

The Senate

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Employment, Workplace Relations  
and Education Legislation Committee

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Provisions of:

Skilling Australia's Workforce Bill 2005

Skilling Australia's Workforce (Repeal and  
Transitional Provisions) Bill 2005

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## Table of Contents

<b>Membership of the Committee .....</b>	<b>iii</b>
<b>Chapter 1 .....</b>	<b>1</b>
<b>Majority report.....</b>	<b>1</b>
Policy rationale.....	1
Purpose and objectives of the bill.....	2
Key provisions of the bill .....	3
New national training arrangements.....	6
Conclusion and recommendation .....	7
<b>Chapter 2 .....</b>	<b>9</b>
<b>Opposition Senators' report .....</b>	<b>9</b>
A procedural issue .....	9
The demise of ANTA .....	10
Funding issues .....	12
Unmet demand for VET places.....	13
Conditions of grants – industrial reforms.....	14
Effects on the teaching workforce.....	15
User choice in the VET market.....	16
Conclusion.....	17
Recommendations .....	18
<b>Appendix 1 .....</b>	<b>19</b>
<b>List of submissions.....</b>	<b>19</b>



# Chapter 1

## Majority report

1.1 On 15 June 2005, the Senate referred to the Legislation Committee for inquiry, the Skilling Australia's Workforce Bill 2005 and a related bill. The committee was asked to report by 18 August. A total of 10 submissions were received.

### Policy rationale

1.2 In October 2004, the Prime Minister announced that the Australian National Training Authority (ANTA) would be abolished from 1 July 2005 and its responsibilities transferred to the Department of Education, Science and Training (DEST), bringing about significant administrative savings. In February 2005, DEST released a 'directions paper'<sup>1</sup> which included three broad principles which would guide the changes and a model for a new national training system. The principles include that industry and business needs must drive training policies, there should be better quality training outcomes through more flexible and accelerated pathways and processes should be simplified and streamlined.<sup>2</sup>

1.3 The Minister for Vocational and Technical Education, the Hon. Gary Hardgrave MP, stated in his second reading speech that the Skilling Australia's Workforce Bill sets out the objectives for the new national training system and describes the commitment by the Commonwealth and state and territory governments to support the new arrangements:

A key feature of [the bill] will be strengthening of the Australian government's leadership role in vocational and technical education by tying funding more strongly to a range of conditions and targets for national training outcomes.

Through this legislation the Australian government will drive genuine reform by requiring states and territories to increase the flexibility and responsiveness of training delivery, so that the training system can respond to the specific challenges that face training and business in the 21<sup>st</sup> century.<sup>3</sup>

1.4 Government senators agree with DEST that the vocational and technical education system makes a significant contribution to Australia's economic success by providing businesses with highly skilled and productive workers to enable them to be

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1 *Skilling Australia: New Directions for Vocational Education and Training*, Department of Education, Science and Training, February 2005, p.3

2 Skilling Australia's Workforce Bill 2005, *Bills Digest*, no. 160 2004-05, 23 May 2005, p.3

3 Mr Gary Hardgrave, Second Reading Speech, Skilling Australian Workforce Bill 2005, *House Hansard*, 11 May 2005

globally competitive.<sup>4</sup> Government senators believe that the new system must deliver high quality outcomes and be flexible enough to respond rapidly to new technologies and work practices and emerging economic and social priorities. Some of the challenges facing the vocational and education system include the increasing demand for skills development, the ageing population, advances in technology and innovation and changing work and employment patterns.

### **Purpose and objectives of the bill**

1.5 The Skilling Australia's Workforce Bill 2005 provides for a new funding framework for the provision of \$4.4 billion to the states and territories for vocational education and training (VET) for the period July 2005 to December 2008. This includes an additional \$175 million compared to 2004 and an average real increase of 3.2 per cent on that year.<sup>5</sup> While the legislation before parliament will replace the existing ANTA funding agreement, the new national training system will build on the achievements of ANTA and will retain and strengthen key elements of existing arrangements, such as a national approach and industry leadership.<sup>6</sup> The Skilling Australia's Workforce (Repeal and Transitional provisions) Bill 2005 will repeal the *Australian National Training Authority Act 1992* and the *Vocational Education and Training Funding Act 1992*. It will also provide transitional arrangements for the transfer of functions and responsibilities from ANTA to DEST, including arrangements for the transfer of assets, liabilities and custody of records to the Commonwealth.<sup>7</sup>

