

1985

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

AUSTRALIAN LAND TRANSPORT (FINANCIAL ASSISTANCE) BILL 1985

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Transport,
the Hon. PETER MORRIS, M.H.R.)

AUSTRALIAN LAND TRANSPORT (FINANCIAL ASSISTANCE) BILL 1985

OUTLINE

This Bill provides for the establishment of an Australian Land Transport Trust Fund into which is to be paid a specified share of customs and excise duty on motor spirit and diesel fuel for the purpose of funding a program of financial assistance for land transport over the five year period 1985/86 to 1989/90.

The Australian Land Transport Program which is to be funded through the Trust Fund will provide for a continuation of assistance to the States and Northern Territory for the construction and maintenance of roads following the expiry of the current Roads Grants Act on 30 June 1985. It will also provide assistance to approved organizations for research relating to land transport and for road safety programs, and assistance to the States or approved railway authorities for capital improvements to interstate mainline railways.

There is to be payable into the Trust Fund from 1 July 1985 an amount equivalent to 3.66 cents per litre of net revenue collected from customs and excise duties on motor spirit and diesel fuel. This rate is to be subject to periodic adjustment (on 1 February and 1 August each year) in line with movements in the Consumer Price Index.

The initial rate of duty payable to the Trust Fund is estimated to yield revenue of \$810 million in 1985/86. The Bill provides that, if payments during the year do not equal \$810 million, there is to be a retrospective adjustment to the Trust Fund balance to equate payments to this amount. The rate of duty per litre payable to the Trust Fund from 1 July 1986 will also be recalculated to a level equivalent to that which would have yielded revenue of \$810 million during 1985/86.

Funds payable from the Australian Land Transport Trust Fund will be allocated on a percentage basis for the following purposes:

	1985-86 1986-87	1987-88 1988-89 <u>1989-90</u>
National Roads	47.012	47.012
Urban Arterial Roads	14.481	13.033
Rural Arterial Roads	12.667	11.400
Local Roads	25.222	22.701
Land Transport Research and Road Safety	0.618	0.618

It is proposed that any funding provided for interstate mainline railways will be provided from within the allocation for national roads or the allocation for rural arterial roads (when proposed by a State).

The distribution of funds for national roads and for land transport research and road safety is to be determined by the Minister based on an assessment of relative needs and priorities.

The distribution among States of funding for urban arterial, rural arterial and local roads in 1985/86 and 1986/87 is in line with shares in current Federal roads legislation. For the years 1987/88 to 1989/90, ninety per cent of available funds are being distributed on this basis with the Minister required to determine the distribution of the remaining funds for these categories prior to 31 March 1987.

The Bill provides for the Minister to approve the transfer of funding allocations among the various categories. Transfer of funds out of the urban arterial, rural arterial or local roads categories can only be undertaken at the request, or with the agreement, of the relevant State Minister.

The Australian Land Transport Trust Fund is to remain in existence until 31 December 1990. At that time any credit balance in the Fund is to be fully disbursed among the various categories of assistance.

The Bill specifies terms and conditions with which States, approved railway authorities and approved organizations must comply in order to receive assistance.

In general, payments to the States or approved organizations or authorities are to be conditional upon the funds being expended in accordance with purposes approved by the Minister. Tenders are to be called for each national road construction project and for capital railway projects. In addition, States are required to give adequate public recognition to projects funded from the Australian Land Transport Trust Fund.

NOTES ON CLAUSES

PART 1 - PRELIMINARY

Clause 1 - Short title

The short title of the Act will be the Australian Land Transport (Financial Assistance) Act 1985.

Clause 2 - Commencement

The legislation will come into force on the day on which it receives Royal Assent.

Clause 3 - Interpretation

Terms used throughout the Bill are defined in sub-clause (1). In particular, it should be noted that the term 'State' includes the Northern Territory.

Sub-clause (2) provides that where a State pays money to a government authority (including a local government authority) for a particular purpose, and the money is accordingly expended by the authority, the money shall be deemed to have been spent by the State for that purpose.

Sub-clauses (3) and (4) have the effect of allowing payroll tax charged by the State in respect of its own employees to be an eligible charge against Commonwealth funds.

Sub-clause (5) provides that, with the exception of payroll tax, money shall not be regarded as having been spent for the purposes of the Act solely by virtue of its having been paid to a trust account or other account in the State Treasury.

Sub-clause (6) provides that, where financial assistance is provided to an approved organization which is a State Department, the assistance is to be subject to the same terms and conditions as would be the case if it were provided to the State.

