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9/10/76

APPROVED  
SEP 10 1976

THE WHITE HOUSE

ACTION

WASHINGTON  
September 9, 1976

Last Day: September 14

MEMORANDUM FOR

THE PRESIDENT

FROM:

JIM CANNON *Handwritten signature*

SUBJECT:

S. 2145 - Indochina Refugee  
Children Assistance Act of 1975

Attached for your consideration is S. 2145, sponsored by Senators Cranston, Tunney and nineteen others.

The enrolled bill would authorize Federal payments to States, for the transition quarter and FY 77, to assist local education agencies in providing elementary and secondary education for Indochinese refugee children in both public and private schools and authorizes instruction programs for adult Indochinese refugees.

A detailed explanation of the provisions of the enrolled bill is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign S. 2145 at Tab B.

*Thym Smith advised 9/10/76*





EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

SEP 8 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 2145 - Indochina Refugee  
Children Assistance Act of 1975  
Sponsors - Sens. Cranston and Tunney (D)  
California and 19 others

Last Day for Action

September 14, 1976 - Tuesday

Purpose

Provides Federal funds to State educational agencies through fiscal year 1977 for education of Indochinese refugee children, and authorizes instruction programs for adult Indochinese refugees.

Agency Recommendations

Office of Management and Budget	Approval
Health, Education, and Welfare	Approval

Discussion

S. 2145 would authorize Federal payments to States, for the transition quarter and fiscal year 1977, to assist local education agencies (LEA's) in providing elementary and secondary education for Indochinese refugee children in both public and private schools. Title II of the enrolled bill would authorize payment to each State of an amount equal to the number of Indochinese refugee children aged 5 to 17 receiving public education services, multiplied by \$300 per child for the first 100 refugee children or the number equaling 1% of the LEA's enrollment--whichever is lesser--and \$600 per child for each additional child.

State grants under Title II would be reduced by any amounts an LEA receives during the same period under the Indochina Migration and Refugee Assistance Act of 1975 (P.L. 94-23). Moreover, the bill provides that if appropriations for Title II are not sufficient to pay the full amount that all States are entitled to receive, each State's grant would be ratably reduced to bring the sum of the grants within the total amount appropriated. Finally, the bill would permit reimbursement of State administrative expenses, up to 1% of



the State's grant. The appropriation of "such sums as may be necessary" is authorized for the purposes of Title II.

Title I of the enrolled bill would provide reimbursement to States for the additional expenses of educating the refugee children, as defined in the bill, for fiscal year 1976 only. The report of the Conference Committee on S. 2145 indicates no intention to provide funds for fiscal year 1976, and Title I therefore has no practical effect.

Title III of S. 2145 would authorize appropriations equal to the balance of any unused authorizations under the Adult Education Act for "emergency" programs of instruction for adult refugees for the period from July 1, 1976, through September 30, 1977. Grants would be made for instruction in reading and mathematics, administrative costs of such programs, and support services and special education projects mainly aimed at developing employment opportunities.

Budget Impact. HEW estimates that, if fully funded, Title II of the enrolled bill would cost \$20 million and Title III would cost \$17.8 million through fiscal year 1977. Additional appropriations would have to be requested, but the precise amount is not known at this time, since some funds appropriated under P.L. 94-23 may be available for this purpose.

### Background

Under the Indochina Migration and Refugee Assistance Act (P.L. 94-23), which was proposed by the Administration and enacted in May 1975, \$455 million was appropriated for Indochinese refugee assistance, including education. This aid was sought for the approximately 140,000 refugees who were admitted to the United States in the Spring of 1975. HEW estimates that the resettlement of these refugees added about 40,000 school children to the American school system, with the largest concentration, roughly 24%, in California.

Under P.L. 94-23, HEW has provided a total of \$20 million to assist in the education of both children and adult refugees. It has already provided during fiscal year 1976 amounts as authorized by the enrolled bill--\$300 for each refugee child enrolled in a school district and \$600 for each child over 100 children or 1% of the school district's enrollment.

S. 2145 was introduced on July 21, 1975, before HEW had announced its program to provide funds to reimburse LEA's for the expenses of educating Indochina refugee children. Even after HEW announced its intention to provide assistance for education programs for adults and children, however, the



Congress indicated it believed additional assistance was justified, among other reasons, in order to provide funds for at least two years.

Administration position. Throughout House and Senate consideration, the Administration opposed this legislation because the responsibility for providing for the basic cost of instruction for the refugee children lies with the school districts.

Most of these children are widely dispersed, and can readily be absorbed with the assistance provided by HEW under the authority of P.L. 94-23. In addition, HEW is already providing grants to State educational agencies for related leadership and training activities, and to provide English instruction to adult refugees.

After the conferees reported on S. 2145, the Administration indicated that it would not object to the conference version, which substantially reduced the authorized Federal expenditures for elementary and secondary assistance below the levels authorized by either the House or Senate bills.

#### Recommendations

HEW recommends your approval of the enrolled bill, in light of the reduction in the funding levels from earlier versions, and the Department's belief that there remains a substantial need for the adult education programs authorized by Title III. We concur in HEW's recommendation.

*Naomi R. Sweeney*

Acting Assistant Director  
for Legislative Reference

Enclosures





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OFFICE OF MANAGEMENT AND BUDGET  
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To  
J. Johnston  
9-8-76  
6:30 pm

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#### Recommendations

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*Naomi R. Sweeney*

Acting Assistant Director  
for Legislative Reference

Enclosures





DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEP 8 1976

The Honorable James T. Lynn  
Director, Office of Management  
and Budget  
Washington, D. C. 20503

Dear Mr. Lynn:

This is in response to your request for a report on S. 2145, an enrolled bill "To provide Federal financial assistance to States in order to assist local educational agencies to provide education to Vietnamese and Cambodian refugee children, and for other purposes."

In summary, we recommend that the President sign the bill.

The major provisions of the enrolled bill are described in detail at Tab A. In brief, title I would seem to have no immediate significance because, although it would establish a grant program to provide educational assistance to refugee children, it would authorize appropriations only for fiscal year 1976. The report of the Conference Committee indicates that there is no intent to implement title I in any fashion.

Title II of the enrolled bill is more problematic. It would authorize the Commissioner of Education to make grants to States in order to provide "educational services" to Indochina refugee children in elementary and secondary schools, for the period July 1, 1976 through September 30, 1977. The size of these grants would be based on the number of refugee children that receive these services. Fully funded, the title would require, for the period, an appropriation of \$20 million.

The presence of Indochina refugee children in elementary and secondary schools is in large measure a consequence of the Vietnamese war and, therefore, of particular national

concern. However, Federal assistance was provided for their education during fiscal year 1976 under the Indochina Migration and Refugee Assistance Act of 1975. We believe these students are now integrated into the elementary and secondary education systems of the States and, like other children, are a State and local concern. Nevertheless, the cost of fully implementing title II is substantially below that of either the House or Senate versions of the bill (\$23 million and \$36.2 million, respectively). In light of this reduction and our strong support for title III, we do not believe that our objections to title II are sufficient to warrant the bill's disapproval.

Title III would authorize, for programs for adult Indochina refugees appropriations equal to the balance of any unused authorizations under the Adult Education Act for the period July 1, 1976 through September 30, 1977. We strongly support title III because available evidence about the status of adult refugees demonstrates a substantial need for such adult programs through fiscal year 1977. The cost of fully funding title III would be \$17.8 million.

We, therefore, recommend enactment of the enrolled bill.

Sincerely,

  
Under Secretary

Enclosure

MAJOR PROVISIONS OF S. 2145

Title I: Program to Assist Indochina Refugee Children for Fiscal Year 1976

Title I of the enrolled bill would authorize the Commissioner of Education to make payments to States to help elementary and secondary schools meet the cost of providing Indochinese refugee children with supplementary educational services (including inter alia English language instruction and bilingual educational services), additional basic instructional services (including additional classroom teachers and additional teaching materials and supplies), and special inservice training for personnel.

State educational agencies would be required to submit applications for funding to the Commissioner of Education for approval.

Each State would be entitled to receive for fiscal year 1976 an amount which would equal the additional expenditures incurred in providing additional basic educational services, supplementary educational services, and inservice personnel training. However, a State's entitlement, could not exceed an amount which, when combined with grants under the Indochina Migration and Refugee Assistance Act of 1975, equals the average per pupil expenditure in such State multiplied by the number of Indochina refugee children receiving public educational services in the State.

The report of the Conference Committee indicates that there is no intent to fund title I.

Title II: Program to Assist Indochina Refugee Children for the Transition Period and the 1977 Fiscal Year

Title II of the enrolled bill would authorize the Commissioner of Education to make payments to States in order to provide "educational services" for Indochina refugee children in elementary and secondary schools.

States would be required to submit applications for funding to the Commissioner of Education.

Each State would be entitled to receive for the period July 1, 1976, through September 30, 1977, an amount equal to the number of Indochina refugee children aged five to seventeen receiving public educational services under supervision of a local education agency (e.g. public board of education) multiplied by \$300 for the first one hundred children or the number equalling one percent of the total enrollment--whichever is lesser--and \$600 for each additional child. However, from each State's entitlement would be deducted the amount of grants received by local educational agencies of that State and by that State's educational agency under the Indochina Migration and Refugee Assistance Act of 1975. The difference would be the amount of the grant that the State would receive.

Further, if the amount appropriated by Congress for title II was not sufficient to pay the sum of the grants that all States were entitled to receive, the grant to each State would be ratably reduced to bring the sum of the grants within the limits of the amount appropriated. Thus, for example, were eleven States entitled to receive one dollar each but only ten dollars were appropriated by Congress, each State would receive one-eleventh of ten dollars or ninety-one cents.

Title III: Emergency Adult Education Provision for Indochina Refugees

Title III authorizes for programs for adult Indochina refugees appropriations equal to the balance of any unused authorizations under the Adult Education Act for the period July 1, 1976 through September 30, 1977. Grants would be made for programs of instruction for adult refugees in reading and mathematics, the administrative costs of planning and operating such programs, support services to meet the educational needs of adult refugees, and specially designed education projects.

The Commissioner of Education would be authorized to accept and approve applications for funding from State and local education agencies.



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: September 8

Time: 630pm

FOR ACTION: David Lissy *[initials]* ~~cc~~ (for information): Jack Marsh  
 Max Friedersdorf *[initials]* Jim Connor  
 Ken Lazarus *[initials]* Ed Schmults  
 Steve McConahey *[initials]*

FROM THE STAFF SECRETARY

DUE: Date: September 9

Time: 300pm

SUBJECT: S. 2145-Indochina Refugee children Assistance Act of  
 1975

ACTION REQUESTED:

- |   |   |
|---|---|
| <input type="checkbox"/> For Necessary Action         | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief     | <input type="checkbox"/> Draft Reply              |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks            |

REMARKS:

please return to judy johnston, grounddfloor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

---

K. R. COLE, JR.  
 For the President

THE WHITE HOUSE

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For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

No objection -- Ken Lazarus 9/9/76

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James M. Cannon  
FOR THE PRESIDENT

THE WHITE HOUSE

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- Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

9/9

*Recommend signature  
and consideration of  
signing statement at  
ceremony:*

*[Signature]*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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James M. Cannon  
For the President

THE WHITE HOUSE  
WASHINGTON

September 10, 1976

MEMORANDUM FOR: JIM CAVANAUGH  
FROM: MAX L. FRIEDERSDORF *M.L.F.*  
SUBJECT: S.2145 - Indochina Refugee children  
Assistance Act of 1975

The Office of Legislative Affairs concurs with the agencies  
that the subject bill be signed.

Attachments



# Calendar No. 419

94TH CONGRESS }  
1st Session }

SENATE

{ REPORT  
{ No. 94-432

## INDOCHINA REFUGEE CHILDREN ASSISTANCE ACT OF 1975

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OCTOBER 22, 1975.—Ordered to be printed

---

Mr. CRANSTON, from the Committee on Labor and Public Welfare,  
submitted the following

### REPORT

[To accompany S. 2145]

The Committee on Labor and Public Welfare, to which was referred the bill (S. 2145), to provide Federal financial assistance to States in order to assist local educational agencies to provide public education to Vietnamese and Cambodian refugee children, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

#### COMMITTEE AMENDMENTS

The committee made one amendment of a clarifying nature and two amendments of a substantive nature.

The first amendment, within section 7 of the reported bill, clarifies that Supplementary Assistance Grant monies may be used to meet the needs of handicapped Indochina refugee children.

The second amendment adds a new section 11 to the reported bill, amending the Adult Education Act to provide programs for Indochina refugee adults.

The third amendment adds language at various sections of the bill to ensure that state and local educational agencies shall have grants and entitlements reduced by the amounts received under the Indochina Migration and Assistance Act of 1975.

## SUMMARY OF THE BILL AS REPORTED

S. 2145 provides for the reimbursement, to local education agencies, of costs incurred in the educating of Indochina refugee children. The bill provides a basic cost-of-education grant plus a \$300 per refugee child payment for supplementary assistance, such as special language training. One hundred percent of these amounts are available in the first year and 50 percent in the second year, after which the bill terminates. Adult education programs for refugees are set forth in an amendment to the Adult Education Act. Elementary and secondary payments are to be made by the Commissioner of Education to the states for distribution among the districts having refugee children. Adult education program applications are directed to and funded directly by the Commissioner.

## INTRODUCTION

S. 2145 was introduced on July 21, 1975, by Senators Cranston and Tunney, with 19 cosponsors. The Subcommittee on Education conducted a hearing on September 9, 1975, on S. 2145, and heard testimony from Senator Tunney; representatives of the Department of Health, Education, and Welfare; Dr. Wilson A. Riles, California Superintendent of Public Instruction; Dr. John Pittinger, representing the Council of Chief State School Officers; a representative of the Washington State Department of Education; and a panel representing the American Association of School Administrators, the National School Boards Association, and the Council of Great Cities Schools.

All witnesses, with the exception of the administration witnesses, urged enactment of S. 2145.

The bill and an accompanying Adult Education amendment by Senators Javits and Mondale was reported from subcommittee by a unanimous vote on October 1, and in executive session on October 7, 1975, the bill, with amendments, was unanimously approved and ordered reported.

## NEED FOR LEGISLATION

To fully assess the importance of this legislation, the committee carefully reviewed, in historical perspective, the beginnings of the refugee relocation and the Federal Government's commitment.

In April of 1975 the President authorized, as a result of the tragedy in Vietnam, the admission to the United States of some 130,000 Vietnamese and Khmer (Cambodian) refugees, an action subsequently approved by the Congress. On April 18 the President drew together the civilian agencies of the Federal Government into an Inter-Agency Task Force to administer a refugee resettlement program within the United States and to third countries, in cooperation with individuals and volunteer agencies.

