

**WESTERN AUSTRALIAN FUTURE FUND AMENDMENT  
(FUTURE HEALTH RESEARCH AND INNOVATION FUND) BILL 2019**

*Second Reading*

Resumed from 19 February.

**HON NICK GOIRAN (South Metropolitan)** [2.13 pm]: I rise as the lead speaker for the opposition on the Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019. At the outset, I express the opposition's support for the bill. Indeed, it was the foresight and vision of the Barnett government that makes this all possible. Health research is one of Australia's strengths; our country ranks highly against a range of international benchmarks. The Western Australian health system needs to be innovative and agile, ready to respond to emerging health technologies, communicable diseases and the care of an ageing population with health problems that can be complex. Indeed, how apt it is for us to be considering this matter at this time!

On Australia Day this year, Professor John Newman was honoured with the Senior Australian of the Year award for his work in preventing preterm birth, which is the leading cause of death and disability in Australian children up to the age of five. I am advised that the work of Professor Newman and his team has reduced the number of preterm births in Western Australia by some eight per cent. I remember visiting Professor Newman and the team at King Edward Memorial Hospital for Women in August 2014 with my good friend and former colleague, Liz Behjat. I was impressed with the work that they were doing, and I am glad to see they were able to leverage off the tangible results of their research and turn that into positive clinical practice.

The Western Australian Future Fund Bill was introduced into Parliament in 2012. The then Labor opposition can be described as having made quite a big song and dance about that bill. I note that at the time, on 27 September 2012, the Labor opposition's member for Victoria Park had this to say —

I also have an amendment, as foreshadowed by the opposition to the government. It will perhaps not be a surprise after the Treasurer's amendment last night that it is around debt. I move —

Page 3, after line 12 — To insert —

- (6) No money is to be credited to the Future Fund until there is no net debt existing for the general government sector.

Hot on the heels of that, the then member for Belmont, Hon Eric Ripper, had this to say —

... there is no logic whatsoever in having a future fund when there is debt in the general government sector ...

I find it difficult to accept that the Treasurer and his advisers believe in this bill.

That was the view of the then Labor opposition in 2012. Of course, if that opposition had had its way, there would be no future fund.

The current administration has talked a lot about reducing debt, but as we know and as the record demonstrates, it has done nothing about that. Headlines with titles such as "Medical research spending doubles" are a bit rich. The accompanying article, from *The Australian* of 10 May last year, quoted Premier McGowan as saying —

... the new fund, a pre-election commitment of the Labor government, ushered in a new era in health and medical research that would see WA become a centre for research excellence.

Of course, this new fund would not even be possible without the old fund that was implemented in the first place by the Liberal–National government. This was another episode of the current administration overtly misleading the public. Just as the Perth Children's Hospital and Optus Stadium, amongst others, were legacies of the Barnett government, so too was the future fund.

I turn to certain components of this bill. I note that a range of powers will be given to the Minister for Health—for example, powers to make arrangements to facilitate the furthering of the object of the act, to approve existing arrangements made before the commencement of the amendments, to apply money standing to the credit of the account for the purposes of or in relation to an arrangement, and to establish and maintain an advisory group. That is indeed a lot of power that is being provided to the Minister for Health, and I look forward during the Committee of the Whole stage to finding out what type of oversight there will be for all of this power that will be given to the Minister for Health, particularly where that power might be delegated.

One of the concerns that has been brought to my attention about the proposals before us is whether this is merely a cynical exercise in cost shifting, and that is indeed something that I foreshadow with the government that I would like to explore when we move into the committee stage. In addition, I have some questions about the formation of the advisory group. How authentically independent of government will the advisory group be and how will conflicts

of interests be managed? I note that Hon Alison Xamon has an amendment on the supplementary notice paper that seeks to deal with the issue of conflicts of interest and the like. For example, what would happen if an expert on the advisory group had been involved in competing research and development? How will that situation be managed? Further questions that will be asked during the Committee of the Whole stage will include whether there is any provision in the bill for ethical oversight. As we know, the commercialisation of research is fraught with complexities. Although Western Australia punches above its weight in research output, how will we translate the research funded by this account into a commercial success? Does that mean that there will be a focus on funding research that is commercially focused?

I turn now to clause 14, and I note that it seeks to insert new section 9A, which outlines the annual reporting requirements for the future health research and innovation fund. My experience over the last three years with this administration has taught me not to trust this government because of its capacity to hide information from Parliament. I do not at all trust this government's record on reporting. It has a consistent history of redacting information and hiding reports. As I have said many times before, frankly, it is obsessed with secrecy.

I turn to clause 16 of the bill and I see that it seeks to meddle with the section 10 manner and form provision. I ask the parliamentary secretary to explain to us either in reply or, if necessary, during the Committee of the Whole stage how those amendments are being made in light of the debate that took place in 2012. Specifically, I draw to the attention of members and the government the debate that took place on 15 November 2012. On 15 November 2012 when considering the bill that is the genesis of the matter before us, the now retired Hon Ken Travers had this to say on this issue and section 10, which the government seeks to meddle with —

When a government seeks to put in a manner and form provision, it needs to be able to answer specific questions about the legal advice it received, how it expects that provision to operate and how it will operate under the Western Australian Constitution.

I pause there to say that if that was the view of the Labor opposition at the time, I expect that now that it is in government, it will be in a position to answer those specific questions that it thought were very important in 2012. He went on later to say —

Manner and form provisions are quite unusual. The last time we dealt with them with any significance was when we were dealing with the electoral reform bills a few years ago. One of the cases quoted is the Marquet case that arose from the electoral reform bills. Out of that situation arose the issues of when and how manner and form provisions apply ... Having made those comments, I move —

Page 6, line 21 — To delete “2032” and insert —

2062

The earlier amendment sought to amend “2032” to “2062”, which relates to how moneys can be applied. This amendment seeks to extend the period in which one cannot amend the manner and form of this legislation. Why are those two things different? One is about how it can be applied; the second is for how long the entrenching provisions last. I think that long after we leave this chamber there will continue to be debates about whether or not the entrenching provisions intended in clause 10 will actually apply. I suspect that in light of the explanations that have been given so far, the reality is that we will see that matter only ever being tested if a government seeks to do it and it ends up in the Supreme Court, as occurred with an electoral amendment bill a number of years ago. Having said that, with the way in which the fund can be entrenched under clause 9, “Application of Future Fund”, a government could still start to spend the money from 2032.

I say again that if the government is happy to agree that the money can be spent after 20 years—the Labor Party has a view it should be 50 years—why not entrench for a bit longer, and at least 50 years, other provisions of this bill if that is the real intention of the government? What does that mean, in the assurances given earlier by the minister, that even after 20 years one per cent of royalties will go into the fund? The reality on my reading of the bill is that a future government after 20 years will be able to remove that provision by a simple majority of this house. Therefore, the assurances we were getting earlier from the minister will lapse after 20 years. If we support the amendment that I moved, it will mean that those assurances will last for 50 years. That will continue to ensure that the capital of the fund remains and grows by one per cent of royalties every year well into the future. I would have thought that would go to the very heart of the government's intent, given what it has been saying. It goes to the very heart of the assurances the minister has been trying to give us, through the passage of this bill, on the ongoing entrenchment of those clauses and that the bill is not setting up a situation in which the government of the day in 20 years can, with a simple majority of this house, raid the fund, spend it and leave nothing for future generations. The reality is that there may be members of this Parliament today who will still be members of this chamber in 20 years.

Hon Kate Doust then interjected and said that Hon Nick Goiran is one.

**Hon Simon O'Brien:** Why would you wish that on him!

**Hon NICK GOIRAN:** It was some eight years ago, with 12 years to follow.

**The PRESIDENT:** Time goes fast when you are having fun, does it not!

**Hon NICK GOIRAN:** On 15 November 2012, Hon Ken Travers went on to say —

The simple fact of the matter is that 20 years is not a particularly long time when we actually think about it. The minister himself, I think, is running again for the following Parliament at the conclusion of this term. If this bill had been passed in the early days of his parliamentary career, those 20 years would be up during his next term in Parliament. So if we are serious about that intergenerational transfer and if we are serious about ensuring that those provisions are entrenched well beyond the life of members of Parliament so that there will be a real parliamentary intergenerational transfer of wealth, then there is a need for the entrenching provisions to last longer. As I say, I suspect that it may all end up being a waste of time because, as Hon Linda Savage put in her very sound argument and as a number of other people did, these entrenching provisions will not hold up. But if they do and if the government is right, then let us make sure they are entrenched for a long period well beyond 20 years.

A little later he concluded on this point by saying —

As to this amendment, the government is saying that in 20 years' time it will be okay for people to raid and plunder this fund with a simple majority of the house. That is what the government is saying—not only that it can start to spend the money accumulated in the fund, but also that it can come into this place and raid it with a simple majority. What we are saying is that if the government is serious and believes as a government that these manner and form provisions will provide a protection for at least 20 years, let us make that protection last for 50 years to protect the asset of the fund. The government can start spending it after 20 years, but let us make sure that we keep the money accumulating and keep the money in the fund for at least 50 years and that the one per cent continues to be contributed.

I give all that information to the parliamentary secretary as some notice of what will need to be explained by the government—in particular, why no amendment is before us that seeks to extend the period to 2062, and why, indeed, the government is seeking to meddle at all with section 10, which its members were very concerned about when in opposition on 15 November 2012.

