

Chapter 4

The Schools Assistance Bill 2004: areas of contention

4.1 This chapter deals with details of the legislation implementing the Government's funding policy for 2005-08 and the conditions laid down for receipt of Commonwealth funding.

4.2 The committee comments on two aspects of the bill. The first relates to changes in the structure of Commonwealth funding. The second is the matter of the increasingly intrusive micro-management aspects of the legislation, particularly in its effects on state and territory schools administration.

Funding details and issues

4.3 Under the provisions announced in the budget, the Government will provide \$31.3 billion in funding for schools for the quadrennium 2005-08. This is an \$8 billion increase over the current quadrennium. Of this, over two thirds will be allocated to private schools. This continues a trend which sees the private school share of Commonwealth funds increase from 55.6 per cent in 1995-96 to 68.9 per cent by 2007-08.

4.4 Of the \$8 billion increase only about \$404 million will be 'new money', the remainder being for indexation and supplementation. Of the 'new money', \$362 million will go to Catholic systemic schools as a result of their adoption of the SES funding model, \$17 million will go to capital programs for private schools in the Northern Territory, and over \$26 million will go to students with disabilities. Only \$4 million of additional funds allocated in the bill will go to government schools. This is a share of the extra disability funding.

4.5 The Government does its best to ensure that those schools losing funding under the SES formula at some time in the quadrennium will have a transition period in which to accustom themselves to their loss. Those private schools moving into a higher SES score in 2005 will have their funding held at their 2004 level without indexation until the value of the school's SES score (which will be indexed) is eventually equal to, or greater than, their 2004 level.¹

4.6 Another major change is that to the structure of Commonwealth targeted schools programs. A new program for literacy, numeracy and special learning needs is to replace a previous and more vaguely titled program on 'student outcomes'. This program will cost \$2 billion over four years, a 25 per cent increase in the current quadrennium. The committee notes in passing that included in this is additional

1 Parliamentary Library, Bills Digest No.14, 2004-05, p.3

funding for students with disabilities, which is likely to be in part a response to this committee's recommendations made in its report on student disabilities.²

4.7 Schedules to the bill set out details of program appropriations. For non-government schools these are calculated on the basis of what DEST itself terms the 'generous' Average Government School Recurrent Costs index (AGSRC). The committee heard evidence that there are problems in the use of this index for determining the funding of individual non-government schools. The cost structures of public schools take into account the need to deal with students across the whole spectrum of ability and socio-economic status, and to accept students with disabilities of all kinds. Non-government schools do not generally have the same cost structures because they have control over their enrolments. The effect of public schools having to deal with the greater proportion of students with disabilities, or who come from poorer families with social problems, is to drive up the average cost in public schools, and to inflate the AGSRC to further advantage non-government schools.³

4.8 The anomalies in the funding of students with disabilities compound the unfair use of the AGSRC. The submission from the Director-General of Education in Queensland pointed out that the Commonwealth continues to provide a differential funding rate for students with disabilities, depending on whether they are enrolled in public or private schools. A student in a public school receives \$129 compared with \$654 for a student with a disability in a private school.⁴

4.9 A similar differential remains in the funding rate for indigenous students. Private schools will continue to receive up to 4.13 times more per capita funding through the indigenous program than public schools. The reason for concern about indigenous funding arises from the reduction of grants to urban indigenous programs so as to increase those to rural indigenous programs. The Victorian Government has pointed out that the large numbers of indigenous students living in metropolitan and regional centres under very challenging and low socio-economic conditions will be disadvantaged.⁵ The sub-committee agrees that the only fair way to treat this problem is to increase funding for indigenous programs overall, rather than to discriminate between people on the basis of where they live.

4.10 A second issue arising from the use of the AGSRC as a basis for private school funding is the inclusion in the AGSRC of system-wide costs borne by state and territory education departments. These include curriculum development, a range of centralised services such as psychological counselling, general administration and even the costs associated with the registration of private schools themselves. These costs are not, it has been argued, applicable to individual private schools.

2 EWRE Committee, *Students with Disabilities*, 2002.

3 Submission No.33, Australian Education Union, p.29

4 Submission No.50, Queensland Department of Education and the Arts, p.6

5 Submission No.76, Victorian Government, p.8

4.11 Despite the difficulties and anomalies discussed here, however, the committee does not recommend as a priority the replacement of the AGSRC as a basis for determining funding for non-government schools.

