

82^D CONGRESS
1ST SESSION

H. R. 915

IN THE HOUSE OF REPRESENTATIVES

JANUARY 4, 1951

Mr. FOGARTY introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To authorize the appropriation of funds to assist in reducing the inequalities of educational opportunities through elementary and secondary schools, for the national security and general welfare, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Educational Finance Act
4 of 1951".

5 SEC. 2. Nothing contained in this Act shall be construed
6 to authorize any department, agency, officer, or employee
7 of the United States to exercise any direction, supervision,
8 or control over, or to prescribe any requirements with
9 respect to any school, or any State educational institution

1 or agency, with respect to which any funds have been or
2 may be made available or expended pursuant to this Act,
3 nor shall any term or condition of any agreement or any
4 other action taken under this Act, whether by agreement
5 or otherwise, relating to any contribution made under this
6 Act to or on behalf of any school, or any State educational
7 institution or agency, or any limitation or provision in any
8 appropriation made pursuant to this Act, seek to control
9 in any manner, or prescribe requirements with respect to,
10 or authorize any department, agency, officer, or employee
11 of the United States to direct, supervise, or control in any
12 manner, or prescribe any requirements with respect to, the
13 administration, the personnel, the curriculum, the instruc-
14 tion, the methods of instruction, or the materials of instruc-
15 tions, nor shall any provision of this Act be interpreted or
16 construed to imply or require any change in any State
17 constitution prerequisite to any State sharing the benefits of
18 this Act.

19 **APPROPRIATION AUTHORIZED**

20 **SEC. 3.** For the purpose of more nearly equalizing public
21 elementary-school and public secondary-school opportunities
22 among and within the States, there is hereby authorized to be
23 appropriated without any limitation of such appropriation or
24 condition inconsistent with or contrary to the terms or pur-
25 poses of this Act for the fiscal year ending June 30, 1952,

1 and for each fiscal year thereafter, the sum of \$300,000,000
2 to be distributed among the States as hereinafter provided.

3 APPORTIONMENT

4 SEC. 4. Ninety-seven per centum of the funds appro-
5 priated under section 3 of this Act for each fiscal year shall,
6 except as provided in section 6 (B), be distributed among
7 the States, excluding those enumerated in paragraph (G)
8 of this section, in the following manner:

9 (A) Multiply (a) the number of children from five to
10 seventeen years of age, inclusive, in each State, as deter-
11 mined by the Department of Commerce, for the third calendar
12 year next preceding the year in which ends the fiscal year
13 for which the computation is made by (b) \$50.

14 (B) Multiply (a) the average of the annual income
15 payments for each State, as determined by the Department
16 of Commerce, for the third, fourth, fifth, sixth, and seventh
17 calendar years next preceding the year in which ends the
18 fiscal year for which the computation is made by (b) 1
19 per centum.

20 (C) Subject to the succeeding provisions of this section,
21 the amount of the Federal allotment for any State shall be
22 (a) the amount, if any, by which the amount calculated
23 under paragraph (A) exceeds the amount calculated under
24 paragraph (B) with respect to such State, or (b) \$5 mul-
25 tiplied by the number of children in such State from five to

1 seventeen years of age, inclusive, as determined under para-
2 graph (A), whichever is greater.

3 (D) Determine the percentage ratio of (a) the amount
4 spent in each State from revenues derived from State and
5 local sources for current expenditures for public elementary-
6 school and public secondary-school education for the third
7 fiscal year next preceding the fiscal year for which the
8 computation is made, to (b) the average of the annual
9 income payments for each State, as determined under para-
10 graph (B) of this section. When the percentage ratio thus
11 determined for any State is less than 2.25 for the first two
12 years, thereafter 2.5, the amount of the Federal allotment to
13 such State, as computed under paragraph (C), shall be
14 proportionately reduced; except that in no case shall the
15 amount of the Federal allotment for any State be less than
16 \$5 multiplied by the number of children in such State from
17 five to seventeen years of age, inclusive, as determined under
18 paragraph (A).

19 (E) Determine the percentage ratio of (a) current
20 expenditures in each State from revenues derived from State
21 and local sources for public elementary-school and public
22 secondary-school education for the year next preceding the
23 year for which the computation is made, as estimated on the
24 basis of reports submitted by the State for such purpose,
25 to (b) the average of the annual income payments for each

1 State, as determined by the Department of Commerce, for
2 the three most recent calendar years for which annual income
3 data are available. When for any fiscal year beginning after
4 June 30, 1955, the percentage ratio thus determined for any
5 State is less than 2.0, the Federal allotment for such fiscal
6 year shall be \$5 multiplied by the number of children in
7 such State from five to seventeen years of age, inclusive, as
8 determined under paragraph A.

