one decimal place of a cent. The Explanatory Memorandum provides the following example:

> On 1 August 2014 CPI indexation applies. Assume that the indexation factor for 1 August 2014 is 1.035. Accordingly the CPI indexed duty rate for diesel on 1 August 2014 is 39.5 cents per litre (or $0.395 per litre). This is calculated by multiplying the indexation factor by the pre 1 August 2014 duty rate (38.143 cents per litre x 1.035 = 39.478 cents per litre rounded up to one decimal place of a cent being 39.5 cents per litre).
>
> On 1 February 2015 CPI indexation applies. Assume that the indexation factor for 1 February 2015 is 1.022. Accordingly the CPI indexed duty rate for diesel on 1 February 2015 is 40.3 cents per litre (or $0.403 per litre). This is calculated by multiplying the indexation factor by the 1 August 2014 rate before rounding (39.478 cents per litre x 1.022 = 40.347 cents per litre). The result of this calculation is then rounded down to one decimal place of a cent being 40.3 cents per litre.[11]

3.10 The government had not previously announced the rounding of duty rates and the road user charge to one decimal place of a cent.[12]

Fuel Indexation (Road Funding) Bill (FIRF)

3.11 Registered entities that use fuel in their business activities for certain activities may claim fuel tax credits. The Regulation impact statement notes that:

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9 Section 6G and Excise Tariff Amendment (Fuel Indexation) Bill 2014, items 9 and 10. Also refer the examples given in Explanatory Memorandum pp. 9–10.

10 Explanatory Memorandum, paragraph 1.17.

11 Explanatory Memorandum, p. 11.

12 Explanatory Memorandum, p. 3.

> Fuel used in heavy (that is more than 4.5 tonnes gross vehicle mass) on-road vehicles and business off-road will not bear the burden of any fuel excise increases because of their entitlements to fuel tax credits. For off-road activities, this is the full reimbursement of fuel tax for heavy on-road vehicles this is equivalent to the fuel tax rate minus the road user charge.[13]

3.12 The *Fuel Tax Act 2006* provides a single system of fuel tax credits. Fuel tax credits are paid to reduce the incidence of fuel tax levied on taxable fuels, ensuring that, generally, fuel tax is only applied effectively to:

- fuel used in private vehicles and for certain other private purposes; and
- fuel used on-road in light vehicles for business purposes.[14]

3.13 The Act explains that to achieve this purpose, a fuel tax credit is provided to reduce the incidence of fuel tax applied to:

- fuel used in 'carrying on your' enterprise (other than fuel used on-road in light vehicles); and
- fuel used for domestic heating and domestic electricity generation; and
- fuel packaged for use other than in an internal combustion engine; and
- fuel supplied into certain kinds of tanks.[15]

3.14 The bill amends the section of the Act concerned with the calculation of fuel tax credits.

3.15 The calculation of the fuel tax credit for an amount of fuel depends on the rate of excise or excise-equivalent customs duty that applies to fuel. The rates of the fuel tax credits are calculated by subtracting any rebate or grant that applies from the applicable exercise and excise-equivalent customs duty.[16] The FIRF 2014 amends the *Fuel Tax Act 2006* to ensure that taxpayers generally use the same indexed rate of duty payable on the fuel for determining the amount of their fuel tax credits.[17] Indeed, the Regulation impact statement states that:

> To ensure that the fuel tax credit system works effectively, modifications will also be made to the Fuel Tax Act 2006. These modifications seek to ensure that the same indexed rate is used for determining the amount of excise or excise-equivalent customs duty payable on the fuel and the amount of the fuel tax credit for the same fuel.[18]

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13 Regulation impact statement, paragraph 2.31.

14 Section 40–5.

15 Section 40–5.

16 Explanatory Memorandum, paragraph 1.5.

17 Explanatory Memorandum, paragraph 1.8.

18 Regulation impact statement, paragraph 2.50.

3.16 The Explanatory Memorandum notes that the current provisions use the duty rate on the first day of the tax period to calculate the amount of the fuel tax credits after 30 June 2015 for most registered claimants. It explained that this arrangement:

> …may have understated the fuel tax credits for claimants who report quarterly or annually. These claimants may have paid the higher indexed rate of duty, or acquire fuel that has borne the higher rate on or after 1 February or 1 August, but could only claim fuel tax credits based on the lower duty rate applying on the first day of a tax period starting on 1 January or 1 July.[19]

3.17 To resolve these difficulties, the bill repeals subsection 43–5(2A) and substitutes it with the following table that stipulates the date for working out the rate of fuel tax, grant or subsidy:[20]

If	The day is:
1. You acquired or imported the fuel	The day you acquired or imported the fuel
2. You: (a) manufactured the fuel; and (b) entered the fuel for home consumption (within the meaning of the *Excise Act 1901*)	The day you entered the fuel for home consumption (within the meaning of the *Excise Act 1901*)

3.18 Subsection 43–10(6) would be repealed and a new subsection inserted that provides for the amount by which a fuel tax credit for taxable fuel is to be reduced is worked out by reference to the rate of fuel tax or road user charge in force on the day worked out using the table in subsection 43-5(2A).[21]

Fuel Indexation (Road Funding) Special Account Bill 2014 (FISA)

3.19 This bill establishes the Fuel Indexation (Road Funding) Special Account. A special account is an 'appropriation mechanism that provides a limited special appropriation of up to the balance of the Special Account at any given time'. The appropriation is provided under sections 20 or 21 of the *Financial Management Accountability Act 1997*.[22]

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19 Explanatory Memorandum, paragraph 1.51.