Entry of Catholic systemic schools under the SES funding model

4.12 This legislation reflects the agreement reached with the National Catholic Education Commission to join the SES funding model from 2005. The committee recalls the tactfully concealed irritation of other players in the funding stakes at the public hearings held in 2000, when for the current quadrennium there was veiled irritation cause by the deal apparently done between the Government and the National Catholic Education Commission to remain aloof from the SES funding model in return for classification under the highest (then) current ERI funding category.

4.13 In introducing the bill, the Ministers announced that this agreement would 'deeply imbed' this model as the basis of funding. As part of the agreement the Catholic system received \$362 million in additional grants. The National Catholic Education Commission clearly regards this outcome as advantageous for Catholic systems. From the Government's perspective, the agreement of Catholic authorities puts an *imprimatur* on the funding formula which was introduced in the previous quadrennium. Thus the Minister was able to claim that all denominations had now fully integrated their schools under the one system.⁶

4.14 For the Commission, the additional funding has been a useful dividend. It has not been obliged to concede its own internal funding distribution practices, and thus Catholic systems are able, as before, to distribute Commonwealth funds to individual schools according to their own allocative policies. As the committee heard, the state Catholic systems intend to retain the distribution formulae they have used for years; modifications in each case of the ERI model which takes into account individual school revenue, and distributes Commonwealth funding according to need through a cross-subsidisation process. From a Catholic schools' perspective, this was a useful arrangement, especially as it apparently came with an acknowledgement from the Government that the SES funding model had a limited life, being unlikely to last beyond 2008, and that a more secure long-term solution was needed for the funding of Catholic systemic schools.⁷

4.15 The committee notes, however, that the goal of the National Catholic Education Commission – 60 per cent of AGSRC in Commonwealth funding – has not been reached in the agreement forged with the Government. Average Commonwealth funding for Catholic systems will reach only 58 per cent. The NCEC also made clear its general concerns about the undermining of the integrity of the operation of the funding system overall that has crept into current arrangements.⁸

6 *ibid.*

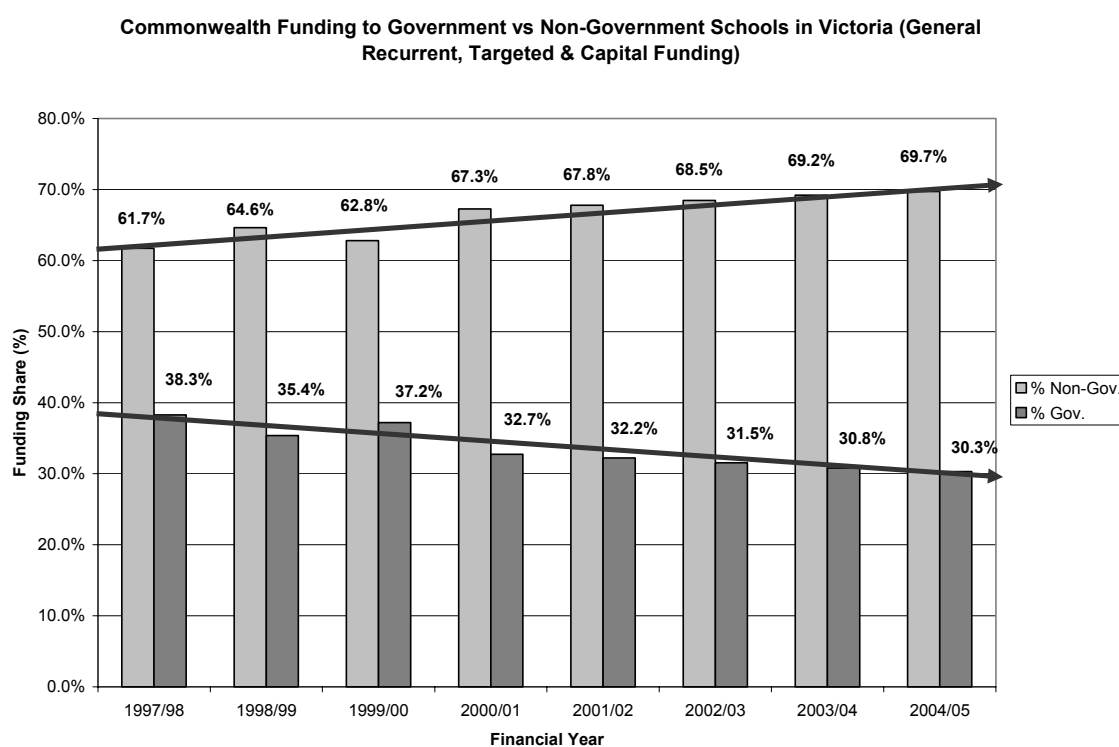
7 Dr Brian Croke, *Hansard*, Sydney, 26 July 2004, p.12

