

Additional Comments from Labor Senators

1.1 Labor Senators support the bill and note concerns raised by some State and Territory Governments through the inquiry process.

1.2 Federal Labor has consistently led the way in arguing for GST distribution reforms that address the needs of Western Australia while also preserving much needed funding across the other jurisdictions.

Federal Labor has led the way on this debate

1.3 While the Turnbull and Morrison Governments have been idle on real action on GST, Federal Labor has been on the leading edge. Federal Labor's announcements have been considered, prudent and thoughtful; reflecting a stable party that is ready to govern for all Australians.

1.4 The first origins of this bill go back to August 2016—when former Prime Minister Malcolm Turnbull first floated the idea of a GST floor at the WA State Liberal conference in the lead up to the state election. The announcement was met with widespread concern from both Liberal and Labor State Governments.¹

1.5 Furthermore, it took until April 2017, after the WA State election in March 2017, for former Treasurer Scott Morrison to not announce action, but the start of a Productivity Commission review which would take the best part of a year.²

1.6 While the Turnbull Government was preoccupied with its own instability, Federal Labor led the debate by announcing the *Fair Share for WA Fund*. Federal Labor did not stand by and watch as the WA economy struggled under the weight of years of mismanagement by the former Liberal Barnett State Government, debt blowouts and a constrained investment environment.

1.7 This fund was designed to bring Western Australia up to the equivalent of 70 cents in the GST dollar from 1 July 2019, based on relativities at the time. At the time of the announcement, it was the first time that a Federal Government or Opposition had put forward a tangible policy response to what had been long acknowledged as a problem with WA's share of GST revenue.

1.8 This policy was also designed with other States and Territories in mind. The fund was structured so that other States and Territories would not see any reduction in their GST funding. In terms of funding this policy, Labor was able to make this investment as a result of policy announcements that make our tax system fairer and improve the budget position, including reforms to negative gearing and capital gains

1 AAP, *States angered by Turnbull's pledge to lift Western Australia's GST take*, 15 August 2016, accessed via: <https://www.theguardian.com/australia-news/2016/aug/14/malcolm-turnbull-commits-to-lifting-western-australias-share-of-gst>

2 The Hon Scott Morrison MP, *Productivity Commission to review economic impact of horizontal fiscal equalisation*, 30 April 2017, accessed via: <http://sjm.ministers.treasury.gov.au/media-release/039-2017/>

tax concessions, closing loopholes for multinationals, and limiting tax minimisation through incoming splitting from discretionary trusts.

1.9 While Federal Labor was on the front foot announcing this policy, the former Treasurer's primary response to Labor's announcement was to question how the policy was going to be paid for:

Now, Bill Shorten didn't promise to fix GST relativity, he just promised to spend more money and has no idea where it is going to come from which will mean more taxes for the Australian people but particularly in Western Australia. Labor's \$150 billion and more in higher taxes, if they are ever to occupy the government benches, will hit Western Australians hard.³

1.10 Labor Senators find it curious that the former Treasurer, in announcing the proposed GST package on 5 July 2018, failed to live up to his own standards and provide details on how his policy was going to be paid for. State Governments are also concerned about other funding arrangements being at risk due to this policy change, and this issue will be covered later in these additional comments.

1.11 It took questioning from Labor Senators to confirm that the details of how this policy will be paid for will be released through the MYEFO process later this year:

The government will announce its full economic position and offsetting and the detail of spending that's announced prior to MYEFO, in the MYEFO process.⁴

1.12 With regards to the policy of a legislated floor for GST relativities, Opposition Leader The Hon Bill Shorten MP on 29 August 2018 announced that Federal Labor's position would be to enshrine a floor in legislation:

What Labor will do is that we will support what the Government has said, but what we will also do is we will legislate it within our first hundred days. That's a floor of 70 cents, from 19/20 and we will lift that floor to 75 cents, 2024/25. We will also make sure that this funding is untied. Obviously, we will consult with the Western Australian Government and we'll have a view about things but this is going to be genuinely, a call for Western Australia.⁵

1.13 It took until 1 October 2018 for the Morrison Government to come on board with this proposal⁶, despite the current Prime Minister saying in July 2018 that 'there's no need to do that'.⁷

3 The Hon Scott Morrison MP, *Interview with Sabra Lane, ABC AM*, 28 August 2017, accessed via: <http://sjm.ministers.treasury.gov.au/transcript/162-2017/>

