EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Education, Science and Training, the Honourable Julie Bishop MP)

OUTLINE

The purpose of the Bill is to amend the Schools Assistance (Learning Together – Achievement Through Choice and Opportunity) Act 2004 (the Act), which provides funding for Australian Government programmes of financial assistance to the States and Territories for government and non-government schools for the 2005 to 2008 quadrennium.

The purpose of the Bill is to provide increased per capita assistance to State and non-government education authorities for newly arrived humanitarian entrant students under the English as a Second Language (ESL) – New Arrivals programme for the 2008 programme year. The Bill includes a new definition for eligible humanitarian entrant students. The Bill will amend the Act to include a new Table 3 in Schedule 8 that specifies the per capita funding amount for eligible humanitarian entrant students for 2008 (the ESL new arrivals humanitarian amount). This amount is equivalent to double the existing per capita ESL new arrivals amount in Table 2 of Schedule 8. Funding will be subject to indexation, as is the case for existing grants under the ESL – New Arrivals programme.

The Bill will amend the Act to provide for additional funding in the form of a loading linked to recurrent grants for non-government schools in rural and remote regions, based on the degree of remoteness, for 2008. The Bill includes new definitions of ‘moderately accessible school’, ‘remote school’ and ‘very remote school’.

The funding loading will be provided to non-government schools (or campuses of schools) located within areas classified as ‘Moderately Accessible’, ‘Remote’ or ‘Very Remote’. Eligibility for the loading will be determined using a remoteness classification as defined in the Remoteness Structure under the Australian Bureau of Statistics’ Australian Standard Geographical Classification and according to the remoteness of the Census Collection District in which the school campus is located. The delimitation criteria for remoteness areas are based on the Accessibility/Remoteness Index of Australia (ARIA). Non-government schools and campuses located within areas classified as ‘Moderately Accessible’, ‘Remote’ or ‘Very Remote’ will receive an additional 5 percent, 10 percent or 20 percent respectively of the funding entitlement associated with their socioeconomic status score.

Funding amounts are in initial 2005 prices, the price basis of the Act.
FINANCIAL IMPACT

The Bill measure to provide increased funding for newly arrived Humanitarian entrant students under the English as a Second Language – New Arrivals programme for 2008 is estimated at $50 million for 2008. The cost of providing a loading to recurrent grants for eligible non-government schools in remote areas in 2008 is estimated at $40 million. The financial impact is an estimate as both programmes are demand driven with final funding determined by student numbers in 2008.
NOTES ON CLAUSES

Clause 1 – Short title


Clause 2 – Commencement

Provides for the Act to commence on the day on which it receives Royal Assent.

Clause 3 – Schedule(s)

Provides that each Act that is specified in a Schedule is amended or repealed as set out in the applicable items in the Schedule, and that any other item in a Schedule has effect according to its terms.
Schedule 1 — Eligible humanitarian new arrivals

_Schools Assistance (Learning Together – Achievement Through Choice and Opportunity) Act 2004_

Items 1 and 2 – Section 4 (definitions)

Section 4 sets out the definitions used in the Act. **Items 1 and 2** insert two new definitions of *eligible humanitarian new arrival* and *ESL new arrivals humanitarian amount*.

Items 3 and 6 – Subsection 113(2) (formula) and subsection 114(2) (formula)

Part 9 of the Act provides for grants for teaching English to new arrivals. Section 113 deals with grants for teaching English as a second language in government schools and section 114 deals with grants for teaching English as a second language in non-government schools.

**Items 3 and 6** repeal and substitute the formula in subsections 113(2) and 114(2) to provide for a subset of students who are entering Australia with a visa issued under the Humanitarian Migration Program and who are already eligible for the existing ESL new arrivals grant.

Items 4 and 7 – Subsections 113(2) and 114(2)

**Items 4 and 7** amend subsections 113(2) and 114(2) to insert two new definitions of *number of eligible humanitarian new arrivals in government schools* and *number of eligible humanitarian new arrivals in non-government schools* as a consequence of the amendments made by items 3 and 6 of Schedule 1.

Items 5 and 8 – Subsection 113(2) (definition of *number of eligible new arrivals in government schools*) and subsection 114(2) (definition of *number of eligible new arrivals in non-government schools*)

**Items 5 and 8** consequentially amend subsections 113(2) and 114(2) to insert the words “, other than eligible humanitarian new arrivals,” after the words “the number of eligible new arrivals”.

Item 9 – After paragraph 124(1)(c)

Division 2 of Part 11 of the Act deals with cost supplementation and section 124 deals with cost supplementation for recurrent grants. **Item 9** inserts proposed new paragraph 124(1)(ca) which provides for the ESL new arrivals humanitarian amount.

