



## Nation-building Funds (Consequential Amendments) Bill 2008

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## Nation-building Funds (Consequential Amendments) Bill 2008

**Date introduced:** 13 November 2008

**House:** House of Representatives

**Portfolio:** Finance and Deregulation

**Commencement:** Sections 1 to 3, and anything not covered elsewhere in the table in clause 2: on Royal Assent. Schedules 1 to 3 commence at the same time as section 3 of the proposed Nation-building Funds Act 2008.<sup>1</sup>

**Links:** The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

### Purpose

To support the establishment of three nation-building Funds—the Building Australia Fund, the Education Investment Fund and the Health and Hospitals Fund—through the Nation-building Funds Bill 2008.

### Background

In the 2008-09 Budget, the Rudd Government [announced](#) that it would establish three funds—the Building Australia Fund, the Education Investment Fund and the Health and Hospitals Fund. The purpose of the Funds is to finance investment in infrastructure. The Future Fund Board of Guardians will be responsible for investing in all three Funds (as well as the Future Fund).

The government wants to accelerate infrastructure investment to counter the current slowdown in the economy. The Minister for Finance and Deregulation, the Hon. Lindsay Tanner, in his second reading speech stated:

This consequential amendments Bill will allow for interim arrangements to begin as soon as possible to implement the Government's Nation-building Funds. This will fast track the nation-building agenda in response to the global financial crisis.<sup>2</sup>

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1. Section 3 will commence on 1 January 2009 if this Bill is assented to before that date.

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The Nation-building Funds (Consequential Amendments) Bill 2008—the Bill—seeks to establish provisions which would allow the government to fast track expenditure from the three Funds.

The Building Australia Fund will be partly funded from the Communications Fund. The Education Investment Fund will be partly funded from the [Higher Education Endowment Fund](#) (HEEF). The [Higher Education Endowment Fund Act 2007](#) established the HEEF. The Health and Hospitals Fund will receive an initial allocation of \$10 billion from the 2007-08 and 2008-09 Budget surpluses.<sup>3</sup>

For additional background, see the Bills Digest for the related Nation-building Funds Bill 2008.

### Committee consideration

On 23 October 2008, the Senate referred the COAG Reform Fund Bill 2008 to the Standing Committee on Economics for inquiry and report by 10 November 2008. The reporting date was subsequently extended to 1 December 2008 to allow for concurrent reporting with the Nation-Building Funds Bill 2008 and the Nation-Building Funds (Consequential Amendments) Bill 2008, which were introduced in the House of Representatives on 13 November 2008. Details of the inquiry are at [http://www.aph.gov.au/Senate/committee/economics\\_ctte/coag\\_08/index.htm](http://www.aph.gov.au/Senate/committee/economics_ctte/coag_08/index.htm)

## Financial implications

The financial implications are discussed in the Bills Digest for the Nation-building Funds Bill 2008.

## Main provisions

The Bill has three Schedules.

### Schedule 1—Repeal

**Item 1** repeals the *Higher Education Endowment Fund Act 2007*.

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2. Hon. Lindsay Tanner, Minister for Finance and Deregulation, ‘Second reading speech: Nation-building Funds (Consequential Amendments) Bill 2008, House of Representatives, *Speech*, 13 November 2008, p. 2.
  3. Budget Paper No. 1 2008-09, p. 7–6.

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## Schedule 2—Amendments

Schedule 2 amends the *Future Fund Act 2006*. The provisions in Schedule 2 are mainly technical amendments consequent to the proposed establishment of the three Funds and the transfer of the amounts in the Communications Fund and the Higher Education Endowment Fund to the Building Australia Fund and the Education Investment Fund respectively.

**Item 31** amends section 65, which deals with circumstances under which it is reasonable for a Future Fund Board member to rely on information. According to the Explanatory Memorandum:

The words proposed to be substituted would include circumstances when a Future Fund Board member makes an independent assessment in good faith and will make the wording consistent with the corresponding provisions of the Corporations Act. This amendment also reflects amendments recently made to the *Commonwealth Authorities and Companies Act 1997*.<sup>4</sup>

**Item 44** inserts new **Schedule 2A—Inter-fund transfers**.

The four Funds—the Building Australia Fund, the Education Investment Fund, the Health and Hospitals Fund and the Future Fund—will incur common costs. The scheme allows for the apportioning of common costs across the Funds. Where one Fund has incurred common costs, the scheme allows for the other Funds to reimburse that Fund by inter-fund transfers. The Bill envisages the Future Fund reimbursing the three other Funds. Schedule 2A contains the provisions to allow this to happen. **Items 2, 3 and 4** allow transfers from the Future Fund to the Building Australia Fund, the Education Investment Fund, and the Health and Hospitals Fund respectively.

## Schedule 3—Transitional and application provisions etc.

As noted, the balance in the HEEF is to be transferred to the Education Investment Fund. **Items 1 to 8** contain transitional provisions related to the HEEF, which the Explanatory Memorandum explains adequately.

**Items 9 to 16** contain transitional provisions intended to support the government’s fast tracking of infrastructure spending. These provisions anticipate the passing of the Nation-building Funds Bill 2008. The provisions propose recognising interim evaluation criteria. The advisory bodies—Infrastructure Australia, the Interim Education Investment Advisory Board, and the Interim Health and Hospitals Advisory Board—will use these criteria to advise the relevant minister whether a proposed project satisfies the criteria. Because the education and health advisory bodies will not be established until the Nation-building

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4. Explanatory Memorandum, Nation-building Funds (Consequential Amendments) Bill 2008, p. 8.

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Funds Bill 2008 has passed, the Bill establishes the interim education and health advisory bodies (Interim Education Investment Advisory Board and the Interim Health and Hospitals Advisory Board). The Interim Boards are to be established by the executive power of the Commonwealth. Once the Nation-building Funds Bill 2008 has passed, any advice that Infrastructure Australia and the interim education and health advisory bodies have given to ministers will be deemed to meet the requirements of the *Nation-building Funds Act 2008*.

**Item 9 Transitional—advice given by Infrastructure Australia to the Infrastructure Minister** relates to the Building Australia Fund.

**Item 9(1)** deals with the scope of **item 9** and provides that **item 9** applies if, before the **item 9** commences, criteria known as the interim BAF evaluation criteria were published on a Commonwealth website **paragraph 9(1)(a)** and after the publication, but before **item 9** commences, Infrastructure Australia advised the Infrastructure Minister that a payment satisfies the relevant interim BAF evaluation criteria **paragraph 9(1)(b)**.

**Item 9(2)** deals with advice from Infrastructure Australia. It provides that the *Nation-building Funds Act 2008* has effect as if: immediately after the commencement of **item 9**, Infrastructure Australia had advised the Infrastructure Minister, under section 116 of that Act, that the payment satisfies the relevant BAF evaluation criteria **paragraph 9(2)(a)** and any requirements imposed by that Act in relation to that advice had been complied with **paragraph 9(2)(b)**.

Provisions for communications, energy etc identical to those in **item 9** are contained in **items 10 to 12**.

**Item 13 Transitional—advice given by the Interim EIF Advisory Board to the Education Minister** contains provisions identical to those in **item 9** but also establishes the Interim Education Investment Fund Advisory Board **subparagraph 13(1)(a)(i)**.

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