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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	For the Vice President, et al, from NSC re: U. S. Policy Toward International Migration and Refugee Affairs (5 pages)	00/00/0000	P1/b(1)

COLLECTION:

Clinton Presidential Records
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FOLDER TITLE:

Cabinet Weekly Report: Immigration Refugee Resettlement Policy [4]

2017-1120-S

ry2216

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

**U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE FOR CIVIL RIGHTS****OFFICE OF THE DIRECTOR****FAX TRANSMISSION COVER SHEET****TO****FROM****Name:** Robert Bach
Stephen Warnath**Name:** Dennis Hayashi**Address:****Office for Civil Rights
Office of the Director
Room 5400, Cohen Building
330 Independence Avenue, SW
Washington, DC 20201**

of Page: 7

Phone: (202) 619-0403**FAX:** (202) 619-3437**Phone:****FAX #:** 514-9718
456-7028**MESSAGE:**

DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Office for Civil Rights
Washington, D.C. 20201MEMORANDUM

DATE : September 7, 1994

TO : Robert Bach
Stephen Warnath

FROM : Dennis Hayashi *Dennis Hayashi*
Director
Office for Civil Rights, HHS

SUBJECT: President's Report on Immigration

Attached are copies of summaries given to me in response to my query about immigration-related programs or initiatives which might be helpful to the preparation of the President's report on immigration.

If the material is helpful, please feel free to use as needed. If you have any questions, give me a call.

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TO

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NEW DIRECTIONS IN REFUGEE RESETTLEMENT

BACKGROUND

The Refugee Resettlement Program provides funds to States and non-profit agencies to help refugees become employed and self-sufficient as soon as possible after their arrival in the United States.

In FY 1994, ORR will be responsible for providing assistance for up to 121,000 refugees, the admissions ceiling authorized by the President (Presidential Determination 94-1). Congress appropriated \$400 million for ORR programs in FY 1994.

About \$264 million will be used to reimburse States for the costs of refugee cash and medical assistance, to aid unaccompanied refugee children, for States' administration, and for the costs of the voluntary agency matching grant program.

In FY 1994, Congress also appropriated \$80.8 million for social services, \$49.4 million for targeted assistance, and \$5.3 million for preventive health.

PROGRAM RESTRUCTURING

ORR has recently taken steps to increase the flexibility of the refugee program to respond to changes in refugee numbers, ethnicities, and to the immediacy of refugee admissions. The refugee program is being tailored to shrink and expand in tandem with the U.S. response to international refugee events so that its future structure will correspond to populations with special needs, to different resource levels, and to differing conditions in local communities.

Cash and Medical Assistance

On December 8, 1993, ORR published a final rule which simplifies the procedures necessary to vary the period of eligibility for cash and medical assistance (CMA) according to the level of appropriations.

Social Services

Approximately \$68.7 million has been awarded in FY 1994 as formula grants for social services to help States provide refugees with employment services, English language training, and other support services to promote economic self-sufficiency and reduce refugees' dependence on public assistance. This year's announcement has been changed to emphasize that services are to be provided in a manner that is culturally and linguistically compatible with a refugee's background, in systems that are refugee-specific, and

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through coalitions of refugee service organizations.

Targeted Assistance

ORR is providing \$49.4 million for its targeted assistance program which assists communities with high concentrations of refugee and entrant populations. Almost \$25.5 million is allocated to States under an updated formula; \$19 million was earmarked by Congress for the Dade County public schools and Jackson Memorial Hospital, Miami; and approximately \$4.9 million will be awarded under a discretionary grant program. In order to provide States and counties increased flexibility, ORR's most recent notice has eliminated the specific requirement restricting 85 percent of funds for employment services and is consistent with the social services' changes.

Discretionary Programs

While employment and economic independence continue to be ORR's primary concern, ORR also provides the remaining \$12 million in social services funds on a discretionary basis for individual projects intended to contribute to the effectiveness of refugee resettlement. ORR's most recent announcement gave an opportunity for local organizations to request funding for activities which supplement and complement the existing employment-related services. These projects are aimed at strengthening refugee communities and families, and rely heavily on a local planning process by service providers and community members.

To give the refugee program some tools with which to respond to changes in arrivals, ethnicities and changing numbers, ORR has issued a new, standing announcement to award funds for the following:

- a) the placement of newly arriving refugees in "preferred communities" with the reduction of the numbers of refugees placed in high impact sites. Preferred communities are those where refugees have the best opportunity to achieve early employment and sustain economic independence without public assistance; and
- b) unanticipated arrivals or significant increases in arrivals of refugees to communities where adequate or appropriate services do not exist. These funds are intended to help defray the costs associated with the arrival of new ethnic populations of refugees and entrants in communities.

In recognition of the special mental health needs of two

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highly vulnerable refugee populations, ORR entered into interagency agreements with the Office of Refugee Health to provide technical assistance to service providers. This included \$75,000 to assist grantees who received special discretionary funds for services to former political prisoners from Vietnam, and \$150,000 to assist communities receiving large numbers of Soviet Pentecostal refugees.

4) ORR has initiated a series of four refugee English language training conferences to promote the exchange of information on current developments in the field of English language training and to gain information about the state of refugee ELT programs across the nation.

Notice of Proposed Rulemaking

On August 12, 1994, ORR published a Notice of Proposed Rulemaking (NPRM) which sets forth regulatory requirements reflective of current shifts in policy. In recent years, annual refugee admissions have been high, resulting in an expanding pool of refugees in need of services. As of September 30, 1993, 1.8 million refugees have been resettled in the U.S. since 1975. All of these refugees, with the exception of those who have become U.S. citizens, are eligible to receive refugee program services. At the same time, the level of funds appropriated for services has remained essentially unchanged, making it difficult to serve all refugees in need of services with available resources.

The NPRM proposes to: limit eligibility for refugee services to a refugee's first 36 months in the U.S. for social services and 5 years for targeted assistance; would make RMA available for the full period of time-eligibility for RMA recipients which would ensure continued medical coverage to refugees for a clearly specified period of time and would reduce the States' administrative burden of separate determinations of eligibility; eliminate the current requirements for job search and for service restrictions that hinder States' flexibility in designing appropriate services for local needs; ensure that comprehensive refugee-specific services are provided to refugee families within the first few years after arrival.

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Annual Survey

Each year ORR conducts a survey of refugee households to examine the economic adjustment of the refugee population arriving in the United States within the five-year period preceding the survey interview. Survey questions relate to the education, training, employment, and labor force participation of each adult member of the refugee household, as well as the family income of the entire household.

Prior to 1993, the annual survey was restricted to a randomly selected sample of Southeast Asian refugees. In 1993, ORR expanded the survey beyond the Southeast Asian refugee population to include refugee arrivals from all regions of the world. This change will enable ORR to gather and analyze data on the attainment of self-sufficiency of all refugees regardless of national origin or ethnicity.

Finally, ORR has taken steps towards simplifying the application process for Wilson/Fish programs, supporting a refugee women's initiative, and consultation with national voluntary agencies to improve the matching grant program.

Finally, ORR has continued the discussions begun in late 1993 on restructuring, dialogue, and partnership with over 250 public and private agencies who are actively engaged in refugee resettlement and services.

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ATTACHMENT

In late 1993, Lavinia Limon, Director of ORR, issued a draft Statement of Mission and Operating Principles for discussion with States, voluntary agencies, mutual assistance associations (MAAs) and others. The themes of the mission statement were:

- o The refugee program is national in scope.
- o A refugee's first year in the U.S. defines a refugee's future experience.
- o Programs and policies are needed that assist refugee women, equally with men, as community leaders, income producers, caregivers and preservers of tradition.
- o Close partnerships must be forged among different levels of government, voluntary agencies, mutual assistance associations, and other community-based organizations to restructure the program, where necessary.

The operating Principles of the draft Mission Statement include:

- o Cash and medical assistance should be available during a refugee's first year in the U.S.
- o The type of income assistance may vary among localities.
- o There should be flexibility in local service provision.
- o Services should be targeted to newly arrived refugees, and be available to refugees who have been here up to 36 months.
- o Services should be linguistically and culturally compatible with newly arriving refugees.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary
Administration on Aging

Washington, D.C. 20201

AUG 29 1994

To: Dennis Hayashi, Office of Civil Rights Director
From: Fernando M. Torres-Gil, Assistant Secretary for Aging
Subject: Request for AoA Programmatic Information with regard to
Immigrants--INFORMATION

At the present time, the Administration on Aging does not fund any programs that directly impact on elderly immigrants.

The Administration on Aging does strive to encourage efforts to address the issues of immigrant elderly. For example, the Administration on Aging (Region 10), along with the Immigration and Naturalization Service, American Association of Retired Persons, and the Washington County Area Agency on Aging co-sponsored a Mini-White House Conference on Aging on the subject of immigrant elderly and long-term care on August 22-23, 1994. The panel included various regional directors of HHS, AoA, SSA, PHS, HCFA, HUD, and INS. The event was attended by approximately 120 people representing diverse public and private organizations. These participants were invited to participate in a panel discussion on possible community responses to serving immigrant elderly.

Please contact me at 401-4634 if you need any further information or assistance.

of Immigration and Naturalization Service at Los Angeles, Cal., C.A.Cal.1978, 573 F.2d 592.

164. — Nationality or citizenship not established

Passport applicant failed to establish that his renunciation of his dual United States citizenship 20 years previously had not been voluntary and intentional, notwithstanding claim that he was coerced and misled by his Venezuelan father to give up citizenship in order to avoid Vietnam war. *Maldonado-Sanchez v. Shultz*, D.D.C.1989, 706 F.Supp. 54.

166. — Blood tests

In proceeding wherein minor who was born in Mexico sought a declaration of United States citizenship as the natural child of a native of California, the district court's authority to order a physical examination was limited to the child and it was error for the court to order blood tests of the child's mother, a Mexican citizen, and of the child's asserted father, even though both purported to be child's parents and even though the asserted father was acting as guardian ad litem in connection with the litigation. *Scharf v. U.S. Atty. Gen.*, C.A.Cal.1979, 597 F.2d 1240.

V. PRACTICE AND PROCEDURE—JUDGMENT

192. Declaratory judgment

Provision of this section authorizing any person within the United States who has been denied a right or privilege of nationality by any United States Department to initiate an action for a judicial declaration of nationality was a more appropriate remedy for plaintiff, seeking to nullify his prior renunciation of citizenship, than an ac-

tion for a judgment declaring Department's determination of invalidity in respect to renunciation binding on all federal agencies. *Cartier v. Secretary of State*, 1974, 506 F.2d 191, 165 U.S.App.D.C. 130, certiorari denied 95 S.Ct. 1677, 421 U.S. 947, 44 L.Ed.2d 101.

197. Summary judgment

In absence of any motion to strike or other objection, even though asserted natural father's affidavit in opposition to government's motion for summary judgment was apparently defective insofar as it discussed medical literature and attempted to link results of blood group testing to a disease allegedly suffered by child who sought declaration of United States citizenship, affidavit wherein the asserted natural father cited medical literature on blood group testing and asserted that child had suffered from a disease that was responsible for test results from which pathologist concluded that the child was not the natural child of the asserted father was sufficient to present a genuine issue of material fact precluding summary judgment in proceeding wherein the child sought a declaration of United States citizenship as the natural child of a California native. *Scharf v. U.S. Atty. Gen.*, C.A.Cal.1979, 597 F.2d 1240.

VI. PRACTICE AND PROCEDURE—APPEAL AND ERROR

222. Scope of review

On appeal, court of appeals had to make an independent determination in action for judgment declaring plaintiff to be citizen of United States as to whether evidence introduced by Immigration and Naturalization Service was clear, unequivocal and convincing. *Lim v. Mitchell*, C.A.Cal.1970, 431 F.2d 197.

SUBCHAPTER IV—REFUGEE ASSISTANCE

§ 1521. Office of Refugee Resettlement; establishment; appointment of Director; functions

(a) There is established, within the Department of Health and Human Services, an office to be known as the Office of Refugee Resettlement (hereinafter in this subchapter referred to as the "Office"). The head of the Office shall be a Director (hereinafter in this subchapter referred to as the "Director"), to be appointed by the Secretary of Health and Human Services (hereinafter in this subchapter referred to as the "Secretary").

(b) The function of the Office and its Director is to fund and administer (directly or through arrangements with other Federal agencies), in consultation with and under the general policy guidance of the United States Coordinator for Refugee Affairs (hereinafter in this subchapter referred to as the "Coordinator"), programs of the Federal Government under this subchapter.

(June 27, 1952, c. 477, Title IV, ch. 2, § 411, as added Mar. 17, 1980, Pub.L. 96-212, Title III, § 811(a) (2), 94 Stat. 110.)

HISTORICAL AND STATUTORY NOTES

Effective Date

Section effective with respect to fiscal years beginning on and after Oct. 1, 1979, see section 313 of Pub.L. 96-212, set out as a note under section 1522 of this title.

References to Secretary of Education or Secretary of Health and Human Services, or to Department of Health and Human Services

Section 204(e) of Pub.L. 96-212 provided that: "Any reference in this Act [see Short Title of 1980 Amendment note set out under section 1101 of this title] or in chapter 2 of title IV of the

Immigration and Nationality Act [this subchapter] to the Secretary of Education or the Secretary of Health and Human Services or to the Department of Health and Human Services shall be deemed, before the effective date of the Department of Education Organization Act [see Effective Date note set out under section 3401 of Title 20, Education], to be a reference to the Secretary of Health, Education, and Welfare or to the Department of Health, Education, and Welfare, respectively."

