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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE HOUSE OF REPRESENTATIVES

INDIGENOUS EDUCATION (TARGETED ASSISTANCE) AMENDMENT BILL 2013

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for School Education, Early Childhood and Youth)

**INDIGENOUS EDUCATION (TARGETED ASSISTANCE) AMENDMENT
BILL 2013**

GENERAL OUTLINE

The Bill amends the *Indigenous Education (Targeted Assistance) Act 2000* (IETA) to increase the legislative appropriations for the period from 1 January 2012 to 30 June 2014. The increased appropriations will enable the education components of the Stronger Futures in the Northern Territory National Partnership (SFNT-NP), specifically the School Nutrition Program and the Additional Teachers initiative, to be administered under IETA. As a result of 2012 Budget decisions, the education components of the SFNT-NP will be administered through IETA until 31 December 2013 at which point they will be funded directly through the Treasury under usual National Partnership arrangements.

The increased appropriations will benefit the School Nutrition Program and the Additional Teachers initiative under the SFNT-NP and will include new funding for the *Achieving Results Through Indigenous Education* (ARTIE) project which will be administered through the Sporting Chance program which is funded under IETA.

FINANCIAL IMPACT STATEMENT

An additional \$79,000 is required for the 1 January 2012 to 30 June 2013 appropriation period due to an adjustment to the School Nutrition Program as part of the SFNT-NP. This adjustment will increase the 1 January 2012 to 30 June 2013 appropriation from \$132,607,000 to \$132,686,000.

An additional \$3,176,000 is required for the 1 January 2013 to 30 June 2014 appropriation period due to an adjustment to the School Nutrition Program and Additional Teachers initiative as part of the SFNT-NP and the commencement of the ARTIE project. The additional appropriated funds will increase the 1 January 2013 to 30 June 2014 appropriation from \$137,699,000 to \$140,875,000.

NOTES ON CLAUSES

Clause 1 – Short Title

This clause identifies the legislation as the *Indigenous Education (Targeted Assistance) Amendment Act 2013* (the Act).

Clause 2 – Commencement

This clause provides that the Act will commence on the day on which it receives the Royal Assent.

Clause 3 – Schedule(s)

This clause provides that each Act referred to in the Schedule to the Act is amended or repealed as set out in the applicable items in the Schedule. In addition, any other item in a Schedule to the Act has effect according to its terms.

SCHEDULE 1 - AMENDMENTS

Item 1 amends subsection 14B(1) (table item 4) of IETA. This item prescribes the funding amounts appropriated out of the Consolidated Revenue Fund (CRF) for non-ABSTUDY payments for the period 1 January 2012 to 30 June 2013. The starting amount for the appropriation in table item 4 will be increased from \$132, 607,000 to \$132,686,000. The increase to the appropriation is required due to an adjustment to the School Nutrition Program as part of the SFNT-NP.

Item 2 amends subsection 14C(1) (table item 1) of IETA. This item prescribes the funding amounts appropriated out of the CRF for non-ABSTUDY payments for the period 1 January 2013 to 30 June 2014. The starting amount for the appropriation will be increased from \$137,699,000 to \$140,875,000. The increase to the appropriation is required due to an adjustment to the School Nutrition Program and Additional Teachers initiative as part of the SFNT-NP as well as the commencement of the ARTIE program.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Indigenous Education (Targeted Assistance) Amendment Bill 2013

This Bill is compatible with human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the legislative amendments

The Bill amends the *Indigenous Education (Targeted Assistance) Act 2000* (IETA) to increase the legislative appropriations for the period from 1 January 2012 to 30 June 2014. This increase to the appropriations allows for an adjustment to the education components of the SFNT-NP, specifically the School Nutrition Program and the Additional Teachers initiative; and includes new funding for the *Achieving Results Through Indigenous Education* (ARTIE) project which will be administered through the Sporting Chance program funded under IETA.

