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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

HIGHER EDUCATION FUNDING AMENDMENT BILL (NO.2) 1992

EXPLANATORY MEMORANDUM

(Circulated by authority of the
Minister for Higher Education and Employment Services,
the Honourable Peter Baldwin MP)



Higher Education Funding Amendment Bill (No.2) 1992

OUTLINE

The purpose of this Bill is to amend the Higher Education Funding Act 1988 which provides grants of financial assistance to the States, the Northern Territory and higher education institutions for higher education purposes.

The Bill reflects Government decisions on higher education arising out of the 1990-91 review of Commonwealth-State relations. On the basis of agreements variously reached between the Commonwealth, the States and Territories and higher education institutions, the Bill provides for Commonwealth grants for higher education to be made direct to higher education institutions from 1993, and for higher education institutions to have the choice of adopting in 1993 simplified financial reporting practices under streamlined financial reporting arrangements that become mandatory in 1994.

The Bill provides for the Government's decision to incorporate higher education capital grants into higher education institutions' general operating grants from 1994. The purpose of this measure is to provide flexibility in higher education capital planning to enable higher education institutions to achieve over time a well maintained and efficient capital stock.

The current Act provides funding for higher education for the 1992-94 funding triennium. This Bill provides funding for higher education for 1995, the third year of the new funding triennium 1993-95, amounting to some \$3745 million, in accordance with the Government's rolling triennial funding arrangements.

The Bill also reflects the Government's decisions on higher education announced in its 1992 Budget, to provide funding to support the establishment of open learning in order to widen access to tertiary education; for additional capital works in 1993 and 1994 to address higher education infrastructure needs; and for an increase in the number of Australian Postgraduate Research Awards available to students annually from 1993 in order to boost the national research effort.

The Bill contains provisions which seek to safeguard higher education institutions' autonomy in the area of student organisations, and provides for some minor changes to the Higher Education Contribution Scheme (HECS), some of which were announced in the Government's Budget.

The Bill also provides for a number of other minor changes and for routine cost supplementation of Commonwealth grants for higher education to offset movements in prices.

FINANCIAL IMPACT

The Bill provides for \$3745.434 million in 1995 and, in relation to current legislated amounts, for an additional \$3.978 million in 1992, \$118.580 million in 1993 and \$120.009 million in 1994.

DETAILED DESCRIPTION OF THE BILL

Part 1: Preliminary

Part 1 provides for the short title and for the commencement of the various Parts.

Part 2: Amendments relating to the manner of funding of institutions

Part 2 provides for new funding arrangements for higher education institutions from 1993. Under these arrangements, Commonwealth grants for higher education are to be made direct to higher education institutions rather than via the States. Institutions rather than the States are to be responsible for complying with conditions of these grants, and institutions are to be directly accountable to the Commonwealth for expenditure of grants. Consistent with direct payments, this Part also provides for grants to Commonwealth higher education institutions - the University of Canberra, the Australian National University and the Australian Maritime College - to be made via the Higher Education Funding Act 1988, rather than through the annual Appropriation Acts of Parliament, and for appropriate consequential amendments to the University of Canberra Act 1989, the Australian National University Act 1991 and the Maritime College Act, 1978.

There is provision for special research assistance grants to be made direct, not only to higher education institutions, but also to bodies other than higher education institutions to support research programs which assist the research activities of higher education institutions. Similarly, there is provision for grants for projects of national priority to be made direct, not only to higher education institutions but also to other incorporated bodies, for projects of national priority in higher education.

Provision is also made for higher education institutions to have the choice of adopting in 1993 simplified financial reporting practices, prior to these becoming mandatory in 1994 as part of streamlined financial reporting arrangements agreed between the Commonwealth, the States and higher education institutions.

Part 2 provides funds amounting to some \$3745 million for higher education for 1995, the third year of the new funding triennium. This amount includes some \$23 million for additional student intakes, some \$252 million for special research assistance and, incorporated within grants for operating purposes, \$239 million for capital projects.

