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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

STATES GRANTS (SCHOOLS ASSISTANCE) BILL 1988

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Employment,
Education and Training, The Hon J.S.Dawkins MP)

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GENERAL OUTLINE

The main purpose of this Bill is to implement the Government's continuing commitment to the funding of primary and secondary education of children in the States and the Northern Territory by providing real increases in general recurrent grants to both government and non-government schools in each of the next four years (1989 to 1992) and by maintaining in real terms, the funding levels for the range of specific purpose programs and for the capital grants program in 1989.

The Bill also implements decisions announced in the May Statement this year - namely, that new non-systemic non-government schools (except for special schools and Aboriginal community schools) will be funded at categories 1 to 6 only; that establishment grants will be discontinued from 1989; that requests for a review of recurrent funding category will be considered only on the ground that there has been a significant change in the need for financial assistance resulting from factors outside the school's control; and, that resource agreements with non-government school system authorities will be extended to include the total general recurrent grant.

The Bill considerably simplifies the language and structure of the former Act. One result of this is that the detailed conditions of grant that were contained in the former Act will now be included in agreements under the Act between the States or non-government school authorities and the Commonwealth. Details to be included in agreements will be set out in Administrative Guidelines which will be available to school authorities before the commencement of each year.

Agreements with State governments and with non-government school system authorities have to date only applied to the real increases in general recurrent grants provided since 1985. This Bill will provide the flexibility to enable agreements from 1989 to apply to the total general recurrent grant each year and to reflect more closely the educational objectives of the Commonwealth, the States and non-government school authorities.

FINANCIAL IMPACT STATEMENT

The Bill provides:

- . an estimated \$823 million for government schools in 1989, consisting of \$528 million for general recurrent grants, \$120 million for specific purpose grants and \$175 million for capital grants;
- . an estimated \$1,056 million for non-government schools in 1989, consisting of \$952 million for general recurrent grants, \$43 million for specific purpose grants and \$61 million for capital grants;
- . an estimated \$34 million for joint programs in 1989;
- . an estimated \$552 million in 1990, \$574 million in 1991 and \$599 million in 1992 for general recurrent grants for government schools;
- . an estimated \$981 million in 1990, \$1,000 million in 1991 and \$1,012 million in 1992 for general recurrent grants for non-government schools.

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NOTES ON CLAUSES

PART I - PRELIMINARY

Clause 1 : Short Title

This clause identifies the legislation as the States Grants (Schools Assistance) Act 1988.

Clause 2 : Commencement

This clause provides that the Bill will come into operation on the day it receives the Royal Assent.

Clause 3 : Interpretation

Clause 3(1) defines a number of terms used in the legislation. In general, these are similar to those in the former Act (the States Grants (Schools Assistance) Act 1984), except that the language has been simplified and definitions no longer required have been deleted.

Clause 3(2) provides for the Minister to determine minimum enrolment requirements for non-government schools to be eligible to receive Commonwealth grants.

Clause 3(3) provides that the minimum enrolment requirements determined under clause 3(2) will be published in the Gazette.

Clause 3(4) provides that capital projects are eligible for funding even if the projects are also to be used for other educational purposes or for community purposes.

Clause 3(5) ensures that equal opportunity programs giving special assistance to redress current inequalities are protected.

Clause 3(6) provides that where the Minister specifies a maximum number of students eligible for general recurrent funding at a school or at a particular location of a school, the maximum may be in relation to one or more levels at the school or to the number of special students at the school.

Clauses 3(7) and 3(8) provide that multi-campus schools will not receive a double penalty under clause 23 when the number of students enrolled at the school or at a location of the school exceeds the maximum for the school or location.

Clause 3(9) provides that where a change in location of a school is to an adjacent site and the same levels of education are provided at the adjacent site, this will not be considered a change in location for the purposes of this Act.

Clause 3(10) excludes full fee paying private overseas secondary students from the operation of the Act.

Clause 4 : Determinations by the Minister

This clause provides for a variety of dates on which determinations can take effect.

