CHAPTER 1

We believe the [Australian Education Bill 2013] will lead to ensuring a fairer funding model for all kids and will enable our nation to start to bridge the education gap. All young Australians deserve equitable access to a quality education no matter what their background…¹

Reference

1.1 On 18 June 2013, the Senate referred the Australian Education Bill 2013 (the amendments) and the Australian Education (Consequential and Transitional Provisions) Bill 2013 (the consequential provisions) to the Senate Education, Employment and Workplace Relations Legislation Committee (the committee) for inquiry and report by 20 August 2013.² For reasons addressed below, the committee decided to present its report on 24 June 2013.

Conduct of inquiry

1.2 Details of the inquiry were made available on the committee's website. The committee also contacted a significant number of organisations inviting submissions to the inquiry. Submissions were received from 16 individuals and organisations, as detailed in Appendix 1.

1.3 Before addressing the amendments themselves, the committee acknowledges concerns from submitters about the short timeframes for this inquiry.³ Nonetheless, the committee stands by its decision to table its report earlier than planned. The committee's reasoning can be gleaned from the number of submitters who stressed the need for schools to have funding certainty. For example, the Independent Schools Council of Australia stated the 'uncertainty surrounding future funding arrangements' is making it very difficult for independent schools to undertake vital planning.⁴ For this reason it is essential that these bills be passed without delay to ensure funding certainty for schools. Further delay would only serve to create uncertainty and constrain the ability of schools to plan their budgets for the 2014 school year.

Acknowledgement

1.4 The committee thanks those organisations and individuals who contributed to this inquiry by preparing written submissions.

¹ Australian Council of State School Organisations Inc, Submission 14, p. 2.
² Journals of the Senate, 2013, p. 4048.
³ See for example, National Education Commission, Submission 11, p. 2; Association of Heads of Independent Schools of Australia (AHISA), Submission 8, p. 1.
⁴ Independent Schools Council of Australia, Submission 4, p. 6. See also, Australian Parents Council Inc, Submission 16, p. 4; See also, Association of Heads of Independent Schools of Australia, Submission 8, p. 1 (discusses 'the need for a rapid and satisfactory outcome in funding negotiations that provides a consistent and stable revenue base for schools to plan their activities').
Background

1.5 The committee previously conducted a lengthy inquiry into the Australian Education Bill 2012 when it was introduced to Parliament in November 2012. That inquiry examined the broad policy objectives and legislative framework for national school reform. Submissions were received from 32 individuals and organisations, and an extensive public hearing was held in Melbourne on 1 April 2013. The report was tabled on 13 March 2013.  

1.6 Having previously reported on the policy direction of the original bill, this report will instead focus on the amendments to the bill, and the Consequential provisions.

Purpose of the bills

1.7 The amendments would provide for a national approach to funding school education that ensures schools are funded according to the needs of their students. The amendments:

- Detail the Commonwealth's new funding model for all Australian schools, including the per student amounts, loading amounts for disadvantaged schools and students, and capacity to contribute settings for non-government schools.
- Lock in Commonwealth schools funding growth of 4.7 per cent.
- Detail the transition arrangements for schools currently above, at, and below their School Resourcing Standard (SRS) funding amount.
- Set out the requirements for participating schools to implement the reforms within National Plan for School Improvement, for example the development of annual school improvement plans.
- State a commitment to greater transparency and accountability as part of the national plan, including the publication of more information about school funding and results.

1.8 The consequential provisions amend certain Commonwealth laws and contain transitional arrangements consequential to the enactment of the bill.

Compatibility with human rights

1.9 The explanatory memorandum states that both the amendments and the consequential provisions are compatible with human rights. The amendments promote the 'right to equality and non-discrimination, the right to education and the rights of people with disability in the context of education, and the right to the

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enjoyment of just and favourable conditions of work, in the context of school education and teaching'.

1.10 The Parliamentary Joint Committee on Human Rights has not commented on the amendments, and noted that the consequential provisions are unlikely to raise human rights concerns.

