



Nation-building Funds Amendment Bill 2009

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Nation-building Funds Amendment Bill 2009

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House: House of Representatives

Portfolio: Finance and Deregulation

Commencement: On Royal Assent

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 prevent the transfer of \$2.5 billion to the Education Investment Fund in order to redirect the funds to proposed spending under the Clean Energy Initiative.

Background

The [Nation-building Funds Act 2008](#) (Cth) (the Nation-building Funds Act)¹ established several Funds, namely, the Building Australia Fund, the Health and Hospitals Fund and the Education Investment Fund (EIF). The EIF was established to:

- make payments in relation to the creation or development of higher education infrastructure
- make payments in relation to the creation or development of research infrastructure
- make payments in relation to the creation or development of vocational education and training infrastructure
- make payments in relation to the creation or development of eligible education infrastructure, and
- make transitional payments from the Higher Education Endowment Fund (HEEF).²

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1. *Nation-building Funds Act 2008* (Cth), viewed 21 May 2009, [http://www.comlaw.gov.au/ComLaw/Legislation/Act1.nsf/0/BDB9356B2BB3A6C6CA2575260076DEB9/\\$file/1542008.pdf](http://www.comlaw.gov.au/ComLaw/Legislation/Act1.nsf/0/BDB9356B2BB3A6C6CA2575260076DEB9/$file/1542008.pdf)
 2. Section 3 of the *Nation-building Funds Act 2008* (Cth).

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The Howard Government established the HEEF:

For the first time ever, the Australian Government will establish an endowment fund — the Higher Education Endowment Fund (HEEF) — as a perpetual fund to generate earnings for capital works and research facilities in our institutions of higher learning. The initial investment of \$5 billion out of this year's Budget surplus will broadly double all the existing financial investments and endowments currently held in the total university sector. The capital will not be spent. It will be invested. And, what is more, we will add further capital from future Budget outcomes to this perpetual fund. Individuals who wish to contribute to this visionary initiative will be able to make tax deductible gifts to be managed along with the Government endowment. The Endowment will be managed by the Guardians of the Future Fund. The earnings generated by this investment will be dedicated to building first class institutes of learning — first class by world standards — and put our Institutes of Higher Learning on a secure footing for ever.³

The [Higher Education Endowment Fund Act 2007](#) (Cth)⁴ established the HEEF.

The Rudd Government announced the [EIF](#)⁵ in the 2008–09 Budget.⁶ The EIF would incorporate the balance in the HEEF. Unlike the HEEF where only earnings were available for spending, both the capital and the earnings of the EIF are available for spending.

With respect to funding, the Government's ambition was to have \$11 billion in the EIF:

This reform will be underpinned by a new Education Investment Fund (which absorbs and extends the Higher Education Endowment Fund, HEEF). The Education Investment Fund will provide financing for capital investment in higher education and vocational education and training. Subject to final budget outcomes in 2007-08 and 2008-09, the Government will make an initial contribution to the fund of \$5 billion, bringing its total to around \$11 billion.⁷

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3. Budget Speech 2007-08, pp.2-3, viewed 20 May 2009, <http://www.budget.gov.au/2007-08/speech/download/Speech.pdf>
 4. *Higher Education Endowment Fund Act 2007* (Cth), viewed 21 May 2009, [http://www.comlaw.gov.au/ComLaw/Legislation/Act1.nsf/0/8A9D54F03B969CADCA257369001FC91F/\\$file/1602007.pdf](http://www.comlaw.gov.au/ComLaw/Legislation/Act1.nsf/0/8A9D54F03B969CADCA257369001FC91F/$file/1602007.pdf)
 5. Department of Education, Employment and Workplace Relations, 'Overview', Education Investment Fund website, viewed 21 May 2009, <http://www.deewr.gov.au/HigherEducation/EIF/Pages/default.aspx>
 6. Budget Speech 2008-09, p. 10, viewed 20 May 2009, <http://www.budget.gov.au/2008-09/content/speech/download/speech.pdf>
 7. Budget Paper No. 1 2008-09, p. 1-19, viewed 20 May 2009, <http://www.budget.gov.au/2008-09/content/bp1/downloads/bp1.pdf>

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Of the \$11 billion, \$6.2 billion would come from transferring the (then) balance in the HEEF.⁸ The \$5 billion or so would come from other transfers. The Nation-building Funds Act provides for one such transfer. Section 130 of this Act, which contains the simplified outline of Part 3.2 of the Act which deals with the EIF, states in part:

One or more initial amounts are to be credited to the Education Investment Fund Special Account by 30 June 2009. The total of the initial amounts must equal \$2.5 billion.