8 Submission No.55, National Catholic Education Commission, p.3

Declining financial support for the states and territories

4.16 The committee makes its point yet again that the proper and generally accepted role of the Commonwealth in schools funding is to ensure the provision of equity across the country in the provision of school programs and infrastructure. In this way the Commonwealth can ensure that particular states are not renegeing on their own obligations, and that assistance can be given when a safety net is required. For instance, such assistance could be provided where a particular state may be required by a MCEETYA decision to restructure its primary to secondary transition, as referred to in the next section.

4.17 Yet, the public schools which educate most students, have suffered from diminishing shares of Commonwealth outlays over time. The following table indicates this effect in Victoria. The detail can be considered representative of all states.



4.18 The Government has been critical of the efforts of states in maintaining their education funding, but such comment appears to be misguided as to the facts, as well as ignorant of the demands on state budgets for a range of public services which the Commonwealth would prefer to know little about. In fact, as the Queensland Government submission explains:

Between 2000-01, the first year of the previous four-year schools quadrennial round, and 2004-05, Queensland Government budgeted expenditure on school education increased by \$913.7 million over the period. This includes an increase in funding of \$813.5 million for government schools and \$100.2 million for non-government schools. By comparison, the Australian government budgeted expenditure on schools

within Queensland increased by \$506 million over the period, with increases to government schools in the State amounting to less than a fifth of this increase. Overall, Australian Government funding for government schools represents only 12 per cent of Queensland Government's investment in the sector.⁹

4.19 The committee notes this advice as generally representative of positions in all states and territories. The Commonwealth, which expresses its views about educational 'choice and efficiency', a safe distance away from the realities of running schools, fails to follow up its rhetoric in regard to public schools. As well as neglecting to provide the funding needed to maintain equity in the school system, Government policy has seen the continued regulation of state departments of education in ways which are discussed below.

Intrusion in state affairs

4.20 The committee is hampered by the absence of comment from most states on implementation of Commonwealth-initiated programs at state level. Nonetheless, the set of conditions on funding contained in the Schools Assistance Bill 2004 appear to the committee to be overly intrusive on state and territory legislative and administrative responsibilities. There appears to be ready agreement within MCEETYA about the need for incentives and accountability measures to ensure that parents are better informed about learning progress, and that particular procedures are necessary to drive school improvements. Nonetheless, the committee is aware of tensions which arise from the implementation processes laid down by DEST in the new funding legislation. The committee has little direct insight into the nature of the clash of bureaucratic cultures that must inevitably arise. Several question marks hang over performance measures laid down by the Commonwealth, particularly in regard to their likely validity and usefulness.

4.21 A notable characteristic of recent Commonwealth legislation is the detailed prescription of micro-management tasks imposed on agencies dealing with the Commonwealth. The committee has noted this tendency in the Backing Australia's Future legislation on universities: a feature which was attacked by several of the vice-chancellors, and which the Government was forced to modify. The committee also commented on the same characteristic feature of the Building and Construction Industry Improvement Bill 2003. The sub-committee does not regard this practice as being in keeping with the spirit of MCEETYA.

4.22 This bill follows the newly-established trend. There is an extraordinary number of clauses in the bill stipulating conditions for receipt of commonwealth payments. They cover public information on school performance, reporting on student attendance, occupational health and safety, physical education requirements, school administration and other matters which should be left to the discretion of schools or systems. Officials from the Western Australian Government who appeared before the

9 Submission No.50, Queensland Government, p.2

committee agreed that this level of intrusion by the Commonwealth in the administration of states schools was out of all proportion to the 12 per cent contribution made by the Commonwealth to the running costs of public schools in the states.¹⁰

4.23 The Victorian Government has questioned the value of the information it gathers under Commonwealth direction. Its submission stated:

... the performance measures outlined in the Australian Government's proposed funding package are used as blunt administrative instruments – they are not designed to leverage or drive either systemic or school level change and, in fact, do not aid efficient administration and delivery of services. The proposed accountability and reporting measures will reduce flexibility because centralized reporting methods do not recognise the need for variation in approaches according to local needs and circumstances. The prescription of intrusive reporting requirements simply conflict with, and counter the effectiveness of, the Victorian approaches outlined above. Furthermore, the proposed accountability and reporting arrangements do not clearly link performance data with improvements in student learning outcomes nor do they link the proposed requirements within a suite of other strategies.¹¹

4.24 Most objectionable is the long list of ministerial discretions that are provided for in the bill. They cover an extraordinary ambit of powers, far beyond what DEST could reasonably expect to administer, monitor or enforce. This casts doubt upon how seriously the provisions are to be taken.

4.25 The committee also notes a provision listed in subclause 7(1) in Part 1 of the bill, which gives the Minister power to determine whether a student is in primary school or secondary school. This is inappropriate. MCEETYA has agreed in principle to work toward uniformity of commencing ages for primary and secondary school in the states and territories. This process will require a long lead time for states which need to adjust their structures, for instance to provide more classrooms and facilities in Queensland secondary schools should the decision be made that students commence in Year 7. Considerable costs are involved, and it is likely that a significant Commonwealth funding contribution will be required. The inappropriateness of this provision has been commented on by the Tasmanian Minister for Education, who expressed the view that recommendations from work in progress should be dealt with by MCEETYA in an orderly and considered manner, rather than being presented as a condition for funding. On the specific issue of the uniform school starting age, the Minister submitted:

Tasmania's present starting age is currently 6 months later than the suggested starting age. Accordingly, the financial effect on Tasmania to

10 Mr Peter McCaffrey, *Hansard*, Perth, 12 July 2004, p.47

11 Submission No.76, Victorian Government, p.9

meet this requirement would be substantial, at an estimated total cost of an additional \$223 million as this new cohort of students moves through the education system. This represents a significant additional funding requirement for the state of Tasmania and is obviously much more significant than any increases in Commonwealth government funding being offered.¹²

4.26 Another prescription that the committee considers inappropriate for inclusion in the bill is provided in subclause 21(k) in relation to school autonomy. This also is an unwarranted intrusion in the affairs of state education departments. The committee does not express a view on whether schools in general should be given more autonomy. It recognises that in Victoria this has been a controversial issue in the past, but is now less so. It recognises that, historically, Queensland, and to a lesser extent New South Wales, have had more strongly centralised administrations than some other states. The evolution of an administrative culture in a particular state should arise from local needs and initiatives, and while national programs and policies which result from Commonwealth decisions may influence this evolution, it is not appropriate for the Commonwealth to legislate specifically for this purpose.

Disdain for drafting conventions

4.27 Finally, the committee raises the matter of the short title of the bill, Schools Assistance (Learning Together- Achievement Through Choice and Opportunity) Bill 2004. This it regards as a propagandist slogan. The first two words in parenthesis have no meaning in this context. The committee presumes that 'choice' refers to the basis on which funds are allocated (to facilitate choice of a non-government school), and to this extent concedes its accuracy. The reference to 'opportunity' can really only refer to the increased opportunities offered to students who attend the schools which are favoured by the policy of choice. It might be implied that students in public schools have made the wrong choice, and are thereby denied the opportunities which the bill provides for others.

4.28 It is objectionable enough that new policy programs should be given advertising style slogans as titles which do not accurately describe what they intend to do. To extend this practice to the short title of bills is a practice which deserves censure. There is much precedent in the Parliament for insistence that bills are titled so that short titles constitute a guide to the content of legislation. There is nothing to indicate from this title that it is a lineal successor to states grants bills on schools funding extending back to 1964. The committee calls on the Government to amend the short title of the bill better to reflect, in a straightforward manner, its actual purpose and content

12 Submission No.17, op cit, p.3

Recommendation 7

The committee recommends that, pending discussions with state and territory governments through normal MCEETYA processes, the Government should be mindful of the rights of states and territories to legislative and administrative autonomy with regard to the operation of schools. The Government should not use school funding legislation as a vehicle to impose on the states and territories policies and practices that would normally be the subject of agreement through MCEETYA.