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

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That this Act may be cited as the "Educational Finance Act of 1949".

The Congress of the United States recognizes that well-educated and healthy citizens are indispensable to the national security and the general welfare; that, in order to safeguard the national security and promote the general welfare through a well-educated and healthy citizenry, it
is vital that the Nation devote special consideration to the children in elementary and secondary schools; that the parents have a priority of right in the matter of the education of their children; to assist the parents in the exercise of this right, and to promote the stability of the State, the several States have established standards to which all schools must conform; that there is presently a crisis in the area of education in the elementary and secondary schools which prevents the proper discharge of the duties imposed upon parents and the States in this vital area. In furtherance of the purposes herein set forth it is declared to be the policy of the United States that parents shall be assisted, to the extent provided in this Act, in order that children of elementary and secondary school age may receive an adequate education and the necessary health care.

Sec. 2. Nothing contained in this Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over, or to prescribe any requirements with respect to any school, or any State educational institution or agency, with respect to which any funds have been or may be made available or expended pursuant to this Act, nor shall any term or condition of any agreement or any other action taken under this Act, whether by agreement or otherwise, relating to any contribution made under this
Act to or on behalf of any school, or any State educational institution or agency, or any limitation or provision in any appropriation made pursuant to this Act, seek to control in any manner, or prescribe requirements with respect to, or authorize any department, agency, officer, or employee of the United States to direct, supervise, or control in any manner, or prescribe any requirements with respect to, the administration, the personnel, the curriculum, the instruction, the methods of instruction, or the materials of instruction, nor shall any provision of this Act be interpreted or construed to imply or require any change in any State constitution prerequisite to any State sharing the benefits of this Act.

APPROPRIATIONS AUTHORIZED

SEC. 3. For the purpose of more nearly equalizing public elementary and secondary school opportunities among and within the States, and for the purpose of safeguarding the health and well-being of the Nation's children, there is hereby authorized to be appropriated without any limitation of such appropriation or condition inconsistent with or contrary to the terms or purposes of this Act for the fiscal year ending June 30, 1950, and for each fiscal year thereafter the sum of $325,000,000 to be distributed among the States as hereinafter provided.

APPORTIONMENT

SEC. 4. Ninety-eight per centum of the funds appro-
appropriated under this Act for each fiscal year shall be distributed among the States, excluding those enumerated in paragraph (G) of this section, in the following manner:

(A) Multiply (a) the number of children from five to seventeen years of age, inclusive, in each State, as determined by the Department of Commerce, for the third calendar year next preceding the year in which ends the fiscal year for which the computation is made by (b) $45.

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

(C) Subject to the succeeding provisions of this section, the amount of the Federal allotment for any State shall be (a) the amount, if any, by which the amount calculated under paragraph (A) exceeds the amount calculated under paragraph (B) with respect to such State, or (b) $5 multiplied by the number of children in such State from five to seventeen years of age, inclusive, as determined under paragraph (A), whichever is greater.

(D) Determine the percentage ratio of (a) the amount spent in such State from revenues derived from State or local sources for current expenditures for elementary school
and secondary school education for the third fiscal year next preceding the fiscal year for which the computation is made, to (b) the average of the annual income payments for each State, as determined under paragraph (B) of this section. When the percentage ratio thus determined for any State is less than 2.5 the amount of the Federal allotment to such State, as computed under paragraph (C), shall be proportionally reduced; except that in no case shall the amount of the Federal allotment for any State be less than $5 multiplied by the number of children in such State from five to seventeen years of age, inclusive, as determined under paragraph (A).

(E) Determine the percentage ratio of (a) current expenditures to each State from revenues derived from State or local sources for elementary school and secondary school education for the year for which the computation is made, as estimated on the basis of reports submitted by the State for such purpose, to (b) the average of the annual income payments for each State, as determined by the Department of Commerce, for the three most recent calendar years for which annual income data are available. When for any fiscal year beginning after June 30, 1953, the percentage ratio thus determined for any State is less than 2.0, such State shall be ineligible to receive any part of the funds appropriated pursuant to section 3 of this Act for such fiscal year, unless the
estimated current expenditures under clause (a) of this para-
graph is an amount equal to or greater than $120 multiplied
by the number of pupils in average daily attendance for
such fiscal year as determined on the basis of reports sub-
mitted by the State for such purpose. Any State thus deter-
mined to be ineligible shall remain ineligible until such time
as revised estimates, determined as provided under this para-
graph, produce a percentage ratio equal to or greater than
2.0, or an amount equal to or greater than $120.