I conclude by indicating that although the opposition is supportive of bolstering medical research, we do, however, find it ironic that the current administration, which was amongst the biggest critics of the Western Australian Future Fund Act 2012, is now using that very fund, a legacy of the Barnett government, to blow its own trumpet.

**HON MARTIN ALDRIDGE (Agricultural)** [2.30 pm]: I rise as the member deputed by my leader, Hon Jacqui Boyde, to speak on behalf of the Nationals WA today on the Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019, which is potentially the longest bill title known to mankind! I want to start my contribution today by talking about the genesis of the future fund, as it is referred to in Western Australia, which only slightly predates my time in this place. It was a 2012 vintage bill, which was first announced in the 2012–13 state budget, and subsequently introduced into the Legislative Assembly shortly thereafter in August 2012. At the time, it was estimated that the fund would be established with \$1.04 billion in seed capital between 2012–13 and 2015–16 directly from the royalties for regions fund. From 2016–17 onward, the fund was to be credited with a minimum of one per cent of the state's annual royalty income. It was expected that that would equate to \$65 million to \$70 million per annum and that that fund would accumulate over a period of 20 years to 2032. At the time Parliament considered the 2012 legislation, the estimated balance of the fund in 2032 was some \$4.7 billion, which was to be maintained in perpetuity. At that time, it was estimated that from 2032, approximately \$230 million per annum would be available for investment.

The motivation for the fund was to ensure that the exploitation of our finite mineral resources in the here and now would benefit future generations of Western Australians in years to come. In the second reading speech, the then Treasurer of the state, Hon Troy Buswell, said —

The bill also recognises the contributions made to the future fund by the royalties for regions fund in its initial years. In this regard, the bill requires that the application of the future fund's income from 2032–33 onwards be appropriately divided between the metropolitan and regional areas of the state, with both this division and the purposes for which the income is to be applied in the regions to be agreed by the Treasurer and the Minister for Regional Development.

That was an important recognition. It was the clear intent of the government of 2012 to recognise not only the role of the Minister for Regional Development in the application of funding from the future fund, but also, importantly, that the majority of the seed capital invested into the future fund from 2012 to date was to come from, overwhelmingly, royalties for regions funding. I will turn to that issue later in my second reading contribution.

As Hon Nick Goiran has pointed out, members of the then Labor opposition, in both the Assembly and the Council, attempted to extend the accumulation period to 2062. Hon Bill Johnston, the member for Cannington, argued that his amendment would ensure that the future fund was, indeed, “focused on the future”. Clause 10 of the bill was subjected to significant debate in the Assembly, led by Hon Ben Wyatt, the member for Victoria Park, on constitutional grounds and was opposed by the Australian Labor Party. It is interesting to note that, despite Labor’s extensive protests in opposition, section 10 will remain in the amended act.

I was not a member of the Legislative Council in 2012, when the original bill was considered, but I must say that the public at large is increasingly concerned about the lack of foresight shown by its elected members and its governments. I have lost count of the number of occasions I have been asked what our post-mining plan is. Often we get brought back to the sovereign wealth funds of other nations and how they were established early in those nations’ lives and early in the exploitation of finite resources, and how those countries are benefiting from some of those early decisions to invest in the future of their jurisdictions. Here we have an act, lawfully passed by the joint houses, that established the Western Australian Future Fund. It was funded by mining royalties and established to invest in the future of Western Australia post–1 July 2032, with the balance of the fund remaining in perpetuity. The Western Australian Future Fund Bill 2012 was passed on 15 November 2012, and received royal assent and came into operation on 29 November 2012.

Let us fast-forward to 21 February 2017, when the then Labor opposition committed to “repurpose” the fund. In my view, “repurpose” could be used interchangeably with “raid”. I will come back to that in due course. At that time, the fund had been in place for a little over four of its expected 20 years, and the Labor Party already had plans for it. Members should keep in mind that the Labor Party moved to amend the bill in both chambers so that the fund could not be touched until 2062. I will quote from a WA Labor policy document, which I thank the minister’s office for providing because it was not easily accessible. It certainly was not known to me at the time of its announcement on 21 February 2017. I will quote from a couple of key paragraphs of this document. It states —

A key feature of the existing Future Health structure was to ‘provide incentives for corporate and philanthropic contributions for health and medical research by preserving their tax deductibility in order to boost the fund’. This will be maintained. This will allow the State Government contribution to the fund to be leveraged to generate a further source of income to support research and innovation into the future.

When we get to the Committee of the Whole stage of this bill, I want to come back to the tax treatment of some of those external contributions to this repurposed fund if this bill is to pass. Under the heading “The fund in action”, it states —

An Actuarial Board of accomplished individuals will be established to oversee the HIR fund. The role of the Board will be to manage the fund and to allocate funding to projects based on the results of the high level competitive peer review process. There will be some flexibility in the availability of the funds in each funding stream depending on the projects being considered.

I am not sure whether the commitment to create an actuarial board is interchangeable with an advisory council, as I think it is referred to in the bill, but that is another aspect I would like to consider in the Committee of the Whole stage because there seems to be a clear departure from establishing an independent board of accomplished individuals to oversee and direct funding from the repurposed health research and innovation fund in the WA Labor policy document. The Labor Party announced this plan mid-campaign, just over two weeks before election day. As I said earlier, I certainly was not aware of that at the time. We were two weeks out from the election and a swag of voters had already cast their vote in the first week of pre-polling when this plan dropped. Perhaps that was a deliberate strategy. Certainly, there was not a lot of media coverage of it at the time. I looked at the coverage of the plan prior to the 2017 election and could find only one PerthNow article from the same day the then Labor opposition made its announcement on 21 February 2017. I do not intend to read the entirety of the article, but I will quote a couple of paragraphs from this story because it has relevance to the then government’s position on the Labor Party’s announcement. The article is headed “WA Election 2017: WA Labor plan to use Future Fund for research” and states —

However, using the Future Fund’s interest would require legislative change, which WA Premier Colin Barnett said the Liberals would not support.

He said the fund was set up in 2012 so future generations could benefit from the proceeds of the resources boom “so to go out and spend it on any other program just undermines the concept of leaving the wealth of today for the future”.

Obviously, that quote was attributable to the then Premier, Hon Colin Barnett.

Members may or may not know that Labor has form with raiding future funds. I draw members’ attention to the Telecommunications Legislation Amendment (Protecting Services for Rural and Regional Australia into the Future) Bill 2007. Potentially, that is the only other bill that has a longer title than the one we are dealing with today. This commonwealth bill established a \$2 billion future fund from the part proceeds of the sale of Telstra to futureproof regional telecommunications. It was estimated that every three years the fund would deliver \$400 million in interest to invest in regional needs. Members who have experienced some of the telecommunications challenges in our regional and remote communities this year, particularly the summer weather events experienced through late December, January and February, would know that there has been significant disruption to our telecommunications networks of the sort that I have not seen before. This fund could have made a difference not so much in providing equity but perhaps addressing some of the inequity in telecommunications coverage across our great nation. Members will recall that in November 2007, we had a federal election and Hon Kevin Rudd became the Prime Minister of Australia. By early 2008—clearly, this was a priority of the incoming Labor government—he had a bill in Parliament to dismantle the fund and spend the money. Members can imagine where we would be today in 2020, some 12 years on—the bill was passed in 2008—if we still had that commonwealth future fund and it had been investing in narrowing the gap between metropolitan and regional Australians and dealing with some of the challenges in delivering modern technology to thin markets over an enormous land mass.

I turn back to the bill before us. We know a number of things about the future fund. Obviously, a feature of our government is that we see data published in our Treasury documents on budget forecasts in the midyear review. Data from the 2019–20 *Government Mid-year Financial Projections Statement*—more commonly referred to as the midyear review—shows that the balance of the future fund on 1 July 2019 was \$1.313 billion, after receipts of \$98 million. The projected balance at 30 June 2020, which is not far away, is expected to be \$1.413 billion, with receipts of \$100 million. To put this into some context, as I said earlier, \$932.6 million of the fund’s capital was established from the royalties for regions fund itself—not from royalties, but from the royalties for regions fund itself. The minister’s media statement claims it will inject an additional \$52 million over three years into medical research and innovation. That is certainly a number I want to examine more closely. A number of different examples have been provided to me from media statements, briefings, further advice and Treasury documents, and I must say that I am thoroughly confused about the government’s future commitment to medical health research and the extent to which the new fund will add to the commitment of the state on that matter. It is accepted that the baseline for state funding committed to medical research in Western Australia is \$20 million a year. It was as high as \$21 million in the last year of the Liberal–National government. I will quote from the media statement I just mentioned. It was issued on Thursday, 9 May 2019. Given it was issued on a Thursday in early May, I suspect this media statement aligned with the release of the state budget, which might have occurred on that same day. The media statement is titled “Medical research and innovation receives major funding boost”. It is a joint media statement from Hon Mark McGowan and Hon Roger Cook. One paragraph states —

An additional \$52 million will be allocated to ramp up over a three-year period, from 2020–21 to 2022–23, significantly increasing investment to a total of \$126.6 million over the next four years, transforming Western Australia into a leader in medical research and innovation.

