



Note: This Digest replaces an earlier version dated 26 February 2009. It makes a minor revision on page 32.

Federal Financial Relations Bill 2009

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Federal Financial Relations Bill 2009

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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 provide for three categories of payments of financial assistance to the states and territories, namely:

- general revenue assistance, comprising revenue from the goods and services tax (GST) and ‘other’ general revenue assistance
- national specific purpose payments to be spent by the states to deliver services in key sectors, and
- three categories of national partnership payments, namely, to support specified outputs or projects, facilitate reforms undertaken by the states, and reward the states for having undertaken nationally significant reforms.

The Bill also appropriates an additional \$6.3 billion over five years for financial assistance grants to the states and territories.

Background

The Howard Government implemented the last major reforms of Commonwealth-state financial relations.¹ These reforms are contained in the [*Intergovernmental Agreement on the Reform of Commonwealth–State Financial Relations*](#) [this is Schedule 2 to the *A New*

1. States should be read to mean the states, territories and local governments.

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Tax System (Commonwealth–State Financial Relations) Act 1999].² This *Intergovernmental Agreement* provides, among other things, that:

- the Commonwealth will pay to the states all the revenue it collects from the GST (less administrative costs)
- the states can spend the GST-related grants as they wish
- the distribution of GST-related grants among the states is to be based on horizontal fiscal equalisation principles³
- the Commonwealth will, for a transitional period expiring on 30 June 2006, ensure that no state is worse off under the new arrangements than under the old arrangements—the ‘guaranteed minimum amount’ undertaking⁴
- should a state’s guaranteed minimum amount fall short of its GST entitlement, the Commonwealth will make up the difference by providing ‘budget balancing assistance’ to that state⁵
- the states will abolish bed taxes, financial institutions duty, stamp duty on marketable securities, and debits tax by specified dates, and
- the Ministerial Council for Commonwealth–State Financial Relations will, by 2005, ‘review’ the need to retain certain stamp duties (hereafter ‘review taxes’).⁶

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2. See Schedule 2 to the *A New Tax System (Commonwealth–State Financial Relations) Act 1999*, at [http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/642F10C5D3FBED92CA2571F00005D3B/\\$file/ANTSCwithStatFinArr1999_WD02.pdf](http://www.comlaw.gov.au/ComLaw/Legislation/ActCompilation1.nsf/0/642F10C5D3FBED92CA2571F00005D3B/$file/ANTSCwithStatFinArr1999_WD02.pdf), accessed on 16 February 2009.
 3. For a definition and discussion of this principle, see Richard Webb, ‘Horizontal Fiscal Equalisation’, *Research Note*, no. 1, Parliamentary Library, Canberra, 2002–03, at <http://www.aph.gov.au/library/pubs/rn/2002-03/03rn01.pdf>, accessed on 13 February 2009.
 4. The transitional period was extended to 30 June 2009 to encourage the states to abolish the review taxes.
 5. The last budget balancing assistance payment was made in 2003–04.
 6. For a fuller description of these arrangements, see Richard Webb, ‘Developments in Commonwealth-state financial relations since 2000–01’, *Research Brief*, no. 11, Parliamentary Library, Canberra, 2005–06, at <http://www.aph.gov.au/library/pubs/rb/2005-06/06rb11.pdf>, accessed on 13 February 2009.

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By 1 July 2005, the states had abolished the bed taxes etc. as agreed. A reason the states did so was because, in effect, the Commonwealth compensated the states for the revenue they forwent.

In the case of the review taxes, however, the states incur the loss of revenue resulting from their abolition. Consequently, the states have been reluctant to abolish the review taxes. However, in 2006, the Commonwealth reached agreement with all the states on a schedule for the abolition of review taxes by 30 June 2011 subject to two exceptions.⁷ First, no state agreed to abolish stamp duty on conveyances of real non-residential property (for example, business real estate). Probably the main reason is that this tax is a significant revenue source.⁸ Second, NSW was not scheduled to abolish non-real non-residential conveyance duty (for example, on the sale of a business) until 2012–13.

Specific purpose payments

Specific purpose payments (SPPs) are payments the Commonwealth makes to the states to help fund services and infrastructure in areas such as education, health and roads. The states are responsible for administering and delivering the services. SPPs are usually subject to prescriptions (terms and conditions) whereby the Commonwealth requires the states to meet certain undertakings in order to receive grants ('conditionality').

Problems with specific purpose payments

The Commonwealth's power to provide SPPs under section 96 of the Constitution has allowed the Commonwealth to be involved in areas far beyond those stipulated in the Constitution. The sharing of responsibility for services between the Commonwealth and the states has given rise to numerous problems including the blurring of roles and responsibility as to which level of government is responsible for what, blame shifting, duplication of administration and waste, and cost-shifting.

Proposals to resolve these problems include defining the respective roles and responsibilities of the Commonwealth and the states, the 'broadbanding' of related SPPs (for example, those dealing with health) into one SPP, and a greater focus on results and outcomes (as distinct from inputs).⁹

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7. The timetable was published in Appendix E of Budget Paper No. 3 2007–08, at http://www.budget.gov.au/2007-08/bp3/download/Bp3_appendix_E.pdf, accessed on 13 February 2009.
 8. This tax raises about \$3 billion annually. See Mark Davis, 'Rudd lets states off in deal on stamp duty', *Sydney Morning Herald*, 14–15 February 2009.
 9. For a fuller analysis of SPPs, see Scott Bennett and Richard Webb, 'Specific purpose payments and the Australian federal system', *Research Paper*, no. 17, Parliamentary Library, 2007–08, at <http://www.aph.gov.au/library/pubs/rp/2007-08/08rp17.pdf>, accessed on 13 February 2009.

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COAG reforms

In March 2008, the Council of Australian Governments (COAG) announced major reforms to Commonwealth-state financial relations.¹⁰ Key features of the reform include:

- a rationalisation of, and reduction in, the number of SPPs without a reduction in Commonwealth funding
- rationalisation is to be achieved mainly by combining (broadbanding) related SPPs into new national SPP agreements
- some SPPs are to be paid as general revenue assistance (for example, payments to the ACT government to compensate it for costs resulting from its role as the national capital)
- a new category of payment of SPP known as national partnership payments to:
 - support specific projects in areas of joint responsibility (such as transport, water and early childhood)
 - encourage the states to adopt reforms (facilitation), and
 - ‘reward’ the states for implementing nationally-significant reform
- national SPP agreements will not be subject to prescriptiveness (conditionality) financial or otherwise¹¹
- the focus of SPPs will shift to results, outcomes and outputs, that is, away from inputs
- indicators are to be developed to measure performance against agreed outputs and outcomes
- the COAG Reform Council will independently assess performance against the indicators
- a state’s share of a national SPP will be its share of the population

10. Council of Australian Governments, *Communiqué*, 26 March 2008, at http://www.coag.gov.au/coag_meeting_outcomes/2008-03-26/index.cfm#framework, accessed on 13 February 2009.

11. Council of Australian Governments, *Intergovernmental Agreement on Federal Financial Relations*, p. 6, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_federal_financial_relations.pdf, accessed on 13 February 2009.

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- but in the case of the government schools component of the national schools SPP (discussed below), the relevant population will be each state’s share of full-time equivalent student enrolments in government schools
- the distribution of the non-government schools component of the national schools SPP will be determined in accordance with the *Schools Assistance Act 2008*¹²
- the adoption of a new Intergovernmental Agreement on Federal Financial Relations, which contains these proposals¹³
- payment arrangements are to begin on 1 January 2009, and
- the Commonwealth agreed to introduce the legislation necessary to implement the new Agreement on Federal Financial Relations in the autumn parliamentary sittings of 2009

Notwithstanding when the legislation receives royal assent, the legislation is to have effect from 1 January 2009.¹⁴

In short, under the COAG reforms, Commonwealth payments to the states fall into three categories:

- national SPPs covering key sectors such as health and social housing
- three categories of national partnership payments:
 - project payments
 - facilitation payments
 - incentive payments
- general revenue assistance comprising:
 - GST payments, and
 - other general revenue assistance.

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12. Council of Australian Governments, *Payments Arrangements*, Schedule D to *Intergovernmental Agreement on Federal Financial Relations*, p. D-4, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_FFR_ScheduleD_Payment_Arrangements.pdf, accessed on 16 February 2009.
 13. The principles governing intergovernmental financial relations are contained in Council of Australian Governments, *Intergovernmental Agreement on Federal Financial Relations*, http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_federal_financial_relations.pdf, accessed on 13 February 2009.
 14. Council of Australian Governments, *Payment Arrangements*. Schedule D to the *Intergovernmental Agreement on Federal Financial Relations*, p. D-7, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_FFR_ScheduleD_Payment_Arrangements.pdf, accessed on 16 February 2009.

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The claimed benefits of the reforms include clearer lines of responsibility, reduced duplication and waste, and enhanced accountability. Further, broadbanding related SPPs into national SPPs and reduced conditionality will give the states greater flexibility to allocate resources to areas of highest priority.

National SPPs

On 29 November 2008, COAG agreed to the March 2008 proposals.¹⁵ COAG also announced 'an additional \$7.1 billion in SPP funding to the States over five years', and the creation of five new (broadbanded) national SPPs and funding of:

- \$60.5 billion in a National Healthcare SPP
- \$18 billion in a National Schools SPP
- \$6.7 billion in a National Skills and Workforce Development SPP
- \$5.3 billion in a National Disability Services SPP, and
- \$6.2 billion in a National Affordable Housing SPP.

Each National Agreement/SPP:

... contains the objectives, outcomes, outputs and performance indicators, and clarifies the roles and responsibilities that will guide the Commonwealth and States in the delivery of services across the relevant sectors. The performance of all governments in achieving mutually-agreed outcomes and benchmarks specified in each SPP will be monitored and assessed by the independent COAG Reform Council and reported publicly on an annual basis.¹⁶

COAG also agreed that the new national SPPs would be distributed among the states on an equal per capita basis phased in over five years (with the exception of schools).

National partnership payments

Also on 29 November 2008, COAG announced that funding of national partnership payments would be decided at a later date, and that the first national partnership payments would begin in 2009, including:

- Hospitals and Health Workforce Reform
- Preventive Health

15. Council of Australian Governments, *Communiqué*, 29 November 2008, at http://www.coag.gov.au/coag_meeting_outcomes/2008-11-29/index.cfm, accessed on 13 February 2009.

16. *ibid.*

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- Taking Pressure off Public Hospitals
- Smarter Schools - Quality Teaching
- Smarter Schools - Low Socio-economic Status School Communities
- Smarter Schools - Literacy and Numeracy
- Productivity Places Program
- Early Childhood Education
- Fee Waiver for Childcare Places
- Indigenous Remote Service Delivery
- Indigenous Economic Development
- Remote Indigenous Housing
- Indigenous Health
- Social Housing
- Homelessness, and
- Seamless National Economy.

The first National Partnership payments have been agreed. They are:

- preventive health¹⁷
- improving teacher quality¹⁸
- literacy and numeracy¹⁹
- TAFE fee waiver for childcare places²⁰

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17. Council of Australian Governments, *National Partnership Agreement on Preventive Health*, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/national_partnership/national_partnership_on_preventive_health.pdf, accessed on 13 February 2009.
 18. Council of Australian Governments, *National Partnership Agreement on Improving Teacher Quality*, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/national_partnership/national_partnership_on_improving_teacher_quality.pdf, accessed on 13 February 2009.
 19. Council of Australian Governments, *National Partnership Agreement on Literacy and Numeracy*, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/national_partnership/national_partnership_on_literacy_and_numeracy.pdf, accessed on 13 February 2009.