20 Fuel Indexation (Road Funding) Bill 2014, Schedule, item 1.

21 Fuel Indexation (Road Funding) Bill 2014, Schedule 4, item 2.

22 See Department of Finance, http://www.finance.gov.au/financial-framework/financial-management-policy-guidance/special-accounts.html (accessed 20 June 2014)

3.20 The purpose of the Special Account is stipulated unambiguously in the preliminary part of the proposed legislation. The bill states that the purpose of the Special Account is to ensure that amounts equal to the net revenue from indexation on customs and excise duties on fuel are transferred to the Commonwealth of Australian Governments' Reform Fund. It is to be used to provide funding to the states and territories for expenditure in relation to Australian road infrastructure investment.[23]

3.21 The bill would provide for the Treasurer, by writing, to determine that a specified amount is to be credited to the Special Account on a specified day. In making such a determination, the Treasurer must have regard to the purpose of the Special Account.[24] The Explanatory Memorandum also makes clear that the balance of the Special Account can only be used for road infrastructure funding.[25] This determination is a legislative instrument but section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to the determination.[26] This provision means that a House of the Parliament cannot disallow the Treasurer's determination. Under the proposed legislation, for each financial year starting on or after 1 July 2014, the Treasurer must:

- make one, and only one, determination; and
- make that determination as soon as practicable after the end of the financial year.[27]

3.22 The proposed legislation intends to ensure that amounts in the Special Account are 'transferred to the COAG Reform Fund as soon as practicable in order to make grants of financial assistance to the states and territories for expenditure in relation to Australian road infrastructure investment'.[28] The bill provides for the Infrastructure Minister by writing to direct that a specified amount is to be:

- debited from the Special Account; and
- credited to the COAG Reform Fund;

on a specified day.[29]

3.23 The provisions, which establish the Special Account for the next additional revenue from the reintroduction of fuel indexation, apply from 1 July 2015.[30]

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23 Fuel Indexation (Road Funding) Special Account Bill 2014, item 3.

24 Fuel Indexation (Road Funding) Special Account Bill 2014, item 8.

25 Explanatory Memorandum, paragraph 1.7.

26 Fuel Indexation (Road Funding) Special Account Bill 2014, item 8.

27 Fuel Indexation (Road Funding) Special Account Bill 2014, item 8.

28 Fuel Indexation (Road Funding) Special Account Bill 2014, item 10.

29 Fuel Indexation (Road Funding) Special Account Bill 2014, item 10.

30 Explanatory Memorandum, p. 3.

3.24 In the following chapter, the committee examines the arguments put forward in submissions and during the public hearing that support the proposed legislation or parts of it and those that oppose the package of bills.

Chapter 4

Views on the provisions of the bills

4.1 Evidence presented to the committee can be grouped into three broad areas:

- support for the indexation but with assurances that the tax credit arrangements would be taken into account and compensate for the increase in indexation;
- support for the indexation, indeed some would like to see the rate increased further, but with the additional funds raised to be dedicated to projects that go beyond road infrastructure; and
- opposition to the package of bills because of concern over:
    - the disproportionate adverse effects that increased petrol prices could have on particular communities;
    - lack of transparency and accountability associated with the Special Account; and
    - the potential to undermine the positive results stemming from the funds credited to the Special Account by withdrawing funds from other areas of road infrastructure.

4.2 In this chapter, the committee examines the arguments in favour of the proposed legislation and those opposing it.

Maintaining a link between fuel excise indexation and fuel tax rates

4.3 Submissions representing the interests of three very different groups—National Farmers' Federation, Minerals Council of Australia and the Australian Trucking Association—supported strongly the provisions of the Fuel Indexation (Road Funding) Bill. They recognised that fuel is 'a vital business input for a range of businesses', including agriculture, the minerals industry and the trucking industry. Currently, heavy vehicles used by businesses and vehicles used off-road in industries such as agriculture, forestry, fishing, manufacturing and construction are able to access fuel tax credits (FTCs).

4.4 The bill would mean that as the excise increases, the credit will be adjusted accordingly—a rise in fuel tax due to indexation will immediately raise the industry's fuel tax credits by the same amount. Both the National Farmers' Association and the Minerals Council informed the committee that:

> The *Fuel Tax Act 2006* automatically operates to ensure FTCs are available at the excise rate to fully offset excise for off-road use of diesel and petrol by the mining, agriculture and other industries. The legislation before the committee, as currently drafted, appropriately does not propose any change to these arrangements on the basis of sound tax policy.
>
> …

> Fuel Tax Credits are consistent with the tax policy principle that business inputs should not be taxed. This is the same principle that applies in the GST system which provides input tax credits for business to business transactions. FTCs simply reimburse businesses for excise tax paid on business inputs. Taxing business inputs is economically inefficient as it distorts production and consumption decisions.[1]

4.5 They noted that fuel tax credits are important in underpinning production of goods and services in regional and remote Australia and that:

> Any move to reduce FTCs would introduce a tax distortion by imposing a tax on industries that are reliant on the use of diesel fuel because they operate large equipment off-road and generate their own power off the electricity grid in remote areas.[2]

4.6 The National Farmers' Federation argued that taxing 'such a key business input' would adversely affect most farm businesses resulting in a less competitive sector.[3] Similarly, but from the exploration, mining and minerals perspective, the Minerals Council suggested that:

> Limiting fuel tax credits for diesel use would constitute a new tax on every mine in an industry where diesel can account for up to one quarter of operating costs at some mines. Taxing such a key business input would impact the most marginal and remote mines making Australian mining projects less competitive. Importantly, a number of Australia's competitors do not levy taxes on fuels used in mining and agriculture.[4]

4.7 Both associations noted that rebates for fuel excise had been 'a long standing feature of Australia's tax system' dating back to 1957'.[5] Mr Rob Heferen, the Treasury, explained further:

> The principal rationale behind the fuel tax credit system and, prior to that, the diesel fuel rebate scheme was to ensure that a number of industries that used fuel off road were not subject to double tax, particularly any industries that will be competing in some sort of price-sensitive market either domestically or through export. So manufacturers, the agricultural industry and the mining industry are all eligible for the rebate where it is used off road, on the basis that the fuel is a clear business input and that a good tax policy outcome would make sure that the business inputs as far as possible are not subject to tax so that, when the business is then using that for its production and onselling, in that onselling there is not an embedded amount of tax. From a policy point of view, to relieve business, particularly export

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1 *Submission 2*, p. 3 and *Submission 6*, pp. [1–2]

2 *Submission 2*, p. 4 and *Submission 6*, p. [2].

3 *Submission 2*, p. 4.

4 *Submission 6*, p. [2].

5 *Submission 2*, p. 4 and *Submission 6*, p. [2].

