

Not Relevant

6 Cabinet Notes

Not Relevant

606 DEPARTMENT OF EDUCATION AND CHILDREN'S SERVICES LEGISLATIVE REFORM PROPOSAL (Jane Lomax-Smith) - NOTED

Not Relevant

CABINET NOTE

TO: THE PREMIER FOR CABINET TO NOTE

RE: DEPARTMENT OF EDUCATION AND CHILDREN'S SERVICES
LEGISLATIVE REFORM PROPOSAL

1 PROPOSAL

1.1 That Cabinet note:

- the proposed legislative reform process for education, care and children's development services
- the projected timeline to undertake legislative reform
- the Report of the Independent Review of the *Senior Secondary Assessment Board of SA Act 1983*
- the SSABSA Act consequential Education Act Amendments Discussion Paper.

2 BACKGROUND

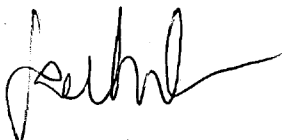
- 2.1 The *Education Act 1972*, the *Children's Services Act 1985* and the *Senior Secondary Assessment Board of South Australia (SSABSA) Act 1983* currently provide the primary legislative framework for the administration, establishment and regulation of education, care and children's development services in South Australia.
- 2.2 These Acts no longer reflect or support the Government's policy agenda and major advancements in the care and education landscape. In particular, the current legislation does not accommodate the contemporary governance and models of service delivery required to meet the individual needs of our children.
- 2.3 The previous Liberal government undertook a review of the Education and Children's Services Acts in 2001 but legislative reforms were not enacted.
- 2.4 In early 2006 a review of the SSABSA Act was undertaken by Mr Bill Cossey following the South Australian Certificate of Education (SACE) Review. A report on this review, including recommended amendments to the SSABSA Act, has been received and a copy is provided as **Attachment 1** for information.

3 DISCUSSION

- 3.1 The government's progressive legislative reform program for education, care and children's development began with the implementation of the *Teachers Registration and Standards Act 2004*.
- 3.2 It is proposed that subsequent education and care legislative reform will continue over the next two years. The new legislative structure will reflect current regulatory approaches where specific legislation is enacted to cover key topics rather than all matters being dealt with in dense primary legislation, as reflected in the outdated Education and Children's Services Acts.

- 3.3 Parliamentary Counsel has indicated that provisions within the current *Education Act 1972* and the *Children's Services Act 1985* are best logically grouped in up to four topic-specific Acts. The following matters (subject to consultation) are likely to require individual legislation and discussion papers:
- 3.3.1 amendments to the SSABSA Act to support the future SACE
 - 3.3.2 regulation of non-government education and care provision
 - 3.3.3 employment of care and education staff in the government sector
 - 3.3.4 education, care and children's development
- 3.4 The first stage of the legislative reform process will commence in the week of 4 December 2006 with the release of a Discussion Paper for public consultation on proposed amendments to the SSABSA Act and consequential Education Act amendments. A copy of the Discussion Paper is provided as **Attachment 2** for information.
- 3.5 This discussion paper is based on the recommendations to Government in the independent report of Mr Bill Cossey on the SSABSA Act and outlines the legislative change required to best support the future SACE and modernise the Board structure of the existing SACE authority, SSABSA.
- 3.6 Discrete legislation for care and education in the non-government sector will enable the regulation and registration of the non-government care and schooling sectors in a manner that is clearly separate from the controls of the government sector and the responsible department, while retaining general education and care provisions within a general Education, Care and Children's Development Act.
- 3.7 The location of employment provisions for government care and education staff in a single but specific separate Act will streamline the employment of staff across services including the integrated birth to year 7 and birth to year 12 schools announced as part of *Education Works*
- 3.8 The final discussion paper will emphasise the need to draw together provisions relating to children's development and education which are currently not integrated and are prescribed within both the Education and Children's Services Acts.
- 3.9 Parliamentary Counsel has advised that drafting and introduction of Bills to Parliament will span up to a two year period with the final Bill likely to be introduced in late 2008.
- 3.10 It is therefore intended that separate discussion papers on proposed discrete pieces of legislation will be developed and progressively released for public comment, beginning with the first discussion paper in December 2006 on the SSABSA Act reforms. Following each discussion paper, Bills will be drafted and then circulated for targeted stakeholder consultation prior to their introduction to Parliament.
- 3.11 The views of the community and key stakeholders will be sought on each proposed piece of legislation and its structure. These responses will inform the ongoing progress of the remaining legislation to ensure continuity and alignment between different Acts.
- 3.12 The release of the first discussion paper on the SSABSA Act will be promoted with a Ministerial statement in Parliament, letters to relevant stakeholders, launching of a website and associated media release.

- 3.13 The broader government intention for further legislative reform in education will also be highlighted as part of the first discussion paper release, with specific reference to amendment of the Education Act to increase the school leaving age to 17 years.
- 3.14 In recognition of the extended Christmas break in the education sector there will be a 2½ month consultation period on the SSABSA discussion paper, concluding 16 February 2007. A SSABSA Amendment Bill will then be introduced in May 2007 following targeted stakeholder consultation
- 3.15 While the draft SSABSA Bill is being developed work will be undertaken concurrently on the next stage of the legislative reforms. A further Ministerial statement will be made in early 2007 outlining the next phase of papers and legislative change proposed. This will set out the government's plan for the next raft of reforms and provide an outline of the proposed structure for the remaining legislation. The second legislative reform discussion paper will then be released.
- 3.16 A reinvigorated legislative platform will support the Government's agenda and subsequent improvements in education and care provision, including the ongoing development of Children's Centres, the *Education Works* initiative, and engagement of students in education and training through a raised leaving age. Quality assurance for education and care services, provided by government and non-government services, and the social inclusion of all children and young people will be key priorities entrenched within the new legislation.
- 3.17 Adequate Parliamentary sitting time will be required for debate and passage of these critical reforms. It is anticipated that the final Bill will be passed by late 2008.



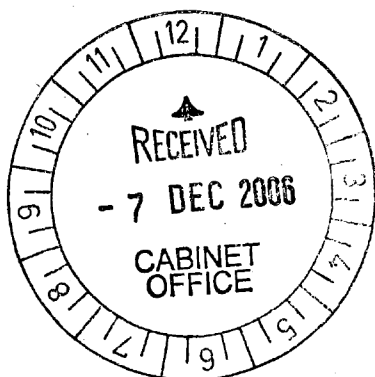
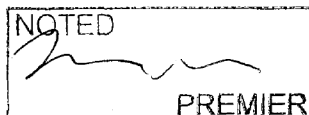
Jane Lomax-Smith

MINISTER FOR EDUCATION AND CHILDREN'S SERVICES

26/11/2006

In Cabinet

11 DEC 2006



**REPORT OF THE
INDEPENDENT REVIEW
OF THE SENIOR SECONDARY
ASSESSMENT BOARD OF SOUTH AUSTRALIA
(SSABSA) ACT (1983)**

Prepared by Bill Cossey
with assistance from Joanna Leppard
November 2006

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Attachment 1 : Drafting Instructions

1. EXECUTIVE SUMMARY

The review of the *Senior Secondary Assessment Board of South Australia (SSABSA) Act 1983* was recommended by the Review Panel formed by the Minister for Education and Children's Services to review the South Australian Certificate of Education (SACE).

The need for the Review of the Act was based on a belief that the current legislation does not provide a modern foundation from which the body responsible for overseeing the State's senior secondary qualification (and in particular, a significantly revised qualification) can operate.

The Review was conducted in parallel with more detailed exploration of the other 25 recommendations from the SACE Review.

The Review was not finalised until the Government had received the results of this work and has taken into account the Government's decisions regarding the future of the SACE.

The Review has found that the SSABSA Act is in substantial need of revision. Its strength is that as an example of enabling (rather than prescriptive) legislation it has provided a reasonably flexible foundation for the operation of SSABSA.

However, it does not reflect current expectations relating to governance, Ministerial accountability, access to, and availability of information generated by the organisation. This Review has explored all of these issues in detail and made recommendations relating to:

- the composition and size of the Board and the approach to appointing Board members;
- the relationship of the Board to the Minister for Education and Children's Services;
- the powers of the Minister in respect of direction to the Board;
- access to data generated by the organisation and ways to protect its use; and
- the need for regular reviews of the operation of the Board and its supporting organisation to ensure that it remains current in its charter and operations.

In addition, the Review has recommended some amendments to the role, functions and powers of the Board and its supporting organisation consistent with the directions for the SACE. The most significant of these relate to:

- the role of the organisation in encouraging, and providing leadership to, the school sectors and all other relevant entities so that they can contribute in different ways to the organisation's objectives.
- the relationship between the organisation and the school sectors beyond South Australia, notably the Northern Territory which adopts the SACE as the basis for its senior certificate.
- the importance of the organisation's relationship with other organisations, particularly those which have a responsibility for providing and overseeing non-school based learning. Vocational Education and Training is a key component of this.

Importantly, this Review proposes that the legislation include, and be based on, a number of principles which in part emanate from the SACE Review and the work subsequently. The trend towards including a set of founding principles is consistent with similar legislation elsewhere in Australia and should also be helpful in ensuring that the SACE Authority retains its currency over time.

Finally, the Review proposes some minor amendments to the *Education Act 1972* to ensure consistency with the proposed changes to the SSABSA Act.

Above all, this Review aims to maintain the enabling characteristics of the existing SSABSA Act.

The Review has noted that the Government will need to decide whether the "SACE Authority", the generic title used by the SACE Review Panel for the body (currently SSABSA) which oversees the SACE, is to be SSABSA or a completely new organisation created by the amended legislation. This report contains a discussion of the relative advantages and disadvantages of each option without pre-empting the Government's decision on that matter.

2. INTRODUCTION, TERMS OF REFERENCE AND ACKNOWLEDGEMENTS

The Review of the South Australian Certificate of Education (SACE) recommended (Recommendation 26) that

“The Minister commission an independent review of the SSABSA Act and the governance and operational arrangements necessary to ensure that:

- the statute is able to give effect to the reforms proposed in this Report and the more general matters related to legislation and governance discussed in Chapter 10 (of this Report)
- South Australia has in place a statutory authority that is appropriate in its design, functions, powers and modus operandi to perform the roles expected of it in the proposed new SACE.”

Chapter 10 of the SACE Review Report contains a detailed discussion of the need for this review of the SSABSA Act. The main items raised in that discussion are:

- The SSABSA Act was proclaimed in 1983 and has had only minor amendments since its proclamation.
- All other States of Australia have introduced new legislation in this area over the past few years.
- The “architecture” of senior secondary education has always “been strongly influenced by changes in the wider demographic and social milieu of the State, the needs of the economy and the interests of the State’s Universities”; in all of these aspects South Australia has been experiencing major change and will continue to do so.
- Modern legislation is increasingly being based on statements of objects or principles that underpin the legislation; this is not the case with the current SSABSA Act.
- There is no requirement in the current SSABSA Act for regular reviews of the operations of the organisation created by the Act to ensure that relevance and currency are maintained.
- The last decade has seen considerable development in thinking about governance and accountability which need to be reflected in legislative provisions.
- SSABSA’s role in the development of curriculum is not strongly defined in the current Act and there is considerable discussion in the SACE Review Report about whether this role needs to be as detailed as it currently is.
- There is no reference in the SSABSA Act to the fact that SSABSA in overseeing the SACE is operating as a component of the Australian Qualifications Framework (AQF) established by the Council of Ministers responsible for education, employment, training and youth affairs in Australia (MCEETYA).
- The SSABSA Act does not refer in any way to the relationship which SSABSA needs to have with a range of other bodies including the Training and Skills Commission, the Non-government Schools Registration Board, the South Australian Tertiary Admissions Centre (SATAC) or the Teachers Registration Board.
- The SSABSA Act does not acknowledge that the organisation has significant relationships beyond South Australia which are different from those within this State.

The Terms of Reference for this review of the SSABSA Act are as follows:

“

2.1 Purpose of the Review

2.1.1 The purpose of the review is to implement Recommendation 26 of the Report of the Ministerial Review of the SACE, namely that:

"The Minister commission an independent review of the SSABSA Act and the governance and operational arrangements necessary to ensure that:

- *The statute is able to give effect to the reforms proposed in this report and additional matters related to legislation and governance discussed in Chapter 10;*
- *South Australia has in place a statutory authority that is appropriate in terms of its design, functions, powers and modus operandi to perform the roles expected of it in the proposed new SACE".*

2.2 Reporting Provisions

2.2.1 The Independent Reviewer will report to the Minister for Education and Children's Services.

2.2.2 The reviewer will be required to present a progress report to the Minister by 30 June 2006 and the final report by 30 September 2006.