Part 2 also provides for additional funds for capital works at higher education institutions amounting to some \$25 million in 1993, and for additional funds amounting to some \$3 million in

1993 and some \$6 million in 1994 to support an increased number of Australian Postgraduate Research Awards, as announced in the 1992 Budget. There is provision for additional funding for research grants amounting to some \$12 million in 1994.

Increased funding is also provided in 1992, 1993 and 1994 in accordance with the Government's cost supplementation arrangements for higher education, taking account of movements in the Department of Employment, Education and Training Higher Education Salaries, Non-salary, Equipment and Building Cost Indexes.

Part 3: Amendments relating to the Higher Education Contribution Scheme

Part 3 provides for higher education students to be exempt from paying HECS contributions if they occupy places at higher education institutions in courses funded by employers, in order that funding arrangements for such places are on a similar footing to arrangements that provide for a refund of HECS contributions to the States for State funded student places.

There is provision for an increase in the discount to higher education students who pay their HECS contributions up-front, from 15 per cent to 25 per cent from 1993. There is also provision for New Zealand citizens resident outside Australia or resident in Australia for less than two years, and for certain persons entitled to stay in Australia but who will be resident outside Australia for the duration of their course, to pay their HECS contributions up-front upon enrolling at an Australian higher education institution. This is to ensure that Australian tax-payers do not have to meet the higher education course costs of such persons, who may never earn an income in Australia.

Part 3 also provides for the Secretary of the Department to reconsider a decision made in response to an application from a higher education student for remittance of HECS semester debt in special circumstances. From 1993, such a review becomes mandatory prior to a student being able to proceed to appeal to the Administrative Appeals Tribunal.

Part 4: Amendments relating to capital and recurrent funding

Part 4 provides for higher education capital grants to be incorporated into institutions' general operating grants from 1994. Provision is also made for some capital funds to be retained under a new program for special capital projects. Eligibility for grants for special capital projects is to be limited strictly to institutions that are undergoing significant development, especially in relation to new campuses, or that are continuing to grow at extraordinary rates.

Consistent with the incorporation of capital grants into operating grants, Part 4 also provides for higher education institutions, other than those that receive grants from the Commonwealth for limited operating purposes only, to accumulate funds for future capital works.

Part 5: Miscellaneous

Part 5 provides funds amounting to some \$26 million in 1993, some \$16 million in 1994 and some \$2 million in 1995 for a new program to support the establishment of tertiary open learning, as announced in the 1992 Budget.

There is provision for a statement of objectives to make more explicit the overall purposes of the Higher Education Funding Act 1988, and for a stand alone definition of "overseas student".

There is also provision for grants to higher education institutions for financial support for student organisations, in circumstances where a State takes action which affects the ability of institutions to provide such support as they see fit.

Part 5 provides for higher education institutions that have not adopted accrual accounting practices to be able to accumulate Commonwealth grants for the purpose of covering their liabilities under workers' compensation self-insurance arrangements. Institutions that have adopted accrual accounting practices are able to accumulate funds for this purpose and others by virtue of their accounting practices.

More flexibility is provided for higher education institutions to charge fees for certain postgraduate courses, and for students wishing to apply for enrolment in such courses, by dispensing with the requirement that persons charged fees for these courses must possess educational qualifications and have earned a living at some time.

NOTES ON CLAUSES OF THE BILL

PART 1 - PRELIMINARY

Clause 1: Short title etc.

Clause 2: Commencement

PART 2 - AMENDMENTS RELATING TO THE MANNER OF FUNDING OF INSTITUTIONS

Clause 3: Definitions: The definition of "operating purposes" is changed to ensure that minor building projects and purchases of equipment are for institutions' general teaching or research purposes or for their provision of continuing education courses. The definition of "year to which this Chapter applies" is changed to include the year 1995, the third year of the new funding triennium. The definition of "fees" is changed to reflect new funding arrangements for higher education whereby, from 1993, grants are made direct to higher education institutions rather than via the States. For the same reason, the definitions of "approved authority", "prescribed non-government institution" and "State Higher Education Minister" are omitted.