> oriented business but even domestic business, of the double tax burden is a sound policy position.[6]

4.8 The Australian Trucking Association (ATA) informed the committee that, although the proposed legislation would not change the net fuel tax on trucks, it had identified two 'potential issues for trucking operators with the introduction of fuel tax indexation'.[7] The two matters go to the days on which calculations are made for fuel tax credits and when road user charges take effect. The association raised these issues with the ATO and the Treasury, and as a result of its advocacy, the proposed legislation now addresses both matters. In the association's assessment, the amendments 'fully address the concerns' that the ATA raised with the ATO and Treasury.[8]

4.9 Mr James Sorahan, Minerals Council of Australia, described the fuel tax credit scheme that was put in place in 2006 as being 'fairly straightforward and simple' and administratively uncomplicated for the ATO and business. In his view the scheme has worked 'reasonably well'.[9] The National Farmers' Federation, the Minerals Council and the ATA wanted to see the integrity of the fuel tax credits scheme preserved and hence supported the Fuel Indexation (Road Funding) Bill 2014.

4.10 The committee believes that the proposed legislation would preserve the integrity of the tax credit system which has been in operation successfully for many years.

Dedicating funds to road infrastructure

4.11 As noted in the previous chapter, the proposed legislation makes clear that the funds raised through the new indexation arrangements were to be devoted to road infrastructure.[10] To varying degrees, a number of submitters supported the indexation of fuel excise but wanted to see the funding arrangements to the states and territories for expenditure on Australian road infrastructure investment broadened; others wanted the fuel excise to be increased further.

4.12 Professor Philip Laird, University of Wollongong, noted the revenue forgone since the abolition of the indexation to CPI in 2001 and the need for increasing excise on fuel. He stated:

> Fuel excise was frozen by the Howard government in early 2001 (an election year) at 38.183 cents per litre and has since remained at this

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6 *Proof Committee Hansard*, 2 July 2014, p. 23.

7 *Submission 8*, p. 4.

8 *Submission 8*, pp. 4–5. Also see Mr Bill McKinley, *Proof Committee Hansard*, 2 July 2014, p. 3

9 *Proof Committee Hansard*, 2 July 2014, p. 3.

10 Fuel Indexation (Road Funding) Special Account Bill 2014, item 3.

> relatively low level, by OECD standards…Had it continued to apply from 2001, would now be generating well over $2 billion per annum of additional revenue.
>
> Given Australia's record outlays on roads now exceeding $16 billion pa by three levels of government, which is now double that of a decade ago, there is now a strong economic case to increase fuel excise in Australia.[11]

4.13 He was also of the view that allocating the additional revenue raised through indexation to roads was 'poor policy'.[12] In his view, some form of compromise was appropriate and the government should be prepared to dedicate at least half the proceeds of the increase to urban public transport.[13]

4.14 Mr Ben Rose not only supported the reintroduction of the fuel excise indexation but also advocated further increases in the fuel excise beyond the CPI.[14] He argued:

> Fuel prices are already 20c/ L CHEAPER than they would have been if indexation had continued (assuming average annual CPI of 3% and 13 years since indexation ceased on introduction of the GST). That has encouraged people to continue to over-use their cars. This is a situation that needs to cease and be reversed. Increasing fuel taxes will provide a price signal for people to use alternative transport modes or buy more fuel efficient vehicles.[15]

4.15 Furthermore, he suggested that the hypothecation of fuel excise to fund the construction of roads was 'a regressive and unnecessary step'. He indicated that the funds should go towards projects that benefit walking, cycling and public transport and projects 'to mitigate the health impacts of vehicle pollution and global warming'.[16]

4.16 Likewise, the Sustainable Transport Coalition of Western Australia was in strong support of fuel indexation but wanted the revenue raised to be hypothecated not only to roads in general but to 'walking, cycling and public transports'.[17]

4.17 The Australasian Railway Association also supported the biannual indexation of fuel excise but on the 'proviso the rail rebates are increased in line with the rise in fuel excise'. While the association was of the view that the proposed indexation

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11 *Submission 16*, p. 1.

12 *Submission 6*, p. 2.

13 *Submission 16*, p. 3.

14 Mr Rose noted that he had 10 years' experience as an environmental consultant and 43 years as a motorist on Australian roads.

15 *Submission 4*, p. [2].

16 *Submission 4*, p. [1].

17 *Submission 3*, p. [1].

arrangements would be a positive move toward building infrastructure, it suggested that:

> …it must be done in a way that promotes competitive neutrality between all modes of transport and does not create distortions within the transport market.[18]

4.18 It drew attention to the rebate received on fuel by rail operators, which it believed, according to the ATO, would decrease by approximately 1 per cent on 1 July 2014. The ARA concluded that:

> The decrease in rebate and the passing of this legislative package will mean that Australian rail will essentially pay an even larger proportion of tax through diesel.[19]

4.19 In the ARA's view this result would not be right for the government and the community, because:

> Rail, as the more environmentally friendly form of land transport, should be promoted and supported by the Federal Government, not penalised through the increase in diesel prices.[20]

4.20 The ARA stated further:

> What the Government has failed to recognise when making this decision is the fact that it is not only road users that will be paying the increased excise. Part of the revenue will be paid by the rail and public transport sector. Essentially, under the current proposal, the Government is taxing rail to fund road infrastructure.[21]

4.21 For the ARA, the Australian Rail industry would not support the government's proposal for biannual indexation if the rail rebates do not increase in line with the fuel excise.[22]

4.22 Furthermore, the ARA was of the view that the revenue raised from the indexation 'must be hypothecated back to both roads and rail infrastructure'. It argued that this injection of funding for rail as well as roads would 'allow Australia to build vital infrastructure for the future'.[23] It suggested:

> Re-introducing CPI increases and hypothecating Australia's fuel tax for public transport and road investment would re-allow revenue from Australia's fuel tax to increase with GDP, increasing the funding pool and

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18 *Submission 7*, p. 5.

19 *Submission 7*, p. 6.

20 *Submission 7*, p. 7.

21 *Submission 7*, p. 7.

22 *Submission 7*, p. 7.

23 *Submission 7*, pp. 3–4.