2.3 Scope of the Review

2.3.1 To identify a framework which sets out the functions, responsibilities and operational arrangements for a statutory authority and board (referred to as the SACE Authority and its Board in the Review Report) and its governance arrangements to manage the new SACE. The review will consider governance arrangements and the role of the Authority with respect to:

a) Reporting Responsibilities:

- The relationship of the SACE Authority to the Minister for Education and Children's Services.
- Other reporting responsibilities under the Act.

b) Governance: The characteristics related to governance and the SACE Authority including:

- Characteristics for contemporary, effective corporate governance;
- A mechanism that ensures regular external reviews of the effectiveness of the legislation in achieving its objectives;
- A mechanism that ensures regular external reviews of the effectiveness of the SACE Authority in achieving its responsibilities under the Act.

c) Roles and Functions of the SACE Authority, including but not limited to:

- Recognition, assessment and certification of student learning achievements within the senior secondary education 'learning space';
- Accreditation and quality assurance;
- Guidance of and responsibilities relating to the development of curriculum;
- Strategies for the collection, management and use of data relating to the state's senior secondary system including online access for agencies and participants;
- Professional development and support responsibilities for educational providers within the senior secondary education 'learning space';
- Guidance of and responsibility for the continuous improvement of the SACE and secondary education.

d) Strategic and/or Provider Relationships: The functions and responsibilities of the SACE Authority as defined in c) above in terms of that Authority's relationships to other agencies, including but not limited to:

- Schools and school system authorities;

- Northern Territory Board of Studies;
- South Australian Tertiary Admissions Centre;
- Universities;
- Technical and further education authorities including;
 - TAFE
 - Private Registered Training Organisations;
- Training and Skills Commission;
- Non-government organisations and community agencies;
- Union organisations;
- International education and related venture initiatives;
- Other relevant organisations.

2.3.2 Identify the implications of the proposed new legislation for other legislation that defines responsibilities bearing on senior secondary education and the role of the new SACE Authority, including:

- *Education Act 1972*;
- *Teachers Registration and Standards Act 2004*;
- *Training and Skills Development Act 2003*.

2.3.3 Prepare drafting instructions for Parliamentary Counsel to facilitate development of the new legislation. ”

This Review was greatly assisted by the advice and guidance of a number of people and organisations and their respective contributions are gratefully acknowledged.

I particularly acknowledge the support and assistance provided by the SACE Implementation Steering Committee and the SACE Implementation Secretariat so ably led by Judith Lydeamore.

Finally, I acknowledge with sincere gratitude the highly professional support provided by Joanna Leppard, Senior Project Officer, Legislation within the Department for Education and Children's Services whose research and analytical skills were invaluable to this Review.

3. CONDUCT OF THE REVIEW

The first steps in the Review were largely desk based. They involved:

- Analysing all recommendations of the SACE Review report with a view to determining which of the recommendations (if adopted by the Government) would require or benefit from some type of legislative provision.
- Reviewing the corresponding legislation in other jurisdictions in Australia and elsewhere to determine whether there are any trends or innovations that would be useful in any proposals for South Australia.
- Reviewing (in a preliminary way) the possible requirements and expectations of the South Australian Parliamentary Counsel in respect of possible drafting instructions. This has been informed by very useful input from Richard Dennis of the Parliamentary Counsel's Office.
- Understanding the existing and potential links between the Act covering senior secondary education and other Acts. Joanna Leppard spent considerable time and effort exploring the implications of the Government's policy position regarding the increase in the school leaving age to 17 years.

As part of this work and subsequently, I held discussions with:

- The Minister for Education and Children's Services
- The Presiding Member of SSABSA
- Senior representatives of South Australia's three Universities
- The members of the SACE Review Implementation Steering Committee or their nominees (including members of the Northern Territory Department of Employment, Education and Training)
- Members of the DECS SACE Advisory Group
- The Commissioner for Equal Opportunity (a long standing member of the SSABSA Board)
- The Australian Education Union
- Jan Keightley, Tony Mercurio and Graham Benger (the senior management team of SSABSA)
- David Frith and Nathan Paine of Business SA. David and Nathan are the Business SA nominee (and Deputy) respectively to the SSABSA Board
- Garry Le Duff and Helen Lambert of the Association of Independent Schools of SA (AISSA)
- Alan Dooley, Chief Executive Officer of the Catholic Education Office
- Craig Fowler, Deputy Chief Executive of DFEEST
- Howard Kelly who was formerly Chair of the Victorian Board of Studies and General Manager of Post-compulsory Education and Training for the Kirby Review.
- The Chief Executive of the equivalent bodies to SSABSA in Queensland and Tasmania.

In addition, I addressed and then participated in a discussion with, the SSABSA Board including several Deputy Members and staff.

I deliberately did not seek formal submissions – partly because the SACE Review itself received numerous submissions, many of which referred to aspects of the SSABSA Act and operations prescribed by it. In addition, the Terms of Reference for this review followed closely the rationale submitted by the SACE Review Panel in Chapter 10 of its report and provided a strong foundation for the review of the Act.

4. CONTEXT OF THE REVIEW

Clearly, the SACE Review Report and its recommendations provide the main contextual underpinning for the review of the SSABSA Act. However, the Review of the SACE itself took place at a time in which some significant changes were already occurring or would inevitably be occurring within South Australia as well as nationally and internationally.

A number of these are summarised in the Introduction to this report but it is worth emphasising several of them again.

Of utmost significance is that a high number of students are either not completing the SACE or in some cases not commencing it because of its perceived difficulty, complexity or relevance. The criticality of this is two fold. First, these young people are missing out on a significant opportunity which will affect their life experience. Second, South Australia is already experiencing workforce shortages which are likely to become more severe over the coming decade.

In addition, there was significant anecdotal evidence provided to the SACE Review from University staff and students alike that the current SACE is not providing high achieving academically oriented students with sufficiently well developed independent learning skills essential to successful tertiary study.

Unlike the most recent years of widespread workplace shortages in the post Second World War period, the vast majority of today's positions require an educated and skilled workforce. Leaving school prematurely will still, for many students, potentially exclude them from these workplace opportunities – which at a time of economic growth, expanded job opportunities and an understanding of the importance of the life-long learning would be a tragedy.

Even more tragic is that, as identified by the SACE Review report, there is a significant over-representation of students from lower socio-economic circumstances amongst those who do not complete the SACE.

Over the past 20 years or so, there have been more people capable of working than there have been jobs for them to fill. Understandably, less highly skilled and educated people have found it difficult to obtain and maintain regular employment in such times.

As troublesome as this has been for the State and for the people concerned, the continuation of this set of circumstances for young people in secondary education today is not tenable within our community, particularly given the current and potential skills shortage situation.

This is a major challenge for the education sector generally. SSABSA, as the SACE Authority needs to play its part by having within its charter a concern for ensuring maximum completion rates among all students entering secondary schooling. Currently, this is not a significant focus for SSABSA which understandably concentrates mostly on the students who enter senior secondary education and commit to completing the SACE.

The South Australian Government has recognised these challenges facing the State by increasing the school leaving age to 16 already and foreshadowing a further increase to 17 in the future. It has also highlighted, in the South Australian Strategic Plan, its concerns by including targets related to literacy and numeracy, school retention, participation in TAPE and rates of attainment of post-compulsory qualifications.

Pursuit of these targets has been consolidated into a comprehensive Youth Engagement Strategy which is overseen by the Ministers responsible for the various areas embraced by the strategy.

Complementing this strategy by ensuring modern governance of the SACE has been foremost in my mind as I have approached this review.

4.1 Terminology

There are several items of terminology that may need clarification for readers of this report, particularly for readers who are either unfamiliar or only partly familiar, with the SACE Review report.

They are as follows:

(1) SACE Authority

This term was used in the SACE Review report in reference to the organisation which will oversee the proposed new SACE. Currently the organisation which oversees the SACE is SSABSA.

As I understand it, the SACE Review Panel used the more generic term "SACE Authority" to avoid pre-empting what it regarded as the Government's right to determine if the role of overseeing the proposed new SACE should be assigned to SSABSA or an entirely new organisation established for this purpose.

In Section 7 of this report, I have canvassed the options available to the Government and their respective advantages and disadvantages.

Throughout this report I have attempted to adopt the same approach as the SACE Review Panel and have referred to SSABSA in respect of current arrangements and the SACE Authority in respect of possible future arrangements. This has not always been possible as the reader will particularly note in Section 5.4 of this report.

(2) Learning Space

The SACE Review report refers to the proposed new SACE being oriented around a concept called "the learning space" which the SACE Review Panel introduced.

As I understand it, the concept encompassed the fact that learning does not occur entirely in a school setting; nor does it occur in an orderly, sequential series of steps taken by each student in the same pattern or in the same time frames. The term "learning space" attempted to capture this less predictable set of circumstances.

Some people who contributed to this review thought that it might be useful to attempt, in legislation, to define the "learning space". I believe that to be unnecessary. Instead, in the principles proposed in Section 5.3 below, I have tried to encapsulate the basic concept of a "learning space" (without using the term and therefore without needing to define it).

Further, in the discussion on functions of the SACE Authority in Section 5.4 below, I have described the active role that the SACE Authority needs to play in the "learning space".

(3) Learning Unit

The SACE Review report uses the term "learning unit" to describe an area of learning.

As I understand it, this was mainly to allow for areas of learning proposed by the SACE Review such as the Personal Learning Plan (PLP) and the Extended Learning Initiative (ELI) (neither of which is a "subject" as most people would understand that term).

I am aware that in parallel with the review of the SSABSA Act, more detailed consideration was given to the SACE Review Panel's recommendations regarding the PLP and the ELI. I am also aware that the Government has decided to adopt the PLP and ELI as part of the future SACE but with some amendments to the SACE Review proposals. Therefore, I have used both of the terms "subject" and "learning unit" in this report whilst recognising that the Government may prefer to maintain the use of the word "subject" in legislation.

(4) Future SACE

I am aware that the Implementation Steering Committee has proposed to the Government that the term "future SACE" be used to describe the SACE that has emerged from the Government's consideration of the SACE Review recommendations.

I have also used the term "future SACE" where appropriate in this report (rather than a term such as "Proposed New SACE").

(5) Office of Senior Secondary Renewal (OSSR)

The SACE Review proposed that an Office of Senior Secondary Renewal be created, separate from SSABSA as the current SACE Authority, to progress the detailed work on the recommendations from the SACE Review.

In the discussion on Transition Considerations in Section 7 of this report, I have assumed that such an Office will be created and have made reference to it. I understand that the currently preferred name for this Office is "The future SACE Office" so references in Section 7 to OSSR should be regarded as references to The Future SACE Office.

(6) Aggregate Data

SSABSA, as the Authority overseeing the current SACE, is the custodian for data related to the assessments of student learning. During this report – mainly in Section 5.7 – I have made reference to the term "aggregate data". Where this term has been used it refers to student data aggregated to a level beyond that of an individual school – generally at the level of a system or sector such as the State sector, the Catholic sector or the Independent sector.

5. ISSUES ADDRESSED DURING THE REVIEW

5.1 Overview

Generally, South Australia's approach to legislation over the past 20 years has been to enact enabling legislation which is not particularly prescriptive. To the extent that detailed prescription is considered by the South Australian Parliament to be useful, that detail has been accommodated by Regulations under the main Act. Beyond that, and consistent with powers prescribed by the main Act, organisations created by legislation (such as SSABSA) then may establish policies and procedures relating to their operation.

This is in contrast to legislation enacted in some other States in which the main Act tends to be quite prescriptive and may extend to hundreds of pages.

The SSABSA Act is an excellent example of the "enabling" style of legislation adopted in South Australia. It is 11 pages in length (including two appendices). It has been amended only once (in 1990) since its initial proclamation and must be regarded as having served the interests of South Australia reasonably effectively for more than two decades.

Although the need for this review was comprehensively outlined in Chapter 10 of the SACE Review Report and, in my view, demonstrates a clear requirement for considerable amendment to the SSABSA Act, any amended Act should serve to retain its "enabling" characteristics by enabling the SACE Authority to operate effectively (not prescribe how it will operate).

The comments and proposals which follow should be read in that context.

There are six main areas that, in my opinion, require substantial attention. They are:

- The principles upon which the legislation needs to be based
- The functions of the SACE Authority
- The relationship between the Minister and the SACE Authority
- The structure of the Board of the SACE Authority and appointment of Members
- The use to which data and information available to, or generated by, the SACE Authority in the conduct of its business should be put, and appropriate protections applying to the use of that data and information
- The relationship between the SACE Authority, key agencies of Government and other bodies.

Sitting across several of these areas is the issue of accountability to the South Australian community.

In addition there are a number of secondary, but important issues that should be addressed, not all of which relate to legislation.

Before dealing with each of these areas (in Sections 5.3 to 5.8 below) it is important that I also indicate which of the specific recommendations of the SACE Review might require legislative attention.

5.2 The Recommendations of the SACE Review that Require, or would Benefit from a Legislative Foundation

The SACE Review Report contains 26 recommendations.

Although this Review of the SSABSA Act was conducted in parallel with more detailed exploration of each of the SACE Review recommendations, I commenced by assessing which recommendations as set out in the following table would benefit from, or require, a legislative foundation. At the end of the Review process, I reconsidered the information in the table which follows and confirmed that none of my recommendations would be affected by the Government's subsequent decisions on the future SACE.

In submitting this list, I have been mindful that there has been a recent trend in legislation, noted and supported by the SACE Review Panel, to include a number of principles on which the legislation is based. I agree with the position adopted by the SACE Review Panel and in Section 5.3 below have proposed a set of principles which, in my view, flow from the SACE Review and would underpin the future SACE.

In the table below I have indicated where recommendations can be accommodated by way of a principle and which of the recommendations require a greater level of prescription. I have also indicated, for those recommendations which appear likely to require a greater level of prescription, whether that can be done by Regulation under the main Act or whether there needs to be a provision in the Act itself.