1.6 Together, the bills are the most significant pieces of legislation for vocational and technical education in more than a decade. They establish a new national training system and put in place arrangements to ensure a high quality, flexible and responsive system which will provide industry and business with skilled people into the future. According to DEST, the new national training system will '...provide more appropriate governance, accountability and operational arrangements, which will focus on current and future skills needs and will reinvigorate the leadership role of business and industry'.<sup>8</sup>

1.7 The purpose of the new national training system is stated clearly in the Skilling Australia's Workforce Bill. The bill will provide for a new training system:

- (a) to strengthen Australia's economic base through providing a highly skilled workforce that will meet the future needs of Australian businesses, industries, communities and individuals;

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4 DEST, *Submission 4*, p.1

5 Mr Gary Hardgrave, Second Reading Speech, Skilling Australia's Workforce Bill 2005, House Hansard, 11 May 2005

6 DEST, *Submission 4*, p.2

7 *ibid.*, p.2

8 *ibid.*, p.1



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- (b) to promote a national approach to the delivery of vocational education and training through collaboration and cooperation between the Commonwealth, the States and industry; and
  - (c) to support a national training system that:
    - is responsive to the needs of industry and employers and in which industry and employers drive the policies, priorities and delivery of vocational education and training;
    - ensures high quality and nationally consistent vocational education and training, including through providing flexible and accelerated training delivery; and
    - operates through streamlined arrangements, is simple to access, and encourages more Australians to prefer vocational education and training options when making career choices.<sup>9</sup>

### **Key provisions of the bill**

1.8 The legislation contains a number of statutory conditions that the states must meet in order to receive their share of Commonwealth funding for vocational education and training, three of which are singled out in this majority report. These include maximising choice for employers and new apprentices, workplace reforms for TAFE institutions and competency-based training.

#### ***Maximising choice***

1.9 Government senators believe that employers and apprentices should be able to select the most suitable training provider for their needs. The submission from DEST argues that the introduction of choice in selecting a training provider and delivery method results in improvement in training outcomes and increases flexibility for employers and employees. Government senators believe that the user choice provision contained in the legislation is designed to increase the flexibility and responsiveness of the user choice policy which was agreed to by the states and the Commonwealth in 1997. Under this provision, states will be required to take action to maximise choice for employers and new apprentices. States will be required, for example, to implement arrangements to introduce genuine competition in the education and training sector and to ensure that employers and new apprentices have greater choice and flexibility in relation to their VET provider and the method and location of the training provided.<sup>10</sup>

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9 Skilling Australia's Workforce Bill 2005, Section 4 'Objects'

10 *ibid*, Division 2, Clause 11 'Condition of grant – maximising choice for employers and new apprentices'

### ***Workplace reforms***

1.10 An important and innovative feature of the bill is the requirement for states to introduce a range of workplace reforms and new management practices in TAFE institutions as a condition for the receipt Commonwealth funding. Government senators strongly believe that the introduction of flexible and responsive employment arrangements in TAFE's, including Australian Workplace Agreements (AWAs) and performance pay, will improve their responsiveness to local employer and industry needs.<sup>11</sup> It is important to stress that the bill only requires that TAFE staff be offered an AWA. As the DEST submission pointed out, the choice of individual or collective arrangements will be a matter for each staff member. The principle supported by the Government is that TAFE staff should be given the choice of working arrangements. This choice should also be supported by a fair and transparent performance management scheme in TAFE institutions that rewards high performance and manages underperformance.<sup>12</sup>

### ***Competency-based training***

1.11 The legislation requires that states and territories remove impediments in their awards to enable training qualifications to be based on competence rather than on length of time. This new approach will offer more flexible options for students and employers. According to DEST:

In the current arrangement many New Apprentices take up to four years to complete (and in some cases, even longer) rather than having access to accelerated and more relevant, competency-based pathways. Rigid time-based approaches cannot meet the needs of employers of individuals in the rapidly changing economy.<sup>13</sup>

### ***Issues raised in evidence***

1.12 Government senators note that the legislation is supported by TAFE Directors Australia (TDA), the national peak body representing TAFE institutes and TAFE divisions of multi-sector institutions, and the Australian Council for Private Education and Training (ACPET).<sup>14</sup> While the TDA submission actively supported the objectives of the bill as set in Clause 4, it noted that training providers are not acknowledged as a key partner in the cooperative process between the Commonwealth, the states and industry. It proposed an amendment to include specific reference to training providers as a contributor to the cooperative arrangements which will bring about a flexible, high quality training system as set out in clauses 4(a) and 4(c).<sup>15</sup> Government senators agree with TDA that much of the inflexibility and non-

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11 DEST, *Submission 4*, p.4

12 *ibid.*

13 *ibid.*

14 TDA, *Submission 7*; ACPET, *Submission 9*

15 TDA, *Submission 7*, p.2

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responsiveness for which ANTA arrangements were often criticised was due in no small part to the absence of training providers from relevant consultation and decision making processes. However, Government senators do not believe that the absence of any specific mention of training providers at Clause 4 (b) will diminish their future role under the new arrangements.