9 (F) In the event 97 per centum of the funds appro-
10 priated for any fiscal year pursuant to section 3 of this Act
11 is insufficient to pay to all eligible States the amount of the
12 Federal allotment to each such State, computed in accord-
13 ance with the foregoing provisions of this section, the amount
14 to be paid to each eligible State shall bear the same ratio
15 to the amount of the Federal allotment to each such State
16 as 97 per centum of such appropriation bears to the sum
17 of the Federal allotments to all eligible States.

18 (G) From 3 per centum of the funds appropriated
19 pursuant to section 3 of this Act, such sums as may be
20 necessary shall be apportioned by the Commissioner to
21 Alaska, Hawaii, the Canal Zone, Puerto Rico, American
22 Samoa, the Virgin Islands, and Guam according to their
23 respective needs for additional funds for public elementary
24 and public secondary schools upon the basis of joint agree-

1 ments made with their respective State educational author-
2 ities.

3 CERTIFICATION AND PAYMENT

4 SEC. 5. The United States Commissioner of Education
5 shall certify for each fiscal year the amounts to be paid
6 under this Act to each State which is qualified under sec-
7 tion 7 of this Act to the Secretary of the Treasury, who
8 shall, through the fiscal service of the Treasury Department
9 and prior to audit or settlement by the General Accounting
10 Office, pay to the treasurer or corresponding official of such
11 State the amount certified for such fiscal year in four equal
12 installments, as soon after the first day of each quarter as
13 may be feasible, beginning with the first quarter of the fiscal
14 year for which appropriations made under the authorization
15 of this Act are available. Such treasurer or corresponding
16 official shall pay out such funds only on the requisition of
17 the State educational authority. Any amount so certified
18 to the State during any fiscal year not expended or obligated
19 by the State at the close of the fiscal year, for purposes
20 specified in section 6, shall be deducted from the State's
21 allotment for the succeeding fiscal year.

22 AVAILABILITY OF APPROPRIATIONS

23 SEC. 6. (A) In order more nearly to equalize educa-
24 tional opportunities, the funds paid to a State from the funds
25 appropriated under section 3 of this Act shall be available for

1 disbursement by the State educational authority, either
2 directly or through payments to local public-school juris-
3 dictions or other State public-education agencies, for any
4 current expenditure for elementary or secondary school
5 purposes for which public revenues derived from State or
6 local sources may legally and constitutionally be expended
7 in such State.

8 (B) If the treasurer or corresponding official of any
9 State, which accepts funds under this Act, is not permitted
10 by law to disburse any of such funds for the transportation
11 of pupils to or from nonpublic schools, the United States
12 Commissioner of Education shall withhold from the funds
13 otherwise payable to such State under this Act an amount
14 which bears the same ratio to 5 per centum of such funds
15 otherwise payable, as the number of children in average
16 daily attendance at nonpublic schools within the State bears
17 to the number of children in average daily attendance at
18 both public and nonpublic schools within the State.

19 STATE ACCEPTANCE PROVISIONS

20 SEC. 7. (A) In order to qualify for receiving funds
21 appropriated under this Act a State—

22 (1) through its legislature, shall (a) accept the
23 provisions of this Act and provide for the administration
24 of funds to be received; (b) provide that the State
25 treasurer or corresponding official in the State shall re-

1 receive the funds paid to that State under this Act and
2 shall be required to submit to the United States Com-
3 missioner of Education, on or before the 1st day of
4 November of each year, for transmission to the Con-
5 gress, a detailed statement of the amount so received for
6 the preceding fiscal year and of its disbursement;

7 (c) provide that its State educational authority shall
8 represent the State in the Administration of funds re-
9 ceived; (d) provide for an annual audit, and for the
10 submission of a copy thereof to the Commissioner, of
11 the expenditure of funds received under this Act, and
12 for a system of reports from local public-school jurisdic-
13 tions and other State public-education agencies to the
14 State educational authority; (e) provide that the State
15 educational authority shall make such reports in such
16 form and containing such information concerning the
17 administration of this Act as the Commissioner may
18 reasonably require and give him upon request access to
19 the records on which such reports are based, which re-
20 ports the Commissioner shall transmit to the Congress
21 with recommendations for such revisions of this Act as
22 in his judgment the Congress should consider, with
23 particular reference to recommendations, arising from
24 changing conditions in our national economy; (f) in
25 States where separate public schools are maintained for