Scrutiny of Bills Committee

1.11 The Senate Standing Committee for the Scrutiny of Bills commented that a Henry VIII clause has been included in the consequential provisions, drew Senators’ attention to this provision and requested an explanation from the Minister, noting that the explanatory memorandum does not provide a rationale. The Minister’s response had not been reported on by the Scrutiny of Bills Committee at the time of tabling, and that committee has not yet commented on the amendments.

Key provisions of the amendments

1.12 This section discusses the key amendments: including the outline of the funding model, the loadings, and the requirements for funding.

The funding model

1.13 Funding is provided for both 'participating' and 'non-participating' schools. Participating schools are government and non-government schools in a state or territory that have signed a bilateral agreement with the Commonwealth and are party to the National Education Reform Agreement (NERA). Non-participating schools are government schools in a state or territory which have not signed on to the national reforms. All non-government schools are participating schools.

1.14 The amendments outline the conditions of funding for state and territory governments and describe national policy initiatives. The amendments would allow funding to be provided to an 'approved authority' for non-government schools (for example to a Catholic body for distribution to individual schools in the Catholic system).

1.15 The amendments include the formula for the calculation of funding, including loadings. The School Resourcing Standard (SRS) is an amount per student used to calculate base funding for each school, indexed annually by 3.6 per cent. In 2014 the SRS amounts are:

- $9,271 for a primary student; and,
$12,193 for a secondary student.\textsuperscript{13}

1.16 The Smith Family expressed support for the needs-based funding model, submitting that:

The Smith Family has consistently supported the findings of the independent Review of School Funding which called for needs-based funding which takes into account the factors which are associated with poorer educational outcomes. Given the centrality of this principle to the Australian Education Bill, we believe it is appropriate that it is explicitly included in the Objects of the Act.\textsuperscript{14}

1.17 Christian Schools Australia was generally supportive of the amendments, describing the funding model as 'genuinely needs based' and resulting in an 'equitable and demonstrably fair" allocation of funds.\textsuperscript{15}

**Loadings**

1.18 To ensure that schools are funded according to the needs of students, the amendments provide for six loadings for students needing extra support. These loadings are for:

- Students with disability;
- Aboriginal or Torres Strait Islander students;
- Students with a low socioeconomic status;
- Students with a low proficiency in English
- Schools outside of major cities (ranging from 10% for regional schools to 80% for very remote); and,
- Students in small schools.\textsuperscript{16}

1.19 While expressing caution about how the loadings would finally be settled, the Australian Association of Christian Schools Limited called them 'well-conceived and certainly justified'.\textsuperscript{17} Some submitters expressed concern that the disability loading was not settled yet.\textsuperscript{18} The Department of Education, Employment and Workplace relations advised that provision has been made to allocate an interim loading to account for students with a disability:

The loading for students with disability will be introduced once nationally consistent data on these students is available and a robust loading is

\textsuperscript{13} Australian Education Bill 2013, clause 34.
\textsuperscript{14} The Smith Family, *Submission 6*, p. 2.
\textsuperscript{15} Christian Schools Australia, *Submission 5*, p. 1.
\textsuperscript{16} Australian Education Bill 2013, *Revised explanatory memorandum*, p. 3.
\textsuperscript{17} Australian Association of Christian Schools Limited, *Submission 1*, section 13.
\textsuperscript{18} See for example, National Catholic Education Commission, *Submission 11*, p. 2; Children with Disability Australia, *Submission 13*, p. 5.
developed in 2015. Until then, an interim loading will be used as prescribed in regulations.\(^\text{19}\)

1.20 The committee believes that this is a sensible approach and ensures that schools still receive loadings for disability, while nationally consistent data is collected and appropriate loading levels are determined.

**Requirements for funding**

1.21 The amendments detail the basic requirements schools and approved authorities must meet to receive funding, including that they must be financially viable, a body corporate or body politic, a fit and proper person, and must not run schools for profit.\(^\text{20}\)

1.22 Approved authorities must also meet ongoing policy and funding requirements which include:

- Distributing funding to schools according to using a 'needs-based funding arrangement'.
- Complying with regulations under the Act;
- Enhancing professional development and performances of teachers and principals;
- Implementing the national curriculum;
- Participating in national assessments;
- Developing a school improvement framework and plan;
- Complying with all relevant disability discrimination laws; and,
- Providing information as required.\(^\text{21}\)

1.23 Some submitters expressed concern that these measures may be overly onerous and have an adverse impact on schools.\(^\text{22}\) The committee notes the burden associated with unnecessary red tape. However, the accountability and transparency measures in the bill, as the list above indicates, are directly focused on school improvement, professional development of teachers and principals and ensuring that federal funding is spent appropriately. For these reasons, the measures are appropriate.