1.13 Submissions from both TDA and ACPET supported, with a few minor reservations, the statutory conditions as set out in the bill. They supported user choice policy in respect of new apprentices who represent approximately 20 per cent of total TAFE enrolments. They also supported the view that the workplace reforms will improve the flexibility and responsiveness of TAFE to local industry and community needs. The TDA submission fully supported the bill's requirements for a competence-based training approach rather than one based on length of time. Government senators appreciate TDA's concern that the provisions of the bill will require careful interpretation and implementation if its intent is to be successfully realised within the three year funding period.<sup>16</sup> The ACPET submission strongly supported the provision relating to the increased utilisation of publicly funded training infrastructure:

ACPET is strongly supportive of this condition of grant in the legislation. Third party access increases the use of taxpayer funded facilities and maximises the return on this publicly funded capital investment. Private providers are often small and, whilst highly experienced in training and better suited to meet the specialist training needs of employers and employees, it is simply impossible to duplicate the expensive infrastructure in the TAFE system.<sup>17</sup>

1.14 Criticism of the legislation by unions focused, not surprisingly, on the Government's determination to introduce necessary workplace reforms to the VET sector. Submissions from the ACTU and several other unions accused the Government of being 'authoritarian' by taking away the rights of the states and driven by an 'ideological obsession' to have individual contracts as the primary form of regulation of employment.<sup>18</sup> Rhetorical grand standing of this kind is misleading and shows that unions are not serious about a high quality, flexible and responsive vocational education and training system which this legislation provides for. Government senators reject the proposition that its legislation erodes states' rights or forces workers to sign individual contracts. The Government is committed to principles of collaboration with the states and territories and providing workers with a choice of individual or collective working arrangements.

1.15 Government senators also reject the criticism by unions that its proposed funding package for the new national training system is inadequate and that it reflects a lack of vision by government in investing in the future.<sup>19</sup> This ignores the fact that

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16 *ibid.*, p.4

17 ACPET, *Submission 9*, p.2

18 ACTU, *Submission 3*, pp.9-15

19 *ibid.*, p.18

the Australian Government's investment in training is currently at record levels. The Government has committed \$2.1 billion in 2005 to vocational education and training with a further \$4.4 billion in new funding for VET to be appropriated under this new legislation. The Government has called on the states and territories to match the additional funding provided by the Commonwealth in 2005. As Minister Hardgrave stated in his second reading speech to the bill:

This government's strong commitment to vocational and technical education is illustrated by the significant funding of \$4.4 billion provided through this bill and a further \$1.4 billion over four years announced last year for an integrated and comprehensive suite of policies to reinforce nation-building skills needs. This lifts the Australian Government contribution to vocational and technical education to a record 10.1 billion over the next four years. These initiatives represent one of the most significant boosts to vocational and technical education ever undertaken by any Australian Government.<sup>20</sup>

### **New national training arrangements**

1.16 The 'directions paper' for vocational education and training published by DEST in February 2005 identified two elements which laid the foundation for a successful training system: national collaboration and industry engagement.<sup>21</sup> According to DEST, these elements underpin two key components of the new national training system: a national governance and accountability framework and a national skills framework. Added to these components will be business and industry leadership and engagement operating at all levels of training.

1.17 The national governance and accountability framework establishes decision making processes and bodies responsible for training. Of note is the Ministerial Council for Vocational Educational and Training and the National Senior Officials Committee. The Ministerial Council replaces the ANTA Ministerial Council and has responsibility for the operation of the national training system, including setting national priorities and standards, planning for the operation of the national system and monitoring and accountability roles. The National Senior Officials Committee is the administrative arm of the Ministerial Council, performing such roles as establishing work plans for the Council, coordinating the preparation of proposals and ensuring that Council decisions are executed. According to DEST, a focus on performance and governance is vital to ensure that the national training system remains high quality and responsive. Also included in the accountability framework are bilateral funding agreements between the Australian Government and the states.

