

112TH CONGRESS  
1ST SESSION

# H. R. 1294

To amend section 1120A(c) of the Elementary and Secondary Education Act of 1965 to assure comparability of opportunity for educationally disadvantaged students.

---

## IN THE HOUSE OF REPRESENTATIVES

MARCH 31, 2011

Mr. FATTAH (for himself, Mr. POLIS, Mr. GRIJALVA, Mr. PAYNE, Mr. DAVIS of Illinois, Mr. HONDA, Mr. MEEKS, and Mr. JACKSON of Illinois) introduced the following bill; which was referred to the Committee on Education and the Workforce

---

## A BILL

To amend section 1120A(c) of the Elementary and Secondary Education Act of 1965 to assure comparability of opportunity for educationally disadvantaged students.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fiscal Fairness Act”.

5 **SEC. 2. PURPOSES.**

6 The purposes of this Act are as follows:

1           (1) To remedy the inequitable distribution of  
2 State and local funds within the areas served by  
3 local educational agencies.

4           (2) To reinforce the supplementary intent of  
5 funds made available under title I of the Elementary  
6 and Secondary Education Act of 1965 (20 U.S.C.  
7 6301 et seq.), ensuring that these funds serve their  
8 original purpose of subsidizing the increased costs  
9 associated with educating students in concentrated  
10 poverty.

11          (3) To address the statutory, regulatory, and  
12 enforcement weaknesses that have undermined the  
13 role of the comparability requirement in ensuring  
14 comparability within school districts.

15          (4) To require the inclusion of real teacher sal-  
16 aries in calculations of per-pupil expenditures.

17          (5) To provide sufficient transparency, account-  
18 ability, and disclosure to allow parents, communities,  
19 educators, and local agency officials to ensure stu-  
20 dents have access to the resources they need to  
21 achieve at high levels.

22 **SEC. 3. COMPARABILITY OF EXPENDITURES.**

23          Section 1120A(c) of the Elementary and Secondary  
24 Education Act of 1965 (20 U.S.C. 6321(c)) is amended  
25 to read as follows:

1 “(c) COMPARABILITY OF EXPENDITURES.—

2 “(1) IN GENERAL.—

3 “(A) COMPARABLE FUNDING IN GEN-  
4 ERAL.—Except as provided in paragraphs (4)  
5 and (5), a local educational agency may receive  
6 funds under this part for a fiscal year only if,  
7 for the preceding fiscal year, the average ex-  
8 penditure per pupil of State and local funds in  
9 each school served under this part was at least  
10 97 percent of the average expenditure per pupil  
11 of State and local funds across all schools  
12 served by the local educational agency that are  
13 not receiving funds under this part.

14 “(B) COMPARABLE FUNDING AMONG  
15 TITLE I SCHOOLS.—In any case where all of the  
16 schools served by a local educational agency re-  
17 ceive support under this part, such agency may  
18 receive funds under this part for a fiscal year  
19 only if, for the preceding fiscal year, the aver-  
20 age expenditure per pupil of State and local  
21 funds in each higher poverty school is at least  
22 97 percent of the average expenditure per pupil  
23 of State and local funds across all lower poverty  
24 schools.

1           “(2) EQUIVALENCE.—A local educational agen-  
2           cy shall be considered to have met the requirements  
3           of paragraph (1), and to be eligible to receive funds  
4           under this part, if—

5                   “(A) such agency has filed with the State  
6                   educational agency current school-by-school list-  
7                   ing of per-pupil expenditures of State and local  
8                   funds for each school served by the agency for  
9                   the preceding fiscal year; and

10                   “(B) the listing described in subparagraph  
11                   (A) demonstrates comparability across schools  
12                   as required by subparagraph (A) or (B) of  
13                   paragraph (1).

14           “(3) BASIS.—A local educational agency may  
15           meet the requirements of paragraph (1) across all  
16           schools or among schools serving a particular grade  
17           span, if the local educational agency compares  
18           schools within not more than three grade spans.

19           “(4) MONITORING.—

20                   “(A) REGULATIONS BY SECRETARY.—Not  
21                   later than 120 days after the date of the enact-  
22                   ment of the Fiscal Fairness Act, the Secretary  
23                   shall issue regulations concerning State edu-  
24                   cational agencies’ and local educational agen-

1           cies’ responsibilities for meeting the require-  
2           ments of this subsection.

3           “(B) REGULATIONS BY STATES.—Not  
4           later than 6 months after the date on which the  
5           regulations required under subparagraph (A)  
6           are issued, each State educational agency re-  
7           ceiving funds under this part shall create and  
8           distribute to local educational agencies, and  
9           make available to the public, regulations on the  
10          responsibilities of local educational agencies for  
11          meeting the requirements of this subsection.

12          “(C) PLAN BY LOCAL EDUCATIONAL AGEN-  
13          CIES.—Not later than 14 months after the date  
14          on which regulations required by subparagraph  
15          (B) are distributed, each local educational agen-  
16          cy receiving funds under this part shall develop  
17          and submit to the State educational agency a  
18          plan, including a timeline and annual bench-  
19          marks, that will ensure comparability as de-  
20          scribed in paragraph (1) not later than 3 years  
21          after the date on which such regulations are  
22          distributed. The plan shall be made available to  
23          the public.