Human rights implications

The Bill engages the following human rights:

- the right to education – Article 13 of the *International Covenant on Economic, Social and Cultural Rights*; and
- the elimination of racial discrimination – Articles 2 and 1(4) of the *Convention on the Elimination of all forms of Racial Discrimination*.

Right to Education

Items 1 and 2 of Schedule 1 to the Indigenous Education (Targeted Assistance) Amendment Bill 2013 (the Bill) engage the right to education contained in article 13 of the *International Covenant on Economic, Social and Cultural Rights*. One of the main objectives of IETA is to ensure equitable and appropriate educational outcomes for Indigenous students. The increased appropriations will positively contribute to achieving this aim.

Specifically, this will be achieved through the funding of a range of educational programs provided under IETA, including additional funding for teachers in remote Northern Territory schools and the commencement of the ARTIE program. It is the mission of the ARTIE Academy to offer a service that allows Indigenous students to achieve a level of academic success that not only ensures Year 12 completion, but provides an opportunity for desired career choices to be potentially achieved.

Funding provided through IETA will allow for the implementation of the Academy's tutoring program in primary schools and for the expansion of the Academy into Townsville.

The additional appropriations under IETA will also be used to fund the continuation of the School Nutrition program, which enables a nutritious breakfast, lunch and snacks to be provided to 5,000 students in 67 target schools across remote Northern Territory communities to assist in improving students' ability to participate in school and learning.

The range of programs funded under IETA will make a positive contribution to promoting the right to education for the Indigenous students concerned.

Elimination of racial discrimination

Items 1 and 2 of Schedule 1 to the Bill will fund programs that will differentiate between individuals or groups on the basis of race, albeit to promote the right to education of Indigenous students.

Australia has obligations to eliminate all forms of racial discrimination under Article 2 of the *Convention on the Elimination of All Forms of Racial Discrimination* (CERD). However, not all treatment that differentiates between individuals will amount to discrimination. Article 1(4) of the CERD provides that, where special measures are taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals in the equal enjoyment of their human rights, those measures will not amount to racial discrimination.

The additional appropriations under IETA which provide funding for programs that are intended to achieve equality in educational outcomes for Indigenous students is a special measure and is not discriminatory as it is designed to benefit and ensure the improved educational attainment of Indigenous students.

It is widely acknowledged that Aboriginal and Torres Strait Islander students have a lower level of educational engagement, attendance and attainment than non-Indigenous students. For example:

- The proportion of Indigenous 20 to 24 year-olds who had completed year 12 or the equivalent was around half that of non-Indigenous 20 to 24 year-olds in 2008.
- The participation rates in the *National Assessment Program – Literacy and Numeracy* tests were lower for Aboriginal and Torres Strait Islander students than for non-Indigenous students in 2010. For Indigenous students, the rate was lower in remote areas, while, for non-Indigenous students, the rate was similar across remote areas.
- Of Indigenous people aged 15 and older, 34.1 per cent reported year 9 or below as their highest level of schooling in 2008, compared to 16.0 per cent of non-Indigenous people aged 15 and older.

- Around one-third of Indigenous students achieved the minimum proficiency level in international tests for science, mathematics and reading literacy in 2009, compared to around two-thirds of non-Indigenous students.

There are a number of Council of Australian Governments (COAG) targets aimed at reducing the gap in education attendance and attainment between Aboriginal and Torres Strait Islander students and non-Indigenous students. The programs to be funded under IETA, as a result of the amendments in the Bill are special measures which are appropriate, necessary and proportionate while also being temporary.

These measures are aligned with the national Aboriginal and Torres Strait Islander Education Policy, and the Australian Government's Indigenous Reform Agenda through the nationally integrated 'Closing the Gap' strategy agreed to by COAG. COAG has also agreed to specific timeframes for achieving six 'Closing the Gap' targets relating to, amongst other things, Indigenous education and which are aimed at improving and promoting the equal enjoyment of the right to education of Indigenous students. The measures contained in the Bill therefore do not amount to racial discrimination as they are special measures.

Conclusion

The Bill is compatible with human rights as it promotes the right to education and the obligation to eliminate racial discrimination.