From the beginning, the Federal Government's intent to alleviate adverse State and local impact seemed clear. On May 3, 1975, Ambassador L. Dean Brown cabled U.S. Governors with details of the resettlement program, and his message said in part:

We believe the social and economic impact will be minimal  
 \* \* \* State and local authorities will suffer no direct fiscal  
 hardship and little indirect hardship from the influx.

On May 12, Ambassador Brown testified before the Senate Foreign Relations Committee as follows:

Every effort will be made to ensure the resettlement to the extent possible will not be concentrated in a few enclaves in the country and will not result in economic or social service hardship. The Department for HEW, subject to Congressional action on the Administration's bill, will provide *full reimbursement to State and local social service and health agencies for costs they may incur in providing income assistance, health maintenance, social services and educational services to refugees who are in need of such assistance.* (Emphasis supplied.)

In its review of these statements and testimony, the committee finds no indication, direct or implied, that local and State agencies providing educational services were to be excluded from the full reimbursement posture as enunciated by Ambassador Brown. In Senate floor debate on the Indochina Migration and Refugee Assistance Act of 1975, (S. 1661) Senator Sparkman, Chairman of the Foreign Relations Committee of the Senate, noted that the committee was "very much aware of the potential refugee impact on schools" and cited language in the committee report that—

The committee anticipates that HEW will develop procedures to ensure that local communities will not be adversely affected by the resettlement of refugees.

Therefore, in the view of this committee, schools had little or no reason to suspect that local or State education agencies would be treated differently from other agencies providing educational and/or social services. Also, it must be recognized that school budgets are finalized in early spring. Enrollment projections are set, teachers and other personnel hired, and curriculum materials purchased. For most schools, having made their financial commitments about a month in advance of the announced Federal refugee acceptance and relocation policy, budget revision to accommodate an unknown quantity of refugee children—with special educational needs costing additional dollars—was not feasible and there was no practical way to rework budgets and raise additional revenues.

The financial dilemma for schools was compounded by the sheer numbers of refugees and the speed with which the immigration was accomplished. In the words of Ambassador Brown:

\* \* \* we are faced with a situation of unprecedented dimensions. Never before have we been called upon to absorb as large an influx in so short a period of time. \* \* \* We do not have the cushion which camps for displaced persons in Europe provided or the flexibility which the gradual arrival of Cubans over a period of several years afforded us.

Schools, therefore, reacted with understandable dismay when then-HEW Secretary Caspar W. Weinberger, meeting with media representatives on June 5, seemed to reverse the Department's position and said "we will not follow refugees into the various home communities and pay for services rendered by the community." Secretary Weinberger said also on that date that only about \$2 million of the \$405

million appropriated by Congress could be used to reimburse education expenses and only then where there was "a very, very large impact on a small school district." Subsequently, HEW announced that a one-time payment of \$300 per refugee child would be made to school districts enrolling 100 refugee students, or 1 percent of their total enrollment, whichever was less. Guidelines for the policy, however, were not published and schools received no word as to how the payment policy would be carried out.

S. 2145 was introduced on July 21, 1975. On September 9, at a hearing of the Subcommittee on Education convened to take testimony on S. 2145, HEW officials announced a new policy wherein districts enrolling 1 to 100 refugee children would receive a one-time payment of \$300 per refugee child, and the Department would pay \$600 for each refugee child the district enrolls above 100, or 1 percent of the total student population, whichever is less. The Department announced it would provide grants to State educational agencies equal to 5 percent of the total funds received by school districts within the State, such monies to be used for leadership and training activities.

The committee is pleased to note the Department's acknowledgement, in its testimony of September 9, of the need to provide a Federal payment for each refugee child. However, in the view of the committee, full reimbursement of both basic and supplemental education costs should be provided in the first year, rather than partial payments for special services as proposed by HEW. The committee also places a high priority on adult education programs, which are not covered by the HEW proposal, but are covered by S. 2145, as amended. Further, HEW proposes no payment beyond the first academic year, while the committee bill provides 50 percent of second-year costs. The committee believes this second-year funding to be essential in effecting a transition to the point where local school districts, and States, can be expected to assume the full cost of educating these refugee children.

In view of HEW's proposed payment of supplementary costs as enunciated in the Department's September 9 testimony, and as published in the Federal Register of October 10, the committee amended S. 2145 so that monies paid by HEW to local and State education agencies, under its own formula, will be counted and will reduce each local or State grant accordingly. The practical effect of this amendment is to prevent duplication of monies and to reduce the cost of the bill by exactly the amount paid by HEW under its own program, or about \$15 million.

#### DISCUSSION OF BILL AS REPORTED

The committee feels there is ample justification for the full reimbursement of first-year education costs, as set forth in the reported bill, plus a grant of \$300 per refugee child for supplementary assistance programs. Further, the committee feels that provision of adult education programs is necessary so that the full initial needs of the refugee community can be met.

The committee views the implementation of S. 2145 as follows:

## COUNTS OF REFUGEE CHILDREN

As part of the application process, the Commissioner of Education will require each State education agency to submit an actual count (or estimate, if an actual count is unavailable) of the number of Indo-china refugee children enrolled in K-12 classes in each of the State's local education agencies. Completed applications and counts shall be submitted 30 days after an appropriation is made.

The State education agency will collect initial actual counts of refugee children (or estimates if actual counts are not yet available) from each local education agency in the State. The State education agency shall require that refugee children be counted separately for the purposes of the act, and that at least two subsequent counts per year be made. The second count shall be made by December 31, and the final count shall be made by June 30. The counts shall record the actual number of refugee children enrolled in local education agencies on those dates.

These data will be reported to the Commissioner so that grant amounts can be adjusted in accordance with verified average daily attendance counts. The State education agency will also employ these counts to adjust grants to local education agencies within each State.

## PAYMENT PROCEDURES

Based on the counts of refugee children described above, the Commissioner will grant to each State education agency an amount equal to the average State per pupil expenditure multiplied by the number of refugee students reported in the initial application. Based on subsequent reports from the State education agency, the Commissioner will adjust this grant amount as appropriate.

The State education agency may make grants under this act to local education agencies, including appropriate intermediate education agencies, county or regional education agencies, or consortia, or cooperatives composed of a number of local education agencies. The intent in granting such latitude is to insure that funds made available under this act may be pooled, where appropriate, to provide a well coordinated and effective program of educational services for refugee children.

Based on the actual counts provided by local education agencies, the State education agency will develop appropriate mechanisms to reimburse both the State's share and the local share of all expenditures incurred by each local education agency in providing educational services to refugee children. The reimbursement shall be equal to the actual average per pupil expenditure in each district enrolling refugee children. The allocations payable under this basic grants section are intended to defray the general costs of educating each refugee child in each local education agency. No special programs or application process need be created for payment under this section.

## SUPPLEMENTARY ASSISTANCE GRANTS

Allocations of supplementary assistance grants shall be made by the Commissioner to State education agencies which develop appropriate application procedures for supplementary assistance grants and solicit applications from local education agencies enrolling refugee children. The application procedure shall describe the method through which the local education agencies propose to meet the unique educational needs of refugee children who are aged 5 to 17, inclusive.

On the basis of these applications, the State education agency shall make grants in the amount of \$300 for each refugee child to local education agencies. Supplementary assistance grants may also be made to interim education agencies, county or regional education agencies, or cooperatives, or consortia of local education agencies. The State education agency shall monitor supplementary assistance programs to insure that they address the unique educational needs of refugee children and that they are sufficiently focused so as to give reasonable promise of substantial progress toward meeting these educational needs.

Recognizing that Indochinese refugee children may have additional educational problems which will require specialized programming, the committee bill authorizes additional grants intended to meet the expenses of State and local educational agencies to provide for these needs. Such specialized programming may include such services as language training, bilingual education and other tutorial assistance. The committee has further amended this section to clarify and emphasize that such grants may be used to meet the needs of handicapped Indochinese refugee children who may require special education and related support services.

## ADULT EDUCATION PROGRAMS

The National Advisory Council on Adult Education contacted members of the committee regarding the needs of adult refugees. It was estimated that 54 percent of all Indochinese refugees were 18 years of age or older. The committee believes that if these adult refugees were not provided with opportunities to learn civic and basic coping skills, their chance to become productive members of society would be drastically reduced. The existing law, Adult Education Act (Public Law 91-230, as amended) had no specific section to serve the special and temporary needs of the Indochinese refugee adult. The committee specifically chose to avoid diverting funds from the adult education programs for which monies had already been appropriated. As the Adult Education Act is currently funded at less than half of its full authorization, no additional authorization of appropriation is included in this section. This section provides for an adult education program for refugees for only 2 fiscal years, so that the sudden impact of the refugees can be supported, while regular Federal and nonfederally supported adult education programs will meet the longer range needs after the 2-year period.

This section provides that both State education agencies and local education agencies may apply directly to the Commissioner of Education for grant support. However, in the case of a local education agency, they must first have their application reviewed by their State education agency so that duplication is avoided. The only purpose of

this State agency review is so that proposed programs under this section or any other law will not overlap and waste funds. It is not intended that the State agency shall withhold its assurance on grounds other than those of duplication of programs. The purpose of providing direct application by both State and local education agencies is to assure rapid implementation of the special programs, and to allow flexibility to the local educational agencies to provide programs uniquely designed for their needs.

The committee notes that under Public Law 94-23, the Indochinese Refugee Act, HEW is currently expending \$5 million to support special refugee education projects for adults. The committee is concerned that this amount is insufficient to meet the minimum needs of the adult refugees for special educational services. The National Advisory Council on Adult Education has estimated that approximately \$21.4 million over 2 years would be necessary to meet the needs of refugee adults for educational services. S. 2145 provides language which insures that payments made under any law for these purposes would be taken into consideration when establishing the need for additional funds. A further discussion of the need for adult education funds is included under the Estimate of Cost.

The committee intends that State and local officials will use a variety of existing and specially designed approaches to meet the unique need of adult refugees. The committee believes that these special adult education services, delivered carefully and rapidly to their greatest need, will greatly assist in the resettlement process of these and integrate them into the fabric of American society.

#### COST ESTIMATES

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510), the committee estimates that, if all funds authorized were appropriated during fiscal year 1976, and for the 3-month fiscal year transition in 1976, and for fiscal year 1977, the 2-year costs occasioned by S. 2145, as reported, would be as follows:

TABLE I.—INDOCHINA REFUGEE CHILDREN ASSISTANCE ACT (AS REPORTED)

(In millions of dollars)

	Fiscal year—			Total
	1976	1976†	1977	
Sec. 3—State Entitlements.....	57.0	14.5	29.0	
Sec. 7—Supplementary Assistance Grants.....	14.0	3.75	7.25	
Total (new authorization).....	71.0	18.25	36.25	125.5
Sec. 11—Adult Education <sup>1</sup> .....	8.2	0	8.2	16.4
Total.....				141.9

<sup>1</sup> Appropriation is authorized under existing Adult Education Act and no additional authorization is required.

The Interagency Task Force on Refugees has estimated based on an examination of demographic data that 54 percent of the total of approximately 117,000 refugees are adults over 18 years of age. This is approximately 63.5 thousand adult refugees. The committee believes that the estimates of cost for delivering this adult education program provided by the National Advisory Council on Adult Education are

an appropriate guide for the national need. In making awards, the Commissioner should consider these general guidelines, but should take into account the actual services which the applicant plans to provide and their proposed cost.

The National Advisory Council has produced its estimate as follows: Based on the present operational practices for adult basic education in this country, it would require an expenditure of \$21,364,224 to provide educational programs at a basic reading, math, and civic literacy level for these refugees. As \$5 million of funds available under Public Law 95-24 are being spent for adult education programs, the committee estimates that an additional \$16,400,000 over 2 years will be necessary to support the adult refugee program. The \$21,364,224 figure is computed on the rationale of 30 weeks classroom and/or supervised instruction for three 2-hour sessions per week for a total of 180 hours in a classroom unit of 10 adult students with 1 teacher and a teacher aide. In addition, the classroom unit would require \$20 per adult student for materials, and \$300 per every 10 students for guidance and counseling services plus a 5 percent factor for local and State administrative costs.

The per student cost for the 180 hours in a learning unit of 10 adults is only \$336 each.

Example:

180 hr. of instruction (30 weeks × three 2-hour sessions per week) at \$10 per teacher hour for a class unit (10 adults) .....	\$1,800
Class unit for materials (\$20 each) .....	200
Teacher aide (180 hr. at \$5 per hour) .....	900
Class unit for guidance and counseling services .....	300
Class unit for administrative cost factors .....	160
<b>Total</b> .....	<b>3,360</b>

<sup>1</sup> Or \$336 per student in a learning unit of 10 adults.