I have noted that of the recommendations listed below, eight will be assisted by the inclusion in the legislation of one or more principles. This will assist in ensuring that the "flavour" of any new legislation is "enabling" rather than prescriptive as outlined in Section 5.1 above.

Recommendation Number	Essence of Recommendation	Possible Legislative Treatment
1	Implementation of a new SACE	1. Principles of new SACE in Legislation 2. Functions of SACE Authority in Legislation 3. Governance Arrangements in Legislation
2	Concept of the Learning Space	Principles of new SACE Legislation
5	Capabilities at the heart of a new SACE	Principles of new SACE in Legislation
6	New SACE based on learning unit frameworks at Stage 1 and Stage 2	1. Principles of new SACE in Legislation 2. Functions of SACE Authority in Legislation
7	Personal Learning Plan as a learning unit	Via Regulation under Legislation
8	Extended Learning Initiative as a learning unit	Via Regulation under Legislation
9	A new SACE literacy and numeracy requirement	1. Principles of new SACE in Legislation 2. Functions of SACE Authority in Legislation (possibly)
11	Assessment based on well specified outcomes shaped by well described capabilities	1. Principles of new SACE in Legislation 2. Functions of SACE Authority in Legislation
12	Greater reliance on teacher judgement in assessment and reporting	1. Principles of new SACE in Legislation 2. Functions of SACE Authority in Legislation
14	SACE Authority's role in continuing development of assessment approaches	Functions of SACE Authority in Legislation
15	Research, development and trialling of new forms of reporting (including reporting of partial complications)	Functions of SACE Authority in Legislation
17	Robust and comprehensive quality assurance system regularly reviewed by a Quality Assurance Review Panel convened by Minister	1. Principles of new SACE in Legislation 2. Functions of SACE Authority in Legislation re: Quality Assurance
18	One SACE but with no time limit on completing requirements	Via Regulation in respect of time limit
20	SACE Authority's responsibility for issuing SACE and Record of Learning Achievements	Functions of SACE Authority in Legislation
23	Establishment of accreditation mechanisms re locally developed curriculum, broader range of VET studies, short stand alone courses and partial completion of units	Combination of: 1. Functions of SACE Authority 2. Regulations under Legislation
26	Independent review of SSABSA Act and associated governance and operational arrangements	Amendment to, or Repeal of, existing Act

5.3 Principles

As outlined in Section 5.2 above, I am in favour of the specification in the legislation of the principles upon which the legislation is based.

As indicated above, good modern legislation should not be too prescriptive. In today's ever changing world, senior secondary education will be (as has been the case over the life of the current SSABSA Act) subject to continuing development and refinement. The legislation should not be an inhibitor to this and the inclusion of an agreed set of principles should provide an assurance to the community that such development and refinement over time is consistent with certain unarguable propositions. The principles will also be the guiding foundation for the SACE Authority.

With that in mind, and in the light of the SACE Review, my proposed principles (building on those foreshadowed in the SACE Review Report) are as follows:

- (1) collaboration and consultation should be promoted -
 - (a) across the sectors of education including the tertiary sector;
 - (b) across State schools and non-State schools;
 - (c) between the providers of secondary education and the employer community;
and
 - (d) between all relevant accreditation and registration bodies.
- (2) all students should be encouraged through flexible learning pathways to gain a certificate of achievement on completion of secondary education acknowledging that students increasingly experience formal and informal learning settings within and beyond school including in workplaces and community organisations.
- (3) the professional role of teachers in all aspects of a student's learning including the assessment of achievement should be recognised and enhanced through continuing professional development related directly to appropriate standards.
- (4) all students, regardless of their ethnic origins, their abilities and disabilities and their socio-economic status should be encouraged and enabled to achieve their educational and career goals.
- (5) the diverse educational needs of students should be catered for through personalised approaches to their secondary education.
- (6) a robust system of quality assurance which keeps pace with changing times and circumstances is essential to the continuing confidence of students, parents, teachers, tertiary institutions, employers and the community generally, not just in South Australia, but nationally and internationally in all certificates of student achievement which are issued.
- (7) all students, regardless of their educational and career goals, require a range of skills, including relevant skills in numeracy and literacy and independent learning skills to complement the knowledge which they acquire as part of their secondary education; the certificate of student achievement should acknowledge both skills and knowledge.

5.4 Functions of the SACE Authority

Section 15(1) of the SSABSA Act lists 11 functions of the Board. By its association with the Board, the SSABSA organisation therefore engages in the necessary activities to enable the Board to discharge these functions. This reflects a legislative style in which the functions are ascribed only to the entity created by the legislation – in this case the Board. (Elsewhere in more recent interstate legislation, there has been a distinction made between the functions of the Board and the organisation which supports the Board. This is not the practice in South Australia).

SSABSA's Role in Curriculum

No assessment of the functions of the SACE Authority would be complete without a detailed discussion of SSABSA's role in curriculum.

Section 15(1) of the SSABSA Act commences as follows:

"The Board has the following functions:

- (a) to approve syllabuses (which may consist of a detailed structure or a more general outline) for subjects comprised in the prescribed certification requirement of senior secondary education that has been prepared at the direction of the Board as submitted to it by a school, institution or other authority;
- (b) to direct the preparation of syllabuses for its consideration under paragraph (a); "

(There are 9 other paragraphs denoted (c) to (k) which are less directly relevant to this discussion).

Within these functions, SSABSA oversees and manages the processes associated with development, modification, publication (and at times abandonment) of the suite of subjects and the learning embraced by each subject that forms part of the SACE.

SSABSA's processes involve the use of Subject Advisory Committees (SACs) with members drawn from all school sectors, the higher education and vocational education sectors, employer and community organisations. The documents which result from the work of the SACs are widely distributed for comment before being approved by SSABSA's Curriculum Committee (a Committee of the Board itself) and, as required by the Regulations under the current SSABSA Act, tabled in Parliament.

There is no provision in the current SSABSA Act which dictates that SSABSA must undertake this detailed management role; nor does the Act prohibit it. Rather, the Act provides that SSABSA approve the suite of subjects and their associated syllabuses.

It has been put to me that although SSABSA's role has been more or less convenient in that it theoretically is equitable towards each of the school sectors and avoids duplicated effort across the schooling sectors there are some difficulties as follows:

- It could be seen as being, as far as the State system is concerned, contrary to the responsibility of the Director General of Education for all curriculum in State schools as prescribed by section 82(1) of the Education Act which states, "The

Director General shall be responsible for the curriculum in accordance with which instruction is provided in Government Schools”.

- By attempting to take account of such a wide range of views as will inevitably be presented by the range of participants in SACs, SSABSA inevitably finds itself presiding over incremental change and that more innovative approaches are diluted unreasonably; moreover, there is a reluctance to pilot more innovative approaches (without impacting adversely on the students participating in possible pilot approaches).
- Associated with the above point is a perception that SSABSA's processes have too much focus on how the State's University sector will regard the syllabuses (and whether student results will be counted by Universities towards a tertiary entrance score) to the potential disadvantage of many students.

Throughout this discussion there has been general agreement that SSABSA's role as the SACE Authority should be to approve and accredit learning units and their associated content, including the relevant assessment regimes. In fact, there is a call for SSABSA to show more leadership in assessment and to ensure that best practice assessment practices keep pace with innovative curriculum development.

At question, particularly from the Department for Education and Children's Services, is whether this (a) requires SSABSA to undertake the detailed role that it currently performs and (b) acts as a disincentive to individual systems submitting, for SSABSA consideration, their own material.

For the individual school sectors this is as much a resource question as it is a question relating to role and function of the SACE Authority. The current SSABSA Act enables the school sectors to submit curriculum related material for SSABSA approval. However, the development and refinement of curriculum related material requires significant levels of resources which appear to be beyond the current capacity of each of the school sectors.

A different approach would be for SSABSA's resources currently dedicated to the area of curriculum to be allocated to the respective school sectors and for the school sectors to determine how the efforts of these people might best be co-ordinated. Yet another approach would be for there to be changes in the processes of engagement between SSABSA and the school sectors, particularly in the State sector.

My comments which follow are based on an assumption that the latter approach might be more easily implemented.

The SACE Review proposed that this curriculum dilemma be dealt with by the SACE Authority:

- developing what the SACE Review referred to as curriculum frameworks.
- encouraging individual systems to submit detailed material, consistent with the frameworks, for accreditation by the SACE Authority.

From a legislative viewpoint, the approach proposed by the SACE Review would seem to be achievable within the current legislation, particularly sections 15(1) (a) and (b) referred to above.

My thoughts on a possible different approach to the engagement between SSABSA and the school sectors in this area would entail:

- (a) agreement between the school sectors and SSABSA that SSABSA will relate in the first instance to the sectors (rather than individual teachers) in seeking participants in its Subject Advisory Panels.
- (b) a requirement that SSABSA seeks an official sector position on the future approach to a subject before a Subject Advisory Panel commences its work.
- (c) a commitment from SSABSA to devote resources to develop such sector positions to a point at which they can be presented to the Subject Advisory Panel in a well developed form.
- (d) authorising the Subject Advisory Panels to have the option of including the material prepared pursuant to (c) above in proposals to the SSABSA Curriculum Committee for approval to pilot in selected schools at no risk to the students participating in the pilot.

I recognise that the suggestions above would be slightly less relevant to the independent school sector where, by the very nature of the sector, schools may choose to involve themselves in SSABSA's processes separately from, or in addition to, the relationship between SSABSA and the Association of Independent Schools of South Australia (AISSA). However, in my view that should not negate an exploration of the above suggestions.

The concept of the "learning space" brings with it a requirement for the SACE Authority to consider how best to relate to all of the various entities operating within it.

On the one hand, the SACE Authority could leave it to the school sectors to relate to those entities and to receive curriculum related proposals for consideration. However, I do not believe that this is what the SACE Review Panel envisaged when it introduced the concept of the "learning space".

Instead, it seems to me that the Review Panel intended that the SACE Authority would play an active role in the "learning space" by serving as a broker thereby helping create useful and appropriate connections. This could even entail, with the agreement of students, being the repository of all appropriate student achievement data regardless of the setting in which the learning took place.

I have examined the current functions of the Board to see if this approach could be accommodated within them. Sections 15(1) (f) and 15(1) (h) which state that the Board's functions include:

"(f) to prepare and maintain records of assessments made or recognised by the Board and to provide, on request, a copy or extract of those records to a student or former student or to such other person as the student or former student directs;

(h) to provide to schools, institutions and other authorities, on request, such information as they may reasonably request in relation to the Board's policies and processes, including information as to the criteria that will be applied by the Board in granting approvals and recognitions."

go some way towards meeting the requirement – particularly that which could involve being a repository of information. However, each of these provisions is based on a premise that other organisations will approach SSABSA with a request and in the case of section 15(1) (h) the request must relate to the Board's policies and processes.

To facilitate a more active role, I propose that in 15(1) (h) all references to the need for a request be removed and that the words "in relation to the Board's policies and processes" also be removed.

Changes to the methods of engagement would also be facilitated by two other legislative amendments viz

- an amendment to section 82(1) of the Education Act along the lines of requiring the Director General to contribute actively to the development of all senior secondary curriculum materials, and
- the inclusion in the functions of the SACE Authority a requirement for the Authority to encourage the involvement of all relevant entities in the development or implementation of syllabuses, and to ensure that their views are fully understood and taken into account, whilst encouraging innovation in teaching and learning.

in addition, and in relation to the functions that either do not relate to curriculum directly or less directly relate, I consider that the functions of the SACE Authority, as envisaged by the SACE Review, need partly to be strengthened and partly to be supplemented by additional statements as follows:

- To ensure that all assessment processes are fit for purpose and are quality assured and consistent with recommended best practice relevant to the requirement of each syllabus. (strengthened function)
- To implement and continually refine and improve a quality assurance system covering all aspects of its work. (new function)
- To implement, in collaboration with the school sectors and schools, the professional development regimes related directly to appropriate standards and necessary to satisfy the Board that its requirements of teachers are fully understood and able to be implemented. (new function)
- To monitor participation levels in, and leading up to, the study of the SACE to ensure that the SACE is within the reach of all young people. (new function)
- To operate a system of accreditation that is recognised within the Australian Qualifications Framework. (strengthened function)
- A provision that enables the SACE Authority to engage in interstate and offshore activities consistent with its expertise. (new function)
- A provision that enables the SACE Authority to release to another authority or organisation, as it sees fit and with the agreement of each student, relevant information about the student's learning to assist that authority or organisation to assess a student's application for admission. (strengthened function) This could extend the current section 15(1) f) discussed above.

There is one current function viz Section 15(1)(k) on which I make more extensive comment. This provision ascribes to the Board a function as follows:

"to keep under review the operation of this Act and the policies and processes of the Board."

This function can be exercised in a variety of ways. For example, in 1990 a series of amendments to the Act were made that enabled the implementation of the current SACE.

However, the SACE Review Panel and the Terms of Reference for this Review had in mind a more active review process of the operations of the SACE Authority. Therefore, I propose that this provision be strengthened by a specific requirement that the Board:

- Commission at two yearly intervals an independent review of a significant aspect of the operations of the organisation including the associated aspects of the legislation.
- Agree each review topic with the Minister prior to each review commencing.
- Provide, to the Minister, a copy of each review report together with the Board's proposed actions on the review recommendations no later than two months after the completion of the report.