Clause 5 : Funding of non-government schools

This clause limits funding under the Bill to those non-government schools which are on the list of non-government schools maintained under clause 6.

PART II - LIST OF NON-GOVERNMENT SCHOOLS AND SYSTEMS

Clause 6 : List of non-government schools

Clauses 6(1) and (2) require the Minister to maintain a list of non-government schools and subject to clauses 6(3) and (4) in such manner as the Minister decides.

Clause 6(3) sets out the information to be included in the list for each school.

Clause 6(4) is a transitional clause incorporating schools listed in the previous Act into the new list.

Clause 6(5) provides that the Minister may vary a non-systemic school's funding level on the grounds of a significant change in the need of the school for financial assistance, being a change that occurred due to circumstances outside the control of the school.

Clause 6(6) provides for a school that ceases to have State registration or which becomes conducted for profit to be taken off the list.

Clause 6(7) provides for a change in the list for a school that changes from a non-systemic school to a systemic school and vice-versa.

Clause 6(8) provides for the Minister to determine on the basis of need a funding level for a school which changes from a systemic school to a non-systemic school.

Clause 6(9) allows for a determination made under clauses 6(5) to (8) to take effect from a date before the date of the determination.

Clauses 6(10) and (11) allow for variations to be made to the list to correct clerical errors and the like or in accordance with other provisions of the Bill, and requires any variations to be advised to the relevant school.

Clause 6(12) requires the Minister to publish in the Gazette each year the name and funding level of each non-systemic school.

Clause 7 : List of approved school systems

This clause provides for a list of school systems to be kept, with generally similar provisions to those in clause 6 applying.

PART III - CHANGES TO NON-GOVERNMENT SCHOOLS AND NEW NON-GOVERNMENT SCHOOLSClause 8 : Changes to non-government schools and proposals for new non-government schools

This clause sets out the requirements which non-government schools undergoing changes or proposed non-government schools have to meet in order to be eligible for Commonwealth funding.

Clause 8(1) is a formal provision.

Clauses 8(2), (3) and (19) set out the changes to existing schools and proposals for new schools to which this clause applies.

Clause 8(4) requires schools to give 2 years advance notification of changes to existing schools or proposals for new schools unless the Minister, in special circumstances, allows a shorter period.

Clause 8(5) provides that where a change will not result in a significant difference to the clientele of the school, the Minister will provisionally approve the change.

Clauses 8(6), (7), (8) and (9) set out the procedures whereby a change to an existing school which results in a significant difference to the clientele of the school or a proposal for a new school is able to receive provisional approval.

Clause 8(10) sets out the criteria whereby a change that has received provisional approval is able to receive final approval and the list varied to reflect the change.

Clause 8(11) provides that, except in exceptional circumstances, final approval will not be given where any of the criteria in clause 8(10) have not been met by the end of the year following the year in which the change is proposed to be made.

Clauses 8(12) and (13) repeat the criteria in clauses 8(10) and (11) for proposals under clause 8(3).

Clause 8(14) provides for the Minister to determine a funding level for a school involved in certain kinds of changes for existing and new schools.

Clause 8(15) limits the funding level for new non-systemic schools to levels 1 to 6 only, except in the case of special schools, Aboriginal community schools or schools which received provisional approval before 25 May 1988.

Clause 8(16) provides that the Minister may remove a school from the list where that school goes ahead with a change that has not been provisionally approved.

Clauses 8(17) and (18) provide that a school may make submissions to the Minister where a change to an existing school or a proposal for a new school has not received provisional approval and where a school makes such a submission, the Minister must reconsider the decision and inform the school of the result of its submission.

Clauses 8(20) and (21) provide for schools to be notified of decisions under this clause and reasons for those decisions and that a determination may take effect from a day before the day on which it was made.

Clause 9 : Maximum number of students eligible for general recurrent funding

Clause 9(1) provides that where a change to a school or a proposal for a new school has been approved, a maximum number of students eligible for Commonwealth general recurrent funding may be applied to the school. If the school already has a maximum, that maximum may be varied to take account of the new change.