1 minority races, provide for a just and equitable appor-
2 tionment of such funds to public schools maintained for
3 minority races, without reduction of the proportion of
4 revenues, derived from State and local sources, expended
5 for educational purposes during the fiscal year ending in
6 1951 for public elementary-school and public secondary-
7 school education of minority races; (g) in States where
8 public funds may legally and constitutionally be ex-
9 pended for transporting children to and from nonpublic
10 schools, nonpublic school children shall be entitled to
11 transportation, under the same limitations as apply in
12 the case of children attending public schools, in any
13 public school bus operating along a regularly estab-
14 lished school bus route, when such transportation is
15 financed in whole or in part from funds received under
16 this Act: *Provided*, That, until the end of the fiscal year
17 in which occurs the adjournment of the first regular
18 session of the legislature of any State, which convenes
19 after the enactment of this Act, or until such legisla-
20 ture takes the action required under this section to
21 qualify for receiving funds, whichever first occurs, such
22 State shall be deemed to qualify for receiving such funds
23 if the chief executive of such State takes the action
24 required under this section to so qualify;

(2) through its legislature, shall provide that the State educational authority shall formulate and effectuate, for each fiscal year beginning after June 30, 1955, a plan for the apportionment of amounts paid to such State from funds appropriated pursuant to section 3 and apportioned pursuant to section 4 of this Act for such fiscal year under which (a) there will be available from all sources to each local public-school jurisdiction or other State public-education agency, for current expenditures for public elementary-school and public secondary-school education, (i) an amount per pupil in average daily attendance at public elementary and secondary schools within such local school jurisdiction, or under the jurisdiction of such State public-education agency, not less than one-half of such State's average expenditure per pupil in average daily attendance from State and local sources for the second fiscal year next preceding the fiscal year for which such apportionment is made, or (ii) \$55 per such pupil, whichever is greater; and (b) in States where separate schools are maintained for minority races, there will be available from all sources to each local public-school jurisdiction or other State public-education agency for current expenditures for schools maintained within such local public-school jurisdiction, or under the jurisdiction of other State public-education

1 agency, for such races an amount per pupil in average
2 daily attendance in such schools not less than the amount
3 per pupil required under clause (a) to be made available
4 with respect to all schools within such local public-school
5 jurisdiction or under the jurisdiction of such State public-
6 education agency.

7 (3) shall transmit through its State educational
8 authority to the United States Commissioner of Educa-
9 tion notice of acceptance and certified copies of the
10 legislative enactments and the regulations that may be
11 issued by the State educational authority in connection
12 with such funds. Any amendment of such enactments
13 and revisions of regulations shall in like manner be trans-
14 mitted to said Commissioner.

15 (B) The funds appropriated pursuant to section 3 of
16 this Act shall be paid only to those States which, during the
17 preceding fiscal year, have provided from revenues derived
18 from State and local sources for all public elementary-school
19 and public secondary-school purposes an amount equivalent
20 to at least one of the following: (1) The total amount actu-
21 ally spent for such purposes from such sources in the fiscal
22 year ended in 1951, or (2) the amount per pupil in average
23 daily attendance actually spent for such purposes from such
24 sources in the fiscal year ended in 1951.

1 PAYMENTS BY COMMISSIONER FOR TRANSPORTATION

2 SERVICES

3 SEC. 8. (A) Whenever the Commissioner of Education
4 withholds funds from a State in accordance with section 6
5 (B), the funds so withheld shall be available to pay not to
6 exceed 50 per centum of the cost of necessary transportation
7 of pupils to and from nonpublic schools; but shall be available
8 only to the extent provided in this section and in regulations
9 issued by the Commissioner with the approval of the Federal
10 Security Administrator.

11 (B) The Commissioner shall not pay any part of the
12 cost of any transportation service in any locality unless he
13 finds that service at least substantially equivalent thereto is
14 provided in that locality, wholly or partly at public expense,
15 to children attending public schools; and he shall not pay
16 any greater part of the cost of any transportation service
17 than he finds is paid in that locality from public funds in
18 the case of transportation of children attending public schools.
19 Insofar as he finds it practicable to do so, he shall require
20 that transportation service for which funds are paid under
21 this section meets standards prescribed, by the State educa-
22 tional authority or other State or local agency, for transpor-
23 tation service to children attending public schools.

24 (C) The Commissioner shall not be required to provide
25 or arrange for any transportation service. Application for

1 payments under this section may be made by any person
2 (including any corporation, association, or trust, and includ-
3 ing a nonpublic school), if the transportation is to be
4 provided by a person permitted by applicable State or
5 other law to provide such service. Before approving an
6 application the Commissioner may make such investigation
7 and may require such proof as he deems necessary to carry
8 out this section and regulations prescribed under it. He
9 shall not be required to approve any application unless he
10 finds that the transportation service will be efficient and
11 economical, and that it will serve as many as practicable
12 of the children in the locality attending nonpublic schools.
13 Upon approving an application the Commissioner may fix
14 the time, not later than the beginning of the next school
15 year, when payments in accordance with such application
16 will commence; and shall thereafter make payments, at such
17 intervals as may be prescribed by regulations, until either
18 the application or his approval of it is withdrawn.