> providing a reliable source of revenue for transport investment. Although this would still leave the revenue slightly behind where it could have been had CPI increases not been removed, it would stop the income from the Fuel Tax decreasing each year and would re-allow the revenue from Australia's fuel tax to grow with CPI. This would give Australian governments a greater ability to grow Australian infrastructure and reduce the current infrastructure deficit evident in the Australian economy.[24]

4.23 The ARA highlighted the importance of improving public transport, which, it argued, provides 'wide-reaching social and economic benefits'. It suggested that the industry would like to see the revenue used, in part, to fund future rail infrastructure projects such as the Inland Rail project and public transport projects that would improve service quality and infrastructure. In its view, whether Australians actually travel by public transport or not, they benefit from its use and existence:

> Investing in more roads will simply lead to more vehicles and ultimately to more congestion, longer travel times, heightened pollution and increased running costs for vehicles. Ultimately, all of these factors contribute to reducing our nation's productivity.
>
> …
>
> …transport investment should be made according to the bigger picture. Integration and service coordination between all modes is vital, as is balanced investment. We believe that if Australia is to have a world-class transport system the federal government needs to invest in all modes of transport. That means hypothecating the revenue from the fuel tax into all forms of transport—that is, roads, rail and public transport—not just roads.[25]

4.24 Although, according to the Bus Industry Confederation, the indexation of fuel excise would be revenue neutral for bus and coach operators throughout Australia, it shared the ARA's view that the revenue raised through indexation opened up prospects for improving infrastructure other than just roads. It noted that the intention to dedicate revenue collected from the indexation of fuel excise into road funding would take Australia 'back to the future', when in 1929 the introduction of an excise on petrol saw the hypothecation of this revenue to road funding.[26] It argued further:

> …in hypothecating road use revenue into the maintenance and development of the road network, consideration must be given to the mobility needs of Australians who either cannot afford, or are unable to drive. This necessitates the investment of revenue into not only road construction and maintenance, but investment into infrastructure for alternative modes of travel including bus and rail public transport.

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24 *Submission 7*, p. 4.

25 Ms Emma Woods, *Proof Committee Hansard*, 2 July 2014, p. 5.

26 *Submission 9*, p. 2.

> Public transport presented as a viable alternative to those Australians who are able to drive can serve the purpose of reducing demand for the road network, thereby reducing road construction and maintenance costs.
>
> Allowing the revenue collected from fuel excise indexation to be invested in public transport infrastructure can assist in addressing the added demand for public transport services that will arise as driving becomes more expensive.[27]

4.25 According to Mr Michael Apps, Bus Industry Confederation, congestion currently costs Australia around $13 billion in productivity losses to the economy, which is expected to grow to $20 billion by 2020—a drain on Australia's productivity. Witnesses informed the committee that the average passenger train takes 525 cars off the road, one freight train can take 110 trucks off the road and a full bus takes 50 cars of the road.[28] The Bus Industry Confederation recommended that the legislation be reworded to reflect the intention to fund land transport infrastructure and the purpose of the renamed Fuel Indexation (Land Transport Infrastructure Funding) Special Account to identify clearly that its purpose was to:

> …ensure that amounts equal to the fuel indexation amount mentioned in subsection (2) are transferred to the COAG Reform Fund in order to provide funding to the States and Territories for expenditure in relation to Australian land transport infrastructure investment.[29]

4.26 Accordingly, consequential changes would also be required to relevant provisions in the package of bills to make sure that this purpose was consistently represented throughout the legislation. The Bus Industry Confederation made a number of other recommendations including that Commonwealth funds invested in new road construction give, where appropriate, priority to bus transport and the Commonwealth allocate a portion of revenue collected from fuel excise indexation to the resumption of the National Travel Behaviour Change Project.[30]

4.27 Mr Cole Hendrigan likewise underlined the importance of using the funds from fuel indexation to 'fund high-capacity public transport'.[31]

4.28 Crude Oil Peak noted that the abolition of the fuel excise indexation, which has resulted in cheaper diesel and petrol prices, had distorted fuel use in the economy.[32] It suggested that any additional revenue from fuel excise indexation should be used to finance projects that would 'reduce the use of oil in the economy—

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27 *Submission 9*, p. 3.

28 Ms Woods and Mr Apps, *Proof Committee Hansard*, 2 July 2014, pp. 6, 8 and 9.

29 *Submission 9*, p. 4.

30 *Submission 9*, p. 4.

31 *Submission 1*, p. [1]. Mr Hendrigan is a PhD candidate at Land Use and Transport Integration, Curtin University Sustainability Policy Institute.

32 *Submission 10*, p. 1.

alternative fuel infrastructure, electric rail and other public transport.[33] Similarly, the Australian Association for the Study of Peak Oil (ASPO–Australia) recognised the proposed indexation as a 'crucial first step' but wanted the government to go much further. It recommended that Australia increase fuel excise on a fuel-tax escalator by CPI plus around 5 per cent. According to the ASPO, this measure 'would help shield Australia from future oil shocks and an ever-growing oil-import bill, and provide vital funds for crucial government services'. In its words:

> The main reason for a fuel tax escalator is to give people advance notice that fuel is a valuable non-renewable resource which is likely to become increasingly scarce, probably within five or ten years.[34]

4.29 It argued the additional funds raised should not be hypothecated to 'ever more roads', but used for 'education, hospitals, aged care and all other services which are not properly funded'.[35]

Effect of indexation on particular sectors of the community

4.30 The final group of submitters was concerned that the rise in fuel prices due to the proposed indexation arrangements would place a burden on specific sections of the Australian community. For example, the National Growth Areas Alliance (NGAA) referred to research to demonstrate that there were high levels of vulnerability on the outskirts of capital cities. It cited the work of Mr Elliot Fishman and Mr Tim Brennan who reached similar findings indicating that there was 'a clear correlation between fuel use and location with fuel use increasing with distance from the CBD'. The NGAA suggested that:

> Residents in outer suburbs already pay a high price for living there. Even higher fuel prices, to still sit for hours on congested roads, will add to their burden as they do not have the available choices that others enjoy to use their cars less.[36]

4.31 NGAA argued that indexation would result in cost of living increases but without improving quality unless jobs are brought closer to home and a range of transport options are provided. It was of the view that:

> If fuel indexation as countenanced is introduced, the proceeds should be spent where the impacts will affect large numbers of households. The disproportionate impacts on the outer suburbs should result in significant resources returning to those areas to contribute to providing the suite of transport solutions these areas sorely need. [37]

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33 *Submission 10*, p. 1.

34 *Submission 15*, p. 2.

35 *Submission 15*, p. 1.

36 *Submission 5*, p. 2.