Short Title of Refugee Act of 1980

For Short Title of Refugee Act of 1980, see Short Title of 1980 Amendment note set out under section 1101 of this title.

Congressional Declaration of Policies and Objectives

Section 101 of Pub.L. 96-212 provided that:

"(a) The Congress declares that it is the historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands, including, where appropriate, humanitarian assistance for their care and maintenance in asylum areas, efforts to promote opportunities for resettlement or voluntary repatriation, aid for necessary transportation and processing, admission to this country of refugees of special humanitarian concern to the United States, and transitional assistance to refugees in the United States. The Congress further declares that it is the policy of the United States to encourage all nations to provide assistance and resettlement opportunities to refugees to the fullest extent possible.

"(b) The objectives of this Act [see Short Title of 1980 Amendment note set out under section 1101 of this title] are to provide a permanent and systematic procedure for the admission to this country of refugees of special humanitarian concern to the United States, and to provide comprehensive and uniform provisions for the effective resettlement and absorption of those refugees who are admitted."

Legislative History

For legislative history and purpose of Pub.L. 96-212, see 1980 U.S. Code Cong. and Adm. News, p. 141.

LAW REVIEW COMMENTARIES

Political asylum under the 1980 Refugee Act: An unfulfilled promise. *Arthur C. Helton*, 17 U.Mich.J.L.Ref. 243 (1984).

"Political opinions" of refugees: Interpreting international sources. *Comment*, 63 Wash.L.Rev. 395 (1988).

Redefining refugee: A proposal for relief for the victims of civil strife. *Michael G. Heyman*, 24 San Diego L.Rev. 449 (1987).

NOTES OF DECISIONS

1. Rules and regulations

Regulation stating that Department of Health and Human Services would "utilize the public participation procedures of the Administrative Procedure Act, sections 551 et seq. and 701 et seq. of Title 5," applies to 30-day notice requirement, and therefore exemption from rule-making requirement of the Act for any regulation relating to federal "grants" or "benefits" did not apply to regulation under which cash and medical benefits available to class of Asian refugees pursuant to provisions of this subchapter would be withdrawn. *Ngou v. Schweiker*, D.C.D.C.1982, 535 F.Supp. 1214.

requirement of the Act for any regulation relating to federal "grants" or "benefits" did not apply to regulation under which cash and medical benefits available to class of Asian refugees pursuant to provisions of this subchapter would be withdrawn. *Ngou v. Schweiker*, D.C.D.C.1982, 535 F.Supp. 1214.

§ 1522. Authorization for programs for domestic resettlement of and assistance to refugees

(a) Conditions and considerations

(1)(A) In providing assistance under this section, the Director shall, to the extent of available appropriations, (i) make available sufficient resources for employment training and placement in order to achieve economic self-sufficiency among refugees as quickly as possible, (ii) provide refugees with the opportunity to acquire sufficient English language training to enable them to become effectively resettled as quickly as possible, (iii) insure that cash assistance is made available to refugees in such a manner as not to discourage their economic self-sufficiency, in accordance with subsection (e) (2) of this section, and (iv) insure that women have the same opportunities as men to participate in training and instruction.

(B) It is the intent of Congress that in providing refugee assistance under this section—

(i) employable refugees should be placed on jobs as soon as possible after their arrival in the United States;

(ii) social service funds should be focused on employment-related services, English-as-a-second-language training (in nonwork hours where possible), and case-management services; and

voluntary agency activities should be conducted in cooperation with State and local governments.

(2)(A) The Director and the Federal agency administering subsection (b)(1), together with the Coordinator, shall consult regularly (not less often than quarterly) with State and local governments and private nonprofit voluntary agencies concerning the sponsorship process and the intended distribution of refugees among the States and localities before their placement in those States and localities.

(B) The Director shall develop and implement, in consultation with representatives of voluntary agencies and State and local governments, policies and strategies for the placement and resettlement of refugees within the United States.

(C) Such policies and strategies, to the extent practicable and except under such unusual circumstances as the Director may recognize, shall—

(I) insure that a refugee is not initially placed or resettled in an area highly impacted (as determined under regulations prescribed by the Director after consultation with such agencies and governments) by the presence of refugees or comparable populations unless the refugee has a spouse, parent, sibling, son, or daughter residing in that area,

(II) provide for a mechanism whereby representatives of local affiliates of voluntary agencies regularly (not less often than quarterly) meet with representatives of State and local governments to plan and coordinate in advance of their arrival the appropriate placement of refugees among the various States and localities, and

(III) take into account—

(I) the proportion of refugees and comparable entrants in the population in the area,

(II) the availability of employment opportunities, affordable housing, and public and private resources (including educational, health care, and mental health services) for refugees in the area,

(III) the likelihood of refugees placed in the area becoming self-sufficient and free from long-term dependence on public assistance, and

(IV) the secondary migration of refugees to and from the area that is likely to occur.

(D) With respect to the location of placement of refugees within a State, the Federal agency administering subsection (b)(1) of this section shall, consistent with such policies and strategies and to the maximum extent possible, take into account recommendations of the State.

(3) In the provision of domestic assistance under this section, the Director shall make a periodic assessment, based on refugee population and other relevant factors, of the relative needs of refugees for assistance and services under this subchapter and the resources available to meet such needs. The Director shall compile and maintain data on secondary migration of refugees within the United States and, by State of residence and nationality, on the proportion of refugees receiving cash or medical assistance described in subsection (e) of this section. In allocating resources, the Director shall avoid duplication of services and provide for maximum coordination between agencies providing related services.

(4)(A) No grant or contract may be awarded under this section unless an appropriate proposal and application (including a description of the agency's ability to perform the services specified in the proposal) are submitted to, and approved by, the appropriate administering official. Grants and contracts under this section shall be made to those agencies which the appropriate administering official determines can best perform the services. Payments may be made for activities authorized under this subchapter in advance or by way of reimbursement. In carrying out this section, the Director, the Secretary of State, and any such other appropriate administering official are authorized—

(I) to make loans, and

(II) to accept and use money, funds, property, and services of any kind made available by gift, devise, bequest, grant, or otherwise for the purpose of carrying out this section.

(B) No funds may be made available under this subchapter (other than under subsection (b)(1) of this section) to States or political subdivisions in the form of grants, per capita grants, or similar consolidated grants or contracts. Such funds shall be made available under separate grants or contracts—

(I) for medical screening and initial medical treatment under subsection (b)(5) of this section,

(II) for services for refugees under subsection (c)(1) of this section,

(III) for targeted assistance project grants under subsection (c)(2) of this section, and

(IV) for assistance for refugee children under subsection (d)(2) of this section.

(C) The Director may not delegate to a State or political subdivision his authority to review or approve grants or contracts under this subchapter or the terms under which such grants or contracts are made.

(5) Assistance and services funded under this section shall be provided to refugees without regard to race, religion, nationality, sex, or political opinion.

(6) As a condition for receiving assistance under this section, a State must—

(A) submit to the Director a plan which provides—

(I) a description of how the State intends to encourage effective refugee resettlement and to promote economic self-sufficiency as quickly as possible,

(II) a description of how the State will insure that language training and employment services are made available to refugees receiving cash assistance,

(III) for the designation of an individual, employed by the State, who will be responsible for insuring coordination of public and private resources in refugee resettlement,

(IV) for the care and supervision of and legal responsibility for unaccompanied refugee children in the State, and

(V) for the identification of refugees who at the time of resettlement in the State are determined to have medical conditions requiring, or medical histories indicating a need for, treatment or observation and such monitoring of such treatment or observation as may be necessary;

(B) meet standards, goals, and priorities, developed by the Director, which assure the effective resettlement of refugees and which promote their economic self-sufficiency as quickly as possible and the efficient provision of services;

(C) submit to the Director, within a reasonable period of time after the end of each fiscal year, a report on the uses of funds provided under this subchapter which the State is responsible for administering.

(7) The Secretary, together with the Secretary of State with respect to assistance provided by the Secretary of State under subsection (b) of this section, shall develop a system of monitoring the assistance provided under this section. This system shall include—

(A) evaluations of the effectiveness of the programs funded under this section and the performance of States, grantees, and contractors;

(B) financial auditing and other appropriate monitoring to detect any fraud, abuse, or mismanagement in the operation of such programs; and

(C) data collection on the services provided and the results achieved.

(8) The Attorney General shall provide the Director with information supplied by refugees in conjunction with their applications to the Attorney General for adjustment of status, and the Director shall compile, summarize, and evaluate such information.

(9) The Secretary, the Secretary of Education, the Attorney General, and the Secretary of State may issue such regulations as each deems appropriate to carry out this subchapter.

(10) For purposes of this subchapter, the term "refugee" includes any alien described in section 1157(c)(2) of this title.

(b) Program of initial resettlement

(1)(A) For—

(I) 1981, the Secretary of State is authorized, and

(ii) fiscal year 1982 and succeeding fiscal years, the Director (except as provided in subparagraph (B)) is authorized,

to make grants to, and contracts with, public or private nonprofit agencies for initial resettlement (including initial reception and placement with sponsors) of refugees in the United States. Grants to, or contracts with, private nonprofit voluntary agencies under this paragraph shall be made consistent with the objectives of this subchapter, taking into account the different resettlement approaches and practices of such agencies. Resettlement assistance under this paragraph shall be provided in coordination with the Director's provision of other assistance under this subchapter. Funds provided to agencies under such grants and contracts may only be obligated or expended during the fiscal year in which they are provided (or the subsequent fiscal year or such subsequent fiscal period as the Federal contracting agency may approve) to carry out the purposes of this subsection.

(B) If the President determines that the Director should not administer the program under this paragraph, the authority of the Director under the first sentence of subparagraph (A) shall be exercised by such officer as the President shall from time to time specify.

(2) The Director is authorized to develop programs for such orientation, instruction in English, and job training for refugees, and such other education and training of refugees, as facilitates their resettlement in the United States. The Director is authorized to implement such programs, in accordance with the provisions of this section, with respect to refugees in the United States. The Secretary of State is authorized to implement such programs with respect to refugees awaiting entry into the United States.

(3) The Secretary is authorized, in consultation with the Coordinator, to make arrangements (including cooperative arrangements with other Federal agencies) for the temporary care of refugees in the United States in emergency circumstances, including the establishment of processing centers, if necessary, without regard to such provisions of law (other than the Renegotiation Act of 1951 [50 App.U.S.C.A. § 1211 et seq.] and section 1524(b) of this title) regulating the making, performance amendment, or modification of contracts and the expenditure of funds of the United States Government as the Secretary may specify.

(4) The Secretary, in consultation with the Coordinator, shall—

(A) assure that an adequate number of trained staff are available at the location at which the refugees enter the United States to assure that all necessary medical records are available and in proper order;

(B) provide for the identification of refugees who have been determined to have medical conditions affecting the public health and requiring treatment;

(C) assure that State or local health officials at the resettlement destination within the United States of each refugee are promptly notified of the refugee's arrival and provided with all applicable medical records; and

(D) provide for such monitoring of refugees identified under subparagraph (B) as will insure that they receive appropriate and timely treatment.

The Secretary shall develop and implement methods for monitoring and assessing the quality of medical screening and related health services provided to refugees awaiting resettlement in the United States.

(5) The Director is authorized to make grants to, and enter into contracts with, State and local health agencies for payments to meet their costs of providing medical screening and initial medical treatment to refugees.

(6) The Comptroller General shall directly conduct an annual financial audit of funds expended under each grant or contract made under paragraph (1) for fiscal year 1986 and for fiscal year 1987.

(7) Each grant or contract with an agency under paragraph (1) shall require the agency to do the following:

(A) To provide quarterly performance and financial status reports to the Federal agency administering paragraph (1).

(B)(i) To provide, directly or through its local affiliate, notice to the appropriate county or other local welfare office at the time that the agency becomes

aware that a refugee is offered employment and to provide notice to the refugee that such notice has been provided, and

(ii) upon request of such a welfare office to which a refugee has applied for cash assistance, to furnish that office with documentation respecting any cash or other resources provided directly by the agency to the refugee under this subsection.

(C) To assure that refugees, known to the agency as having been identified pursuant to paragraph (4)(B) as having medical conditions affecting the public health and requiring treatment, report to the appropriate county or other health agency upon their resettlement in an area.

(D) To fulfill its responsibility to provide for the basic needs (including food, clothing, shelter, and transportation for job interviews and training) of each refugee resettled and to develop and implement a resettlement plan including the early employment of each refugee resettled and to monitor the implementation of such plan.

(E) To transmit to the Federal agency administering paragraph (1) an annual report describing the following:

(i) The number of refugees placed (by county of placement) and the expenditures made in the year under the grant or contract, including the proportion of such expenditures used for administrative purposes and for provision of services.

(ii) The proportion of refugees placed by the agency in the previous year who are receiving cash or medical assistance described in subsection (e) of this section.

(iii) The efforts made by the agency to monitor placement of the refugees and the activities of local affiliates of the agency.

(iv) The extent to which the agency has coordinated its activities with local social service providers in a manner which avoids duplication of activities and has provided notices to local welfare offices and the reporting of medical conditions of certain aliens to local health departments in accordance with subparagraphs (B)(i) and (C).

(v) Such other information as the agency administering paragraph (1) deems to be appropriate in monitoring the effectiveness of agencies in carrying out their functions under such grants and contracts.

The agency administering paragraph (1) shall promptly forward a copy of each annual report transmitted under subparagraph (E) to the Committees on the Judiciary of the House of Representatives and of the Senate.