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20 Mr Gary Hardgrave, Second Reading Speech, *Skilling Australian Workforce Bill 2005*, *House Hansard*, 11 May 2005

21 *Skilling Australia: New Directions for Vocational Education and Training*, Department of Education, Science and Training, February 2005, p.3

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1.18 The national skills framework is the second component of the new training system, setting out the requirements for quality and national consistency of qualifications and the delivery of training. Government senators believe that the new training system should include strong quality assurance mechanisms to ensure consistency and high quality training across a range of different learning environments. Not only will this provide opportunities for Australian employers and students; it will also enhance Australia's reputation overseas and increase its share of the international training market. The new framework will see a continuing role for the Skills Councils, the establishment of a new Ministerial-owned company to manage training materials and products, the amalgamation of the National VET Quality Agency and the National Skills Agency, and public reporting of the performance of Registered Training Organisations.<sup>22</sup>

### **Conclusion and recommendation**

1.19 The Australian Government is committed to building Australia's skills. Legislation before the parliament is intended to establish a new streamlined and high quality national training system. While the Skilling Australia's Workforce Bill 2005 and a related bill retain successful elements of the existing arrangements, their effectiveness will be enhanced through a range of new measures, including a new national governance and accountability framework and a new national skills framework. Together, the bills are the most significant pieces of legislation for vocational and technical education in more than a decade, representing one of the most significant boosts to vocational and technical education ever undertaken by any Australian Government.

1.20 The committee majority commends these bills to the Senate and recommends their passage without amendment.

**Senator Judith Troeth**  
**Chair**

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22 Skilling Australia's Workforce Bill 2005, *Bills Digest*, no. 160 2004-05, 23 May 2005, p.3



## Chapter 2

### Opposition Senators' report

2.1 The Government's introduction of these bills symbolises the destruction of a once successful federal arrangement for the funding of vocational education and training. The Commonwealth has failed to reach a funding agreement with the states and territories because of the Commonwealth's refusal to increase growth funding and because of the States and Territories' refusal to impose on their TAFE institutes funding conditions which have no relevance either to education or the expansion of the national skills base. The Prime Minister unilaterally announced that the Australian National Training Authority (ANTA) would be abolished from 1 July 2005.

2.2 The Government's decision to abolish ANTA demonstrates its refusal to recognise that agreement with the states and territories over national vocational education and training policy is essential to ensure that funding and human resources are managed in the national interest. The Skilling Australia's Workforce Bill 2005 appropriates \$4.4 billion as the Commonwealth's contribution toward VET funding for 2005-08. As will be detailed later, this funding is conditional on state and territory compliance with employment practices and other policy matters which the Commonwealth insists upon, despite disagreement from many of the States and Territories. The legislation also purports to provide a basis for a 'national training system'. However the Commonwealth is establishing a centrally directed unit in the Department of Education, Science and Training (DEST) which will not be able to deliver the federal multi-sector coordination needed by Australia's economy.

2.3 The Opposition takes this opportunity in this report to spotlight that this marks the end of consensual policy on VET, and to put the view that there is no long-term advantage in imposing policies and rules which are not genuinely acceptable to agencies, institutions and training and industry stakeholder groups in the 'system' which are beyond direct Commonwealth control. Not for the first time have members of this committee noted the authoritarian centralist tendencies of education and training administration as a characteristic of Minister Nelson's approach to his portfolio.

#### **A procedural issue**

2.4 Before dealing with the issues of the inquiry, Opposition take strong exception to the highly unusual, if not unprecedented, action of the committee chair in deciding not to hold a public hearing on the bill. This decision was taken in the face of a previous decision of the committee to set aside half a day to deal with this bill, and half a day to deal with a related piece of legislation to establish what will be known as Australian Technical Colleges. This was an arbitrary decision which not only threatens goodwill among committee members and may lead to a breakdown in

trust between senators across the party divide, but also deprives interests groups of the opportunity to appear before the committee to put a view to the committee.

2.5 It scarcely needs stating here that committees provide a conduit to organised public opinion: a means by which individuals and organisations may have access to the legislative process. The writing and presentation of submissions is only one facet of this process. The committee has always followed the practice of allowing particular interest groups, representing significant numbers of people, to make representation on behalf of those who will be affected by the legislation.

