

The Senate

Community Affairs Legislation
Committee

Family Assistance Legislation Amendment
(Extend Family Assistance to ABSTUDY
Secondary School Boarding Students Aged
16 and Over) Bill 2019 [Provisions]

September 2019

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Abbreviations

| | |
|-------|---|
| ABSA | Australian Boarding Schools Association |
| AHISA | Association of Heads of Independent Schools of Australia |
| bill | Family Assistance Legislation Amendment (Extend Family Assistance to ABSTUDY Secondary School Boarding Students Aged 16 and over) Bill 2019 |
| DSS | Department of Social Services |
| FTB | Family Tax Benefit |
| IEBA | Indigenous Education & Boarding Australia |
| RIPA | Remote Indigenous Parents Australia |

List of Recommendations

Recommendation 1

1.51 The committee recommends that the bill be passed.

Chapter 1

Chair's report

Purpose of the bill

- 1.1 The Family Assistance Legislation Amendment (Extend Family Assistance to ABSTUDY Secondary School Boarding Students Aged 16 and over) Bill 2019 (bill) was introduced into the House of Representatives on 31 July 2019.¹
- 1.2 The bill seeks to implement the 2019–20 Budget measure 'Extending Family Tax Benefit to ABSTUDY recipients aged 16 and over who study away from home'.²
- 1.3 Under the current Family Assistance Legislation, once an ABSTUDY secondary school student who boards away from home to attend school turns 16, the family is no longer eligible to receive Family Tax Benefit (FTB).³ The bill is designed to extend FTB eligibility to the families of ABSTUDY boarding secondary school students aged 16 and over.⁴

Key provisions of the bill

- 1.4 Schedule 1 amends the *A New Tax System (Family Assistance) Act 1999* and the *A New Tax System (Family Assistance) (Administration) Act 1999* to provide that FTB will continue to be payable at the same rates to families of ABSTUDY children who live away from home to study once they turn 16.⁵
- 1.5 The changes introduced by this bill will commence on 1 January 2020 if the bill is passed and receives Royal Assent in 2019.⁶

Financial implications

- 1.6 The financial impact of the changes introduced by this bill to FTB eligibility is \$36.4 million over the forward estimates.⁷

¹*House of Representatives Votes and Proceedings*, No. 10, 31 July 2019, p. 161.

² Explanatory memorandum, p. 2.

³ The Hon. Paul Fletcher, MP, Minister for Communications, Cyber Safety and the Arts, *House of Representatives Hansard*, 31 July 2019, p. 8.

⁴ Explanatory memorandum, p. 2.

⁵ Explanatory memorandum, p. 4.

⁶ Explanatory memorandum, p. 3.

⁷ Explanatory memorandum, p. 2.

Legislative scrutiny

- 1.7 The Senate Standing Committee for the Scrutiny of Bills and the Parliamentary Joint Committee on Human Rights had not reported on their consideration of the bill at the time this report was prepared.
- 1.8 The explanatory memorandum to the bill notes that the bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.⁸
- 1.9 The explanatory memorandum states that 'the amendments in this bill are compatible with human rights because they promote access to social security and support the right to education'.⁹

Conduct of the inquiry

- 1.10 On 1 August 2019, the Senate referred the provisions of the bill to the committee for inquiry and report by 5 September 2019.¹⁰
- 1.11 Details of the inquiry, including a link to the bill and associated documents, were placed on the committee's website.¹¹ The committee wrote to relevant organisations inviting submissions to the inquiry by 16 August 2019. Submissions continued to be accepted after that date.
- 1.12 The committee received 10 submissions and held a public hearing in Canberra on 30 August 2019. The committee thanks all of those who contributed to the inquiry. Submitters and witnesses are listed at Appendices 1 and 2.

Notes on references

- 1.13 References to the committee *Hansard* are to the proof transcript. Page numbers may vary between the proof and official *Hansard* transcript.

Background and current policy

- 1.14 Family Tax Benefit (FTB) is a means tested payment that helps eligible families with the cost of raising children.¹²
- 1.15 Eligible Aboriginal and Torres Strait Islander students and apprentices can access support through the ABSTUDY scheme. The ABSTUDY scheme consists

⁸ Explanatory memorandum, p. 6.