I am satisfied that section 15(1)(k) is sufficient in its current form except that it may need to be cross referenced to the proposed new provisions outlined above – which I expect to be in a different section of the Act - to deal with the requirements.

Specific drafting instructions regarding all additional statements have been included in the Attachment to this report.

5.5 Relationship between the Minister for Education and Children's Services and the SACE Authority

The existing SSABSA Act provides that the Minister has little or no relationship with SSABSA. This reflects the thinking at the time that this legislation was drafted viz that for certain activities of Government it was appropriate to have a complete separation between the Minister and the organisation responsible for the functions prescribed in the legislation.

Obviously, in this area, there are situations in which it is not appropriate to have Ministerial involvement. Prescription of curriculum and assessment and recording the results of any student's learning are two such areas.

However, it is apparent that in the more than 20 years since the SSABSA Act was drafted, community attitudes towards Ministerial accountability have changed and strengthened dramatically. Ministers are now held directly responsible and accountable for the performance of all organisations within their portfolios and this legislation needs to reflect that situation.

Therefore, I propose that the legislation:

- provide for a general power of Ministerial direction to the SACE Authority; and
- prescribe the areas in which the Minister does not have the power of direction. These would cover the contents, approval or accreditation of a syllabus and the assessment and recording of a student's results.

To ensure that there is transparency in the exercising of a Ministerial power of direction I also propose that any Ministerial direction should be enacted in writing and be reported by the SACE Authority in its Annual Report to Parliament.

I am also proposing that there be a requirement for the Minister, within a prescribed number of Parliamentary sitting days (14 is proposed) to make a statement to the Parliament in which the actual direction is tabled and the reason for the direction is outlined.

5.6 Structure and Composition of the Board of the SACE Authority and Implications for the Operations of the SACE Authority

The SSABSA Act prescribes the membership of the current Board. Of the 27 members, 26 are nominees of various organisations. Only the SSABSA Chief Executive is a prescribed member of the Board.

This style of nominee Board was fashionable at the time of the establishment of SSABSA as a way of ensuring that stakeholder views could be presented at the peak table of the organisation.

However, more recent thinking has departed from this custom. This has, at least in part, been as a result of several factors viz;

- a recognition that it is unrealistic for a nominee to be expected to represent all of the views of the organisation that has nominated him/her on every topic before the Board.
- a recognition that it is unwise and unreasonable to rely on a nominee to act as a primary means of communication from the Board to their nominating organisation.
- an understanding that the stakeholder group may change over time. In the case of the SSABSA Board, I am aware that there are several organisations, not currently able to nominate a person to the Board, which believe that they have an equally strong case to be represented as those organisations who are already represented.
- a clear legal position that each person, including a nominee of another entity, who is a member of a Board must act (and take decisions) solely in the best interests of the organisation. This is irrespective of whether such an action or decision is consistent with the views and/or best interests of the nominating entity.

Current thinking about Board composition also regards large Boards as being undesirable. There is debate about whether there is an optimum size of a Board but it would generally be agreed today that the ideal range is between 6 and 12.

I propose that the legislation prescribes a maximum of 12 members. To prescribe a larger number will, I believe, lead to an inevitable temptation to revert, not deliberately, to a quasi – representative style of Board. As undesirable as this would be in my view, it would be perfectly understandable given the current Board composition and the history of the predecessor organisations to SSABSA so clearly described in the SACE Review report.

I have noted that as new legislation equivalent to the SSABSA Act has been enacted elsewhere, the trend towards smaller Boards has been marked. Similarly, the trend towards all Board members being determined by the Minister is clear. Moreover, such legislation generally requires:

- that the Minister, in considering possible appointees, seek expressions of interest including from the general community.
- that the Board brings together a range of skills, expertise and experiences such as skills in policy development, strategic thinking and planning and experience in higher education, vocational education and training, senior secondary education, remote and indigenous education, employee representation, industry and Board Directorships. Obviously with a smaller Board it is desirable if some appointees cover more than one of these areas specified.

Because such a Board might not cover all aspects of the organisation's links with all of the stakeholders, a heightened responsibility would be placed on the Board and the staff of the SACE Authority to involve themselves widely with the full range of stakeholders in the conduct of business. Furthermore, the organisation would be obliged to report comprehensively to the Board on the full range of stakeholder views on the various matters before the Board.

This style of Board would be mainly concerned with governance as distinct from management. There are numerous definitions of governance but essentially such a Board would be mostly concerned with the overall, long term health of the SACE Authority and its overall performance, the extent to which it is conforming with its charter and the continuing relevance and standing of the SACE. To that end, the proposed principles for the legislation are extremely significant as these will form the foundation from which a more expert Board will work in discharging its governance responsibilities.

Although the proposed Board would be mainly concerned with governance, it must have sufficient confidence in the management of the SACE Authority to ensure that its governance responsibilities are not being compromised and are preferably being enhanced.

To achieve this, the Board would be expected to set the performance expectations of its Chief Executive and to monitor the actual performance against these expectations regularly (almost certainly annually) and formally.

I acknowledge that SSABSA currently has a comprehensive set of committees and other consultative mechanisms in place. The legislation needs to continue to support the right of the Board to establish such mechanisms as prescribed by section 17 of the SSABSA Act.

I note that section 17 of the SSABSA Act provides that the Board need not confine membership of Board Committees to Board members. However, the practice has been to appoint only Board members or their alternates to the two key Board Committees (Curriculum and Policy and Resources). With a smaller non-representative Board and the need to find new ways of engaging all stakeholders, appointment of non-Board members to key Board Committees would be a useful strategy.

Finally, in respect of the membership of the Board I make three other suggestions as follows;

- I favour the removal of the legislative right of the Chief Executive of the SACE Authority to be a member of the Board. I am aware that Managing Directors are still to be found in many companies and not-for-profit organisations. In many cases, these people are reasonably capable of separating their responsibilities as Directors (for governance) from those as Chief Executive (for management). However, in today's quest for clear accountability, I believe that it introduces a level of unnecessary complexity and potential confusion to have the Chief Executive as a Board member. Naturally, a Chief Executive would attend all Board meetings, make recommendations and be influential in all relevant aspects of the Board's discussions – but without the complication of having the dual role of Board member and Chief Executive.
- For as long as the Northern Territory adopts the SACE as the basis for its senior secondary certificate and without diluting the non-representative approach to Board membership proposed above, I favour the inclusion on the Board of a person who is entirely familiar with the challenges facing the students in the Northern Territory and who can present a Northern Territory perspective to the Board discussions. I doubt the wisdom of prescribing this in legislation as I believe that it can be covered by the overall requirements including the requirement for experience and expertise in remote and indigenous education. However, as discussed in Section 5.8 below, the relationship between the SACE Authority and the Northern Territory is more fundamental than a client/service provider relationship. Moreover, because of the higher proportion

of indigenous students in the Northern Territory, this expertise can only be of benefit to South Australian policy making. Such an arrangement would be a natural extension of the current participation by nominees of the Northern Territory Education system on SSABSA Advisory Committees. If the South Australian Minister is attracted to this suggestion, I would recommend that there be consultation with the Northern Territory Minister before any such appointments are made.

- I propose that, in keeping with other legislation, the Minister have the responsibility of appointing the Chair and Deputy Chair of the Board.

5.7 Use of Aggregate Data Available to, or Generated by, the SAGE Authority and Appropriate Protections (Refer Section 4.1(6) for the term "Aggregate Data")

In its day to day work SSABSA has available to it significant quantities of data relating to student and school performance. It also has the potential to generate significant data from the research it initiates.

The SSABSA Act is silent on the question of more general use to which data may be put. The only provision which in any way relates to the release of data is section 15(1)(j) which gives the Board the power to publish the results of such research as it sees fit. Moreover, SSABSA is exempt from the provisions of the *Freedom of Information Act 1991* as a result of being prescribed under that legislation as an exempt organisation.

Even in aggregated form, the data for which SSABSA is the custodian provides an enormously important foundation for the development of public policy. With the agreement of the SSABSA Board and under very strict conditions, data on SACE completions was made available to the SACE Review. Analysis of that data was fundamental to the SACE Review recommendations and the obvious imperative of increasing SACE completions above 55 per cent of the young people entering secondary education.

In addition, I am aware that SSABSA provides to each school data about its own performance along with some like school comparisons.

My concern in this overall area is that the Minister, as the person responsible for the development of public policy, has no rights under the SSABSA Act to request data from SSABSA.

This is, I believe, a weakness in the legislation. I have noted that recent legislation elsewhere now generally prescribes that the organisations equivalent to SSABSA may provide, to appropriate State, Territory and Commonwealth authorities, system-level data obtained in the performance of their functions. Coupled with a form of Ministerial direction as outlined in Section 5.5 above, I propose a similar provision in the South Australian legislation. I have also noted that legislation elsewhere is not specific as to what constitutes aggregate or system-wide data and prefer a similar approach in this State, whilst adopting the firm view that "aggregate" means a level beyond that of an individual school.

I recognise, however that there will be community concerns about the possible abuse of a legislative provision such as this. Concerns could cover personal privacy issues as well as concerns that comparative data could be used to support inappropriate competition between schools within a sector or between sectors, through the publishing of what are called "league tables".

To deal with these concerns, I believe that the Minister in consultation with the SACE Authority should look to establish a high level group that would provide advice to the Minister on the reasonable use and release of data requested by the Minister. In addition, the SAGE Authority could establish a Standing Committee that would consider, in conjunction with the Cabinet approved Privacy Principles, all requests for release of data from other than the State Minister. This Committee would advise the SACE Authority on conditions that might be applied to the use and release of such data.

Either way, I do not believe it necessary that such mechanisms be prescribed by legislation.

On the question of whether the SACE Authority might continue to be exempt from the provisions of the Freedom of Information Act, my thoughts are included in Section 5.10 below.

5.8 Relationship between the SACE Authority, Key Agencies of Government and Other Bodies

The nature of the SACE recommended by the SACE Review will require that the SACE Authority interact substantially with a large number of bodies external to the SACE Authority. It would be impractical to attempt to list them all but they would include all organisations – be they education institutions, training providers, community organisations including those involved in heritage and environment conservation, arts and sporting bodies and employers – which play a part in the learning which a young person experiences. In Section 5.4 above, I have attempted to describe this role as being an active, brokerage type role rather than a more passive role.

The SACE Authority will also need sound relationships with other bodies such as the Teachers Registration Board and the Non Government Schools Registration Board.

A close working relationship with the Government's Training and Skills Commission will be essential. The inclusion of the Chief Executive of the Department of Further Education, Employment, Science and Technology on the SACE Review Implementation Steering Committee is an excellent first step.

I think it would be inconsistent with the enabling philosophy of the amended Act to be too prescriptive regarding external relationships and would anticipate that if the SACE Authority embraces the principles and functions proposed in Sections 5.3 and 5.4 of this report, it will achieve the strength of relationship required. However, I am attracted to the idea that the legislation indicates a requirement of the SACE Authority to include details in its Annual Report to Parliament of all of its external relationships, the way in which the Authority has facilitated their involvement and the way they have assisted in the pursuit of the Authority's charter.

The SACE Review report referred to the need for the relationship between the South Australian Tertiary Admission Centre (SATAC) and the SACE Authority to be acknowledged in legislation.

There is no doubt that this relationship is important. My proposed addition to the SACE Authority's functions detailed in Section 5.4 that provides for the Authority, with the agreement of each student, to release information to assist other organisations assess a student's application for admission aims to deal with this.

Given the nature of the proposed "learning space" and the less predictable pathways likely to be chosen by students, I have deliberately proposed that this function be written in more general terms. However, it is without question that SATAC will be a major organisation with which the SACE Authority will deal in this regard.

5.9 Other Legislative Matters

The Terms of Reference for this Review require consideration of other legislative links and consequential amendments which may flow from any legislative provisions relating to the SACE Authority.

In Section 5.10 below, I deal specifically with the Freedom of Information Act because of the current arrangements relating to SSABSA and what I believe is a more modern approach to this area.

Having examined the provisions of the Education Act which deal with the registration of non-Government schools, the *Teachers Registration and Standards Act 2004* and the *Training and Skills Development Act 2003*, I see no need for amendment to these Acts to deal with any matter that has arisen from this review.

Therefore, as outlined in Section 5.4 above, I propose only that there be an addition to section 82(1) of the Education Act that requires the Director General to contribute actively to the development of all senior secondary curriculum related material.

5.10 Freedom of Information

SSABSA currently operates as an exempt agency under the *Freedom of Information (Exempt Agency) Regulations 1993*. In effect, this means that information is protected while SSABSA retains it. However it may become subject to release under an FOI application upon transfer to another agency, eg DECS. This is a blanket exemption which applies to all of SSABSA's operations.

As stated above, SSABSA releases performance information to individual schools. However, aggregated "system wide" statistical data is not released to those responsible for any "system". Anecdotal advice suggests that this is in part due to the lack of FOI protection once such information transfers to DECS and in part because the Minister has no formal right to request information under the SSABSA Act.

Since the Board became an exempt agency, the FOI Act has been amended to provide for an agency to be exempt in respect of functions or classes of information. Informal legal advice indicates it would be possible for example, to exempt both the SACE Authority and DECS in respect of comparative student achievement data, should DECS wish to obtain such statistical information.