(8) The Federal agency administering paragraph (1) shall establish criteria for the performance of agencies under grants and contracts under that paragraph, and shall include criteria relating to an agency's—

(A) efforts to reduce welfare dependency among refugees resettled by that agency,

(B) collection of travel loans made to refugees resettled by that agency for travel to the United States,

(C) arranging for effective local sponsorship and other nonpublic assistance for refugees resettled by that agency,

(D) cooperation with refugee mutual assistance associations, local social service providers, health agencies, and welfare offices,

(E) compliance with the guidelines established by the Director for the placement and resettlement of refugees within the United States, and

(F) compliance with other requirements contained in the grant or contract, including the reporting and other requirements under subsection (b)(7).

The Federal administering agency shall use the criteria in the process of awarding or renewing grants and contracts under paragraph (1).

(c) Project grants and contracts for services for refugees

(1)(A) The Director is authorized to make grants to, and enter into contracts with, public or private nonprofit agencies for projects specifically designed—

(i) to assist refugees in obtaining the skills which are necessary for economic self-sufficiency, including projects for job training, employment services, day care, professional refresher training, and other recertification services;

(ii) to provide training in English where necessary (regardless of whether the refugees are employed or receiving cash or other assistance); and

(iii) to provide where specific needs have been shown and recognized by the Director, health (including mental health) services, social services, educational and other services.

(B) The funds available for a fiscal year for grants and contracts under subparagraph (A) shall be allocated among the States based on the total number of refugees (including children and adults) who arrived in the United States not more than 36 months before the beginning of such fiscal year and who are actually residing in each State (taking into account secondary migration) as of the beginning of the fiscal year.

(C) Any limitation which the Director establishes on the proportion of funds allocated to a State under this paragraph that the State may use for services other than those described in subsection (a)(1)(B)(ii) of this section shall not apply if the Director receives a plan (established by or in consultation with local governments) and determines that the plan provides for the maximum appropriate provision of employment-related services for, and the maximum placement of, employable refugees consistent with performance standards established under section 1516 of Title 29.

(2)(A) The Director is authorized to make grants to States for assistance to counties and similar areas in the States where, because of factors such as unusually large refugee populations (including secondary migration), high refugee concentrations, and high use of public assistance by refugees, there exists and can be demonstrated a specific need for supplementation of available resources for services to refugees.

(B) Grants shall be made available under this paragraph—

(i) primarily for the purpose of facilitating refugee employment and achievement of self-sufficiency,

(ii) in a manner that does not supplant other refugee program funds and that assures that not less than 95 percent of the amount of the grant award is made available to the county or other local entity.

(d) Assistance for refugee children

(1) The Secretary of Education is authorized to make grants, and enter into contracts, for payments for projects to provide special educational services (including English language training) to refugee children in elementary and secondary schools where a demonstrated need has been shown.

(2)(A) The Director is authorized to provide assistance, reimbursement to States, and grants to and contracts with public and private nonprofit agencies, for the provision of child welfare services, including foster care maintenance payments and services and health care, furnished to any refugee child (except as provided in subparagraph (B)) during the thirty-six month period beginning with the first month in which such refugee child is in the United States.

(B)(i) In the case of a refugee child who is unaccompanied by a parent or other close adult relative (as defined by the Director), the services described in subparagraph (A) may be furnished until the month after the child attains eighteen years of age (or such higher age as the State's child welfare services plan under part B of title IV of the Social Security Act [42 U.S.C.A. § 620 et seq.] prescribes for the availability of such services to any other child in that State).

(ii) The Director shall attempt to arrange for the placement under the laws of the States of such unaccompanied refugee children, who have been accepted for admission to the United States, before (or as soon as possible after) their arrival in the United States. During any interim period while such a child is in the United States or in transit to the United States but before the child is so placed, the Director shall assume legal responsibility (including financial responsibility) for the child, if necessary, and is authorized to make necessary decisions to provide for the child's immediate care.

(iii) In carrying out the Director's responsibilities under clause (ii), the Director is authorized to enter into contracts with appropriate public or private nonprofit agencies under such conditions as the Director determines to be appropriate.

(iv) The Director shall prepare and maintain a list of (I) all such unaccompanied children who have entered the United States after April 1, 1975, (II) the names and last known residences of their parents (if living) at the time of arrival, and (III) the children's location, status, and progress.

(e) Cash assistance and medical assistance for refugees

(1) The Director is authorized to provide assistance, reimbursement to States, and grants to, and contracts with, public or private nonprofit agencies for 100 per centum of the cash assistance and medical assistance provided to any refugee during the thirty-six month period beginning with the first month in which such refugee has entered the United States and for the identifiable and reasonable administrative costs of providing this assistance.

(2)(A) Cash assistance provided under this subsection to an employable refugee is conditioned, except for good cause shown—

(i) on the refugee's registration with an appropriate agency providing employment services described in subsection (c)(1)(A)(i) of this section, or, if there is no such agency available, with an appropriate State or local employment service;

(ii) on the refugee's participation in any available and appropriate social service or targeted assistance program (funded under subsection (c) of this section) providing job or language training in the area in which the refugee resides; and

(iii) on the refugee's acceptance of appropriate offers of employment.

(B) Cash assistance shall not be made available to refugees who are full-time students in institutions of higher education (as defined by the Director after consultation with the Secretary of Education).

(C) In the case of a refugee who—

(i) refuses an offer of employment which has been determined to be appropriate either by the agency responsible for the initial resettlement of the refugee under subsection (b) of this section or by the appropriate State or local employment service,

(ii) refuses to go to a job interview which has been arranged through such agency or service, or

(iii) refuses to participate in a social service or targeted assistance program referred to in subparagraph (A)(ii) which such agency or service determines to be available and appropriate,

cash assistance to the refugee shall be terminated (after opportunity for an administrative hearing) for a period of three months (for the first such refusal) or for a period of six months for any subsequent refusal).

(3) The Director shall develop plans to provide English training and other appropriate services and training to refugees receiving cash assistance.

(4) If a refugee is eligible for aid or assistance under a State plan approved under part A of title IV or under title XIX of the Social Security Act [42 U.S.C.A. §§ 601 et seq., 1396 et seq.], or for supplemental security income benefits (including State supplementary payments) under the program established under title XVI of that Act [42 U.S.C.A. § 1381 et seq.], funds authorized under this subsection shall only be used for the non-Federal share of such aid or assistance, or for such supplementary payments, with respect to cash and medical assistance provided with respect to such refugee under this paragraph.

(5) The Director is authorized to allow for the provision of medical assistance under paragraph (1) to any refugee, during the one-year period after entry, who does not qualify for assistance under a State plan approved under title XIX of the Social Security Act [42 U.S.C.A. § 1396 et seq.] on account of any resources or income requirement of such plan, but only if the Director determines that—

(A) this will (i) encourage economic self-sufficiency, or (ii) avoid a significant burden on State and local governments; and

(B) the refugee meets such alternative financial resources and income requirements as the Director shall establish.

(6) As a condition for receiving assistance, reimbursement, or a contract under this subsection and notwithstanding any other provision of law, a State or agency must provide assurances that whenever a refugee applies for cash or medical assistance for which assistance or reimbursement is provided under this subsection, the State or agency must notify promptly the agency (or local affiliate) which provided for the initial resettlement of the refugee under subsection (b) of this section of the fact that the refugee has so applied.

(7)(A) The Secretary shall develop and implement alternative projects for refugees who have been in the United States less than thirty-six months, under which refugees are provided interim support, medical services, support services, and case management, as needed, in a manner that encourages self-sufficiency, reduces welfare dependency, and fosters greater coordination among the resettlement agencies and service providers. The Secretary may permit alternative projects to cover specific groups of refugees who have been in the United States 36 months or longer if the Secretary determines that refugees in the group have been significantly and disproportionately dependent on welfare and need the services provided under the project in order to become self-sufficient and that their coverage under the projects would be cost-effective.

(B) Refugees covered under such alternative projects shall be precluded from receiving cash or medical assistance under any other paragraph of this subsection or under title XIX or part A of title IV of the Social Security Act [42 U.S.C.A. §§ 601 et seq., 1396 et seq.].

(C) The Secretary, in consultation with the United States Coordinator for Refugee Affairs, shall report to Congress not later than October 31, 1985, on the results of these projects and on any recommendations respecting changes in the refugee assistance program under this section to take into account such results.

(D) To the extent that the use of such funds is consistent with the purposes of such provisions, funds appropriated under paragraph (1) or (2) of section 1524(a) of this title, part A of title IV of the Social Security Act [42 U.S.C.A. § 601 et seq.], or title XIX of such Act [42 U.S.C.A. § 1396 et seq.], may be used for the purpose of implementing and evaluating alternative projects under this paragraph.

(8) In its provision of assistance to refugees, a State or political subdivision shall consider the recommendations of, and assistance provided by, agencies with grants or contracts under subsection (b)(1) of this section.

(f) Assistance to States and counties for incarceration of certain Cuban nationals

(1) The Attorney General shall pay compensation to States and to counties for costs incurred by the States and counties to confine in prisons, during the fiscal year for which such payment is made, nationals of Cuba who—

(A) were paroled into the United States in 1980 by the Attorney General,

(B) after such parole committed any violation of State or county law for which a term of imprisonment was imposed, and

(C) at the time of such parole and such violation were not aliens lawfully admitted to the United States—

(i) for permanent residence, or

(ii) under the terms of an immigrant or a nonimmigrant visa issued, under this chapter.

(2) For a State or county to be eligible to receive compensation under this subsection, the chief executive officer of the State or county shall submit to the Attorney General, in accordance with rules to be issued by the Attorney General, an application containing—

(A) the number and names of the Cuban nationals with respect to whom the State or county is entitled to such compensation, and

(B) such other information as the Attorney General may require.

(3) For a fiscal year the Attorney General shall pay the costs described in paragraph (1) to each State and county determined by the Attorney General to be eligible for paragraph (2); and that if the amounts appropriated for the

to carry this subsection are insufficient to cover all such payments, each of such payments shall be ratably reduced so that the total of such payments equals the amount so appropriated.

(4) The authority of the Attorney General to pay compensation under this subsection shall be effective for any fiscal year only to the extent and in such amounts as may be provided in advance in appropriation Acts.

(5) Priority for removal and return to Cuba of certain Cuban nationals

It shall be the policy of the United States Government that the President, in consultation with the Attorney General and all other appropriate Federal officials and all appropriate State and county officials referred to in paragraph (2), shall place top priority on seeking the expeditious removal from this country and the return to Cuba of Cuban nationals described in paragraph (1) by any reasonable and responsible means, and to this end the Attorney General may use the funds authorized to carry out this subsection to conduct such policy.

(June 27, 1952, c. 477, Title IV, ch. 2, § 412, as added Mar. 17, 1980, Pub.L. 96-212, Title III, § 311(a)(2), 94 Stat. 111, and amended Oct. 25, 1982, Pub.L. 97-363, §§ 3(a), 4-6, 96 Stat. 1734-1736; Nov. 22, 1983, Pub.L. 98-164, Title X, § 1011 (b), 97 Stat. 1061; Oct. 12, 1984, Pub.L. 98-473 Title I, § 101(d), 98 Stat. 1877; Pub.L. 99-605, §§ 3, 4, 8(a), (b), (c), 6(a), (b), (d), 8, 9(a), (b), 10, 12, 13, Nov. 6, 1986, 100 Stat. 3449 to 3451, 3453 to 3455; Oct. 24, 1988, Pub.L. 100-525, § 6(b), 102 Stat. 2616.)

HISTORICAL AND STATUTORY NOTES

References in Text

The Renegotiation Act of 1951, referred to in subsec. (b)(3), is Act Mar. 23, 1951, c. 15, 65 Stat. 7, which is classified principally to section 1211 et seq. of the Appendix to Title 50, War and National Defense.

Part B of title IV of the Social Security Act, referred to in subsec. (d)(2)(B)(i), is classified to part B of subchapter IV of chapter 7 (section 620 et seq.) of Title 42, The Public Health and Welfare.

Part A of title IV of the Social Security Act, referred to in subsec. (e)(4), is classified to part A of subchapter IV of chapter 7 (section 601 et seq.) of Title 42.

Title XIX of the Social Security Act, referred to in subsec. (e)(4) and (5), is classified to subchapter XIX of chapter 7 (section 1396 et seq.) of Title 42.

Title XVI of that Act, referred to in subsec. (e)(4), is classified to subchapter XVI of chapter 7 (section 1381 et seq.) of Title 42.

Codification

Section 13 of this Act, referred to in subsec. (g), does not correspond to any provision in the Immigration and Nationality Act, Act of June 27, 1952, c. 477, or the Refugee Assistance Extension Act of 1986, Pub.L. 99-605.

1986 Amendment

Subsec. (f)(5). Pub.L. 100-525, § 6(b), redesignated former subsec. (g) as par. (5), and in par. (5), as so redesignated, substituted "all other appropriate Federal officials and all appropriate State and county officials referred to in paragraph (2)" for "all appropriate Federal, State, and county officials referred to in section 13 of this Act", "Cuban nationals described in paragraph (1)" for "such persons defined in subsection (f)(1) of this section" and "authorized to carry out this subsection" for "hereafter authorized by this section", respectively.

Subsec. (g). Pub.L. 100-525, § 6(b)(1), redesignated former subsec. (g) as (f)(5).

1986 Amendment

Subsec. (a)(2)(A). Pub.L. 99-605, § 4(1), added "and the Federal agency administering subsection (b)(1) of this section" following "The Director", "(not less than quarterly)" following "shall consult regularly", and "before their placement in those States and localities" following "States and localities".