2.6 It may be argued in this case that only about seven or eight submissions were made, and that they were made, for the most part, by opponents of the legislation. This is not remarkable. Submissions are not generally to be expected from individuals or organisations advantaged by legislation, unless there is some amendment to be suggested to extend the advantage they already receive. In this case, the committee was dealing with legislation likely to adversely affect the working lives of several thousand teachers and support staff in TAFE colleges. They had a right to be heard, through their representative unions. For Government party senators simply to decide not to turn up to the public hearing is indicative of the arrogance of Government senators who are increasingly out of touch with education and training issues, and the concerns of people who keep the learning and training institutions running.

### **The demise of ANTA**

2.7 Consideration of these bills requires a policy context in which to view the Government's legislation, and to recognise the extent to which the Government is determined to micro-manage the delivery of workskills training. Immediately after the last federal election, the Prime Minister unilaterally announced that the Australian National Training Authority would be abolished and its functions subsumed into the Department of Education, Science and Training. The state and territory governments were not consulted, and neither, apparently, was the relevant minister. The *Skilling Australia's Workforce (Repeal and Transitional Provisions) Bill 2005* proposes to repeal the *Australian National Training Act 1992* effecting ANTA's final demise. The functions of ANTA, and the few staff wishing to be retained, were subsumed into DEST from 1 July 2005, pre-empting the Senate's consideration of this repeal legislation, and yet another example of the arrogance and contempt the Howard Government treats the Parliament, and in particular the Senate. The Training Minister recognised and listed the achievements of ANTA, and claimed that its demise was due to the states deliberately thwarting 'real progress' in a number of key issues'. It is a very real indication of essential weakness and fragility of the federal system of government in this country when a national government can unilaterally decide to end a co-operative federal arrangement overseeing delivery of a service, vocational education and training.

2.8 In disbanding ANTA, even while acknowledging its achievements, the Government has finally turned its back on the legacy of pioneering thinking in the



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1980s and 1990s which led to the development of a national vocational training system. It was one which recognised the strong attachment of industry and trade training to its state and territory institutional roots. At the same time it recognised the need for the Commonwealth to lead the way to national skills recognition and to fund the strategic planning essential for the maintenance of an effective skills base.

2.9 The 1990 Deveson committee made recommendations to allow market forces some influence on the training agenda and foreshadowed employer cost contribution and private training organisations. A year later the Finn and Meyer Committee reports recommended, respectively, the convergence of general and vocational training, and the development of six key competency areas essential for all participants in vocational education and training. Finally, in 1992 the Carmichael report proposed an integrated entry level training system aimed at offering a broad range of VET pathways. Carmichael's proposal was for competency-based training leading to four levels of achievements, for which certificates would be awarded. Carmichael also pointed the way to the Australian Standards Framework, and national consistency in the recognition of accredited courses.

2.10 This was the creative policy-making environment which brought ANTA into existence late in 1992. ANTA operated at the level of a ministerial council, and at the level of an advisory board to include independent experts and employer representatives. The ANTA Agreement which set out obligations and responsibilities agreed between the Commonwealth and the states and territories was intended to be the key policy instrument, and had funding attached. This was an inclusive and federalist arrangement to facilitate reform in what was a widely diverse state-based training culture. As the ACTU summed-up the role of ANTA in its submission:

These help shift what had been viewed as a state based supply driven training market toward a national industry led training system that could respond quickly and effectively to meet the needs of Australian industry skill demands. Of critical importance was the tripartite support for the system which helped to drive changes to training institutions and structural reforms and provided industrial support for the new training products.<sup>1</sup>

2.11 Ten years ago the Employment, Education and Training References Committee reviewed ANTA and concluded that it represented a good working example of cooperative federalism. ANTA combined the advantage of national strategic direction and coordination with crucial qualities of flexibility and autonomy at the state, territory and provider levels.<sup>2</sup> Overall, the committee urged the maintenance of a strong role for ANTA.

2.12 That was the view of the Coalition majority on the committee in 1995. The Government of the day was not turned away from its course of co-operative

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1 ACTU, *Submission 3*, p.2

2 Senate EET References Committee, *Report of the Inquiry into the Australian National Training Authority*, November 1995, p.1

federalism even though the Kennett Liberal government in Victoria violated the spirit of the ANTA agreement at that time by reducing state funding for its TAFE colleges because of increased Commonwealth funding.

2.13 Opposition senators emphasise the contrast between the creative policy processes which preceded ANTA and the complete absence of any policy debate associated with the Government's decision to abolish ANTA and virtually stop real growth funding for the TAFE sector.