In making such a change, concerns have been raised regarding protection of other information held by the Board, some of which may be sensitive (eg research conducted involving interviews with children at risk). This may already be covered by the exemption in the FOI Act which specifically relates to research. The Crown has informally advised that it may also be possible to exempt this class of material created by the Board before a particular date.

Removing the current blanket FOI protection would be in line with the Government's policy of accountability and transparency. If these arrangements were put in place

for the SACE Authority they would be consistent with arrangements in most other Australian jurisdictions.

In respect of its freedom of information status, SSABSA's position is unique. A comparison of the FOI protections afforded to similar Boards across Australia shows that FOI exemptions (where they exist) apply only to certain functions and classes of information. In fact, the majority of other States' SSABSA-like authorities (Victoria, WA, ACT and Tasmania) are not afforded FOI protection at all.

The Queensland Studies Authority (QSA) which has an FOI exemption in respect of student achievement information, released year 12 school outcomes for 2005 for the first time in April this year in line with the State Government's *Changes to School Reporting* initiative. Protocols for publication of the data were established between the QSA and publishing agencies prior to its release to prevent the construction of league tables.

5.11 Increasing the School Leaving Age to 17

The Government has given an election commitment to raise the school leaving age to 17, to ensure that all young people are in education, work or training. Without wishing to criticise this commitment, it appears to me that the objective of this proposal is sound but that it goes beyond the traditional understanding and definition of the term "school leaving age".

I have considered two legislative models which could be used to implement this initiative: viz amendment of the Education Act or creation of stand-alone legislation to deal with arrangements for the cohort of students between 16 and 17.

The basis for each of these models reflects a fundamental difference in the policy approach to young people's engagement, either:

- young people will remain in school-based education unless exempted from attendance to pursue other options, or
- that young people are explicitly entitled to pursue various pathways.

It would be possible to legislate for the former position by amending the Education Act, while at this stage, because of the current structure of that Act, it appears that the latter option would be best placed in its own legislation.

If the Education Act is amended to provide for a compulsory school age up to 17, wider implications, such as the application of parental prosecution for non-attendance and truancy provisions may need consideration. Further, it is likely that the current exemption power set out in section 81A may need to be broadened to allow for regulations to be made to prescribe classes of exemptions.

Discrete legislation which sets out several pathways for young people has been enacted in Queensland (*the Youth Participation in Education and Training Act 2003*) and provides for a compulsory participation phase for students who have reached the school leaving age (16) or have completed year 10. Although currently stand-alone legislation, the passage of the recent *Education (General Provisions) Bills 2006* through Parliament will repeal this Act and include its provisions as part of the legislative framework for State education and other general schooling arrangements in Queensland.

This model of legislation provides transparency and clarity in relation to the pathways available to young people, and is also reflective of the concept that learning takes place in broader contexts than only the classroom. However,

Queensland legislation overall is much more prescriptive than would normally be considered in South Australia.

Some matters for further consideration in implementation of the increased school leaving age include how students who pursue alternative pathways are to be tracked or monitored and, if the compulsory school age is amended within the Education Act, how best to manage exemptions.

I am aware that the Minister has recently approved progression of preliminary work on a full legislative reform program for care, education and children's development in South Australia. The development of new legislation would create opportunity for the increase of the school leaving age to 17 to be included within the structure of an Act dealing with the provision of education in this State.

I understand that the Minister is receiving detailed, separate advice on this matter and I do not propose to make a recommendation in the light of that understanding.

6. OTHER MATTERS RELATED TO THE OPERATION OF THE SACE AUTHORITY

The intent of Recommendation 26 of the SACE Review was to ensure that the operations of the SACE Authority differed in a number of respects from that of the current SSABSA. Given this, I regard the proposed changes to the Act as a necessary but not sufficient pre-condition.

SSABSA is highly respected among the people and organisations who contributed to this Review for its expert ability and capacity to perform all the tasks associated with the finalisation of student results and the associated certification. These are the tasks of an "organisation machine" and SSABSA is applauded for its performance in this area.

SSABSA has also received high praise for its consideration of what is referred to as "Special Provisions" viz the consideration of the circumstances for students at risk of not completing a SACE because of sickness or family or personal disturbance at crucial times. This also extends to alerting schools of the inadequacies of a student's subject pattern in time for remedies to be found.

However, there are views that SSABSA is not as strong as it needs to be in its consideration of :

- The difficulties faced by remote students, including Aboriginal students
- The students who discontinue their SACE studies at the early stages
- The need for the parent community to understand more fully the requirement of the SACE and trends in student learning more generally
- Potential innovations, particularly in curriculum and assessment practices
- The time and effort of the people beyond SSABSA who contribute to its activities in various ways.

There is a call for the SACE Authority to adopt an operating style which maintains SSABSA's exemplary performance in the areas highlighted above as well as becoming a high quality, more service oriented body in the other areas. This will be challenging because this will require less of the characteristics of the "organisation machine" which has served SSABSA so well in other areas.

There is a call for the SACE Authority to have the strongest possible (facilitative) relationships with all participants in the learning space and I have attempted to reflect this in the proposed principles in Section 5.3 and proposed functions in Section 5.4 above. This would also involve continually finding ways to engage with the community about trends in teaching and learning in the senior secondary years and to increase community understanding of the importance of all young people developing an enthusiasm for continued learning and skills development.

The SACE Authority will ideally have a client/service provider relationship with each education system involved in the delivery of senior secondary education in South Australia and with individual schools beyond those systems. These relationships will, where appropriate, be underpinned by formal service level agreements.

The Northern Territory Minister for Employment, Education and Training currently has a service level agreement with SSABSA as part of that Government's adoption of the SACE as the basis for its senior secondary certificate. But in line with the quest for a greater service orientation of SSABSA, it wishes that agreement to be stronger and provide for more control by the Northern Territory over the relationship – including the data which is made available – and the price paid for services provided.

It would be remiss in this Review not to report that at times the Northern Territory Department of Employment, Education and Training senses that SSABSA does not fully understand the accountability of the Northern Territory Minister in the way that SSABSA responds to requests from the Northern Territory. It believes that there is a tendency for SSABSA to apply South Australian policy positions (based on its interpretation and application of the SSABSA Act) to such requests – including in the provision of data and in the overall relationship between SSABSA and the South Australian Minister.

This suggests to me that the service level agreement between the SACE Authority and the Northern Territory Minister needs to be strengthened. Specific reference to the South Australian policy positions which do not apply (or apply in amended form) to the relationship between the SACE Authority and the Northern Territory should be made.

I note that section 16 of the SSABSA Act gives the Board very wide ranging powers in entering into contracts or arrangements. This suggests to me that no legislative impediment exists to another jurisdiction inserting, into an agreement, provisions which might be beyond the application of the legislation in South Australia.

The adoption of the suggestion in Section 5.6 regarding the possible inclusion on the Board of the SACE Authority of a person with a strong understanding of the Northern Territory system would go part way towards assisting achieve this objective.

7. TRANSITION CONSIDERATIONS

The logistics associated with the introduction of the future SACE will be challenging.

One aspect of this challenge will be that some students will have commenced the existing SACE but by the time they have completed their senior secondary learning program, the future SACE will be the appropriate certification.

Furthermore, the studies that have taken place as part of the existing SACE, will have been under the auspices of SSABSA whereas, if a new Authority is created, the rest of their program will be under the auspices of the new SACE Authority.

If the Government decides to retain SSABSA as the Authority for the future SACE, section 15(2) of the existing SSABSA Act gives the Board powers to determine transitional arrangements as a result of legislative changes.

if a new Authority is established, some different legislative attention will be required. That could take the form of the new legislation requiring the SACE Authority to take into account the progress of students who have partially completed the existing SACE and to ensure that they are not disadvantaged in any way as they move to finalise their learning program under the future SACE. Such a provision would also need to be supported by some well developed administrative arrangements because the time over which transition might occur could be considerable. Advice from the Parliamentary Counsel is that a Schedule to the main Act would be needed to deal with all transition provisions.

On a broader front, if the SACE Authority is a recasting of the current SSABSA, it could reasonably be assumed that SSABSA will be integrally involved in its own recasting and will be moving towards a relationship with the Minister in keeping with the likely provisions of the new legislation. If a completely new Authority is to be established, the relationship between SSABSA and the new Authority over the next several years will also need to be considered.

Either way, an early amendment to the current SSABSA Act is proposed to give the Minister a power of direction over the current SSABSA. This could be a general power of direction as outlined in Section 5.5 above or a more specific power (which again could be dealt with by Schedule) relating only to the transition to a future SACE.

Another transition issue relates to the employment arrangements for existing staff of SSABSA. The Government will not wish to place at risk the finalisation of the current SACE by students over the next few years. If SSABSA staff who are crucial to the current SSABSA processes choose to seek other career options because of uncertainty about the new employment possibilities, that could have a negative effect on the ability of SSABSA to maintain current activities successfully.

Finally, the role and "life" of the proposed Office of Senior Secondary Renewal (OSSR) needs to be considered.

This entity was proposed by the SACE Review to undertake the more detailed work necessary to prepare for the future SACE. I understand that the SACE Review Implementation Steering Committee has recommended its creation and that it:

- Include representatives from each of the school sectors
- Report to the Minister via the SACE Implementation Steering Committee
- Absorb the work of the current SACE Implementation Secretariat

Assuming that the OSSR is created and assuming that the SSABSA Act is amended as a matter of priority – at least in respect of prescribing a power of Ministerial Direction – I envisage that a Ministerial direction would be given to the SSABSA Board covering:

- The importance of it developing a close working relationship with OSSR to the point of making its expertise available to the OSSR and
- The requirement that only minimal (if any) developmental work be done in respect of the existing SACE to ensure certainty for students and to enable appropriate resources to be made available to assist OSSR as outlined above.

At the time of Government decision as to whether the SACE Authority will be SSABSA or a new Authority, decisions will also need to be made regarding the transition of key OSSR functions and staff into the SACE Authority.

In the above considerations, the question of the optimum time for the proposed new form of Board (based on legislative change) to be established should also be addressed.

Based on the form of the early Ministerial direction to the Board outlined above, I consider that the new form of Board could be established at the time of creation of OSSR or very shortly thereafter.

It seems certain that the decision as to whether the SACE Authority is SSABSA or a new organisation will be an “on balance” decision.

That said, the general arguments in favour of SSABSA being the SACE Authority (albeit operating within the amended legislation proposed in this report) include:

- The robustness of the infrastructure (including information technology based infrastructure) which SSABSA has established for many of its activities and notably the end of year processing.
- The expertise of many of SSABSA’s staff and the greater likelihood that they will not be seeking other employment opportunities through excessive uncertainty about the organisation’s future.
- The minimisation of risk to students who are involved in the transition from the current SACE to a future SACE.
- The current legislative provision in the SSABSA Act which provides for ease of transition to a different structure and form of senior secondary qualification.
- The strength of SSABSA’s relationships with the tertiary sector in South Australia.

The general arguments in favour of a new Authority include:

- The symbolism that the future SACE will be different from the existing SACE. This aspect appears to have gained momentum in recent times as a result of some views attributed to SSABSA that it is already doing much of what the SACE Review proposes. I am also aware that the full title of the organisation (which is almost always referred to by its acronym) suggests that its function is only one of assessment. Obviously, its functions extend beyond assessment already and, if my recommendations are adopted, this will continue to be the case. That has not apparently been problematic in the past – largely because of the strength and recognition of the acronym – but it is certainly a point to consider seriously for the future.
- A view that there is an overriding “SSABSA way of doing things” which has a range of characteristics (including an over emphasis on process, an incrementalism, a reluctance to pilot, a reluctance to invite radical views) and which are barriers to innovation.

- A view that in some ways SSABSA's independence of Government, underpinned by its legislation, has led to an isolation particularly in being able to attract talented young people seeing SSABSA as providing an important career step.

I have not made any recommendation in respect of this matter although I consider that the proposed legislative amendments will go a long way towards ensuring that whatever the decision, the SAGE Authority that operates under the provision of the amended legislation will have the foundation for a different operating style in the areas in which change is sought from that of today's SSABSA.

8. RECOMMENDATIONS

This review recommends:

- 8.1 That the SSABSA Act 1983 be substantially amended as proposed below but that the prevailing "enabling" nature of the Act be retained rather than the more prescriptive style of legislation which has been proclaimed elsewhere.
- 8.2 That the revised legislation be based on a set of Principles proposed in Section 5.3 of this report. These principles will guide the SACE Authority in all of its work, are fundamental to the future SACE and to the part that the SACE should play in the Government's Youth Engagement Strategy.
- 8.3 That the functions of the SACE Authority be amended and strengthened as proposed in Section 5.4 of this report to, inter alia, emphasise:
 - The SACE Authority's role in ensuring that the SACE is a key part of the Government's strategies for overall school retention and development of a highly educated and skilled population based on the SACE Review's "SACE for All" philosophy.
 - The need for a quality assurance system covering all aspects of its work.
 - The importance of having a system of accreditation that is recognised within the Australian Qualifications Framework.
 - The SACE Authority's essential role in facilitating the development and operation of the conceptual "learning space" by acting as a broker between the various entities in the "learning space" and by taking an active leadership role in this area.
 - The SACE Authority's encouragement of, and support for, all school sectors in the initiation of innovative curriculum consistent with the above.
 - The SACE Authority's professional leadership role in curriculum development and fit for purpose, quality assured methods of assessment built on strong and supportive relationships with the broad education community, including a specific role in professional development related directly to appropriate standards.
 - The SACE Authority's role in assisting other authorities and organisations to assess a student's application for admission.
 - The importance of the SACE Authority monitoring participation levels in, and leading up to, the study of the SACE to ensure that the SACE is within the reach of all young people.
- 8.4 That the representative nature of the Board of the SACE Authority be discontinued and that the Board be smaller in number and appointed on the recommendation of the Minister for its collective experience and expertise in the areas of policy development, strategic thinking and planning, higher education, vocational education and training, senior secondary education, remote and indigenous education, employee representation, industry and Board Directorships.
- 8.5 That the membership of the Board of the SACE Authority be no greater than twelve and that in considering potential members, the Minister be required in legislation to seek expressions of interest from the community at large and the educational community specifically; further, that the Minister have the power to appoint the Chair and Deputy Chair of the Board.
- 8.6 That the provision that automatically includes the Chief Executive as a member of the Board be removed.