Clause 9(2) enables a maximum number of students eligible for Commonwealth general recurrent funding to be applied to a school where that school did not notify the Commonwealth of a change in accordance with the requirements of Clause 8.

Clauses 9(3) and (4) provide for schools to be notified of decisions under this clause and reasons for those decisions, and that a determination may take effect from a day before the day on which the determination was made.

Clause 10 : Changes to maximum number of students at request of approved authority

This clause sets out the requirements which non-government schools seeking to change their maximum number of students eligible for Commonwealth general recurrent funding have to meet.

Clause 10(1) requires schools to give 2 years advance notification where they are seeking to have their maximum number changed unless the Minister, in special circumstances, allows a shorter period.

Clause 10(2) provides that where a change to a maximum number does not entail a significantly different clientele, the change shall be approved.

Clauses 10(3) and (4) set out the procedures whereby a change to a maximum number which does entail a significantly different clientele is considered for approval.

Clauses 10(5) and (6) provide that the Minister shall advise a school of an unfavourable decision under this clause and invite the school to make submissions. Where a school makes a submission, the Minister must reconsider the decision and inform the school of the results of its submission.

Clauses 10(7) and (8) provide for schools to be notified of decisions under this clause and reasons for those decisions and that a determination may take effect from a day before the day on which it was made.

Clause 10(9) is transitional.

Clause 11 : Non-government schools - failure to meet minimum enrolments

Clause 11(1) provides that where the number of students at a school falls below the minimum enrolment requirements (determined under clause 3(2)), the Minister may remove the school or a level of education at the school from the list of schools.

Clauses 11(2) and (3) require the Minister to inform the school of any action proposed to be taken under clause 11(1) and invite the school to make submissions. Where a school makes a submission, the Minister must reconsider the decision and inform the school of the results of its submission.

PART IV - GOVERNMENT SCHOOL PROGRAMSClause 12 : Grants for capital projects in connection with government schools

This clause provides for the capital grants program for government schools. The Minister is not to authorise grants under this clause unless the State has entered into an agreement of a kind specified by the Minister. This agreement will include the detailed accountability requirements that were previously set out in the former Act.

Clause 13 : Grants for general recurrent expenditure of government schools

This clause provides for the implementation for government schools of the next 4 years (1989 to 1992) of the 8 year general recurrent grants scheme announced in 1984. In the former Act, these grants included a requirement that resource agreements be entered into. Under this clause, the Minister is not to authorise grants unless the State has entered into an agreement of a kind specified by the Minister. The agreements will be negotiated with the States.

Clause 14 : Grants for recurrent expenditure on education in English as a Second Language provided in government schools

This clause provides for the general ESL program and the new arrivals program for government schools. The Minister is not to authorise grants under this clause unless the State has entered into an agreement of a kind specified by the Minister. This agreement will include the detailed accountability requirements that were previously set out in the former Act.

Clause 15 : Grants for expenditure in connection with government disadvantaged schools

This clause provides for the disadvantaged schools program for government schools. The Minister is not to authorise grants under this clause unless the State has entered into an agreement of a kind specified by the Minister. This agreement will include the detailed accountability requirements that were previously set out in the former Act.

Clause 16 : Grants for expenditure in connection with special education at government schools

This clause provides for the special education program (including integration activities) for government schools. The Minister is not to authorise grants under this clause unless the State has entered into an agreement of a kind specified by the Minister. This agreement will include the detailed accountability requirements that were previously set out in the former Act.

Clause 17 : Variations of Schedule 5

This clause provides that amounts can be varied between the different elements (including the government school and non-government school elements) of the special education program, but not so as to increase the total of the amounts for the elements. The determination making the variation must be tabled.

Clause 18 : Additional conditions of grants under Part

This clause provides that if a State does not fulfil a condition of grant, the State will, if the Minister so determines, repay an amount to the Commonwealth and the Minister may delay any further payment to the State under that program until the State fulfils the condition. Where an amount remains unpaid, the Minister may reduce an amount that is payable to the State.