The government’s future commitment to medical health research is difficult to know because we are comparing \$52 million over three years with additional investments over four years and the accepted baseline in health research funding, so I asked for some supplementary information following my briefing. I asked for the amount of money invested on health research for each of the last 10 years. I understand that this investment is approximately \$20 million per annum, which is the figure that is commonly referred to. If we look at the data that has been provided, it is obvious there has been a level of fluctuation over that time, although there has been some consistency; in all but one year, there has been a consistent increase in the medical research funding allocated by the state. The 10-year dataset that I have indicates that in 2009–10, the amount of Department of Health research funding was \$11 million. Fast-forward to the last year of the Liberal–National government, 2016–17, when it peaked at \$21 million. Interestingly, given the Labor Party’s focus on driving Western Australia as a destination for medical health research and innovation, in its first budget there was actually a cut to the medical health research budget of the Department of Health of \$1 million. It went from \$21 million in the last year of the Liberal–National government to \$20 million. In fact, in the current financial year, 2019–20, it has had a further cut of another \$1 million; it has dropped to \$19 million. From the time that the Labor government was elected and handed down its first budget, annual medical research funding has gone from \$21 million to \$19 million. That appears to be at odds with the intent of the policy document released by the Labor Party in February 2017 and, certainly, with the Labor Party’s intent indicated in the second reading speech of this bill that is before the Legislative Council today.

A number of clauses in this bill are a matter of concern. Clause 7 of the bill deletes reference to the Minister for Regional Development. Section 9 of the Royalties for Regions Act 2009 provides for the application of RFR funds when there is concurrence between the regional development minister and the Treasurer. That provision is replicated in section 9 of the current Western Australian Future Fund Act 2012, which, again, requires the concurrence of the Treasurer and the regional development minister. I quoted earlier in my contribution the second reading remarks of the then Treasurer of Western Australia Hon Troy Buswell. It set out quite clearly the intent of the government of 2012, which recognised that the overwhelming majority of the funding for the state's future fund was initially coming from royalties for regions. Therefore, it was important to make sure that the regional development minister, the minister principally charged with the responsibility for regional development in Western Australia, played a role in that regard. As far as I can tell, it was not a matter of contention between the two houses in 2012. In fact, I think very little concern was raised about that matter. It concerns me that this requirement is to be abolished and replaced with the Minister for Health as the sole arbiter of this multimillion-dollar fund.

I asked the Minister for Regional Development a question on this issue. I must say that her answer was not very compelling. It was question without notice 7 on 11 February 2020 of which some notice was given. I asked —

I refer to the Western Australian Future Fund Act 2012 and the Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019.

- (1) Given that more than \$930 million of royalties for regions funding was utilised in the formation of the fund, how was the minister consulted on the formation of the bill?
- (2) On what dates was the minister consulted, and by whom?
- (3) How did the minister satisfy herself that the removal of the Minister for Regional Development's decision-making capacity was a sound policy decision?
- (4) Did the minister consult with the Western Australian Regional Development Trust, given that it will also be removed from the act by the amending bill; and, if so, what was its advice?

The answer I got on that day started with —

I thank the member for the question.

(1)–(4) —

That is the moment when, usually, a member expecting an answer from a minister of the Crown, or perhaps a parliamentary secretary representing a minister of the Crown, knows that they are not going to get much of an answer —

I will just say that the decision to establish the future health research and innovation fund by repurposing money from the Western Australian Future Fund was, indeed, a very clear and highly popular election commitment of the McGowan government.

I pause there to say that it was so popular that I can find only one media article referencing the policy decision two weeks out from election day. The minister went on to say —

It really is designed to improve the future health and prosperity of all Western Australians. I was consulted on the draft bill through the cabinet approval process. The bill and the fund governance framework sets out a governance structure, including the establishment of an advisory council to advise the Minister for Health on all matters relevant to the objects of the act. At least one member of the advisory council will have significant experience in, and knowledge of, country and regional Western Australian health issues. I urge the member to get behind this legislation because I think it is going to be a great win for all Western Australians.

That was Hon Alannah MacTiernan on 11 February 2020. I asked for some greater understanding post my briefing on the level of consultation that occurred. I have quite a list—a table, if you like—of consultation by the state or perhaps the relevant department on this bill. The consultation list includes the state government. Under a column headed “Action”, it states —

The Minister for Health and the Treasurer have both been involved with development of the FHRI Fund concept. The Under Treasurer is a Member of the Project Board for the Future Health Research and Innovation Fund establishment project, which is guiding the development of the new fund.

Project Board meetings have been held monthly since February 2018.

The Minister for Regional Development was consulted on the draft Bill through the Cabinet approval process. It indicates that the Department of Primary Industries and Regional Development was consulted and goes on to say —

The Department of Health met with DPIRD to discuss the implications of the Government's Future Health Research and Innovation Fund commitment on DPIRD and the regions.

A meeting was held in August 2018 at DPIRD's offices with senior officers from each department. Further correspondence regarding advisory group membership occurred in July 2019.

It seems odd to me that when a minister's functions are to be removed from an existing act in the statute book, the earliest time the minister would be consulted was through the cabinet approval process for drafting. It seems rather peculiar that the minister would learn her fate as she sat around the cabinet table and learnt that the drafting instructions before cabinet included the deletion of her functions. That does seem a rather odd approach to the way in which the Minister for Regional Development would be treated by her ministerial colleagues. I certainly intend to come to the defence of the good minister on this bill because I think the Minister for Regional Development has an important role to play in the ongoing arrangements that the Labor Party seeks with the repurposing of the Western Australian Future Fund.

I want to move on to clause 9 of the bill, which, on my reading, does not require the minister to seek nor consider advice on the application of funds standing to the account. It appears to me that the minister is the sole decision-maker, which appears contrary to the Labor Party election commitment in February 2017, when it talked about having a board of experts making these decisions.

It concerns me that from next financial year until 2032, the amount of investment is projected to be some \$540 million from the repurposed account. It concerns me that the Minister for Health does not have to seek or receive advice, and that the Minister for Health, as an individual, can authorise \$540 million of investment over the next 10 years. That can happen through the signature of one minister. Perhaps that concern is unfounded and the parliamentary secretary will be able to point me to other occasions of cabinet ministers having such significant funding discretion on their own account. It certainly raises for me a number of governance issues. Other members have already spoken about the risk of conflicts of interest arising and how they would be managed.

I think I referred to it earlier as the advisory council, but that is incorrect; I think it is the advisory group. The advisory group will be remunerated, yet in this bill there is no specific requirement for members of the advisory group to provide their expertise to the sole minister with discretion over this account. Obviously, they have some other functions and the minister can seek their view on things, but there is certainly no requirement to do that. I will quote the "Western Australian FHRI Fund Governance Framework" published by the clinical excellence division of the research development unit in September 2019. Paragraph 2.3 on page 5 of this framework refers to the WA future health research and innovation fund advisory council and its functions; it says —

*Functions*

The Act specifies that the Advisory Council will provide advice to the Minister and the Department of Health regarding matters relevant to the object of the Act. The Framework sets out additional functions of the Advisory Council, as listed below.

I will read out the seven dot points because I think they elaborate much more than the bill what the government intends to use the advisory council for. The functions are —

- The Advisory Council is responsible for developing the Strategy and Priorities and provides advice on the relative proportion of funding that should be allocated between Priorities.
- The Advisory Council leads consultations that will determine the Strategy.
- The Advisory Council oversees evaluations of the performance and benefits of the WA FHRI Fund and presents these to the Minister.
- The Advisory Council has an assurance role in that it advises the Minister on whether Programs and Initiatives have been developed appropriately and whether they are aligned with the Priorities.
- The Advisory Council does not have a direct role in determining recipients of funding but does provide assurance that the peer-review or other funding determination methods used have been carried out appropriately.
- The Advisory Council will lead the development of position and discussion papers on emerging issues or opportunities.
- The Advisory Council is also responsible for the five-year vision statement for the WA FHRI Fund and its periodic re-setting. The vision statement describes what the WA FHRI Fund will be in five years' time if it is successful in achieving its goals. The Advisory Council will consult with stakeholders, including the government, to determine the vision statement.

As it was explained to me at my briefing—I think the government's framework reflects that explanation—the advisory council is a very high level strategic body. It will not be involved in decision-making and making recommendations on research project funding and innovation developments; it is there to guide the fund and the minister's decision-making at a very high level.

Clause 14 of the bill replaces sections 8 and 9 of the act. Section 9 relates to the application of the fund. As previously stated, the government's intent is to delete any of the Minister for Regional Development's decision-making capacity, or, in fact, any view at all on the application of the fund, despite \$1 billion of the \$1.4 billion fund being royalties for regions funding.

That is a nice sound.

**Hon Colin de Grussa:** I could just listen to that.

**Hon MARTIN ALDRIDGE:** Is it better than me, Hon Colin de Grussa?

Several members interjected.

**Hon MARTIN ALDRIDGE:** Mr Deputy President, for the benefit of those perhaps few sad people watching online, it is raining heavily and we can hear the noise in the chamber.