4 Mr Simon Atkinson, *Committee Hansard*, p. 51.

5 The Hon. Bill Shorten MP, *Transcript*, Wednesday 29th August 2018, accessed via: http://www.billshorten.com.au/bill_shorten_transcript_doorstop_perth_wednesday_29_august_2018

6 The Hon. Scott Morrison MP, *Legislating a Fairer Way to Distribute the GST*, 1 October 2018, accessed via <https://www.pm.gov.au/media/legislating-fairer-way-distribute-gst>

7 The Hon. Scott Morrison MP, Press Conference, Canberra, 5 July 2018, accessed via <http://sjm.ministers.treasury.gov.au/transcript/140-2018/>

1.14 Federal Labor has also been on the front foot calling for a 'no State worse off guarantee' in legislation:

Labor's approach on the GST is that West Australia has been unfairly treated, but what we also want to make sure that is that no state is worse off.

Labor has led the debate on improving the GST outcomes for Western Australia and we've also then said that the floor of 75 cents should be legislated. Now the Government's appropriately picked that up, but I just say to the Government, let's not play any silly games here.

I don't want to see Tasmania, Queensland, any of the other states—Northern Territory—disadvantaged because the Government is trying to chase a few votes in Western Australia. We are able to resolve making sure that no state gets unfairly treated in GST distribution but it shouldn't be at the price of any other state.⁸

1.15 The current Treasurer's reply to this was that the public service administrative burden would be too high:

Because what some of the states are wanting us to do is to run two parallel systems. They're wanting us to run an old set of books based on what is the current system and a new set of books, which is based on the new system with the floor and the additional \$9 billion.⁹

1.16 This position only lasted just over a week, where the Government decided to legislate the guarantee on 16 October, after the current Prime Minister and Treasurer united all State and Territory Governments against them by refusing to include an amendment that no State or Territory would be worse off:

From NSW Liberal Treasurer, Dominic Perrottet:

What I don't accept is change in the GST model which will make states worse off. We believe this legislation will do just that.

That's why every treasurer from every state and territory across the country today (is) united in our view that if this legislation is to be passed, there needs to be an amendment to ensure in law that no state or territory will be worse off as a result of this change.¹⁰

1.17 During the inquiry process, Western Australian Premier Mark McGowan endorsed the view that Federal Labor's announcements were game changers in the process:

8 The Hon. Bill Shorten MP, *Doorstop—Melbourne*, 2 October 2018, accessed via: http://www.billshorten.com.au/doorstop_melbourne_tuesday_2_october_2018

9 The Hon. Josh Frydenberg MP, *Interview with David Speers, Speers on Sunday, Sky News*, 7 October 2018, accessed via: <http://jaf.ministers.treasury.gov.au/transcript/035-2018/>

10 The Hon. Chris Bowen MP, *BRAVO: FRYDENBERG'S FIRST FED-STATE FORAY UNITES ALL STATES AND TERRITORIES AGAINST HIM*, 4 October 2018, accessed via: <https://www.chrisbowen.net/media-releases/bravo-frydenberg-s-first-fed-state-foray-unites-all-states-and-territories-against-him/>

Senator KETTER: Thank you very much, Mr McGowan, for appearing before us. You acknowledged, in your opening statement, the significance of the federal opposition in reaching the outcome that we have today. I just want you to reflect on that. How important was it that the opposition put up the Fair Share for WA fund and called for the GST floor to be put in the legislation?

Mr McGowan: Very important. I'd like to thank the federal opposition, Bill Shorten, for understanding the interests of Western Australia and for taking the case up. A few years ago, he put forward the policy of the Fair Share for Western Australia fund, recognising the fact that we were at 30c in the dollar. I think he recognised the deep levels of anger and anguish in Western Australia that perhaps weren't appreciated in the eastern states more broadly. The floor, of course, is the second component of it. They were both important milestones along the way to this significant achievement.

Senator KETTER: Would you say they were game-changers in the process?

Mr McGowan: A game-changer in the process is a great way of putting it. Thank you.¹¹

1.18 The evidence makes it clear that only Federal Labor has been able to provide the stable, thoughtful leadership required to address the fairness of WA's funding arrangements while also ensuring every other State and Territory receives the funding they need to provide services in areas such as education and health.

Concerns raised by State and Territory Governments

1.19 Through this inquiry, State and Territory Governments have raised a number of concerns about how this legislation is constructed. First, the top-up Commonwealth funding is based on a central case forecast that has a high degree of variability. As demonstrated by evidence provided by the Victorian Government, even small changes in assumptions might leave different State and Territory Governments worse off beyond the 2026-27 transition period. Secondly, concerns remain about how the Commonwealth will be funding the top-up payments and whether this top-up funding will be at the expense of other funding arrangements. Remaining issues raised include the transparency in the Commonwealth Grants Commission's work and the details behind the future Productivity Commission review to be held at the end of the transition period.