Sub-clause (7) provides that any notification or request given to a Minister of a State will be regarded as having been given to the State.

Sub-clause (8) specifies the formula to be used in calculating changes in the percentage allocations of assistance from the Trust Fund where the Minister has approved a transfer of funds among categories under sections 20, 21 or 22.

Sub-clause (9) provides that for the purposes of this legislation, a part of a road, or a part of a railway, is to be regarded as a road, or a railway, respectively.

Clause 4 - Declaration of national highways
and developmental roads

The Minister may declare as a national highway a road or proposed road that is the principal link between the places specified (e.g. two capital cities). The Minister may also declare as a national highway any other road that he considers to be of sufficient national importance (Sub-clauses (1) and (2)).

The Minister is empowered to declare as a developmental road any road or proposed road which he considers to be of national importance from the standpoint of assisting (a) development of particular industries or energy resources (including those in remote areas of Australia), (b) interstate or overseas trade and commerce or (c) significant tourist travel (Sub-clause (3)).

The Minister may revoke or vary a declaration of a national highway or developmental road (Sub-clause (4)).

The Minister is required to arrange for a copy of any declaration of a national highway or a developmental road to be provided to the appropriate State Minister (Sub-clause (5)).

Clause 5 - Declaration of urban arterial roads
and rural arterial roads

The Minister may declare as an urban arterial road any road, or proposed road, which (a) is predominantly associated with an urban area, and (b) forms part of a network of major roads in an urban area (Sub-clause (1)).

The Minister may declare as a rural arterial road any road, or proposed road, which is (a) not in an urban area, and (b) carries traffic between or through major regions, closely settled areas, cities or towns (Sub-clause (2)).

The Minister may vary or revoke a declaration of an urban arterial road or rural arterial road (Sub-clause (3)).

The Minister is to arrange for a copy of any declaration of an urban arterial road or rural arterial road to be provided to the appropriate State Minister (Sub-clause (4)).

Clause 6 - Declaration of interstate mainline railways

The Minister may declare as an interstate mainline railway a railway or proposed railway in a State which, in the opinion of the Minister, is (a) the principal railway link between two State capital cities or (b) of national significance from the standpoint of trade or commerce between the States or between a State and the Australian Capital Territory (Sub-clause (1)).

The Minister may vary or revoke a declaration of an interstate mainline railway (Sub-clause (2)).

The Minister is required to arrange for a copy of any declaration of an interstate mainline railway to be given to the appropriate Minister of the State or the appropriate approved railway authority (Sub-clause (3)).

Clause 7 - Declaration of approved railway authorities

The Minister is empowered to declare a railway authority involved in the provision of services over an interstate mainline railway as an approved railway authority (Sub-clause (1)).

The Minister may vary or revoke a declaration made under this section (Sub-clause (2)).

Clause 8 - Declaration of approved research organizations
and approved road safety organizations

The Minister is empowered to declare as an approved research organization an organization that arranges, assists or carries out research in relation to land transport (Sub-clause (1)).

The Minister may also declare as an approved road safety organization an organization that arranges, assists or carries out activities in relation to road safety (Sub-clause (2)).

The Minister may vary or revoke a declaration made under this section (Sub-clause (3)).

Clause 9 - Standards for national roads

Sub-clause (1) empowers the Minister to request from a State information relating to the use or likely use of national roads (paragraph (a)), determine the nature and priority of national

road works (paragraphs (b) and (c)) and notify to a State the standards to be adopted for the construction or maintenance of national roads (paragraph (d)).

Sub-clause (2) empowers the Minister to revoke or vary a notification given to a State under this section.

Clause 10 - Moneys deemed to have been expended
on national roads projects

This clause permits a State to include in the cost of approved national road projects part of the State's general administrative overhead expenses directly related to the construction and maintenance of national roads. The overhead expenses which can be charged against Commonwealth funds in this way are limited to a maximum of four per cent of the expenditure directly attributed to particular national road projects during a year.

PART II - AUSTRALIAN LAND TRANSPORT TRUST FUND

Clause 11 - Australian Land Transport Trust Fund

A Trust Fund to be called the Australian Land Transport Fund is to be established and to be treated as a Trust Account for the purposes of Section 62A of the Audit Act 1901.

Clause 12 - Moneys to be paid into Fund

Sub-clause (1) provides for the payment to the Trust Fund of a proportion of the total customs and excise duty on motor spirit paid to the Commonwealth between 1 July 1985 and 30 June 1990. The amount paid to the Trust Fund is to be equivalent to the proportion that the relevant rate of duty bears to the total rate of duty applicable to motor spirit and diesel fuel. The relevant rate of duty will initially be 3.66 cents per litre.