Subsec. (a)(2)(C)(iii). Pub.L. 99-605, § 4(2), added cl. (iii).

Subsec. (a)(2)(D). Pub.L. 99-605, § 4(3), added subpar. (D).

Subsec. (a)(4). Pub.L. 99-605, § 12, designated existing provision as subpar. (A), and in subpar. (A) as so designated, redesignated subpars. (A) and (B) as cl. (i) and (ii), respectively, and added subpars. (B) and (C).

Subsec. (a)(9). Pub.L. 99-605, § 3(b), added "the Secretary of Education, the Attorney General," following "The Secretary".

Subsec. (b)(1)(A). Pub.L. 99-605, § 5(b)(2), struck out provisions which related to requirement in grants and contracts that agency provide notice to appropriate welfare office that refugee is offered employment, provide notice to the refugee notice to the welfare office, and assure that refugees with medical conditions affecting public health and requiring treatment report to appropriate health agency in area of resettlement.

Subsec. (b)(6). Pub.L. 99-605, § 5(a), substituted "shall directly conduct an annual audit" for "shall conduct an annual audit", and "grant or contract made under paragraph (1) for fiscal year 1986 and for fiscal year 1987" for "grants and contracts made under this subsection".

Subsec. (b)(7). Pub.L. 99-605, § 5(b)(1), added par. (7).

Subsec. (b)(8). Pub.L. 99-605, § 5(c), added par. (8).

Subsec. (c)(1). Pub.L. 99-605, § 6(a), designated existing provision as par. (1)(A), and in par. (1)(A) as so designated, redesignated para. (1) to (3) as cls. (i) to (iii), and added subpar. (B).

Subsec. (c)(1)(C). Pub.L. 99-605, § 6(b), added subpar. (C).

Subsec. (c)(2). Pub.L. 99-605, § 8(a), added par. (2).

Subsec. (d)(1). Pub.L. 99-605, § 3(a), substituted "Secretary of Education" for "Director".

Subsec. (e)(2)(A). Pub.L. 99-605, § 9(a)(1), struck out provisions, following cl. (iii), which related to termination of cash assistance to refugee with month in which refugee refuses offer of employment or participation in social service program.

Subsec. (e)(2)(A)(i). Pub.L. 99-605, § 6(d), substituted "(c)(1)(A)(i)" for "(c)(1)".

Subsec. (e)(2)(A)(ii). Pub.L. 99-605, § 8(b), inserted "or targeted assistance" following "appropriate social service".

Subsec. (e)(2)(C). Pub.L. 99-605, § 9(a)(2), added subpar. (C).

Subsec. (e)(7)(A). Pub.L. 99-605, § 10, added provisions which related to alternative projects for specific groups of refugees in the United States 36 months or longer if determined to be disproportionately dependent on welfare.

Subsec. (e)(8). Pub.L. 99-605, § 9(b), added par. (8).

Subsecs. (f), (g). Pub.L. 99-605, § 13, added subsecs. (f) and (g).

1984 Amendment

Subsec. (e)(7). Pub.L. 98-473 added par. (7).

1983 Amendment

Subsec. (b)(1)(B). Pub.L. 98-164, § 1011(b)(1), struck out provision directing the President to provide for a study of which agency is best able to administer the program of initial resettlement and to report to the Congress, not later than Mar. 1, 1981, on that study.

Pub.L. 98-164, § 1011(b)(2), struck out "after such study" following "If the President determines".

1982 Amendment

Subsec. (a)(1)(A). Pub.L. 97-363, § 3(a)(1)(2), designated existing provisions of par. (1) as subpar. (A) and, in subpar. (A) as so designated, redesignated cls. (A) through (D) as (i) through (iv), respectively.

Subsec. (a)(2)(A). Pub.L. 97-363, § 4(a)(1), designated existing provisions of par. (2) as subpar. (A).

Subsec. (a)(2)(B). Pub.L. 97-363, § 3(a)(3), added subpar. (B).

Subsec. (a)(2)(B), (C). Pub.L. 97-363, § 4(a)(2), added subpars. (B) and (C).

Subsec. (a)(3). Pub.L. 97-363, § 4(b), added provision that the Director shall compile and maintain data on secondary migration of refugees within the United States and, by State of residence and nationality, on the proportion of refugees receiving cash or medical assistance described in subsec. (e) of this section.

Subsec. (b)(1)(A). Pub.L. 97-363, § 5(1), struck out provision that the Secretary of State and the Director shall jointly monitor the assistance provided during fiscal years 1980 and 1981 under this paragraph.

Pub.L. 97-363, § 5(2), added provision relating to the period for expenditure of funds provided under grants and contracts and the inclusion in such grants and contracts of requirements for notification by the agency in the event of employment offers to the refugee and assurance that refugees identified under par. (4)(B) will report to appropriate health agencies upon resettlement.

Subsec. (b)(5). Pub.L. 97-363, § 5(3), added par. (5).

Subsec. (b)(6). Pub.L. 97-363, § 5(4), added par. (6).

Subsec. (e)(1). Pub.L. 97-363, § 6(a), struck out "up to" before "100 per centum".

Subsec. (e)(2). Pub.L. 97-363, § 6(b), redesignated existing provisions of par. (2) as subpar. (A), in (A) as so redesignated, redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, added cl. (ii), added provision that cash assistance be cut off, after opportunity for hearing, to a refugee who refuses appropriate offer of employment or participation in available social service program, and added subpar. (B).

Subsec. (e)(6). Pub.L. 97-363, § 6(c), added par. (6).

Effective Date of 1988 Amendment

Section 6(c) of Pub.L. 100-525 provided that: "The amendments made by this section [amending this section and section 1524 of this title] shall be effective as if they were included in the enactment of the Refugee Assistance Extension Act of 1986 [Pub.L. 99-605]."

Effective Date of 1986 Amendment

Section 5(d)(1), (2) of Pub.L. 99-605 provided that:

"(1) Section 412(b)(7) (other than subparagraphs (B)(i), (C), and (D)) of the Immigration and Nationality Act, as added by subsection (b)(1) of this section [subsec. (b)(7) of this section], shall apply to grants and contracts made or renewed after the end of the 30-day period beginning on the date of the enactment of this Act [Nov. 6, 1986].

"(2) Section 412(b)(7)(D) of the Immigration and Nationality Act, as added by subsection (b)(1) of this section [subsec. (b)(7)(D) of this section], shall apply to grants and contracts made or renewed after the end of the six-month period beginning on the date of the enactment of this Act [Nov. 6, 1986]."

Section 6(c) of Pub.L. 99-605 provided that: "The amendment made by subsection (a) [amending subsection (c) of this section] shall apply to allocations of funds for fiscal years beginning with fiscal year 1987."

Section 9(c) of Pub.L. 99-605 provided that: "The amendments made by subsection (a) [amending subsec. (c) of this section] of this section shall apply to aliens entering the United States as refugees on or after the first day of the first calendar quarter that begins more than 90 days after the date of the enactment of this Act [Nov. 6, 1986]."

Effective Date of Amendment

Section 101(d) of Pub.L. 98-473 provided in part that the amendment of this section by section 101(d) of Pub.L. 98-473 [enacting subsec. (e)(7) of this section] shall take effect on October 1, 1984.

Effective Date of 1982 Amendments

Section 8 of Pub.L. 97-363 provided that: "The amendments made by—

"(1) sections 3(b), 4, 5(3), 5(4), 6(a), and 7 [amending subsecs. (a), (b), and (e) of this section and adding subsecs. (c) and (d) of section 1523 of this title] take effect on October 1, 1982, and

"(2) sections 5(2), 6(b), and 6(c) [amending subsecs. (b) and (e) of this section] apply to grants and contracts made, and assistance furnished, on or after October 1, 1982."

Effective Date of 1981 Amendment

Pub.L. 97-35, Title V, § 547, Aug. 13, 1981, 95 Stat. 463, provided that: "This subtitle [see Short Title of 1981 Amendment note set out below] shall take effect on October 1, 1981."

Effective Date

Section 313 of Pub.L. 96-212 provided that:

"(a) Except as otherwise provided in this section, the amendments made by this part [enacting this section and sections 1521, 1523, and 1524 of this title, amending section 2601 of Title 22, Foreign Relations and Intercourse, and repealing provision set out as a note under section 2601 of Title 22] shall apply to fiscal years beginning on or after October 1, 1979.

"(b) Subject to subsection (c), the limitations contained in sections 412(d)(2)(A) and 412(e)(1) of the Immigration and Nationality Act [subsec. (d)(2)(A) and (e)(1) of this section, respectively] on the duration of the period for which child welfare services and cash and medical assistance may be provided to particular refugees shall not apply to such services and assistance provided before April 1, 1981.

"(c) Notwithstanding section 412(c)(1) of the Immigration and Nationality Act [subsec. (c)(1) of this section] and in lieu of any assistance which may otherwise be provided under such section with respect to Cuban refugees who entered the United States and were receiving assistance under section 2(b) of the Migration and Refugee Assistance Act of 1962 [see Short Title note set out under section 2601 of Title 22] before October 1, 1978, the Director of the Office of Refugee Resettlement is authorized—

"(1) to provide reimbursement—

"(A) in fiscal year 1980, for 75 percent,

"(B) in fiscal year 1981, for 60 percent,

"(C) in fiscal year 1982, for 45 percent,

and

"(D) in fiscal year 1983, for 25 percent, of the non-Federal costs of providing cash and medical assistance (other than assistance described in paragraph (2)) to such refugees, and

"(2) to provide reimbursement in any fiscal year for 100 percent of the non-Federal costs associated with such Cuban refugees with respect to whom supplemental security income payments were being paid as of September 30, 1978, under title XVI of the Social Security Act

or 1981 et seq. of Title 42, The Public Health and Welfare).

"(d) The requirements of section 412(a)(6)(A) of the Immigration and Nationality Act [subsec. (a)(6)(A) of this section] shall apply to assistance furnished under chapter 2 of title IV of such Act [this subchapter] after October 1, 1980, or earlier date as the Director of the Office of Refugee Resettlement may establish."

Short Title of 1981 Amendment

Pub.L. 97-35, Title V, § 541, Aug. 13, 1981, 95 Stat. 458, provided that: "This subtitle [repealing sections 239a, 1211b, and 1211b note of Title 20, Education, and amending the Refugee Education Assistance Act of 1980, set out as a note under this section] may be cited as the 'Consolidated Refugee Education Assistance Act'."

Maintaining Funding Level of Matching Grant Program

Section 7 of Pub.L. 99-605 provided that:

"(a) **Maintaining Funding Level**—Subject to the availability of appropriations, the Director of the Office of Refugee Resettlement shall not reduce the maximum average Federal contribution per refugee in the matching grant program and shall not increase the percentage grantee matching requirement under that program below the or above the percentage, in effect under the program for grants in fiscal year 1985.

"(b) **Matching Grant Program**—The 'matching grant program' referred to in subsection (a) is the voluntary agency program which is known as the matching grant program and is funded under section 412(c) of the Immigration and Nationality Act [subsec. (c) of this section]."

Establishment of Performance Criteria for

Section 5(d)(3) of Pub.L. 99-605 provided that: "The criteria required under the amendment made by subsection (c) [enacting subsec. (b)(8) of this section] shall be established not later than 60 days after the date of the enactment of this Act [Nov. 6, 1986]."

Refugee Education Assistance Act of 1980

Pub.L. 96-422, Oct. 10, 1980, 94 Stat. 1799, as amended Pub.L. 96-424, Oct. 10, 1980, 94 Stat. 1820; Pub.L. 97-35, Title V, § 543(a)(1), (b) to (d), 544 to 547, Aug. 13, 1981, 95 Stat. 458 to 463, eff. Oct. 1, 1981, provided:

"That this Act [this note] may be cited as the 'Refugee Education Assistance Act of 1980'."

"TITLE I—GENERAL PROVISIONS"

"DEFINITIONS"

"Sec. 101. As used in this Act—

"(1) The terms 'elementary school', 'local education agency', 'secondary school', 'State', and 'State educational agency' have the meanings given such terms under section 198(a) of the Elementary and Secondary Education Act of 1965 [section 2854(a) of Title 20, Education].

"(2) The term 'elementary or secondary non-public 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 of 1954 [section 501(c)(3) of Title 26, Internal Revenue Code].

"(3) The term 'eligible participant' means any alien who—

"(A) has been admitted into the United States as a refugee under section 207 of the Immigration and Nationality Act [section 1157 of this title];

"(B) has been paroled into the United States as a refugee by the Attorney General pursuant to section 212(d) (5) of such Act [section 1182(d) (5) of this title];

"(C) is an applicant for asylum, or has been granted asylum, in the United States; or

"(D) has fled from the alien's country of origin and has, pursuant to an Executive order of the President, been permitted to enter the United States and remain in the United States indefinitely for humanitarian reasons;

but only during the 36-month [period] beginning with the first month in which the alien entered the United States (in the case of an alien described in (A), (B), or (D)) or the month in which the alien applied for asylum (in the case of an alien described in subparagraph (C)).

"(4) The term 'Secretary' means the Secretary of Education.

"AUTHORIZATIONS AND ALLOCATION OF APPROPRIATIONS

"Sec. 102. (a) There are authorized to be appropriated for each of the fiscal years 1981, 1982, and 1983, but only in a lump sum for all programs under this Act, subject to allocation in accordance with subsection (b), such sums as may be necessary to make payments to which State educational agencies are entitled under this Act and payments for administration under section 104.