PART V - NON-GOVERNMENT SCHOOLS PROGRAMS

Clause 19 : Approval of Block Grant Authorities

This clause provides for the Minister to approve a body corporate as a block grant authority (BGA) for the purposes of the capital grants program for non-government schools.

Clause 20 : Approval of capital projects

This clause continues the arrangements which commenced in 1988 whereby BGAs determine the priorities for capital grants for their member schools. The clause also provides for the approval of projects for non-BGA schools and projects for the benefit of children with disabilities.

Clause 21 : Grants for capital projects in connection with non-government schools and non-government centres

This clause provides for the Minister to authorise payments in respect of approved capital projects and includes a condition that BGAs, non-BGA schools or non-government centres are required to enter into an agreement with the Commonwealth of a kind determined by the Minister. This agreement will include the detailed accountability requirements that were previously set out in the former Act.

Clause 22 : Grants for general recurrent expenditure of non-government schools

This clause provides for:

- the implementation for non-government schools of the next 4 years (1989 to 1992) of the 8 year general recurrent grants scheme announced in 1984;
- the discontinuation from 1989 of establishment grants. Only schools receiving establishment grants in 1988 will continue to receive them under existing arrangements;
- the negotiation of resource agreements with non-government school system authorities with a view to including the total general recurrent grant in the agreements; and,
- the negotiation of resource agreements with non-systemic school authorities.

The Minister is not to authorise grants under this clause unless the non-government school authority has entered into an agreement with the Commonwealth of a kind determined by the Minister. This agreement will include the detailed accountability requirements that were previously set out in the former Act. These agreements will be negotiated with non-government school authorities.

The clause continues the existing provision that where a non-systemic school, which has a funding level below that of the system, joins a system, the level of financial assistance paid to the system in respect of the school may be at the funding level of the school that applied before the school joined the system.

Clause 23 : Limits on funding where maximum number of students specified

This clause provides that where a maximum number of students has been specified for a school (see clause 9) then the school will only receive general recurrent funding up to that number .

Clause 24 : Grants for short-term emergency assistance for non-government schools

This clause provides for the short-term emergency assistance program for non-government schools for 1989. The Minister is not to authorise grants under this clause unless the non-government school authority has entered into an agreement with the Commonwealth of a kind determined by the Minister. This agreement will include the detailed accountability requirements that were previously set out in the former Act.

Clause 25 : Grants for recurrent expenditure on general education in English as a Second Language provided in non-government schools

This clause provides for the general ESL program for non-government schools. The Minister is not to authorise grants under this clause unless the non-government school authority has entered into an agreement with the Commonwealth of a kind determined by the Minister. This agreement will include the detailed accountability requirements that were previously set out in the former Act.

Clause 26 : Grants for recurrent expenditure on education in English as a Second Language for eligible new arrivals provided in non-government schools

This clause provides for the ESL program for eligible new arrivals in non-government schools. The Minister is not to authorise grants under this clause unless the non-government school authority has entered into an agreement with the Commonwealth of a kind determined by the Minister. This agreement will include the detailed accountability requirements that were previously set out in the former Act.

Clause 27 : Grants for expenditure of non-government disadvantaged schools

This clause provides for the disadvantaged schools program for non-government schools. The Minister is not to authorise grants under this clause unless the non-government school authority has entered into an agreement with the Commonwealth of a kind determined by the Minister. This agreement will include the detailed accountability requirements that were previously set out in the former Act.

Clause 28 : Grants for recurrent expenditure in connection with special education at non-government schools etc.

This clause provides for the special education program (including integration activities) for non-government schools and centres. The Minister is not to authorise grants under this clause unless the non-government school authority has entered into an agreement with the Commonwealth of a kind determined by the Minister. This agreement will include the detailed accountability requirements that were previously set out in the former Act.

Clause 29 : Additional conditions of grants under Part

This clause provides that if a State does not fulfil a condition of grant, the State will, if the Minister so determines, repay an amount to the Commonwealth and where an amount remains unpaid, the Minister may reduce an amount that is payable to the State under this Part. Where a relevant approved authority does not fulfil an obligation under an agreement, the Minister may delay any further payment to that authority until that obligation is fulfilled.