Sub-clause (2) provides that the amount payable to the Trust Fund will be reduced proportionately to amounts paid as rebates of duty between 1 July 1985 and 30 June 1990.

Sub-clause (3) is a procedural provision to enable the determination of how much is payable to the Trust Fund in cases where an amount of duty paid to the Commonwealth is derived from the application of different rates of duty.

Sub-clause (4) provides for interest earned from any investment of Trust Fund moneys to be paid into the Trust Fund.

Sub-clause (5) excludes from the operation of Part II any moneys repaid to the Trust Fund by a State, authority or organization under Section 34.

Clause 13 - Special provisions for 1985-86 financial year

Sub-clause (1) provides that, if payments into the Trust Fund in the twelve months prior to 1 July 1986 are less than \$810 million, the shortfall will be made up from the Consolidated Revenue Fund.

Sub-clause (2) provides that, if payments into the Trust Fund during the above period exceed \$810 million, the excess will be repaid into the Consolidated Revenue Fund.

Sub-clause (3) enables the Minister for Finance to make an advance to the Trust Fund of an amount which may become payable in the event of payments to the Trust Fund falling short of \$810 million during 1985/86.

Clause 14 - Recalculation of relevant rate at end of
1985-86 financial year

This clause provides, that if the share of net customs and excise duty paid into the Trust Fund during 1985/86 is not equal to \$810 million, the Minister is required before 31 July 1986 to adjust

the relevant rate of duty to that which would have yielded net revenue of exactly \$810 million over the year 1985/86. A formula for recalculating the rate is specified. The revised rate will be deemed to have taken effect from 1 July 1986.

Clause 15 - Indexation of relevant rate

This clause provides for the relevant rate to be periodically adjusted in line with movements in the Consumer Price Index on the basis of the same arrangements as apply generally to the periodic indexation of excise rates.

The terms 'index number', 'relevant period' and 'Statistician' are defined for the purposes of this section in Sub-clause (1).

Sub-clause (2) provides that, where the Statistician revises the Consumer Price Index number published for any quarter, the revision shall be disregarded for purposes of this section.

Sub-clause (3) provides that, in the event that the Statistician changes the reference base for the Consumer Price Index, only the new reference base will be used for the application of this section after the change.

Sub-clause (4) has the effect that, where there has been an increase in the Consumer Price Index during a six month period ending in December or June, the relevant rate of duty by which payments to the Trust Fund are calculated is to be increased by a

corresponding percentage from the following 1 February or 1 August respectively.

Sub-clause (5) specifies the method to be used in calculating any adjustment to the relevant rate of duty as a consequence of an increase in the Consumer Price Index.

Sub-clause (6) requires that, if the necessary update of the Consumer Price Index is not published more than seven days before 1 February or 1 August as the case may be, the Minister shall publish a notice in the Gazette as soon as practicable after the index is published (but not before the first day of the relevant period) to the effect that the Consumer Price Index has been published and will have effect from the date of the Gazette notice.

Sub-clause (7) requires the Minister to publish a notice in the Gazette specifying any revision to the relevant rate of duty.

Sub-clause (8) provides that, if it is necessary for the Minister to recalculate the relevant rate of duty at the end of 1985/86 (clause (14) refers), the recalculated rate shall have effect for purposes of this section.

Clause 16 - Application of Fund

This clause specifies the purposes for which payments may be made from the Trust Fund to States, approved railway authorities and approved road safety or research organizations.

Clause 17 - Limit of Allocations for
Financial Years 1985-86 and 1986-87

This clause prescribes the maximum percentage shares of Trust Fund revenues which may be allocated for various purposes during the first two years of the legislation.

Sub-clauses (1) and (2) specify maximum percentage shares payable for construction and maintenance of national roads, and for road safety activities and land transport research respectively.

Sub-clauses (3), (4) and (5) specify, by reference to Schedules 1, 2 and 3 respectively, maximum percentage shares payable to each State for urban arterial, rural arterial and local roads.

Sub-clause (6) enables the Minister to determine by Gazette notice that specified payments from the Fund in the six month period after 30 June 1987 may be treated as having been made before 1 July 1987.

Clause 18 - Limit of allocations for
financial years 1987-88, 1988-89 and 1989-90

This clause allocates the maximum percentage shares of Trust Fund revenues which may be allocated for various purposes during the final three years of the legislation.