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- remote service delivery²¹
- social housing,²² and
- homelessness.²³

On 5 February 2009, COAG held a special council on the Rudd Government's nation building and jobs plan.²⁴ The purpose of the meeting was to ensure that the plan was implemented speedily. To help achieve this objective, COAG adopted a national partnership agreement on the plan.²⁵

Assessment of the COAG reforms

Overall, the reforms are a major step towards a more rational system of SPPs. A major feature of the reforms is that they address directly problems associated with existing SPP arrangements such as the blurring of roles and responsibility between the Commonwealth and the states.

That said, not all of the COAG proposals are new. Indeed, the new arrangements contain key features of the Howard Government's reforms including:

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20. Council of Australian Governments, *National Partnership Agreement on TAFE Fee Waivers for Childcare Qualifications*, http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/national_partnership/national_partnership_on_tafe_fee_waivers_for_childcare_qualifications.pdf, accessed on 13 February 2009.
 21. Council of Australian Governments, *National Partnership Agreement on Remote Service Delivery*, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/national_partnership/national_partnership_on_remote_service_delivery_with_amended_schedule.pdf, accessed on 13 February 2009.
 22. Council of Australian Governments, *National Partnership Agreement on Social Housing*, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/national_partnership/national_partnership_on_social_housing.pdf, accessed on 13 February 2009.
 23. Council of Australian Governments, *National Partnership Agreement on Homelessness*, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/national_partnership/national_partnership_on_homelessness.pdf, accessed on 13 February 2009.
 24. Council of Australian Governments, *Communiqué*, 5 February 2009, at http://www.coag.gov.au/coag_meeting_outcomes/2009-02-05/index.cfm, accessed on 13 February 2009.
 25. Council of Australian Governments, *National Partnership Agreement on the Nation Building and Jobs Plan: Building Prosperity for the Future and Supporting Jobs Now*, at http://www.coag.gov.au/coag_meeting_outcomes/2009-02-05/docs/20090205_nation_building_jobs.pdf, accessed on 13 February 2009.

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- the states will continue to receive GST revenue, which they can spend as they wish²⁶
- the Commonwealth Grants Commission will continue to apply the horizontal fiscal equalisation principle in its calculations to determine the allocation of GST revenue among the states,²⁷ and
- the states have reaffirmed their undertaking to abolish the review taxes—albeit with some differences (see below).²⁸

Roles and responsibilities

As noted, one of the problems resulting from the sharing of functions between the Commonwealth and the states has been blurred roles and responsibility, and duplication of administration. A feature of the reforms is that they seek to establish the areas of responsibility of each tier of government. The National Healthcare Agreement, for example, classifies responsibilities into three categories: those shared by the Commonwealth, states and territories; those for which the states and territories are responsible; and those for which the Commonwealth is responsible.²⁹ This is a commendable feature in that it should help resolve problems of overlap and duplication.

The specification of areas of responsibility is not, however, a panacea since ‘grey’ areas remain. For example, in the case of the National Affordable Housing Agreement, one of the Commonwealth’s responsibilities is ‘leadership for national housing and homelessness policy including Indigenous housing policy’, while the states are responsible for ‘leadership for housing and homelessness policy, including Indigenous housing policy’.³⁰

26. Council of Australian Governments, *Intergovernmental Agreement on Federal Financial Relations*, p. 4, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_federal_financial_relations.pdf, accessed on 13 February 2009.

27. Council of Australian Governments, *Intergovernmental Agreement on Federal Financial Relations, Schedule D*, p. D-1, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_FFR_ScheduleD_Payment_Arrangements.pdf, accessed on 13 February 2009.

28. Council of Australian Governments, *Intergovernmental Agreement on Federal Financial Relations, Schedule B*, p. B-2, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_FFR_ScheduleB_Taxation_Reform.pdf, accessed on 13 February 2009.

29. Council of Australian Governments, *National Healthcare Agreement*, pp. A-7 to A-10, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_FFR_ScheduleF_National_Healthcare_Agreement.pdf, accessed on 20 February 2009.

30. Council of Australian Governments, *National Affordable Housing Agreement*, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_FFR

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This begs the questions of what constitutes ‘national’ and whether there might still be overlap.

Outcomes and performance indicators

As noted, the COAG reforms seek to shift the emphasis from inputs and conditionality to outcomes and results. An example of outcomes is those for schools:

The Agreement will contribute to the following outcomes:

- (a) all children are engaged in and benefiting from schooling;
- (b) young people are meeting basic literacy and numeracy standards, and overall levels of literacy and numeracy achievement are improving;
- (c) Australian students excel by international standards;
- (d) schooling promotes the social inclusion and reduces the educational disadvantage of children, especially Indigenous children; and
- (e) young people make a successful transition from school to work and further study.³¹

Performance data will be collected for national agreements, and for ‘National Partnerships to the extent that they support the objectives in National Agreements’.³² The COAG Reform Council will therefore have to determine which national partnerships meet this criterion.

The emphasis on outcomes and outputs is not, however, without problems. A major challenge is to develop meaningful outcomes and outputs and useful performance indicators:

[ScheduleF National Affordable Housing Agreement.pdf](#), p. 5, accessed on 13 February 2009.

- 31. Council of Australian Governments, *National Education Agreement*, p. 5 at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_ScheduleF_national_education_agreement.pdf, accessed on 20 February 2009
- 32. Council of Australian Governments, *Public Accountability and Performance Reporting*. Schedule C to the *Intergovernmental Agreement on Federal Financial Relations*, p. C-2, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_FFR_ScheduleC_Public_accountability_and_performance_reporting.pdf, accessed on 16 February 2009.

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This is an ambitious task as outcome/output measures of service delivery are difficult to define, measure and enforce in a robust way.³³

Indicators of quality and efficiency of service delivery, for example, are notoriously difficult to devise. Further, organisations tend to focus on attaining the identified outcomes with the result that other areas can be neglected.

Assessment mechanisms

A positive feature of the reforms is the proposed role for the COAG Reform Council in undertaking independent assessments of the merits of performance information and benchmarks. The COAG Reform Council's roles are:

As set out in this Agreement, or otherwise requested by COAG, the Council will report to the Prime Minister, as Chair of COAG, on:

- (a) the publication of performance information for all jurisdictions against National Agreement outcomes and performance benchmarks;
- (b) production of an analytical overview of performance information for each National Agreement, and National Partnership to the extent it supports the objectives in a National Agreement, noting that the Council would draw on a range of sources, including existing subject experts;
- (c) independent assessment of whether predetermined performance benchmarks have been achieved before an incentive payment to reward nationally significant reforms under National Partnerships is made;
- (d) monitoring the aggregate pace of activity in progressing COAG's agreed reform agenda; and
- (e) other matters referred by COAG.

Through the assessment and reporting process, the Council will highlight examples of good practice and performance, but will not have a policy-advising role.³⁴

On the other hand, paragraph 20 of the new *Intergovernmental Agreement on Federal Financial Relations* provides:

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- 33. V. Koutsogeorgopoulou, *Fiscal Relations Across Levels of Government in Australia*, OECD Economics Department Working papers, no. 541, 23 January 2007, p. 31, at [http://www.oecd.org/olis/2007doc.nsf/LinkTo/NT000009EA/\\$FILE/JT03220724.PDF](http://www.oecd.org/olis/2007doc.nsf/LinkTo/NT000009EA/$FILE/JT03220724.PDF), accessed on 13 February 2009.
 - 34. Council of Australian Governments, *Definitions and Institutional Arrangements*. Schedule A to the *Intergovernmental Agreement on Federal Financial Relations*, p. A-2, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_FFR_ScheduleA_Institutional_Arrangements.pdf, accessed on 13 February 2009.

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National SPPs may be associated with National Agreements, but there is no provision for National SPPs to be withheld in the case of a jurisdiction not meeting a performance benchmark specified in a National Agreement.³⁵

This raises the question of why a jurisdiction should not attract some form of penalty for non-performance. The absence of conditionality on National SPPs limits what the Commonwealth can do when there is non-performance.

In contrast, the COAG reforms adopt a ‘penalty’ approach for national partnerships:

The COAG Reform Council will be the independent assessor of whether pre-determined milestones and performance benchmarks have been achieved before an incentive payment to reward nationally significant reforms or service delivery improvements under a National Partnership reward payment is made. The final decision on payments will be made by the Commonwealth.³⁶

This approach is similar to that for the former National Competition Payments. Under these arrangements, the Commonwealth Treasurer could withhold payment to a state if the National Competition Council independently determined that a state had not met its obligations under the *Agreement to Implement the National Competition Policy and Related Reforms*.³⁷ In the case of national partnership payments, the ‘relevant Commonwealth minister’ must similarly determine whether an incentive payment will be made.³⁸

Conditionality

Much of the criticism of existing SPPs relates to conditionality whereby the Commonwealth requires the states to meet certain undertakings in order to receive grants. Conditionality sometimes takes the form of ‘input controls’ such as the states having to

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35. Council of Australian Governments, *Intergovernmental Agreement on Federal Financial Relations*, p. 6, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_federal_financial_relations.pdf, accessed on 13 February 2009.
 36. Council of Australian Governments, *Public Accountability and Performance Reporting*. Schedule C to *Intergovernmental Agreement on Federal Financial Relations*, p. C-4, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_FFR_ScheduleC_Public_accountability_and_performance_reporting.pdf, accessed on 16 February 2009.
 37. For a description of these arrangements, see the National Competition Council website at <http://www.ncc.gov.au/activity.asp?activityID=39>, accessed on 16 February 2009.
 38. Council of Australian Governments, *Payment Arrangements*. Schedule D to the *Intergovernmental Agreement on Federal Financial Relations*, p. D-5, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_FFR_ScheduleD_Payment_Arrangements.pdf, accessed on 16 February 2009.

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match Commonwealth funding. The focus on outcomes and results constitutes a shift away from conditionality.

Overall, the reforms reduce conditionality with national SPPs not subject to conditionality:

While the States and Territories will not be able to redistribute National SPPs from one sector to another, there will be no conditions attached to the National SPPs in respect of how States or Territories allocate their own funding across or within sectors.³⁹

The abolition of conditionality on national SPPs amounts to the Commonwealth ceding some power to the states. Conditionality can prevent the states from shifting costs on to the Commonwealth, and is one way of ensuring that the states spend grants for the purposes for which they were intended. On the other hand, releasing SPPs from conditionality gives the states greater flexibility to divert resources to areas they see as having greatest priority.

Other SPPs (that is, non-national SPPs) will, however, remain subject to conditionality. Thus while the reforms reduce the level of conditionality overall, conditionality will remain important in some areas.

State taxes

There has been some ‘slippage’ in the new arrangements with respect to the review taxes.⁴⁰ First, as noted, no state agreed to abolish stamp duty on conveyances of real non-residential property. Whereas previously, the Commonwealth had continued to push for the abolition of this tax, it is now not listed for abolition. This suggests that the Commonwealth has accepted that the states will not abolish this tax. Second, whereas all the states—except NSW—had agreed to abolish review taxes by 30 June 2011, the deadline has been extended to 30 June 2013. Some states have used this to reschedule the abolition of certain taxes.⁴¹ For example, in its 2008–09 Mini-Budget, the NSW Government announced:

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39. Council of Australian Governments, *Payment Arrangements*. Schedule D to the *Intergovernmental Agreement on Federal Financial Relations*, p. D-3, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_FFR_ScheduleD_Payment_Arrangements.pdf, accessed on 13 February 2009.
40. The new arrangements are contained in Council of Australian Governments, *Taxation Reform*. Schedule B to the *Intergovernmental Agreement on Federal Financial Relations*, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_FFR_ScheduleB_Taxation_Reform.pdf, accessed on 15 February 2009.
41. According to the Business Council of Australia, Queensland, NSW and SA are either raising or deferring some taxes as the economy slows. See Business Council of Australia,

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New South Wales previously announced a schedule for the abolition of a number of taxes that were listed for review in the *Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations* (IGA).