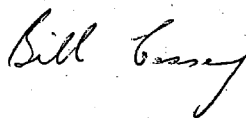
- 8.7 That, without diluting the non-representative approach to Board membership and without making a legislative provision, the Minister seriously consider appointing to the Board, after consultation with the relevant Minister in the Northern Territory, a person who is entirely familiar with the challenges facing students in the Northern Territory and can present a current Northern Territory perspective to the Board; this to apply for as long as the Northern Territory adopts the SACE as the basis for its senior secondary certificate.
- 8.8 That the revised legislation require that the Board of the SACE Authority commission at two yearly intervals an independent review of a significant aspect of the operations of the organisation including the associated aspects of the legislation to ensure that the SACE is continuing to be current and relevant. The review topic and scope to be agreed with the Minister and the review report, together with the SACE Authority's proposed actions, to be provided to the Minister no later than two months after the completion of the report.
- 8.9 That the legislation be amended to provide a general power of Ministerial direction over the SACE Authority with the requirement that:
- Any direction must be in writing and reported in the SACE Authority's Annual Report.
 - Within 14 sitting days the Minister be required to inform the Parliament of the direction and the reasons for it.
 - The power of Ministerial direction exclude any right of the Minister to provide direction regarding the content, approval or accreditation of a syllabus or the assessment and recording of the results of a student's learning.
- 8.10 That the legislation be amended to provide that the SACE Authority, on request, may release aggregate or system-wide data to appropriate State, Territory and Commonwealth Authorities as proposed in Section 5.7 of this report.
- 8.11 That the Minister for Education and Children's Services consider establishing a high level group to advise on the reasonable use and release of data requested by the Minister.
- 8.12 That the SACE Authority consider establishing a Standing Committee to consider all requests for the release of data from other than the State Minister and to advise it on conditions that might be applied to the use and release of such data consistent with the Cabinet approved Privacy Principles.
- 8.13 That the SSABSA Act be amended to provide that the Annual Report of the Board include details of all of its external relationships, the way in which the SACE Authority has facilitated this involvement in its work and the way the relationships have assisted in the pursuit of its charter.
- 8.14 That, depending on the overall program of transition to the new SACE, the Minister consider an immediate amendment to the SSABSA Act to enable a power of Ministerial direction to be given to the Board.
- 8.15 That the Board and management of the SACE Authority recognise that the proposed legislative amendments constitute a necessary but not sufficient pre-condition for the desired operating style of the SACE Authority in overseeing the future SACE; that without diluting the administrative efficiency of key SSABSA functions, the Authority embrace the proposed Principles in the legislation to develop much stronger collaborative relationships with all components of the "learning space" including the education sector.

- 8.16 That the SACE Authority and the Northern Territory Government extend the current service level agreement to include specific reference to the South Australian policy positions which do not apply, or apply in amended form, to the relationship between the SACE Authority and the Northern Territory.
- 8.17 That consideration be given to an addition to section 82(1) of the Education Act to make more explicit the active role of the Director-General of Education, via the Department of Education and Children's Services, in the ongoing development of senior secondary curriculum.
- 8.18 That consideration be given to relaxing the total exemption of the SACE Authority from the provisions of the Freedom of Information Act consistent with the type of approaches adopted in other jurisdictions.

9. CONCLUSION

I have attempted to frame my recommendations so that the spirit of the proposed future SACE – and, in particular, its theme of "A SACE for All" – is facilitated.

Drafting instructions, consistent with those recommendations which relate to legislative change, and as required by the Terms of Reference for this review are included as an Attachment to this report.



Bill Cossey
23 November 2006

ATTACHMENT

DRAFTING INSTRUCTIONS FOR PROPOSED LEGISLATIVE AMENDMENTS

1. INTRODUCTION

These instructions have been prepared as part of the independent review of the *SSABSA Act 1983* commissioned by the Minister for Education and Children's Services and conducted by Mr Bill Cossey.

A copy of the review report is attached together with the Government's response to the review's recommendations.

These instructions reflect the Government's policy position which is not necessarily consistent with the review's recommendations in all aspects. However, the review report contains important contextual and background information to assist the Parliamentary Counsel.

The Terms of Reference for the review required that the reviewer consider possible changes to other legislation which relates to the *SSABSA Act 1983*. These drafting instructions include proposals for both the *SSABSA Act 1983* and the *Education Act 1972*.

2. SSABSA ACT 1983 AMENDMENTS

2.1 Overall Approach

The Government wishes to retain the overall enabling philosophy of the existing Act.

2.2 Section 4

The term "senior secondary education" needs to be expanded to include courses of study that are considered by the Board to be equivalent with year 11 and year 12 of secondary education even if these courses are not undertaken in year 11 or 12.

2.3 Section 8(1)

This section is to be replaced by a new Section that provides as follows:

- A maximum of 12 members with no reference to the Chief Executive Officer
- The members to be appointed by the Governor in Executive Council on the recommendation of the Minister and approved by Cabinet
- in considering the appointments of members the Minister to be required to canvass widely (not specifically to seek nominations)
- The Minister to ensure that the Board at all times contains members whose experience and expertise covers the areas of policy development, strategic thinking and planning, higher education, vocational education and training, senior secondary education, remote and indigenous education, employee representation, industry and Board Directorships.

2.4 Sections 9(1) and 9(2)

This Section is to be replaced by a new Section that provides as follows:

- The Chairperson and Deputy Chairperson to be determined by the Minister, approved by Cabinet and appointed by the Governor in Executive Council.
- The terms of appointment to the positions of Chairperson and Deputy Chairperson to be determined by the Minister provided that these terms do not exceed their terms as Board members.
- The Chairperson and Deputy Chairperson to be eligible for re-appointment to these positions at the end of their respective terms.

2.5 Section 10(1)

This section to be amended to provide that a quorum be constituted of half the number of members plus one.

2.6 Section 15(1)

Amendments are required to this Section in part to expand on or modify several of the Functions and in part to add Functions as follows:

- Section 15(1) to be extended to include words to the effect that the Board will encourage the involvement of all relevant entities in the development or implementation of syllabuses and ensure that their views are fully understood and taken into account whilst encouraging innovation in teaching and learning.
- Section 15(1)(c) to be extended to include a requirement that the means of assessment are quality assured and consistent with recognised best practice relevant to the requirements of each syllabus.
- Section 15(1)(c) to be extended to acknowledge that the certification requirements are a component of the Australian Qualifications Framework.
- Section 15(1)(h) to be amended to eliminate references to requests having to be made of the Board and to remove the words "in relation to the Board's policies and processes".
- Section 15(1)(k) to be extended to cross reference to a more specific requirement (elaborated on in point 2.9.3 below) for formal review processes.
- Additional paragraphs are required in this section to cover requirements that the Board:
 - is enabled to release to another authority or organisation, with each student's agreement, relevant information to assist that authority or organisation to assess a student's application for admission.
 - implement and continually refine and improve a quality assurance system covering all aspects of its work.
 - provide or ensure, in collaboration with the school sectors and schools, the necessary training and development of teachers and other people involved in the implementation of its requirements.
 - monitor participation levels in, and leading up to, senior secondary education to ensure that its certification requirements are within reach of all students.

- is enabled to provide professional services and related materials to, Education Authorities in Australia and overseas consistent with its expertise.

2.7 Section 15(3) (Proposed)

An additional section is required to the effect that the Board will be guided in all of its work by the following Principles:

- (1) collaboration and consultation should be promoted –
 - (a) across the sectors of education including the tertiary sector;
 - (b) across State schools and non-State schools;
 - (c) between the providers of secondary education and the employer community; and
 - (d) between all relevant accreditation and regulation bodies.
- (2) all students should be encouraged through flexible learning pathways to gain a certificate of achievement on completion of secondary education acknowledging that students increasingly experience formal and informal learning settings within and beyond school including in workplaces and community organisations.
- (3) the professional role of teachers in all aspects of a student's learning including the assessment of achievement should be recognised and enhanced through continuing professional development related directly to appropriate standards.
- (4) all students, regardless of their ethnic origins, their abilities and disabilities and their socio-economic status should be encouraged to achieve their educational and career goals.
- (5) the diverse educational needs of students should be catered for through personalised approaches to their secondary education.
- (6) a robust system of quality assurance which keeps pace with changing times and circumstances is essential to the continuing confidence of students, parents, teachers, tertiary institutions, employers and the community generally, not just in South Australia, but nationally and internationally in all certificates of student achievement which are issued.
- (7) all students, regardless of their educational and career goals, require a range of skills, including relevant skills in numeracy and literacy and independent learning skills to complement the knowledge which they acquire as part of their secondary education; the certificate of student achievement should acknowledge both skills and knowledge.

2.8 Section 20

This section is to be extended to include a requirement that the Annual Report provide details of:

- Any Ministerial direction given to the Board during the 12 month period (refer 2.9.1 below)

- The working arrangements with all bodies, including but not confined to the school sectors, with which the Board has associated during the 12 month period in the conduct of its business; and the way in which these arrangements have assisted in the pursuit of the Board's charter.

2.9 New Sections (Proposed)

Several new sections are required. These may be placed in the Act as the Parliamentary Counsel sees fit. They are to provide as follows:

2.9.1 Power of Ministerial Direction

A general power of Ministerial direction is required with the provision that the Minister not have the power to direct in respect of the content, approval or accreditation of syllabuses prescribed in section 15(1), or in respect of the assessment and recording of the results of a student's learning, also as prescribed in section 15(1)

Further, it is required that any Ministerial direction be in writing, be detailed in the Board's Annual Report and be tabled in Parliament within 14 sitting days of the direction being given.

2.9.2 Obligation on the Authority to Release Data

It is requested that there be a provision for the Board to release on request, aggregate or system-wide data relating to student performance in senior secondary education to appropriate State, Territory and Commonwealth authorities.

2.9.3 Obligations on the Board to Review Performance

A new section is required that obliges the Board to commission at no more than two yearly intervals an independent review of a significant aspect of its operations under this legislation.

The provision needs also to require that the Board agree the scope of each review with the Minister before the review is commissioned and that the review report be provided, together with the Board's proposed actions in response to the report, to the Minister within two months of the Board receiving the review report.

3. **EDUCATION ACT 1972**

A provision is proposed that requires the Director General to take all reasonable steps to ensure, where aspects of curriculum development and revision are being managed by another entity, that the interests of State school students are integral to such development. This may be achieved by an addition to section 82(1) of the Education Act possibly cross referenced to the proposed strengthened functions of the SSABSA Act.



Government
of South Australia

Discussion Paper No 1 SSABSA Act

Care and Education Legislation Reform

INVITATION TO COMMENT

I invite you to contribute your views about proposed legislation which will be designed to support young South Australians as they learn for life, work and citizenship in the 21st Century.

This discussion paper focuses on the senior secondary area of our education services, and in particular, proposed changes to the *Senior Secondary Assessment Board of South Australia Act 1983* and consequential changes to the *Education Act 1972*.

It is the next step in the South Australian Government's measures to reform and revitalise children's services and education across the State, and the legislation that underpins those services.

Those reforms include stronger integration of services for children and families, the *Education Works* initiatives to deliver better schools and children's services, and improved connections between school, further education and work, including a new South Australian Certificate of Education.

The reforms are based on research and extensive consultation with people across education sectors and community groups, including staff, parents and educational leaders who contribute to the strengths of our education and children's services.

At the heart of this reinvigoration is a commitment by the Rann Government to strengthen the opportunities, skills, knowledge and values of every child through the provision of quality services.

It is essential that our services and reforms are established on a firm legislative foundation which reflects the aspirations of the community and are flexible and relevant for today and the future.

The current legislation includes an Education Act that is 34 years old and a Children's Services Act that was introduced 21 years ago. The Act which supports governance of the current SACE is 23 years old.

We began a legislative reform program in 2004 which led to the enactment of the *Teachers Registration and Standards Act 2004*. Improved child protection provisions, modernising of the Board and clarity about the role of the Minister responsible were features of the new Act.

We will now progressively seek the views of the community through a series of discussion papers on reshaping our education and care legislation to provide stronger foundation that better reflects the needs of a modern system of quality education and children's services.