37 *Submission 5*, p. 2.

4.32 In its submission, the Northern Territory Government drew attention to the specific circumstances of people living in the north. It noted that road transport was 'critical for Territorians to access basic goods and services as well as core government services including education, primary and tertiary health and law and order'. In its view:

> The greater reliance on road transport means that Territorians are likely to be disproportionately impacted by the proposal to reintroduce fuel indexation. This is compounded by the fact that Territorians are already paying more for fuel than the rest of Australia.[38]

4.33 The Treasurer for the Northern Territory Government wrote that since mid-2012, the price differential for unleaded petrol between Darwin and the rest of Australia had 'fluctuated around the 20 cent per litre mark.[39] In summary, he informed the committee that:

> The disproportionate impact that indexation of fuel excise will have on the Territory and the rest of Northern Australia is contrary to the Commonwealth's stated objectives of developing Northern Australia and will significantly add to the challenge of encouraging private investment in the region.[40]

4.34 The National Roads and Motorists Association (NRMA) argued that the reintroduction of fuel indexation would 'severely disadvantage Australian motorists who already pay more than their fair share of tax without getting enough back through road investment'.[41] In its view, the indexation would mean higher petrol prices that would make 'everyday activities less affordable for motorists', in particular, for those in rural and regional Australia who have to use their vehicles to travel longer distances.[42]

4.35 The Australian Automobile Association (AAA) agreed with the NRMA's view that Australian motorists were already 'paying too much tax and do not see a fair return through stronger investment in roads and other land transport infrastructure'.[43] They also noted that the price effect of any increase in fuel excise and excise-equivalent customs duty would 'fall most heavily on households and owners of light commercial vehicles used on-road'. As a consequence, it shared NRMA's concerns that the reintroduction of the fuel indexation would disproportionately affect those who need their vehicle to access employment and essential services—that they would bear the highest cost increases stemming from the indexation changes. According to

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38 *Submission 12.*

39 *Submission 12.*

40 *Submission 12.*

41 *Submission 11*, p. [1].

42 *Submission 11*, p. [1].

43 *Submission 13*, p. 1.

research, they tend to be people in the outer metropolitan areas and rural and regional areas where 'there are lower incomes, less jobs, and little or no access to public transport.'[44] They also must 'travel longer distances and who are often reliant on a private car for the majority of their transport requirements'.[45]

Adequacy and certainty of road funding

4.36 The NRMA referred to the more than $60 billion that would be raised over the next four years through the fuel excise. It noted, however, that from this substantial sum, the government's proposed legislation would allocate less than 4 per cent to road infrastructure—that is the net additional revenue (estimated at around $2.2 billion) collected from the reintroduction of fuel indexation.[46] The NRMA's position is that:

> …at least 50 per cent of all revenue collected from fuel excise to be hypothecated into a 'special account' and invested back into road and public transport infrastructure. However, NRMA acknowledges the Commonwealth's policy decision to provide rebates to certain primary industries.[47]

4.37 According to the NRMA, it supported the notion of hypothecating revenue raised from motorists for road funding, but not the proposed arrangements in their current form. It was concerned about the 'prima facie' lack of transparency and accountability in its administration and reporting requirements. It its view:

> …the process for hypothecation and the subsequent allocation of funds to road infrastructure projects is convoluted and appears to create additional layers of bureaucratic red-tape.[48]

4.38 Furthermore, it called on the government to ensure that allocations to and from the 'special account' be reported as a separate line item in its Budget Papers.[49] In addition, that all allocations made from the account to infrastructure projects be reported in sufficient detail in the Department of Infrastructure and Regional Development Annual Report.[50]

4.39 The NRMA suggested that the government consider adopting provisions along the lines of the provisions in the NSW Community Road Safety Fund. It argued that by adopting similar measures:

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44 *Submission 13*, Appendix, p. [1].

45 *Submission 13*, p. 1.

46 See p. 12.

47 *Submission 11*, p. [2].

48 *Submission 11*, p. [2].

49 *Submission 11*, p. [3].

50 *Submission 11*, p. [3].

> …revenue raised from the fuel excise, including any additional revenue collected from the reintroduction of fuel indexation, would be allocated into a 'special account' controlled by the Department of Infrastructure and Regional Development, independent of the Treasury.[51]

4.40 In its view, this measure would provide assurance that revenue collected from the fuel excise indexation would be 'allocated to road and transport projects, at the direction of the Minister for Infrastructure, and not redirected into consolidated revenue for other purposes'.[52]

4.41 According to the AAA, the current funding arrangements for roads and other land transport infrastructure in Australia was 'broken' and major reforms were needed 'to tackle the national infrastructure shortage'.[53] The AAA argued that:

> While motorists make a significant contribution to the Government's revenue base, only a portion of this flows back into public spending on transport infrastructure.[54]

4.42 Another major worry was that motorists have no guarantee, beyond forward estimates, that the amount credited to the Special Account would 'not be offset by diverting an increased proportion of the existing base of fuel excise revenue to other purposes.'[55] The AAA welcomed the requirement for the amount raised by the reintroduction of indexation to be dedicated to road transport. Even so, it was of the view that the proposed changes to the indexation of fuel excise and its use for road infrastructure, still fell far short of the AAA's preferred model. It reinforced the proposal by the NRMA that a 'guaranteed 50 per cent share of fuel excise revenue, net of fuel tax credits, should be set aside for road funding'.[56] The AAA spelt out its concerns:

> In the longer term, there is a concern about the sustainability of the special account as it attracts an increasing proportion of the total fuel excise revenue. In particular, given that it is specified that funds allocated from the special account must be paid to the states and territories through the COAG Reform Fund there is a question as to whether in the longer term this will result in increasing pressure to displace other mechanisms for Federal Government funding of roads, principally, the Infrastructure Investment Program, which itself is made up of a number of smaller programs each providing targeted funding for particular projects, including the Investment

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51 *Submission 11*, p. [2].

52 *Submission 11*, p. [3].

53 *Submission 13*, Appendix, p. 2.

54 *Submission 13*, Appendix, p. 2.

55 *Submission 13*, Appendix, p. 2.

56 *Submission 13*, Appendix, p. 2.