(F) In the event 98 per centum of the funds appro-
priated for any fiscal year pursuant to section 3 of this Act
is insufficient to pay to all eligible States the amount of the
Federal allotment to each such State, computed in accordance
with the foregoing provisions of this section, the amount to
be paid to each eligible State shall bear the same ratio to the
amount of the Federal allotment to each such State as 98
per centum of such appropriation bears to the sum of the
Federal allotments to all eligible States.

(G) From 2 per centum of the funds appropriated pur-
suant to section 3 of this Act, such sums as may be necessary
shall be apportioned by the Commissioner to Alaska, Hawaii,
the Canal Zone, Puerto Rico, American Samoa, the Virgin
Islands, and Guam according to their respective needs for
additional funds for public elementary and public secondary
1 schools upon the basis of joint agreements made with their  
2 respective State educational authorities.
3
4 CERTIFICATION AND PAYMENT
5
6 SEC. 5. The United States Commissioner of Education  
7 shall certify for each fiscal year the amounts to be paid under  
8 this Act to each State that has qualified under section 8 of  
9 this Act to the Secretary of the Treasury, who shall, through  
10 the Fiscal Service of the Treasury Department and prior to  
11 audit or settlement by the General Accounting Office, pay  
12 to the treasurer or corresponding official of such State the  
13 amount certified for such fiscal year in four equal installments,  
14 as soon after the first day of each quarter as may be feasible,  
15 beginning with the first quarter of the fiscal year for which  
16 appropriations made under the authorization of this Act are  
17 available. Such treasurer or corresponding official shall pay  
18 out the funds he receives only on the requisition of the State  
19 educational authority.
20
21 SEC. 6. (A) At least 10 per centum of the funds au-  
22 thorized under section 3 of this Act shall be available for  
23 expenditure by the State education agency, for the providing  
24 of auxiliary services; that is, necessary transportation of  
25 pupils, nonreligious textbooks, child health examinations,  
26 and related child health services, provided such health  
27 examinations and related health services are furnished on  
28 the school premises or appurtenant thereto,
(B) The balance of the funds authorized under section 2 of this Act shall be available for expenditure by State and local public school jurisdiction, or other State public education agencies for teachers' salaries and current expenditure (excluding interest, debt service, capital outlay, and auxiliary services as set forth in subsection (A) hereof).

(C) No provision of this Act shall be construed to delimit a State in its definition of a program of public education.

Sec. 7. If, in any State, the treasurer or corresponding official of such State is not permitted by law to disburse to nonpublic schools any of the funds referred to in section 6 (A), the Commissioner of Education shall withhold from such funds the same proportion of the funds as the number of children in average daily attendance at nonpublic schools within the State is of the total number of children in average daily attendance in the schools of said State.

The Commissioner shall disburse the funds so withheld directly to the nonpublic schools within such State for the same purposes and subject to the same conditions as are authorized or required with respect to the disbursements to schools within the State by the State educational agency:

Provided, That the State educational agency shall first have approved the educational standards of each nonpublic school applying for such funds.
STATE ACCEPTANCE PROVISIONS

Sec. 8. (A) In order to qualify for receiving funds appropriated under this Act a State—