TABLE II.—ESTIMATED STATE ALLOCATIONS UNDER S. 2145

State	Total refugees <sup>1</sup>	Estimated children 5 to 17, inclusive <sup>2</sup>	Basic grants	Supplemental grants	Total State allocation
Alabama .....	1,513	514	646,612	154,200	800,812
Alaska .....	99	33	41,514	9,900	51,414
Arizona .....	1,160	394	495,652	118,200	613,852
Arkansas .....	2,169	737	927,146	221,100	1,148,246
California .....	30,618	10,410	13,095,780	3,123,000	16,218,780
Colorado .....	1,820	619	778,702	185,700	964,402
Connecticut .....	1,265	430	540,940	129,000	669,940
Delaware .....	122	41	51,578	12,300	63,878
District of Columbia .....	1,533	521	655,418	156,300	811,718
Florida .....	6,540	2,223	2,796,534	666,900	3,463,434
Georgia .....	1,500	51	64,158	15,300	79,458
Hawaii .....	2,550	867	1,090,686	260,100	1,350,786
Idaho .....	434	147	184,926	44,100	229,026
Illinois .....	3,785	1,286	1,617,788	385,800	2,003,588
Indiana .....	1,742	592	744,736	177,600	922,336
Iowa .....	1,843	627	788,766	188,100	976,866
Kansas .....	1,867	635	798,830	190,500	989,330
Kentucky .....	863	293	368,594	87,900	456,494
Louisiana .....	3,149	1,071	1,347,318	321,300	1,668,618
Maine .....	450	153	192,474	45,900	238,374
Maryland .....	2,575	876	1,102,008	262,800	1,364,808
Massachusetts .....	1,245	423	532,134	126,900	659,034
Michigan .....	1,989	676	850,408	202,800	1,053,208
Minnesota .....	4,415	1,501	1,888,258	450,300	2,338,556
Mississippi .....	462	157	197,506	47,100	244,606
Missouri .....	2,685	913	1,148,554	273,900	1,422,454
Montana .....	250	85	106,930	25,500	132,430
Nebraska .....	1,122	381	479,298	114,300	593,598
Nevada .....	428	145	182,410	43,500	225,910



TABLE II.—ESTIMATED STATE ALLOCATIONS UNDER S. 2145—Continued

State	Total refugees <sup>1</sup>	Estimated children 5 to 17, inclusive <sup>2</sup>	Basic grants	Supplemental grants	Total State allocation
New Hampshire.....	180	61	76,738	18,300	95,038
New Jersey.....	1,854	630	792,540	189,000	981,540
New Mexico.....	476	162	203,796	48,600	252,396
New York.....	4,118	1,400	1,761,200	420,000	2,181,200
North Carolina.....	1,358	461	579,938	138,300	718,238
North Dakota.....	495	168	211,344	50,400	261,744
Ohio.....	2,937	999	1,256,742	299,700	1,556,442
Oklahoma.....	4,076	1,386	1,743,588	415,800	2,159,388
Oregon.....	2,269	771	969,918	231,300	1,201,218
Pennsylvania.....	6,667	2,266	2,850,628	679,800	3,530,428
Rhode Island.....	244	83	104,414	24,900	129,314
South Carolina.....	838	285	358,530	85,500	444,030
South Dakota.....	533	181	227,698	54,300	281,998
Tennessee.....	882	300	377,400	90,000	467,400
Texas.....	9,238	3,141	3,951,378	942,300	4,893,678
Utah.....	677	230	289,340	69,000	358,340
Vermont.....	163	55	69,190	16,500	85,690
Virginia.....	4,109	1,397	1,757,426	419,100	2,176,526
Washington.....	4,251	1,445	1,817,810	433,500	2,251,310
West Virginia.....	150	51	64,158	15,300	79,458
Wisconsin.....	2,001	680	855,440	204,000	1,059,440
Wyoming.....	106	36	45,288	10,800	56,088

<sup>1</sup> Source: Interagency Task Force for Indochina Refugees, Oct. 8, 1975. For the purpose of this table, the number of refugees remaining in camps as of Oct. 8, 1975, and the 10,049 refugees, who arrived in the 1st few days of the airlift and for whom no record of destination is documented by the Interagency Task Force for Indochina Refugees, have been divided among the States in proportion to the numbers of refugees previously received by the States.

<sup>2</sup> The demographic data table on refugees issued by the Interagency Task Force on Refugees, indicates that some 34 percent of the total number of refugees are within the ages 5 to 17, inclusive (percentage of 5-year-olds extrapolated from 0 to 5 category).

Source: Demographic data table on refugees, issued by the Interagency Task Force for Indochina Refugees as of Oct. 8, 1975.

### TABULATION OF VOTES CAST IN COMMITTEE

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the following is the tabulations of votes of S. 2145. The committee unanimously ordered the bill, as amended, reported favorably.

#### SECTION-BY-SECTION ANALYSIS

*Section 1.*—Establishes the title of the proposed Act as the “Indochina Refugee Children Assistance Act of 1975”.

*Section 2.*—Sets forth definitions of the following nine terms as used in the proposed Act: “Commissioner”, “elementary school”, “free public education”, “Indochinese refugee children”, “average per pupil expenditure”, “local educational agency”, “secondary school”, “State”, and “State educational agency”.

*Section 3.*—Subsection (a) directs the Commissioner to make payments to State educational agencies for fiscal years 1976 and 1977 under section 4.

Subsection (b) of section 3 applies exclusively to the 50 States, and provides that, except as provided in subsection (D) of this section and section 7, the maximum grant to a State educational agency in a fiscal year shall be equal to the number of Indochinese refugee children aged 5 to 17, inclusive, in average daily attendance at the schools of the local educational agencies of that State, multiplied by the average per pupil expenditure for that State.

Subsection (c) of section 3 applies exclusively to the jurisdictions of Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands, and provides that each shall be entitled

to a grant under section 4 as determined by the Commissioner. Grants so determined are not to exceed, in the aggregate, 1 per centum of the aggregate of the entitlements to the 50 States under subsection (b) of section 3.

Subsection (d) of section 3 provides that State educational agencies shall subtract from the allocation to which they would otherwise be entitled under this section the sum of the amounts received for that fiscal year under the Indochina Migration and Refugee Assistance Act of 1975.

Subsection (e) of section 3 directs the Commissioner to determine the number of refugee children on the basis of estimates whenever actual data are not available, and provides that no resulting underestimate shall operate to deprive any State educational agency of payments to which it would be entitled on the basis of accurate data.

*Section 4.*—Provides that payments to any State may be used in accordance with applications approved under section 6 for educational programs, services, and activities for Indochinese refugee children in the schools of the local educational agencies of that State.

*Section 5.*—Subsection (a) provides that, in the event that sums appropriated are not sufficient to pay in full State educational agency entitlements for a fiscal year, the allocations to State educational agencies shall be ratably reduced to bring the aggregate of such entitlements within the amount appropriated.

Subsection (b) of section 5 provides that, in the event that funds are made available after allocations have been made for a fiscal year, such funds shall be ratably allocated to State educational agencies on the same basis as subsection (a).

*Section 6.*—Subsection (a) directs each State educational agency desiring a payment to submit an application to the Commissioner in accordance with procedures determined by the Commissioner and with:

- (1) provision for supervision of programs by the State educational agency;
- (2) provision for use of payments for purposes set forth in section 4;
- (3) assurances that payments will be distributed among local educational agencies in direct proportion to the number of Indochinese refugee children served by each, taking into consideration the per pupil expenditure of each and the amount received by each under the Indochina Migration and Refugee Assistance Act of 1975;
- (4) assurances that the State educational agency will not disapprove any local educational agency application without a hearing; and
- (5) provision for making evaluations and other reports to the Commissioner.

Subsection (b) of section 6 directs the Commissioner to approve applications which meet the requirements of section (a), and to provide for a hearing before disapproval of a State educational agency's application.

*Section 7.*—Subsection (a) directs the Commissioner to make, to any State which has an approved application under section 6 and provides for the unique educational needs of Indochinese refugee children, a supplementary assistance grant of \$300 per child.

Subsection (b) of section 7 directs each State desiring a supplementary assistance grant to apply to the Commissioner in accordance with procedures established by the Commissioner.

Subsection (c) of section 7 directs the Commissioner to make payments to States with approved applications under subsection (b), for use in payment of excess costs incurred by educational programs, services, and activities which meet the unique needs of Indochinese refugees children and are determined by the State educational agency to be of sufficient size and scope to continue to do so.

Subsection (d) of section 7 authorizes, in addition to sums authorized under section 3, the appropriation of \$14,000,000 for fiscal year 1976, \$3,750,000 for the period beginning July 1, 1976, and ending September 30, 1976, and \$7,250,000 for the fiscal year 1977.

*Section 8.*—Subsection (a) directs the Commissioner to pay each State educational agency with an approved application under section 6 the amount to which it is entitled.

Subsection (b) of section 7 authorizes the Commissioner to pay each State educational agency for administrative functions, such payments not to exceed 1 per centum of the total received by that State agency in a fiscal year.

*Section 9.*—Directs the Commissioner, in the event that a State educational agency fails to comply, and has had an opportunity for a hearing, to notify the agency of suspension of payments either by the Commissioner, or by the agency to specified local educational agencies involved in such noncompliance, and to suspend payment until he is satisfied that there is no longer any failure to comply.

*Section 10.*—Authorizes the appropriation of \$57,000,000 in fiscal year 1976, \$14,500,000 for the period beginning January 1, 1976, and ending September 30, 1976, and \$29,000,000 for fiscal year 1977.

*Section 11.*—Amends the proposed Act by adding new section 315, amending the Adult Education Act.

This section provides that for fiscal years 1976 and 1977, the Commissioner shall operate a program of grants to State and local education agencies for the purpose of operating special adult education programs for refugees. This is a new section of the Adult Education Act. Unlike other sections of that Act, no amendment to the State plan or matching from non-Federal sources of funds are required. States shall review local applications for the purposes of assuring they are not duplicative with other programs. Applications must include assurances that adult refugees who need such a program will participate if available. Funds may be appropriated under authorization of the already existing Adult Education Act. The committee does not intend to divert funds appropriated for other sections of the Adult Education Act.

## AGENCY REPORTS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,  
OFFICE OF THE SECRETARY,  
Washington, D.C., October 6, 1975.

HON. ALAN CRANSTON,  
U.S. Senate,  
Washington, D.C.

DEAR SENATOR CRANSTON: I understand that the Labor and Public Welfare Committee will soon be considering S. 2145, the Indochina Refugee Children Assistance Act of 1975.

As you know, this Department testified on September 9 before the Subcommittee on Education and announced our new Indochinese Refugee Education Program which we believe makes S. 2145 unnecessary. A copy of that testimony is enclosed.

Our position, in brief, is that under the authority of the Indochina Migration and Refugee Assistance Act of 1975 the Department will make available to local school districts \$300 for every refugee child to provide supplemental services. For those heavily impacted school districts, an additional \$300 will be made available for each refugee child a district enrolls above 100 or one percent of the total student population.

In addition, the program will provide grants to State departments of education for leadership and training activities. The State will receive five percent of the total funds received by eligible school districts within their States, over and above the total funds received by their school districts.

Our program will provide \$15 million for the 1975-76 school year. The regulations will be published next week and the funds will begin flowing to school districts in November.

Sincerely,

RICHARD A. HASTINGS,  
Deputy Assistant Secretary  
for Legislation (Education).

## CHANGES IN EXISTING LAW

S. 2145, as amended, makes no changes in existing law. It does, however, in section 11, add a new section to the Adult Education Act, Public Law 91-230 (this new section is shown below in *italic*).

## AMENDMENT TO THE ADULT EDUCATION ACT

*SEC. 11. The Adult Education Act (Public Law 91-230) is amended by adding the following new section at the end thereof:*

*“EMERGENCY ADULT EDUCATION PROGRAM FOR INDOCHINA REFUGEES*

*“SEC. 315. (a) From the appropriations authorized for fiscal years 1976 and 1977, but not appropriated for other programs under this title, the Commissioner shall carry out a program of making grants to State and local education agencies for such years for the purpose of operating special adult education programs for Indochina refugees, as defined in section 3 of the Indochina Migration and Refugee Assistance Act of 1975. Such grants may be used for—*

"(1) programs of instruction of adult refugees in basic reading, mathematics, the development and enhancement of necessary skills, and to promote literacy among refugee adults, for the purpose of enabling them to become productive members of American society;

"(2) administrative costs of planning and operating such programs of instruction;

"(3) support services which meet the educational needs of adult refugees, including but not limited to guidance and counseling with regard to educational, career, and employment opportunities; and

"(4) specially designed educational projects which meet the purposes of this section.

"(b) The Commissioner shall not approve an application for a grant under this section unless (1) in case of application by a local education agency, it has been reviewed by the respective State education agency which shall provide assurance to the Commissioner that, if approved by the Commissioner, the grant will not duplicate existing and available programs of adult education which meet the special needs of Indochina refugees, and (2) the application includes a plan acceptable to the Commissioner which provides reasonable assurances that adult refugees who are in need of a program are located in an area near that State or local education agency, and would participate in the program if available.

"(c) Applications for a grant under this section shall be submitted at such time, in such manner, and contain such information as the Commissioner may reasonably require.

"(d) Notwithstanding the provisions of sections 305 and 307(a), the Commissioner shall pay all the costs of applications approved by him under this section."

#### ADDENDA

The following table contains the proposed budget for Indochinese Refugee education programs through the end of fiscal year 1976 as compiled by the Refugee Assistance Task Force of the Office of Education of the Department of Health, Education, and Welfare. The total of the estimated budget for education-related activities through fiscal year 1976 is \$24,887,000 and includes items for elementary and secondary education, transitional assistance to LEAs and SEAs, information services, resettlement-related activities at the resettlement camps themselves, adult education and administrative costs.

The items which have particular relevance for S. 2145 are items numbered three and five, transitional assistance and adult basic education assistance grants. The total proposed budget for these activities through fiscal year 1976 is \$20 million, \$15 million for the former and \$5 million for the latter. This compares to an authorization contained in S. 2145 of \$125.5 million for transitional assistance to State and \$5 million for the latter. This compares to an authorization for adult education programs already contained in section 313(a) of the Adult Education Act, Public Law 91-230. Under section 313(a), the fiscal year 1976 authorization for Adult Education Programs is \$175,000,000 and the fiscal year 1977 authorization is \$200,000,000. As adult education programs are forward funded, appropriations for both

these fiscal years have already been made as follows: \$67,500,000 for fiscal year 1976 and \$71,500,000 for fiscal year 1977. The committee has estimated that an additional \$8,200,000 will be necessary in fiscal year 1976 and again in fiscal year 1977 to serve these adult refugees.

Under the terms of S. 2145, the funds appropriated under this Act could be reduced on a dollar-for-dollar basis by the sum total of funds actually obligated or expended for the same function by the Office of Education. Hence, the \$15 million already obligated by HEW for item No. 3 could be subtracted from the authorized total for transitional assistance contained in S. 2145 (\$125.5 million). The committee emphasizes that funds which are subtracted in this way must be funds that are actually obligated and not merely proposed in the Department's budget program.

Funds obligated or actually expended for the purposes of item No. 5 in the following chart may be subtracted in the same way from the total funds authorized by 313(a) of the Adult Education Act for the purpose by this Act.

The committee would also like to emphasize the discrepancy that exists between the date for expiration of assistance to adult education and transitional assistance in the Office of Education proposed program and that contained in S. 2145. The administration has repeated many times in its statements that it views its responsibility for assisting State and local governments in educating resettled refugees as essentially a 1-year obligation ending with fiscal year 1976. In fact, the proposed budget shows that such assistance would terminate in March of 1976—before the end of the current school year. It is the committee's strong belief that such a program of limited duration would not adequately serve the needs of such State or local educational agencies in trying to facilitate the resettlement process and smooth the transition of Indochinese refugees into American society.