> Road and Rail program, Roads to Recovery program, the Black Spot program and the Bridges Renewal Program.[57]

4.43 In summary, the AAA and NRMA argued that motorists are the ones who fund the excise and that a share of the base of the tax motorists pay should be invested in transport infrastructure. Furthermore, as already noted, they suggested that 50 per cent would be a 'fairer share and more effective return to motorists.'[58]

4.44 A number of submitters raised concerns about specific communities disproportionately bearing the burden of the increase in fuel prices. In response to a question about whether the Treasury had undertaken a distributional analysis, Mr Heferen informed the committee that the Treasury had not completed such an analysis. He explained to the committee the difficulties for the Treasury in undertaking a distributional analysis on the effects of the proposed indexation of fuel excise. He indicated that many tax changes were 'simply not amenable' to such analysis and in respect of the fuel indexation:

> There is distribution analysis across income levels. With this it is quite difficult because the bulk of the distribution analysis will be about users of petrol and diesel, on-road motorists, and where they live, what sort of car they drive, their expenditure pattern on fuel are all relevant factors. There are some datasets that go to the expenditure patterns that can be utilised. I think that it is fair to say that none of them is as comprehensive as what we could access on the personal tax side. On the personal tax side we could get very complete data out of the tax office about earnings and tax paid at income levels because the tax office has that for everyone. But with excise, because the excise payment is by the manufacturer or wholesaler, the consumer just purchases the excise-inclusive price and there is no excise return relative to consumers as there would be, say, for personal tax so that sort of information one can have regard to by nature or two or more steps removed so it makes the promulgation of these that much more problematic. Having said that, there are various datasets one can have access to, and that is the sort of thing we will be working through.[59]

4.45 Furthermore, with regard to the indexation on fuel excise, he noted that the increases were small and it was not a significant tax increase. He also drew attention to the care needed to be taken in producing analysis because in essence it would be an estimate. According to Mr Heferen, when the Treasury does not have information or data that is 'directly on point, it then makes it just that much harder to use is as a proper tool in the decision making'.[60]

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57 *Submission 13*, Appendix, p. 3.

58 *Proof Committee Hansard*, 2 July 2014, pp. 15 and 17.

59 *Proof Committee Hansard*, 2 July 2014, pp. 20–21.

60 *Proof Committee Hansard*, 2 July 2014, p. 21.

4.46 Mr Rob Heferen noted a few important points about excise tax, transport infrastructure and the proposed legislation:

- in respect of efficiency and overall costs to the economy, the indexation of excise was 'far superior to any other tax';
- the establishment of the Special Account takes the allocation of funds to road infrastructure to a much stricter level—that the parliament through the legislation compels the minister to ensure that the amount of money raised through indexation is spent on roads;
- the government committed in the Budget to a 'pretty extensive infrastructure program'; and
- large proportions of Commonwealth revenue raised through other means, personal tax and corporate tax would be spent on public transport.[61]

4.47 Elaborating on the final two matters, Mr Heferen noted that the fuel indexation stood 'side by side with the significant expenditure outlined in the Budget on roads and transport infrastructure'. He noted the very clear links between infrastructure investment and improving overall productivity:

> The better the network, the better the transport, the less delay firms will have in getting spare parts and the quicker material can be delivered and so forth. That is pretty well articulated throughout the budget papers. A key part of the government's productivity agenda is to improve transport infrastructure.[62]

4.48 While acknowledging that the indexation of the excise component would be 'very small at the start because the indexed amount is very small', Mr Heferen suggested that it 'would grow over time, and therefore more and more money would be put into the fund to be allocated for infrastructure'.[63] Furthermore, he noted that often expenditure on roads or public transport was done at the state and local government level with 'a lot of the money' coming from the Commonwealth through various grants. He stated:

> So in one sense it is a bit disingenuous for people to say, 'You've got this excise amount, that all ought to be spent on these things,' when in fact the vast bulk of tax revenue comes through personal tax. Most of the distribution to the states and territories and local government through grants other than the GST comes out of personal tax and corporate tax.[64]

4.49 It should also be noted that Mr Michael Sutton, Department of Infrastructure and Regional Development, informed the committee that the government had asked

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61 *Proof Committee Hansard*, 2 July 2014, pp.23 and 25–27.

62 *Proof Committee Hansard*, 2 July 2014, p. 25.

63 *Proof Committee Hansard*, 2 July 2014, p. 25.

64 *Proof Committee Hansard*, 2 July 2014, p. 27.

Infrastructure Australia to undertake a national infrastructure audit, which was underway. The Department was also conducting an audit of infrastructure in northern Australia.[65] In addition, the Productivity Commission has recently provided the government with a report on infrastructure which included economic infrastructure that takes in rail, roads and public transport.[66]

Conclusion

4.50 The committee notes the concerns raised by a number of submitters about the hypothecation of funds in the Special Account solely to road infrastructure and not land transport projects. In this regard, the committee understands that the Commonwealth has a much broader commitment to funding public transport projects. It does so at the state and local government level with revenue raised by other means such as through personal income tax and corporate tax. Furthermore, the government recognises the need for achieving a stable and growing source of funding for major infrastructure development and has committed to achieving this goal. The package of bills must be seen in this broader context and as making a contribution to boosting Australia's productivity capacity through building and upgrading roads.

4.51 Moreover, the proposed legislation preserves the integrity of the fuel tax credits scheme which is consistent with the tax policy principle that 'business inputs should not be taxed'. The excise tax is easily understood, relatively simple to apply and its indexation to CPI would not add unnecessary complications.

4.52 The committee also takes account of concerns that some sectors of the Australian community would be disproportionately affected by the indexation of fuel excise. In this regard, the committee notes that the increase due to indexation would be in line with the CPI and that the funds go directly to road infrastructure that would benefit all motorists.

Recommendation 1

4.53 The committee recommends that the bill be passed.

Senator Sean Edwards

Chair

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65 *Proof Committee Hansard*, 2 July 2014, p. 27.

66 Productivity Commission, Draft Report, Volume 1, *Public Infrastructure*, March 2014 http://www.pc.gov.au/__data/assets/pdf_file/0007/134674/infrastructure-draft-volume1.pdf (accessed 20 June 2014).

Dissenting Report by Labor Senators

1.1 Labor Senators also recognise the importance of ensuring stable and predictable revenue growth for public transport infrastructure, including the national road network.