2.14 The Government has only recently begun to pay attention to skill shortages. A more determined policy should have been adopted years ago to make sure that a high proportion of basic skills New Apprenticeship funding went toward high-end skills trades training. New Apprenticeship funding all too often goes toward subsidising employment where there are no skill shortages. The failure of that policy is now evident in the very serious skills shortages hurting the Australian economy. The Government which has ignored for over a year and a half a report of the references committee, *Bridging the Skills Divide*, which detailed the extent of Australia's skills crisis.

### **Funding issues**

2.15 The Committee is dealing with a states grants bill. It is neither empowered nor equipped to consider in detail the appropriations which are proposed. Negotiations over such matters are a matter for Commonwealth and state and territory ministers, and there is no process for effective scrutiny of these deliberations. The bill provides for new funding in the order of \$4.4 billion to the states and territories in 2005-08. The story leading up to this figure should be reported.

2.16 Negotiations over Commonwealth funding within the ministerial council have been very difficult since 2003. The Commonwealth offer to the states and territories for 2004-06 (the normally scheduled triennium) included no additional growth funds, only \$119.5 million for welfare reform measures outline in earlier budgets, and indexation of rolled-over 2003 growth funds. The states and territories argued that they needed an additional \$348 million in growth funding.<sup>3</sup>

2.17 The ANTA ministerial council met for the last time on 10 June 2005 and again it failed to agree on future funding arrangements. The Commonwealth offered an additional \$174.7 million over three and a half years, most of which was the return of the Priority Place Program to the states and territories that had been put out to tender in 2004 as one of the penalties for failing to reach an earlier agreement. Thus, virtually no additional growth funds were agreed to by the Commonwealth. The residue was for indexation.<sup>4</sup> Subsequently, Welfare to Work measures

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3 Australian Education Union, *Submission 5*, p.14

4 *ibid.*, pp.12-13

announced in the budget resulted in an additional \$40 million being included in the appropriation contained in this bill.

2.18 When all the calculations are made, the figures show that Commonwealth funding for VET has fallen by 6.5 per cent since 1997 when adjusted for CPI movements. Since 2003 the states and territories have collectively increased their contribution in real terms by 3.2 per cent over the same period. This has occurred at a time of increased enrolments, and increasing levels of unmet demand.

2.19 Another indicator of declining expenditure is the cost per annual student hour. On a CPI adjusted basis, real expenditure per student hour has fallen by 18.1 per cent since 1997 at 2003 prices. Within that, the Commonwealth contribution has fallen by 23.6 per cent. The inadequate funding provided under the bill before the committee will continue this downward trend.

### **Unmet demand for VET places**

2.20 Widespread and intensifying concern about skilled labour shortages has apparently failed to convince the Government of the necessity of taking urgent action to address this problem.

2.21 The Government has failed to realise that there is significant unmet demand for TAFE places, and has failed to provide additional places required to meet the needs of Australians who wish to study at TAFE;

<b>UNMET DEMAND FOR TAFE PLACES</b>	
1998	44,400
2000	48,700
2001	40,100
2002	44,100
2003	45,900

*(ANTA Annual National Report of the Australian vocational education and training system 2003).*

2.22 The Government has long regarded the state-run TAFE colleges with suspicion, but as previous inquiries conducted by this committee and the references committee have shown, these institutions are the backbone of skilled training across the country. This is particularly so for trade skills training which is capital intensive. Private training organisations have tended to concentrate on training in non-capital intensive areas related to service industries, for obvious commercial reasons. The Government appears determined to encourage the growth of private training organisations, but can hardly expect this sector to expand into areas of the traditional

trades without an infusion of significant amounts of Commonwealth funding: the funding which it currently denies to the TAFE sector.

2.23 While current and future skills shortages are likely to extend across occupational categories, the most pressing problems are the higher skills areas associated with manufacturing industry, construction, mining, electronics and machinery servicing and other technical trades. These are the areas requiring higher order skills on which service industries depend. Industry would be unlikely to disagree with the ACTU's proposal that the Commonwealth fund an additional 20 000 TAFE places in the traditional trades, increase apprenticeships and implement a program for matching apprenticeships with employees.

2.24 The pressures of unmet demand fall heavily on the TAFE sector, and that is where funding ought to be directed. As it is also the case that TAFE delivers the skills most needed by industry, the Government should take far more interest in the needs of the TAFE sector beyond such irrelevancies as its industrial relations practices.