Item 10 – At the end of Schedule 8
Schedule 8 deals with grants for targeted assistance. **Item 10** inserts proposed new Part 3 to Schedule 8 to deal with the amounts for ESL humanitarian new arrivals for the 2008 program year. A note at the end of the table to Part 3 of Schedule 8 assists the reader by explaining that the operation of section 124 may affect the amount of the grants.
Schedule 2 — Remoteness per capita loading

*Schools Assistance (Learning Together – Achievement Through Choice and Opportunity) Act 2004*

**Items 1, 2, 3, 4, 5 and 6 — Section 4**

Inserts definitions into section 4 for *moderately accessible school campus*, *Remoteness Structure*, *remote school campus*, *school campus* and *school campus census day* and *very remote school campus*.

**Items 7, 8 and 9 — Paragraphs 53(1)(f), 53(1)(g) and after paragraph 53(1)(g)**

Part 4 of the Act deals with varying lists and section 53 deals with the change of SES score and SES current funding level of a non-government school in certain circumstances.

**Items 7 and 8** make technical amendments to paragraphs 53(1)(f) and 53(1)(g) by inserting the word “different” after the words “determine a”. This is to clarify that schools to which those paragraphs apply would have previously had a current SES funding level determined.

**Item 9** inserts proposed new paragraph 53(1)(ga) which provides that the Minister must determine a different current SES funding level for the school if, immediately before the Minister determined the new SES score, Subdivision G of Division 2 of Part 6 of the Act applied to the school.

Schools that are special schools or special assistance schools will need a current SES funding level to use in the formula to work out the amount of any remoteness per capita loading for the school under the proposed new Subdivision I of Division 2 of Part 6. The Minister will determine a SES score for special schools and special assistance schools under section 8 to enable the calculation of a current SES funding level. This new paragraph ensures that if the Minister is required to determine a new SES score for a special school or a special assistance school under paragraph 53(d) the Minister must also determine a different current SES funding level for the school.

**Item 10 — After subsection 71(7)**

Division 2 of Part 6 of the Act deals with grants for general recurrent expenditure for schools. Section 71 provides a simplified outline of Division 2 of Part 6 of the Act. **Item 10** inserts proposed new subsection 71(7A) which provides that schools dealt with under Subdivision I will receive remoteness per capita loading in respect of one or more school campuses.

**Item 11 — At the end of Subdivision B of Division 2 of Part 6**
Inserts proposed new section 77A which identifies the schools to which Subdivision I applies for a particular program year. A note at the end of section 77A clarifies that assistance under Subdivision I of Division 2 of Part 6 of the Act is in addition to the financial assistance that is available under Subdivision C, D, E, F or G.

Item 12 – At the end of Division 2 of Part 6

Inserts proposed new Subdivision I which provides for remoteness per capita loading for certain schools. Subdivision I inserts proposed new sections 98A, 98B and 98C.

The purpose of proposed new Subdivision I is to allow the Minister to make a determination authorising payment of the remoteness per capita loading and sets out how the amount of remoteness per capita loading is worked out. The formulas set out in sections 98B and 98C use the new definitions inserted into the Act by items 1, 2, 3, 4, 5 and 6.

Because of the way the Act is structured and how it provides for general recurrent funding and SES scores, each section in Subdivision I is divided into two parts: one dealing with a school’s primary students and a school’s secondary students.

Proposed new section 98A deals with authorising payments for remoteness per capita loading.

Proposed new subsection 98A(1) provides that section 98A applies to a school in a State for a particular program year if Subdivision I applies to the school for that program year in accordance with section 77A.

A note at the end of subsection 98A(1) clarifies that assistance under Subdivision I is in addition to the financial assistance that is available under this Act.

Proposed new subsection 98A(2) provides that the Minister may make a determination under subsection 98A(2) authorising payment of financial assistance to the State for recurrent expenditure of the school for the program year of an amount not more than the amount worked out for the school by adding up:

- the amount worked out under subsection 98B(1) for the school’s primary students (if any) for the program year; and
- the amount worked out under subsection 98B(2) for the school’s primary students (if any) for the program year; and
- the amount worked out under subsection 98B(3) for the school’s primary students (if any) for the program year.

Proposed new subsection 98A(3) provides that the Minister may make a determination under subsection 98A(3) authorising payment of financial assistance to the State for recurrent expenditure of the school for the program year of an amount not more than the amount worked out for the school by adding up:

- the amount worked out under subsection 98C(1) for the school’s secondary students (if any) for the program year; and
• the amount worked out under subsection 98C(2) for the school’s secondary students (if any) for the program year; and
• the amount worked out under subsection 98C(3) for the school’s secondary students (if any) for the program year.

**Proposed new section 98B** sets out how the amount for a school’s primary students for the program year is calculated under subsection 98A(2).

**Proposed new subsection 98B(1)** provides a formula for calculating the amount for a school’s primary students for a program year who receive primary education at a school’s moderately accessible school campus.

Example of how to calculate the *number of relevant primary students* for the purposes of the formula: A school has 2 moderately accessible school campuses (school campus A and school campus B) for a program year. Two hundred full-time students receive primary education at school campus A on the school campus census day for school campus A in the program year. One hundred full-time students receive education at school campus B on the school campus census day for school campus B in the program year. So the *number of relevant primary students* for the school for the program year is three hundred.