This schedule for the abolition of mortgage duty and the transfer of non-land business assets was brought forward in the past two Budgets. Currently, duty on unquoted marketable securities is scheduled to be abolished from 1 January 2009, mortgage duty on business loans is scheduled to be abolished on 1 July 2009 and transfer duty on non-land business assets is scheduled to be abolished on 1 January 2011. Mortgage duty has been abolished for individuals taking out mortgages on both owner occupier and investor residential properties.

New South Wales remains committed to the abolition of these taxes. However, as a cyclical response to the deterioration in revenue, the abolition of these three stamp duties will be deferred until 1 July 2012. This initiative will generate an additional \$36 million in 2008-09, \$197 million in 2009-10, \$298 million in 2010-11 and \$401 million in 2011-12.⁴²

Distribution

While the COAG reforms retain the main features of the distribution arrangements for financial assistance among the states under the Howard Government's reforms, the new arrangements differ in several respects.

National SPPs and national partnerships

As noted, COAG agreed that the national SPPs are to be distributed among the states on an equal per capita basis (except schools). COAG also agreed to continue to apply the horizontal fiscal equalisation principle to the national SPPs. This principle is that if each state made the same effort to raise revenue from its own sources and operated at the same level of efficiency, each state would have the capacity to provide services at the same standard.⁴³ (The Commonwealth Grants Commission applies the horizontal fiscal equalisation principle when it determines the relativities used to calculate the distribution of the GST among the states). The effect of the decision to continue to apply horizontal

Budget Submission 2009–10, at <http://www.bca.com.au/Content/101530.aspx>, accessed on 15 February 2009.

42. NSW 2008–09 Mini-Budget, p. B-2, at http://www.treasury.nsw.gov.au/_data/assets/pdf_file/0016/12706/08-09_Mini-Budget.pdf, accessed on 16 February 2009.
43. Commonwealth Grants Commission, *Report on State Revenue Sharing Relativities 2008 Update*, p. 25 at http://www.cgc.gov.au/_data/assets/file/0004/9850/U2008_FINAL_REPORT_REVISIED_VERSION.pdf, accessed on 18 February 2009.

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fiscal equalisation will be that while the national SPPs grants will initially be distributed on a per capita basis, the grants will be redistributed among the states.⁴⁴

COAG also agreed that the horizontal fiscal equalisation principle would apply to national partnership project payments, that is, they too can, in effect, be redistributed among the states.

In contrast, national partnership facilitation and incentive payments cannot be redistributed among the states under the horizontal fiscal equalisation principle.⁴⁵ The intent seems to be to ensure that a state retains the benefit from having undertaken reform. This is sensible given that the purpose of the facilitation and incentive payments is to encourage the states to undertake reform. However, this treatment is not binding on the Commonwealth Grants Commission which ‘may treat, on a case by case basis, any National Partnership payment differently if it considers that such treatment is more appropriate ...’⁴⁶

General revenue assistance

COAG decided that ‘other’ general revenue assistance—that is, general revenue assistance other than the GST—will be available for redistribution among the states. However, COAG also agreed that the Commonwealth Grants Commission may treat, on a case by case basis, any component of general revenue assistance as ‘out of scope’ if it considers such treatment is more appropriate. This could mean, for example, that the crude oil condensate payments made to Western Australia will be available for redistribution to the other states but that the payments made to the ACT for ‘national capital influences’ will not be available for redistribution.

As noted, a key feature of the COAG reforms is a number of national SPPs and national partnerships. The following examines these in more detail.

National Healthcare Agreement

Historically, funding agreements between the states and territories and the Commonwealth for health care have been fraught. Most notable was the ‘walk-out’ by the states in the

44. Technically, this follows from the application of what is known as the as the ‘inclusion’ principle.

45. Council of Australian Governments, *Payment Arrangements*. Schedule D to the *Intergovernmental Agreement on Federal Financial Relations*, pp. D-6 and D-7, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_FFR_ScheduleD_Payment_Arrangements.pdf, accessed on 16 February 2009.

46. Council of Australian Governments, *Payment Arrangements*. Schedule D to the *Intergovernmental Agreement on Federal Financial Relations*, p. D-7, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_FFR_ScheduleD_Payment_Arrangements.pdf, accessed on 16 February 2009.

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2003 Australian Health Care Agreement (AHCA) negotiations. Under Federal-state arrangements for health funding, the Commonwealth has a shared responsibility with the states to fund public hospitals and a range of other public health activities (such as population health)⁴⁷. States have a responsibility for management and funding of the public hospital system and management and funding of community health.

As part of its election commitment, the Rudd Government promised additional funding for hospitals and health care more broadly. The first instalment of the additional funding was announced at the COAG meeting on 26 March 2008, with an immediate allocation of one billion dollars to the public hospital system, half of which was to be provided in 2007–08.⁴⁸ At the same meeting, funding of \$9.7 billion for public hospitals was announced for 2008–09.⁴⁹

At the 29 November 2008 COAG meeting, the new National Healthcare Agreement was announced.⁵⁰ This was put forward as the new arrangements for ‘prevention, primary and community care, hospital and related care and aged care’ for the Commonwealth, state and territory governments.⁵¹ Funding of \$60.5 billion over four years was agreed with \$4.8 billion in additional base funding.⁵² It was claimed that the ‘States, are, on average, better off by nearly \$1 billion each year over the five years’.⁵³ The indexation of the base payment was increased to 7.3 per cent.⁵⁴ In addition there will be a \$500 million boost to the base funding each year from 2008–09 for the next five years.⁵⁵ This Agreement does not have an end date but the parties have agreed that it will be reviewed periodically, at least every five years to ensure the adequacy of Commonwealth funding.⁵⁶ The Healthcare

47 The Commonwealth also funds Medicare, the Pharmaceutical Benefits Scheme, aged care and the 30 per cent private health insurance rebate.

48 Council of Australian Governments, *Communiqué*, 26 March 2008, at http://www.coag.gov.au/coag_meeting_outcomes/2008-03-26/index.cfm#health, accessed on 24 February 2009.

49 *ibid*

50. Council of Australian Governments, *National Healthcare Agreement*, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_FFR_ScheduleF_National_Healthcare_Agreement.pdf, accessed on 23 February 2009.

51. *ibid*

52. *ibid*

53. *ibid*

54. *ibid*

55. *ibid*

56 Council of Australian Governments, *Intergovernmental Agreement on Federal Financial Relations*, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_federal_financial_relations.pdf, accessed on 23 February 2009.

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Agreement will be reviewed midway through each four to five year period to address any 'unintended consequences'.⁵⁷

As with other Agreements put forward in this package, there are defined outcomes, progress measures and outputs, responsibilities and performance benchmarks.⁵⁸ It also puts forward 'policy and reform directions' but it is noted that these will be 'contingent on available resources'.⁵⁹

In addition, the roles and responsibilities of each party as well as the areas of joint responsibility are defined. Broadly speaking, these are not dissimilar from previous healthcare agreements.

Outcomes, progress measures and outputs

The outcomes, progress measures and outputs are designed to enable achievement of the performance benchmarks contained in the Agreement. In some instances, there do not appear to be clear linkages between the performance benchmark and the progress measures and outputs. For example, the output for 'hospital and related care' relates to rates of service provided by public and private hospitals per 1 000 weighted population whereas the performance measure is a nationally consistent approach to activity-based funding for public hospitals. In contrast, the performance benchmarks for prevention are more closely aligned with progress measures and outputs. It may be that the lack of nationally consistent data limits the extent to which the Commonwealth can measure performance and may also possibly explain the lack of congruence, in some instances, between the performance benchmarks and the outcomes, progress measures and outputs.

The methodology for reporting on progress measures and outputs has been developed by the Australian Institute of Health and Welfare and it is intended that it will incorporate data from private sector services. Reporting on progress measures, outputs and benchmarks will be made publicly available.

'Outcomes, progress measures and outputs' focus on the following themes.

Prevention

The preventive effort is focussed on child health and management of risk factors. Progress measures include low birth weight, incidence/prevalence of preventable diseases and risk factor prevalence. Outputs include immunisation rates (according to the national schedule), cancer screening rates (breast, cervical, bowel) and the proportion of children with fourth year development check.

57 Refer to paragraph 32 of the *National Healthcare Agreement*, op. cit.

58 *ibid*, refer to p A5-A11.

59 *ibid*, p. A-12.

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Primary and community health

This is largely focussed on appropriate and timely access to health care which is comprehensive and integrated. Progress measures include access to general practitioners, dental and other primary healthcare professionals; reduction in diabetics with HbA1c; life expectancy (including the gap between Indigenous and non-Indigenous); infant/young child mortality rate (including the gap between Indigenous and non-Indigenous); potentially avoidable deaths; treated prevalence rates for mental illness; selected potentially preventable hospitalisations; and selected avoidable general practitioner type presentations to emergency departments. Outputs include the number of primary care services per 1,000 population (by location), the number of mental health services, planned health care for specific diseases for some Australians (asthma, diabetes, mental health) and the number of women with at least one antenatal visit in the first trimester of pregnancy.

Hospital and related care

This is to ensure timely and appropriate access to high quality hospital and hospital-related care. Progress measures include waiting times, selected adverse events in acute and sub-acute settings, unplanned/unexpected readmissions within 28 days of selected surgical admissions, survival of people diagnosed with cancer (five year relative rate). Outputs include rates of services provided by public and private hospitals per 1000 weighted population by patient type.

Aged care

This includes appropriate care for older Australians that is of high quality and affordable. It also seeks to ensure choice and easy transitions between sectors (e.g., from hospital to aged care facility or community care). Progress measures include residential and community aged care services per 1,000 population aged 70+ and selected adverse events in residential care. Outputs include the number of people receiving aged care services by type (community and residential settings), the number of aged care assessments conducted, the number of younger people with disabilities using selected aged care services, the number of people 65+ receiving sub-acute and rehabilitation services, and the number of hospital patient days by those eligible and waiting for residential aged care.

Patient experience

This seeks to improve patient experience of health care and ensure quality of health information as well as safe care when transferring between health care settings. Progress measures include nationally-consistent information about patient satisfaction regarding care.

Social inclusion and indigenous health

Activities in this area seek to improve health outcomes of Indigenous Australians living in rural and remote areas or on low incomes. Progress measures include age-standardised mortality, access to services by type of service compared to need, teenage birth rate,

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hospitalisation for injury and poisoning, and children's hearing loss. Outputs include participation by Indigenous Australians in the health workforce.

Sustainability

This relates to the future sustainability of the health system as well as the capacity of the health care system to respond to future needs. Progress measures include net growth in the health workforce, allocation of health and aged care expenditure and cost per case mix-adjusted separation for both acute and non-acute care episodes. Outputs include the number of accredited/filled clinical training positions.

Performance bench marks

This Agreement contains a number of performance benchmarks in the following areas.

Prevention

These include specific reductions within defined timeframes for the age-prevalence rate for Type 2 diabetes, national smoking rate, the Indigenous smoking rate and improvements to the number of Australians at a healthy body weight within defined timelines.

Hospital and related care

Administration

A nationally-consistent approach to activity-based funding for public hospitals within five years.

Emergency departments

Improvements in the waiting times at emergency departments, consistent with the recommendations by the Australian College of Emergency Medicine by 2012–13.

Quality and Safety

Specific targets for the rate of staphylococcus aureus (including MRSA) in each acute care public hospital by 2011–12.