Clause 14 replaces sections 8 and 9 of the act and repeals the requirement for an agreement to be struck on an appropriate division of funding between metropolitan and regional areas. On this point, I recognise that that probably required modification to better reflect the government's intent to use the money now and for a rather defined purpose, as opposed to the Western Australian Future Fund that had no such limitations set on it post 2032. The provision also requires that there is to be agreement on the purpose for which funds are to be applied in the regions, and further removes the ability of the Minister for Regional Development to consult the Western Australian Regional Development Trust as established under section 11 of the Royalties for Regions Act 2009. For members who are not familiar with the trust, I have spoken of its role in recent debates. I have been quite critical of its lack of independence perhaps or the lack of critique that the trust has applied to the use of royalties for regions funds over the last few years. The trust is established to provide advice and make recommendations to the Minister for Regional Development on the royalties for regions fund. So that members are aware, an existing provision in the Western Australian Future Fund Act 2012 allows the Minister for Regional Development to consult the trust. We are not only deleting the Minister for Regional Development's role but also the regional development trust's role in the future fund. Of course, the trust's role under the current act is not binding. The board does not require the minister to seek its view, nor to give regard to its view. But, certainly, what will occur with this bill would significantly diminish the history of the formation and the funding source of the WA future fund, and also some of the particularly complex challenges we have in health services—delivery, population health and innovation—in regional and remote Western Australia.

Hon Nick Goiran talked about cost shifting. That remains a concern for me with respect to this bill. The parliamentary secretary's second reading speech fairly early on made that quite clear; it states —

The FHRI account is not intended to be a substitute for existing funding sources.

That is a very clear, plain statement that the money that is going to be expanded from the FHRI account is not intended to be a substitute for existing funding sources. I take that to read that any investment out of the FHRI account will be in addition to that baseline \$20 million a year that the state has funded pretty well year in, year out for medical research. I certainly think that that requires some further clarity when we get to the committee stage of this bill. No provision in this bill prevents the government from replacing existing medical research and innovation funding with this funding source. In fact, new section 4C(1)(b) makes clear that the Minister for Health can do exactly that. I implore members who have not turned their minds to this bill to pick up a copy and turn to page 7. Under proposed section 4C, "Application of the FHRI Account", it says —

(1) The Minister for Health may do the following —

- (a) make arrangements that the Minister for Health considers will further, or facilitate the furthering of, the purpose referred to in section 4A(1);
- (b) approve arrangements —
  - (i) that have already been made (whether by the Minister for Health or otherwise); and
  - (ii) that the Minister for Health considers will further, or facilitate the furthering of, the purpose referred to in section 4A(1).

Proposed subsection (8) goes on to say —

An arrangement may be approved under subsection (1)(b) whether it was made before, on or after amendment day.

This is of particular concern to me, because the parliamentary secretary representing the Minister for Health said this was going to be new funding on top of existing health research funding, and certainly that was the intent of the Labor Party going to the 2017 election—that is, to improve medical health research funding—yet we have



explicit provisions in this bill that will allow the Minister for Health to be the sole decision-maker on the spending of this \$540 million to cost shift existing government expenditure over the next decade.

My colleague Hon Mia Davies, MLA, pursued this issue in late 2019, as did my colleague Hon Terry Redman, MLA. We got back some written advice from the minister's office under a heading "Questions and Answers for Nationals, 21 October 2019". The question was —

**What is the purpose and intent of proposed new section 4C(1)?**

The answer was —

Proposed new section 4C(1)(a) gives the Minister power to make any arrangement that furthers, or facilitates —  
I think that should be "or facilitates" —

the furthering of, the purpose outlined in proposed new section 4A(1).

- It was a drafting decision to include an express statutory power in the amended Act to make arrangements, rather than relying on residual prerogative powers.

Proposed new section 4C(1)(b) gives the Minister power to approve pre-existing arrangements that were made before the commencement of the amended Act.

- This ensures FHRI money can apply to those pre-existing arrangements.
- For example, the Department of Health has pre-existing commitments that are long term arrangements involving ongoing periodic payments to the recipient over many years.
- To bring those pre-existing commitments under the legislative framework and to ensure those pre-existing commitments are able to receive FHRI money, the Bill includes a power for the Minister to approve these arrangements.

The legislation also allows for this power to be delegated.

How can that be reconciled with the words of the parliamentary secretary, who said, "The FHRI account is not intended to be a substitute for existing funding sources"? The government made it plainly clear in its response to our question that that is exactly what it is able to do with the inclusion of proposed new section 4C(1)(b), which is in this bill before us.

On 22 October 2019, the day after, Terry Redman asked this question —

**Will the new funding provided by the FHRI Account be in addition to existing departmental funding for research and innovation?**

The answer was —

When the legislation commences and the FHRI Fund and FHRI Account are established, all Department of Health research and innovation funding will come under the same funding framework. In addition to the forecast investment income credited to the FHRI Account, the Bill allows for other funds to be credited to the FHRI Account through appropriations or from external funding sources such as philanthropy. In the absence of these additional funds the total quantum of funding available for research and innovation will not exceed the value of the forecast investment income credited to the FHRI Account.

It should be noted that the funding provided through the FHRI Account will be significant.

By 2022/23 expenditure from the FHRI Account will be nearly double the current Department of Health funding provided for existing programs and initiatives.

Further, the Department of Health will pay for all administrative costs associated with the FHRI Account and the advisory group. This ensures that money in the FHRI Account will only be applied to the support of health and medical research, innovation and commercialisation.

That was the day after the answer was provided in writing, and it goes further to the answer that was provided the day before. It says two things. It says that the Department of Health, God bless it, will pay for the administrative costs. Of course it will, because it will not have to pay \$20 million a year in medical research funding, so a few hundred thousand bucks in some governance and board fees is going to be nothing. It has just saved itself a heap of money. This answer also makes it clear that the total quantum of funding available for research and innovation will not exceed the value of the forecast investment credited to the FHRI account. This is something I am going to test when we get to the Committee of the Whole House stage of the bill, because I think the government is being shiftily here in including these cost-shifting provisions in this bill so it can free up \$20 million worth of health cash and at the same time have conned the voters of Western Australia at the last election about the Labor Party's commitment to turbocharge medical research in this state.

There are a number of amendments standing in my name on the supplementary notice paper and I will foreshadow those now in brief. Obviously, when we get into the Committee of the Whole House stage, there will be time for closer examination of their merits or otherwise, but for now I foreshadow them. There are several amendments and they are interconnected. The first would require the Minister for Health and the Minister for Regional Development to confer and agree on the utilisation of funds from the account. In essence, it is a version of the existing section 9(4) of the Western Australian Future Fund Act 2012, which the government seeks to delete with this amending bill. It does not require the Minister for Health and Minister for Regional Development to set targets or percentages. They could decide that all the funding will be spent on one research project and a university in Queensland will be the recipient. That could be the case. The bill does not go as far as saying that a certain amount needs to be spent for a particular purpose or priority. They are things that I hope this expert advisory group will make informed recommendations about.

Further amendments require the Minister for Regional Development to consult with the Western Australian Regional Development Trust. Again, this maintains and, indeed, strengthens the existing section 9(5) of the Western Australian Future Fund Act 2012. Members might ask: if this is going to become a health or medical future fund, what role or expertise will the regional development trust have in advising the Minister for Regional Development? I agree that there would be some limitations, but I think it is better than having no advice at all or having no Minister for Regional Development involved at all, which is the intent of the government. Perhaps the most appropriate person to consult with the Minister for Regional Development on the application of the FHRI account would be a rural health commissioner. I had a motion about establishing a rural health commissioner in this house a few months ago that I think the parliamentary secretary amended. I think it was amended in a way that allowed the government to consider the merits of appointing a rural health commissioner. Perhaps later today we might hear whether there is an update from the government about its consideration of whether a rural health commissioner could add value to improving regional health outcomes in Western Australia. I agree that if that were the case, an independent statutory office of a rural health commissioner would be the most appropriate person to provide advice, if indeed they were not the person sitting on the advisory group.

My other amendments go to issues of governance and require that, in making any decision, the minister must have regard to a recommendation on expenditure from the advisory group. This provision would require the minister to direct the advisory group to do one of two things—to provide the minister with recommendations for funding or the minister would have the discretion to provide a particular project, body of research or innovation to the advisory group and seek its recommendation. This amendment maintains full ministerial discretion to agree or disagree with a recommendation of the expert advisory group, but it would increase the governance and rigour surrounding the establishment of an arrangement under this amending bill. The direction provided by the minister could include a request that a specific proposal ought to be examined, or that in making a recommendation, an arrangement ought to be funded, ought to be funded with amendment, or ought not to be funded.

Members might be aware that a similar model applies to the road safety minister and the road trauma trust account. The last time I checked, the road trauma trust account had expenditure in excess of \$100 million per annum. The arrangement that exists between the Road Safety Council, which is the council of expert road safety advisers in Western Australia, and the road safety minister, who is the decision-maker, is that the Road Safety Council can make recommendations to the road safety minister on expenditure from the road trauma trust account, and the minister has the ability to direct the Road Safety Council to consider a proposal. The minister is not bound by the outcome of the Road Safety Council's recommendation. I draw members' attention to an example of this earlier in the term of this Labor government—it was in the government's first budget or the second budget; I cannot recall exactly which, but it does not matter. The Road Safety Council put up a list of projects that it thought were most worthwhile to receive expenditure from that \$100 million plus road trauma trust account and the minister could agree, disagree or amend. The road safety minister issued a direction to the Road Safety Council to consider the option of the road trauma trust account being used to buy a new police helicopter. That was the minister's direction to the Road Safety Council. The Road Safety Council wrote politely back to the minister—we have a copy of the letter—saying, "Thanks for your direction but we disagree; a new police helicopter will not make one iota of difference to road safety outcomes in the state of Western Australia, and, therefore, we do not recommend that you use road trauma trust account money for this purpose." The minister said, "Thanks very much for your advice; I'm funding a police helicopter." It still preserved the minister's decision-making ability on the application of funds from the road trauma trust account, but it required the minister to take advice and for that advice to be transparently and accountably tabled in both houses of Parliament within a predetermined time frame. I think that mirrors the provisions I have created in my amendments, which would require any direction and recommendation to be tabled within 14 days of the recommendation being provided to the minister. It also includes an out-of-session tabling provision, which is common in other acts, and makes an amendment to the functions of the advisory group to reflect the amendments that I have just foreshadowed.