⁹ Explanatory memorandum, p. 7.

¹⁰ *Journals of the Senate*, No. 11, 1 August 2019, p. 332.

¹¹ See: Community Affairs Legislation Committee, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Community_Affairs/Extend_FTBTtoABSTUDY.

¹² Department of Social Services, Family Tax Benefit, <https://www.dss.gov.au/families-and-children/benefits-payments/family-tax-benefit> (accessed 20 August 2019).

of seven different awards which provide a range of allowance payments depending on the individual's study, training and personal circumstances. The allowances are means tested.¹³

- 1.16 ABSTUDY allowances, while an individual entitlement, are paid directly to the school and boarding provider to cover tuition and boarding costs. FTB is paid directly to the family.
- 1.17 Currently, families of Aboriginal and Torres Islander boarding students aged under 16 are generally eligible for both ABSTUDY and FTB. However, once the student turns 16, family assistance legislation precludes families of ABSTUDY boarding students from receiving FTB.¹⁴
- 1.18 The loss of FTB when an ABSTUDY boarding student turns 16 can represent a significant drop in income support for families, which can be as high as \$6,900 per year. This contributes to financial pressure on families who send their child away to secondary school to attain a Year 12 qualification.¹⁵

Policy rationale for change

- 1.19 The bill seeks to assist eligible families of ABSTUDY boarding secondary students over 16 years of age with the ongoing costs of raising their child and to provide them with further support to enable their child to access secondary education and attain Year 12 qualification.¹⁶
- 1.20 It is estimated that the families of more than 2,000 Aboriginal and Torres Strait Islander secondary school students would benefit from the changes introduced by the bill, and would receive on average an additional \$5,911 per year.¹⁷

Assisting families with costs of raising children

- 1.21 According to the Department of Social Services (DSS), this bill addresses a policy anomaly that currently leaves families under financial pressure to cover the ongoing costs of their children's daily incidentals while they are away at school as well as their essential living costs when they are at home during school holidays.¹⁸

¹³ Department of Human Services, Awards types, 3 July 2019, <https://www.humanservices.gov.au/individuals/services/centrelink/abstudy/eligibility/award-types> (accessed 20 August 2019).

¹⁴ The Hon. Paul Fletcher, MP, Minister for Communications, Cyber Safety and the Arts, *House of Representatives Hansard*, 31 July 2019, p. 8.

¹⁵ Department of Social Services, *Submission 7*, p. 2.

¹⁶ Department of Social Services, *Submission 7*, p. 3.

¹⁷ The Hon. Paul Fletcher, MP, Minister for Communications, Cyber Safety and the Arts, *House of Representatives Hansard*, 31 July 2019, p. 9.

¹⁸ Department of Social Services, *Submission 7*, p. 2.

- 1.22 The vast majority of inquiry participants were of the view that the bill is addressing a significant area of need for families and would assist with covering the costs of clothing, toiletries, medicines and pocket money when a child is away at boarding school.¹⁹

Improving school retention

- 1.23 For many Aboriginal and Torres Strait Islander students living in remote communities, boarding schools represent the sole form of secondary schooling available to them.²⁰
- 1.24 Aboriginal and Torres Strait Islander boarding students are disproportionately dropping out of boarding schools around the age of 16. Data from the Department of Human Services show that the number of ABSTUDY boarding students drops by approximately 60 percent between the age of 15 and 17.²¹
- 1.25 Indigenous Education & Boarding Australia (IEBA) reported that 'many Indigenous families are deliberately withdrawing their children when FTB ceases' and stated:
- This is evidenced through the anecdotal accounts from experienced senior managers in boarding schools and residences and the number of students whose boarding ceases upon them turning sixteen.²²
- 1.26 Similarly, DSS reported that their consultation with schools and the boarding sector has indicated that a factor in dropping out of school at age 16 is the loss of FTB.²³
- 1.27 IEBA submitted that the current legislation has created 'an unintended exit point for students' and 'denies many students from remote Australia the opportunity to complete their education'.²⁴
- 1.28 DSS is of the view that extending FTB eligibility will increase school retention as 'it will remove an existing perverse incentive for students to drop out school at 16'.²⁵

¹⁹ See for example: Association of Heads of Independent Schools of Australia and Australian Boarding Schools Association, *Submission 2*, p. 1; Independent Schools Council of Australia, *Submission 3*, p. 3; National Catholic Education Commission, *Submission 4*, p. 1; Catholic Schools NSW, *Submission 8*, p. 1; Isolated Children's Parents' Association of Australia, *Submission 9*, p. 2.