Primary care

Increased provision of primary care and reduced proportion of potentially preventable hospital admissions by 2014–15.

Social inclusion and indigenous health

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Close the life expectancy gap for Indigenous Australians within a generation and halve the mortality gap for Indigenous Australians under five within a decade.

Performance management

According to Schedule C of the *Intergovernmental Agreement on Federal Financial Relations*, progress measures and outputs are used to measure performance against the performance benchmarks.⁶⁰ Unlike the previous AHCA, there are no financial penalties if states and territories do not meet performance benchmarks.⁶¹ The COAG Reform Council will determine whether a performance benchmark has been met.

In the absence of financial incentives, it appears that the various performance measures are designed to encourage greater accountability and scrutiny in the delivery of health care by both the state and Commonwealth governments. Previous AHCA have all included performance indicators but the capacity of the Department of Health to monitor whether the states and territories are meeting these objectives has been limited.⁶²

The approach to performance management adopted in the Healthcare Agreement is somewhat different to the accompanying Preventive Health National Partnership which has defined targets with facilitation and reward payments. This is not inconsistent with what has been recommended by the National Health and Hospitals Reform Commission which advocates 'pay for performance' incentives in health care and in the administration of the health care system.⁶³ It is acknowledged, however, that this can be difficult to implement in the absence of quality data.⁶⁴ Although there are no financial incentives to achieving performance benchmarks under the Healthcare Agreement, it may be that the public reporting of progress and achievement by each government may be sufficient.

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- 60 Intergovernmental Agreement on Federal Financial Relations, *Public Accountability and Performance Reporting*, Schedule C, p. C1-C2, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_FFR_ScheduleC_Public_accountability_and_performance_reporting.pdf, accessed on 23 February 2009.
- 61 Intergovernmental Agreement on Federal Financial Relations, *National Policy and Reform Objectives*, Schedule E, p. E2, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_FFR_ScheduleE_National_policy_and_reform_objective.pdf, accessed on 23 February 2009.
- 62 Australian National Audit Office, *Performance Information in the Australian Health Care Agreement*, Commonwealth of Australia, 2002, p.14
- 63 National Health and Hospitals Reform Commission. 'A Healthier future for all Australians - Interim Report', 2008, p. 311, at <http://www.nhhrc.org.au/internet/nhhrc/publishing.nsf/Content/interim-report-december-2008>, accessed on 23 February 2009.
- 64 *ibid*

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This Agreement has been negotiated in the context of the establishment of numerous Reviews, Taskforces and the pledge by the Rudd Government to ‘end the blame game’. Many of these reviews and taskforces have not yet reported to government and it is not clear what direction health reform might take in the next five to ten years. This perhaps has constrained the extent to which the Agreement could shift from existing models of health financing.

According to the COAG Communiqué, this agreement represents a ‘historic reform package’ yet it has not been met with the approval of all stakeholders.⁶⁵ The AMA has argued that the Agreement is ‘a bit thin’ and will not adequately address the current pressures on the health care system.⁶⁶ The Australian Hospitals and Healthcare Association expressed disappointment that the indexation rate was not higher but welcomed the overall objectives of the Agreement.⁶⁷ The state and territory governments were reported as seeking a nine per cent indexation payment but appear to have accepted the Agreement as it currently stands.⁶⁸

As with the Preventive Health national partnership, it will be some time before performance under the Healthcare Agreement can be adequately evaluated. Despite this, the Agreement does put forward a framework which, if fully adopted, will go some way to improved measuring of the performance of Australia’s health care system.

Concluding remarks

Of note, this Agreement does not include any ‘matching arrangements’ with states and territories.⁶⁹ Previous AHCA’s have attempted to ensure that states matched any Commonwealth funding and this has often led to an adversarial approach to discussions

65 Council of Australian Governments, *Communiqué*, 29 November 2008, at http://www.coag.gov.au/coag_meeting_outcomes/2008-11-29/index.cfm, accessed on 18 February 2009.

66 Australian Medical Association, Federal offer lacks fat, Media release, 28 November 2008. <http://www.ama.com.au/node/4340>, accessed 19 February 2009.

67 Mark Metherall, ‘Hospitals face scrutiny to get funding’ *Sydney Morning Herald*, 01 December 2008. p.4, at <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2F6I8S6%22>, accessed on 23 February 2009.

68 Laura Tingle and John Breusch, ‘Healthy debate on new funding deals’ *Australian Financial Review*, 28 November 2008, p. 3. <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressclp%2FL78S6%22>, accessed on 23 February 2009.

69 Refer to ‘Section 5’ of any Australian Health Care Agreement 2003–08, at http://dpl/Books/2006/AUST_HealthCareAgreement03-08VIC.pdf, accessed on 23 February 2009.

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about health financing. Time will tell if the ‘partnership approach’ and defined performance benchmarks will lead to improvements in Commonwealth-State relations and, ultimately, improved health outcomes for all Australians.

National Partnership on Preventive Health

This national partnership agreement establishes a number of broadly-based population health campaigns that will address the rising prevalence of lifestyle-related chronic diseases and establishes a dedicated National Preventive Health Agency. National collaboration for eating disorders will also be established. Expected outcomes of the partnership include:

- improvements in the numbers of children and adults within the healthy weight range
- increased levels of physical activity for children and adults as well as increased fruit and vegetable consumption
- reduction in smoking rates
- reduction in the hazardous consumption of alcohol, and
- improvements to the health of younger Australians with a focus on positive parenting and supportive communities.⁷⁰

An underlying focus on this partnership is improving the health outcomes of socially disadvantaged Australians. The partnership expires in 2015.

The major direction of the partnerships is detailed in Part 2, which focuses on Objectives, Outcomes and Outputs. It defines clear targets as well as specific programs/initiatives to be delivered under the Agreement. Programs in the following areas will be delivered.

Healthy children

Programs will focus on ‘physical activity, healthy eating and primary and secondary prevention’.⁷¹ Programs are to be delivered by state and territory governments.

Healthy workforce

70 Council of Australian Governments, *National Partnership on Preventive Health*, 28 November 2008, p. 5, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/national_partnership/national_partnership_on_preventive_health.rtf, accessed on 18 February 2009.

71 *ibid*

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This includes the delivery of ‘healthy living programs’ such as physical activity, healthy eating, alcohol consumption and smoking cessation.⁷² The Commonwealth has a responsibility to develop a ‘national healthy workplace charter’ in conjunction with peak employer groups to encourage a nationally consistent approach.

Healthy communities

This will support the implementation of social marketing health-based campaigns for physical activity and healthy eating. A specific focus will be on disadvantages populations and the unemployed as well as priority, high needs areas identified by local governments. The intention is to use existing programs and infrastructure (for example commercial fitness and weight-loss sectors) to support implementation. The Commonwealth will have a role in accreditation of programs and service providers.

Industry partnership

The Commonwealth, in consultation with the states and territories, will develop partnerships with relevant industry and non-government sectors to effect change. These industries and non-government sectors have not been defined in the national partnership, nor have the specific initiatives that the partnership might undertake.

Social marketing

The Commonwealth will fund a social marketing campaign to complement the existing Australian Better Health Initiative campaign. A National Preventive Health Agency will oversee the campaign and this will be established and funded by the Commonwealth.

The Commonwealth will also fund the states and territories to conduct local activities that support the national social marketing campaign. In addition, the Commonwealth will also fund a tobacco social marketing campaign to be supported by State/Territory funded activities.

Enabling infrastructure

This effectively establishes the infrastructure to report and evaluate the partnership. It includes improved data collection of the National Nutrition and Physical Activity Survey as well as the establishment of a research fund. An Eating Disorder Collaboration and a national preventive health agency will also be established by the Commonwealth. States and territories will be required to conduct more frequent health, nutrition and physical monitoring surveys.

Part 3 outlines the roles and responsibilities of the Commonwealth and states and territories. The Commonwealth will play leadership and oversight roles by developing

72 ibid, p. 6.

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partnerships and infrastructure and establishing the national preventive health agency. The states and territories will deliver and manage programs and services.

Part 4 of the Agreement details performance benchmarks, timeframes and reporting. These have been agreed by Commonwealth, state and territory governments and are quite specific. For example, it includes a reduction in smoking rates by two percentage points from the 2007 national baseline by 2011.⁷³

Apart from smoking, the baseline for all performance benchmarks will be June 2009. Performance against the benchmarks will be assessed at June 2013 and December 2014. The Agreement notes that the COAG Reform Council may further review a state or territory's performance in the following areas:

- children and adults at healthy bodyweight
- children and adults meeting guidelines for fruit and vegetable consumption
- children and adults meeting the guidelines for physical activity, and
- Australians smoking daily⁷⁴

For the 'Healthy children' and 'Healthy workers' initiatives, payment is structured on a 50 per cent facilitation and 50 per cent reward basis. Facilitation payments will be paid to the states and territories for the development of some of the social marketing campaigns and some of the enabling infrastructure but these will not be subject to a reward payment.

Payment of the reward component will be staggered with 20 per cent to be paid in June 2013, and 30 per cent to be paid in December 2014. For states and territories which do not meet performance targets, a partial payment will be made proportional to achievement.

This is the first time that the Australian Government has explicitly linked performance in preventive health with payments. Although targets have been set in health care previously⁷⁵ and funding has been provided for specific priority areas (such as diabetes, cardiovascular health, cancer control, injury prevention, and mental health), it has rarely been linked to specific targets such as reduction by a pre-determined amount.

73 ibid, p. 8

74 ibid, p. 9

75 Consider the Australian Health Minister's Advisory Council 'Health Targets and Implementation (Health for All) Committee established in 1988; the national health goals and targets endorsed by the Australian Health Minister's Advisory Council in 1993 and later agreed by Australian Health Ministers to be incorporated in the National Health Policy. More recently, the National Health Priority Areas agreed in 1996 all had performance indicators.

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Clearly, it will take some time to determine the effectiveness of this approach and whether financial incentives will translate to improved health outcomes. Furthermore, States and Territories will need to develop capabilities in reporting against these performance benchmarks as they will have responsibility for reporting. It is not clear what role, if any, the Australian Institute of Health and Welfare or the Australian Bureau of Statistics will have in data collection and analysis of these performance indicators. Both of these organisations have extensive experience in population health surveys and comparison of data across jurisdictions. Furthermore, they would also provide a level of independence when reporting, and assessing, performance. However, if these agencies were to take on such a role, it is not clear if their current resource constraints, such as the efficiency dividend, would allow for an increase in their responsibilities.

This approach to prevention has been described as a ‘landmark change’ in health funding⁷⁶. Nevertheless, there has been little stakeholder comment about the National Partnership Agreement on preventive health. Throughout 2008, commentary on preventive health has focussed on the need for prevention activities to be linked with adequate access to health care.⁷⁷ Other commentators have considered how preventive health might be defined, what the responsibilities of government might be, integration and funding of preventive health in the health care system and how this might be evaluated.⁷⁸

Many of the targets, outcomes and outputs of the partnership reflect the recommendations of the Preventative Health Taskforce established by the Rudd Government in early 2008. For example, the ‘Obesity in Australia: a need for urgent action’ report suggests the development of social marketing campaigns for physical activity and healthy eating, a national approach to encouraging physical activity and closing the gap for disadvantaged communities.⁷⁹ Although the Preventative Health Taskforce Tobacco Working Group recommended a much more ambitious reduction in smoking rates (9 per cent reduction by

76 Public Health Association of Australia, ‘Funding boost and accountability for prevention welcomed’, Media release, 28 November 2008, <http://www.phaa.net.au/documents/MediaReleaseFundingBoostforPreventionWelcomed.pdf>, accessed 18 February 2009.

