

**A SUBMISSION BY THE
AUSTRALIAN EDUCATION UNION
TO THE SENATE EMPLOYMENT, WORKPLACE
RELATIONS, SMALL BUSINESS AND
EDUCATION LEGISLATION COMMITTEE
INQUIRY INTO THE PROVISIONS OF THE
INNOVATION AND EDUCATION LEGISLATION
AMENDMENT BILL 2001**

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Introduction

The Australian Education Union is a national organisation representing 155 000 teachers in public schools, preschools and TAFE. The Union takes an active role in public debate about education funding and policy, and has as one of its central concerns the funding of public schools and schools systems throughout Australia. The AEU welcomes the opportunity to contribute to the Senate Inquiry into the *Innovation and Education Legislation Amendment Bill 2001* which, among other things, provides for increases in legislated funding allocations to new private schools. These provisions are crucially relevant to the overall direction of Commonwealth school funding policy.

The major purposes of this bill relate directly to the implementation of the Government's January 2001 Innovation Statement on research and development. As such, the bill goes to research training in higher education, which is beyond the immediate interests of the AEU. Consequently, this submission will not deal with these aspects of the legislation. The submission is confined to the provisions of the bill dealing with establishment grants for new private schools.

Peculiar features of the legislation

At the outset the AEU wishes to comment on some striking and peculiar features of this bill. First, the bill departs from normal practice in its inclusion of sections relating to schools funding as minor and completely unrelated addenda to a bill that deals primarily with higher education and research. This approach, as far as the Union can ascertain, is almost unprecedented in the Australian Parliament, at least as far as education legislation is concerned. The possible motives of the Government in embedding these schools clauses within unrelated legislation can only be guessed at, but *prima facie* must be regarded with suspicion: presumably the intention is to force the passage of these funding increases on the back of funding for universities, postgraduate students and research. The Committee is urged to question the Government directly on this issue.

The AEU would strongly prefer to see the schools provisions split off from the other aspects of the bill, and recommends that the Committee recommend that this be done.

A second peculiarity of this bill is the fact that it singles out a certain set of proposed amendments to the *States Grants (Primary and Secondary Education Assistance) Act 2000*. This Act is also the subject of a further, separate group of amendments, introduced to the Parliament on 7 June 2001 in the *States Grants (Primary and Secondary Education Assistance) Amendment Bill 2001*. This new bill provides for increases in targeted assistance beyond those provided for in the 2000 Act, but, strikingly, also above the increases specified in the bill that is the subject of the current Senate Inquiry.

In other words, rather than including the changes to establishment grants in a bill explicitly designed to amend the 2000 Schools funding Act, along with revisions to funding for targeted assistance, the Government chose to embed the establishment grant provisions in a totally unrelated bill – even though it was already planning a further bill to amend this omnibus schools funding legislation in another area. The 7 June schools funding amendment bill, moreover, plus another bill, the *Higher Education Funding Amendment Bill 2001*, introduced also on 7 June, amend provisions of the *Innovation and Education Legislation Amendment Bill 2001*.

For some reason, the Government has decided to introduce separate legislation on a range of matters that could perfectly well be dealt with by means of amendment to a major bill already before the Parliament.

It is difficult to fathom the thinking of the Government in this regard, except to speculate that its intention is to place the Parliament in an invidious position relating specifically to the issue of establishment grants for new private schools – attempting to force passage of significant increases to this funding by refusing to disassociate this particular issue from the separate issue for Commonwealth support for research and research training. Otherwise, the Government’s approach lacks rationality. This devious approach on the part of the Government lacks legislative transparency, is regrettable and lacks integrity.

A third peculiarity of the *Innovation and Education Legislation Amendment Bill*, on the issue of establishment grants, is its timing. The bill was introduced only a matter of four months after the passage of the *States Grants Act 2000*, which set the levels of private school establishment grants for the ensuing four years. It is difficult to understand – unless serious incompetence on the part of the Government is assumed – why it would be necessary to legislate increases amounting to 330%, in the case of 2001 funding, over 200% for 2002 and more than 100% in the remaining two years, so soon after passage of the original Act. This matter was the subject of detailed questioning during the Senate Estimates hearing of 7 June 2001: it is revisited later in this submission.