I do not think this bill is needed. I think this bill is a direct attack on the future fund of the state and, moreover, another example of the Labor Party cost shifting royalties for regions through another means. I do not think anyone in this house would question the importance of medical research and the important role it plays in the health of our

community, or the need for us to continue to advance those matters. There are some particular challenges in regional and remote Western Australia, as I mentioned before. The data on the inequity that exists between people is quite stark. It could be said, probably for people across Australia, that the health outcomes for those who live in our cities are much more significant than for those who do not. That is clear, probably in just about every jurisdiction of Australia. The question is how best we do this and achieve this. As I have said before, members might not be aware that the Labor government has twice cut funding to medical research—in two out of three of its budgets. At the same time, it is claiming to be on this crusade to boost funding. That seems to be at odds. Perhaps the information I have provided is not correct or I have misinterpreted it, but it was a pretty clear question and I got a pretty clear answer, so I think there are other motivations at play.

This policy was probably framed at a time when the government was trying its best to shift money the best way it could to deal with the financial situation of the state. I do not think it is the same case today. Members need turn only to page 5 of the midyear review to see all the new announcements made by the government since the budget was presented in May 2019. The 2019–20 *Government Mid-year Financial Projections Statement*, published in December 2019, contains a whole section on page 5 called “Leveraging stronger finances to support the economy”. There are three subheadings—“Jobs package”, “Keystart” and “Housing investment package and homelessness initiatives”. I want to run through some of these to demonstrate a point at the end. Among the announcements in the midyear review was a jobs package, with a three-year program of priority maintenance works across all 789 government schools in the state at a cost of \$200 million, and 89 Western Australian health sites at a cost of \$81.6 million. This package includes \$12.19 million in additional expenses and \$4 million in capital investment in 2021–22, and a \$12 million reduction in revenue, relating to the 50 per cent reduction in course fees and annual course fee caps on high-priority vocational education and training courses in 2020 and 2021. Also announced was the 75 per cent stamp duty rebate, available from 23 October 2019 to 23 October 2021 at an estimated cost of \$28.9 million over four years; an increase in the payroll tax exemption threshold from \$850 000 to \$950 000, which would reduce government revenue by \$169 million over the forward estimates; \$12 million over 2019–20 and 2020–21 for stage 2 of the Broome Chinatown revitalisation project; an extra \$489 million borrowing limit for Keystart in the name of supporting the construction industry and job creation; a \$150 million housing investment package; and a \$72 million boost for homelessness services over the period to 2024–25. If we add up those new announcements in the midyear review, we come to a figure of \$1.231 billion. I obviously recognise that not all of that will be new expenditure in this financial year—most of it is over varying periods of two, three or four years. However, I think it is fair to say that there has been a significant increase in expenditure over the forward estimates.

Members would be aware of the \$607 million stimulus package announced yesterday. We have certainly seen an appetite by and the ability of the government to respond to changing circumstances, different situations and different problems with hundreds of millions of dollars, if not, if they are all added up, billions of dollars, in new spending, as was announced in the midyear review. The government will make out that if this bill is not passed and we do not support repurposing the future fund, we do not support and are not focused on advancing medical research. The point that I want to make after reading some of those figures in the government’s midyear review is that it has more than enough capacity to respond to the challenge that it has set itself in increasing the level of medical research and innovation in this state without compromising the state’s future fund.

The next question that I ask myself is: how much is enough? We have seen the government’s appetite to resolve a number of issues largely funded by its windfall gains from the commonwealth sorting out the GST arrangements, and certainly the privatisation of assets has seen a significant windfall gain for Western Australia, even though Labor told the voters at the last election that it was not going to privatise anything. All these funds are converging into state coffers and the government has shown itself to have immense capacity to respond to changing times. The question I ask myself is: how much is enough? How does Western Australia compare with other jurisdictions? If we assess WA’s performance, given its circumstances, population and challenges, against other Australian jurisdictions, how well are we performing? Are we performing perhaps above the benchmark, averagely or below the benchmark? If this bill does not provide enough, how much is enough? That is the question that I want the parliamentary secretary to answer when she replies or perhaps during the Committee of the Whole stage. Where should we as a state be aiming as a satisfactory level of investment in medical research and innovation? If this bill does not provide enough and goes only part of the way, where will the next lick of money come from?

Another question I ask myself is: how do we compare this priority with other priorities? I will give members another example. I have already used the example of the Road Safety Council and the road trauma trust account, so I will continue with that theme. Road safety is a significant challenge that we face in Western Australia. In the last five years, 850 people have been killed and 7 500 have been seriously injured on Western Australian roads. The annual cost of road trauma in WA is estimated at \$900 million. The government will be quick to tell us that it has an unfunded \$900 million program over 10 years that it wants the feds to pay 80 per cent of. That is despite the fact that it has not yet committed a dollar to this \$900 million road safety package that it wants Infrastructure Australia to recommend to the federal government it ought to invest in. We will watch the May budget very closely to see what priority the government places on road safety in Western Australia and this \$900 million program over

10 years. Should the future fund not be repurposed to respond to this problem? This problem is costing our state nearly \$1 billion a year and has killed 850 Western Australians in the last five years. Should we be repurposing the future fund in the name of this cause, or how about drugs and alcohol, family and domestic violence or improving educational outcomes for our youngest Western Australians? That would be about the future.

The National Party will not support Labor's continued attack on royalties for regions and, in this instance, the future fund. In 2012, the Labor Party insisted on the future fund being locked up until 2062. The least we can do is ensure that it survives until the date of 2032 set by the Parliament of Western Australia, just 12 short years away.

**HON ALISON XAMON (North Metropolitan)** [3.35 pm]: I rise as the lead speaker of the Greens to speak on the Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019. The Western Australian Future Fund Act 2012, which was debated under the Barnett government when I was previously in Parliament, established the Western Australian Future Fund for the purpose of accumulating part of the revenue from Western Australia's mineral resources to ensure that it was there for the benefit of future generations. That act initially credited from the royalties for regions fund \$25 million and 25 per cent of the forecast fines royalty increase from 2013 to 2016, and since then the future fund has been credited annually with an amount equal to one per cent of the forecast royalty income for that financial year, which has been paid from consolidated revenue; whatever income the fund has earned from investments; and any other money that has been lawfully made available, such as extra appropriations, although I note that to date there have not been any. The act provides for the future fund to accumulate until 30 June 2032, and thereafter the accumulated principal is to be retained in perpetuity. The income can be applied to public works and other public infrastructure pursuant to agreement between the Treasurer and the Minister for Regional Development on the purpose and division between the metropolitan area and the regions. The act contains a manner and form provision that is intended to prevent its operative parts from being amended or repealed before 30 June 2032 unless both the second and third readings of the amending or repealing bill are passed with an absolute majority of each house of Parliament, so I note that we will require an absolute majority to achieve passage of this bill.

In 2012, the legislation may have been passed unopposed, but it was not passed without criticism. In particular, I note that the then Labor opposition criticised the bill heavily. It made the point at the time that it felt the money should instead be used to pay off what was then escalating debt, because the interest that would be earned on the future fund would be lower than the interest that was being paid on the state's debt. It also made the point that a future fund is for when debt levels are low, not when they are high. The opposition at the time considered that the manner and form provision was not legally binding and that there were substantial opportunity costs, and it talked about a whole range of other things that it felt the money would be better spent on, such as infrastructure and other priorities around health—the usual things that we need to try to find funds for.

Six months out from the election, the then Labor opposition called it a political gimmick. In his contribution, the then shadow Minister for Health, Hon Roger Cook, suggested that a medical research sovereign fund would be better. He spoke at the time about how he felt that investing in medical research improves clinical services because it attracts the best and the brightest. He also talked about it delivering economic benefits. He referred quite glowingly to the precedent for this in Alberta, Canada, where there has been significant investment in medical research that has led to Alberta becoming a focal point for medical research in Canada. As a result, it tends to attract top-level medical specialists and medical researchers and, in turn, that has produced better clinical services for Albertans, and I will have a little more to say about the way that that fund has been structured in a moment. I note that the then Australian Labor Party opposition's concern about putting money into the future fund instead of paying off debt was shared by the Chamber of Commerce and Industry of Western Australia. In 2014, *The Australian Financial Review* reported that the future fund was, as predicted, generating less return than the interest being incurred on state debt. The article cited CCI chief economist John Nicolaou as saying that he felt it was a hard policy to justify, considering the state had lost its AAA credit rating. He pointed out that the money was needed right now.

Here we are, looking at what reform we can potentially have in this space. The current size of the future fund is around \$1.4 billion. In the last financial year it earned around \$64 million from royalties and around \$40 million of income from investments. Every year since it was established, its investment income has been more than forecast. Until now, the forecast has been calculated fairly conservatively, by adding the balance plus the forecast royalty income for the year, and then multiplying the total by the Western Australian Treasury Corporation's cost of the fund. However, from now on, the Western Australian Treasury Corporation and the Department of Treasury are looking at calculating the forecast using a different method that is considered to be more accurate. The future fund is currently invested across a number of cash instruments and it also has cash.