Clause 4: Institutions: The table of institutions is changed in response to legislation passed in State Parliaments conferring new titles on Swinburne Ltd and the University Colleges of Southern and Central Queensland; to reflect institutional mergers in Victoria, Queensland and Tasmania; and to enable grants to Commonwealth institutions to be made under the Higher Education Funding Act 1988. The Commonwealth makes grants for operating purposes to institutions listed in Table A, and for limited operating purposes to institutions listed in Table B.

Clauses 5&6: References to payments and Acts and Proposed institutions: These clauses reflect new funding arrangements for higher education whereby, from 1993, grants are made direct to higher education institutions rather than via the States.

Clause 7: Repeal of section 11: Section 11 is repealed to reflect new funding arrangements for higher education whereby, from 1993, higher education institutions rather than the States are

responsible for complying with conditions of grants.

Clauses 8&9. Grants for expenditure for operating purposes and Grants for expenditure for limited operating purposes: Under new funding arrangements for higher education, these clauses provide, from 1993, for grants for operating and limited operating purposes to be paid direct to higher education institutions rather than via the States. In determining the amount of such grants to an institution, the Minister must have regard to the institution's educational profile.

Clause 10: Maximum grants: This clause increases the amounts of maximum grants available for operating and limited operating purposes. The variations to existing legislated amounts are set out below:

	1992 \$m	1993 \$m	1994 \$m
Transfer from grants for capital projects			234.780
Transfers from the Higher Education Trust Fund	-1.352	7.440	20.960
Transfers for insurance and audit for Commonwealth institutions		2.178	2.178
Deduction for fee-paying postgraduate courses	-11.093		
Supplementation	14.995	48.735	50.368
TOTAL	2.550	58.353	308.286

In total, \$3275.568 million is provided for 1995, including \$23.748 million for additional student intakes in that year, and incorporating \$239 million for capital projects.

Clause 11: Conditions of grants: Under new funding arrangements for higher education, this clause provides, from 1993, for higher education institutions, rather than the States, to be responsible for complying with conditions of grants for operating or limited operating purposes. The clause also allows for more than one approved form for higher education institutions' statements of expenditure for such grants, in order to provide institutions with the choice of adopting, in 1993, simplified financial reporting practices prior to these becoming mandatory in 1994. The reporting date for statements of expenditure is changed to 30

June in the year following the year for which grants were made.

- Clause 12: Grants to maintain or enhance the quality of higher education: This clause provides for supplementation of 1994 amounts of financial assistance, and for amounts totalling \$76.071 million in 1995. The clause also provides for the Minister to determine, rather than approve, amounts of financial assistance for maintaining or enhancing the quality of higher education.
- Clause 13: Grants for superannuation expenses: This clause provides for supplementation of 1992, 1993 and 1994 amounts of financial assistance, and for amounts totalling \$53.671 million in 1995. The clause also provides for grants for superannuation to be made only for staff of higher education institutions whose salaries are funded from grants for operating or limited operating purposes.
- Clause 14: Repeal of section 21 and insertion of new sections: This clause repeals section 21 and substitutes new sections to provide for grants for projects of national priority to be made direct, not only to higher education institutions but also to incorporated bodies other than higher education institutions, for projects of national priority in higher education. It also provides for separate conditions of such grants to apply to incorporated bodies other than higher education institutions.
- The clause provides for supplementation of 1992, 1993 and 1994 amounts of financial assistance, and for amounts totalling \$39.387 million in 1995.
- Clause 15: Promotion of equality of opportunity: This clause provides for supplementation of 1993 and 1994 amounts of financial assistance, and for amounts totalling \$3.985 million in 1995.
- Clause 16: Special research assistance: Under new funding arrangements for higher education, this clause provides, from 1993, for grants for special research assistance to be paid direct to higher education institutions rather than via the States, and for such grants also to be paid direct to bodies other than higher education institutions to support research programs which assist the research activities of higher education institutions. The clause provides for higher education institutions and bodies other

than higher education institutions, rather than the States, to be responsible for complying with conditions of these grants. The clause also allows for more than one approved form for higher education institutions' and other bodies' statements of expenditure for these grants, in order to provide institutions with the choice of adopting, in 1993, simplified financial reporting practices prior to these becoming mandatory in 1994. The reporting date for statements of expenditure is changed to 30 June in the year following the year for which grants were made.