This particular paper takes into account the extensive review of the South Australian Certificate of Education, together with an independent examination of the current SSABSA Act, as recommended by the SACE review report. The SSABSA Act review examined the legislative issues raised by the SACE review report and comparable legislation in other states and territories. The aim was to establish a legislative framework that enables and supports governance of a future SACE.



Discussion Paper No 1 SSABSA Act

Proposals outlined in this paper also reflect 'school to work' reforms to enable more young people to learn both within and beyond school, and other initiatives to ensure all young people are engaged in school, work or training. Central to that endeavour will be legislative measures to increase the school leaving age to 17 years by 2010.

Governance and administrative measures for a future SACE will build on the best of the current certificate and the outstanding contribution the Senior Secondary Assessment Board of SA has made to the education of many young people in South Australia, the Northern Territory and overseas.

An independent SACE Board that is effectively linked with all stakeholders, providers of education, and the Minister responsible for the legislation, will be established. From 2007, a future SACE office will work closely with SSABSA, and then the new SACE Board, when it is established, to ensure a smooth transition to the future SACE.

I urge you to contribute your views to help inform the drafting of legislation early in 2007, and support the education and care of young people in the years ahead.

Jane Lomax-Smith
MINISTER FOR EDUCATION AND CHILDREN'S SERVICES
12 December 2006

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Consultation Process

This discussion paper commences the next stage of the Government's care education and children's development reform program.

A Legislative Reform Advisory Group is being established to support the reform program by advising on the development of proposed legislation and the consultation process. Membership of the Advisory Committee will comprise representatives drawn from the Government and non-Government care, education and children's development sectors.

The planned reforms to the current **SSABSA Act 1983** detailed in this discussion paper have been the subject of examination and consultation over the past two years through the formal SACE Review and then the subsequent independent review of the SSABSA Act. The proposed changes are drawn from this extensive work and specifically from the recommendations of the SSABSA Act Review (referred to in the discussion paper as the *Review Report*).

Comments on the planned new legislative provisions required to underpin the future South Australian Certificate of Education are invited from all interested parties, including parents, students, staff, governing councils, service providers, government agencies, training bodies, unions and the wider community. Following the consultation a bill will be drafted for introduction into the South Australian Parliament in 2007.

Individuals and organisations are invited to comment by any of the following means:

- completing the online feedback form on the legislation reform website at: <http://www.edlawreform.sa.gov.au>
- completing the feedback form and forwarding it by email to: edlawreform@saugov.sa.gov.au or
- and returning it by post to:

SSABSA Act

Legislation Reform Unit
Minister for Education and Children's Services
GPO Box 778
ADELAIDE SA 5001

Printed copies of the discussion paper can also be obtained by calling (08) 8226 3479.

Feedback must be received by the close of business on **Friday 23 February 2007**.

Explanation of Terms Used

A number of terms were used in the SACE Review and in the Independent Review of the SSABSA Act to describe several entities. The following terms are used in this paper:

- the **future SACE** – the new South Australian Certificate of Education which all senior secondary students in South Australia will commence working towards from 2009 (with pilots commencing in 2007) which will be overseen by the new SACE Board .
- a **future SACE Office** (referred to as the 'OSSR' in SACE Review Report). This will operate for two years and will work with the current Senior Secondary Assessment Board of South Australian to ensure a smooth transition.
- the **new SACE Board** (referred to as 'SACE Authority' in SACE Review Report). This will be established under the amended legislation and commence operating in 2008.
- the **SACE Organisation** (referred to in the SACE Review and the Independent SSABSA Act Review Report as the 'SSABSA organisation'). The body, headed by the Chief Executive, which will support the new SACE Board and manage the operations of the future SACE. Administrative and legislative transitional arrangements will be put in place to support the evolution from the current organisation into the new arrangements by April 2008.
- **Director-General of Education** – a position established under the *Education Act 1972*, this is the Chief Executive of the Department of Education and Children's Services.

Amendments to the SSABSA Act

Overview

The first group of students to undertake the future SACE will start their Year 10 study in 2009 and graduate with the new SACE in 2011. This means Year 8 students in 2007 will be among the first group undertaking the future SACE. The government intends to have legislation in place well before 2009 that will underpin and enable implementation of the future SACE.

The current SACE is overseen by the Senior Secondary Assessment Board of South Australia (SSABSA) which is created by the *SSABSA Act 1983*.

The Review Report provided by Mr Bill Cossey recommended a number of amendments to the current Act to ensure it better reflects modern expectations relating to governance, Ministerial accountability, access to and availability of information generated by the SACE authority established under the SSABSA Act.

The Review Report stressed the need to retain the enabling nature of the current legislation but recommended improvements through:

- The inclusion of a set of principles to underpin the Act.
- Modernising the composition, size and functions of the Board and the appointment of members.
- Enhancing the relationship and links between the Board and the Minister, including providing for the Minister to direct the Board where appropriate.
- Strengthening accountability and extending the annual reporting requirements.
- Improving access to data generated by the organisation and ways to protect its use.
- Regular reviews of the operations of the Board.
- Consequential amendments to the *Education Act 1972*.

In considering senior secondary education reform, the Government has used the Review Report recommendations as the basis for the proposals detailed in this discussion paper.

Additionally, the Government has made a commitment to improve outcomes for all students in the 21st century by increasing the school leaving age to 17 years by 2010. This will ensure that young people are either in school, employed or in structured training and improve their life chances of success. This change to the Education Act will be introduced through the proposed Bill.

Transition

The Government is committed to a smooth transition from the current arrangements under the SSABSA Act to a new SACE Board assuming responsibility for implementing the future SACE. There is a firm commitment to supporting existing SACE students and those who will be undertaking the new SACE. The transition process will honour SSABSA staff contracts and entitlements and enable them to contribute to the development and implementation of the future SACE.

The amending legislation will contain transitional provisions and be proclaimed progressively to facilitate a smooth transition from the current SACE to the future SACE. This will enable the existing SSABSA Board to finalise the current SACE cycle and allow for a new SACE Board to be established, appointed and fully operational by April 2008.

This new SACE Board will be appropriate in its design, function, powers and modus operandi to implement the future SACE from 2009. The first task of the new SACE Board will be to appoint a Chief Executive to support the establishment of the new SACE organisation.

Approach and Principles

The Review Report found that the *Senior Secondary Assessment Board of South Australia Act 1983* (SSABSA Act) has served the interests of South Australia reasonably effectively for more than two decades, but there is a clear need for considerable amendment in the context of implementing the future SACE.

The Act currently sets the broad parameters within which the SSABSA Board must operate but allows a level of flexibility in the Board's operations. For example, the Board is able to enter into contracts or arrangements with other jurisdictions, which currently allows SSABSA to support delivery of the SACE in the Northern Territory and overseas.

The Review Report recommended that amendments to the Act should retain the features that enable the new SACE Board to work effectively while not prescribing the detail of how it will operate. The planned amendments will continue this flexibility, consistent with modern legislative provisions where any prescriptive detail required is included in regulations made under the Act, rather than in the Act itself.

Legislation which is enabling must be flexible and clearly spell out the policy basis and intended outcomes on which it was founded. As Australian legislation is being modernised, core principles are increasingly being included in new Acts, an example of this are those set out in the *Education (Queensland Studies Authority) Act 2002*.

The Review Report identified that while it has a number of sound provisions, the current SSABSA Act does not contain any guiding principles which express the intent behind the legislation. The Review Report considered that the inclusion of such principles would guide the new SACE Board in all of its work and would be fundamental to the future SACE.

The planned changes to the Act will be designed to effectively support and underpin the implementation and ongoing delivery of the future SACE with the inclusion of a set of principles. As recommended by the Review Report the principles will clearly demonstrate the State's commitment to senior secondary education, assessment and certification and guide the new SACE Board in delivering better outcomes for all senior secondary students.

PLANNED REFORM 1 – Principles

Under the amended Act it is proposed that:

In addition to prescribing the powers and functions of the new SACE Board, the amended Act will include core principles which encapsulate the following:

- (1) It is essential to have collaboration and consultation –
 - (a) across the sectors of education including the tertiary sector;
 - (b) across government schools and non-government schools; and
 - (c) between the providers of secondary education and the employer community and
 - (d) between all relevant accreditation and regulation bodies..
- (2) Students should be encouraged through flexible learning pathways to gain a certificate of achievement on completion of secondary education .
- (3) Learning takes place in formal and informal education settings within and beyond school including in workplaces and community organisations.
- (4) Teachers have a role in all aspects of a student's learning including the assessment of achievement, which should be recognised and enhanced through continuing professional development related directly to appropriate standards.
- (5) All students, regardless of their ethnic origins, abilities and disabilities and their socio-economic status, should be encouraged to achieve their educational and career goals.
- (6) The diverse educational needs of students should be catered for through personalised approaches to their secondary education.
- (7) A robust system of quality assurance which keeps pace with changing times and circumstances is essential.
- (8) All students require a range of skills, including relevant skills in numeracy, literacy and independent learning skills to complement the knowledge which they acquire as part of their secondary education; the certificate of student achievement should acknowledge both skills and knowledge.

Size and Composition of the new SACE Board

Currently the Act establishes a SSABSA Board which comprises one ex-officio member and twenty six members nominated by identified organisations. The Board was created this way so that individual stakeholders identified at the time would be represented.

This is now a very large board by modern standards, where smaller boards are now appointed. This is the case with interstate boards similar to SSABSA, where five of the jurisdictions have boards of between nine and sixteen members. These are designed to be more streamlined and strategic in their operations while still being able to maintain effective connections with their sectors. Once appointed, all members of boards such as SSABSA have an overarching governance role and a clear legal obligation to act and make decisions in the best interests of the board.

The Review Report identified that legislation with prescriptive board membership provisions becomes outdated quickly. Over time there will always be new and changing stakeholders who are not specified in the legislation and to include them would require amending the legislation, as well as further increasing the size of the board.

Historically, members were expected to act as the primary means of communication between the board and their nominating organisation. It is now acknowledged that this is inadvisable and places an unfair expectation on members. While it is critical for boards to understand and consider the views of stakeholders, this can be undertaken in a range of ways. SSABSA currently has a comprehensive set of committees and other consultative mechanisms in place. The Review Report recommended creating a smaller efficient SACE Board while maintaining provisions such as the committee structures that enable it to engage effectively with all stakeholders.

PLANNED REFORM 2 – Size and composition of the new SACE Board

Under the amended Act it is proposed that:

A new SACE Board with a maximum of twelve members will be established. The quorum for a meeting of the new Board will be half of the appointed members plus one.

Appointment of the new SACE Board

The Review Report emphasised that for the new SACE Board to be effective in implementing the future SACE and moving it forward, it is essential that Board members collectively bring together a range of skills and expertise. These should include knowledge and skills in policy development, strategic thinking and planning, as well as experience in the operation and use of the SACE, higher education, vocational education and training, senior secondary education, remote and indigenous education, employee representation, industry and board directorships.

The amended SSABSA Act will remain the responsibility of the Minister and be linked to other legislation within the Minister's portfolio. To enable the appointment of an appropriate streamlined new SACE Board, with members who bring a range of skills and experience, the Review Report recommended that the amended Act provide for appointment of Board members by the Governor on the recommendation of the Minister. The term of office for Board members would remain as it is currently, up to three years.

The Review Report emphasised that the amended Act should require the Minister to canvass widely and seek expressions of interest from across the community in determining an appropriate mix of nominees for appointment by the Governor.

The role of Chairperson and Deputy Chairperson are significant positions within the Board and are currently selected and appointed annually by the Board from amongst their number. The Review Report concluded that with the changes to the Board and the task in overseeing the future SACE, it will be important for the Chair and Deputy Chair positions to be selected and appointed on merit, based on the skills of the individuals. Similar boards in South Australia (such as the Training and Skills Commission) and senior secondary assessment boards in Tasmania and Victoria, now also have the majority of board positions appointed by the Governor on the Minister's nomination. The Review Report also recommended that

the amended Act require the Minister to put forward nominations for a Chair and Deputy Chair of the new SAGE Board who will be appointed by the Governor.

PLANNED REFORM 3 – Appointment of the new SACE Board

Under the amended Act it is proposed that:

- Members of the new SACE Board, including a Chairperson and a deputy Chairperson will be appointed by the Governor in Executive Council on the recommendation of the Minister with the approval of Cabinet for up to three years. Members will remain eligible for appointment for further terms.
- The Minister will be required to canvass widely when considering nominations for the appointment of members and ensure that the new SACE Board contains members whose experience and expertise covers the areas of policy development, strategic thinking and planning, higher education, vocational education and training, senior secondary education, remote and indigenous education, employee representation, industry, and use and operational knowledge of the SACE and board directorships.

Chief Executive Officer

The Review Report acknowledged the critical role the Chief Executive plays in the operation of the Board and SACE. The Review Report supported retention of the position. The Review Report recommended that the new SACE Board remain responsible for appointing the Chief Executive with the approval of the Minister, as is currently the case. With the Board remaining responsible for directing the Chief Executive in the performance of his or her duties.

The Review Report found that as an employer the Board would be expected to set the performance expectations for the Chief Executive and monitor the actual performance against these expectations regularly and formally. The Review Report formed the view that it is appropriate for the Chief Executive to attend all Board meetings, make recommendations and be influential in all relevant aspects of the Board's discussions. However, this needs to occur without the complication of the person having the dual role of Board member and Chief Executive. Therefore, it is proposed that the legislation continue to prescribe the position of a Chief Executive of the new SACE Board but for the position not to be an ex-officio member of the Board.