This bill will effectively change the purpose and the object of the act. The new purpose will be to provide a secure source of funding for what are termed qualifying activities that directly or indirectly contribute to one or more of the following: improving the financial sustainability of Western Australia's health system, improving the health and wellbeing of Western Australians, improving Western Australia's economic prosperity, and advancing Western Australia to continue to be a national and international leader in any qualifying activities. Qualifying

activities are any type of research or innovation in the field of medicine or human health or the commercialisation or utilisation or development of the products or outcome of that research or innovation. The future fund, which will be called the future health research and innovation fund—I will just call it “the fund” for the purpose of this contribution—will continue to exist and will still increase annually by one per cent of royalty income. It will still be able to receive other moneys such as appropriations or, potentially, private sector or commonwealth government contributions to research and innovation. All these funds will still be held in perpetuity. The manner and form provision in the act will also continue, despite the government’s scepticism about whether it is legally binding. The fund will still be able to be invested to earn income in the same way. However, what will change under this bill is that the investment income being earned by the fund will be able to be spent, provided it is on the new purpose or the object. To facilitate this, a special purpose account, which is to be administered by the Minister for Health and is to be called the future health research and innovation account, will be established. I will just call it “the account” for the purpose of this contribution. Each year the fund will pay into the account an amount equalling the annual investment income that has been forecast for that year. The account will also be able to receive moneys such as appropriations. As I said earlier, the method of calculation will be changed to become less conservative. If the forecast turns out to be higher than the income, the amount paid from the fund to the account the following year will not be reduced as a result of that shortfall. I make the point that although the method of calculating the forecast income will, hopefully, be a little more accurate, I hope that if the figures prove to be wildly wrong, the calculation method will be reviewed.

Spending decisions about how to apply the money in the account are to be made by the Minister for Health. The Minister for Health will be able to delegate that function to the CEO of the department principally assisting the Minister for Health in the administration of the account. The CEO can in turn further delegate that function to a public service officer in that department. The discretion of the minister or the eventual delegate over spending decisions is very broad. I also note that it is very subjective. The bill will allow the minister or the delegate to make or approve arrangements that the minister or the delegate considers will facilitate furthering the purpose that I have already mentioned. The arrangement is also defined very broadly. It means a project, a contract, a scheme or any other type of arrangement. The explanatory memorandum and debate in the other place indicate that it would include, for example, a prize in a hackathon, a grant, or paying for costs or services. Debate in the other place indicated that it could also potentially include the state taking equity shares in a project, although that could become financially complex by, for example, involving the state in one-on-one fundraising activities. If that is not already broad enough, in addition, the regulations will be able to prescribe other cases in which the account’s money can be applied, provided always that the minister or the eventual delegate considers that the expenditure will further or facilitate the furthering of the purpose. In the other place, the minister indicated that a delegate will not be able to sign off on contracts above \$50 000, or grants amounting to that value, without the approval of a senior public servant in the Department of Health, but I note that that is policy and is not in the bill itself. If the funding arrangement results in profit, the profits will be able to be paid into the account. They will be able to remain there or, alternatively, the Treasurer and the minister can jointly direct in writing that they be transferred from the account to the fund. They will not be able to go back into consolidated revenue.

Another change made by the bill is that the minister must establish and maintain an advisory group. That will comprise the CEO or the CEO’s nominee, who will be a non-voting member and cannot be the chairperson, and the CEO or the CEO’s nominee from the department next most closely involved with qualifying activities—for example, the department assisting the Minister for Science or the Minister for Innovation. Again, that person will be a non-voting member and also will not be able to be the chairperson. It will also include a community representative who has been appointed by the Minister for Health, a person the minister considers to be an expert in qualifying activities that are research, a person the minister considers to be an expert in qualifying activities that are innovation, and at least three more people the minister considers to have a suitable variety and a level of relevant expertise and experience, including at least one person the minister considers to have experience with the health of Aboriginal Western Australians and at least one person the minister considers to have experience with the health of regional Western Australians. Advisory group members will have a term of up to five years and will be able to be reappointed. They will hold office according to the conditions in their instrument of appointment. Those conditions must include what steps the member must take in the event of an actual or a potential material conflict of interest. The minister will be able to determine the advisory group’s operational and procedural matters, including quorum and voting. Otherwise, the advisory group will be able to determine its own procedure, including performing its functions via the establishment of subgroups of its members. I note that no civil liability will attach to advisory group members for anything they do, as long as they do it in good faith. The function of the advisory group will be to provide the minister or the department with advice or other assistance on request from time to time about furthering or facilitating the account’s purpose, or other matters relating to the minister’s functions regarding the account’s establishment or application. The government is estimating that the operational costs of administering the bill will be around \$5 million a year. It is a rough estimate and is obviously intended to be refined over time. The \$5 million will come from existing research funding and not from the account; that is, the ordinary budget of

the Department of Health will pay for its operating costs associated with the bill, including those of the advisory group. The ordinary Treasury budget will pay for the operating costs associated with its financial management obligations under the bill. The account is for health research and innovation only; it is not for operational costs.

The transparency provisions in the bill include the forecast investment income from the fund, which is intended to be published in the budget papers. Both the Financial Management Act and the Auditor General Act apply to this account. The Department of Health's annual report must contain information about the operation of both the account and the fund during the financial year, including the amount that is charged to the fund during the year and how the money in the account was applied. I have a couple of questions that I hope the parliamentary secretary is able to answer in the course of the second reading reply. If not, I will explore it further in Committee of the Whole during consideration of clause 1. I ask the parliamentary secretary representing the Minister for Health to please confirm for the record that our freedom of information laws will apply in the usual way and that section 4 of the Parliamentary Privileges Act allowing Parliament and committees to summons people to attend to give evidence or produce documents also applies. I anticipate that the answer to both those question will be yes, but I would appreciate having that on the record.

Separate from the bill, the government has tabled the “Western Australian FHRI Fund Governance Framework”, which has been prepared by the Department of Health. Paragraph 1.3 states —

The key principles of the Framework have been informed by the Public Sector Commission's Principles of good governance for boards and committees and the design principles identified in the Baseline review for the Future Health Research and Innovation (FHRI) Fund — Final Report (Deloitte Access Economics, September 2018).

Being separate from the bill, I point out that its contents are not binding and cannot be amended by Parliament. Nonetheless, the framework at least puts on the record the government's intentions, and that is that the fund does not seek to replace funding from other sources such as grants from the National Health and Medical Research Council nor to subsidise things the recipient should be doing anyway as part of its normal business activities. The fund will have two funding streams—one for research and one for innovation—and the advisory group, referred to as the “advisory council” in the framework, will develop a strategy of goals for research and innovation and recommend those to the minister for approval. The first strategy will be for three years and subsequent strategies for five years. We have been advised that the strategies will involve extensive consultation with stakeholders as well as state-endorsed reports and reviews such as the “Sustainable Health Review Final Report” and also reports of various inquiries and taskforces that have made recommendations that are subsequently supported by government. I was advised at a briefing that the intention is to publish the strategy online. I would appreciate confirmation that that is indeed the case. From the strategy, the advisory council will identify for the minister's approval the priorities and the proportion of funding each priority should receive, and these will be published online following approval. The Department of Health will develop and implement for the minister's approval programs and initiatives that contribute to achieving one or more of the priorities, and these programs and initiatives will complement, not replace, other sources of funding such as the National Health and Medical Research Council and, when possible, be co-funded and collaborative. They will also provide direct returns to Western Australia. For example, they will be based in Western Australia and expend funding in WA. They will also use competitive and peer-reviewed selection processes like those of the National Health and Medical Research Council to choose recipients, and information will be published online and in the annual report after funding decisions are made.

The advisory council expert committee's support for the advisory council and the Department of Health's research and innovation office will be subject to three-yearly performance reviews, with the outcomes published in the annual report. The fund's annual forecast investment earnings will be published in an appendix to budget paper No 3. The advisory council and the expert committee will each have a code of conduct, a conflict-of-interest management policy, a conflict-of-interest register and a registers of gifts, benefits and hospitality. Their respective chairs will be responsible for ensuring that conflicts of interest are identified, managed and recorded, and deciding how much of that information is subsequently published online. Published information will include the advisory council preparing an annual report to the minister, and that will be published online. Each expert committee will also produce a report that will be included in the annual report. The three-yearly performance review of the advisory council, the expert committees and the research and innovation office of the Department of Health will be included in the annual report. The Department of Health will make the priorities, programs and initiatives and the market-led proposals and individual grants publicly available. The intention is to put that information online. Evaluations are discussed at chapter 9 of the framework. The Department of Health will develop the evaluation framework that will be approved by the minister, but this will not apply to investment management and performance, which remain the Treasurer's responsibility. The evaluation will instead consider the programs, initiatives, priorities, strategies and the health of the fund overall. Evaluations will be conducted by an external provider and presented by the advisory group to the minister for approval. What will be measured and how it will be measured is not clear. The framework provides lists of possibilities, while also noting that measuring impacts in a meaningful way will be

challenging and that it may be many years before there is measurably better health or economic prosperity. The framework will be reviewed by the Department of Health annually, or at least once every five years, and any amendments need to be approved by the minister. Although there is no requirement for that information be tabled or published, I was advised at the briefing that it will be published online, or at least that is the intention.