77 See L Russell and A Boxall, ‘Prevention quality better than quantity’. *The Australian*, 26 July 2008

78 See L Russell, G Rubin and S Leeder, ‘Preventive health reform: what does it mean for public health’. *Medical Journal of Australia*, volume 188, 12, pp. 715-719.

79 Preventative Health Taskforce – Obesity working group, ‘Obesity in Australia: a need for urgent action’ 2008, updated February 2009, [http://www.preventativehealth.org.au/internet/preventativehealth/publishing.nsf/Content/E233F8695823F16CCA2574DD00818E64/\\$File/obesity-feb09-1.pdf](http://www.preventativehealth.org.au/internet/preventativehealth/publishing.nsf/Content/E233F8695823F16CCA2574DD00818E64/$File/obesity-feb09-1.pdf), accessed 19 February 2009.

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2020), the targets put forward in the partnership will, if realised, go some way in achieving this goal.⁸⁰

School education

The Bill appropriates base funding of \$3.3 billion in 2009–10 for the National Schools SPP, which will be based on enrolments, provided on an ongoing basis and indexed annually. It also authorises the COAG Reform Fund to be credited to fund National Partnership Agreements with schools. The Improving Teacher Quality (\$550 million) and the Literacy and Numeracy (\$540 million) National Partnerships have been agreed. A third national partnership to assist disadvantaged schools (\$1.1 billion) is still being negotiated.⁸¹ These partnerships are for periods of four to five years.

The Bill marks a fundamental change in Commonwealth funding arrangements for government schools. Previously, Commonwealth SPPs for both government and non-government schools were provided on a four-yearly basis. The legislative authorisation for school SPPs was a single Act that covered both school sectors and provided funding for general recurrent grants, capital works and targeted programs. The legislation was supported by a framework of legislative regulations, administrative guidelines and agreements with government and non-government education authorities.⁸²

National Education Agreement

Now there will be a single SPP for government school education under the terms of the National Education Agreement (the NEA), supported by the three National Partnership

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80. Preventative Health Taskforce – Tobacco working group, ‘Tobacco control in Australia – making smoking history’, 2008.
[http://www.preventativehealth.org.au/internet/preventativehealth/publishing.nsf/Content/96CAC56D5328E3D0CA2574DD0081E5C0/\\$File/tobacco-10octpdf.pdf](http://www.preventativehealth.org.au/internet/preventativehealth/publishing.nsf/Content/96CAC56D5328E3D0CA2574DD0081E5C0/$File/tobacco-10octpdf.pdf), accessed 19 February 2009.
81. There will also be an Early Childhood Education Partnership (\$970 million over five years) to deliver on the Government’s commitment to ensure universal access for four-year-olds by 2013. See Office of Early Childhood Education and Child Care, *Universal Access to Early Childhood Education*, 2008,
<http://www.deewr.gov.au/EarlyChildhood/OfficeOfEarlyChildhood/EarlyChildhoodEducation/Pages/Universalaccess.aspx>, accessed on 19 February 2009; and Council of Australian Governments(COAG), *Early Childhood Education National Partnership: Fact Sheet*, COAG, 2008, http://www.coag.gov.au/coag_meeting_outcomes/2008-11-29/docs/20081129_early_childhood_factsheet.pdf, accessed on 19 February 2009.
82. For a brief explanation about the previous system of Commonwealth funding for schools, see M. Harrington, *Australian Government General Recurrent Grants for Schools: A Brief Explanation*, Parliamentary Library, Canberra, 2008,
http://libiis1/Library_Services/electoralatlas/SchoolGrants/Explanation.htm, accessed on 17 February 2009.

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Agreements. The funding for the new SPP includes funding previously provided under the *Schools Assistance (Learning Together—Achievement Through Choice and Opportunity) Act 2004*, the *Indigenous Education (Targeted Assistance) Act 2000* and annual appropriations. The SPP also provides additional funding for government primary schools (\$635.1 million), the National Secondary School Computer Fund: Additional Funding for On-Costs (\$807.0 million) and new indexation arrangements whereby the growth in government school enrolments will become part of the ongoing funding formula (\$412.4 million).⁸³

In effect, school programs which existed under the previous SPP arrangements cease to exist for government schools. However, under the terms of the NEA, government school education systems will still be required to meet similar outcomes to those targeted by these previous programs.

National Partnerships

Funding arrangements for the agreed National Partnerships vary. For the Improving Teacher Quality National Partnership, funding is distributed on the basis of their share of national full-time equivalent teaching numbers, adjusted to take into account issues such as remoteness. Of the total funding of \$550 million, \$444 million will be provided to the states and territories. The remainder (\$106 million) will be retained by the Australian Government to support personal development for principals (\$50 million) and national activities (\$56 million).⁸⁴

Of the total funding for the Literacy and Numeracy National Partnership (\$540 million), \$150 million will be distributed in 2009 and 2010 on the basis of each state and territory's share of students at or below the minimum standard in reading and numeracy for Years 3, 5 and 7. A further \$350 million will be distributed in 2011 and 2012 as 'reward reform, based on the achievement of predetermined milestones and benchmarks' as determined by COAG. A proportion of this funding will be specifically for improvements in Indigenous student education outcomes. Presumably the remaining National Partnership funding (\$40 million) will be used for national activities.⁸⁵

83. Council of Australian Governments (COAG) Meeting, *Communique*, 29 November 2008, p. 13, http://www.coag.gov.au/coag_meeting_outcomes/2008-11-29/docs/communique_20081129.pdf, accessed on 19 February 2009.

84. Council of Australian Governments (COAG), *National Partnership Agreement on Improving Teacher Quality*, COAG, 2008, p. 12, http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/national_partnership/national_partnership_on_improving_teacher_quality.pdf, accessed on 20 February 2009.

85. Council of Australian Governments (COAG), *National Partnership Agreement on Literacy and Numeracy*, COAG, 2008, pp. 11–13, http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/national_pa

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The funding arrangements for the National Partnership for disadvantaged schools have not yet been announced.

Other Commonwealth funding for schools

The SPP and National Partnership funding for schools will be augmented by the *Building the Education Revolution* (BER) initiatives (\$14.7 billion for government and non-government schools over three years), announced as part of the *National Partnership Agreement on the Nation Building and Jobs Plan*.⁸⁶ There are also some other school programs, such as the National Asian Languages and Studies in Schools (NALSS) program and the Digital Education Revolution, which also fall outside the SPP and National Partnerships framework. These programs are funded through annual appropriations.

Non-government schools

Commonwealth funding for non-government schools is continuing much as before with similar programs, and funding and administrative arrangements. The *Schools Assistance Act 2008* provides an estimated \$28 billion from 2009 to 2012 for non-government schools; that is, the non-government school SPP which will continue to be paid through the states and territories.⁸⁷ Under the terms of their funding agreements with the Commonwealth, non-government school education systems and schools will be obliged to meet the same educational goals as are government schools under the NEA.

Non-government schools are also entitled to access the funding available through the National Partnerships. As the agreements for the National Partnerships state, the Commonwealth and the states will work together to involve the non-government sector and:

[rtnership/national_partnership_on_literacy_and_numeracy.pdf](#), accessed on 20 February 2009.

86. For further information see the Department of Education, Employment and Workplace Relations' *Building the Education Revolution* website, <http://www.deewr.gov.au/Schooling/BuildingTheEducationRevolution/Pages/default.aspx>, accessed on 17 February 2009.
87. For further information, see Marilyn Harrington, 'Schools Assistance Bill 2008', *Bills Digest*, no. 37, Parliamentary Library, Canberra, 2008–09, <http://www.aph.gov.au/library/pubs/bd/2008-09/09bd037.pdf>, accessed on 16 February 2009. A significant change is that the new Act now includes the funding for Indigenous non-government school students.

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States will invite non-government sector authorities to participate ... These authorities will be involved in the design, operation and evaluation of State Implementation Plans.⁸⁸

There is also provision for the Commonwealth to establish separate Partnership Agreements with non-government education authorities if the states and non-government education authorities cannot negotiate an agreement.

Issues

Commonwealth SPP funding for government and non-government schools will total an estimated \$42.0 billion from 2009 to 2012, compared to \$34.1 billion (excluding Indigenous education funding) over 2005 to 2008.⁸⁹ While some of this increase is new money, the majority of the increase will be the result of indexation as has been the case in the past.⁹⁰

The funding for the three National Partnerships for schools will total \$2.2 billion. Of this funding, the \$1.7 billion for the National Partnerships for teaching and disadvantaged schools is 'new' money. The funding for the Literacy and Numeracy National Partnership has already been provided in the forward estimates, seemingly the result of a literacy and numeracy 2008–09 budget measure which redirected funds from previous programs.⁹¹ At this stage it is not apparent how much of the National Partnerships funding will be allocated to the non-government school sector or how much that sector will contribute to the Commonwealth's co-investment requirements.

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88. Council of Australian Governments (COAG), *National Partnership Agreement on Literacy and Numeracy*, COAG, 2008, p. 4, http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/national_partnership/national_partnership_on_literacy_and_numeracy.pdf, accessed on 17 February 2009. The same condition is stipulated in the *National Partnership Agreement on Improving Teacher Quality*, p. 4, http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/national_partnership/national_partnership_on_improving_teacher_quality.pdf, accessed on 20 February 2009.
89. COAG Meeting, op. cit., p.5.
90. Marilyn Harrington, 'Commonwealth funding for schools since 1996: an update', *Research Note*, no. 41, Parliamentary Library, Canberra, 2003–04, p. 2, <http://www.aph.gov.au/library/pubs/rn/2003-04/04rn41.pdf>, accessed on 19 February 2009.
91. COAG Meeting, op. cit., p. 13; and Australian Government, *Budget Paper No. 2: Budget Measures 2008–09*, Commonwealth of Australia, Canberra, 2008, p. 152, <http://www.budget.gov.au/2008-09/content/bp2/download/bp2.pdf>, accessed on 19 February 2009.

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The SPP and National Partnership funding is of course exclusive of the BER initiatives and some other programs as mentioned above. The BER funding will go some way to redressing the balance of total Commonwealth funding between the two school sectors; albeit, mostly for government primary schools and taking into account the BER initiatives are non-ongoing.⁹²

Commonwealth funding for government schools has been simplified, with the states now determining how those funds will be used to achieve the agreed outcomes. These new funding arrangements and the increased funding for government schools have been welcomed. However, given that the estimated non-government schools SPP is \$28 billion for 2009 to 2012, the previous pattern of Commonwealth SPPs for schools will continue, with the non-government sector receiving two-thirds of the funds. There are still those, therefore, keen for the Commonwealth to go further to redress the balance between the two school sectors.⁹³

National Agreement for Skills and Workforce Development

Commonwealth vocational education and training funding

Since it was established in 1992 the national vocational education and training (VET) system has been governed by a series of Commonwealth/State agreements commencing with the Australian National Training Authority Agreement (ANTA Agreement). The agreements have determined government funding levels and arrangements and strategic priorities for the national VET system. Commonwealth government grants to the states and territories to assist them in the running of their VET systems (or specific purpose payments (SPPs) for VET) have been an essential part of the funding arrangements under these agreements.

In addition to the SPP funding provided by the Commonwealth under these agreements (approximately \$1.3 billion for 2008–09), the Commonwealth has also provided funding for its own VET programmes such as the Australian Apprenticeships programme (estimated expenditure on Apprenticeship incentives, the major part of this programme, for 2008–09 is \$746 million). The Rudd Government has also placed a considerable amount of emphasis on its Productivity Places Program, funded under the new form of

92. Government schools will receive about 70 per cent of the funding for the Primary Schools for the 21st Century and the Renewing Australia's Schools BER initiatives. See *Building the Education Revolution Funding for Australian Schools*, [DEEWR, Canberra, 2009], <http://www.deewr.gov.au/Ministers/Gillard/Media/Releases/Documents/Building%20the%20Education%20Revolution%20National%20Funding.pdf>, accessed on 19 February 2009.