The definition of *number of relevant primary students* in proposed new subsection 98B(1) does not include primary distance education students unless the Minister has made a determination under paragraph 5(1)(b) in relation to those students. This is because the definition applies to students receiving primary education and subsection 5(1) provides that a student is not taken to be receiving primary education at a non-government school unless the student attends the school at the location on a daily basis or the Minister has made a determination under paragraph 5(1)(b).

**Proposed new subsection 98B(2)** provides a formula for calculating the amount for a school’s primary students for a program year who receive primary education at a school’s remote school campus.

The definition of *number of relevant primary students* in proposed new subsection 98B(2) does not include primary distance education students unless the Minister has made a determination under paragraph 5(1)(b) in relation to those students. This is because the definition applies to students receiving primary education and subsection 5(1) provides that a student is not taken to be receiving primary education at a non-government school unless the student attends the school at the location on a daily basis or the Minister has made a determination under paragraph 5(1)(b).

**Proposed new subsection 98B(3)** provides a formula for calculating the amount for a school’s primary students for a program year who receive primary education at a school’s very remote school campus.

The definition of *number of relevant primary students* in proposed new subsection 98B(3) does not include primary distance education students unless the Minister has made a determination under paragraph 5(1)(b) in relation to those students. This is because the definition applies to students receiving primary education and section 5(1) provides that a student is not taken to be receiving primary education at a non-government school unless the student attends the school at the location on a daily basis or the Minister has made a determination under paragraph 5(1)(b).
Proposed new subsection 98B(4) provides that if an amount worked out under subsection 98B(1), 98B(2) or 98B(3) is an amount of dollars and cents, the amount is to be rounded to the next higher dollar.

Proposed new section 98C sets out how the amount for a school’s secondary students for the program year is calculated under subsection 98A(3).

Proposed new subsection 98C(1) provides a formula for calculating the amount for a school’s secondary students for a program year who receive secondary education at a school’s moderately accessible school campus.

The definition of number of relevant secondary students in proposed new subsection 98C(1) does not include secondary distance education students unless the Minister has made a determination under paragraph 5(1)(b) in relation to those students. This is because the definition applies to students receiving secondary education and subsection 5(1) provides that a student is not taken to be receiving secondary education at a non-government school unless the student attends the school at the location on a daily basis or the Minister has made a determination under paragraph 5(1)(b).

Proposed new subsection 98C(2) provides a formula for calculating the amount for a school’s secondary students for a program year who receive secondary education at a school’s remote school campus.

The definition of number of relevant secondary students in proposed new subsection 98C(2) does not include secondary distance education students unless the Minister has made a determination under paragraph 5(1)(b) in relation to those students. This is because the definition applies to students receiving secondary education and subsection 5(1) provides that a student is not taken to be receiving secondary education at a non-government school unless the student attends the school at the location on a daily basis or the Minister has made a determination under paragraph 5(1)(b).

Proposed new subsection 98C(3) provides a formula for calculating the amount for a school’s secondary students for a program year who receive secondary education at a school’s very remote school campus.

The definition of number of relevant secondary students in proposed new subsection 98C(2) does not include secondary distance education students unless the Minister has made a determination under paragraph 5(1)(b) in relation to those students. This is because the definition applies to students receiving secondary education and subsection 5(1) provides that a student is not taken to be receiving secondary education at a non-government school unless the student attends the school at the location on a daily basis or the Minister has made a determination under paragraph 5(1)(b).

Proposed new subsection 98C(4) provides that if an amount worked out under subsection 98C(1), 98C(2) or 98C(3) is an amount of dollars and cents, the amount is to be rounded to the next higher dollar.
Item 13 – Paragraph 132(1)(d)

Section 132 deals with a change of SES score due to a false or misleading statement. Item 13 repeals paragraph 132(1)(d) and inserts a proposed new paragraph which provides that section 132 applies if the other requirements in section 132 are met and as a result of the statement, the school or a school in the approved school system either:

- obtains a higher funding level for the purposes of meeting recurrent expenditure than, in the Minister’s opinion, the school may have obtained if the statement had not been made; or
- obtains a larger amount under Subdivision I of Division 2 of Part 6 than, in the Minister’s opinion, the school may have obtained if the statement had not been made.

This proposed new paragraph is inserted because for some schools, the funding level, as defined in section 6, would not change if a different SES score were determined for the school. However the amount of financial assistance for such schools worked out under proposed new Subdivision I of Division 2 of Part 6 would change if a different SES score for the school were determined.

Item 14 – Schedule 4 (note)

Schedule 4 to the Act sets out the amounts for general recurrent grants for non-government schools.

Item 14 amends the note to Schedule 4 by inserting the words “, 98A to 98C” after the words “93 to 96” to refer to amounts in Schedule 4.

Item 15 – Application

Provides that the amendments made by Schedule 2 apply to a school for the 2008 program year and later program years.