The need for WA's health system to get better at research and innovation was recognised by the independent Sustainable Health Review in 2018. The review recommended strategy 8, which is titled "Innovate for Sustainability" and states that innovation and research are vital to achieving a more sustainable WA health system. That review went on to note that the evidence for the economic benefits from innovation are significant. Recommendation 28 of the review was to establish a system-wide network of innovation units and review identified priorities for being able to implement that. Those priorities included that the fund be aligned to provide secure funding and foster a culture of innovation, and that a central unit be established to help with intellectual property, legal, marketing and protocols commercialisation, and to facilitate sharing innovative work across the system. Recommendation 29 was that future research activities and investments be linked to WA health system priorities and be actively translated into practice. The priorities that the review identified for implementing that included that the fund be aligned to provide secure funding and foster a culture of research and translation. Another was for the public reporting of both research and translation. We have been talking about the need to improve our capacity for health research for quite some time. As far back as 2004, the Reid report similarly identified the need to support clinical research and noted that that was a way to attract and retain good clinical staff. Even as far back as 2004, the Reid report identified the need for an innovation fund.

The nearest commonwealth equivalent to this bill would probably be the Medical Research Future Fund Act 2015. I make particular reference to that act in the context of this bill because, unlike this one, which I believe contains many important government provisions in the separate framework document, the commonwealth legislation has embedded many of those important governance matters in the legislation itself. I believe that is a better approach to dealing with critical issues of governance.

The sorts of provisions that the commonwealth legislation has embedded, which are not in this legislation, are when exercising discretion about expenditure from the fund, the minister is required to take into account the priorities currently in force; and the legislated functions of the advisory group, which is an advisory board under the commonwealth legislation, and include determining the strategy and the priorities, not just advising on matters that are referred by the minister. The commonwealth legislation addresses the strategy, which is enforced for five years, and requires it to be published on the internet and it must not require financial assistance to be provided to a particular person or for a particular project. The commonwealth legislation also addresses the priorities, which are in force for two years and are required to be published on the internet. The legislation mandates that certain matters need to be taken into account in determining priorities, including the burden of a disease on the community, how to maximise practical benefits, how to provide the greatest value and how to ensure that that expenditure complements and enhances other expenditure on medical research and innovation.

I have a bit of a mixed view on issues such as the burden of disease on the community. I will have a little more to say on that in a moment. I note that Hon Matthew Swinbourn in particular shares my passion for ensuring that rare diseases are given the priority I think they deserve, remembering that about 300 million people worldwide as a whole are affected by rare diseases. I am always concerned if rare diseases are bumped to the bottom of any sort of research priority simply because of numbers, when so many people are affected. That aside, I at least appreciate that there are criteria within the commonwealth legislation to try to put some parameters around how particular research priorities are determined.

The commonwealth legislation also mandates consultation before determining the strategy or the priorities and it requires members of the advisory board to disclose any material personal interest as soon as possible to both the advisory board and the minister. Those disclosures have to be recorded in the minutes of that meeting and in the event of non-disclosure, the minister is required to terminate the member's appointment unless there is a reasonable excuse.

Under the commonwealth legislation, the minister is required to provide information two-yearly. When the priority has expired, the minister must prepare and table a report showing how the funds provided were consistent with the priorities, what process was used to determine grants and information about any other commonwealth financial assistance that was provided. Each time a grant is made, the minister must publish on the internet the amount, to whom it was paid and any other relevant matter.

Importantly, the commonwealth legislation also includes a review clause. To protect against cost shifting, the review is required to include consideration of whether expenditure has complemented and enhanced other commonwealth funding for medical research and innovation, or otherwise effected the total amount of commonwealth funding for medical research and innovation. The commonwealth legislation addresses how the funds can be invested, although the only exclusion in the act itself is that ministers must not direct the future fund board to assist in a particular financial asset, acquire a particular derivative or allocate financial assets to particular businesses or activities.

A separate environmental, social and governance policy is published on the future fund board's website that contains further exclusions. Currently, there are exclusions for two groups of companies. I support those exclusions—that is, those involved in the primary manufacture of complete tobacco products and those related to military weapons—related conventions or treaties that have been ratified by Australia such as the 2008 Convention on Cluster Munitions and the 1997 Anti-Personnel Mine Ban Convention. I asked about this at the briefing because I think it is very important that this bill will not facilitate investment that is inimical to human health. It is my understanding—I ask the parliamentary secretary to please confirm this for the record—that unlike the commonwealth, this state is not able to invest in shares; therefore, the fund and the account will definitely not be invested in tobacco, cluster munitions, alcohol or junk food, for example.

I said I would say a little about the Alberta Heritage Savings Trust Fund, which I know Hon Roger Cook has spoken about glowingly in the past, because there is a precedent for bills of this sort outside Australia. I want to talk specifically about the situation in Alberta, Canada. The Alberta Heritage Savings Trust Fund was established by the Alberta Heritage Savings Trust Fund Act in 1976 with 30 per cent of annual non-renewable resource revenue, plus \$1.5 billion from general revenue. Part of the annual net income must be retained in the fund to proof it against inflation. What happens with the rest of the fund's annual income has varied over the years, depending on the objects at the time, which are decided in consultation with Albertans. Sometimes the objects have been to maximise long-term financial returns for current and future generations. Sometimes the objects have been broader, including diversification of the economy and simply improving Albertans' quality of life. Depending on the objects at the time, the balance of the annual income has been able to be transferred to consolidated revenue to help pay for priority programs. The objects seem to have been broadest in the earliest years of that fund. Accordingly, in the 1980s, some of its moneys were spent on capital projects that were designed to simply help Albertans' quality of life, including developing parks, enhancing libraries and maintaining forests, as well as diversifying the economy.

Under the fund's governing act, there is a nine-member all-party standing committee of the Legislative Assembly with the functions of reviewing that fund's quarterly reports. That standing committee of the Legislative Assembly also has the responsibility for approving the annual report, reviewing the performance annually and reporting directly to Parliament on whether the fund's mission has been fulfilled. It also has the responsibility of ensuring that it meets with Albertans on the fund's investment activities and the results.

Regulations can be made to determine what investments can be made. The fund's annual report provides considerable information about the nature of the investments, including the names of the companies that have invested in the sector. A statement of investment policies and goals overarches the investment strategy. Like the commonwealth legislation here, that also makes it clear that the fund cannot directly hold investments in the tobacco industry.

The Greens do support using the income from the future fund for medical and health research and innovation. At the federal level, we supported the establishment of the Medical Research Future Fund. At the time, the Greens advocated for that fund to support commercialisation. The 2013 McKeon review reported obstacles to taking health and medical research and innovation from breakthrough through to commercial success. It noted that commercialisation needs funding at three stages—pre-clinical, early clinical and late clinical—but funding shortfalls at the first two stages have such a negative impact that they are called the “twin valleys of death”. Therefore, targeted government support is necessary for us to help facilitate those two earlier stages. At the federal level, the Greens also advocated for increased funding for the National Health and Medical Research Council.

As I have previously indicated, on a personal level, I also very much support the need to invest in additional medical research, recognising that when we find cures and/or improve the lives and wellbeing of people who have a series of health issues, it saves costs in others areas within the community.

We often facilitate people to a point of health at which they are able to participate fully in our community at every level, including full employment. I think it is important that we recognise that there are so many people who benefit from good medical research. I have spoken before about my particular interest—for which I am not alone in this chamber—in addressing some of the rarer diseases. In recent times, I have taken a particular interest in a lot of the research that is happening in this state around eye health. I note that organisations such as Retina Australia are trying very hard to attract dollars for the purposes of trying to improve eye health. A significant number of people have vision impairment or are blind or going blind and they are constantly scrabbling for more research to be undertaken in this area. Part of the problem is that a lot of the people who are affected by eye diseases fall within that rare disease category, and so the money never becomes available to undertake a lot of that research. I have indicated in the past that we are lucky to have the Lions Eye Institute in Western Australia with some leading international doctors on eye health, who, nevertheless, would love to be able to contribute more to international efforts around eye health research, but the dollars are not there to maximise their capacity to do that. I am particularly interested to see moneys being made available. I think it is a priority of government, particularly in those first two tranches of research, to be able to facilitate finding cures.



As I said, 300 000 million people—I think I got that figure wrong earlier—are affected globally. The community represents the largest health constituency—namely, people who are affected by rare diseases. Particularly, Retina International, which consists of 43 member organisations across the globe, is trying to understand the complexity of rare diseases. I understand the challenge more than most because it is looking particularly at inherited retinal diseases as among some of the most complex genetic disorders with over 260 genes identified to date. The complexity of these conditions underlies the need to support research from concept through to therapy delivery. As a community, we are not ensuring that researchers are able to get the sorts of dollars they need to undertake that research. There is a lot of excitement about the prospect of some of the early research being undertaken and some of the treatments; however, they have identified that much more investment is needed, particularly in retinal research, in order to go some way toward providing necessary care and treatments to all in our community.