PART VI - GRANTS FOR SCHOOLS SERVING PREDOMINANTLY ABORIGINAL OR TORRES STRAIT ISLANDER COMMUNITIES

Clause 30 : Approval of capital projects

This provides for the approval of capital projects under the Aboriginal or Torres Strait Islander capital grants program.

Clause 31 : Grants for capital projects in connection with schools serving predominantly Aboriginal or Torres Strait Islander communities

This clause authorises the payment of grants for capital projects approved under clause 30 in relation to both government and non-government schools. The Minister is not to authorise the payment of grants under this clause unless the State or the approved authority (in the case of non-government schools) enters into an agreement with the Commonwealth. The agreement will include the detailed accountability requirements that were previously set out in the former Act.

PART VII - JOINT PROGRAMS FOR GOVERNMENT AND NON-GOVERNMENT SCHOOLS

Clause 32 : Approval of programs of ethnic education

This clause continues the existing arrangements for the approval of programs of ethnic education.

Clause 33 : Grants for programs of ethnic education

This clause authorises the payment of grants for approved programs of ethnic education. The Minister is not to authorise grants under this clause unless the approved authority has entered into an agreement of a kind determined by the Minister. This agreement will include the detailed accountability requirements that were previously set out in the former Act.

Clause 34 : Grants for primary or secondary education in prescribed country areas

Under this clause, the Minister may declare an area to be a prescribed country area and may authorise the payment of grants for the education of children in these areas. The Minister is not to authorise grants under this clause unless the State has entered into an agreement with the Commonwealth of a kind specified by the Minister. This agreement will include the detailed accountability requirements that were previously set out in the former Act.

Clause 35 : Grants for recurrent expenditure for the education of children residing in residential institutions

This clause authorises the payment of grants for the education of children in residential institutions. The Minister is not to authorise grants under this clause unless the State has entered into an agreement with the Commonwealth of a kind specified by the Minister. This agreement will include the detailed accountability requirements that were previously set out in the former Act.

Clause 36 : Grants for expenditure in relation to approved programs for education of children with severe disabilities

This clause authorises the payment of grants for the education of children with severe disabilities. The Minister is not to authorise grants under this clause unless the State has entered into an agreement with the Commonwealth of a kind specified by the Minister. This agreement will include the detailed accountability requirements that were previously set out in the former Act.

Clause 37 : Grants for programs of early special education

This clause provides for the program of early special education for children with disabilities. The Minister is not to authorise grants under this clause unless the State has entered into an agreement with the Commonwealth of a kind specified by the Minister. This agreement will include the detailed accountability requirements that were previously set out in the former Act.

Clause 38 : Grants for expenditure of approved education centres

This clause provides for the payment of grants to the States for approved education centres. The Minister is not to authorise grants under this clause unless the State has entered into an agreement with the Commonwealth of a kind specified by the Minister. This agreement will include the detailed accountability requirements that were previously set out in the former Act.

Clause 39 : Grants for projects of national significance

This clause provides for the payment of grants in respect of approved projects of national significance. The Minister is not to authorise grants under this clause in respect of projects conducted by a State or by a person other a State unless the State or the person has entered into an agreement with the Commonwealth. This agreement will include the detailed accountability requirements that were previously set out in the former Act.

Clause 40 : Limit on recovery

This clause prevents the recovery by the Commonwealth in respect of financial assistance provided under a section in this Part of an amount that is greater than the amount of the financial assistance.

PART VIII - MISCELLANEOUS

Clauses 41 to 49 : Financial Machinery Provisions

These clauses provide for the appropriation of funds and other financial machinery provisions.

Clause 50 : Delegation

This clause provides for the Minister to delegate powers and functions under the Bill to an officer of the Department.

Clause 51 : Report by Minister

This clause requires the Minister to have an annual report prepared in respect of each calendar year and table the report in Parliament.

Clause 52 : Regulations

This clause empowers the Governor-General to make regulations.