**Other matters**

1.24 The amendments also describe transitional arrangements for the new funding model,\(^\text{23}\) proposed review mechanisms for funding decisions,\(^\text{24}\) and the arrangements for failing to comply with the legislation and overpayments.\(^\text{25}\)


\(^\text{22}\) See for example, Association of Heads of Independent Schools Australia, *Submission 8*, p. 4.

\(^\text{23}\) Australian Education Bill 2013, Part 3, Division 5.
1.25 The amendments would allow for the making of regulations which may change the elements of the calculation of funding and 'prescribe detail regarding the approval conditions'. The Department of Education, Employment and Workplace Relations has commenced consultations with stakeholders on draft regulations.

1.26 Other concerns were raised by some submitters, for example consultation, the definition of 'full time students', the quality of data that underpins the funding model and the transition period.

**Key provisions of the consequential provisions**

1.27 The consequential provisions make changes to certain Commonwealth laws to give effect to the Australian Education Act 2-13. This includes amendments to the *Federal Financial Relations Act 2009* relating to Commonwealth national specific purpose payments to states and territories for schools.

1.28 Schedule 1 of the consequential provisions also amends the Schools Assistance Act 2008 to 'cease calendar year funding for non-government schools for capital purposes under that Act'.

1.29 Finally, the consequential provisions contain transitional provisions to reduce the administrative burden for schools moving to the new arrangements (Schedule 2).

**Conclusion**

1.30 While the committee has not focused on the underlying policy rationale for these reforms, having considered this during its last inquiry, it is important to emphasise once again that these bills represent a once-in-a-generation opportunity to improve the performance of schools and student outcomes. It is instructive to recall the evidence provided by the Australian Council of State School Organisations during a public hearing into the Education Bill in March:

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24 Australian Education Bill 2013, Part 9, Division 3.
28 See for example, Australian Association of Christian Schools, *Submission 1*, p. 2; Australian Parents Council, *Submission 16*, p. 2.
29 See for example, Australian Association of Christian Schools, *Submission 1*, p. 2.
31 See for example, Australian Council of State School Organisations, *Submission 14*, p. 2.
…research has clearly shown that a higher level of education means higher earnings, better health and a longer life. By default...the social and financial ramifications of educational failure for Australia will be enormous. Those without the skills to participate socially and economically will generate higher costs in areas such as health, income support, child welfare, social security and the penal system.35

1.31 The measures proposed by the bills provide a national plan for the education of our nation's children. As a consequence of these reforms, a core level of support will be provided to all children across Australia. Regardless of whether a child has rich or poor parents, lives in a rural or metropolitan area, a core level of support will be provided to assist that child reach his or her potential, regardless of their background or socio-economic status. Further, additional support will provided to ensure that children with particular needs are properly supported to achieve their educational goals.

1.32 Furthermore, the measures represent an unprecedented investment in Australian schools, students, teachers and communities. The needs-based funding model being proposed by the government is equitable and transparent.

1.33 While the committee acknowledges concern among some submitters about the details, and in some cases the lack of detail, contained in the bills, the committee concludes that submitters were generally supportive of their broad policy aims.

1.34 Moreover, the committee agrees with submitters that schools urgently need funding certainty. It is essential that this Parliament pass the amendments to provide funding security for the schooling sector and for states and territories who have signed up to the national reforms.

1.35 For these reasons, the committee recommends that the Senate pass both bills as soon as possible.

Recommendation 1

1.36 The committee recommends that the bills be passed.

Senator Gavin Marshall
Chair

35 Mr Peter Garrigan, President, Australian Council of State School Organisations, Proof Committee Hansard, 1 March 2013, p. 19.