²⁰ Association of Heads of Independent Schools of Australia and Australian Boarding Schools Association, *Submission 2*, pp. 1–2.

²¹ The Hon Paul Fletcher, MP, Minister for Communications, Cyber Safety and the Arts, *House of Representatives Hansard*, 31 July 2019, p. 8.

²² Indigenous Education & Boarding Australia, *Submission 5*, p. 2.

²³ Department of Social Services, *Submission 7*, p. 3.

²⁴ Indigenous Education & Boarding Australia, *Submission 5*, p. 4.

²⁵ Department of Social Services, *Submission 7*, p. 2.

- 1.29 Similarly, IEBA believes that the measures in the bill will improve retention rates.²⁶
- 1.30 However, the Association of Heads of Independent Schools of Australia (AHISA) and the Australian Boarding Schools Association (ABSA) warned that extending FTB eligibility 'cannot be expected to provide a one shot quick fix to promote retention' but acknowledged that it will 'remove what amounts to a financial disincentive from the complex mix of pressures that influence students' decision making on whether to complete their schooling'.²⁷

Increasing Year 12 completion

- 1.31 In his second reading speech to the bill, Minister for Communications, Cyber Safety and the Arts, the Hon Paul Fletcher explained that the changes introduced by this bill will increase the proportion of Indigenous students who complete Year 12.²⁸
- 1.32 DSS pointed out that the bill will support more students to complete Year 12, which is consistent with the Australian Government's focus on closing the gap in educational attainment between Indigenous and non-Indigenous students.²⁹
- 1.33 Catholic Schools NSW is also of the view that the provisions of the bill will help students to complete school, leading to improved employment opportunities.³⁰
- 1.34 Similarly, Dr Christopher Hayes, Headmaster at St Joseph's College, Hunters Hill, believes 'it will encourage further school completion to Year 12' and 'this will improve the chances of closing the gap'.³¹

Addressing stakeholder recommendations

- 1.35 The bill aligns with recommendations from a range of stakeholders to improve Indigenous education outcomes.³²
- 1.36 This includes addressing the recommendations from the 2014 Forrest review *Creating parity*.³³ The Forrest review recommended that Indigenous families

²⁶ Indigenous Education & Boarding Australia, *Submission 5*, p. 5.

²⁷ Association of Heads of Independent Schools of Australia and Australian Boarding Schools Association, *Submission 2*, p. 3.

²⁸ The Hon Paul Fletcher, MP, Minister for Communications, Cyber Safety and the Arts, *House of Representatives Hansard*, 31 July 2019, p. 9.

²⁹ Department of Social Services, *Submission 7*, p. 3.

³⁰ Catholic Schools NSW, *Submission 8*, p. 1.

³¹ Dr Christopher Hayes, Headmaster, St Joseph's College, Hunters Hill, *Committee Hansard*, 30 August 2019, p. 8.

³² Department of Social Services, *Submission 7*, p. 2.

with children at boarding school have access to FTB until students finish Year 12 in recognition of the costs parents incur for their children.³⁴

- 1.37 The bill also addresses recommendations from the House of Representatives Standing Committee on Indigenous Affairs' report on Indigenous education.³⁵

Building on '50 Years of ABSTUDY'

- 1.38 In the 2018–19 Budget, in recognition of the 50th anniversary of ABSTUDY, the government invested \$38.1 million, over five years, to improve support for Aboriginal and Torres Strait Islander students who need to study away from home. This included more flexible travel provisions and the portability of ABSTUDY payments if students change schools.³⁶
- 1.39 This bill builds on the '50 years of ABSTUDY' budget measure to provide further support to families of boarding secondary school students aged over 16.³⁷

Issues raised in evidence

- 1.40 Whilst supporting the bill because it will alleviate some financial pressure on families, some submitters expressed the view that more is required to increase retention of boarding students and rates of students completing Year 12.³⁸

ABSTUDY funding

- 1.41 Inquiry participants expressed concern that the current quantum of ABSTUDY allowances paid to boarding schools is not sufficient to cover the costs of education, accommodation and day-to-day needs of Aboriginal and Torres Strait Islander students.³⁹

³³ The Hon. Paul Fletcher, MP, Minister for Communications, Cyber Safety and the Arts, *House of Representatives Hansard*, 31 July 2019, p. 8.