The context: Commonwealth schools funding policy

The AEU, in its submission to the Inquiry into the 2000 schools funding legislation, has articulated its views on the general issue of the respective Commonwealth funding assistance for private and public schools. These issues will not be canvassed in the immediate context of this submission, although the Union may wish to provide further material, on more general matters, to the Committee. We note, however, that the revised funding levels proposed for this program exacerbate the trend, noted with concern in the Union’s 2000 submission, for an ever-larger share of Commonwealth funds to flow to private schools. In addition, the program of establishment grants, available to new private schools as an automatic right, provides further financial encouragement for the establishment of new schools, beyond the considerable support already emanating from the Commonwealth under the current funding regime. This is part of a deliberate policy designed to encourage new private schools, and to promote the shift of enrolments from the public to the private sector. The policy of the present Government in this regard is strongly opposed by the AEU. The Union has been campaigning for a fair share of Commonwealth funds for children in public schools, and also for financial support for preschools and increased funding for TAFE.

The massive increases in Commonwealth funding to a large number of wealthy private schools, consequent upon the passage of the *States Grants Act 2000*, are particularly irrational, unjust and inequitable. Seen against this background, significant increases in establishment grants – a separate measure, also introduced in the 2000 Act, providing a further financial incentive to private schools – are unequivocally opposed by the AEU.

The general policy direction of the Coalition Government regarding private school funding has represented an attempt to shift the paradigm in community thinking. It ignores completely the original justification for Commonwealth financial support for schools in the non-government sector: the application of the concept of a “community standard”. The idea

that all children, whatever school they attend, have a right to access to schooling that meets an acceptable, defined and agreed minimum standard is a view that has wide support.

The Government's SES funding system, in contrast to the former ERI system, is underpinned by a completely different set of assumptions about private schools and their students. Rather than providing a "safety net" against poor standards and low educational quality, to protect students, this policy has as its rationale the view that *all students, wherever they go to school, deserve a significant level of Commonwealth funding support*. The new system accordingly provides significant extra funds to resource-rich private schools that previously were funded at modest levels, on the basis that their incomes and assets enabled them to provide high-quality education without substantial assistance from the Commonwealth. The new system, in other words, is underpinned by a modified voucher policy, while the old one was based on a rationale linked essentially to community standards in educational provision.

The AEU unequivocally opposes voucher policies in education. The Union notes, too, that the current Government's approach clearly favours private schools at the expense of public, allocating (by 2004) 70% of its own schools funds to the 30% of students who attend private schools. Even judged on its own terms, this "voucher" policy is deeply inequitable and blatantly biased against public schools and their students – who constitute 70% of all students in Australia's schools.

Against this background of undisguised favouritism towards private schools, the bill that is the subject of the current Senate Inquiry ensures that even more money will flow to the private school sector. It also provides greater encouragement for people to establish new private schools. This represents a further undermining of public school systems, by threatening the enrolment levels of public schools. While the Government has insisted, to the Senate Estimates Committee (Ms Andruska, EWRSBE Estimates 7/06/01 p.310) that the increases to be legislated are necessary because of a "review" of the data on new school enrolments, there are grounds for doubting this assertion. It seems likely that the requirement to increase the funding to be provided for establishment grants resulted from a late policy decision on the allocative mechanism for the grants themselves – a decision that led to larger grants for individual schools. This is discussed below, but is mentioned here to underline the point that the Government's policy is deliberately designed to offer maximum encouragement to those who would set up new private schools, and to shift the balance of enrolments from public towards private schools.

Why are increases in establishment grant funds required?

Why has the Commonwealth found it necessary to seek to increase the funding for the establishment grants program by 330% for 2001, 262% for 2002 and 128% for 2003? The answer can possibly be inferred from the transcript of the Senate Estimates Committee of 7/06/01 (pp.316-317). Here Departmental officers are extremely vague about the timing of events and decisions on this issue. Although the legislation was before the Parliament for several months of 2000, and amendments to it were debated up until December 2000, the Government did not seek to amend the legislation to increase the amounts for establishment grants – although it did move another set of amendments on the levels of general recurrent grant assistance and on funding per student under the SES model, designed to take account of indexation. And yet, by late in 2000, it must have been obvious that the amount for 2001, at least, was well short of the necessary quantum.

It must be remembered that establishment grants were (and are) to be made available to all new schools that “met the eligibility criteria for recurrent funding and commenced after 11 May 1999,” as Mr Greer of DETYA said (7/06/01, p.314). This means that the Department would have been well aware of the demands on the establishment grant budget from 1999 schools, when the legislation was first introduced. It would also, moreover, have had a very good idea of the demands from 2000 schools – since, even by July 2000, most new private schools that were planning to commence operation in 2000 would already have done so. Furthermore, while 1999 new school enrolments would have been known, those for 2000 would have been more or less known as well. The unknown factor, as far as the 2001 allocation was concerned, would be the enrolment levels in new schools commencing in that year: these schools would, in virtually all cases, already have received approval, and thus the number of such schools could be estimated with reasonable accuracy.