PROPOSED EDUCATION BUDGET, INDOCHINESE REFUGEE PROGRAMS

	Estimated total	Fiscal year—				
		1975, 4th quarter	1976, 1st quarter	1976, 2d quarter	1976, 3d quarter	1976, 4th quarter
1. Language training and cultural orientation at reception centers.....	1,468,000	1,318,000	150,000	0	0	0
2. Expanded elementary, secondary and adult education programs at centers.....	2,319,000	0	2,319,000	0	0	0
3. Transitional assistance to school district and to SEA's.....	15,000,000	0	0	10,000,000	5,000,000	0
4. Clearinghouse/technical assistance/credentialing/curriculum development.....	1,000,000	0	665,000	185,000	150,000	0
5. Adult basic education grants to States.....	5,000,000	0	0	4,500,000	500,000	0
6. Education division administrative costs.....	100,000	0	50,000	35,000	10,000	5,000
Total.....	24,887,000	1,318,000	3,184,000	14,720,000	5,660,000	5,000

## REFUGEE EDUCATION BUDGET EXPLANATIONS, SEPTEMBER 24, 1975

*1. Language Training and Cultural Orientation at Reception Centers*

This amount reflects the current cost of reimbursable contracts for educational services at the refugee reception centers and the obligations for language materials. Amounts obligated as of August 8, 1975 are:

Pennsylvania State Department of Education (Indiantown Gap) -----	\$224, 217
Florida State Department of Education (Eglin) -----	203, 425
California State Department of Education (Pendleton) -----	496, 090
WestArk Community College (Fort Chaffee, Ark.) -----	449, 280
Subtotal—centers -----	1, 373, 012
Materials for use at centers -----	94, 732
Total -----	1, 467, 744

*2. Expanded Elementary, Secondary and Adult Education Programs at Centers*

Contracts have been negotiated to provide educational services for elementary and secondary school age children and for adults in each of the three reception centers. The amounts negotiated are as follows:

Indiantown-Pennsylvania State Department of Education (planned closing date Oct. 31) -----	\$723, 993
Pendleton-California State Department of Education (planned closing date Oct. 31) -----	611, 095
Chaffee-WestArk Community College (planned closing date Dec. 31) ---	983, 832
Total -----	2, 318, 920

The average cost of providing this instruction is less than \$17 per student per week.

*3. Transitional Assistance to School Districts and to SEA's*

HEW policy provides that each local district with between one and 100 refugee children will be eligible to receive \$300 per child and \$600 per child for enrollments of refugee children over 100 or 1 percent of the district's total enrollment (whichever is less) under this program. This estimate assumes under HEW's revised policy that 40,000 refugee children will bring a minimum of \$300 each to local school districts for a total of \$12,000,000. It also assumes that an additional \$2,300,000 will be required for school districts with enrollments above 100 refugee children (or 1 percent of the total school district population). It is estimated that 100 school districts will have an average of about 77 students above the 100 student threshold.

HEW policy also provides that an amount equal to 5 percent of the total funds allocated to the State's eligible districts is to be set aside for use by SEA's. Specifically, \$700,000 will be available to the State for such activities as State leadership, training, monitoring and other technical assistance to LEA's.

#### *4. Clearinghouse/Technical Assistance/Credentialing/Curriculum Development*

This amount includes \$500,000 to supplement the efforts of five Bilingual Centers to provide assistance to local school districts; \$124,000 for continuing the Clearinghouse contract with the Center for Applied Linguistics from January through June 30, 1976; \$170,000 to provide for the evaluation and reconstruction of the educational credentials held by an estimated 8,500 refugees (\$20.00 per credential review); \$45,000 to provide for English proficiency testing for adults and high school seniors who plan to enter post secondary or post graduate programs (it is estimated that out of 21,083 refugees between the ages of 18 and 24, 3,000 may apply for such funds by reason of previous education); and \$161,000 for material reproduction, translation and training.

#### *5. Adult Basic Education Grants to States*

HEW has developed a policy of making funds available to States for Adult Basic Education for Indochinese refugees. \$5,000,000 will be made available for this purpose. These funds will be distributed to States under an amended State Plan on the basis of the number of refugees over 18 years of age who reside in the State. Based on the percent of adult refugees who enrolled in the basic English courses in the camps, it is estimated that two-thirds of the adult population will participate, that is approximately 47,000 adults will participate, thus \$5,000,000 will make \$106 available per refugee participant.

The Division of Adult Basic Education indicates that the average annual cost of the federal government is \$76 per person for adult basic education programs. State matching has amounted to 26 percent of the total cost even though only 10 percent matching is required, so the total cost (Federal and State) is about \$103 per person.

Regulations will require that funds can be expended only for adult basic education for Indochinese refugees and States will be required to report on how the money has been spent. Any funds not expended by a State will be returned to the Federal Government.

#### *6. Education Division Administrative Costs*

Anticipated administrative costs include items such as regional office expenses, consultant time, and travel expenses.



INDOCHINA REFUGEE CHILDREN ASSISTANCE  
ACT OF 1975

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JULY 1, 1976.—Ordered to be printed

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Mr. PERKINS, from the committee of conference,  
submitted the following

CONFERENCE REPORT

[To accompany S. 2145]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2145), to provide Federal financial assistance to States in order to assist local educational agencies to provide public education to Vietnamese and Cambodian refugee children, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

*That this Act may be cited as the "Indochina Refugee Children Assistance Act of 1976".*

TITLE I—PROGRAM FOR THE 1976 FISCAL YEAR

APPLICABILITY; DEFINITIONS

SEC. 101. (a) *The provisions of this title shall be applicable for fiscal year 1976.*

(b) *As used in this title—*

(1) *The term "Commissioner" means the Commissioner of Education.*

(2) *The term "elementary school" means a day or residential school which provides elementary education, as determined under State law.*

(3) *The term "free public education" means education which is provided at public expense under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State.*

(4) The term "Indochinese refugee children" means children who are refugees within the meaning of that term as defined in section 3 of the Indochina Migration and Refugee Assistance Act of 1975.

(5) The term "average per pupil expenditure" for a State means the aggregate current expenditures during the second fiscal year preceding the fiscal year for which the determination is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State, plus any direct current expenditures by the State for the operation of such agencies (without regard to the source of funds from which either of such expenditures is made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

(6) The term "current expenditures" means all expenditures for free public education, except for (A) expenditures attributable to fixed charges, including payments of principal and interest on short-term and long-term debt, and payments for retirement benefits, for insurance and judgments, for rental of land and buildings, and for construction costs, (B) expenditures attributable to administration, and (C) expenditures attributable to transportation or building maintenance.

(7) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(8) The term "secondary school" means a day or residential school which provides secondary education, as determined under State law.

(9) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(10) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(11) The term "elementary or secondary nonpublic schools" means schools which comply with the compulsory education laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

#### STATE ENTITLEMENTS

SEC. 102. (a) The Commissioner shall, in accordance with the provisions of this title, make payments to State educational agencies for the fiscal year 1976 for the purposes set forth in section 103.

(b) (1) Subject to the provisions of paragraphs (2) and (3), each State educational agency shall be entitled to receive, for the fiscal

year ending June 30, 1976, an amount which, in addition to any amounts received by such agency and the local educational agencies of such State in that fiscal year under the Indochina Migration and Refugee Assistance Act of 1975, equals the additional expenditures, as determined under section 103, incurred by such State and local educational agencies in that fiscal year in providing additional basic educational services and necessary supplementary educational services for Indochinese refugee children.

(2) For the fiscal year ending June 30, 1976, no State educational agency shall be entitled to receive an amount under this title, which, when combined with any funds received by such agency and the local educational agencies of such State in such fiscal year under the Indochina Migration and Refugee Assistance Act of 1975, exceeds an amount equal to the average per pupil expenditure in such State for such fiscal year multiplied by the number of Indochinese refugee children in such State receiving public educational services.

(3) For the purpose of this subsection, the term "State" does not include American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(c)(1) The jurisdictions to which this subsection applies are American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(2) Each jurisdiction to which this subsection applies shall be entitled to a grant for the purposes set forth in section 103 in an amount equal to an amount determined by the Commissioner in accordance with criteria established by him, except that the aggregate of the amount to which such jurisdictions are so entitled for any fiscal year shall not exceed an amount equal to 1 percentum of the aggregate of the amounts to which all States are entitled under subsection (b) of this section for that fiscal year. If the aggregate of the amounts, determined by the Commissioner pursuant to the preceding sentence, to be so needed for any fiscal year exceeds an amount equal to such 1 percentum limitation, the entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such 1 per centum limitation.

(d) Determinations with respect to the number of Indochinese refugee children by the Commissioner under this section for any fiscal year shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate, because of an underestimate, to deprive any State educational agency of its entitlement to any payment (or the amount thereof), under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

#### USES OF FUNDS

SEC. 103. (a) Financial assistance to State and local educational agencies under this title shall be available only to meet the cost of providing Indochinese refugee children—

(1) supplementary educational services necessary to enable those children to achieve a satisfactory level of performance including, but not limited to—

- (A) English language instruction,
- (B) other bilingual educational services, and
- (C) special materials and supplies;

(2) additional basic instructional services which are directly attributable to the presence in the school district of Indochinese refugee children, including the cost of providing additional classroom teachers and additional teaching materials and supplies, but not including overhead costs, costs of construction, acquisition or rental of space, or costs of transportation; and

(3) special inservice training for personnel who will be providing instruction described in either paragraph (1) or (2).

(b) The Commissioner shall by regulation prescribe standards for the determination of the actual additional expenditures incurred by State and local educational agencies in providing educational services for Indochinese refugee children. Such standards may include—

(1) maximum incremental costs for providing basic educational services in relation to the number of additional children;

(2) maximum allowable costs for particular types of supplementary educational services; and

(3) to the extent consistent with this section, categories of programs, services, and expenditures for which funds provided under this title may be used.

#### ALLOCATION OF APPROPRIATIONS

SEC. 104. (a) If the sums appropriated for the fiscal year 1976 for making the payments provided for in this title are not sufficient to pay in full the total amounts which State educational agencies are entitled to receive under this title for such year, the allocations to such State educational agencies shall be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated.

(b) In the event that funds become available for making payments under this title for such fiscal year after allocations have been made under subsection (a) for that year, the amounts reduced under subsection (a) shall be increased on the same basis as they were reduced.

#### APPLICATIONS

SEC. 105. (a) No State educational agency shall be entitled to any payment under this title for any fiscal year unless that agency submits an application to the Commissioner at such time, in such manner, and containing or accompanied by such information, as the Commissioner may reasonably require. Each such application shall—

(1) provide that the educational programs, services, and activities for which payments under this title are made will be administered by or under the supervision of the agency;

(2) provide that payments under this title will be used for purposes set forth in section 103;

(3) provide such data and assurances as the Commissioner may prescribe—

(A) to demonstrate that the costs of the additional instructional services for which the payment will be made are the direct result of the presence of Indochinese refugee children and that those additional instructional services will actually be provided to those children for the duration of the period

for which assistance is made available under this title; and  
 (B) to demonstrate that such payments are distributed between the State educational agency and the local educational agencies within the State in proportion to the contribution to such costs by each such agency;

(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

(5) provide for making such reports as the Commissioner may reasonably require to perform his functions under this title; and

(6) provide assurances—

(i) that to the extent consistent with the number of Indo-chinese refugee children enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of these children secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children;

(ii) that the control of funds provided under this paragraph and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property; and

(iii) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization; and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds.

(b) The Commissioner shall approve an application which meets the requirements of subsection (a). The Commissioner shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

#### PAYMENT

SEC. 106. (a) The Commissioner shall pay to each State educational agency having an application approved under section 105 the amount which that State is entitled to receive under section 102.

(b) The Commissioner is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this title, except that the total of such payments for any fiscal year shall not exceed 1 per centum of the amounts to which that State educational agency is entitled to receive for that year under this title.

(c) If a State is prohibited by law from providing public educational services for children enrolled in elementary and secondary non-public schools, as required by section 105(a)(6), the Commissioner may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this title.

#### WITHHOLDING

SEC. 107. Whenever the Commissioner, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of this title, the Commissioner shall notify that agency that further payments will not be made to the agency under this title, or in his discretion, that the State educational agency shall not make further payments under this title to specified local educational agencies (whose actions cause or are involved in such failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State educational agency under this title or payments by the State educational agency under this title shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 108. There are authorized to be appropriated for fiscal year 1976 such sums as may be necessary to make payments to which State educational agencies are entitled under this title and payments for administration under section 106(b).

## TITLE II—PROGRAM FOR THE TRANSITION PERIOD AND THE 1977 FISCAL YEAR

#### APPLICABILITY; DEFINITIONS

SEC. 201. (a) The provisions of this title shall be applicable for the period beginning July 1, 1976, and ending September 30, 1977.

(b) As used in this title—

(1) The term "Commissioner" means the Commissioner of Education.

(2) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law.

(3) The term "Indochinese refugee children" means children who are refugees within the meaning of that term as defined in section 3 of the Indochina Migration and Refugee Assistance Act of 1975.

(4) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recog-

nized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(5) The term "secondary school" means a day or residential school which provides secondary education, as determined under State law.

(6) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(7) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(8) The term "elementary or secondary nonpublic schools" means schools which comply with the compulsory education laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

#### STATE ENTITLEMENTS

SEC. 202. (a) The Commissioner shall, in accordance with the provisions of this title, make payments to State educational agencies for the period July 1, 1976, through September 30, 1977, for the purposes set forth in section 203.

(b) (1) Except as provided in subsection (d) of this section, the maximum amount of the grant to which a State educational agency is entitled under this title, for the period beginning July 1, 1976, and ending September 30, 1977, shall be equal to the sum of—

(A) the number of Indochinese refugee children aged 5 to 17, inclusive, receiving public educational services under the supervision of each local educational agency within that State during the period for which the determination is made; multiplied by—

(B) the lesser of—

(i) \$300 for each of the first one hundred such children who are furnished such services under the supervision of each local educational agency within such State, or

(ii) if the number of such children equals or exceeds 1 per centum of the total number of children enrolled in the schools of that agency, \$300 for each such child in such 1 per centum who is furnished such services under the supervision of each local educational agency within such State; and

(C) \$600 for each additional such child in excess of one hundred such children, or in excess of such 1 per centum, as the case may be, being furnished such services under the supervision of that agency.

(2) For the purpose of this subsection, the term "State" does not include American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(c) (1) *The jurisdictions to which this subsection applies are American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.*

(2) *Each jurisdiction to which this subsection applies shall be entitled to a grant for the purposes set forth in section 203 in an amount equal to an amount determined by the Commissioner in accordance with criteria established by him, except that the aggregate of the amount to which such jurisdictions are so entitled for any period shall not exceed an amount equal to 1 per centum of the aggregate of the amounts to which all States are entitled under subsection (b) of this section for that period. If the aggregate of the amounts, determined by the Commissioner pursuant to the preceding sentence, to be so needed for any period exceeds an amount equal to such 1 per centum limitation, the entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such 1 per centum limitation.*

(d) *Notwithstanding any other provision of this section, no State educational agency shall be entitled to receive a grant for any period in excess of the amount equal to the amount to which such agency would otherwise be entitled under this section for that period minus the sum of the amounts received by the local educational agencies of that State and by that State educational agency for that period under the Indochina Migration and Refugee Assistance Act of 1975.*

(e) *Determinations with respect to the number of Indochinese refugee children by the Commissioner under this section for any period shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate, because of an underestimate, to deprive any State educational agency of its entitlement to any payment (or the amount thereof), under this section to which such agency would be entitled had such determination been made on the basis of accurate data.*

#### USES OF FUNDS

*SEC. 203. Payments made under this title to any State may be used in accordance with applications approved under section 205 for public educational services for Indochinese refugee children in the schools of the local educational agencies of that State and in elementary and secondary nonpublic schools of that State.*

#### ALLOCATION OF APPROPRIATIONS

*SEC. 204. (a) If the sums appropriated for the period from July 1, 1976, to September 30, 1977, for making the payments provided for in this title are not sufficient to pay in full the total amounts which State educational agencies are entitled to receive under this title for such period, the allocations to such State educational agencies shall be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated.*

*(b) In the event that funds become available for making payments under this title for such period after allocations have been made under*



subsection (a) for that period, the amounts reduced under subsection (a) shall be increased on the same basis as they were reduced.