The clause also provides for increased amounts of financial assistance for special research purposes. The variations to existing legislated amounts are set out below:

	1992 \$m	1993 \$m	1994 \$m
Additional funds for Australian Postgraduate Research Awards		3.042	6.085
Additional funds for Research Grants			12.079
Supplementation	1.044	3.544	3.627
TOTAL	1.044	6.586	21.791

In total, \$252.837 million is provided for 1995.

Clause 17: Grants for advanced engineering centres:
Under new funding arrangements for higher education, this clause provides, from 1993, for grants for advanced engineering centres to be paid direct to higher education institutions rather than via the States.

The clause also provides for supplementation of 1992, 1993 and 1994 amounts of financial assistance, and for amounts totalling \$1.512 million in 1995.

Clause 18: Conditions of grants for advanced engineering centres: Under new funding arrangements for higher education, this clause provides, from 1993, for higher education institutions, rather than the States, to be responsible for complying with conditions of grants for advanced engineering centres. The clause also allows for more than one approved form for higher education institutions' statements of expenditure for advanced engineering centres grants, in order to provide institutions with the choice of

adopting, in 1993, simplified financial reporting practices prior to these becoming mandatory in 1994. The reporting date for statements of expenditure is changed to 30 June in the year following the year for which grants were made.

Clause 19:

Grants in respect of teaching hospitals: Under new funding arrangements for higher education, this clause provides, from 1993, for grants in respect of teaching hospitals to be paid direct to higher education institutions, rather than via the States. Provision is made for higher education institutions, rather than the States, to be responsible for complying with conditions of such grants. The clause also allows for more than one approved form for higher education institutions' statements of expenditure for these grants, in order to provide institutions with the choice of adopting, in 1993, simplified financial reporting practices prior to these becoming mandatory in 1994. The reporting date for statements of expenditure is changed to 30 June in the year following the year for which grants were made.

The clause also provides for supplementation of 1992, 1993 and 1994 amounts of financial assistance, and for amounts totalling \$4.461 million in 1995.

Clause 20:

Grants in respect of drug and alcohol education in teaching hospitals: Under new funding arrangements for higher education, this clause provides, from 1993, for grants in respect of drug and alcohol education in teaching hospitals to be paid direct to higher education institutions, rather than via the States. Provision is made for higher education institutions, rather than the States, to be responsible for complying with conditions of such grants. The clause also allows for more than one approved form for higher education institutions' statements of expenditure for these grants, to provide institutions with the choice of adopting, in 1993, simplified financial reporting practices prior to these becoming mandatory in 1994. The reporting date for statements of expenditure is changed to 30 June in the year following the year for which grants were made.

Clauses 21,23
&24:

Grants for capital projects and Grants for renovation projects: Under new funding arrangements for higher education, these clauses

provide, from 1993, for grants for capital and renovation projects to be paid direct to higher education institutions rather than via the States.

Clause 21 provides for additional financial assistance for capital projects amounting to \$25.873 million in 1993. Funding for capital projects in 1994 and 1995 is incorporated into grants for operating purposes.

Clauses 22&25: Conditions attaching to capital grants: Under new funding arrangements for higher education, these clauses provide, from 1993, for higher education institutions, rather than the States, to be responsible for complying with conditions of grants for capital projects. The clauses also allow for more than one approved form for higher education institutions' statements of expenditure for such grants, in order to provide institutions with the choice of adopting, in 1993, simplified financial reporting practices prior to these becoming mandatory in 1994. The reporting date for statements of expenditure is changed to 30 June in the year following the year for which grants were made.