### **Conditions of grants – industrial reforms**

2.25 The Skilling Australia's Workforce Bill ties Commonwealth funding to the implementation of the Government's industrial relations policy. The Government is insisting that TAFE institutions offer Australian Workplace Agreements (AWAs) to staff. This will apply 'except where it is not possible because of the corporate status of the TAFE institution, in which case other individual agreements should be offered.'<sup>5</sup>

2.26 Other conditions of grants include giving more authority to TAFE directors, particularly in recruitment and remuneration decisions; introduction of performance pay; giving TAFE colleges more financial autonomy in relation to industry partnerships and generation of revenue; and conform to the requirements of the Workplace Relations Act.

2.27 It is possible that when the Government indicates a concern about 'lack of flexibility' in training offered by TAFE, it has in mind controversies about length of courses and course components. If so, this should be clearly stated. It has little or nothing to do with industrial relations. It was an issue before the now defunct ANTA and the various industry training boards in ensuring flexibility in training packages. The issue of flexibility also involves questions about the quality of training and the importance of teaching generic skills. There is a strong argument that a flexible workforce is ultimately produced much more successfully through systematic and comprehensive training which allows quick retraining in related trades during the course of a working career. TAFE institutes, for very sound reasons, are concerned about ensuring the quality of trades courses. The same concerns are not always

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shown by private institutions which have sprung up to fulfil the immediate demands of some industries for short-order niche training. Distortions in the labour market have resulted from incentives provided to organisations to train people in skills in low demand occupations. There is no assurance that this will not continue. These are serious issues, dealt with by the references committee in previous reports. They have obviously not been considered by the Government in the drafting of this bill.

2.28 There are serious objections to the imposition of individual agreements on TAFE employees, particularly as the workforce of an average institute varies so widely in relation to the number of hours worked and the courses that are taught. The Government's intention to give institute directors authority to determine wages and salaries for the varied categories of employees, and to allow for performance pay, is likely to lead to a great deal of anxiety and even animosity. This can be a serious problem in organisations where the main management challenge is in staff retention and recruitment as the teaching service ages and instructors become harder to find. As the Australian Education Union (AEU) noted:

The Bill seeks to inhibit the right of education workers and state and territory governments to reach industrial agreements which best suit the culture and situation of each state or territory system. Similarly, where industrial bargaining has been devolved within a state TAFE system to an institutional level, the legislation would inhibit the right of those institutions to negotiate terms and conditions which best suit the needs and interests of their particular circumstances. It aims to inhibit the capacity of TAFE employees to negotiate collective agreements and to undermine those agreements.<sup>6</sup>

2.29 This is a recipe for industrial unrest because large organisations function most effectively when employers and employees know that they have had a role to play in the making of collective agreements. There is an open and transparent process. Organisations can feel the effects of perceptions that some of its participants are working under conditions and salaries which are better than those doing work of equal value.

### **Effects on the teaching workforce**

2.30 The effect of the Government's proposals will be a serious threat to the TAFE teaching profession. The rationalisations carried out by state and territory TAFE agencies have already reduced the proportion of full-time permanent staff in the teaching workforce, and this is likely to increase significantly under the proposed changes. As the most highly qualified teachers in the VET sector, TAFE teachers are more readily able to gain employment in the trades that they are teaching. As skills shortages become more serious there will be incentives offered to attract them to industry, making the long-term problem even more serious. There is no indication from the Government that it is aware of this likelihood, probably because such

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6 AEU, *Submission 5*, p.7

considerations are remote from their immediate concerns. Research undertaken by the AEU in 2001 shows that up to 40 per cent of TAFE teachers were looking at other career path options.<sup>7</sup>

2.31 The timing of the Government's industrial relations offensive, and not only with this bill, has not been well-judged. While it is intended to bring about 'flexibility', 'efficiency' and an end to what the Government believes to be 'sheltered workshop' practices tolerated in state government agencies and institutes, its effect will be to hasten teaching staff shortages which will place its Skilling Australia policy in jeopardy. As economic commentators have noted, highly trained technical operatives across the workplace whose skills are increasingly in demand will be in a position to command high salaries. As usual, the market will rule.

2.32 The Government has discounted the fact that education institutions require high levels of staffing stability. The Government's assault on the current salary negotiation arrangements is an indication of its disdain for teaching culture. The AEU argues that the professionalism and commitment of TAFE teachers has enabled the sector to survive and meet the needs of industry, despite the upheavals of constant 'restructuring' of the institutions and the uncertainties of funding. The AEU estimates from its surveys that the amount of unpaid overtime undertaken by TAFE staff has been the equivalent of 6500 extra full-time positions across the country.<sup>8</sup>

### **User choice in the VET market**

2.33 The Government is anxious to expand the marketing strength of private providers in the VET market. Clause 11 of the bill implements arrangements to ensure that new apprentices and employers have wider choice in their VET provider. User choice funding is to be introduced, to increase by 5 per cent each year the proportion of apprentices and trainees who are eligible for user choice funding under the New Apprenticeship Scheme.