#### APPLICATIONS

Sec. 205. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Commissioner at such time, in such manner, and containing or accompanied by such information, as the Commissioner may reasonably require. Each such application shall—

(1) provide that the educational programs, services, and activities for which payments under this title are made will be administered by or under the supervision of the agency;

(2) provide that payments under this title will be used for purposes set forth in section 203;

(3) provide assurances that such payments will be distributed among local educational agencies within that State in accordance with sections 202(b)(1) and 202(d);

(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

(5) provide for making periodic reports to the Commissioner evaluating the effectiveness of the payments made under this title, and such other reports as the Commissioner may reasonably require to perform his functions under this title; and

(6) provide assurances—

(i) that to the extent consistent with the number of Indo-chinese refugee children enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of these children secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children;

(ii) that the control of funds provided under this paragraph and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property; and

(iii) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization; and such employment or contract shall be under the control and supervision of such public agency, and the funds pro-

vided under this paragraph shall not be commingled with State or local funds.

(b) The Commissioner shall approve an application which meets the requirements of subsection (a). The Commissioner shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

#### PAYMENTS

SEC. 206. (a) The Commissioner shall pay to each State educational agency having an application approved under section 205 the amount which that State is entitled to receive under this title.

(b) The Commissioner is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this title, except that the total of such payments for any period shall not exceed 1 per centum of the amounts which that State educational agency is entitled to receive for that period under this title.

(c) If a State is prohibited by law from providing public educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 205 (a) (6), the Commissioner may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this title.

#### WITHHOLDING

SEC. 207. Whenever the Commissioner, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of this title, the Commissioner shall notify that agency that further payments will not be made to the agency under this title, or in his discretion, that the State educational agency shall not make further payments under this title to specified local educational agencies (whose actions cause or are involved in such failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State educational agency under this title or payments by the State educational agency under this title shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

#### AUTHORIZATION OF APPROPRIATIONS

SEC. 208. There are authorized to be appropriated for the period beginning July 1, 1976, and ending September 30, 1977, such sums as may be necessary to make payments to which State educational agencies are entitled under this title and payments for administration under section 206 (b).

## TITLE III—ADULT EDUCATION PROVISION

## AMENDMENT TO THE ADULT EDUCATION ACT

SEC. 301. *The Adult Education Act (Public Law 91-230) is amended by adding the following new section at the end thereof:*

*“EMERGENCY ADULT EDUCATION PROGRAM FOR INDOCHINA REFUGEES*

*“SEC. 315. (a) From the appropriations authorized for the period beginning July 1, 1976, and ending September 30, 1977, but not appropriated for other programs under this title, the Commissioner shall carry out a program of making grants to State and local education agencies for such years for the purpose of operating special adult education programs for Indochina refugees, as defined in section 3 of the Indochina Migration and Refugee Assistance Act of 1975. Such grants may be used for—*

*“(1) programs of instruction of adult refugees in basic reading, mathematics, development and enhancement of necessary skills, and promotion of literacy among refugee adults, for the purpose of enabling them to become productive members of American society;*

*“(2) administrative costs of planning and operating such programs of instruction;*

*“(3) educational support services which meet the needs of adult refugees, including but not limited to guidance and counseling with regard to educational, career, and employment opportunities; and*

*“(4) special projects designed to operate in conjunction with existing Federal and non-Federal programs and activities to develop occupational and related skills for individuals, particularly programs authorized under the Comprehensive Employment and Training Act of 1973 or under the Vocational Education Act of 1963.*

*“(b) The Commissioner shall not approve an application for a grant under this section unless (1) in the case of an application by a local education agency, it has been reviewed by the respective State education agency which shall provide assurance to the Commissioner that, if approved by the Commissioner, the grant will not duplicate existing and available programs of adult education which meet the special needs of Indochina refugees, and (2) the application includes a plan acceptable to the Commissioner which provides reasonable assurances that adult refugees who are in need of a program are located in an area near that State or local education agency, and would participate in the program if available.*

*“(c) Applications for a grant under this section shall be submitted at such time, in such manner, and contain such information as the Commissioner may reasonably require.*

*“(d) Notwithstanding the provisions of sections 305 and 307 (a), the Commissioner shall pay all the costs of applications approved by him under this section.”.*

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the Senate bill and agree to the same.

CARL D. PERKINS,  
WILLIAM D. FORD,  
PATSY T. MINK,  
LOYD MEEDS,  
SHIRLEY CHISHOLM,  
WILLIAM LEHMAN,  
PAUL SIMON,  
TIM L. HALL,  
MIKE BLOUIN,  
JAMES G. O'HARA,  
LEO ZEFERETTI,  
GEORGE MILLER,  
ALBERT H. QUIE,  
ALPHONZO BELL,  
EDWIN D. ESHLEMAN,  
JOHN BUCHANAN,  
LARRY PRESSLER,  
BILL GOODLING,  
JAMES M. JEFFORDS,

*Managers on the Part of the House.*

CLAIBORNE PELL,  
JENNINGS RANDOLPH,  
HARRISON A. WILLIAMS, Jr.,  
EDWARD M. KENNEDY,  
WALTER F. MONDALE,  
TOM EAGLETON,  
ALAN CRANSTON,  
WILLIAM D. HATHAWAY,  
J. GLENN BEALL, Jr.,  
J. K. JAVITS,  
DICK SCHWEIKER,  
ROBERT T. STAFFORD,  
ROBERT TAFT, Jr.,

*Managers on the Part of the Senate.*

## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill S. 2145, to provide Federal financial assistance to State in order to assist local educational agencies to provide public education to Vietnamese and Cambodian refugee children, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompany conference report:

The House amendments to the text of the bill struck out all after the resolving clause and inserted a substitute text. The conference report recommends a substitute text for both the text of the bill and the House amendments. Except for minor, technical, and clarifying differences, this statement describes the actions of the conferees in resolving differences in the bill and the amendments.

1. *Definition of "Indochinese refugee children."*—The Senate bill limits the Indochinese refugee children to be assisted under this new program to those who are receiving a free public education. The House amendments include refugee children in both public and private schools. The Senate recedes.

2. *Definition of "current expenditures."*—The House Amendments, but not the Senate bill, limit the amount of these grants by defining the "current expenditures" used in computing these grants to exclude those expenditures attributable to fixed charges, administration, transportation, and building maintenance. The Senate recedes on this provision as regards fiscal year 1976, and the House recedes on this provision as regards the period beginning July 1, 1976, and ending September 30, 1977.

3. *Definition of "nonpublic schools."*—The House amendments, but not the Senate bill, contain a definition of "nonpublic schools." The Senate recedes.

4. *Duration of the legislation.*—The Senate bill authorizes grants for two fiscal years (1976 and 1977) and for the transition quarter. The House amendments authorize grants only for fiscal year 1976. The House recedes, with the understanding on the part of the conferees that the legislation shall be funded for the transition quarter and for fiscal year 1977 only, and that no further appropriations will be sought under the contingent extension authority of section 414 of the General Education Provisions Act.

5. *Determination of entitlements.*—The Senate bill determines a State's entitlement for funds by multiplying the number of Indochina refugee children in average daily attendance in public schools within the State by the average per pupil expenditure for that State. Each State's entitlement must, however, be reduced by the amounts

received within that State under the Indochina Migration and Refugee Assistance Act of 1975.

The House amendments determine each State's entitlement as the amount which, in addition to grants received under the Indochina Migration and Refugee Assistance Act, equals the additional expenditures (as defined by the Commissioner) incurred in providing additional basic educational services and necessary supplementary educational services for these children. Each State's entitlement, however, may not exceed an amount which, when combined with any grants under the Indochina Migration and Refugee Assistance Act, equals the average per pupil expenditure in such State multiplied by the number of Indochina refugee children receiving public educational services in such State. After determining each State's entitlement thusly, the House amendments then reduce each State's grant by the amount of the grants received under the Indochina Migration and Refugee Assistance Act.

The Senate recedes on this provision as regards fiscal year 1976, and the conference agreement provides that, for the period beginning July 1, 1976, and ending September 30, 1977, each State's entitlement shall be an amount equal to the number of Indochinese refugee children receiving public educational services under the supervision of a local educational agency multiplied by \$300 for the first one hundred such children or the number equalling one percent of the total enrollment, and \$600 for each additional child.

6. *Inclusion of Guam.*—The House amendments, but not the Senate bill, treat Guam as a State for purposes of grants. The Senate recedes.

7. *Uses of funds.*—The Senate bill authorizes the use of these funds for educational programs for refugee children. The House amendments state that those funds can be used to provide refugee children with:

- (1) supplementary education services necessary to enable those children to achieve a satisfactory level of performance,
- (2) additional basic instructional services which are directly attributable to the presence of such children, and
- (3) special in-service training for personnel who will be providing instruction.

Under the House amendments the Commissioner must prescribe standards for determining the actual additional expenditures incurred in providing these educational services. Such standards may include maximum allowable costs and the categories of programs for which funds may be used. The Senate recedes on these provisions as regards fiscal year 1976, and the House recedes on these provisions as regards the period beginning July 1, 1976, and ending September 30, 1977.

8. *Applications.*—The Senate bill requires States to distribute funds among local educational agencies in proportion to their numbers of refugee children, taking into consideration per pupil expenditures and grants under the Indochina Migration and Refugee Assistance Act. The House amendments provide that every State must demonstrate that the costs of additional instructional services are the direct result of the presence of refugee children and that those services will actually be provided to such children. The House amendments also provide

that payments must be distributed between the State educational agency and local educational agencies in proportion to the contribution to such costs by each such agency. The Senate recedes on these provisions as regards fiscal year 1976, and the House recedes on these provisions as regards the period beginning July 1, 1976, and ending September 30, 1977, with an amendment providing for distribution of funds to local educational agencies according to the \$300/\$600 per child formula adopted by the conference.

9. *Reports.*—The Senate bill requires from the States periodic reports evaluating the effectiveness of payments under the Act and also such other reports as the Commissioner may request. The House amendments only require such reports as the Commissioner may request. The Senate recedes on this provision as regards fiscal year 1976, and the House recedes on the provision as regards the period beginning July 1, 1976, and ending September 30, 1977.

10. *Participation of nonpublic school children.*—The House amendments, but not the Senate bill, require the participation of refugee children enrolled in nonpublic schools in programs funded under the Act. The Senate recedes.

11. *Supplementary assistance grants.*—The Senate bill, but not the House amendments, authorizes supplementary assistance grants of \$300 a child to those State educational agencies which provide for the unique educational needs of Indochinese refugee children in local educational agencies. The authorization of appropriations for this purpose is \$14 million for fiscal year 1976, \$3.75 million for the transition quarter, and \$7.25 million for fiscal year 1977. The Senate recedes.

12. *“By-pass” provision for nonpublic school children.*—The House amendments, but not the Senate bill, contain a “by-pass” provision for the participation of nonpublic school children. The Senate recedes.

13. *Authorization of appropriations.*—The Senate bill authorizes the appropriation of \$57 million for fiscal year 1976, \$14.5 million for the transition quarter, and \$29 million for fiscal year 1977 for the basic grants and the State administrative grants. The House amendments authorize such sums as may be necessary for both purposes for fiscal year 1976. The conference agreement authorizes such sums as may be necessary for fiscal year 1976 and for the period beginning July 1, 1976, and ending September 30, 1977.

14. *Emergency adult education program for Indochina refugees.*—The Senate bill authorizes appropriations for programs for adult Indochina refugees from the remainder of any unappropriated portions of the authorization of the Adult Education Act. These grants would be used for programs of instruction of adult refugees in reading and mathematics, the administrative costs of planning and operating such programs, support services to meet the educational needs of adult refugees, and specially designed education projects. The conference agreement authorizes the use of Adult Education Act funds for these emergency programs for the period beginning July 1, 1976, and ending September 30, 1977, and clarifies that the support services shall be educational and the special projects shall be those designed to operate in conjunction with existing Federal and non-Federal programs and activities to develop occupational and related skills.

15. *Title.*—The House amendments amend the title of the Act to delete the word “public” before the word “education.” The Senate recedes.

CARL D. PERKINS,  
 WILLIAM D. FORD,  
 PATSY T. MINK,  
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 JENNINGS RANDOLPH,  
 HARRISON A. WILLIAMS, Jr.,  
 EDWARD M. KENNEDY,  
 WALTER F. MONDALE,  
 TOM EAGLETON,  
 ALAN CRANSTON,  
 WILLIAM D. HATHAWAY,  
 J. GLENN BEALL, Jr.,  
 J. K. JAVITS,  
 DICK SCHWEIKER,  
 ROBERT T. STAFFORD,  
 ROBERT TAFT, Jr.,

*Managers on the Part of the Senate.*





## INDOCHINA REFUGEE CHILDREN ASSISTANCE ACT OF 1975

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DECEMBER 12, 1975.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. PERKINS, from the Committee on Education and Labor,  
submitted the following

### REPORT

[To accompany H.R. 7897]

together with

### DISSENTING VIEWS

The Committee on Education and Labor, to whom was referred the bill (H.R. 7897) to authorize funds for assistance to local educational agencies for the education of Cambodian and Vietnamese refugees, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendment to the text of the bill is a complete substitute therefor and appears in italic type in the reported bill.

The title of the bill is amended to reflect the amendment to the text of the bill.

### SUMMARY OF THE BILL

H.R. 7897, as reported by the committee, authorizes grants to State educational agencies for the purpose of reimbursing State and local educational agencies for the costs of providing a regular education program for Indochinese refugee children. Each State's maximum grant is computed by multiplying the number of Indochinese refugee children attending elementary and secondary schools within the State by the State's average per pupil expenditure (exclusive of costs attributable to administration and fixed charges). This maximum grant, however, must be reduced by the amount received by local educational agencies in the State under the Indochinese Migration and Refugee Assistance Act of 1975. For fiscal year 1976 and for the transition quarter, each State's entitlement would be 100 percent of this reduced amount; but for fiscal 1977, each State's entitlement would only be 50 percent of this amount.