Further, subsection 133(2) of the National-building Funds Act which deals with initial credits of amounts to the EIF states:

The responsible Ministers must ensure that, by the end of 30 June 2009, the total of the amounts credited to the Education Investment Fund Special Account under subsection (1) equals \$2.5 billion.

However, the Nation-building Funds Amendment Bill 2009 (the Bill) seeks to prevent this transfer by repealing ‘the crediting of the \$2.5 billion from the 2007-08 budget surplus’.⁹

Rather, the \$2.5 billion will be used to help fund the Clean Energy Initiative announced in the 2009-10 Budget.¹⁰

According to the second reading speech, following the repeal:

There will still be more than \$6.5 billion in the Education Investment Fund for education and research infrastructure, of which \$4.1 billion has been committed in the 2009-10 budget and in the nation-building package announced by the Prime Minister on 12 December 2008. The balance of \$2.4 billion plus investment earnings, estimated to be around \$630 million over the forward estimates, will be available for future education and research projects.¹¹

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8. Budget Paper No. 1 2008-09, p. 7-6, viewed 20 May 2009, <http://www.budget.gov.au/2008-09/content/bp1/downloads/bp1.pdf>
 9. L Tanner, ‘Second reading speech: National-building Funds Amendment Bill 2009’, House of Representatives, *Debates*, 12 May 2009, p. 1.
 10. Explanatory Memorandum, Nation-building Funds Amendment Bill 2009, p. 2, viewed 21 May 2009, http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r4115_ems_95f1d64f-f2d5-494d-951a-86552f1dd6df/upload_pdf/329304.pdf;fileType=application%2Fpdf#search=%22nation-building%20funds%20amendment%20bill%202009%22
 11. L Tanner, ‘Second reading speech’, p. 1.

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At 31 March 2009, the amount in the EIF was \$6.55 billion.¹² Of the \$4.1 billion, the 2009-10 Budget proposes spending of \$2.985 billion over the four years 2009-10 to 2012-13.¹³

Basis of policy commitment

Budget Paper No. 1 2009-10 states:

The Government has committed to transfer the realised 2007-08 surplus and the balance of the Telstra Sale Special Account to the [Nation-building] Funds by 30 June 2009.¹⁴

The Bill reverses this undertaking at least as far as the EIF is concerned. The funds are to be used to help fund the Clean Energy Initiative.

Position of significant interest groups/press commentary

Dr Glenn Withers of Universities Australia, the peak body representing universities, criticised the decision to divert funds from the EIF to the Clean Energy Initiative. He is reported as saying that little of the money for the Clean Energy Initiative would go towards universities, vocational education and training or research institutes.¹⁵

Financial implications

The proposed amendment does not change the Budget deficit since it only changes the composition of assets.

Main provisions

Clause 3 provides that each Act, which is mentioned in Schedule 1 of the Bill, is amended or repealed in accordance with that Schedule.

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12. Future Fund website, viewed 20 May 2009, <http://www.futurefund.gov.au/>
 13. Australian Government, *Transforming Australia's Higher Education System*, May 2009, p. 51, viewed 20 May 2009, http://www.deewr.gov.au/HigherEducation/Documents/PDF/Additional%20Report%20-%20Transforming%20Aus%20Higher%20ED_webaw.pdf
 14. Budget Paper No. 1 2009-10, p. 7-4, viewed 20 May 2009, http://www.budget.gov.au/2009-10/content/bp1/downloads/bp1_bst7.pdf
 15. Alexander Symonds, 'Education fund faces shortfall', *Australian financial review*, 20 May 2009, p. 10.

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Schedule 1-Amendments

Schedule 1 amends the *Nation-building Funds Act 2008*.

Item 1 deals with section 130 of the Act and omits the wording in that section stating that one or more initial amounts are to be credited to the EIF Special Account by 30 June 2009, and that the total of the initial amounts must equal \$2.5 billion.

Item 2 repeals section 133 dealing with initial credits of amounts to the EIF (discussed above).

Concluding comments

The main consequence of the Bill is to reduce by \$2.5 billion funds that otherwise would have been spent on higher education, so that those funds may be redirected towards the Australian Government's Clean Energy Initiative.

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