24          “(D) AUDIT.—In each of the fourth and  
25          fifth years after the date of enactment of the

1 Fiscal Fairness Act, the Inspector General of  
2 the Department shall audit 5 States and 10  
3 local educational agencies to determine progress  
4 in meeting the requirements of this section.

5 “(5) INAPPLICABILITY.—This subsection shall  
6 not apply to a local educational agency that does not  
7 have more than one building for each grade span.

8 “(6) COMPLIANCE.—For the purpose of deter-  
9 mining compliance with paragraph (1), a local edu-  
10 cational agency—

11 “(A) shall exclude State and local funds  
12 expended for the excess costs of providing  
13 English language instruction for Limited  
14 English Proficient students as determined by  
15 the local educational agency;

16 “(B) shall exclude State and local funds  
17 expended for the excess costs of providing serv-  
18 ices to children with disabilities as determined  
19 by the local educational agency; and

20 “(C) may exclude supplemental State or  
21 local funds expended in any school attendance  
22 area or school for programs that meet the in-  
23 tent and purpose of this part.

24 “(7) NO FORCED TRANSFERS.—Nothing in this  
25 subsection shall be construed to require the forced or

1 involuntary transfer of any school personnel in order  
2 to comply with subparagraph (A) or (B) of para-  
3 graph (1).

4 “(8) COMPARABILITY AS MINIMUM STAND-  
5 ARD.—

6 “(A) IN GENERAL.—Nothing in this sub-  
7 section shall be construed to limit or discourage  
8 the allocation of State or local funds to schools  
9 served under this part in excess of 100 percent  
10 of the average per-pupil expenditure for schools  
11 not served under this part.

12 “(B) EXCEPTION.—In the case of a local  
13 educational agency subject to the requirements  
14 of paragraph (1)(B), nothing shall be construed  
15 to discourage the allocation of State and local  
16 funds to any higher poverty schools served by  
17 the local educational agency in excess of 100  
18 percent of the average per-pupil expenditure in  
19 lower poverty schools served by the agency.

20 “(9) PUBLIC REPORTING.—

21 “(A) SCHOOL REPORT CARDS.—Beginning  
22 with the first academic year that begins after  
23 the date of the enactment of the Fiscal Fair-  
24 ness Act, and for each academic year there-  
25 after, each local educational agency shall in-

1 include on the school report cards required under  
2 section 1111(h)(2) the following:

3 “(i) The average per-pupil expendi-  
4 tures of State and local funds for the  
5 school.

6 “(ii) The average per-pupil expendi-  
7 tures of State and local funds for schools  
8 in the local educational agency not served  
9 under this part or, in the case where all  
10 schools in a local educational agency are  
11 served under this part, for lower poverty  
12 schools.

13 “(iii) The mean of average per-pupil  
14 expenditures of State and local funds for  
15 all schools in the State.

16 “(B) CURRENT SCHOOL-BY-SCHOOL LIST-  
17 ING.—Beginning with the first academic year  
18 that begins after the date of the enactment of  
19 the Fiscal Fairness Act and for each academic  
20 year thereafter, the State educational agency  
21 shall make publicly available the most current  
22 school-by-school listings of per-pupil expendi-  
23 tures of State and local funds submitted by  
24 each local educational agency, as required  
25 under paragraph (2)(A)(i).



1           “(10) DEFINITIONS.—For purposes of this sub-  
2 section:

3           “(A) EXPENDITURES.—

4                   “(i) IN GENERAL.—The term ‘expend-  
5 itures’ means—

6                           “(I) salary expenditures for class-  
7 room teachers, including not only base  
8 salaries but also incentive pay, bo-  
9 nuses, and supplemental stipends for  
10 mentoring or other additional roles;

11                           “(II) salary expenditures for in-  
12 structional and instructional support  
13 staff who are not classroom teachers  
14 (such as principals, librarians, para-  
15 professionals, academic coaches, and  
16 curriculum specialists), including not  
17 only base salaries but also incentive  
18 pay, bonuses, and supplemental sti-  
19 pends for mentoring or other addi-  
20 tional roles;

21                           “(III) salary expenditures for  
22 noninstructional staff, including stu-  
23 dent support staff; and

24                           “(IV) nonpersonnel expenditures  
25 such as—

1           “(aa) professional develop-  
2           ment for teachers and other  
3           staff;

4           “(bb) instructional materials  
5           and supplies;

6           “(cc) computers, software,  
7           and other technology;

8           “(dd) contracted services  
9           such as distance learning, art,  
10          athletics, and technology services;

11          “(ee) library books and  
12          media center materials; and

13          “(ff) such other expendi-  
14          tures as the Secretary of Edu-  
15          cation may require.

16          “(ii) DETERMINATIONS.—For pur-  
17          poses of subclauses (I) and (II) of clause  
18          (i), in the determination of salary expendi-  
19          tures, salary differentials for years of em-  
20          ployment shall be included.

21          “(B) HIGHER POVERTY SCHOOL.—The  
22          term ‘higher poverty school’ means a school  
23          that is in the highest three quartiles of schools  
24          served by a local educational agency, based on

1 the percentage of enrolled students from low-in-  
2 come families.

3 “(C) LOWER POVERTY SCHOOL.—The  
4 term ‘lower poverty school’ means a school that  
5 is in the lowest quartile of schools served by a  
6 local educational agency, based on the percent-  
7 age of enrolled students from low-income fami-  
8 lies.”.

○