1.20 Many State and Territory Treasury departments undertook scenario analysis. The Victorian Government took the lead on much of this work and demonstrated that many States could well find themselves worse off after the transition period:

The Victorian Department of Treasury and Finance (DTF) undertook research to demonstrate that forecasts of relativities are likely to vary from actual relativities. The analysis undertaken shows that most States could get less GST in future years compared to the current distribution method based

11 *Committee Hansard*, pp. 22–23.

on several scenarios. Therefore, the use of forecasts to determine the compensation required for States may still result in a negative financial outcome for an individual State.

This work was independently verified by Deloitte Access Economics (Deloitte) who found that alternative scenarios could see some States worse off in dollar terms under the proposed HFE system. The Deloitte report (attached) noted the Commonwealth's modelling is based on comparing the outcomes for each State under a 'central case' set of projections. Under that set of projections, the Commonwealth's proposed system would leave no State 'worse off'. Deloitte observed that this approach does not account for the significant uncertainty surrounding this central case due to that inherent uncertainty in forecasting, which increases over time.¹²

1.21 State and Territory Governments also expressed concern that Commonwealth top-up funding might come at the expense of cuts to other funding arrangements. While a letter from the Federal Treasurer to State and Territory Governments stated that *'any additional financial assistance referred to in the bill will not be offset or partially offset by a decrease in other grant funding to the states'*¹³, States and Territories still had remaining concerns.

1.22 Australian Capital Territory Government Treasury officials stated that:

We have certainly had discussions with the Commonwealth that those top-up funds should not be at the expense of other grants to the states and territories. And I think that's an important principle. It's very difficult to assess that, however, because a budget is a living process and changes are made over time, but the Commonwealth has said that it's their commitment that that would not happen. We accept that commitment.¹⁴

1.23 New South Wales Treasury officials:

Certainly the New South Wales government was concerned that, obviously, it might come from grants paid to states and territories. But the Commonwealth Treasurer has assured us that that won't be the case.¹⁵

1.24 Victorian Treasury officials:

Mr Martine: That has been a concern raised by all of the state and territory treasurers, and assurances have been sought from the Commonwealth Treasurer. At this stage they've been provided in the form of a letter from the Commonwealth Treasurer. I will just quote the letter, 'I wish to confirm that any additional financial assistance referred to in the bill will not be offset or partially offset by a decrease in other grant funding to the states.' The assurances have come in the form of a letter. It's always a very difficult

12 Victoria State Government, *Submission 5*, p. 3.

13 Mr Stuart Hocking, *Committee Hansard*, p. 28.

14 Mr David Nicol, *Committee Hansard*, p. 5.

15 Mrs Natalie Horvat, *Committee Hansard*, p. 10.

thing to verify, of course, because changes can be made for all sorts of different reasons.¹⁶

1.25 South Australian Treasury officials:

The other major issue for us is to ensure that, by virtue of the top-up funding provided by the Commonwealth government, the government doesn't reduce other funding to the states through tied payments, et cetera, and that we receive a commitment to that effect. The federal Treasurer, in his letter to the state Treasurer, made that commitment, and verbally, and our Treasurer has written back to him welcoming that commitment as well as arguing the case for an ongoing no-worse-off guarantee.¹⁷

1.26 Northern Territory Treasury officials:

Mr Graham: Yes, being called back. We share the views of other states in that respect. There have been undertakings made in writing that they would not be offset by reductions in other sources of funding.

Senator KETTER: So the letter from the Treasurer is what you received?

Mr Graham: Yes.

Senator KETTER: Would you like that guarantee to be included in the legislation?

Mr Graham: As a principle, I think so. I understand some of the concerns that have been raised around how you would ensure compliance with that, but I think, as a principle and as a safeguard, it should be enshrined in the legislation.¹⁸

1.27 The Queensland Government stated in its submission that:

The Bill (and Explanatory Memorandum) should be amended to require that pool top-up and additional financial assistance will not come at the expense of other payments to the states. If this assurance is not provided in legislation other avenues should be explored including a resolution to be agreed with the states and ratified at COAG setting out the federal government's commitment to the issue.¹⁹

1.28 The nature of the funding supporting the top up payments was also made all the more confusing when, on 1 October, in the lead up to the Council of Federal Financial Relations meeting, the new Treasurer failed to explain how these top up payments would be paid for:

HAMISH MACDONALD, PRESENTER: You're allocating a lot more money. Billions more. Where does the money coming from?