1.2 Labor Senators oppose passage of the bills as Treasury readily concedes that no distribution analysis was prepared to examine the impact of fuel excise indexation on road users. The government report claims funds that go toward road infrastructure benefit all motorists, but a higher proportion of revenue will be raised by road users in regional Australia, and those with longer commutes, than by those living in inner city suburbs; yet most road projects scheduled for the next decade are to ease inner city congestion.

1.3 The government refuses to publicly commit to allocating a fixed proportion of revenue raised specifically for building roads, contradicting the government's own rhetoric:

> 'the fact is the money is hypothecated to extra road spending'[1]
>
> 'every single cent that is raised by fuel excise indexation will be hypothecated to roads'[2]

and Treasurer Joe Hockey's Budget night announcement:

> 'the Government is re-introducing fuel indexation where every dollar raised by the increases will be linked by law to the road-building budget.'[3]

1.4 In addition, the government also refuses to publicly commit to allocating any proportion of revenue raised specifically for funding public transport infrastructure, such as regional and urban rail networks. We take this opportunity to reiterate our deep dismay that the Abbot government refuses to prioritise investment in public transport infrastructure.

Recommendation

1.1 Labor Senators recommend that the Senate reject these bills.

Senator Sam Dastyari
Deputy Chair

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1 Prime Minister, the Hon. Tony Abbott MP, Questions Without Notice, 14 May 2014.

2 Prime Minister, the Hon. Tony Abbott MP, Questions Without Notice, 16 June 2014.

3 The Hon. Joe Hockey MP, Budget Speech, 13 May 2014.

Dissenting report by Australian Greens

1.1 While the Australian Greens support a stronger price signal on fuel use, this package of bills put forward by the government binds all of the funds raised to road expenditure into the future.

1.2 The very fact that the Fuel Indexation (Road Funding) Special Account Bill 2014 states that there will be a special account established to ensure that the net additional revenue from the reintroduction of fuel indexation is used for only road infrastructure funding will do nothing to transform our cities and urban environment.

1.3 Despite the fact that Australians are driving less distance on a per-capita basis, a trend that has continued since the mid-2000s,[1] this bill commits all future governments to pour money into roads year after year, just as the climate crisis escalates and technological advancement threatens the dominance of motor vehicle transport.

1.4 The Greens do not support a special fund for roads that locks in future governments to spending billions on roads by 2030 at the expense of desperately needed public transport investment.

1.5 Fuel excise should be about moving away from pollution, yet it is clear that this government just sees it as a way of raising revenue, taxing people who have no access to public transport or more efficient cars.

1.6 It makes absolutely no sense to put the money into roads—that will increase congestion and make it harder for people in places with little or no public transport.

1.7 Data has shown that new roads attract new motorists, thus undermining arguments that investment in new motorways can ease congestion.[2]

1.8 The Explanatory Memorandum (EM) explicitly states:

> …the effect on demand of an increase in the fuel tax is expected to be minimal, due to the inelasticity of demand for most fuel products. The Australia's Future Tax System consultation paper noted that due to limitations in current technology and distribution systems, the demand for transport fuels is relatively unresponsive to price.[3]

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1 Department of Infrastructure and Transport, Bureau of Infrastructure, Transport and Regional Economics, *Traffic Growth in Australia*, Report 127, 2012.

2 The Conversation, *Abbott's transport priorities drive Australia into the past*, 18 September 2013, http://theconversation.com/abbotts-transport-priorities-drive-australia-into-the-past-17988

3 Explanatory Memorandum, paragraph 2.30.

1.9 In evidence given to the committee, Treasury confirmed that this measure is not about changing behaviour then it is just a revenue-raising measure, stating that 'it is to raise money, certainly. It is an excise. That is what it is there to do—raise some cash.'[4]

1.10 Given that the EM to the bill suggests that this measure would have no impact on driver behaviour, and it's clear that the people most impacted would just be low-income earners because they would not drive less; they would just have less money, spending $5 billion on roads every year by 2030 with no scope to invest in public transport infrastructure is not an outcome the Greens can support.

Interaction with the carbon price

1.11 Billionaire mining companies should not have a free ride on fuel excise while everyone else has to pay.

1.12 Investing all the money in roads, making congestion and pollution worse, and letting the big miners get off scot-free means we cannot support the bill.

1.13 Before the carbon price was legislated, miners received a full 38c Fuel Tax Credit for all fuels purchased. The Carbon package included a 'carbon charge' which reduced the full 38c rebate by ~6 cents to 32c and reduces the value of the Fuel Tax Credit to mining companies over time (it moves with the carbon price).

1.14 If the carbon price is abolished, mining companies will receive an additional ~6 cents per litre of fuel that they buy. They will receive a complete rebate on fuel while everyday motorists pay more. Indexation on fuel excise would increase the amount of revenue lost to miners by around $720 million over the estimates period. This growing subsidy would create a structural flaw in our expenditure with no corresponding public policy purpose.

The need to invest in public transport

1.15 Public Transport investment in Australia is sorely lacking and will almost always have a higher cost–benefit ratio than roadways. Irrespective of this reality, we have seen these budgeted projects scrapped by the Abbott government:

- Brisbane Cross River Rail;
- Melbourne Metro;
- Freight Rail Revitalisation (Tas); and
- Perth Public Transport Package including Light Rail funding.

4 Mr Rob Heferen, *Proof Committee Hansard*, 2 July 2014, p. 22.

1.16 Worse still is the way the Abbott government simply ignored the large number of public transport projects on the Infrastructure Australia priority that were at the 'ready to proceed' or 'threshold' level.

1.17 These were the Brisbane Cross River Rail and Brisbane TransitWays, the Melbourne Metro, and the Adelaide East-West Bus Corridor.

1.18 In contrast, the Abbott government's first infrastructure budget provided $11.6 billion for Infrastructure (to total of $50b to 2019-20). Of this, $9.7 billion is going to road, and none of the projects receiving funding have been identified as a priority by Infrastructure Australia.

1.19 All are highly contested by local communities and transport experts. These are:

- $1.5b for Sydney's WestConnex;
- $3 billion for the East West Link in Melbourne;
- $800m for Adelaide's North-South Road Corridor; and
- $925m to the so called Perth Freight Link—including the Roe 8 extension and massive modifications to High Street and Stock Road.