93. See, for example, J. McMorrow, *Updating the evidence: the Rudd Government's intentions for schools*, Australian Education Union, [Southbank, Vic.], 2008, <http://www.aefederal.org.au/Publications/2009/JMcMorrowpaper2009.pdf>, accessed on 20 February 2009.

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payment known as National Partnership (NP) payments. A commitment of \$1.2 billion has been made over the four year life of this NP which commences 1 January 2009 and expires 30 June 2012.⁹⁴

The new National Agreement for Skills and Workforce Development

The new *National Agreement for Skills and Workforce Development*⁹⁵ (the Agreement) effectively replaces the Howard Government's *2005–08 Commonwealth–State Agreement for Skilling Australia's Workforce* which had in turn replaced the ANTA Agreement, and was to expire at the end of 2008. Unlike its predecessors that were negotiated under the auspices of the Ministerial Council and signed by State and Territory Ministers responsible for VET, this new Agreement is a product of the Council of Australian Governments and is subject to the provisions of the *Intergovernmental Agreement on Federal Financial Relations*.

While the Agreement brings together much Commonwealth government funding of skills and workforce development, as with its predecessors a number of Commonwealth Own Purpose Expenses (COPE) such as funding for Australian Apprenticeships continue to sit outside the Agreement. However, in scoping the objectives of the Agreement it is noted that:

The funding that each jurisdiction agrees to, including the SPP and the related Commonwealth Own Purpose Expenses (COPE) and National Partnership, Productivity Places Program, will contribute to achieving the ... objectives and outcomes.

Whereas the *2005–08 Commonwealth–State Agreement for Skilling Australia's Workforce* was notable for the conditions that it placed on the states/territories for the running of their VET systems, it would appear that the new Agreement provides for greater flexibility in the way that the states and territories manage and utilise their funds to meet the agreed

94. Council of Australian Governments Meeting, Canberra 29 November 2008, *Communique*, p. 26, http://www.coag.gov.au/coag_meeting_outcomes/2008-11-29/docs/communique_20081129.pdf, accessed on 18 February 2009 and Council of Australian Governments, *Fact sheet: National Partnership for productivity Places program*, 2008, p.1, http://www.coag.gov.au/coag_meeting_outcomes/2008-11-29/docs/20081129_productivity_places_factsheet.pdf, accessed on 18 February 2009.

95. Council of Australian Governments, *National Agreement for Skills and Workforce Development*, http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_FFR_ScheduleF_National_Skills_and_Workforce_Development_National_Agreement.pdf, accessed on 18 February 2009.

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outcomes.⁹⁶ Progress towards achieving the following agreed outcomes will be monitored:

- the working age population have gaps in foundation skill levels reduced to enable effective educational, labour market and social participation
- the working age population has the depth and breadth of skills and capabilities required for the 21st century labour market
- the supply of skills provided by the national training system responds to meet changing labour market demand, and
- skills are used effectively to increase labour market efficiency, productivity, innovation and ensure increased utilisation of human capital.

The Agreement provides for measurable outputs and progress measures. These include that nationally, over the period of the Agreement ‘the States will deliver up to 1.15 million’ VET course completions. Schedule A of the Agreement provides state details of the outputs for 2009 to 2012.

The Agreement defines the respective responsibilities of the Commonwealth and State and Territory governments. Among other policy and reform directions it identifies a more demand and client driven system, further competition, optimising investment from all sources, reinforcement of the role of industry and the implementation of changes needed in the structure and operation of the training system. Underlying principles include client focus, partnership between government and industry, maximising both social and economic returns and flexibility and client responsiveness.

The Agreement details the current governance structures and associated bodies but in so doing notes that they are currently under review.

It would appear that the parameters provided by the Agreement offer the states and territories scope to determine how they will run their systems and how they will allocate resources in such a way that would meet local needs and optimise agreed outcomes. Therefore while changes to the operation of the VET system, including more demand driven and competitive mechanisms are being advocated, there would at this stage appear to be no prescription for the introduction of the more radical changes recently introduced in Victoria involving a contestable market based approach.⁹⁷ Regardless, there is the

96. For more details on the conditionality of the *Skilling Australia's Workforce Agreement* see Carol Kempner, ‘Skilling Australia’s Workforce Bill 2005’, *Bills Digest*, no. 160, 2004–05, Parliamentary Library, Canberra, , <http://parlinfo.parlInfo/search/display/display.w3p;adv=yes;db=:group=:holdingType=:id=:orderBy=customrank;page=0;query=skilling%20australias%20workforce%20Dataset%3Abillsdgs;querytype=:rec=1;resCount=Default>, accessed on 18 February 2009.

97. For more information on Victoria’s reforms see Skills Victoria, *Securing your jobs for the future*, 2008,

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expectation that the market reform agenda will proceed in time.⁹⁸ In support of Victoria's reforms the Rudd Government is in the process of relaxing the recently introduced income contingent loans for VET, VET FEE-HELP, to allow access to government subsidised students. This opportunity to further increase the capacity for private investment in the VET sector is itself likely to provide a powerful incentive for reform among other state and territory governments attempting to expand their sectors in the face of financial pressures.⁹⁹

The less prescriptive arrangements provided by the Agreement are also being promoted on the grounds that they 'will provide States with greater funding certainty and reduce administrative costs associated with previous, burdensome reporting requirements'.¹⁰⁰

SPP Funding

The Rudd Government, in its first Budget, maintained the real value of Commonwealth SPPs to the states and territories for their vocational education and training systems by providing \$1.3 billion under the *Skilling Australia's Workforce Act 2005*.

Under the Skills and Workforce Development SPP, the Commonwealth will again provide \$1.3 billion in base funding for 2009–10.¹⁰¹ The COAG Communique anticipates 'an estimated \$6.7 billion over the forward estimates from 1 January 2009 to 2012-13, including \$37 million in skills and workforce development funding. ... The States acknowledged that the base funding provided includes the Commonwealth's contribution to capital development and maintenance in the training sector. In addition, the base

http://www.skills.vic.gov.au/_data/assets/pdf_file/0003/15969/SecuringJobsforYourFuture-SkillsforVictoria.pdf, accessed on 19 February 2009.

98. See R. Griffiths, 'Change to survive and thrive', *Campus Review*, v.18, no. 49, December 2008, p.11, http://parlinfo/parlInfo/download/library/jrnart/1LCS6/upload_binary/1lcs62.pdf;fileType=application%2Fpdf#search=%22survive%20thrive%22, accessed on 20 February 2009; and J. Ross, 'COAG seals the deal', *Campus Review*, v.18, no. 49, December 2008, p.12, http://parlinfo/parlInfo/download/library/jrnart/2LCS6/upload_binary/2lcs60.pdf;fileType=application%2Fpdf#search=%22coag%20seals%22, accessed on 20 February 2009.
99. The changes to the VET FEE-HELP are provided for in the Higher Education Legislation Amendment (Student Services and Amenities, and Other Measures) Bill 2009.
100. Council of Australian Governments, *Fact sheet: National Agreement for Skills and Workforce Development*, 2008, http://www.coag.gov.au/coag_meeting_outcomes/2008-11-29/docs/20081129_skills_workforce_development_fact_sheet.pdf, accessed on 18 February 2009.
101. For National SPP base funding for 2009–10 and a state by state distribution of National SPP shares for the first five years see Schedule D of the *Intergovernmental Agreement on Federal financial Relations: Payment Arrangements*, pp. D–3, D–8, D–9, http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_FFR_ScheduleD_Payment_Arrangements.pdf, accessed on 20 February 2009.

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funding will include funding previously provided to the States for VET through Indigenous-specific funding elements, and also include VET-in-Schools funding. To ensure that non-government schools are not disadvantaged by this change, the States agreed to ensure that VET in Schools funding levels for non-government schools is to be maintained'.¹⁰²

The Agreement also provides that funding of \$47.4 million annually (plus indexation) for management of the National Training System be quarantined from the Agreement and that Training Ministers and Senior Officials monitor and advise on how this funding is allocated. This allocation is to be reviewed annually by the National Senior Officials Committee.

National Disability Agreement

The new National Disability Agreement replaces the previous national framework for the delivery, funding and development of specialist disability services—the Commonwealth State Territory Disability Agreement (CSTDA).¹⁰³

In the new agreement the areas of responsibility remain essentially the same as before. The Commonwealth's main areas of responsibility continue to be in the provision of employment services and income support, while the states and territories continue to be responsible for the provision of most other specialist disability services such as accommodation, respite and disability related support in schools.

However, there is a greater emphasis in the new agreement on the need to work towards consistency in service provision across jurisdictions; to increase the social and economic participation of people with disabilities; and to develop better performance reporting and data collection. For example, the performance indicators in the agreement include a commitment to publish new annual data on labour force participation of people with disabilities and their carers, and data on clients expressing unmet demand for disability services. Performance benchmarks include a commitment to increase work force participation for people with a disability; to assist more young people with disabilities to access appropriate accommodation; and to increase the proportion of Indigenous people accessing disability services.

102. op. cit., Council of Australian Governments, *Communique*, p. 26 and op. cit., *Fact sheet: National Agreement for Skills and Workforce Development*, 2008.

103. For details of the agreement, see Council of Australian Governments (COAG), *National Disability Agreement*, Schedule F to the *Intergovernmental Agreement on Federal Financial Relations*, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_FFR_ScheduleF_National_Disability_Agreement.pdf, accessed on 17 February 2009.

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The agreement identifies several key priority areas for initial national efforts to improve service provision that were not present in older agreements, specifically:

- a National Population Benchmarking Framework
- a National Disability Priorities Framework targeting more vulnerable population groups such as older carers and Indigenous people with disabilities
- a National Disability Quality Framework and National Quality Assurance System based on Disability Standards to improve quality assurance nationally
- a National Framework for Service Planning and Access to simplify access to specialist disability services
- an Early Intervention and Prevention Framework to ensure people receive timely support
- a national workforce strategy to increase workforce participation for people with disabilities
- a National Indigenous Access Framework addressing service delivery issues for Indigenous people, and
- improvements in data collection through the existing ABS Survey of Disability, Ageing and Carers.

The agreement also specifies that the parties will agree to:

- establish a National Disability Strategy
- harmonise rules for accessible parking
- establish a National Companion Card Scheme
- ensure young veterans have access to specialist disability services
- modernise print disability services
- provide top-up disability support for people living in group homes through Community Aged Care Packages, and
- develop more consistent access to aids and equipment and disability services nationally.

The new agreement has been well received so far by stakeholders, but some have expressed concern on the lack of clarity regarding the new approach to funding. National Disability Services (NDS), for example, points out that the new arrangements only specify Commonwealth funding commitments and no longer require the states and territories to

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match Commonwealth contributions. Commonwealth payments will be made directly to the states and territories and disability departments will then have to bid for the funds—how this works in practice remains to be seen.

NDS also argues that while the new agreement requires accountability in relation to outcomes, it allows states and territories greater flexibility in how they achieve them than before. NDS suggests that much of the work to define exactly how outcomes will be measured and monitored is far from finalised and should be monitored closely.¹⁰⁴

For more detail on government funded disability support and services and links to key resources see J. Phillips, [Disability support and services in Australia](#), *Background Note*, Parliamentary Library, 2007-08.