FRYDENBERG: It comes from the Government's budget and we have made an allocation for this increased money, not just for Western Australia

16 Mr David Martine, *Committee Hansard*, p. 16.

17 Mr Stuart Hocking, *Committee Hansard*, p. 26.

18 Mr Craig Graham, *Committee Hansard*, p. 38.

19 Queensland Government, *Submission 7*, p. 6.

but for all of states and territories. All states and territories will be better off as a result of these reforms.

...

MACDONALD: \$9 billion is that the amount that you have to set aside? Where does that actually come from? Where do you cut it from?

FRYDENBERG: We are obviously ensuring that we have fiscal discipline, and as you know, the Australian economy is growing at the fastest rate since the height of the mining boom in 2012

MACDONALD: So the money has to come from somewhere. Can't you give us a simple explanation of where you're getting \$9 billion from?

FRYDENBERG: There has been improvements on both the receipt side and the payments. Receipts because more people are in jobs creating over 1,000 jobs a day. But also, less payments, particularly in the welfare space as more people find jobs and don't need the additional income support.

MACDONALD: So nothing is being cut from anywhere? Just better receipts?

FRYDENBERG: We have budget rules which we're sticking to...

MACDONALD: So where do the cuts come from? Let's be honest about this?

FRYDENBERG: Hamish, let's be honest. The Australian economy is growing and we've seen improvements on receipts side, but we've also seen lower payments. The last time that the Labor Party delivered a budget surplus, the Berlin Wall was still standing.²⁰

1.29 Federal Labor will hold the Morrison Government to account on its commitment to not cut other funding to States and Territories and will scrutinise the MYEFO budget update to determine how the Morrison Government will be offsetting these top-up payments. Labor Senators are of the view that the letter from the Federal Treasurer to the State and Territory Treasurers should be tabled during the Parliamentary debate so that the Government's commitment to this issue can be strengthened.

1.30 States and Territories also called for greater transparency in how the comparisons of the current HFE model and the proposed HFE model operated:

Transparency of the 'no worse off' guarantee would also be welcome. This could include publication by the CGC of the old and new relativities directly after they have produced them rather than waiting for the Commonwealth Treasurer's permission for those to be released. We would like the bill to strengthen these requirements.²¹

1.31 In response, Treasury officials stated that:

20 The Hon Josh Frydenberg MP, Interview with Hamish Macdonald, News Breakfast, ABC TV, 1 October 2018, accessed via <http://jaf.ministers.treasury.gov.au/transcript/021-2018/>

21 Mrs Natalie Horvat, *Committee Hansard*, p. 8.

I did note this morning that the states and territories said that there should be an obligation in the law for Commonwealth Grants Commission reports to be made publicly available and made to the government. Section 25 of the Commonwealth Grants Commission Act requires Commonwealth Grants Commission reports to be tabled in both houses of parliament and, at that point, they all become made publicly available.²²

1.32 Finally, concerns were raised that there should be greater detail about the nature of the Productivity Commission review to be held. For instance, the Acting Deputy Under Treasurer for the Queensland Government stated that:

In terms of the Productivity Commission inquiry, we also want some clarity around them actually looking at what happens beyond 2026—that needs to be clearly identified; the states to be consulted on the terms of reference and the findings; and the states and territories to work with the Australian government to agree any consequential decisions that are made out of that PC inquiry. The Queensland government's submission articulates those particular issues in more detail and the proposals that we have in terms of addressing those particular concerns.²³

1.33 Labor Senators share the concerns of the States and Territories about the lack of detail provided about how the Commonwealth will be paying for the top-up funding. Labor Senators note the remaining concerns and will take these into account through the remaining legislative process.

Conclusion

1.34 Federal Labor has led the way in the GST debate. It is clear that Federal Labor's calls for a GST floor, for this floor to be legislated and that the 'no state worse off' guarantee be legislated have had a very material impact on the Government's actions and this legislation.

Recommendation 1

1.35 That the letter from the Federal Treasurer to the State and Territory Treasurers stating that 'any additional financial assistance referred to in the bill will not be offset or partially offset by a decrease in other grant funding to the states' be tabled during the Parliamentary debate.

Senator Chris Ketter
Deputy Chair

Senator Jenny McAllister
Senator for New South Wales

22 Mr Chris Leggett, *Committee Hansard*, p. 46.

23 Ms Maryanne Kelly, *Committee Hansard*, p. 40.