³⁴ Department of the Prime Minister and Cabinet, *The Forrest Review Creating parity*, 2014, p. 98.

³⁵ The Hon. Paul Fletcher, MP, Minister for Communications, Cyber Safety and the Arts, *House of Representatives Hansard*, 31 July 2019, p. 8.

³⁶ Department of Social Services, *Student measures 2018 Budget*, 1 July 2018, p. 1.

³⁷ The Hon Paul Fletcher, MP, Minister for Communications, Cyber Safety and the Arts, *House of Representatives Hansard*, 31 July 2019, p. 8.

³⁸ See for example: Association of Heads of Independent Schools of Australia and Australian Boarding Schools Association, *Submission 2*, p. 3; National Catholic Education Commission, *Submission 4*, p. 2.

³⁹ See for example: Haileybury Rendall School, *Submission 1*, p. 2; National Catholic Education Commission, *Submission 4*, p. 2; Independent Schools Council of Australia, *Submission 3*, pp. 7–8.

- 1.42 Submitters argued that current ABSTUDY funding does not recognise the additional care needs of this cohort, which often faces additional health and social challenges compared to non-Indigenous boarding students.⁴⁰
- 1.43 The Independent Schools Council of Australia is calling for a review of how ABSTUDY is calculated and administered, pointing out that the House of Representatives Committee on Indigenous Affairs made a similar recommendation in its 2017 report.⁴¹
- 1.44 IEBA also drew the attention of the committee to the broader issue of Indigenous boarding funding, arguing that Indigenous boarding should not be covered through a welfare payment but addressed as an education expenditure.⁴²

Complexity of the system

- 1.45 Submitters contended that families struggle to navigate the ABSTUDY allowance system.⁴³ For example, Mrs Robyn Yates, Associate Chief Executive, Policy at the Association of Independent Schools of New South Wales stated :

[...] the application system, the eligibility system, the payment system and the accountability system are complex. It is great when you have a school that can support the parents in working through that, but it is not universal.⁴⁴

- 1.46 Submitters were of the view that the system needs to be simplified so families can understand it and access support for their children's education.⁴⁵

Lack of engagement with families to improve education outcomes

- 1.47 Remote Indigenous Parents Australia (RIPA), a grassroots voice for Indigenous parents and families, contended that there is a critical need to address the overall lack of engagement with remote Indigenous communities and parents

⁴⁰ See for example: Independent Schools Council of Australia, *Submission 3*, pp. 7–8; Indigenous Education & Boarding Australia, *Submission 5*, p. 3.

⁴¹ Independent Schools Council of Australia, *Submission 3*, p. 8.

⁴² Indigenous Education & Boarding Australia, *Submission 5*, p. 3.

⁴³ See for example: Mrs Lorraine Bennett, Co-Chair, Remote Indigenous Parents Australia, *Committee Hansard*, 30 August 2019, p. 4; Mrs Wendy Hick, Immediate Past President, Isolated Children's Parents' Association of Australia, *Committee Hansard*, 30 August 2019, p. 4, Dr Paul Hine, Principal, Saint Ignatius' College Riverview, *Committee Hansard*, 30 August 2019, p. 10.

⁴⁴ Mrs Robyn Yates, Associate Chief Executive, Policy, Association of Independent Schools of New South Wales, *Committee Hansard*, 30 August 2019, p. 9.