"(b)(1) If the sums appropriated for any fiscal year to make payments to States under this Act are not sufficient to pay in full the sum of the amounts which State educational agencies are entitled to receive under titles II through IV for such year, the allocations to State educational agencies under each of such titles shall be ratably reduced by the same percentage to the extent necessary to bring the aggregate of such allocations within the limits of the amounts so appropriated.

"(2) In the event that funds become available for making payments under this Act for any period after allocations have been made under paragraph (1) of this subsection for such period, the amounts reduced under such paragraph shall be increased on the same basis as they were reduced.

"TREATMENT OF CERTAIN JURISDICTIONS

"Sec. 103. (a) The jurisdictions to which this section applies are Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(b)(1) Each jurisdiction to which this section applies shall be entitled to grants for the purposes set forth in sections 201(a), 302, and 402 in amounts equal to amounts determined by the Secretary in accordance with criteria established by the Secretary, except that the aggregate of the amount to which such jurisdictions are so entitled for any period—

"(A) for the purposes set forth in section 201(a), shall not exceed an amount equal to 1 percent of the amount authorized to be appropriated under section 201 for that period;

"(B) for the purposes set forth in section 302, shall not exceed an amount equal to 1 percent of the aggregate of the amounts to which all States are entitled under section 301 for that period; and

"(C) for the purposes set forth in section 402, shall not exceed an amount equal to 1 percent of the aggregate of the amounts to which all States are entitled under section 401 for that period.

"(2) If the aggregate of the amounts determined by the Secretary pursuant to paragraph (1) to be so needed for any period exceeds an amount equal to such 1 percent limitation, the entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such limitation.

"STATE ADMINISTRATIVE COSTS

"Sec. 104. The Secretary 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 Act, except that the total of such payments for any period shall not exceed 2 percent of the amount which that State educational agency receives for that period under this Act.

"WITHHOLDING

"Sec. 105. Whenever the Secretary, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of any title of this Act, the Secretary shall notify that agency that further payments will not be made to the agency under such title, or in the discretion of the Secretary, that the State educational agency shall not make further payments under such title to specified local educational agencies or other entities (in the case of funds under title IV) whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under such title, or payments by the State educational agency under such title shall be limited to local educational agencies or other entities (in the case of funds under title IV) whose actions did not cause or were not involved in the failure, as the case may be.

"CONSULTATION WITH OTHER AGENCIES

"Sec. 106. To the extent that may be appropriate to facilitate the determination of the amount of any reductions under sections 201(b)(2), 301(b)(3), and 401(b)(2), the Secretary shall consult with the heads of other agencies providing assistance to eligible participants in order to secure information concerning the disbursement of funds for educational purposes under programs administered by them and provide, wherever feasible, for coordination among those programs and the programs under titles II through IV of this Act.

"TITLE II—GENERAL ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES

"STATE ENTITLEMENTS

"Sec. 201. (a) The Secretary shall, in accordance with the provisions of this title, make grants to State educational agencies for fiscal year 1981, and for each subsequent fiscal year, for the purposes of assisting local educational agencies of that State in providing basic education for eligible participants enrolled in elementary or secondary public schools. Payments made under this title to any State shall be used in accordance with applications approved under section 202 for public educational services for eligible participants enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of that State.

"(b)(1) As soon as possible after the date of the enactment of the Consolidated Refugee Education Assistance Act [Aug. 13, 1981], the Secretary shall establish a formula (reflecting the availability of the full amount authorized for this title under section 203(b)) by which to determine the amount of the grant which each State educational agency is entitled to receive under this title for any fiscal year. The formula established by the Secretary shall take into account the number of years that an eligible participant assisted under this title has resided within the United States and the relative costs, by grade level, of providing education for elementary and secondary school children. On the basis of the formula the Secretary shall allocate among the State educational agencies, for each fiscal year, the amounts available to carry out this title, subject to such reductions or adjustments as may be required under paragraph (2) or subsection (c). Funds shall be allocated among State educational agencies pursuant to the formula without regard to variations in educational costs among different geographical areas.

"(2) The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available for such fiscal year under any other Federal law (other than section 303 of the Elementary and Secondary Education Act of 1965) [formerly section 843 of Title 20, Education] for expenditure within the State for the same purposes as those for which funds are made available under this title, except that the reduction shall be made only to the extent that (A) such amounts are made available for such purposes specifically because of the refugee, parolee, or asylee status of the individuals to be served by such funds, and (B) such amounts are made available to provide assistance to individuals eligible for services under this title. The amount of the reduction required under this paragraph shall be determined by the Secretary in a manner consistent with subsection (c).

"(3) For the purpose of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The entitlements of such jurisdictions shall be determined in the manner specified in section 103, but for purposes of this title and section 105 any payments made under section 103 for the purposes set forth in section 201(a) shall be considered to be payments under this title.

"(c) Determinations by the Secretary under this title for any period with respect to the number of eligible participants and the amount of the reduction under subsection (b)(2) shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate because of an underestimate or overestimate to deprive any State educational of its entitlement to any payment (or the thereof) under this title to which such agency would be entitled had such determination been made on the basis of accurate data.

"APPLICATIONS

"Sec. 202. (a) No State educational agency shall be entitled to any payment under this title for any period unless that agency has made an application to the Secretary at such time, in manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

"(1) provide that the payments under this title will be used for the purposes set forth in section 201(a);

"(2) Provide assurances that such payments will be distributed among local educational agencies within that State in accordance with the formula established by the Secretary under section 201, subject to any reductions in payments for those local educational agencies identified under paragraph (3) to which funds described by section 201(b)(2) are made available for the same purposes under other Federal laws;

"(3) specify the amount of funds described by section 201(b)(2) which are made available under other Federal laws for expenditure within the State for the same purposes as those for which funds are made available under this title and the local educational agencies to which such funds are made available;

"(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 the application for such funds reasonable notice and opportunity for a hearing; and

"(5) provide for making such reports as the Secretary may reasonably require to carry out this title.

"(b) The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary 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 AND AUTHORIZATIONS

"Sec. 203. (a) The Secretary shall pay to State educational agency having an application approved under section 202 the amount which that State is entitled to receive under this title.

"(b) For fiscal year 1981 and for each subsequent fiscal year, there is authorized to be appropriated, in the manner specified under section 102, to make payments under this title an amount equal to the product of—

"(1) the total number of eligible participants enrolled in elementary or secondary public schools under the jurisdiction of local educational agencies within all the States (other

than the jurisdictions to which section 103 is applicable) during the fiscal year for which the determination is made,

multiplied by—
“(C) \$400.

“TITLE III—SPECIAL IMPACT ASSISTANCE FOR SUBSTANTIAL INCREASES IN ATTENDANCE

“STATE ENTITLEMENTS

“Sec. 301. (a) The Secretary shall, in accordance with the provisions of this title, make payments to State educational agencies for fiscal year 1981, and for each subsequent fiscal year for the purpose set forth in section 302.

“(b)(1) Except as provided in paragraph (3) of this subsection and in subsections (c) and (d) of this section, the amount of the grant to which a State educational agency is entitled under this title for any fiscal year shall be equal to the sum of—

“(A) the amount equal to the product of (i) the number of eligible participants enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who have been eligible participants less than one year, multiplied by (ii) \$700;

“(B) the amount equal to the product of (i) the number of eligible participants enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who have been eligible participants at least one year but not more than two years, multiplied by (ii) \$500; and

“(C) the product of (i) the number of eligible participants enrolled during the period for which the determination is made in elementary or secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, or in any elementary or secondary nonpublic school within the district served by each such local educational agency, who have been eligible participants more than two years but not more than three years, multiplied by (ii) \$300.

“(2) The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of eligible participants who are enrolled in elementary or secondary public schools under the jurisdiction of such agencies, or in elementary or secondary nonpublic schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this title, and are receiving supplementary educational services during such period, is equal to—

“(A) at least 500; or

“(B) at least 5 percent of the total number of students enrolled in such public or nonpublic schools during such fiscal year;

whichever is less. Notwithstanding the provisions of this paragraph, the local educational agencies referred to in paragraph (1) shall include local educational agencies eligible to receive assistance by reason of the last sentence of second 3(b) [section 238(b) of Title 20, Education] and section 3(c)(2)(B) [section 238(c)(2)(B) of Title 20, Education] of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), relating to Federal impact aid, subject to paragraph (5) of this subsection.

“(3) The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available under any other Federal law to agencies or other entities for educational, or education-related, services or activities within the State because of the significant concentration of eligible participants, except that no reduction under this paragraph shall be made for any funds made available to the State under section 303 of the Elementary and Secondary Education Act of 1965 [formerly section 843 of Title 20]. The amount of the reduction required under this paragraph shall be determined by the Secretary in a manner consistent with subsection (c).

“(4) For the purpose of this subsection, the term ‘State’ does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The entitlements of such jurisdictions shall be determined in the manner specified in section 103, but for purposes of this title and section 105 any payments made under section 103 for the purposes set forth in section 302 shall be considered to be payments under this title.

“(5) The amount of the grant to which a State educational agency is entitled as a result of the last sentence of paragraph (2) shall be limited to eligible participants who meet the requirements of section 101(4).

“(e) Determinations by the Secretary under this title for any period with respect to the number of eligible participants and the amount of the reduction under subsection (b)(3) shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this title to which such agency would be entitled had such determination been made on the basis of accurate data.

“(d) Whenever the Secretary determines that any amount of a payment made to a State under this title for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to one or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this title, be regarded as part of such state's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

“USE OF I

“Sec. 302. (a) Payments made under this title to any State may be used in accordance with applications approved under section 303 for supplementary educational services and costs, as described under subsection (b) of this section, for eligible participants enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of the State described in section 301(b)(2) and in elementary and secondary nonpublic schools of that State within the districts served by such agencies.

“(b) Financial assistance provided under this title shall be available to meet the costs of providing eligible participants supplementary educational services, including but not limited to—

“(1) supplementary educational services necessary to enable those children to achieve a satisfactory level of performance, including—

“(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 eligible participants, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

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

“APPLICATIONS

“Sec. 303. (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 Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary 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 assurances that payments under this title will be used for purposes set forth in section 302;

“(3) provide assurances that such payments will be distributed among local educational agencies within that State in accordance with section 301, subject to any reductions in payments for local educational agencies identified under paragraph (5) to take into account the funds described by section 301(b)(3) that are made available for educational, or education-related, services or activities for eligible participants enrolled in elementary or secondary public schools under the jurisdiction of such agencies or elementary or secondary nonpublic schools within the districts served by such agencies;

“(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 ap-

plication for such funds reasonable notice and opportunity for a hearing;

“(5) specify (A) the amount of funds described by section 301(b)(3) that are made available under other Federal laws to agencies or other entities for educational, or education-related, services or activities within the State because of a significant concentration of eligible participants, and (B) the local educational agencies within whose districts are eligible participants provided services from such funds who are enrolled in elementary or secondary schools under the jurisdiction of such agencies, or in elementary or secondary nonpublic schools served by such agencies;

“(6) provide for making such reports as the Secretary may reasonably require to perform his functions under this Act; and

“(7) provide assurances—

“(A) that to the extent consistent with the number of eligible participants 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 children secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children;

“(B) that the control of funds provided under this paragraph and the title to any materials, equipment, and property repaired, remodeled, or constructed with those 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

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

“PAYMENTS

“Sec. 304. (a) The Secretary shall pay to State educational agency having an application approved under section 303 the amount which the State is entitled to receive under this title.

“(b) 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 303(a)(6), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary 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 Act.

"TITLE IV—ADULT EDUCATION PROGRAMS

"STATE ENTITLEMENTS

"Sec. 401. (a) The Secretary shall, in accordance with the provisions of this title, make payments to State educational agencies for fiscal year 1982, and for each subsequent fiscal year for the purposes of providing for the operation of adult education programs as described under section 402 for eligible participants aged 16 or older. Payments made under this title to any State shall be used in accordance with applications approved under section 403.

"(b)(1) Except as provided in subsection (c) of this section, the amount of the grant to which a State educational agency is entitled under this Act, for any fiscal year described in subsection (a), shall be equal to the product of—

"(A) the number of eligible participants aged 16 or older who are enrolled, during the period for which the determination is made, in programs of instruction referred to in section 402 which are offered within that State, other than any such refugees who are enrolled in elementary or secondary public schools under the jurisdiction of local educational agencies; multiplied by—

"(B) \$300.

"(2) The amount of the grant to which a State educational agency is otherwise entitled for any fiscal year, as determined under paragraph (1), shall be reduced by the amounts made available for such fiscal year under any other Federal law (other than section 303 of the Elementary and Secondary Education Act of 1965) [formerly section 843 of Title 20] for expenditure within the State for the same purposes as those for which funds are made available under this title, except that the reduction shall be made only to the extent that (A) such amounts are made available for such purposes specifically because of the refugee, parolee, or asylee status of the individuals to be served by such funds, and (B) such amounts are made available to provide assistance to individuals eligible for services under this title. The amount of the reduction required under this paragraph shall be determined by the Secretary in a manner consistent with subsection (c).

"(3) For the purpose of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The entitlements of such jurisdictions shall be determined in the manner specified in section 103, but for purposes of this title and second 103 any payments made under section 103 for the purposes set forth in section 402 shall be considered to be payments under this title.

"(c) Determinations by the Secretary under this title for any period with respect to the number of eligible participants and the amount of the reduction under subsection (b)(2) shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate because of an underestimate or overestimate to deprive any State educational agency

of its entitlement to any payment (or the amount thereof) under this title to which such agency would be entitled had such determination been made on the basis of accurate data.