(1) through its legislature, shall (a) accept the provisions of this Act and provide for the administration of funds to be received; (b) provide that the State treasurer or corresponding official in the State shall receive the funds paid to that State under this Act and shall be required to submit to the United States Commissioner of Education, on or before the 1st day of November of each year, for transmission to the Congress, a detailed statement of the amount so received for the preceding fiscal year and of its disbursement; (c) provide that its State educational authority shall represent the State in the administration of funds received; (d) provide for an annual audit, and for the submission of a copy thereof to the Commissioner, of the expenditure of funds received under this Act, and for a system of reports from local public school jurisdictions and other State public education agencies to the State educational authority; (e) provide that the State educational authority shall make reports to the Commissioner with respect to the progress of education, on forms to be provided by the Commissioner, which reports the Commissioner shall transmit to the Congress with
recommendations for such revisions of this Act as in his
judgment the Congress should consider, with particular
reference to recommendations arising from changing
conditions in our national economy; (f) in States where
separate public schools are maintained for minority races,
provide for a just and equitable apportionment of such
funds to public schools maintained for minority races
without reduction of the proportion of revenues, derived
from State or local sources, expended for educational
purposes during the fiscal year ended in 1949 for pub-
lic elementary school and public secondary school edu-
cation of minority races: Provided, That, until the end
of the fiscal year in which occurs the adjournment
of the first regular session of the legislature of any State,
which convenes after the enactment of this Act, or
until such legislature takes the action required under
this section to qualify for receiving funds, whichever
first occurs, such State shall be deemed to qualify for
receiving such funds if the chief executive of such State
takes the action required under this section to so qualify;
(2) through its legislature, shall provide that the
State educational authority shall formulate and effec-
tuate, for each fiscal year beginning after June 30, 1952,
a plan for the apportionment of amounts paid to such
State from funds appropriated pursuant to this Act for
such fiscal year under which (a) there will be avail-
able from all sources to each local public school juris-
diction or other State public education agency, for cur-
rent expenditures for public elementary school and
public secondary school education an amount per pupil
in average daily attendance at public elementary and
secondary schools within such local public school jurisdic-
tion, or under the jurisdiction of such State public
education agency, not less than $50 or, in any fiscal
year for which the amount to be paid to a State is less
by reason of the provisions of paragraph (F) of section
4 than the amount of the Federal allotment to such
State, an amount which bears the same ratio to $50
as 98 per centum of the funds appropriated for such fiscal
year pursuant to this Act bears to the sum of all Fed-
eral allotments under section 4; 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 the
schools maintained within such local public school jurisdic-
tion, or under the jurisdiction of other State public
education agency, for such races an amount per pupil
in average daily attendance in such schools not less
than the amount per pupil required under clause (a).
to be made available with respect to all schools within such local public school jurisdiction or under the jurisdiction of such other State public education agency;

(3) shall transmit through its State educational authority to the United States Commissioner of Education notice of acceptance and certified copies of the legislative enactments and revisions of regulations shall in like manner be transmitted to said Commissioner.

Sec. 9. (A) The funds appropriated pursuant to this Act shall be paid only to those States, or to nonpublic schools as provided in section 7, which, during the preceding fiscal year, have provided from State sources, or in the case of nonpublic schools from sources within the State, for the purposes specified herein, an amount equivalent to at least one of the following:

(1) The total amount actually spent for such purposes from such sources in the fiscal year ended in 1949; or

(2) The amount per pupil in average daily attendance actually spent for such purposes from such sources in the fiscal year ended in 1949.

(B) Any nonpublic school receiving funds authorized by this Act shall provide for an annual audit of the expenditure of funds received under this Act, and shall file a copy
thereof with the Commissioner and the State educational agency.

RIGHT OF APPEAL

Sec. 10. In the event a State educational authority is dissatisfied with any action by the United States Commissioner of Education taken with respect to such State pursuant to this Act, or with his failure to take any action with respect to such State pursuant to this Act, such authority shall have a right to appeal to the Commissioner to change the action he has taken or to take the action he has failed to take, and to present to him in support of such appeal such statements and other evidence as such authority may deem appropriate. If the action taken by the Commissioner on such appeal is not satisfactory to the State educational authority or if he fails to act thereon within ninety days after he receives such appeal, such authority shall have a right to appeal to the United States district court for any district in which any part of such State is located. The court shall receive in evidence a copy of the statements and other evidence presented by the State educational authority to the Commissioner, and such further evidence as the court in its discretion deems proper; and shall have jurisdiction to enter such judgment as the facts and the law may require.
DEFINITIONS

Sec. 11. As used in this Act—

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

(B) The term “legislature” means the State or Territorial legislature or other comparable body, except that in the District of Columbia it shall mean the Board of Education, and in American Samoa and the Virgin Islands it shall mean the Governor.

(C) The term “minority race” shall mean any race or racial group that constitutes a minority of the population of the continental United States.

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

(E) The term “State educational authority” means, as the State legislature may determine, (1) the chief State school officer (such as the State superintendent of public in-
(2) a board of education controlling the State department of education; except that in the District of Columbia it shall mean the Board of Education, and in American Samoa, Guam, and the Virgin Islands, it shall mean the Governor.

(F) The term "nonpublic school" means those schools not established or maintained for the financial benefit of any individual or corporation, and which, while performing the public function of educating children in accordance with the State educational requirements, are not administered by public authorities.