⁴⁵ See for example: Mrs Wendy Hick, Immediate Past President, Isolated Children's Parents' Association of Australia, *Committee Hansard*, 30 August 2019, p. 4; Mrs Robyn Yates, Associate Chief Executive, Policy, Association of Independent Schools of New South Wales, *Committee Hansard*, 30 August 2019, p. 9.

to understand their educational aspirations and improve education outcomes in remote communities.⁴⁶

Committee view

- 1.48 The committee notes the strong support of stakeholders from the education and boarding sector as well as from parents' associations for the intent of the bill. The committee strongly agrees with submitters that the bill is addressing a significant area of need for families. It will likely make a significant difference for families and students as it will assist with covering the costs of daily incidentals at boarding school and daily costs during the school holidays.
- 1.49 The bill also builds on previous ABSTUDY student measures, which contribute to achieving improved educational outcomes for Indigenous students, including secondary school boarding students from remote Australia. It strongly aligns with the government's commitment to Closing the Gap.
- 1.50 Whilst outside the scope of the bill and this inquiry, the committee acknowledges the range of concerns raised by the education sector and parents' associations. Evidence received by the committee suggests that some families find it difficult to understand and access the ABSTUDY allowance system. The committee notes the challenges faced by boarding schools in meeting the social, emotional and health care needs of some of their students coming from remote communities.

Recommendation 1

- 1.51 The committee recommends that the bill be passed.**

Senator Wendy Askew
Chair

⁴⁶ Remote Indigenous Parents Australia, *Submission 6*, p. 1.

Additional comments by the Australian Greens and Labor Senators

- 1.1 The Australian Greens and Labor Senators support the recommendation made in the committee report that the Family Assistance Legislation Amendment (Extend Family Assistance to ABSTUDY Secondary School Boarding Students Aged 16 and over) Bill 2019 be passed.
- 1.2 However, the Australian Greens and Labor Senators share concerns about the number and range of issues with ABSTUDY identified by submitters during the committee process.
- 1.3 First Nations peoples still face significant barriers to accessing and completing education in Australia, especially for students living in rural and remote areas.
- 1.4 The committee heard evidence from several submitters about the fundamental flaws with the ABSTUDY system that need to be addressed.
- 1.5 Mr Christie-Johnston, Board Member, Remote Indigenous Parents Australia, said at the hearing:

While we support, in principle, the additional ABSTUDY funding proposed, we realise that this additional funding will not in and of itself somehow fix the significant underlying issues confronting Indigenous parents and families in remote and very remote Indigenous communities.¹
- 1.6 Many submitters highlighted the need to improve education and access to the ABSTUDY scheme.
- 1.7 Mrs Hick, Immediate Past President, Isolated Children's Parents' Association of Australia, spoke about the complicated ABSTUDY application process as a potential barrier for families to access the scheme. Mrs Hick said at the hearing:

We have been hearing that it is very difficult for the families to get through this process... I would assume ABSTUDY could be simplified as well, but it needs to be a process that families can understand and get through, because if students are missing out on getting that additional education, furthering their education, purely because the families don't know what is available or they don't know how to apply or get enough support to apply and the students are missing out.²

¹ Mr Bjorn Christie-Johnston, Board Member, Remote Indigenous Parents Australia, *Committee Hansard*, 30 August 2019, p. 1.

² Mrs Wendy Hick, Immediate Past President, Isolated Children's Parents' Association of Australia, *Committee Hansard*, 30 August 2019, p. 4.

- 1.8 Mrs Bennett, Co-Chair, Remote Indigenous Parents Australia, spoke about the challenges involved in completing ABSTUDY paperwork. At the hearing, Mrs Bennett said:

With ABSTUDY itself, writing it down is very hard and challenging because you need identification and immunisation—all these questions—and a few kids haven't got birth certificates because their surname was different to what they have now. I have a niece. She's a very wonderful student here at the school. She's 14. She missed out a year towards going to boarding school because of the waiting. She's still here.³

- 1.9 Mr Franks, Chief Executive Officer, Boarding Australia Ltd trading as Indigenous Education and Boarding Australia, discussed the misinformation about ABSTUDY in the community and the need to talk to people on the ground about the scheme:

Out in community, there's misinformation about Abstudy: what purpose it serves, how it works, how it functions or how it doesn't function. It exists not only with families in the bush but also with community administration and with schools in the bush, and that just perpetuates itself. So there is a great need for an education campaign—and this isn't departmental fact sheets or references to going to the website; this needs to be out on the ground, in detail—to really help people understand how the system works.⁴

- 1.10 Several submitters also emphasised that ABSTUDY does not adequately cover the significant costs associated with education and boarding, even when schools or organisations are able to provide scholarships.