Clause 26: Interpretation: This clause reflects changes whereby, from 1993, grants to Commonwealth higher education institutions are paid via the Higher Education Funding Act 1988, and takes account of the merger between the Canberra Institute of the Arts and the Australian National University.

Clauses 27,28, 29,30,31,32, 33,34&35: Additional condition, Benefits of, and opportunities created by, grants to be equally available to female and male students, Additional conditions, Amendments affecting entitlements to grants, Time and manner of payments, Advances, Sources of certain payments to institutions, Authority to borrow and Application of money borrowed: These clauses provide for, or reflect, new funding arrangements for higher education from 1993, whereby grants of financial assistance are paid direct to higher education institutions and to other bodies, rather than via the States, and whereby institutions and other bodies, rather than the States, are responsible for complying with the conditions of these grants.

Clause 36: Report by Minister: This clause provides for particulars of amounts of grants to maintain or enhance the quality of higher education, or for advanced engineering centres, to be included in

a report that is laid before each House of Parliament each year.

Clause 37: Consequential amendments of other Acts: This clause contains consequential amendments to the Australian National University Act 1991, the University of Canberra Act 1989 and the Maritime College Act 1978, to provide for grants of financial assistance to Commonwealth higher education institutions to be paid through the Higher Education Funding Act 1988 from 1993.

Clause 38: Transitional

PART 3 - AMENDMENTS RELATING TO THE HEC SCHEME

Clause 39: Exempt students: This clause inserts an additional category of exempt students to provide for higher education students to be exempt from paying HECS contributions if they occupy places at higher education institutions in courses funded by employers.

Clause 40: Requirements before enrolment or undertaking course: This clause increases from 15 per cent to 25 per cent the discount to higher education students enrolling in a designated course of study at a higher education institution and choosing to pay their HECS contribution up-front. It also provides for institutions not to permit "excepted students" to enrol for, or undertake, a designated course of study if they have not paid their HECS contribution up-front.

Clause 41: Overpayment of contribution: This clause reflects an increase in the discount to higher education students who pay their HECS contribution up-front.

Clause 42: Application of fund: This clause provides for a course of study in which all of the student places are funded by an employer not to be considered also as a course of study funded by a State. This is to ensure that the Commonwealth, having exempted students in such courses from paying a HECS contribution, may not also make a payment to a State against HECS contributions.

Clauses 43&44: Power of Secretary to remit semester debt in special circumstances and Repeal of section 64 and insertion of new sections: These clauses provide for the Secretary of the Department to reconsider a decision made in response to an

application from a student for remittance of a HECS semester debt in special circumstances, and for such a review to be mandatory prior to a student being able to proceed to appeal to the Administrative Appeals Tribunal.

Clause 45: Transitional-HEC Scheme enrolment

Clause 46: Transitional-AAT review

PART 4 - AMENDMENTS RELATING TO CAPITAL AND RECURRENT FUNDING

Clause 47: Definitions: The definition of "operating purposes" is changed to include capital projects. From 1994, grants for capital projects are incorporated into operating purpose grants. The definition of "recurrent expenditure" is omitted to remove the distinction between recurrent and capital expenditure.

Clause 48: Repeal of section 8 and insertion of new sections: This clause provides for Table A higher education institutions to accumulate funds not only for future expenditure on equipment and minor building projects, but also for future expenditure on capital projects, consistent with grants for such projects being incorporated into institutions' operating purpose grants from 1994. Table B institutions receive grants for limited operating purposes, which do not include capital projects.

Clause 49: Amendment of Part heading: The heading to Part 2.2 of the Principal Act is changed to reflect the removal of the distinction between recurrent and capital expenditure from 1994.

Clause 50: Repeal of Part 2.3: Part 2.3 of the Principal Act is repealed consistent with grants for capital projects being incorporated into operating purpose grants from 1994.