2.34 The AEU submission noted that experience so far with user choice has not been encouraging. Independent risk assessment of the application of user choice has revealed the range of risks, including that the user choice funded training market may not deliver uniform quality outcomes nor address labour market requirements and priorities.<sup>9</sup> Arbitrary expansion of user choice activities without full assessments of risk and likely outcomes may well damage the national system.

2.35 The AEU also noted the Queensland experience with user choice.

The experience of Queensland, which led the charge into User Choice and competitive tendering, is well worth remembering. As the 1998 *Report of the TAFE Review Task Force* in Queensland noted, the combination of

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7 *ibid.*, p.8

8 *ibid.* p.9

9 ANTA, *Annual National Report 2003*, p.66

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rapid marketisation with funding pressures imposed by governments led to a cut in public funding for TAFE, a decline in industry funded training, increased administration costs and a decline in the quality of programs offered. The result, as the 1998 Bannikoff Report argued, was that institutes in Queensland were not collectively viable.<sup>10</sup>

2.36 Finally, on the matter of user choice, it is not made clear which party to training has the choice: the employer or the apprentice. When the references committee looked at the VET system in 2000, it became clear that apprentices and trainees were not able to exercise their market power to any extent. They had insufficient information to make an informed choice. Employer choice, rather than a trainee's choice, most often prevailed. The committee stated:

This latter outcome is of particular concern. With the 'choice' in User Choice resting almost entirely with employers, and with the added flexibility and choice that National Training Packages provide the danger is that the particular options within a Training Package chosen by an employer as best suiting his or her business, may be quite narrow and may not take into account the longer term needs of the apprentice or trainee. This can be exacerbated in some instances where there is too much flexibility provided by particular Training Packages, in terms of how units can be packaged together to provide a qualification, resulting in qualifications that do not have enough commonality of outcome to be truly portable.<sup>11</sup>

2.37 Opposition senators believe that these concerns remain. They are concerns shared by TAFE Directors Australia, the representative organisation of TAFE directors, who noted that few if any measures exist to ensure that apprentices and trainees are made aware of their rights and responsibilities in relation to choice of provider. TAFE Directors urged action on this.<sup>12</sup>

## **Conclusion**

2.38 The Opposition opposes these bills for the following reasons: the Skilling Australia's Workforce Bill fails to recognise the need for growth funding for intermediate and high level technical and trade skills; and it introduces radical industrial relations requirements that have nothing to do with the delivery of high quality training.

2.39 Opposition senators also oppose the abolition of the Australian National Training Authority. There continues to be an urgent need for a national body that has representatives from Commonwealth and state and territory governments, industry, and the unions to drive the reforms necessary to address Australia's skills crisis.

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10 AEU, *Submission 5*, p.11

11 Senate EWRE References Committee, *Aspiring to Excellence*, 2000, p.100

12 TAFE Directors Australia, *Submission 7*, p.2

## **Recommendations**

### **Recommendation 1**

**Opposition senators recommend that the Government increase the funding available through the Skilling Australia's Workforce Bill to meet Australia's serious skill shortages.**

### **Recommendation 2**

**Opposition senators recommend that the Government reach a new accord with the states and territories on VET policy, in recognition of the need for a national training framework that involves representatives of employers and employees to meet the skills requirements of the Australian economy and the desire of Australians in training for high quality transferable skills.**

### **Recommendation 3**

**Opposition senators recommend that the Skilling Australia's Workforce Bill be amended to deal more effectively with the funding needs of a highly skilled economy, with a concentration on vocational education and training policy, and that industrial relations provisions be considered separately.**

**Australian Democrat senators also support these recommendations.**

**Senator Gavin Marshall  
Deputy Chair**

**Senator George Campbell**

**Senator Lyn Allison**



# Appendix 1

## List of submissions

<b>Sub No.</b>	<b>From:</b>
1	TAFE Teachers Association of the NSW Teachers Federation
2	V3 Research and Consulting
3	ACTU
4	Department of Education, Science and Training
5	Australian Education Union
6	Community and Public Sector Union State Public Services Federation Group
7	TAFE Directors Australia
8	Australian Manufacturing Workers' Union
9	Australian Council for Private Education and Training
10	Victorian Government

The committee also received 43 email form letters from TAFE employees urging rejection of the legislation.