PLANNED REFORM 4 – The Chief Executive

Under the amended Act it is proposed that:

The Chief Executive will oversee the new SACE organisation and attend Board meetings without being a member of the Board.

Functions of the New SACE Board

Currently, the SSABSA Act prescribes eleven functions of the Board. It does not prescribe any of the mechanisms by which the Board operates or ways in which the Board is supported.

The Review Report identified that in order to implement the future SACE, the existing functions and responsibilities of the Board will need to be strengthened and enhanced in the legislation. The Review Report concluded that by including enhanced functions, together with the core principles, a sound foundation will be developed from which the new SACE Board can work to discharge its governance responsibilities.

The changes proposed by the Review Report will place a heightened responsibility on the new SACE Board and its staff to consult widely with the full range of stakeholders in the conduct of business. Furthermore, the Chief Executive will be obliged to report comprehensively to the new SACE Board on the full range of stakeholder views on the various matters before the Board.

PLANNED REFORM 5 – Functions of the new SACE Board

Under the amended Act:

The new SACE Board will have extended functions and requirements whereby:

- In addition to the existing prescribed functions, the new SACE Board will be required to encourage the involvement of all relevant entities in the development or implementation of syllabuses and ensure that their views are fully understood and taken into account, while encouraging innovation in teaching and learning.
- There will be a specific requirement that the new SACE Board undertakes formal review of the operation of the Act and policies and processes of the Board.
- In performing its assessment function the new SACE Board will be required to ensure that the assessment means are quality assured, consistent with recognised best practice relevant to the requirements of each syllabus. In redrafting this function it will be amended to acknowledge that certification requirements are a component of the Australian Qualifications Framework
- Additional functions will be inserted so that the new SACE Board:
 - is enabled to release to another authority or organisation, with each student's agreement, relevant information to assist that authority or organisation to assess a student's application for admission.
 - implements and continually refines and improves a quality assurance system covering all aspects of its work.
 - provides or ensures, in collaboration with the school sectors and schools, the necessary training and development of teachers and other people involved in the implementation of its requirements.
 - monitors participation levels in, and leading up to, senior secondary education to ensure that its certification requirements are within reach of all students.
 - is enabled to provide professional services and related materials to education authorities in Australia and overseas, consistent with its expertise.

Ministerial Direction

The Review Report concluded that the existing SSABSA Act details little or no relationship between the Minister and SSABSA. Modern legislation recognises that there is, and should be, a relationship between a body created within an Act and the Minister responsible for the Act. Moreover, community attitudes towards Ministerial accountability have changed and strengthened dramatically. Ministers are now held directly responsible and accountable for the performance of all entities within their portfolios.

The Review Report recommended that a power of Ministerial direction be included in the Act but noted that there are situations where it is not appropriate to have Ministerial involvement. Prescription of curriculum and assessment and recording the results of any student's learning are two such areas.

To ensure that there is transparency in the exercising of a Ministerial power of direction, the Review Report also recommended that any Ministerial direction would need to be given in writing, tabled in Parliament within 14 sitting days of the direction being given and detailed in the Board's Annual Report. It is proposed that these provisions and safeguards be included in the amended Act.

PLANNED REFORM 6 – Limited Ministerial direction

Under the amended Act it is proposed that:

The Minister will have a limited power to direct the new SACE Board but not in respect of the content, approval or accreditation of syllabuses prescribed, or in respect of the assessment and recording of the results of a student's learning. Any direction will be required to be made in writing, be tabled with an explanation in Parliament within 14 sitting days and detailed in the new SACE Board's Annual Report to Parliament.

Annual Reporting

In addition to reporting in the Annual Report on any Ministerial direction given, the Review Report recommended that some enhanced reporting provisions be included in the legislation. Without making the Act too prescriptive, the Review Report concluded that there should be a requirement for the new SACE Board to include details in its Annual Report to Parliament of:

- all of its external relationships
- the ways in which the new SACE Board has facilitated the involvement of relevant stakeholders
- the way these have assisted in the pursuit of the Board's charter.

PLANNED REFORM 7 – Annual reporting

Under the amended Act it is proposed that:

There will be a requirement that the Annual Report of the new SACE Board provide details of the working arrangements with all bodies, including but not confined to the school sectors, with which the Board has associated during the 12 month period in and the ways these have assisted in the conduct of its business.

Obligation on the New SACE Board to Release Data

The Review Report found that in its day-to-day work SSABSA has available to it significant quantities of data relating to student and school performance. It also has the potential to generate significant data from the research it initiates. However, the SSABSA Act is silent on the question of the use to which data may be put. Further, the only reference is the Board's power to publish the results of research as it sees fit.

The Review Report was clear that even in aggregated form, the data for which SSABSA is the custodian provides an enormously important foundation for the development of public policy. Further, that the Minister, as the person responsible for the development of such public policy, has no rights under the current SSABSA Act to request data from SSABSA. The Review Report identified this as a weakness and that legislation elsewhere now generally prescribes that the organisations equivalent to SSABSA may provide, to appropriate State, Territory and Commonwealth authorities, system-level data obtained in the performance of their functions. An example of this is the recently enacted *Victorian Education and Training Reform Act 2006* which has as an underlying principle, that *information concerning the performance of education and training providers should be publicly available*.

The Review Report considered that there may be concerns raised about the possible inappropriate use of such data. The Review Report recommended that the Minister, in consultation with the new SACE Board, consider establishing a high level advisory group to provide recommendations regarding the reasonable use of data provided by the new SACE Board. The Review Report also suggested that the SACE Authority could establish a standing committee that would consider all proposals for release of data and apply appropriate conditions to the release of such data. These recommendations will be further considered and discussed during the development of transition arrangements.

The Review Report also noted that under the current *Freedom of Information (FOI) (Exempt Agency) Regulations 1993*, SSABSA is classed as an exempt agency. This means no information held by the SSABSA can be accessed through the normal FOI provisions. More recent amendments to the *Freedom of Information Act 1991* makes it possible now to exempt in respect of functions or classes of information rather than exempting a whole agency.

The Review Report suggested that some information held by the Board should not be excluded from FOI access and removal of the current blanket FOI protection would be in line with the Government's policy of accountability and transparency. This would also be consistent with arrangements in place in most other Australian jurisdictions. Any change to the FOI regulations implemented would ensure confidential data, that should be kept confidential is exempted (eg: comparative student achievement data). It is intended that

this issue will be explored further and be subject to separate consultations before any amendment is considered by the relevant Minister.

PLANNED REFORM 8 –Release of data

Under the amended Act it is proposed that:

The Board will be required to release on request, aggregate or system-wide data relating to student performance in senior secondary education to appropriate State, Territory and Commonwealth authorities.

Obligations on the Board to Review Performance

The Review Report identified that the Act does not currently have any specific requirement that the Board undertake regular reviews of its operations to ensure that relevance and currency are maintained. While there is currently a general requirement that the Board keep under review the operation of the Act and its policies and processes, the Review Report recommended including enhanced review provisions. This would require the new SACE Board to undertake regular reviews of its operations. As an enhanced accountability measure, the Review Report also recommended that the new SACE Board be required by the legislation to work collaboratively with the Minister in determining the scope of reviews and consequential action that will be undertaken following a review.

PLANNED REFORM 9 – Review of performance

Under the amended Act it is proposed that:

The new SACE Board will be required to commission, at no more than two yearly intervals, an independent review of a significant aspect of its operations under this legislation.

The new SACE Board will be required to reach agreement with the Minister on the scope of each review before it is commissioned. Within two months of receipt of a review report, the new SACE Board will be required to provide a copy of the report and its proposed actions to the Minister.

Definition

Currently the Act defines *senior secondary education* as “*year 11 level and year 12 level of secondary education*”. This definition was written when learning was only considered to take place in a classroom. Contemporary education has expanded what is considered senior secondary education and encompasses flexible learning pathways including school-based apprenticeships and traineeships, and vocational education and training.

As perviously indicated, the Review Report highlighted the importance of amending the Act to best support the future SACE. Given the need to effectively underpin future senior secondary education as it continues to evolve, and particularly the inclusion of year 10 students in the future SACE, the Review Report recommended that an expanded definition of senior secondary be inserted to reflect modern and future education provision.

PLANNED REFORM 10 – Definition

Under the amended Act it is proposed that:

The definition of *senior secondary education* will be expanded to include *prescribed* community, vocational and general education and training for students undertaking secondary education

Consequential Amendments to the Education Act 1972

Role of the Director-General in curriculum

Within the current functions under the Act, SSABSA oversees and manages the processes associated with development, modification, publication and at times discontinuance of the suite of subjects and the learning embraced by each subject that forms part of the SACE.

The Review Report examined the current SSABSA Act provisions concerning syllabus and curriculum, particularly in relation to the roles of the non-government sector and the role of the Director General of Education regarding curriculum in government schools which is prescribed in the Education Act. The current provision is that "*the Director-General shall be responsible for the curriculum in accordance with which instruction is provided in Government schools*".

A proposed amendment regarding this is discussed in planned reform 5, which will require the new SACE Board to ensure that the views of all entities involved in the development or implementation of syllabuses are fully understood and taken into account, while encouraging innovation in teaching and learning. In addition to this recommendation, the Review Report proposed a consequential amendment to the Education Act. The planned changes would make clearer the respective functions of the new SACE Board and the role of the Director-General as established in the two Acts.

PLANNED REFORM 11 – Curriculum

Under the amendments it is proposed that:

The *Education Act 1972* will be amended to provide that the Director-General take all reasonable steps to ensure, where aspects of curriculum development and revision are being managed by another entity, that the interests of government school students are integral to such development. This may be achieved by an addition to section 82(1) of the Education Act, possibly cross referenced to the proposed strengthened functions of the SSABSA Act.

Raising the School Leaving Age to 17 Years

The Government has made a strong commitment to education and improving outcomes for the young people of South Australia. The State's Strategic Plan highlights the Government's intention to increase the school leaving age to 17 years by 2010 to ensure that young people are in school, employment or structured training. It is therefore planned that this change will be implemented as part of the proposed Bill with amendments to the *Education Act 1972* being effected. This will change the definition of *child of compulsory age* and update the attendance and employment provisions within the Act. Currently the Act requires that "*a child is required to attend at the school for which he is enrolled on every day, and for such parts of every day, as instruction is provided at the school for the child*". Further, a penalty currently applies to persons employing, or permitting a child to be employed, during the hours at which the child is required to attend school.

The planned changes are a further step in supporting engagement to ensure that young people remain connected to education in order to improve their chances of success. As part of the longer term legislative reform process, further work will be undertaken to examine how best to provide additional support to young people in pursuing meaningful and multiple pathways to develop their skills and knowledge, taking into account that learning takes place both within and beyond the classroom.

PROPOSED REFORM 12 --Raising the school leaving age

Under the amended Act it is proposed that:

The definition of *child of compulsory school age* in Section 5 of the *Education Act 1972* will be amended to mean *a child of or above the age of 6 years but under the age of 17 years*.

In consequence the compulsory attendance and employment provisions (ss76 and 78) of the Act will be updated. This will reflect that students of compulsory age must still be enrolled at a school when participating in training or relevant employment but may not be subject to the same attendance requirements. Similarly, the employment prohibitions will be modified. These changes will be implemented by 2010.

FEEDBACK FORM

REFORM 1 – PRINCIPLES

What are your views on the proposed core principles to be included in the amended Act? Are there any additional principles which could be considered?

RESPONSE:

REFORM 2 —SIZE AND COMPOSITION OF THE NEW SACE BOARD

What are your views on the proposed size and composition of the new SACE Board ?

RESPONSE:

REFORM 3 —APPOINTMENT OF THE NEW SACE BOARD

What are your views on the proposed appointment of a merit based Board, including a Chairperson and deputy Chairperson?

RESPONSE:

REFORM 4 – THE CHIEF EXECUTIVE

What are your views on the proposed amendments to appoint a Chief Executive who is not a member of the Board?

RESPONSE:

REFORM 5 – FUNCTIONS OF THE NEW SACE BOARD

What are your views on the proposed enhanced functions of the new SACE Board?

RESPONSE:

REFORM 6 --LIMITED POWER OF MINISTERIAL DIRECTION

What are your views on the proposed new limited Ministerial Direction provision?

RESPONSE:

REFORM 7 – ANNUAL REPORTING

What are your views on the proposed enhanced reporting requirements?

RESPONSE:

REFORM 8-- RELEASE OF DATA

What are your views on the proposed enhanced data release provisions?

RESPONSE:

REFORM 9 – REVIEW OF PERFORMANCE

What are your views on the proposed enhanced performance review provisions?

RESPONSE:

REFORM 10 – DEFINITIONS

What are your views on the proposed expanded definition of senior secondary education?

RESPONSE:

REFORM 11 –ROLE OF THE DIRECTOR- GENERAL IN CURRICULUM

What are your views on the proposed additional requirement to be inserted in the Education Act regarding the Director-General concerning curriculum?

RESPONSE:

REFORM 12 – RAISING THE SCHOOL LEAVING AGE

What are your views on the proposed changes to the school leaving age to be implemented by 2010?

RESPONSE:

ADDITIONAL COMMENTS