National Affordable Housing Agreement

The National Affordable Housing Agreement has its origins in the National Summit on Housing Affordability, held in June 2004. One of the key priorities for action identified by summit participants was the development of a five year National Affordable Housing Agreement between Commonwealth, state, territory and local governments to ‘integrate, rationalise and strengthen government assistance for affordable housing’.¹⁰⁵ The National Affordable Housing Agreement was further developed through the Achieving a New National Affordable Housing Agreement forum, held in July 2006, and two subsequent National Round Tables of five lead agencies, held in December 2007.

The National Affordable Housing Agreement replaces the Commonwealth-State Housing Agreement (CSHA)—the previous national framework concerned with the provision of public rental housing, community housing, crisis accommodation, Aboriginal rental housing, private rental support and home ownership support. The National Affordable Housing Agreement will be an ongoing agreement, but one that is reviewed every five years and amended as necessary by the agreement of the Council of Australian Governments (COAG).¹⁰⁶ The agreement appears to consolidate a majority of forms of government assistance for providers or consumers of affordable housing. However, it is

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104. NDS, ‘New agreement signifies progress, but contains risk’, *National News Update*, 17 February 2009, <http://www.nds.org.au/national/default.htm>, accessed on 17 February 2009.
105. National Summit on Housing Affordability, *Improving Housing Affordability – A call for action*, June 2007, p. 4, http://www.housingsummit.org.au/05/media/Summit_callforaction.pdf, accessed on 20 February 2009.
106. Council of Australian Governments, *National Affordable Housing Agreement*, Schedule F to the *Intergovernmental Agreement on Federal Financial Relations*, 2009, p. 3, http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_FFR_ScheduleF_National_Affordable_Housing_Agreement.pdf, accessed on 20 February 2009.

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not clear whether or not the Commonwealth Rent Assistance (CRA) program will form a part of the new agreement. The same holds for the National Rental Affordability Scheme, Housing Affordability Fund, First Home Saver Accounts or National Housing Supply Council.

The agreement also subsumes the Supported Accommodation Assistance Program (SAAP)—the main program through which the Commonwealth provides funding for accommodation and assistance services for people who are homeless or at imminent risk of becoming homeless.

Under the National Housing Affordability Agreement, there is no identified program funding—that is, funding provided for a specific housing or homelessness purpose (as was the case under the CSHA). Instead, the states are to be responsible for determining the amount of funding to be directed to particular government programs and services. In addition, the states are no longer required to provide ‘matching’ funding, which was a requirement under the CSHA.¹⁰⁷

Funding for specified outputs or projects is to be provided under two National Partnership Agreements—an agreement on social housing and on homelessness—that have been established within the broader National Affordable Housing Agreement.¹⁰⁸ These payments serve as incentive payments; they are to facilitate and/or reward states that deliver on specific objectives that contribute to the overall goals of the National Affordable Housing Agreement.

In the case of the National Partnership Agreement on Housing, the specific objective is the implementation of a Social Housing Growth Fund, which is to provide capital funding to support various projects that will increase the supply of social housing in the short term (within two years of the funding being allocated). To an extent, competition for funding is being encouraged under this agreement. While funding under the National Partnership Agreement on Social Housing is to be offered to the states and territories on a per capita basis, jurisdictions are able to submit for consideration proposals that exceed their per capita share.

107. The states and territories were required to contribute funding to ‘match’, in part, Commonwealth funding. Generally speaking, the Commonwealth provided about 70 per cent of total CSHA funding, with the states and territories providing the remainder.

108. Council of Australian Governments, *National Partnership Agreement on Social housing, National Affordable Housing Agreement*, 2009, Council of Australian Governments, http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/national_partnership/national_partnership_on_social_housing.pdf, *National Partnership on Homelessness, National Affordable Housing Agreement*, 2009, http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/national_partnership/national_partnership_on_homelessness.pdf, accessed on 20 February 2009.

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Under the National Partnership Agreement on Homelessness, payments are to be made to the states and territories where they achieve performance benchmarks detailed in Implementation Plans. These plans are to establish priorities and relative effort for each jurisdiction, based on their specific circumstances.

The National Affordable Housing Agreement represents a change to previous funding arrangements in two main, related respects.

Firstly, by bringing together under a single framework existing affordable housing and homelessness programs, the agreement potentially provides for the greater integration and coordination of housing and homelessness responses, and improved housing affordability and homelessness outcomes.

Secondly, by reducing Commonwealth prescriptions on service delivery by the states and territories the agreement could enable greater diversity and innovation in states' and territories' measures to improve housing affordability and homelessness outcomes.¹⁰⁹

The agreement also provides for greater (and wider) government accountability than was previously the case. The states and territories are obliged to publicly report on a range of performance indicators in the areas of affordable rental, affordable home purchase, homelessness, indigenous housing and housing market efficiency.¹¹⁰ It is not clear, as yet, precisely what form this reporting is to take.¹¹¹ It is worth noting, however, that should jurisdictions fail to meet performance benchmarks specified in the National Affordable Housing Agreement, there is no provision for the withholding of payments.¹¹² The states are to be given a substantial amount of responsibility, and leeway, under the new agreement.

109. While there was some scope for the states to pursue different priorities for housing assistance through bilateral CSHAs (in line with their individual circumstances), this was within the parameters of defined CSHA funding arrangements. It should be noted that there was the capacity under the CSHA for individual program funding to be applied more flexibly. This was subject to Ministerial approval, where the Minister was satisfied with the state's performance with regard to outcomes in relation to an identified program.

110. Under the CSHA, performance measures for achieving objectives and outcomes were negotiated with the states through bilateral agreements. States were required to make publicly available within three months of agreeing or varying a Bilateral Agreement the objectives and outcomes to be achieved under this agreement.

111. Reporting on performance under the CSHA was primarily through Annual Reports under Section 14 of the *Housing Assistance Act 1996*.

112. Council of Australian Governments, *Intergovernmental Agreement on Federal Financial Relations*, 2009, p. 6, http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_federal_financial_relations.pdf, accessed on 20 February 2009.

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The National Affordable Housing Agreement has been generally welcomed by stakeholders. One early criticism of the agreement was that it provided insufficient funding for public and community housing. National Shelter argued that funding of \$400 million over the next two financial years for capital investment in social housing and homelessness would only stimulate short term growth in the social housing sector.¹¹³ Such arguments have been rendered all but redundant in light of the recent announcement of up to \$6.4 billion for public and community housing as a part of the Nation Building and Jobs Plan. Nevertheless, National Shelter's point that the National Affordable Housing Agreement only provides indexation of 2 per cent, which is substantially lower than the current Consumer Price Index (CPI) rate, could pose problems in terms of the ongoing provision of funding for public housing. The Council of Australian Governments has agreed to 'review periodically, and at least every five years, the level of Commonwealth funding support to ensure its on-going adequacy'.¹¹⁴ However, it is worth bearing in mind that the level of indexation and how it was to be measured and applied was a source of constant tension between the Commonwealth and the states under the CSHA.

Funding for the National Affordable Housing Agreement is to be \$6.2 billion over five years from 2008-09.

Basis of policy commitment

The Australian Labor Party's *National Platform and Constitution 2007* contained the following:

6. Many of Australia's biggest policy challenges involve the intersection of Commonwealth and State government responsibilities. In government, reforming the Federation will be an important priority for Labor. The cost shift and blame shift between governments costs Australian taxpayers billions of dollars each year. There is too much ambiguity about which level of government is responsible for a particular government program. This often creates difficulties for Australians who want to access the range of services shared by governments, in areas such as health care, aged care, childcare, disability services, and dental care. It is also often a significant problem for Australian businesses in dealing with conflicting and costly regulatory environments between Commonwealth, state and governments.

7. Accordingly, Labor will:

113. National Shelter, 'NAHA welcome but falls short of expectations', media release, 3 December 2008, <http://www.sheltersa.asn.au/National%20Shelter/COAG%20MR%20Dec2008.pdf>, accessed on 20 February 2009.

114. Council of Australian Governments, *National Affordable Housing Agreement*, Schedule F to the *Intergovernmental Agreement on Federal Financial Relations*, 2009, p. 6, http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_FFR_ScheduleF_National_Affordable_Housing_Agreement.pdf, accessed on 20 February 2009.

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- Review areas of overlap and duplication of responsibility between the Commonwealth and State and Territory governments, with the aim of eliminating inefficiencies and clarifying responsibilities;
- maintain a comprehensive system of horizontal fiscal equalisation based upon the per capita relativity recommendations of the Commonwealth Grants Commission;
- maintain a system of general purpose funding to local governments which provides adequate funding for their needs;
- continue to support specific purpose payments to States and Territories where these are appropriate to meet national objectives or ensure national standards, and ensure that those payments are used for the purpose for which they have been allocated; and
- ensure that State, Territory and local governments and their authorities are able to maintain and steadily improve their economic and social infrastructure.

8. Labor will also:

- seek to eliminate inappropriate duplication between Commonwealth, State and Territory, and local government functions and activities;
- support arrangements to voluntarily harmonise revenue bases and tax administration between the Commonwealth, States and Territories; and
- support arrangements to voluntarily integrate the administration of Commonwealth and State and Territory taxes and charges, where this has the potential to lead to economic benefits such as lower compliance costs for business.

9. Labor opposes companies shifting jurisdictions to avoid their OHS and workers compensation responsibilities and obligations. Labor will stop this.¹¹⁵

Any consequences of failure to pass

There would be two main consequences of a failure to pass the Bill:

- the revised arrangements for Commonwealth-state financial relations could not implemented, and
- the states would not receive additional assistance worth \$6.3 billion.

115. Australian Labor Party, *National Platform and Co0nstiution 2007*, pp. 177-178, at http://www.alp.org.au/download/now/2007_national_platform.pdf, accessed on 16 February 2009.

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Financial implications

According to the Explanatory Memorandum, the Bills—the Federal Financial Relations Bill 2009 and the Federal Financial Relations (Consequential Amendments and Transitional Provisions) Bill 2009—appropriate an additional \$6.3 billion over five years.¹¹⁶ However, the total of the amounts shown in the table in the Explanatory Memorandum is \$6.819 billion, a difference of \$500 million. The table is reproduced below.

2008-09	2009-10	2010-1	2011-12	2012-13
\$1131 million	\$875 million	\$1215 million	\$1587 million	\$2011 million

The Federal Financial Relations (Consequential Amendments and Transitional Provisions) Bill 2009 appropriates \$500 million to increase the amount available under the *Health Care (Appropriation) Act 1998*. This suggests that the Federal Financial Relations Bill 2009 appropriates \$6.3 billion. The components of the \$6.3 billion are not clear.

The Explanatory Memorandum also states that the Bill ‘provides appropriations for the Commonwealth to provide an additional \$5.8 billion in National SPP funding to the States over five years ...’¹¹⁷ However, the COAG Communiqué of 29 November 2008 states :

Central to these reforms is a substantial financial package that provides an additional \$7.1 billion in SPP funding to the States over five years to improve services for all Australians.¹¹⁸

The difference between \$7.1 billion and \$5.8 billion is \$1.3 billion. The reason for the difference is not clear.

Standing appropriations

As noted, general revenue assistance (also sometimes called general purpose assistance) has two components: the GST and ‘other’. Appropriations for other general purpose payments are made through annual Appropriation Acts or as special appropriations. The Bill provides that in future, the annual Appropriation Acts will not appropriate funds for

116. Explanatory Memorandum, p. 5.

117. Explanatory Memorandum, p. 5.

118. Council of Australian Governments, *Communiqué*, 29 November 2008, at http://www.coag.gov.au/coag_meeting_outcomes/2008-11-29/index.cfm, accessed on 13 February 2009.

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other general purpose assistance. Rather, the annual Appropriation Acts will specify the maximum amount that can be credited to the COAG Reform Fund.