"USE OF FUNDS

"Sec. 402. (a) Funds made available to State educational agencies under this title shall be used by such agencies to provide for programs of adult education and adult basic education to eligible participants aged 16 or older in need of such services who are not enrolled in elementary or secondary public schools under the jurisdiction of local educational agencies. Such programs may be provided directly by the State educational agency, or such agency may make grants, or enter into contracts, with local educational agencies, and other public or private nonprofit agencies, organizations, or institutions to provide for such programs. Funds available under this title may be used for—

"(1) programs of instruction of such adult refugees in basic reading and mathematics, in development and enhancement of necessary skills, and for the promotion of literacy among such refugees;

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

"(3) educational support services which meet the need of such adult refugees, including 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 [section 801 et seq. of Title 29, Labor] or under the Vocational Education Act of 1963 [section 2301 et seq. of Title 20, Education].

"(b) The State educational agency shall review applications for grants and contracts in a manner consistent with the purposes of paragraphs (1) and (13) of section 306(b) of the Adult Education Act [section 1205(b) of Title 20, Education].

"(c) The State educational agency shall provide for the use of funds made available under this title in such manner that the maximum number of eligible participants aged 16 or older residing within the State receive education under the programs of instruction described under subsection (a).

"APPLICATIONS

"Sec. 403. (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 Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

"(1) provide that payments made under this title will be used only for the purposes, and in the manner, set forth in section 402;

"(2) specify the amount of reduction required under section 401(b)(2);

"(3) 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 entity submitting an application for such funds reasonable notice and opportunity for a hearing; and

"(4) provide for making periodic reports to the Secretary evaluating the effectiveness of the payments made under this title, and such other reports as the Secretary may reasonably require to perform his functions under this Act.

"(b) The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary 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.

"TITLE V—OTHER PROVISIONS RELATING TO CUBAN AND HAITIAN ENTRANTS

"AUTHORITIES FOR OTHER PROGRAMS AND ACTIVITIES

"Sec. 501. (a)(1) The President shall exercise authorities with respect to Cuban and Haitian entrants which are identical to the authorities which are exercised under chapter 2 of title IV of the Immigration and Nationality Act [section 1521 et seq. of this title]. The authorizations provided in section 414 of that Act [section 1524 of this title] shall be available to carry out this section without regard to the dollar limitation contained in section 414(a)(2) [section 1524(a)(2) of this title].

"(2) Any reference in chapter III of title I of the Supplemental Appropriations and Recession Act, 1980 [Pub.L. 96-304], to section 405(c)(2) of the International Security and Development Assistance Act of 1980 [H.R. 6942] or to the International Security Act of 1980 shall be construed to be a reference to paragraph (1) of this subsection.

"(b) In addition, the President may, by regulation, provide that benefits granted under any law of the United States (other than the Immigration and Nationality Act [this chapter]) with respect to individuals admitted to the United States under section 207(c) of the Immigration and Nationality Act [section 1157(c) of this title] shall be granted in the same manner and to the same extent with respect to Cuban and Haitian entrants.

"(c) (1) (A) Any Federal agency may, under the direction of the President, provide assistance (in the form of materials, supplies, equipment, work, services, facilities, or otherwise) for the processing, care, maintenance, security, transportation, and initial reception and placement in the United States of Cuban and Haitian entrants. Such assistance shall be provided on such terms and conditions as the President may determine.

"(B) Funds available to carry out this subsection shall be used to reimburse State and local governments for expenses which they incur for the purposes described in subparagraph (A). Such funds may be used to reimburse Federal agencies for assistance which they provide under subparagraph (A).

"(2) The President may direct the head of any Federal agency to detail personnel of that agency, on either a reimbursable or nonreimbursable basis, for temporary duty with any Federal agency directed to provide supervision and management for purposes of this subsection.

"(3) The furnishing of assistance or other exercise of functions under this subsection shall not be considered a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 [section 4321 et seq. of Title 42, The Public Health and Welfare].

"(4) Funds to carry out this subsection be available until expended.

"(5) [Repealed. Pub.L. 96-424, Oct. 10, 1980, 94 Stat. 1820. Section authorized the use of certain funds appropriated to the President in carrying out this subsection to the extent that such funds are used for the purposes described in par. (1) of this subsection.]

"(d) The authorities provided in this section are applicable to assistance and services provided with respect to Cuban or Haitian entrants at any after their arrival in the United States, including periods prior to the enactment of this section.

"(e) As used in this section, the term 'Cuban and Haitian entrant' means—

"(1) any individual granted parole status as a Cuban/Haitian Entrant (Status Pending) or granted any other special status subsequently established under the immigration laws for nationals of Cuba or Haiti, regardless of the date of the individual at the time assistance or services are provided; and

"(2) any other national of Cuba or Haiti—

"(A) who—

"(i) was paroled into the United States and has not acquired any other status under the Immigration and Nationality Act [this chapter];

"(ii) is the subject of exclusion or deportation proceedings under the Immigration and Nationality Act [this chapter]; or

"(iii) has an application for asylum pending with the Immigration and Naturalization Service; and

"(B) with respect to whom a final, nonappealable, and legally enforceable order of deportation or exclusion has not been entered."

Limits on Authorization of Appropriations for Fiscal Years 1982 and 1983 for Cuban and Haitian Reception and Domestic Activities

Pub.L. 97-35, Title V, § 526, Aug. 13, 1981, 95 Stat. 450 provided that:

"(a)(1) The total amount of appropriations to carry out Cuban and Haitian reception activities shall not exceed \$20,000,000 for fiscal year 1982.

"(2) No funds are authorized to be appropriated to Cuban and Haitian reception activities for the fiscal year 1983.

"(b) The total amount of appropriations to carry out Cuban and Haitian domestic activities shall not exceed \$94,000,000 for fiscal year 1982 and \$59,000,000 for fiscal year 1983."

Limits on Authorization of Appropriations for Fiscal Years 1982, 1983 and 1984 for Refugee Education Consolidation

Pub.L. 97-35 Title V, § 525, Aug. 13, 1981, 95 Stat. 450, provided that: "The total amount of appropriations to carry out titles I through IV of the Refugee Education Assistance Act of 1980 [set out as a note under this section] shall not \$5,000,000 for fiscal 1982, \$7,500,000 for

fiscal year 1983, and \$10,000,000 for 1984."

Eligibility of Certain Cuban-Haitian Entrants Entering After Nov. 1, 1979

Pub.L. 97-35, Title V, §§ 543(a)(2), 547, Aug. 13, 1981, 95 Stat. 459, 463, eff. Oct. 1, 1981, provided that: "For purposes of the Refugee Education Assistance Act of 1980 [set out as a note under this section], an alien who entered the United States on or after November 1, 1979, and is in the United States with the immigration status of a Cuban-Haitian entrant (status pending) shall be considered to be an eligible participant (within the meaning of section 101(3) of such Act), but only during the 36-month period beginning with the first month in which the alien entered the United States as such an entrant or otherwise first acquired such status."

Cuban Refugees; Incarceration and Deportation of Certain Cubans

Pub.L. 96-533, Title VII, § 716, Dec. 16, 1980, 94 Stat. 3162, provided: "The Congress finds that the United States Government has already incarcerated recently arrived Cubans who are admitted criminals, are security threats, or have incited civil disturbances in Federal processing facilities. The Congress urges the Executive branch, consistent with United States law, to seek the deportation of such individuals."

References to Secretary of Education or Secretary of Health and Human Services, or to Department of Health and Human Services

References in the Refugee Act of 1980, Pub.L. 96-212, or in subchapter IV of this chapter to Secretary of Education or the Secretary of Health and Human Services or to the Department of Health and Human Services deemed, before the effective date of the Department of Education Organization Act [section 601 of Pub.L. 96-88, set out as a note under section 3401 of Title 20, Education], to be a reference to the Secretary of Health, Education, and Welfare or to the Department of Health, Education, and Welfare, respectively,

EXECUTIVE ORDERS

EXECUTIVE ORDER NO. 12246

Ex.Ord. No. 12246, Oct. 10, 1980, 45 F.R. 68367, formerly set out as a note under this section, which related to the delegation of functions concerning educational assistance to Cuban

and Haitian entrants, was revoked by Ex.Ord. No. 12251, Nov. 15, 1980, 45 F.R. 76083, formerly set out as a note under this section.

EXECUTIVE ORDER NO. 12251

Ex.Ord. No. 12251, Nov. 15, 1980, 45 F.R. 76083, formerly set out as a note under this section, which related to the delegation of functions concerning educational assistance to Cuban

and Haitian entrants, was revoked by Ex.Ord. No. 12341, Jan. 21, 1982, 47 F.R. 3341, set out as a note under this section.

EXECUTIVE ORDER NO. 12341

Jan. 21, 1982, 47 F.R. 3341

DELEGATION OF FUNCTIONS CONCERNING EDUCATIONAL ASSISTANCE TO CUBAN AND HAITIAN ENTRANTS

By the authority vested in me as President of the United States of America by Section 501 of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note) [set out as a note under this

section] and Section 301 of Title 3 of the United States Code [section 301 of Title 3, The President], and to reassign some responsibilities for

tively, see section 204(e) of Pub.L. 96-212, set out as a note under section 1521 of this title.

Reimbursement to State and Local Public Agencies for Expenses Incurred for Providing Social Services to Applicants for Asylum

Section 401 of Pub.L. 96-212 provided that:

"(a) The Director of the Office of Refugee Resettlement is authorized to use funds appropriated under paragraphs (1) and (2) of section 414(a) of the Immigration and Nationality Act [section 1524(a) of this title] to reimburse State and local public agencies for expenses which those agencies incurred, at any time, in providing aliens described in subsection (c) of this section with social services of the types for which reimbursements were made with respect to refugees under paragraphs (3) through (6) of section 2(b) of the Migration and Refugee Assistance Act of 1962 (as in effect prior to the enactment of this Act) [section 2601(b)(3) to (6) of Title 22, Foreign Relations and Intercourse] or under any other Federal law.

"(b) The Attorney General is authorized to grant to an alien described in subsection (c) of this section permission to engage in employment in the United States and to provide to that alien an 'employment authorized' endorsement or other appropriate work permit.

"(c) This section applies with respect to any alien in the United States (1) who has applied before November 1, 1979, for asylum in the United States, (2) who has not been granted asylum, and (3) with respect to whom a final, nonappealable, and legally enforceable order of deportation or exclusion has not been entered."

Legislative History

For legislative history and purpose of Pub.L. 96-212, see 1980 U.S. Code Cong. and Adm. News, p. 141. See, also, Pub.L. 97-363, 1982 U.S. Code Cong. and Adm. News, p. 3348; Pub.L. 98-164, 1983 U.S. Code Cong. and Adm. News, p. 1484; Pub.L. 98-473, 1984 U.S. Code Cong. and Adm. News, p. 3182; Pub.L. 99-605, 1986 U.S. Code Cong. and Adm. News, p. 6182.

providing assistance to Cuban and Haitian entrants, it is hereby ordered as follows:

Section 1. The functions vested in the President by Sections 501(a) and (b) of the Refugee Education Assistance Act of 1980, hereinafter referred to as the Act (8 U.S.C. 1522 note) [set out as a note under this section], are delegated to the Secretary of Health and Human Services.

Sec. 2. The Attorney General shall ensure that actions are taken to provide such assistance to Cuban and Haitian entrants as provided for by

501(c) of the Act [set out as a note under this section]. To that end, the functions vested in the President by Section 501(c) of the Act are delegated to the Attorney General.

Sec. 3. All actions taken pursuant to Executive Order No. 12251 shall continue in effect until superseded by actions under this Order.

Sec. 4. Executive Order No. 12251 of November 15, 1980, is revoked.

RONALD REAGAN

CODE OF FEDERAL REGULATIONS

Assistance to refugee children, transitional program, see 34 CFR 538.1 et seq.

Resettlement of refugees, see 45 CFR 400.1 et seq.

LAW REVIEW COMMENTARIES

Political asylum under the 1980 Refugee Act: An unfulfilled promise. Arthur C. Helton, 17 U.Mich.J.L.Ref. 243 (1984).

LIBRARY REFERENCES

United States 6-82(1), (2).
C.J.S. United States § 122.

NOTES OF DECISIONS

Construction 1/4
Discretion of Secretary 4
Injunction 1
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Standing to sue 2
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1/4. Construction

Language of this section authorizing Director of Office of Refugee Resettlement to extend benefits and reimbursements to states during 36-month period beginning with first month in which refugee has entered United States is not mandatory and does not direct that Secretary of Health and Human Services make those benefits available for a period of 36 months; language is merely permissive and confers discretionary authority. *Thong-samouth v. Schweiker*, C.A.Mass.1983, 711 F.2d 465.

1. Injunction

Florida Governor and State Secretary of Health and Rehabilitative Services were not entitled to preliminary injunction preventing enforcement of federal regulations that terminated funds previously available under this subchapter where alleged loss of funds from state treasury was clearly not irreparable, where they could continue to make assistance payments themselves and then seek reimbursement or they could amend state's general assistance program to make more refugees eligible for aid, and where their objections had been squarely rejected in other persuasive decisions. *Graham v. Schweiker*, D.C.Fla.1982, 545 F.Supp. 625.

2. Standing to sue

Injured refugees were able to bring suit for themselves and thus there was no reason to confer third-party standing on state or its officials to allege that new federal regulations terminating funds previously available under this subchapter violated rights of refugees to equal protection and

to travel freely within the United States. *Graham v. Schweiker*, D.C.Fla.1982, 545 F.Supp. 625.