- 1.11 Mrs Yates, Associate Chief Executive, Policy, Association of Independent Schools of New South Wales said at the hearing:

The last point I would like to make—apart from the ones that I know ISCA and NCEC will bring up, which incorporate these—is that, overall, Abstudy doesn't actually pay the reasonable costs of boarding. So there are always going to be additional costs.⁵

- 1.12 Mrs Hick, Immediate Past President, Isolated Children's Parents' Association of Australia, discussed the need for a review into allowances such as ABSTUDY to ensure they are meeting the needs of families:

Our members have been asking for a review of these types of allowances to ensure that they are meeting the needs of the families and the students living out there and are bridging that gap, addressing the inequity in

³ Mrs Lorraine Bennett, Co-Chair, Remote Indigenous Parents Australia, *Committee Hansard*, 30 August 2019, p. 4.

⁴ Mr Greg Franks, Chief Executive Officer, Boarding Australia Ltd trading as Indigenous Education and Boarding Australia, *Committee Hansard*, 30 August 2019, p. 5.

⁵ Mrs Robyn Yates, Associate Chief Executive, Policy, Association of Independent Schools of New South Wales, *Committee Hansard*, 30 August 2019, p. 9.

access to education that these families have by living where they live and access to education opportunities available to them.⁶

Recommendation 1

1.13 The Government undertakes a wider review into the ABSTUDY scheme that examines the issues raised with the committee that fall outside the scope of this bill.

**Senator Rachel Siewert
Australian Greens**

**Senator Malarndirri McCarthy
Australian Labor Party**

⁶ Mrs Wendy Hick, Immediate Past President, Isolated Children's Parents' Association of Australia, *Committee Hansard*, 30 August 2019, p. 4.

Appendix 1

Submissions and additional information

Submissions

- 1 Haileybury Rendall School
- 2 Association of Heads of Independent Schools of Australia and Australian Boarding Schools Association
- 3 Independent Schools Council of Australia
- 4 National Catholic Education Commission
- 5 Indigenous Education and Boarding Australia
- 6 Remote Indigenous Parents Australia – National Indigenous Corporation
 - 3 Attachments
- 7 Department of Social Services
- 8 Catholic Schools NSW
- 9 Isolated Children’s Parents’ Association of Australia
- 10 National Indigenous Australians Agency

Answer to Question on Notice

- 1 Answers to Questions taken on Notice during 30 August public hearing, received from Department of Human Services, 3 September 2019
- 2 Answers to Questions taken on Notice during 30 August public hearing, received from Department of Social Services, 4 September 2019
- 3 Answers to Questions taken on Notice during 30 August public hearing, received from National Indigenous Australians Agency, 4 September 2019

Appendix 2

Public hearing

Friday, 30 August 2019

Committee Room 2S1

Parliament House

Canberra

Remote Indigenous Parents Australia – National Indigenous Organisation

- Mrs Lorraine Bennett, Co-Chair
- Mr Bjorn Christie-Johnston, Board Member, Contact Person
- Mrs Nicole Thompson, Board Member
- Mr Terry O'Connell OAM, Board Member
- Ms Michelle Bennett, Board Member
- Mr Neil Gibson, Board Member

Isolated Children's Parents' Association of Australia

- Mrs Wendy Hick, Immediate Past President

Indigenous Education and Boarding Australia

- Mr Greg Franks, Chief Executive Officer
- Mr Anthony Bennett, Chairperson

National Catholic Education Commission

- Ms Jacinta Collins, Executive Director

Association of Independent Schools of New South Wales

- Mrs Robyn Yates, Associate Chief Executive, Policy

Saint Ignatius' College Riverview

- Dr Paul Hine, Principal

St Joseph's College, Hunters Hill

- Dr Christopher Hayes, Headmaster

Department of Social Services

- Mr Shane Bennett, Group Manager, Participation Payments and Families
- Ms Vanessa Lapthorne, Branch Manager, Study and Compliance

Department of Human Services

- Mr Mark Le Dieu, General Manager, Families, Veterans and Partnerships Division
- Ms Debbie Mitchell, General Manager, Participation and Disability Division

National Indigenous Australians Agency

- Mr Blair Exell, Group Manager, Education, Community Safety and Health Division
- Mr Patrick Burford, Branch Manager, Education and Youth Policy