Main provisions

The Federal Financial Relations Bill 2009 (the Bill) establishes the new arrangements for Commonwealth-state financial relations, and appropriates an additional \$6.3 billion of financial assistance to the states.

Part 2—General revenue assistance

Division 1—GST revenue grants

To understand the provisions in the Bill relating to the GST, it is necessary to know how the GST is distributed among the states. The following explains this process.

The Commonwealth Grants Commission calculates the ‘relativities’ that are used to determine the distribution of the GST among the states. (The relativities are recommended only and the government is not bound to accept them). The Commonwealth Grants Commission’s calculations are based on the horizontal fiscal equalisation principle. The Howard Government’s *Intergovernmental Agreement on the Reform of Commonwealth–State Financial Relations* defines the GST ‘pool’ as consisting of two components: GST payments, and unquarantined health care grants paid to the states under the Australian Health Care Agreements. The Commonwealth Grants Commission’s relativities are applied to estimated state populations to calculate an ‘adjusted’ population for each state. Each state’s share of the adjusted population is then applied to the pool to estimate weighted shares of the GST pool. The distribution of GST payments is finally determined by deducting the unquarantined health care grants—which are separately provided to the States—from each state’s share of the GST pool.

The Commissioner of Taxation estimates GST receipts for a financial year and payments are based on this estimate. When actual receipts are known, an adjustment is made in the following financial year to ensure that each state receives its correct entitlement.

Clause 5 establishes that each state is entitled to receive a share of the revenue from the GST. That share is the proportion of that state’s population in the total population as at 31 December of each year.

Clause 6 establishes the amount of GST that is available for distribution. **Subclause 6(1)** provides that the Minister must determine this amount. In short, the amount is GST collections, actual and notional [**subclause 6(3)**] less refunds [**subclause 6(4)**]. Collections include interest on unpaid GST debts [**paragraph 6(3)(b)**]. **Paragraphs 6(3)(c) to 6(3)(e)** cover notional receipts.

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Note: notional receipts arise, for example, in the case of Commonwealth agencies. They do not actually pay GST because that would mean the Commonwealth paying GST to itself. Rather, they pay notional GST. Excluding notional receipts would reduce the total amount of GST available for distribution.

Subclause 6(6) provides that the Minister's determination under **subclause 6(1)** is not a legislative instrument.

In relation to clause 6, the Explanatory Memorandum states that:

The Minister is constrained to determine GST revenue in accordance with the definition provided in section 6 and the audited amount as published in the Final Budget Outcome.¹¹⁹

The Bill does not, however, refer to the Final Budget Outcome.¹²⁰ As noted, currently, the Commissioner of Taxation estimates GST receipts for a financial year and payments are based on this estimate (with subsequent adjustments).

As noted, the Commonwealth Grants Commission recommends the 'relativities' used to determine the distribution of the GST among the states. **Clause 8** retains the principle that the relativities are recommendations only. **Subclause 8(1)** provides that the Minister may determine that a factor, specified in the determination, is the GST revenue sharing relativity for a state for a payment year. **Subclause 8(2)** provides that the Minister must consult each of the states before making a determination under **subclause (8)1**. **Subclause 8(3)** provides that a determination made under **subclause 8(1)** is a legislative instrument but that section 42 (relating to disallowance) of the [Legislative Instruments Act 2003](#) does not apply to the determination. This means that the Minister's determination is not disallowable by Parliament.

Division 2—Other general revenue assistance

As noted, general revenue assistance (also sometimes called general purpose assistance) has two components: the GST and 'other'. **Division 2** deals with the latter.

Subclause 9(1) provides that the Minister may determine that a grant of general purpose financial assistance is to be paid to a state. The amount must be credited to the COAG Reform Fund [**paragraph 9(2)(a)**].

Note: the COAG Reform Fund was established under the [COAG Reform Fund Act 2008](#) as a Special Account through which financial assistance is passed to the states.

119. Explanatory Memorandum, paragraph 1.9, p. 8.

120. The audited amount of GST as published in the Final Budget Outcome, will be determined under section 6.

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Subclause 9(3) limits the amounts that can be credited (paid into) and paid (debited as drawing rights) from the COAG Reform Fund. For the financial year starting on 1 July 2008, the maximum is \$500 000 000 [**paragraph 9(3)(a)**].

In a later financial year, the maximum is an amount, specified in an Appropriation Act for that year, which declares that a specified amount is the general drawing rights limit [**paragraph 9(3)(b)**].

Note: **paragraph 9(3)(b)** gives effect to the Government's intention that the annual Appropriation Acts will not appropriate funds but instead specify the maximums than can be credited and debited.¹²¹

Clause 9(4) provides that where an Appropriation Act does not set a drawing rights limit, no money can be credited to or paid from the COAG Reform Fund.¹²²

Clause 9(5) provides that a determination under **subclause 1** is a legislative instrument, but section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to the determination.

Part 3—National specific purpose payments

Part 3 deals with the national specific purpose payments. **Clauses 10, 11, 12, 13 and 14** deal respectively with healthcare, schools, skills and workforce development, disability services, and housing services. The five clauses are largely identical and differ only in three respects: whether the reference is to schools or disability services etc., the financial years provisions, and the amounts of money.

Note: **clause 22** (see below) appropriates the amounts in **clauses 10 to 14** inclusive.

Subclause 10(1) establishes that financial assistance is payable for healthcare for the financial year starting on 1 July 2009 and for subsequent financial years.

Subclause 10(2) provides that the total assistance payable under subsection (1) is \$11 224 185 000 for the financial year starting on 1 July 2009 [**paragraph 10(2)(a)**] or, for a later financial year, the total amount under this subsection for the preceding financial year, indexed in accordance with **subclause 10(3)** [**paragraph 10(2)(b)**].

Note: the components of the indexation factors for each national specific purpose payment are contained in Schedule D to the *Intergovernmental Agreement on Federal Financial Relations*.¹²³

121. Explanatory Memorandum, paragraph 2.9, p. 13.

122. The Financial Management and Accountability Act 1997 governs drawing rights.

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Subclause 10(3) provides that the Minister may, by legislative instrument, determine the manner in which the total amount under **paragraph 10 (2)(b)** is to be indexed for a particular financial year. The determination must include a statement of the total amount for that financial year. This legislative instrument is disallowable.

Subclause 10(4) provides that the Minister may, by legislative instrument, determine, for each financial year, the manner in which the total amount under **subclause 10(2)** is to be divided between the states. This legislative instrument is disallowable.

Subclause 10(5) provides that financial assistance is payable to a state on condition that the state spends the assistance on healthcare.

The wording in **clauses 11, 12, 13 and 14** is identical except that they deal respectively with healthcare, schools, skills and workforce development, disability services, and housing services, and provide for different amounts. The following therefore takes **clause 11** as representative of **clauses 11, 12, 13 and 14**.

Subclause 11(1) provides that financial assistance is payable to a state, for the financial year starting on 1 July 2008 and for subsequent financial years, for expenditure on schools.

Subclause 11(2) provides that the total financial assistance payable under **subclause 11(1)** to the states for a financial year is:

for the financial year starting on 1 July 2008, the amount determined by the Minister [**paragraph 11(2)(a)**]

or for the financial year starting on 1 July 2009—\$3 286 594 000 [**paragraph 11(2)(b)**]

or for a later financial year—the total amount under **subclause 11(2)** for the preceding financial year, indexed in accordance with **subclause 11(4)** [**paragraph 11(2)(c)**].

Subclause 11(3) provides that a determination under **paragraph 11(2)(a)** is a legislative instrument, but section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to the determination.

Subclause 11(4) provides that the Minister may, by legislative instrument, determine the manner in which the total amount under **paragraph 11 (2)(c)** is to be indexed for a particular financial year. The determination must include a statement of the total amount for that financial year. This legislative instrument is disallowable.

123. Council of Australian Governments, *Payment Arrangements*. Schedule D to the *Intergovernmental Agreement on Federal Financial Relations*, pp. D-3 to D-4, at http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_FFR_ScheduleD_Payment_Arrangements.pdf, accessed on 18 February 2009.

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Subclause 11(5) provides that the Minister may, by legislative instrument, determine, for each financial year, the manner in which the total amount under **subclause 11(2)** is to be divided between the states. This legislative instrument is disallowable.

Subclause 11(6) provides that financial assistance is payable to a state on condition that the state spends the assistance on schools.

For the financial year beginning 1 July 2009, the total amounts allocated for the other specific purpose payments are:

skills and workforce development: \$1,317,877,000 [**subclause 12(2)(b)**]

disability services: \$903,686,000 [**subclause 13(2)(b)**]

housing services: \$1,202,590,000 [**subclause 14(2)(b)**].

Clause 15 limits the total of financial assistance for the financial year starting on 1 July 2008 by providing that the total amount of financial assistance for the 2008–2009 financial year that is payable under **subclauses 11(1), 12(1), 13(1) and 14(1)** must not exceed \$4 000 000 000.

Part 4—National partnership payments

Clause 16 establishes the power of the Minister to make three types of national partnership payments. **Subclause 16(1)** provides that the Minister may determine that an amount is to be paid to a state as financial assistance to support the delivery by that state of specified outputs or projects [**paragraph 16(1)(a)**] or to facilitate reforms by the state [**paragraph 16(1)(b)**] or to reward the state for nationally significant reforms [**paragraph 16(1)(c)**]. This amount must be credited to the COAG Reform Fund [**paragraph 16(2)(a)**].

Subclause 16(3) limits the amounts that can be credited to the COAG Reform Fund. In the financial year starting on 1 July 2008, the total must not exceed \$8 000 000 000 [**paragraph 16(3)(a)**]. In a later financial year, the amount is limited to that specified in an Appropriation Act where the Appropriation Act declares that a specified amount is the general drawing rights limit [**paragraph 16(3)(b)**].

Like **clause 9(4)**, **subclause 16(4)** provides that where an Appropriation Act does not set a drawing rights limit, then no money can be credited to or paid from the COAG Reform Fund.

Subclause 16(4) provides that a determination under **subclause 16(1)** is a legislative instrument, but section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to the determination.

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Part 5—Payment of grants

Clause 19 empowers the Minister to fix amounts and times of payments of financial assistance by a written determination.

Clause 20 provides that where a state has not fulfilled a condition in respect of a payment, the Minister can, by determination, require the state to repay the amount in the determination. If the state does not repay the amount, the Minister may deduct the amount unpaid from any amount that the state is entitled to receive in a future financial year.

Determinations under **clauses 19** and **20** are not legislative instruments.

Part 6—Miscellaneous

Clause 21 provides that when making determinations, the Minister must have regard to the Intergovernmental Agreement [**subclause 21(a)**] and, if a determination relates to financial assistance to a particular state, any other written agreement between the Commonwealth and the state that relates to the financial assistance [**subclause 21(b)**]

Clause 22 appropriates money from the Consolidated Revenue Fund. **Clause 22** provides that payments under Division 1 of Part 2, Part 3 or Part 5 are to be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

Concluding comments

It has long been recognised that there are numerous problems associated with the sharing of responsibility for services between the Commonwealth and the states. While numerous proposals have been advanced to improve the operation of SPPs, few have been implemented. The reforms underlying this Bill are a major attempt to address these problems directly.

Although not in the Bill, another positive feature of the reforms is that their worth will be subject to independent scrutiny in the form of a requirement that the Productivity Commission report to COAG on ‘the economic impacts and benefits of COAG’s agreed reform agenda every two to three years’.¹²⁴

124. Council of Australian Governments, *Intergovernmental Agreement on Federal Financial Relations*, http://www.coag.gov.au/intergov_agreements/federal_financial_relations/docs/IGA_federal_financial_relations.pdf, accessed on 13 February 2009.

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