For fiscal year 1976, for the transition period to the new fiscal year, and for fiscal year 1977, such sums as may be necessary are authorized to be appropriated for these grants and for grants to the States for related administration.

The reported bill also authorizes grants to State educational agencies for any administration connected with grants made under this bill. No such grant to any State, however, can exceed 1 percent of the amount of the grant entitlement of that State under this act.

#### COMMITTEE CONSIDERATION

H.R. 7897 was introduced on June 13, 1975, by Congressman Roybal with 20 cosponsors. The Subcommittee on Elementary, Secondary, and Vocational Education conducted a hearing on H.R. 7897 on November 5, 1975, at which testimony was received from Congressmen Hannaford and Mineta, representatives of the Department of Health, Education, and Welfare (Hon. Terrel H. Bell, Commissioner of Education; Ms. Julia Vadala Taft, Director, Interagency Task Force for Indochina; Dr. Lee E. Wickline, Director of Refugee Assistance Task Force; and Mr. Richard H. Hastings, Deputy Assistant Secretary for Legislation), and a panel of educators from California (Dr. Donald McKinley, State chief deputy superintendent; Mr. Don White, State deputy superintendent for congressional relations; and Mr. David W. Gordon, executive assistant to the State chief deputy superintendent). Also testifying was Dr. Joseph Cronin, the superintendent of schools for the State of Illinois; Mr. James R. Kirkpatrick, associate secretary for the American Association of School Administrators; and Dr. August Steinhilber, assistant executive director of the Office of Federal Relations of the National School Boards Association. All the witnesses, except for the departmental representatives, supported the legislation.

The Subcommittee on Elementary, Secondary, and Vocational Education reported an amendment in the nature of a substitute for the original text of H.R. 7897 on November 13th by a vote of 13 to 6. The subcommittee's substitute closely parallels S. 2145, the version of the legislation which was passed by the Senate on October 29th.

The full Committee on Education and Labor considered the subcommittee's reported bill on December 9. The committee amended that bill and reported it to the House by a vote of 26 yes, 8 no, and 1 present.

#### NEED FOR LEGISLATION

In order to understand the need for this legislation it is necessary to review the origins of the recent immigration into the United States of tens of thousands of refugees from South Vietnam and Cambodia.

In April of 1975 the President authorized, as a result of the tragedy in Vietnam, the admission to the United States of some 130,000 Vietnamese and Khmer (Cambodian) refugees, an action subsequently approved by the Congress. On April 18 the President drew together the civilian agencies of the Federal Government into an Inter-Agency Task Force to administer a refugee resettlement program within the United States and to third countries, in cooperation with individuals and volunteer agencies.

From the beginning, the Federal Government's intent to alleviate adverse State and local impact seemed clear. On May 3, 1975, Ambassador L. Dean Brown cabled U.S. Governors with details of the resettlement program, and his message said in part:

We believe the social and economic impact will be minimal \* \* \* State and local authorities will suffer no direct fiscal hardship and little indirect hardship from the influx.

To fulfill this promise of no State or local hardship the Administration proposed to Congress the enactment of an Indochina Migration and Refugee Assistance Act of 1975. In describing that bill before the Senate Foreign Relations Committee on May 12, the Administration's representative, Ambassador Brown testified as follows:

Every effort will be made to ensure the resettlement to the extent possible will not be concentrated in a few enclaves in the country and will not result in economic or social service hardship. The Department for HEW, subject to Congressional action on the Administration's bill, will provide *full reimbursement to State and local social service and health agencies for costs they may incur in providing income assistance, health maintenance, social services and educational services to refugees who are in need of such assistance.* [Emphasis supplied.]

The administration's intent seemed clear that full assistance would be provided for the education of these refugees under its proposed act. The congressional intent when the act was being considered also seemed clear that there would be full reimbursement for the education of these refugees.

In Senate floor debate on the bill S. 1661, Senator Sparkman, chairman of the Foreign Relations Committee of the Senate, noted that the committee was "very much aware of the potential refugee impact on schools" and cited language in the committee report that—

The committee anticipates that HEW will develop procedures to ensure that local communities will not be adversely affected by the resettlement of refugees.

During the House consideration of this legislation on May 14, 1975, Congressman Norman Mineta asked Congressman Otto Passman, chairman of the Subcommittee on Foreign Operations Appropriations "whether it is the intent of Congress that the Federal Government would retain 100 percent of the costs of relocation, health, education, welfare and employment in terms of the costs of the refugees." Chairman Passman's response was unequivocal: "That is absolutely right."

Therefore, schools had little or no reason to suspect that local or State educational agencies would not receive full payment for these children the same as other agencies providing services to them. The Federal Government had made clear its intention to pay for the relocation and education of these refugees.

It must also be recognized that school budgets are finalized in early spring. Enrollment projects are set, teachers and other personnel hired, and curriculum materials purchased. For most schools, having made their financial commitments about a month in advance of the

announced Federal refugee acceptance and relocations policy, budget revisions to accommodate an unknown quantity of refugee children—with special educational needs costing additional dollars—was not feasible. There was no practical way to rework budgets and raise additional revenues.

The financial dilemma for schools was compounded by the numbers of refugees and the speed with which the immigration was accomplished. In the words of Ambassador Brown:

\* \* \* we are faced with a situation of unprecedented dimensions. Never before have we been called upon to absorb as large an influx in so short a period of time. \* \* \* We do not have the cushion which camps for displaced persons in Europe provided or the flexibility which the gradual arrival of Cubans over a period of several years afforded us.

Schools, therefore, reacted with understandable dismay when then-HEW Secretary Caspar W. Weinberger, meeting with media representatives on June 5, seemed to reverse the Department's position and said "we will not follow refugees into the various home communities and pay for services rendered by the community." Secretary Weinberger said also on that date that only about \$2 million of the \$405 million appropriated by Congress for the Indochina Migration and Refugee Assistance Act could be used to reimburse educational expenses and only then where there was "a very large impact on a small school district." Subsequently, HEW announced that a one-time payment of \$300 per refugee child would be made to school districts enrolling 100 refugee students, or 1 percent of their total enrollment, whichever was less. Guidelines for the policy, however, were not published and schools received no word as to how the payment policy would be carried out.

As a consequence of this breach of faith by the administration, H.R. 7897 was introduced by Congressman Roybal on June 13, and a companion Senate bill, S. 2145, was introduced by Senators Cranston and Tunney on July 21, 1975. On September 9, at a hearing of the Senate Subcommittee on Education on S. 2145, HEW officials announced a new policy wherein districts enrolling 1 to 100 refugee children would receive a one-time payment of \$300 per refugee child; and the Department would pay \$600 for each refugee child the district enrolls above 100, or 1 percent of the total student population, whichever is less. The Department announced it would provide grants to State educational agencies equal to 5 percent of the total funds received by school districts within the State, such moneys to be used for leadership and training activities.

The committee is pleased to note that HEW has recognized that it bears a greater responsibility for the education of these refugee children than it had previously acknowledged. However, we do not believe that the Department's new policy fulfills the administration's promises to pay for the cost of the education of these children. Nor does it carry out the congressional intent regarding payments for these children as expressed during the Senate and House consideration of the Indochina Migration and Refugee Assistance Act.

In particular, the committee finds the Department's latest policy to be deficient in fulfilling the Federal obligation for these children in the following regards:

(1) The amounts proposed in the administration's program are simply inadequate to pay for the cost of providing an education for these children. Since the national average per pupil expenditure was \$1,255 for this past school year, the administration's proposal to pay \$300 for every child will mean that States and local school districts will have to assume three-fourths of these costs. If a school district has a heavy impact of these children and receives \$600 a child, it will still have to pay for one-half of the cost of their education.

(2) Even if the payments under the administration's program are used by local school districts to pay part of the cost of providing a regular education to refugee children, school districts will need additional funds in order to provide the extra services which will be needed by these children. Almost 70 percent of the Indochinese refugees in this country have no English language skill, and an additional 17.4 percent of these refugees have only some English language skill. This means that school districts will have to provide bilingual education and related services in order to ease the transition of these children into the regular education program.

(3) The administration's proposal is also deficient in that it provides for a 1-year only grant. The costs of educating these children should be phased into State and local budgets over at least a 2-year period of time.

(4) The administration's proposal pays less to school districts with fewer children even though the costs of beginning a program to meet the needs of fewer children are often many times greater than the costs of meeting the needs of a larger number of students.

#### DISCUSSION OF THE BILL AS REPORTED

H.R. 7897, as reported by the committee, authorizes grants for the education of Indochinese refugee children and for the administration of programs related to their education.

#### REGULAR EDUCATION GRANTS

The bill, as reported, authorizes the Commissioner of Education to make grants to State educational agencies for fiscal years 1976 and 1977 for reimbursing these agencies and local school districts for the costs of providing regular education programs for Indochinese refugee children.

The amounts of these grants are determined by multiplying the number of Indochinese refugee children in elementary and secondary schools in each State by the average per pupil expenditure for that State. Each State's entitlement, however, is reduced by the amount that school districts within the State have received for education under the Indochina Migration and Refugee Assistance Act of 1975. For fiscal year 1976 and for the transition quarter, the amount derived at after the calculations in the preceding two sentences would be the State's maximum grant amount. For fiscal year 1977, the State's maximum grant could only be 50 percent of this computation.

The bill defines the average per pupil expenditure to be used in making these calculations as all current expenditures within the State

for providing free public education except for those expenditures attributable to fixed charges and administration. The committee excluded those two particular costs of providing an education in order to exclude from the Federal grant costs which a school district would be incurring regardless of the presence of these refugee children. In the 1973-74 school year fixed charges (which include payments on loans and payments for retirement benefits) amounted to 11.5 percent of total current expenditures for education. Costs for administration amounted to 3.6 percent.

Guam and the Commonwealth of Puerto Rico are treated as States for purposes of determining grants. The other outlying areas will receive grants under a 1-percent setaside of funds.

Once a State educational agency receives its grant, it can retain an amount at the State level which equals the amount the State educational agency has provided for the education of these children. The remainder of the grant must be distributed to local school districts on the basis of their per pupil expenditures and on the basis of the number of refugee children in schools in the district. Each grant to a local school district, however, must be reduced by the amount which that school district has received for education under the Indochina Migration and Refugee Act.

The process of reducing these grants to local school districts by the amounts received under the Indochina Act is not meant to result in any funds received by a State under this act being turned back to the Federal Government. Rather, it is meant to be solely a process whereby a school district is foreclosed from receiving double payments for the same children. All the funds received by a State under this act are meant to be used within that State for education.

Payments under this act for these grants must be used for reimbursing State and local agencies for providing a regular education program for these children. To the extent consistent with the number of such children enrolled in nonpublic schools, the public school district must provide for the benefit of these children secular, neutral, and nonideological services, materials, and equipment from these funds.

#### SUPPLEMENTARY ASSISTANCE GRANTS

The Senate version of this legislation, as well as the subcommittee reported bill, included authorizations for supplementary assistance grants. These grants were meant to be used for additional costs in educating refugee children, such as bilingual education and tutorial assistance.

The committee's reported bill deletes these authorizations since it was felt that they would be redundant due to the existence of the administration's program for these purposes for fiscal year 1976.

#### ADMINISTRATION GRANTS

The bill also authorizes grants to State educational agencies for the purpose of paying for the administration related to the regular education grants. No grant to any State educational agency may exceed 1 percent of the amounts to which that agency is otherwise entitled under this bill.

## OVERSIGHT

No oversight findings have been presented to the committee by the Committee on Government Operations. The committee's own findings as regards the administration's proposed program for the education of Indochinese refugee children are contained in the section above on the need for the legislation.

## INFLATIONARY IMPACT

Since the total costs of the bill for the transition quarter and for 2 fiscal years is only approximately \$56.7 million, the committee anticipates minimal inflationary impact. The authorization for fiscal 1976 will amount to only 0.0101 percent of the total Federal budget. This amount will also equal only 0.0025 percent of the gross national product.

A comparable comparison for fiscal 1977 would be that the authorization for 1977 would amount to only a 0.0050 percent of the estimated total Federal budget for 1977 and only 0.0011 percent of the estimated gross national product.

## Costs

The Committee has received cost estimates on H.R. 7897 as reported both from the Administration and from the Congressional Budget Office. The Committee adopts the estimates supplied by the Congressional Budget Office in fulfillment of the requirements of clause 7 of rule 13.

The CBO and the Administration estimates follow:

## CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. *Bill Number:* H.R. 7897
2. *Bill Title:* Indochina Refugee Children Assistance Act of 1975
3. *Purpose of Bill:* To provide funds to any state for educational purposes, services, and activities for Indochinese refugee children in the schools of the local educational agencies of that State, or in the elementary or secondary nonpublic schools of that State. This bill is an authorization and does not directly provide budget authority. The authorization is for fiscal year 1976 and fiscal year 1977.
4. *Budget Impact:*

Authorization amount:	<i>Millions</i>
Fiscal year 1976.....	\$26.9
Transition quarter.....	6.7
Fiscal year 1977.....	23.1

5. *Basis for Estimate:* Using data compiled by the Congressional Research Service on average per pupil expenditures, minus fixed charges and administration, the basic entitlement level (\$41.1 million) of this bill was established. As specified in the bill, FY 1974 data was used to compute the FY 76 entitlement level. The transition quarter estimate was assumed to be 25 percent of the FY 76 cost. An inflation factor of 10 percent, which corresponds to that inflation which was experienced in recent years on average per pupil expenditures, was

used to compute the FY 77 entitlement level. In addition to the basic grant entitlement level for the 50 states, plus the District of Columbia and Puerto Rico, for FY 76, 1 percent (\$.4 million) was added for grants to outlying areas in accordance with section 3, and an additional 1 percent (\$.4 million) was added for administration in accordance with section 8. From this subtotal of \$41.9 million, we subtracted \$15 million as the amount of estimated payments to be provided under P.L. 94-23 (only in FY 76) as specified under section 3(b). These procedures yield a resulting estimate of \$26.9 million.

6. *Estimate Comparison:*

HEW estimate:

Fiscal year 1976.....	\$30.1
Transition quarter.....	11.3
Fiscal year 1977.....	23.4

CBO estimate:

Fiscal year 1976.....	26.9
Transition quarter.....	6.7
Fiscal year 1977.....	23.1

The estimates by the Department of Health, Education, and Welfare and the CBO are reasonably consistent, both in terms of methodology and results. The differences that do exist are primarily attributable to the fact that HEW used national data in developing its estimates, while CBO used State data.