In retrospect, it is odd that the original allocation for 2001 in the 2000 Act was so low (\$859 000), considerably lower, than allocations for the out years of the quadrennium. After all, this money had to cover three years’ worth of establishment grants (1999-2001), compared to only one year each for the subsequent allocations. Perhaps the Government was forecasting a rapid growth in the number of new private schools for 2002-2004. In evidence before Senate Estimates, however, Ms Andruska indicates that this is not the case (7/06/01, p.311): numbers of new schools are apparently expected to remain almost the same until 2005. although the 2001 number is running lower, at 19, than might have been projected.

What is particularly unclear is the point in time at which it was determined that establishment grants would be allocated on the basis of enrolments: \$500 per student in the first year of operation, and \$250 per student in the second. This formula does not appear in the 2000 legislation, but is a matter for determination by the Minister. If the formula had been determined by, say, October 2000, it would have been possible to revise the establishment grant allocations accordingly. It appears, however, that the Minister may have exercised his right to determine the formula after the passage of the legislation, or possibly shortly before it was passed. As it happened, the formula entailed that the funds as allocated were insufficient. This could be the reason that the unexpected increase in enrolments for new private schools – from an average 42 in 1999 to 92 in 2000, according to Mr Greer (Senate Estimates 7/06/01, p.316) – required a substantial increase in the funding available under the program. There is no particular reason to believe, however, that the trend for 2000, of higher enrolments for new private schools, will necessarily persist. It might be a one-off, anomalous increase.

If the original intention was to provide an equal amount to each school, irrespective of enrolments, then a lower overall allocation might be required, depending on the quantum of the grant. The nature of the formula struck subsequent to the passage of the 2000 Act led inevitably to the outcome that the funds as allocated in 2000 fell well short of the mark. Thus the Government might be perceived to have engineered a situation where establishment grants were to be significantly boosted, as a result of settling upon a more generous formula after the event.

The AEU recommends that the Committee decide not to recommend that the extra funds be made available.

Eligibility and accountability for establishment grant funding

Provided that new private schools are approved for registration at State or Territory level, and have commenced operation, they are automatically eligible for establishment grants. There are no further requirements, such as minimum enrolment size. This was confirmed by Departmental officers at the Estimates hearing on 7 June, 2001 (p.313). Furthermore, there are no explicit or special accountability or reporting requirements attached to them (Estimates 7/06/01, pp.314-316). The funds do not have to be accounted for separately. Thus the specific purpose of the program is unclear, and schools are free to spend the money on anything on which they might legitimately spend any recurrent funds made available to them by government.

The objective of the program, as quoted by Ms Andruska before the Estimates Committee (7/06/01, p.316), is “to provide additional funding for new schools to assist them with recurrent costs incurred in their formative years and to enable them to be more competitive with existing schools.” New schools in the public system, by contrast, do not receive establishment grants from the Commonwealth, although their needs would presumably be similar. Establishment grants, then, are intended to promote competition both between private schools, and between private schools and public schools. They are designed to forward the ideological agenda of the present Federal Government in education.

The AEU believes that establishment grants, if they are to exist, should be subject to clear, explicit guidelines as to their use and also to separate and rigorous reporting and accountability requirements. An amendment to this effect to the States Grants Act 2000 should be introduced to the Parliament, and applied retrospectively to all establishment grant allocations for new school from 11 May, 1999.

A minimum enrolment benchmark should be established for eligibility for establishment grants. The AEU believes that the minimum enrolment levels which were a feature of the former New Schools Policy, at the time of its abolition in 1996, are appropriate for this purpose.

Further, if establishment grants are not to be abolished, the Commonwealth should provide establishment grants on an equal per capita basis to both public and private schools. Minimum enrolment requirements should not, however, be imposed on duly established public schools.

Conclusion

The Government has sought to bestow massive increases in establishment grants for new private schools, only months after striking the levels of the allocations in the 2000 *State Grants Act*. While these grants amount to a very small part of the total recurrent allocations for schools provided by the Commonwealth, this consideration of itself does not justify allowing the funds to be increased, nor does it provide a rationale for the lack of rigorous accountability and eligibility requirements applying to the program. The AEU does not believe that the proposed increases in funding are appropriate or reasonable. The Government has not provided a clear rationale for the changes, nor for the formula for allocation of the funds to schools themselves.

We are being asked to accept and support the expansion of yet another slush fund for private schools. It is essentially open ended, based as it is simply on enrolment levels of new private schools. Private schools have already benefited to an inordinate degree from the largesse of this Coalition Government. The AEU is strongly of the view that the Government's bid to increase the size of this fund should be rejected.

12 June, 2001