Sub-clauses (1) and (2) specify maximum percentage shares payable for construction and maintenance of national roads, and for road safety activities and land transport research respectively.

Sub-clauses (3), (4) and (5) specify, by reference to Schedules 1, 2 and 3 respectively, maximum percentage shares payable to each State for urban arterial, rural arterial and local roads.

Clause 19 - Minister to allocate balance of funds
for expenditure after 30 June 1987

This clause requires the Minister to determine before 31 March 1987 how the unallocated balance of funds available for expenditure from 1 July 1987 (ie. 5.236%) is to be distributed among the State and the urban and rural arterial and local road categories specified in the Schedules to the Bill.

Clause 20 - Variation of percentages for arterial roads
and local roads at request of State

This clause allows a State to propose, and the Minister to approve, a transfer of funds among the urban arterial, rural arterial and local roads categories, where the Minister is satisfied that such a transfer would be desirable having regard to the Government's land transport policies. There is provision that the aggregate State share cannot be varied under this section.

Clause 21 - Minister may re-allocate funds for national roads,
road safety and research

This clause allows the Minister to direct a transfer of funds from the national roads category to any other category (Sub-clauses (1) and (3)) or from the road safety and land transport research category to any other category (Sub-clauses (2) and (4)).

Clause 22 - Increase of funds for national roads and research

This clause provides that, subject to agreement between the Minister and a State Minister, funds may be transferred from a State allocation for the urban arterial, rural arterial or local roads category into the national roads and/or road safety and land transport research categories.

Clause 23 - Time and manner of payments

The Minister is to determine the time and manner of payments from the Trust Fund (Sub-clause (1)).

A payment to a State is to be accompanied by a statement specifying the purpose or purposes for which the payment is being provided (Sub-clause 2).

Clause 24 - Condition of payment

This clause provides that payments to a State, authority or organization are conditional upon the payments being spent in accordance with the purposes specified in the accompanying statements.

Clause 25 - Closing of Fund

The Fund is to be closed on 31 December 1990. Any balance standing to the credit of the Fund at that time is to be paid to the States, approved railway authorities or approved road safety or research organizations for expenditure on roads, interstate mainline railways, road safety or land transport research activities.

PART III - APPROVAL OF PROJECTS AND PROGRAMS

Clause 26 - Approval of projects and programs

The Minister may request that proposed projects and programs be submitted to him for approval (Sub-clause (1)) and may also request that particulars of proposed projects or programs be provided (Sub-clause (2)).

Sub-clause (3) empowers the Minister to approve projects or programs.

Sub-clause (4) allows the Minister to approve projects which were commenced but not completed before the commencement of the Act (paragraph (a)). It also permits the Trust Fund to meet part of the cost of the projects (paragraph (b)).

Sub-clause (5) specifies that particulars of projects submitted for approval are to include an estimate of the cost and an estimate of any part of the cost to be funded by means other than a payment from the Trust Fund.

Sub-clause (6) requires the Minister, before approving projects and programs, to satisfy himself that they are consistent with the Government's land transport policies (paragraph (a)) and can be funded from the Trust Fund (paragraph (b)).

Sub-clause (7) provides that the Minister shall not approve national road projects which do not comply with the standards which he has prescribed.

Sub-clause (8) requires the Minister, before approving capital railway projects to satisfy himself that the projects are likely to result in improvements in the capacity, quality or efficiency of interstate mainline operations (paragraph (a)) and that the State or authority has taken steps to achieve improvements in its operational or commercial practices relating to mainline rail operations (paragraph (b)).

Clause 27 - Variation of projects, &c.

Sub-clause (1) empowers the Minister to approve project or program variations including cost variations.

Sub-clause (2) provides that in approving variations to a project or program, or the project or program cost, the Minister is to ensure that approval of the variation will further the Government's land transport policies and that the Trust Fund is able to meet the cost of the variation.

Clause 28 - Allocations of Fund to local government bodies

Sub-clause (1) requires money paid from the Trust Fund to the States for local roads to be allocated among local government bodies and State government authorities in accordance with principles formulated by the States and approved by the Minister (paragraph (a)), or in accordance with principles determined by the Minister (paragraph (b)).

Sub-clause (2) provides that the Minister will not unilaterally determine principles for allocating local roads funds unless either the appropriate State Minister has indicated the State does not propose to formulate principles (paragraph (a)), or the State does not formulate within a period specified by the Minister principles which the Minister is prepared to approve (paragraph (b)).

Sub-clauses (3) and (4) provide that a State may, with the Minister's approval, vary principles it has formulated or that the Minister may vary principles which he has determined.