3. Termination or reduction of benefits

Because interest of refugee cash assistance recipients in continued receipt of benefits at Aid to Families with Dependent Children level was probably substantial enough to be considered "property" for due process purposes, such recipients in this country more than 18 but less than 36 months were entitled, before their benefits were terminated or reduced, to notice stating intended termination or reduction, and informing them of their right to appeal and that benefits would be continued until they were determined ineligible to receive same level of assistance under one of the categorical programs. *Chu Drua Cha v. Noot*, C.A.Minn. 1982, 696 F.2d 594, rehearing denied 701 F.2d 750.

4. Discretion of Secretary

In light of fact that of 125,000 Cuban nationals who arrived in the United States as part of "freedom flotilla," over 70,000 had already been paroled into Florida, and of fact that Florida's social service systems were at breaking point, Attorney General's decision not to resettle any other Cuban nationals in Florida except with family members was not abuse of discretion. *Fernandez-Roque v. Smith*, C.A.Ga.1984, 734 F.2d 576, on remand 622 F.2d 887.

Secretary of Health and Human Services, and through him the Director of Office of Refugee Resettlement, has discretionary authority to determine not only amount of cash and medical benefits available under this section, but also duration of benefits. *Thong-samouth v. Schweiker*, C.A.Mass.1983, 711 F.2d 465.

5. Rules and regulations

Regulations issued by Secretary of Health and Human Services limiting cash and medical benefits under this section to a period of 18 months were not arbitrary and capricious exercise of dis-

cretion. *Thongsamouth v. Schweiker*, C.A.Mass.
1983, 711 F.2d 465.

§ 1523. Congressional reports

(a) The Secretary, in consultation with the Coordinator, shall submit a report on activities under this subchapter to the Committees on the Judiciary of the House of Representatives and of the Senate not later than the January 31 following the end of each fiscal year, beginning with fiscal year 1980.

(b) Each such report shall contain—

(1) an updated profile of the employment and labor force statistics for refugees who have entered the United States within the five-fiscal-year period immediately preceding the fiscal year within which the report is to be made and for refugees who entered earlier and who have shown themselves to be significantly and disproportionately dependent on welfare, as well as a description of the extent to which refugees received the forms of assistance or services under this subchapter during that period;

(2) a description of the geographic location of refugees;

(3) a summary of the results of the monitoring and evaluation conducted under section 1522(a)(7) of this title during the period for which the report is submitted;

(4) a description of (A) the activities, expenditures, and policies of the Office under this subchapter and of the activities of States, voluntary agencies, and sponsors, and (B) the Director's plans for improvement of refugee resettlement;

(5) evaluations of the extent to which (A) the services provided under this subchapter are assisting refugees in achieving economic self-sufficiency, acquiring ability in English, and achieving employment commensurate with their skills and abilities, and (B) any fraud, abuse, or mismanagement has been reported in the provisions of services or assistance;

(6) a description of any assistance provided by the Director pursuant to section 1522(e)(5) of this title;

(7) a summary of the location and status of unaccompanied refugee children admitted to the United States; and

(8) a summary of the information compiled and evaluation made under section 1522(a)(8) of this title.

(June 27, 1952, c. 477, Title IV, ch. 2, § 413, as added Mar. 17, 1980, Pub.L. 96-212, Title III, § 811(a)(2), 94 Stat. 115, and amended Oct. 25, 1982, Pub.L. 97-363, §§ 3(b), 7, 96 Stat. 1734, 1737; Pub.L. 99-605, § 11, Nov. 6, 1986, 100 Stat. 3455; Oct. 24, 1988, Pub.L. 100-525, § 9(j), 102 Stat. 2622.)

HISTORICAL AND STATUTORY NOTES

1988 Amendment

Subsec. (a). Pub.L. 100-525, § 9(j)(2)(D), redesignated former par. (1) of subsec. (a) as entire subsection. Former par. (2) of subsec. (a) redesignated subsec. (b).

Subsec. (b). Pub.L. 100-525, § 9(j)(1), (2)(A) to (C), redesignated former subsec. (a)(2) as (b), in subsec. (b), as so redesignated, redesignated former subpars. (A) to (H) as pars. (1) to (8), respectively, in para. (4) and (5), as so redesignated, redesignated cls. (i) and (ii) as (A) and (B), respectively, and struck out former subsec. (b), which required the Secretary, in consultation with the Coordinator to conduct and report to Congress, not later than one year after March 17, 1980, an analysis of resettlement systems used by other countries and the applicability of such systems to the United States, the desirability of using a system other than the current welfare system for the provision of cash assistance, medical assistance, or both, to refugees, and alternative resettlement strategies.

Subsec. (c). Pub.L. 100-525, § 9(j)(1), struck out former subsec. (c), which had required the Director to study and report to Congress on the feasibility and advisability of providing for interim support and medical assistance to refugees, such report due not later than Jan. 1, 1983, and also required the Director to report on the feasibility and advisability of providing for the establishment of special refugee centers, such report due not later than Sept. 30, 1983.

Subsec. (d). Pub.L. 100-525, § 9(j)(1), struck out former subsec. (d), which provided that the Director had to study, and report to Congress not later than January 1, 1983, on the feasibility and advisability of establishing a program providing payments to States, counties, cities, and other units of local government to reflect a net increase in outlays on educational, health, criminal justice, and other governmental services resulting directly from the initial resettlement of refugees in, or secondary migration of refugees to, that State, county, city, or other unit.

1986 Amendment

Subsec. (a)(2)(A). Pub.L. 99-605 substituted "the United States within the five-fiscal-year period immediately preceding the fiscal year within which the report is to be made and for refugees who entered earlier and who have shown themselves to be significantly and disproportionately dependent on welfare" for "under this chapter since May 1975".

1982 Amendment

Subsec. (c). Pub.L. 97-363, § 3(b), added subsec. (c).

Subsec. (d). Pub.L. 97-363, § 7, added subsec. (d).

Effective Date of 1982 Amendment

Amendment by Pub.L. 97-363, adding subsecs. (c) and (d) of this section, to take effect on Oct. 1, 1982, see section 8 of Pub.L. 97-363, set out as a note under section 1522 of this title.

Effective Date

Section effective with respect to fiscal years beginning on and after Oct. 1, 1979, see section

313 of Pub.L. 96-212, set out as a note under section 1522 of this title.

References to Secretary of Education or Secretary of Health and Human Services, or to Department of Health and Human Services

References in the Refugee Act of 1980, Pub.L. 96-212, or in subchapter IV of this chapter to Secretary of Education or the Secretary of Health and Human Services or to the Department of Health and Human Services deemed, before the effective date of the Department of Education Organization Act [section 601 of Pub.L. 96-88, set out as a note under section 3401 of Title 20, Education], to be a reference to the Secretary of Health, Education, and Welfare or to the Department of Health, Education, and Welfare, respectively, see section 204(e) of Pub.L. 96-212, set out as a note under section 1521 of this title.

Legislative History

For legislative history and purpose of Pub.L. 96-212, see 1980 U.S. Code Cong. and Adm. News, p. 141. See, also, Pub.L. 97-363, 1982 U.S. Code Cong. and Adm. News, p. 3348; Pub.L. 99-605, 1986 U.S. Code Cong. and Adm. News, p. 6182.

LAW REVIEW COMMENTARIES

Political asylum under the 1980 Refugee Act: An unfulfilled promise. Arthur C. Helton, 17 U.Mich.J.L.Ref. 243 (1984).

§ 1524. Authorization of appropriations

(a) There are authorized to be appropriated for fiscal year 1992 such sums as may be necessary to carry out this subchapter.

(b) The authority to enter into contracts under this subchapter shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

(June 27, 1952, c. 477, Title IV, ch. 2, § 414, as added Mar. 17, 1980, Pub.L. 96-212, Title III, § 811(a)(2), 94 Stat. 116, and amended Oct. 25, 1982, Pub.L. 97-363, § 2, 96 Stat. 1734; Nov. 6, 1986, Pub.L. 99-605, § 2, 100 Stat. 3449; Oct. 24, 1988, Pub.L. 100-525, § 6(a), 102 Stat. 2616; Oct. 1, 1991, Pub.L. 102-110, § 5, 105 Stat. 558.)

HISTORICAL AND STATUTORY NOTES

1991 Amendment

Subsec. (a). Pub.L. 102-110 substituted provisions authorizing appropriation of necessary funds for fiscal year 1992 for this subchapter, for provisions authorizing appropriation of \$74,783,000 for fiscal year 1987 and \$77,924,000 for fiscal year 1988 for services for refugees under section 1522(c)(1) of this title, \$8,761,000 for fiscal year 1987 and \$9,125,000 for fiscal year 1988 for section 1522(b)(5) of this title, \$5,215,000 for fiscal year 1987 and \$5,434,000 for fiscal year 1988 for section 1522(f) of this title, and necessary sums for fiscal years 1987 and 1988 for the remaining provisions of this chapter.

1988 Amendment

Subsec. (a)(1). Pub.L. 100-525, § 6(a), substituted "through (4)" for "through (5)".

1986 Amendment

Subsec. (a)(1). Pub.L. 99-605, § 2(a), (b)(1), substituted "for each of fiscal years 1987 and 1988" for "for fiscal year 1983", and "(2) through (5)" for "(2) and (3)".

Subsec. (2). Pub.L. 99-605, § 2(b)(2), substituted "1987 \$74,783,000 and for fiscal year 1988 \$77,924,000" for "1983 \$100,000,000", and "1522(c)(1)" for "1522(c)".

Subsec. (3). Pub.L. 99-605, § 2(b)(2), substituted "1987 \$8,761,000 and for fiscal year 1988 \$9,125,000" for "1983 \$14,000,000".

Subsec. (4). Pub.L. 99-605, § 2(b)(3), added subsec. (4).

1982 Amendment

Subsec. (a). Pub.L. 97-363, § 2, substituted provisions with regard to fiscal 1983 authorizing the appropriation of sums necessary to carry out the provisions of this subchapter, authorizing appropriations of \$100,000,000 for services to refugees under section 1522(c) of this title, and authorizing appropriations of \$14,000,000 for the purpose of carrying out section 1522(b)(5) of this title, for provisions with regard to fiscal 1980 and each of the two succeeding fiscal years authorizing the appropriation of sums necessary for initial resettlement assistance, cash and medical assistance.

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Where "hard" data were unavailable on Federal spending on immigration and other programs affecting immigrants, estimates were extrapolated using Census, INS, and other data.

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FOR YOUR REVIEW:

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4
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IMMIGRATION POLICY COORDINATION
AND REVIEW

I. GOALS:

1. To develop long term policy on legal and illegal immigration. In particular, to consider questions such as:

- Do the family unity provisions of the 1990 Immigration Act provide a level of sustainable immigration? How do we define "sustainable?" Should additional provisions be considered to facilitate immigration of foreign nationals from countries that have not recently provided immigrants?
- Do the employee categories of the Immigration Act meet U.S. economic needs? Should those categories be changed or reformulated?
- How should changes in our trading relationship with Mexico and Canada affect our immigration law, if at all? Should we expand provision of temporary employment in the United States?
- What is the impact of illegal immigration on local services? Should the federal government increase its role in providing impact assistance to states and localities?
- How can we improve efforts to enforce labor laws, including efforts at providing adequate documentation to foreign workers?

2. To maintain a capacity to respond quickly and effectively to act on immigration issues in the short-term and medium-term, such through administrative reform of affirmative asylum, and legislation on expedited procedures at ports of entry and alien smuggling.

II. STRUCTURE OF THE PROCESS

The 1990 Immigration Act established the U.S. Commission on Immigration Reform to report by the end of 1994 (and again at the end of 1997) on the impact of the 1990 Immigration Act. The President has indicated he will seek Cabinet representation on the Commission. The Commission should thus serve as a focal point for development of long-term policies on immigration issues, with a December 1994 deadline for recommendations for modifications in U.S. immigration law.

In the meantime, the Administration needs to develop a parallel capacity to monitor ongoing immigration issues, to respond to issues in the short-term and medium term and, in some cases, develop policies independent of the Commission. We thus propose that the NSC and DPC staff chair a small interagency group that would monitor U.S. immigration policy and which would establish several working groups in specific areas to 1) coordinate activities with the Commission staff, 2) develop short, medium and long-term objectives for policy in their areas of concern, and 3) respond to specific issues/crises.

The working groups we envision would deal with issues such as--

- Labor issues, including enforcement of employer sanctions (Labor);
- Impact on immigration on localities (HHS);
- Immigration enforcement at ports of entry (INS);
- Legislation, including proposals on expanding the size of the Immigration Commission, expedited exclusion, and alien smuggling (INS).
- Funding issues (INS).

III. International Migration and Refugee Issues

To develop responses to international refugee and migration challenges, we envision an NSC-coordinated policy review policy review (a tasker for which appears at Tab A) that would include creation of an interagency working group on international refugee and migration issues. In addition, that working group would contain subgroups dealing with alien smuggling and migration emergency contingency planning. We envision that this process would be coordinated closely with the DPC/NSC led immigration policy review.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	For the Vice President, et al, from NSC re: U. S. Policy Toward International Migration and Refugee Affairs (5 pages)	00/00/0000	P1/b(1)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Irene Bueno
OA/Box Number: 17174

FOLDER TITLE:

Cabinet Weekly Report: Immigration Refugee Resettlement Policy [4]

2017-1120-S

ry2216

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.



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OFFICE OF THE ASSISTANT SECRETARY FOR LEGISLATION

**CONGRESSIONAL LIAISON OFFICE
ROOM 406G HUMPHREY BUILDING**

TO: Steve Warnath

FROM: Irene B. Bueno

DATE: 1/17/97

FAX NO: 456-7028

TOTAL PAGES

(INCLUDING COVER): 5

Finally, attached is the latest DRAFT of the refugee self-sufficiency report.