19 (D) No payment shall be made under this section on
20 account of transportation of children attending a nonpublic
21 school unless—

22 (1) attendance at such school is accepted as meet-
23 ing applicable requirements of State law concerning
24 compulsory school attendance;

25 (2) such school, for the preceding fiscal year,

1 expended (from all sources other than funds appro-
2 priated under this Act) for elementary and secondary
3 school purposes, an amount equivalent to at least one
4 of the following: (a) The total amount actually spent
5 for such purposes from such sources in the fiscal year
6 ended in 1951, or (b) the amount per pupil in aver-
7 age daily attendance actually spent for such purposes
8 from such sources in the fiscal year ended in 1951; and
9 (3) such school during the preceding fiscal year
10 complied with any applicable requirements of this Act
11 and of regulations prescribed under it.

12 (E) Payments under this section shall be made only
13 as reimbursement on account of expense actually incurred
14 in the operation of transportation service. The Commis-
15 sioner shall by regulation prescribe the keeping of such
16 records (which shall be open to inspection by the Com-
17 missioner) and the making of such reports as he finds
18 necessary to determine the amount to be paid pursuant to
19 each approved application.

20 (F) The Commissioner may withdraw his approval of
21 an application if he finds that the applicant has failed to
22 comply with this Act or with regulations prescribed under it.

23 (G) Whenever the Commissioner finds that the total
24 amount to be paid during a fiscal year pursuant to all
25 approved applications in a State will exceed the amount

1 withheld from such State in accordance with section 6 (B),
2 he shall reduce proportionately all payments thereafter made
3 during such fiscal year in such State.

4 RIGHT OF APPEAL

5 SEC. 9. In the event a State educational authority is
6 dissatisfied with any action by the United States Commis-
7 sioner of Education taken with respect to such State pursuant
8 to this Act, or with his failure to take any action with
9 respect to such State pursuant to this Act, such authority
10 shall have a right to appeal to the Commissioner to change
11 the action he has taken or to take the action he has failed
12 to take, and to present to him in support of such appeal
13 such statements and other evidence as such authority may
14 deem appropriate. If the action taken by the Commissioner
15 on such appeal is not satisfactory to the State educational
16 authority, or if he fails to act thereon within ninety days
17 after he receives such appeal, such authority shall have a
18 right to appeal to the United States district court for any
19 district in which any part of such State is located. The
20 court shall receive in evidence a copy of the record made
21 before the Commissioner, including a copy of the record
22 made before the further evidence as shall be relevant and
23 material; and shall have jurisdiction to enter such judgment
24 as the facts and the law may require. The judgment of
25 the court shall be subject to review by the Supreme Court

1 of the United States, upon certiorari or certification as pro-
2 vided in the United States Code, title 28, section 1254.

3 DEFINITIONS

4 SEC. 10. As used in this Act—

5 (A) The term "State" shall include the several States,
6 the District of Columbia, Alaska, and Hawaii, Puerto Rico,
7 the Canal Zone, American Samoa, the Virgin Islands, and
8 Guam.

9 (B) The term "legislature" means the State or Terri-
10 torial legislature or other comparable body, except that in
11 the District of Columbia it shall mean the Board of Educa-
12 tion, and in American Samoa and the Virgin Islands it shall
13 mean the Governor.

14 (C) The term "minority race" shall mean any race or
15 racial group that constitutes a minority of the population of
16 the continental United States.

17 (D) A just and equitable apportionment of the funds
18 provided under this Act for the benefit of public schools
19 maintained for minority races in a State which maintains by
20 law separate public schools for minority races, means any
21 plan of distribution which results in the expenditure, for
22 the benefit of such minority race of a proportion of said funds
23 not less than the proportion that such minority race in such
24 State bears to the total population of that State.

25 (E) The term "State educational authority" means,

1 as the State legislature may determine, (1) the chief State
2 school officer (such as the State superintendent of public
3 instruction, commissioner of education, or similar officer),
4 or (2) a board of education controlling the State depart-
5 ment of education; except that in the District of Columbia it
6 shall mean the Board of Education, and in American Samoa,
7 Guam, and the Virgin Islands, it shall mean the Governor.

8 (F) The term "current expenditures" does not include
9 expenditures for interest, debt service, or capital outlay.

10 (G) The term "nonpublic school" means a school
11 exempt under section 101 (6) of the Internal Revenue Code,
12 as amended, which, while performing the public function
13 of educating children in accordance with the State educa-
14 tional requirements, is not administered by public authorities.

15 SEPARABILITY

16 SEC. 11. If any provision of this Act or application
17 thereof to any State, person, or circumstance is held invalid,
18 the remainder of the Act, and the application of such pro-
19 vision to other States, persons, or circumstances shall not
20 be affected thereby.

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