7. *Previous CBO Estimate:* No previous estimate.

8. *Estimate Prepared by:* Jeffrey J. Koshel (225-4972).

9. *Estimate Approved by:*

JAMES L. BLUM,  
*Assistant Director for Budget Analysis.*

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE  
COST ESTIMATES, H.R. 7897 (AMENDED DEC. 9, 1975), AS REPORTED

	Fiscal year transition period July 1, to		
	Fiscal year 1976	Sept. 30, 1976	Fiscal year 1977
Grants authorized in sec. 3.....	\$44,640,110	\$11,160,027	\$23,207,679
Grants to SEA's authorized under sec. 8(b).....	446,401	111,600	232,077
Subtotal.....	45,086,511	11,271,627	23,439,756
Less the amount granted under Public Law 94-23 as provided in sec. 3(b).....	15,000,000		
Total estimated cost.....	30,086,511	11,271,627	23,439,756

ADMINISTRATION'S VIEWS

The Committee has received the following letter from the Secretary of Health, Education, and Welfare on H.R. 7897.

HON. CARL D. PERKINS,  
*Chairman, Committee on Education and Labor, U.S. House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: As the House Committee on Education and Labor prepares to vote on H.R. 7897, the "Indichina Refugee Children



Assistance Act of 1975," I would like to share with you the Administration's position on this measure.

Basically, we oppose H.R. 7897, not because we do not believe that a legitimate need for educational financial assistance for Indochinese refugees exists, but rather because we believe that the Federal government has taken steps to provide appropriate assistance to State and local educational agencies.

Under the authority of the Indochina Migration and Refugee Assistance Act of 1975, the Department is currently offering the following educational assistance to Indochina refugees:

### *I. For School Age Children*

(a) \$300 is being paid to local school districts for every refugee child in order to provide supplemental services.

(b) An additional \$300 per refugee child above a certain threshold is being paid to heavily impacted districts.

(c) Grants will be given to State educational agencies for related leadership and training activities.

Regulations for this program were published in the *Federal Register* on October 10 and the U.S. Office of Education has begun making payments to school districts.

### *II. For Adults*

Grants are being made to State educational agencies to offer English instruction to adult refugees under the Adult Education Program. Regulations for this program were published in the *Federal Register* on October 22 and funds will be distributed to the States beginning this month.

It is estimated that the Department's total refugee educational program will cost \$20 million, as contrasted to the \$100.5 million recommended in H.R. 7897. We believe that our program is far more realistic, both with respect to resources available in the present Federal budget and with respect to the actual need.

We need to remember that we are adding only 40,000 Indochinese children to an American school system of nearly 45 million students, an addition of less than 1/10 of 1% of the total student population. The \$20 million we propose to spend on educational programs for Indochinese refugee children and adults should be sufficient to meet the one-time supplemental needs created by this small addition.

Finally, we would note that H.R. 7897 would make payments to educational agencies equal to the current annual average per pupil expenditure in local school districts. This level of support would establish a standard of Federal assistance far more generous than that available to other categories of students in need of assistance, thus raising major issues of equity. We believe that the responsibility for providing the basic educational costs should be borne by State and local governments, which is their historic role.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Cordially,

DAVID MATTHEWS,  
*Secretary.*

## SECTION-BY-SECTION ANALYSIS

*Section 1*

This bill is titled the "Indochina Refugee Children Assistance Act of 1975."

*Section 2*

Definitions are contained in this section for the terms used in the act.

The term "current expenditures" is defined as all current expenditures for free public education except for those expenditures attributable to fixed charges and administration.

*Section 3*

Each State educational agency is entitled under this section to a grant for fiscal year 1976 and to another grant for fiscal year 1977. The amount of this grant is determined by multiplying the number of Indochina refugee children, aged 5 to 17, attending school within the State by the average per pupil expenditure of that State. Each State's entitlement is reduced in direct proportion to the amount received in that State in grants for education under the Indochina Migration and Refugee Assistance Act of 1975.

The outlying areas are entitled to grants equal to 1 percent of all the States' entitlements. Guam and the Commonwealth of Puerto Rico, however, are treated as regular States.

*Section 4*

Grants under section 3 are to be used for reimbursing States and local school districts for the basic expenses involved in educating these children.

*Section 5*

Each State's grant is ratably reduced if appropriations are not adequate.

*Section 6*

Each State's grant is divided between the State educational agency and local school districts in proportion to the extent that State and local funds are used to support the education of these children. The amount of the State's grant for local school districts is distributed among such districts in proportion to the number of such children in schools in each such local school district and in proportion to the per pupil expenditure of each such district. However, each local school district's grant is reduced by the amount received by that district for education under the Indochina Migration and Refugee Assistant Act.

These funds are to be used by the State and by local school districts for reimbursing their costs in providing a regular education for these children. Local school districts are also to provide secular, neutral, and nonideological services for children in private schools to the extent consistent with the number of Indochina refugee children enrolled in such schools.

*Section 7*

Each State is also authorized to receive a grant for the administrative purposes involved in operating these programs. No State's

grant for this purpose, however, may exceed 1 percent of the regular entitlements under the act.

*Section 8*

The Commissioner is authorized to withhold payments if the terms of the act are not being complied with after giving notice and an opportunity for a hearing.

*Section 9*

For the purpose of making grants under section 3 and for the purpose of making State administrative grants, there are authorized to be appropriated for fiscal 1976, for the transition period, and for fiscal 1977 such sums as may be necessary.

*Title*

The title of the bill is amended to reflect the committee's amendment in the nature of a substitute.

## DISSENTING VIEWS ON H.R. 7897—THE INDOCHINA REFUGEE CHILDREN ASSISTANCE ACT OF 1975

The legislation reported by the Committee is the worst example of a rip-off in education at the Federal government's expense that we have ever seen. To date there has been a sound rationale for the passage of virtually every educational program since impact aid. The bill before us now defies rational explanation.

The bill reported by the Subcommittee on Elementary, Secondary and Vocational Education was so outlandish, and the majority of the Committee was so embarrassed at its size and the lavishness of the grants that it would have provided to local school districts, that the Committee sponsors of the legislation offered their own amendments to modestly pare down the size of the bill.

Prior to that action, the bill would have enabled a school district located in a state which has an expenditure level of \$1,255 per student, which is the national average, to receive some \$1,555 for every refugee child enrolled. The amendment offered in the Committee struck the section of the bill which provided for supplemental grants of \$300 per child and redefined current expenditure to remove a small portion of the costs which the school district would not incur in any event with respect to the presence of these children.

As the bill before the House now stands, a school district located in a state with the average national cost would receive \$1,066 per child. This is equivalent to 85 percent of the per-pupil cost. The 15 percent which is not taken into account is attributable to some administrative costs and fixed charges relating to bond indebtedness and school construction. The bill, however, is still a colossal rip-off. No district would have to prove it had expended a single dollar on the education of Indochina refugee children. We have no objection to actually reimbursing districts for the extra costs they incur, up to a reasonable maximum. What we strongly object to is that a district can enroll these students, receive a sizable sum under the Committee-reported bill and then not have to use one cent of that money for the extra expenses which might be required by the presence of these refugee children.

In many school districts, it is our belief that there would not be any significant additional costs. A number of these students either came to this country with some English language facility or received English instruction in the resettlement centers located in California, Arkansas, Pennsylvania, and Florida. Since the refugees are so widely dispersed, it is clear that no district will have to build additional buildings. We know of no instances where districts will have to purchase new buses, or hire new maintenance staff, or contract for more heating fuel. There are certainly instances where some additional assistance may be offered in terms of providing classes in English as a second language or in purchasing some materials which would be of particular assistance to these students. These are legitimate costs, and districts should receive assistance in meeting those costs during this school year.

Under provisions of the Indochina Migration and Refugee Assistance Act, passed by the Congress last May, the Congress has made available \$405 million to assist in, among other things, the resettlement of the refugees who came to this country last spring. HEW, under general authority of that act, has begun to provide \$300 for every Indochina refugee child enrolled in any school district in the country. School districts enrolling a number of refugee children equivalent to 1 percent of their enrollment or one hundred or more students are receiving \$600 for every child in excess of the one hundred or 1 percent.

If a district does not meet the 1 percent or one hundred refugee student criteria, that district would receive \$9,000 for thirty refugee children. If the district exceeds the one hundred or 1 percent, it would receive additional funds, perhaps as much as \$13-14,000, for those thirty refugee children. Under the Committee-passed bill, a district with that same group of thirty refugee children would receive \$37,650 if it were located in a state with the average national cost of \$1,255 per child. High-cost states such as New York or Alaska would receive significantly more in reimbursement, and lower-cost states would be proportionately reduced.

If we assume that a teacher in our average state receives \$12,000 and a teacher aid \$6,000, and that a generous \$2,000 is spent for extra materials and supplies, then we find that district would spend perhaps \$20,000 for the extra instructional programs associated with those thirty refugee children. This district would have no additional costs of any consequence besides those listed since the building is there, the supportive staff is there, and none of the overhead costs would be increased. We now find that in this average district the school district would be overpaid by about \$17,650. In other words, it would receive 46 percent more from the Federal government than the actual added costs attributable to those children. Using the example of thirty children in a school district, it should be borne in mind that not all of them will be in one classroom, so that additional regular teachers will, in practically every case, not be required. The information available shows that that average school building has fewer than eleven such students.

In November, the U.S. Commissioner of Education was asked to survey school districts with respect to the actual costs they were incurring through the presence of these refugee children. The Commissioner contacted sixteen districts around the country representing schools in California, Kentucky, Louisiana, Michigan, Minnesota, Nebraska, and Pennsylvania. The Commissioner found that these districts were actually spending \$485 per refugee child for instruction and an additional \$48 for materials. These costs total \$533 per child. Under the Committee-passed bill, a school in a state with the average national per-pupil expenditure of \$1,255 would receive exactly double that, or \$1,066 for every child.

The Commissioner's survey also demonstrates vividly the fact that few districts and few schools have been heavily impacted through the presence of these children. Approximately 80 percent of the school districts enroll fewer than twenty-one children per district. Within those districts six out of seven school buildings have fewer than eleven children. The chart below illustrates the dispersion of the refugee children in the sixteen surveyed districts:

ENROLLMENTS OF INDOCHINESE REFUGEE CHILDREN IN 16 SELECTED SCHOOL DISTRICTS

State and name of district	Total school enrollment	Number of refugees enrolled	Number of schools in district	Number of schools enrolling refugees	Number of schools enrolling refugee children by enrollment category, category by number of children enrolled															
					0-10	11-20	21-30	31-40	41-50	51-60	61-70	71-80	81-90	91-100						
California:																				
Los Angeles Unified.....	608,998	1,134	629	224	200	16	6	1												1
Grossmont Union.....	21,848	49	11	5	4	1														
Kentucky: McLean County.....	2,100	5	5	1	1															
Louisiana:																				
Jefferson Parish.....	70,000	223	82	20	16	1	1				1									1
New Orleans.....	94,808	276	135	20	14	2			3											1
Lafayette.....	59,340	28	33	12	22															
Michigan:																				
Grand Rapids <sup>1</sup> .....	32,000	164	65	7	2		2	3												
Holland.....	5,000	3	13	1	1															
Minnesota:																				
St. Paul ISD No. 625 <sup>2</sup> .....	42,857	100	69	1																1
Goodhue County ISD No. 252.....	17,000	11	4	1	1															
Wanamingo ISD No. 258.....	472	9	1	1	1															
Nebraska:																				
Gibbin Public Schools.....	630	10	1	1	1															
Snyder Public Schools.....	153	1	1	1	1															
Pennsylvania:																				
City of York.....	8,501	11	11	3																
Lewisburg Area School District.....	2,400	15	6	4	4															
Central York School District.....	4,200	7	10	3	3															
Total.....	969,587	2,087	1,076	305	264	20	9	7	0	1	0	2	1	1						

<sup>1</sup> Grand Rapids has set up bilingual centers in 5 schools.

<sup>2</sup> All refugee children are bused to 1 TESOL center.

When considering this legislation, Members should keep in mind some additional facts:

1. Data from the Center for Applied Linguistics indicates that about 20 percent of all refugees have either good or very good English skills.

2. A survey done by the State Department Refugee Task Force in November shows that 60 percent of all refugee adults are employed. Considering the fact that these people have been in this country for only about six months, that is a remarkable record. Each of these employed adults is, of course, paying income taxes, sales taxes, and other taxes which contribute to the support of government. In addition, all of the refugees are living in homes or apartments where either they or someone else is paying a property tax which assists in the support of the local schools.

3. Supporters of this legislation claim that the Administration promised that they would assume all costs. In point of fact, the only reference to this issue in the House Judiciary Committee hearings is a May statement by Mr. Julia V. Taft, director of the HEW task force, who said, "If there are only a couple or ten children in one school system, we do not feel that that would require a special per-pupil impact aid provision." That same statement is repeated in the Judiciary Committee's report on the Indochina Migration and Refugee Assistance Act. That is the only mention of the issue made in that report.

4. Of the funds which might be available if the bill becomes law and an appropriation follows, it should be noted that California will receive approximately 25 percent of the dollars available. With few exceptions no other state will receive more than 5 percent. This nation has absorbed approximately 400,000 legal immigrants and countless illegal aliens each year without specific recompense to school districts for providing for the needs of the children involved. The total number of Indochina refugees is about 130,000, about one-third of our average national in-migration.

The Federal government has already recognized its unique role with respect to Indochina refugee children by providing districts with a fair sum in return for their extra costs. We will support an amendment which will provide for any additional extra costs which districts can prove they have undertaken. We do not believe that fairness nor the policies of good government require anything further.

JOHN M. ASHBROOK.  
WILLIAM "BILL" CLAY.  
EDWIN D. ESHLEMAN.  
JAMES M. JEFFORDS.  
ALBERT H. QUIE.  
SHIRLEY CHISHOLM.  
JOHN N. ERLBORN.  
BILL GOODLING.  
RONALD M. MOTTLE.  
RON SARASIN.



# Ninety-fourth Congress of the United States of America

## AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,  
one thousand nine hundred and seventy-six*

### An Act

To provide Federal financial assistance to States in order to assist local educational agencies to provide education to Vietnamese and Cambodian refugee children, 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 "Indochina Refugee Children Assistance Act of 1976".*

#### TITLE I—PROGRAM FOR THE 1976 FISCAL YEAR

##### APPLICABILITY ; DEFINITIONS

Sec. 101. (a) The provisions of this title shall be applicable for fiscal year 1976.

(b) As used in this title—

(1) The term "Commissioner" means the Commissioner of Education.

(2) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law.

(3) The term "free public education" means education which is provided at public expense under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State.