Clause 51: Insertion of new sections: This clause provides grants of financial assistance to higher education institutions for special capital projects, and provides for the Minister to issue guidelines for deciding whether an institutional proposal qualifies as a special capital project proposal. The clause also provides for conditions to attach to grants for special capital projects and, under certain circumstances, for the Minister to be able to give directions to institutions about the manner in which such projects are carried out.

The clause provides amounts of financial assistance for special capital projects totalling \$35 million in 1994 and 1995.

Clause 52: Repeal of Chapter 3: Chapter 3 of the Principal Act is repealed consistent with grants for capital projects being incorporated into operating purpose grants from 1994.

Clause 53: Disallowable instruments: This clause provides for determinations by the Minister of amounts of financial assistance for special capital projects, and guidelines for special capital projects, to be disallowable.

Clause 54: Sources of certain payments to institutions:
~~This clause provides for payments to higher~~
education institutions of grants for special capital projects to be made out of the Consolidated Revenue Fund or the Loan Fund, consistent with previous arrangements for payment of grants for capital projects.

Clauses 55,56 Authority to borrow, Application of money
&57: borrowed and Reimbursement of Consolidated
Revenue from Loan Fund: These clauses reflect that, from 1994, Parts 2.3 and 3.2 of the Principal Act are repealed and a new program of grants for special capital projects is established, consistent with incorporation of grants for capital projects into higher education institutions' operating purpose grants.

Clause 58: Report by Minister: This clause provides for particulars of amounts of grants for special capital projects to be included in a report laid before each House of Parliament each year.

Clause 59: Transitional arrangement for guidelines:

PART 5 - MISCELLANEOUS

Clause 60: Title: The title of the Principal Act is changed to reflect that, in certain circumstances, bodies other than higher education institutions are to be eligible for grants for special research assistance and for projects of national priority.

Clause 61: Insertion of new section: This clause provides for a statement of the overall objectives of the Principal Act.

Clause 62: Definitions: This clause provides for a 'stand alone' definition of "overseas student". A definition of "open learning organisation" is inserted to provide for a new program of financial assistance to open learning organisations.

Clause 63: Provision for superannuation, long service leave or workers' compensation: This clause provides for higher education institutions that have not adopted full accrual accounting practices to be able to accumulate funds, not only for superannuation and long service leave, but also for the purpose of covering their liabilities under workers' compensation self-insurance arrangements.

Clause 64: Repeal and substitution of section 13: This clause dispenses with the requirement that persons charged fees for certain postgraduate courses of study must possess educational qualifications and have earned a living at some time.

Clause 65: Insertion of new section: This clause provides grants of financial assistance to open learning organisations for the provision of tertiary open learning courses. The clause provides for financial assistance to be granted for open learning on condition that recipients of grants enter into an agreement with the Commonwealth as to the terms on which grants are made.

The clause provides amounts of financial assistance for open learning organisations totalling \$26.458 million in 1993, \$16.879 million in 1994 and \$2.942 million in 1995.

Clause 66: Insertion of new section: This clause provides grants to higher education institutions for financial support for student organisations in circumstances where the Minister is satisfied that a State, by its actions, has affected the ability of institutions to provide such support as they see fit. The amount of financial assistance that may be granted must not exceed the amount that institutions would have provided to support their student organisations were it not for the States' actions. Provision is made for financial assistance to be granted subject to conditions.

Clause 67: Repeal of Chapter 5: Chapter 5 of the Principal Act is repealed. The Chapter was

never proclaimed and no longer serves any useful purpose.

Clause 68: Disallowable instruments: This clause reflects the repeal of Chapter 5 of the Principal Act.

Clause 69: Repeal of Chapter 7: Chapter 7 of the Principal Act is repealed. The Chapter was transitional and is now redundant.

Clause 70: Report by Minister: This clause provides for particulars of amounts of grants to open learning organisations, and of amounts of grants to support student organisations, to be included in a report laid before each House of Parliament each year.

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