1.20 Prime Minister Abbott's inclination to involve himself in urban policy only via freeways is bad economics and ignores the actual growth occurring in public transport. The Australian Greens recognise, unlike the 'Prime Minister for Infrastructure', that:

- Demand for public transport has grown strongly in most of Australia's capital cities over the last ten years;[5]
- Patronage on Melbourne's rail network increased by 70 per cent over the last ten years and by 40 per cent over the last five;[6] and
- Patronage on Perth's public transport network surged by 61 per cent between 2004–5 and 2011–12.[7]

1.21 The underlying drivers of this growth aren't mere temporary phenomena: Mr Abbott is ignoring structural changes in demographics; in the composition of the economy; and in the relative price of travel by different modes. Further, failure to fund key public transport projects is an efficiency issue as much as anything else. It will limit the economic capacity of Australia's major cities.

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5 Crikey, *Is public transport winning the battle for commuters?*, 31 October 2012, http://blogs.crikey.com.au/theurbanist/2012/10/31/is-public-transport-winning-the-battle-for-commuters/

6 Public Transport Victoria, http://ptv.vic.gov.au/news/news-promotions/network-development-plan-metropolitan-rail/

7 The West Australian, *Public Transport booming says study*, 5 July 2014.

Link between roads and emissions

1.22 A report commissioned from the Institute of Transport Economics in Norway concluded that 'in most situations road construction and the maintenance of new and better roads will, together with direct and indirect consequences of induced traffic, result in increased greenhouse gas emissions. In the larger cities, in particular, increased road capacity will result in significantly increased emissions.'[8]

1.23 The report also came to a number of interesting findings, including:

- Reduced emissions due to better road standards are outweighed by increased emissions from higher speeds. Improved road quality results in higher travelling speeds, thus increasing emissions of greenhouse gases;
- Improved road infrastructure also increases traffic volume, thus resulting in greater emissions;
- A 10 per cent reduction in travel time gives 3–5 per cent growth in traffic in the short term and 5–10 per cent in the long term;
- Changes in greenhouse gas emissions as a result of new road construction or road improvement equivalent to 12 tonnes Co2e per km of road for dual carriageway and 21 tonnes for four-carriage way; and
- Changes to greenhouse gas emissions as a result of operation and maintenance of new road network is 32 tonnes for two carriage-way and 52 tonnes for four–carriageway.

1.24 By sticking with roads and high use of private cars, we stay with auto mobility and unsustainable transport—with its high pollution levels, dependency on oil, high road trauma levels, inequitable access to mobility, and continuing degradation of urban amenity. The Abbott government's focus on road investment ensure this pattern will continue.

Recommendation

1.25 For the reasons outlined above, the Australian Greens recommend that these bills not proceed.

Senator Scott Ludlam
Senator for Western Australia

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8 Institute of Transport Economics, *Does road improvement decrease greenhouse gas emissions?*, p. ii.

APPENDIX 1
Submissions received

Submission Number	Submitter
1	Mr Cole Hendrigan
2	National Farmers' Federation
3	Sustainable Transport Coalition of Western Australia
4	Mr Ben Rose
5	National Growth Areas Alliance
6	Minerals Council of Australia
7	Australasian Railway Association
8	Australian Trucking Association
9	Bus Industry Confederation
10	Mr Matt Mushalik
11	The National Road and Motorists' Association
12	Northern Territory Government
13	Australian Automobile Association
14	Planning Institute Australia
15	Australian Association for the Study of Peak Oil
16	Associate Professor Philip Laird, University of Wollongong

Additional information received

- Document tabled by the Minerals Council of Australia at a public hearing held in Canberra on 2 July 2014.
- A report tabled by the Minerals Council of Australia at a public hearing held in Canberra on 2 July 2014.
- Consumer survey received from the Australian Automobile Association on 2 July 2014, relating to the public hearing held in Canberra on 2 July 2014.
- Answers to questions on notice from a public hearing held in Canberra on 2 July 2014, received from the Treasury on 4 July 2014.
- Answers to questions on notice from a public hearing held in Canberra on 2 July 2014, received from the Australasian Railway Association on 4 July 2014.

APPENDIX 2

Public hearing and witnesses

CANBERRA, 2 JULY 2014

APPS, Mr Michael, Executive Director, Bus Industry Confederation of Australia

BIGNELL, Mr Phil, Manager, Indirect Taxes and Small Business,
Law Design Practice, Department of the Treasury

GIDDINGS, Mr Sam, Senior Manager, Government Relations and Public Policy,
National Roads and Motorists Association

GOODWIN, Mr James, Director, Government Relations and Communications,
Australian Automobile Association

HARBER, Ms Sarah, Economic Policy Advisor, Australian Trucking Association

HEFEREN, Mr Rob, Executive Director, Revenue Group, Department of the Treasury

JORY, Ms Rhianne, Associate Director, Environment and Regulation,
Australasian Railway Association

LOADES, Mr Kyle, President, National Roads and Motorists Association

McIVER, Mr Andrew, Senior Director, Indirect Tax, Australian Taxation Office

McKELLAR, Mr Andrew, Chief Executive, Australian Automobile Association

McKINLEY, Mr Bill, National Manager, Government Relations and
Communications, Australian Trucking Association

MALONEY, Mr Matthew, Acting Principal Adviser, Tax Analysis Division,
Revenue Group, Department of the Treasury

O'HALLORAN, Mr James, Deputy Commissioner, Indirect Tax,
Australian Taxation Office

PEARSON, Mr Brendan, Chief Executive, Minerals Council of Australia

PEISLEY, Mr Merrick, Director, Policy and Advocacy,
Australian Automobile Association

PRESTON, Mrs Kate, Manager, Indirect Taxes and Small Business Entities Unit,
Department of the Treasury

SEDGWICK, Ms Ashley, Director, Investment and Financial Policy, Infrastructure Investment Division, Department of Infrastructure and Regional Development

SORAHAN, Mr James, Director, Taxation, Minerals Council of Australia

SUTTON, Mr Michael, General Manager, Land Transport Productivity, Department of Infrastructure and Regional Development

VOORTMAN, Mr James, Policy Manager, Australian Automobile Association

WOODS, Ms Emma, Manager, Urban Policy, Australasian Railway Association