(4) The term "Indochinese refugee children" means children who are refugees within the meaning of that term as defined in section 3 of the Indochina Migration and Refugee Assistance Act of 1975.

(5) The term "average per pupil expenditure" for a State means the aggregate current expenditures during the second fiscal year preceding the fiscal year for which the determination is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State, plus any direct current expenditures by the State for the operation of such agencies (without regard to the source of funds from which either of such expenditures is made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

(6) The term "current expenditures" means all expenditures for free public education, except for (A) expenditures attributable to fixed charges, including payments of principal and interest on short-term and long-term debt, and payments for retirement benefits, for insurance and judgments, for rental of land and buildings, and for construction costs, (B) expenditures attributable to administration, and (C) expenditures attributable to transportation or building maintenance.

(7) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city,



county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(8) The term "secondary school" means a day or residential school which provides secondary education, as determined under State law.

(9) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(10) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(11) The term "elementary or secondary nonpublic schools" means schools which comply with the compulsory education laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

#### STATE ENTITLEMENTS

SEC. 102. (a) The Commissioner shall, in accordance with the provisions of this title, make payments to State educational agencies for the fiscal year 1976 for the purposes set forth in section 103.

(b)(1) Subject to the provisions of paragraphs (2) and (3), each State educational agency shall be entitled to receive, for the fiscal year ending June 30, 1976, an amount which, in addition to any amounts received by such agency and the local educational agencies of such State in that fiscal year under the Indochina Migration and Refugee Assistance Act of 1975, equals the additional expenditures, as determined under section 103, incurred by such State and local education agencies in that fiscal year in providing additional basic educational services and necessary supplementary educational services for Indochinese refugee children.

(2) For the fiscal year ending June 30, 1976, no State educational agency shall be entitled to receive an amount under this title, which, when combined with any funds received by such agency and the local educational agencies of such State in such fiscal year under the Indochina Migration and Refugee Assistance Act of 1975, exceeds an amount equal to the average per pupil expenditure in such State for such fiscal year multiplied by the number of Indochinese refugee children in such State receiving public educational services.

(3) For the purpose of this subsection, the term "State" does not include American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(c)(1) The jurisdictions to which this subsection applies are American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(2) Each jurisdiction to which this subsection applies shall be entitled to a grant for the purposes set forth in section 103 in an amount equal to an amount determined by the Commissioner in accordance with criteria established by him, except that the aggregate of the amount to which such jurisdictions are so entitled for any fiscal year shall not exceed an amount equal to 1 per centum of the aggregate of

the amounts to which all States are entitled under subsection (b) of this section for that fiscal year. If the aggregate of the amounts, determined by the Commissioner pursuant to the preceding sentence, to be so needed for any fiscal year exceeds an amount equal to such 1 per centum limitation, the entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such 1 per centum limitation.

(d) Determinations with respect to the number of Indochinese refugee children by the Commissioner under this section for any fiscal year shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate, because of an underestimate, to deprive any State educational agency of its entitlement to any payment (or the amount thereof), under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

#### USES OF FUNDS

SEC. 103. (a) Financial assistance to State and local educational agencies under this title shall be available only to meet the cost of providing Indochinese refugee children—

(1) supplementary educational services necessary to enable those children to achieve a satisfactory level of performance including, but not limited to—

- (A) English language instruction,
- (B) other bilingual educational services, and
- (C) special materials and supplies;

(2) additional basic instructional services which are directly attributable to the presence in the school district of Indochinese refugee children, including the cost of providing additional classroom teachers and additional teaching materials and supplies, but not including overhead costs, costs of construction, acquisition or rental of space, or costs of transportation; and

(3) special inservice training for personnel who will be providing instruction described in either paragraph (1) or (2).

(b) The Commissioner shall by regulation prescribe standards for the determination of the actual additional expenditures incurred by State and local educational agencies in providing educational services for Indochinese refugee children. Such standards may include—

- (1) maximum incremental costs for providing basic educational services in relation to the number of additional children;
- (2) maximum allowable costs for particular types of supplementary educational services; and

(3) to the extent consistent with this section, categories of programs, services, and expenditures for which funds provided under this title may be used.

#### ALLOCATION OF APPROPRIATIONS

SEC. 104. (a) If the sums appropriated for the fiscal year 1976 for making the payments provided for in this title are not sufficient to pay in full the total amounts which State educational agencies are entitled to receive under this title for such year, the allocations to such State educational agencies shall be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated.

(b) In the event that funds become available for making payments under this title for such fiscal year after allocations have been made under subsection (a) for that year, the amounts reduced under subsection (a) shall be increased on the same basis as they were reduced.

APPLICATIONS

SEC. 105. (a) No State educational agency shall be entitled to any payment under this title for any fiscal year unless that agency submits an application to the Commissioner at such time, in such manner, and containing or accompanied by such information, as the Commissioner may reasonably require. Each such application shall—

(1) provide that the educational programs, services, and activities for which payments under this title are made will be administered by or under the supervision of the agency;

(2) provide that payments under this title will be used for purposes set forth in section 103;

(3) provide such data and assurances as the Commissioner may prescribe—

(A) to demonstrate that the costs of the additional instructional services for which the payment will be made are the direct result of the presence of Indochinese refugee children and that those additional instructional services will actually be provided to those children for the duration of the period for which assistance is made available under this title; and

(B) to demonstrate that such payments are distributed between the State educational agency and the local educational agencies within the State in proportion to the contribution to such costs by each such agency;

(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

(5) provide for making such reports as the Commissioner may reasonably require to perform his functions under this title; and

(6) provide assurances—

(i) that to the extent consistent with the number of Indochinese refugee children enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of these children secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children;

(ii) that the control of funds provided under this paragraph and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property; and

(iii) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization;

and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds.

(b) The Commissioner shall approve an application which meets the requirements of subsection (a). The Commissioner shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

PAYMENT

SEC. 106. (a) The Commissioner shall pay to each State educational agency having an application approved under section 105 the amount which that State is entitled to receive under section 102.

(b) The Commissioner is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this title, except that the total of such payments for any fiscal year shall not exceed 1 per centum of the amounts to which that State educational agency is entitled to receive for that year under this title.

(c) If a State is prohibited by law from providing public educational services for children enrolled in elementary and secondary non-public schools, as required by section 105(a)(6), the Commissioner may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this title.

WITHHOLDING

SEC. 107. Whenever the Commissioner, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of this title, the Commissioner shall notify that agency that further payments will not be made to the agency under this title, or in his discretion, that the State educational agency shall not make further payments under this title to specified local educational agencies (whose actions cause or are involved in such failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State educational agency under this title or payments by the State educational agency under this title shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

AUTHORIZATION OF APPROPRIATIONS

SEC. 108. There are authorized to be appropriated for fiscal year 1976 such sums as may be necessary to make payments to which State educational agencies are entitled under this title and payments for administration under section 106(b).

TITLE II—PROGRAM FOR THE TRANSITION PERIOD  
AND THE 1977 FISCAL YEAR

APPLICABILITY; DEFINITIONS

SEC. 201. (a) The provisions of this title shall be applicable for the period beginning July 1, 1976, and ending September 30, 1977.

(b) As used in this title—

(1) The term “Commissioner” means the Commissioner of Education.

(2) The term “elementary school” means a day or residential school which provides elementary education, as determined under State law.

(3) The term “Indochinese refugee children” means children who are refugees within the meaning of that term as defined in section 3 of the Indochina Migration and Refugee Assistance Act of 1975.

(4) The term “local educational agency” means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(5) The term “secondary school” means a day or residential school which provides secondary education, as determined under State law.

(6) The term “State” includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(7) The term “State educational agency” means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(8) The term “elementary or secondary nonpublic schools” means schools which comply with the compulsory education laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

STATE ENTITLEMENTS

SEC. 202. (a) The Commissioner shall, in accordance with the provisions of this title, make payments to State educational agencies for the period July 1, 1976, through September 30, 1977, for the purposes set forth in section 203.

(b) (1) Except as provided in subsection (d) of this section, the maximum amount of the grant to which a State educational agency is entitled under this title, for the period beginning July 1, 1976, and ending September 30, 1977, shall be equal to the sum of—

(A) the number of Indochinese refugee children aged 5 to 17, inclusive, receiving public educational services under the supervision of each local educational agency within that State during the period for which the determination is made;

multiplied by—

(B) the lesser of—

(i) \$300 for each of the first one hundred such children who are furnished such services under the supervision of each local educational agency within such State, or

(ii) if the number of such children equals or exceeds 1 per centum of the total number of children enrolled in the schools of that agency, \$300 for each such child in such 1 per centum

who is furnished such services under the supervision of each local educational agency within such State; and

(C) \$600 for each additional such child in excess of one hundred such children, or in excess of such 1 per centum, as the case may be, being furnished such services under the supervision of that agency.

(2) For the purpose of this subsection, the term "State" does not include American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(c) (1) The jurisdictions to which this subsection applies are American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(2) Each jurisdiction to which this subsection applies shall be entitled to a grant for the purposes set forth in section 203 in an amount equal to an amount determined by the Commissioner in accordance with criteria established by him, except that the aggregate of the amount to which such jurisdictions are so entitled for any period shall not exceed an amount equal to 1 per centum of the aggregate of the amounts to which all States are entitled under subsection (b) of this section for that period. If the aggregate of the amounts, determined by the Commissioner pursuant to the preceding sentence, to be so needed for any period exceeds an amount equal to such 1 per centum limitation, the entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such 1 per centum limitation.

(d) Notwithstanding any other provision of this section, no State educational agency shall be entitled to receive a grant for any period in excess of the amount equal to the amount to which such agency would otherwise be entitled under this section for that period minus the sum of the amounts received by the local educational agencies of that State and by that State educational agency for that period under the Indochina Migration and Refugee Assistance Act of 1975.

(e) Determinations with respect to the number of Indochinese refugee children by the Commissioner under this section for any period shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate, because of an underestimate, to deprive any State educational agency of its entitlement to any payment (or the amount thereof), under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

#### USES OF FUNDS

SEC. 203. Payments made under this title to any State may be used in accordance with applications approved under section 205 for public educational services for Indochinese refugee children in the schools of the local educational agencies of that State and in elementary and secondary nonpublic schools of that State.

#### ALLOCATION OF APPROPRIATIONS

SEC. 204. (a) If the sums appropriated for the period from July 1, 1976, to September 30, 1977, for making the payments provided for in this title are not sufficient to pay in full the total amounts which State educational agencies are entitled to receive under this title for such period, the allocations to such State educational agencies shall

be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated.

(b) In the event that funds become available for making payments under this title for such period after allocations have been made under subsection (a) for that period, the amounts reduced under subsection (a) shall be increased on the same basis as they were reduced.

APPLICATIONS

SEC. 205. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency submits an application to the Commissioner at such time, in such manner, and containing or accompanied by such information, as the Commissioner may reasonably require. Each such application shall—

(1) provide that the educational programs, services, and activities for which payments under this title are made will be administered by or under the supervision of the agency;

(2) provide that payments under this title will be used for purposes set forth in section 203;

(3) provide assurances that such payments will be distributed among local educational agencies within that State in accordance with sections 202(b)(1) and 202(d);

(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this title without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

(5) provide for making periodic reports to the Commissioner evaluating the effectiveness of the payments made under this title, and such other reports as the Commissioner may reasonably require to perform his functions under this title; and

(6) provide assurances—

(i) that to the extent consistent with the number of Indo-chinese refugee children enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of these children secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children;

(ii) that the control of funds provided under this paragraph and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property; and

(iii) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization; and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds.

(b) The Commissioner shall approve an application which meets the requirements of subsection (a). The Commissioner shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

PAYMENTS

SEC. 206. (a) The Commissioner shall pay to each State educational agency having an application approved under section 205 the amount which that State is entitled to receive under this title.

(b) The Commissioner is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this title, except that the total of such payments for any period shall not exceed 1 per centum of the amounts which that State educational agency is entitled to receive for that period under this title.

(c) If a State is prohibited by law from providing public educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 205(a)(6), the Commissioner may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this title.

WITHHOLDING

SEC. 207. Whenever the Commissioner, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of this title, the Commissioner shall notify that agency that further payments will not be made to the agency under this title, or in his discretion, that the State educational agency shall not make further payments under this title to specified local educational agencies (whose actions cause or are involved in such failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made to the State educational agency under this title or payments by the State educational agency under this title shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

AUTHORIZATION OF APPROPRIATIONS

SEC. 208. There are authorized to be appropriated for the period beginning July 1, 1976, and ending September 30, 1977, such sums as may be necessary to make payments to which State educational agencies are entitled under this title and payments for administration under section 206(b).

TITLE III—ADULT EDUCATION PROVISION

AMENDMENT TO THE ADULT EDUCATION ACT

SEC. 301. The Adult Education Act (Public Law 91-230) is amended by adding the following new section at the end thereof:

“EMERGENCY ADULT EDUCATION PROGRAM FOR INDOCHINA REFUGEES

“SEC. 315. (a) From the appropriations authorized for the period beginning July 1, 1976, and ending September 30, 1977, but not appropriated for other programs under this title, the Commissioner shall



carry out a program of making grants to State and local education agencies for such years for the purpose of operating special adult education programs for Indochina refugees, as defined in section 3 of the Indochina Migration and Refugee Assistance Act of 1975. Such grants may be used for—

“(1) programs of instruction of adult refugees in basic reading, mathematics, development and enhancement of necessary skills, and promotion of literacy among refugee adults, for the purpose of enabling them to become productive members of American society;

“(2) administrative costs of planning and operating such programs of instruction;

“(3) educational support services which meet the needs of adult refugees, including but not limited to guidance and counseling with regard to educational, career, and employment opportunities; and

“(4) special projects designed to operate in conjunction with existing Federal and non-Federal programs and activities to develop occupational and related skills for individuals, particularly programs authorized under the Comprehensive Employment and Training Act of 1973 or under the Vocational Education Act of 1963.

“(b) The Commissioner shall not approve an application for a grant under this section unless (1) in the case of an application by a local education agency, it has been reviewed by the respective State education agency which shall provide assurance to the Commissioner that, if approved by the Commissioner, the grant will not duplicate existing and available programs of adult education which meet the special needs of Indochina refugees, and (2) the application includes a plan acceptable to the Commissioner which provides reasonable assurances that adult refugees who are in need of a program are located in an area near that State or local education agency, and would participate in the program if available.

“(c) Applications for a grant under this section shall be submitted at such time, in such manner, and contain such information as the Commissioner may reasonably require.

“(d) Notwithstanding the provisions of sections 305 and 307 (a), the Commissioner shall pay all the costs of applications approved by him under this section.”.

*Speaker of the House of Representatives.*

*Vice President of the United States and  
President of the Senate.*