I am very supportive at a personal level of investment in even the most basic research. We have a lot of work that we need to undertake and that means we need dollars. That is what makes me happy about this bill. That is what makes me happy about the idea of trying to ensure that we have an ongoing fund that will prioritise medical research. Of course I support the policy that this legislation is trying to achieve—how could anyone not? But I have concerns about the way this bill has been written. I have referred to the previous legislation that I mentioned, particularly the situation in Alberta, Canada and the commonwealth legislation, because that highlights some of the concerns I have about the way in which this legislation has been presented. As happy as the Greens are to support the future fund for medical and health research and innovation, we are concerned—I remain very concerned—that the bill is very sketchy when it comes to governance and transparency. For example, under the legislation the minister or the minister's delegate, or even that delegate's delegate, has enormous discretion with very little guidance on how that discretion should be exercised. I am also concerned that the advisory group's role, like some of the other advisory groups in similar legislation, is merely to assist on request. That is very different from the role that advisory groups play in other legislation. All the bill actually says about conflict of interest is that the instrument appointing members of the advisory council must say what happens if the member has an actual or potential material conflict of interest. The legislation does not make explicit whether a conflict of interest must be recorded in the minutes, whether the person can participate in the discussions or even vote, whether there is a penalty for failure to disclose a conflict of interest or whether the advisory group can determine that there is a conflict of interest in the event of nondisclosure. There is also nothing in this bill about evaluation, nor any review clause. Although the governance framework that I referred to earlier addresses some of those gaps, as I also noted at the time, that framework is not binding, Parliament cannot amend it and it is subject to unilateral change by the government of the day. There is not even a requirement that the most up-to-date version of whatever the framework may be is tabled or otherwise published. I think it is a pity that the McGowan government has not taken the opportunity to use the legislation as a mechanism for ensuring that it is hardwiring crucial governance matters. I remind members that these funds will be taken from moneys earmarked for the future of Western Australians.

I note that one of the critical success factors for implementation identified in the sustainable health review was good governance. Key considerations in that review identified including hardwiring change using governance architecture to make sure that we are creating tangible reform and aligning the implementation agenda to broaden legislation and also to governance frameworks. I also note the sharp contrast between the approach taken in this bill and that used in the Infrastructure Western Australia Bill. In the debate on that bill, I stood in this chamber and talked about governance as well. Although I appreciate the difference—IWA is an independent statutory body—the point remains that the careful way in which the Infrastructure Western Australia Bill was drafted put into practice the lessons learnt from the Langouant report about the importance of transparency and the WA public's entitlement to relevant information that assists it in understanding government decisions, performance and plans so it can hold the public sector to account.

I also want to draw to members' attention to a Corruption and Crime Commission report of 2015 titled "Report on the Misconduct Intelligence Assessment of the Western Australian Public Sector". As the title suggests, that report was a risk assessment. It was not an investigation into alleged misconduct. That CCC report identified WA Health as one of the public sector agencies at high risk. Of course, I absolutely acknowledge that WA Health does a lot of things extremely well. My goodness; we are all very grateful for the work WA Health is doing right now trying to deal with the pandemic crisis and it often has to deal with very challenging circumstances, but it is unfortunately true that there have been too many instances of alleged misconduct. Obviously, I am thinking particularly of the North Metropolitan Health Service's contracts scandal, but there have also been many CCC investigations into WA Health over the last few years, and some of them have been particularly damning—and also included huge amounts of money. On top of that, given the recent scandal involving a senior public servant at the Department of Communities, I think now is the time, members, for everyone to be particularly cautious about bills that give such broad discretion as this bill proposes. The CCC report I referred to identifies some specific corruption and misconduct risks for WA Health, and significant to this bill, the very first item in that list talks about relationships to industry. They include gifts and benefits, sponsored travel, sponsorships and donations, and research grants. The report

specifically talked about that as an area of potential risk. The CCC report also identified boards and committees in the public sector generally, not just in public health, as an area of potential and emerging risk. The report explained —

Boards and committees both regulate and promote particular industries and their members are often chosen because of their relationship to, and knowledge of, the industry. This close and potentially conflicted relationship to industry may give rise to perceived and actual conflicts of interest. The corruption and misconduct risks in this context are considerable.

Although I absolutely support the intention underlying the bill, it is for all those reasons that I am disappointed by the missed opportunity to draft this bill in a way that guides the exercise of the discretion of the minister, the minister's delegates or the delegates' delegates; clarifies the role of the advisory group, as exists in other similar legislation; clarifies what happens if a member of the advisory group or expert committee has a conflict of interest, which I think is highly likely in a small community of experts and even more likely in a small state such as Western Australia; and mandates the publication of documents relating to all of these very important things and not just annual reports and the amount of annual funding. Although the governance framework document is very helpful and addresses some of these things, it is not binding, and I do not think it is a substitute for a better bill.

Members will see from the supplementary notice paper that I am proposing some amendments, the purpose of which will be to hardwire into the bill greater transparency in two areas—first, expenditure of the account, the how, not just the how much; and second, addressing conflicts of interest in that advisory group. These are really important matters that the public is absolutely entitled to know about. This keeps a light shining on those two areas that have previously been identified as where the risk of misconduct is the greatest. If passed, I think my amendments will deliver important protection, which is then guaranteed in the body of the bill and not in a non-binding framework that could be changed at any time without people being aware. The amendments do not require anything different from the framework; they just make some of the framework's more important promises binding. This is Western Australia's future fund, so we need to make sure that we do everything we can to protect it for Western Australians. I ask members to seriously consider supporting my amendments.

Before I conclude my comments, another concern I have is that the growth of WA research is being impeded by the lack of privacy legislation. I have raised that issue on a number of occasions over the last couple of years. I believe that the lack of privacy legislation is an impediment to WA being able to grow its participation in world-class medical and health research. The WA Chief Scientist has found evidence that other states and countries are, unfortunately, hesitant to share data with WA due to a lack of privacy legislation. As I mentioned before, health research, particularly on a lot of rare diseases, is now global, and WA's competitors and collaborators are often in jurisdictions that have those privacy laws, and our lack of privacy laws is putting WA at a competitive disadvantage. In particular, research is increasingly required to comply with the European Union's general data protection regulation, so for WA to ensure that it can compete and collaborate in medical and health research on an equal basis we need to ensure that WA's privacy laws are aligned to those of the EU and meet the EU's requirements so that personal data held in the EU can be transferred to our research institutions here in Western Australia. I understand that the Department of the Premier and Cabinet is already working on privacy laws and the Department of Health is at the table and has raised this issue. I ask the parliamentary secretary to please confirm that the Department of Health will advocate strongly via that forum to progress privacy laws and to remove that impediment to WA's medical and health research as quickly as possible so that this bill can deliver the greatest possible bang for our future buck.

Overall, the Greens are very supportive of what this legislation is trying to achieve. I believe that my amendments on the supplementary notice paper will make it a better and more effective bill, and at the same time will in no way impede the capacity of the bill to enable the undertaking of the best possible research in a global context. I hope that the amendments are given serious consideration. Overall, I see this bill as a positive step.

**HON COLIN TINCKNELL (South West)** [4.25 pm]: I rise to make some comments on the Western Australian Future Fund Amendment (Future Health Research and Innovation Fund) Bill 2019. This bill is an interesting amendment to the Western Australian Future Fund Act. I have issues with future funds, mainly because of Australia's and Western Australia's record on them, which is not great. We heard about the Alberta future fund in Canada. Many other countries who benefited from the North Sea oil in Europe during the 1970s and 1980s now have great future funds that futureproof them for tough times. The whole world is going through a tough time at the moment with this virus, so it would be nice to think that we could put away some money for future generations. However, I have some concerns with this bill. The main reason I have concerns is that it is a matter of trust. We have a Future Fund Act and we now have an amendment to the Future Fund Act. I am sure that many amendments to the bill will have been made by the third reading. There will be many questions, because this bill is very open. Things are at the minister's discretion, so I do not think that the checks and balances are there to make sure that this money is spent wisely.

As I mentioned before, where does the money for future funds come from? The money comes from royalty income mainly through the mineral resources industry. I have been in this house for the last three years and have heard the mineral resources industry cop an absolute battering from certain members in this house, yet they are pretty keen to spend the funds that may become available in this future fund. I think that shows a lack of respect and overall understanding of the way the economy works. Everyone is rushing around to work out how we can spend the money, but they forget about where the money comes from.

In general, future funds are a good idea, but do they work? There is a big question mark. Do they work in this country and this state? The record is not great. We have a pretty big mounting debt at the moment, and it is costing us more and more because of interest rates and whatever. Could we not better spend this money from the proceeds of this future fund to pay off the debt? Maybe.

The bill refers to the following objects —

- (a) improving the financial sustainability of Western Australia's health system;
- (b) improving the health and wellbeing of Western Australians;
- (c) improving Western Australia's economic prosperity;
- (d) advancing Western Australia to being, or maintaining Western Australia's position as, a national or international leader in any qualifying activities.

That is all great stuff, but what is our record? As I have said before, our record is not good. Considering where we are and the way the world is today, health research is obviously very important. It is important that money is put aside for health research, but we do not know whether the money will definitely be spent on health research or other worthwhile causes. Around Christmas, the government put forward a fantastic proposal for homelessness. I am a big supporter of that. However, we do not really know how this money will be spent, and that is the problem; it is too open. If it will be at the minister's discretion, the committee's discretion or the delegate's discretion, we really do not know how that money will be spent. I have some doubts. I will have many questions for the parliamentary secretary. I heard the great contributions from other members in this house and I will be making a further contribution during the third reading stage.

Debate interrupted, pursuant to standing orders.

[Continued on page 1394.]