PART IV - CONDITIONS OF PAYMENTS

Clause 29 - Minister may require information
to be furnished

This clause empowers the Minister to require a State, authority or organization to furnish within a specified period information relevant to the operation of the legislation.

Clause 30 - Statements of expenditure, &c.
to be furnished

As a condition of receiving payments from the Trust Fund, States, approved railway authorities and approved organizations will be required to provide annual audited statements of expenditure in a form approved by the Minister (Sub-clause (1) paragraph (a)).

A State, authority or organization may also be required to repay an amount if the Minister informs the Treasurer of a State or a responsible officer of an authority or organization that he is satisfied that requirements with respect to annual expenditure statements have not been met (Sub-clause (1) paragraph (b)).

Sub-clause (2) requires that annual financial statements be certified by either the Commonwealth or State Auditor-General, where appropriate, or otherwise by a qualified accountant.

Clause 31 - Condition relating to
expenditure of moneys paid out of Fund

This clause requires a State, approved railway authority or approved organization to repay to the Commonwealth any amount not expended or otherwise dealt with under the provisions of the Act.

Clause 32 - Additional conditions with respect to
approved projects and programs

Sub-clause (1) sets out a number of additional conditions which apply to payments from the Trust Fund to States and approved railway authorities

- (a) tenders are to be invited and dealt with, in accordance with approved procedures, for works associated with the construction of national road projects approved under the Act, except for exempt works as defined by Sub-clause (2);
- (b) where appropriate, tenders are to be invited and dealt with in accordance with approved procedures for the performance of works and the purchase of goods associated with capital railway projects;
- (c) States are to comply with any request from the Minister to establish a joint Commonwealth/State officials committee to furnish advice to Ministers in connection with the Act;
- (d) signs approved by the Minister are to be displayed and maintained near projects funded from the Trust Fund in accordance with requirements notified by the Minister;

- (e) States and authorities are to accord such other recognition to the funding from the Trust Fund of projects and programs as is required by the Minister;
- (f) States are to comply with the Minister's requirements relating to the display of signs other than traffic signs near national highway projects funded from the Trust Fund;
- (g) States are to provide an annual certificate endorsed by a person approved by the Minister to the effect that all national road construction projects have been carried out in accordance with any standards prescribed by the Minister;
- (h) States or authorities are to permit inspections by authorized persons of work carried out on approved projects or programs and to make available to authorized persons any related documents;
- (j) States are to provide for adequate construction and maintenance of roads connecting national roads with other roads in the State;
- (k) States are not to levy, without the consent of the Minister, tolls on national or arterial road projects funded from the Trust Fund;
- (m) in the event of the resale by a State or authority of any land or buildings which have been purchased from funds provided under this Act or other Commonwealth roads assistance legislation (since 1977), the State or authority is to either repay an equivalent amount to the Commonwealth, or spend the proceeds on the construction and maintenance of roads or on capital railway projects;

(n) a State or authority is to repay financial assistance, in whole or part, if the Minister informs the Treasurer of a State or the responsible officer of an authority that a condition specified in this section or section 29 has not been met.

Sub-clause (2) defines 'exempt works' in respect of which tenders need not be invited in accordance with Sub-clause (1)(a).

PART V - MISCELLANEOUS

Clause 33 - Deduction of amounts repayable

This clause provides that the Minister may deduct any amount repayable to the Commonwealth by a State, authority or organization from another amount payable from the Trust Fund to that State, authority or organization.

Clause 34 - Moneys repaid to Commonwealth

This clause requires that any moneys repaid by States, authorities or organizations be paid into the Trust Fund.

Clause 35 - Appropriation

This clause appropriates the Consolidated Revenue Fund for the purposes of section 12(1) and section 13.

Clause 36 - Delegations

Sub-clause (1) enables the Minister to delegate to an officer of the Australian Public Service the Minister's powers under the following sections:

<u>Clause</u>	<u>Function</u>
9	Standards for national roads
23	Time and manner of payments
26	Particulars of projects
27	Variation of projects

29	Requests for information
32(1)(h)	Inspection of work performed or related documentation

Sub-clause (2) provides that where a delegate exercises these powers they are deemed to have been exercised by the Minister.

Sub-clause (3) enables the Minister to exercise any powers which he has delegated.

Clause 37 - Publication of declarations
and directions

The Minister is to publish in the Gazette declarations of approval of railway authorities, approved research organizations and approved road safety organizations, and directions relating to the allocation of the balance of funds for expenditure after 30 June 1987 and any transfers of funds between categories of assistance.