Please call me if you have any comments or questions 202-690-6786.

Thank you.

- Access to Justice
- private/public efforts
re: English language
proficiency
- The service collage

REPORT TO THE PRESIDENT

ADDITIONAL STEPS TO INCREASE REFUGEE SELF-SUFFICIENCY,
SOCIAL ADJUSTMENT, AND NATURALIZATION

ISSUE

On August 22, 1996, President Clinton issued a memorandum on the subject of naturalization. Included in this memorandum was the following directive:

I direct the Secretary of Health and Human Services, in conjunction with other agencies as appropriate, to present to me by December 30, 1996, through the Domestic Policy Council, a report setting out a strategy of additional steps that we can take to promote social adjustment in the United States, economic self-sufficiency, and naturalization [of refugees and asylees].

The priority for the domestic refugee resettlement program is, and must continue to be, to help refugees obtain self-sufficiency and social adjustment as quickly as possible after their arrival in the United States.

The Department of Health and Human Services (HHS) is cognizant of the role that the domestic refugee resettlement program plays in foreign policy. Concern over immigrant and refugee use of welfare and the rate of integration into American society has made it clear that in order to maintain public support for refugee resettlement in the future, the self-sufficiency rate and civic integration of refugees need to improve.

The domestic refugee resettlement program will expire this fiscal year. The reauthorization process provides an opportunity for a thorough review of the current program and make recommendations to it that promote the social adjustment, economic self-sufficiency, and naturalization of refugees and asylees. After this review and a series of consultations, we expect to propose reauthorizing legislation before Spring.

What follows are a list of initial steps we will take pursuant to the President's directive. These steps are especially timely inasmuch as the domestic refugee resettlement program's authorization for funding expires this fiscal year. Moreover, Congress has already begun its review of the refugee program. On August 1, 1996, the House Subcommittee on Immigration and Claims held a hearing on increasing the private sector's role in resettlement. We hope to propose reauthorizing legislation prior to the start of hearings in the 105th Congress expected before Spring.

Repeats
some of
the same
points

BACKGROUND

so that they can achieve
economic self-sufficiency and
social adjustment within the
shortest possible time.

The purpose of the domestic refugee resettlement program is to provide newly arrived refugees with the best possible start in their new homeland. As refugee admissions expanded in the 1970's, the existing Federal welfare programs were increasingly utilized to provide cash and medical assistance to refugees and to help them move toward self-sufficiency. The current design of the refugee program was created when the domestic resettlement program was codified in the Refugee Act of 1980 and the Federal Office of Refugee Resettlement (ORR) was established in the Department of Health and Human Services.

Currently, the Department of State funds voluntary agencies to provide refugees with initial resettlement assistance -- helping to orient them to the United States, find housing, enroll their children in school, etc. After the initial resettlement phase (funded at 30 days), refugees are provided with employment and social adjustment services through a variety of Federal and State programs. About half of newly arriving refugees have been provided these services through the Aid to Families with Dependent Children (AFDC) program and other mainstream public assistance programs. Other refugees ineligible for AFDC for non-financial reasons may be eligible for the Refugee Cash and Refugee Medical Assistance programs for eight months after their arrival in the United States. These programs are entirely funded by the Federal government through the HHS Office of Refugee Resettlement.

RECENT INITIATIVES

HHS has taken many steps over the past few years to improve the self-sufficiency and social adjustment rate of refugees. For example, in 1995, ORR issued regulations that directed States to target refugee-specific services to those refugees who have been in the United States for five years or less. The result is that resources are more focused on newly arrived refugees. Fiscal year 1996 was the first year that States were required to submit outcome goal plans, which has led to a greater emphasis on increasing self-sufficiency outcomes. Other initiatives led by ORR include encouraging States to serve more refugees who receive mainstream welfare in refugee-specific services and requiring ORR-funded services to be culturally and linguistically appropriate for all refugee populations.

Demonstration projects funded under the "Wilson/Fish" authority (Section 412(e)(7) of the Immigration and Nationality Act), have been particularly successful in helping refugees gain self-sufficiency. Key to the success of projects in Kentucky, Massachusetts and San Diego has been the integration of cash assistance with case management; the provision of intensive, up-front services; and the coordination of case management and employment services. Outcomes have been especially good in these projects: in Kentucky, it usually takes less than 70 days for employable adult refugees to find a job at above minimum wage; in San Diego, during its first year of operation, nearly three-quarters of the refugees enrolled in the project became self-sufficient before the end of the 12 months.

expansion?
resources?

The Matching Grant Program, which is also implemented by the voluntary agencies, integrates cash assistance with employment services for refugees during their first four months after their arrival and currently serves approximately 25 percent of all refugee arrivals. In calendar year 1995, 41 percent of the Matching Grant participants were self-sufficient by the fourth month following arrival in the United States. In 1996, this program was enhanced through increased Federal funding to provide more comprehensive services to refugees and was expanded to provide such intensive up-front services to refugees in additional sites.

RECOMMENDATIONS

In order to improve refugee economic self-sufficiency, social adjustment, and naturalization--while building on the initiatives we have already undertaken--we recommend the following steps:

1) Economic Self-Sufficiency: The Director of the Office of Refugee Resettlement (ORR) will conduct a series of consultations regarding the domestic refugee resettlement program that focus principally on how best to achieve early economic self-sufficiency with an increased emphasis on accountability for outcomes.

We recommend that the consultations take the following into account:

- As stated above, concern over immigrant and refugee use of welfare has made it clear that in order to keep the door open for refugees, the self-sufficiency rate and rate of integration of refugees need to improve.
- The successful models described above (and other models of effective self-sufficiency services for refugees) offer lessons and experiences to build on in moving towards more effective services to promote self-sufficiency and integration.
- Increasing ethnic diversity of arriving populations means that the resettlement program needs to be more flexible to maintain culturally and linguistically appropriate services. During most of the 1980s, refugees from the Soviet Union and Southeast Asia represented the largest share of annual admissions and the refugee service system was established over the years primarily to meet the needs of these two groups. Now, as the former Soviet and Southeast Asian programs wind down, other refugee populations -- such as Somalis, Iraqis, Bosnians, and Sudanese -- represent larger percentages of annual admissions. Further, there are many volatile regions in the world making it difficult to predict who will be admitted as refugees and asylees.
- Refugees have unique experiences and come with a range of backgrounds: from engineers with advanced technical degrees to illiterate farmers, all of whom need refugee-specific services. Neither welfare nor welfare reform was designed specifically for newcomers who are fleeing persecution.

- 2) **Social Adjustment:** The Office of Refugee Resettlement, together with the voluntary agencies and the Department of State, State Refugee Coordinators, service providers, refugees and others, will develop and implement policies and strategies for the placement and resettlement of refugees in communities that afford refugees the best opportunities for social adjustment and self-sufficiency.

ORR will continue to ensure that funding for services and assistance is made available to those communities where refugees resettle.

In addition, ORR will award grants for English language training and social and cultural adjustment services for underserved refugee groups, such as older refugees, pre-literate refugees, or homebound women. These services will help these refugees attain the level of English proficiency needed to be able to participate in other services and to have an understanding and appreciation of the American culture so that they can become citizens and participate fully in mainstream American civic life.

- 3) **Naturalization:** ORR will set aside \$1 million to launch a new partnership program to provide matching funds for established providers for citizenship education.

In addition, ORR should stress the importance of citizenship and naturalization in the refugee resettlement program and encourage its grantees to provide civics education and naturalization assistance through the refugee social services and targeted assistance programs.

To expand naturalization application processing, the Immigration and Naturalization Service will be invited to collaborate with ORR in building the capacity of community-based organizations, particularly mutual assistance associations, to assist refugees in obtaining citizenship.

ISSUES FOR A NATIONAL SECURITY COUNCIL REVIEW OF REFUGEE AND MIGRATION POLICY

I. CROSS MANDATES

As the number of emergencies and repatriation operations which involve more than one UN agency increases, it is apparent that the lines between agency mandates is often obscure -- humanitarian assistance, peacekeeping, repatriation, reintegration, and development are all interrelated concepts which require an integrated and coordinated approach to aid the affected populations.

- Does the UN currently have the tools (political leverage, funding, and personnel) necessary to launch and coordinate a large-scale humanitarian relief operation, which may also include a peacekeeping component? What role can the Department of Humanitarian Affairs be expected to play in the provision of humanitarian assistance vis-a-vis other UN agencies?
- How can the USG better coordinate its response to complex humanitarian emergencies to provide necessary assistance to the UN, other international organizations (e.g., the Red Cross Movement) and NGOs to provide rapid, appropriate assistance and protection for the affected populations? State, DOD, AID/OFDA and AID/Food for Peace all have important roles.
- In the UN system, and in USG policy, what are the means for managing the transition from refugee relief to repatriation to long-term development assistance.

II. DOMESTIC ADMISSIONS

Several politically sensitive domestic admissions/resettlement issues involve a myriad of U.S. Government actors and require further discussion and intensive policy development, including resettlement numbers and regions of origin, federal government funding levels, and processing requirements.

- What level of annual refugee admissions to the United States and from which regions fulfills our international responsibilities as a resettlement country while maintaining an affordable domestic program?
- At what point and by what methods should we adjust the admissions levels from Vietnam and the former Soviet Union?
- What kind of support and for how long should the federal government provide to refugees resettled in the United States? Should state and local governments bear part of the burden? Anchor families? Can the HHS budget process respond to the foreign policy requirements for sustained high levels of admissions or year-to-year fluctuations?

- Should we involve UNHCR to a greater extent in the U.S. refugee admissions program? If so, how?
- Should family relationships and past-employment ties continue to be central elements of our admissions program?
- How can the benefits of immigration and a multiethnic/multiracial population be more effectively "marketed" to the general U.S. population?

III. RESCUE-AT-SEA AND ASYLUM POLICY

The Chinese (East Wood) case may be primarily an alien smuggling issue, but it has elements related to the Haitian and Cuban boat people issues.

- The USG needs to develop a standard set of procedures to deal with asylum-seekers or illegal aliens attempting to reach the U.S. by sea; what are the responsibilities of the UNHCR in these cases?

IV. REPATRIATION OF VIETNAMESE: STATUS OF "SCREENED OUT" ASYLUM-SEEKERS

As the Comprehensive Plan of Action (CPA) for Indochinese Refugees winds down, the U.S. will face mounting pressure to acquiesce in mandatory repatriation of asylum-seekers who have not been defined as facing persecution and in turn, screened out from refugee resettlement.

- What policy position should the USG take toward the asylum-seeker population deemed ineligible for resettlement?
- Can the USG continue to object to mandatory repatriation of the screened-out Vietnamese who have had opportunities to make their case for refugee status and failed (CPA)?
- Are the CPA procedures a model for worldwide standards? Short of a thorough CPA-like screening, what procedures are adequate to determine that an individual has no claim to refugee status? Is a UNHCR determination adequate?
- Should repatriation of the screened-out be the sole responsibility of the country of first asylum or of UNHCR or another entity?

V. DEMINING

The presence of large numbers of mines in countries of origin presents obstacles to repatriation by refugees and displaced persons; countries most affected include: Somalia, Mozambique, Cambodia, and Afghanistan. Presently no international agency assumes overall responsibility for demining.

- Should the U.S. urge a UN or another international or non-governmental organization to coordinate demining activities worldwide, either as part of a peace settlement or the precondition to repatriation/reintegration operations for the displaced?

VI. USG FOOD ASSISTANCE TO REFUGEES AND DISPLACED PERSONS

Three agencies have programs which require overall policy coordination. The Department of Agriculture and AID's Food for Peace office both control significant commodity and cash resources; State has policy leadership on emergency response and cash contributions to fund international organizations' responses to those emergencies.

- How can the U.S. improve interagency coordination? What is the most effective way to address the totality of worldwide food requirements (both development and emergency) with available U.S. food and cash resources?
- How should the USG prioritize the contributions it makes to development vs. emergency programs of organizations involved in food assistance?

VII. ROOT CAUSES OF POPULATION MOVEMENTS

In several fora, the international community (including UNHCR and the UN Human Rights Commission) has confirmed the need to address root causes in countries which produce refugees and international migrants, including human rights and the treatment of ethnic minorities.

- What measures should be pursued by the international community to preempt large-scale population movements? Humanitarian intervention? "Preventive Diplomacy?" How to energize the international community to examine the impact of development on international migration?

VIII. EUROPEAN MIGRATION ISSUES

How should the USG engage in ongoing, high-profile European migration issues, both bilaterally and multilaterally? For example, what are the U.S. positions on the following issues:

- migration institution-building in Eastern Europe and the former Soviet Union?
- "safe country" of transit and origin?
- provision of "temporary asylum" outside of standard processing channels?
- EC harmonization of migration policies?
- repatriation of rejected asylum seekers? and,
- tolerance and integration policies for migrants?

NATIONAL SECURITY COUNCIL

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From: *Rob Malley*To: *Steve Warrath, Jack Smalligan +*Agency: *Emily Bromberg*Fax Number: *67028/50851 / 62889*

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No. of pages to follow: *3*

Message:

October 21, 1996

ACTION

MEMORANDUM FOR ANTHONY LAKE
CAROL RASCO
FRANKLIN RAINES
MARSHA HALE

FROM: ROB MALLEY

SUBJECT: Welfare Reform and Cuban/Haitian Entrants

Law prior to Welfare Bill (Fascell/Stone)

Unlike nationals from other countries, Cuban and Haitians paroled into the United States have traditionally been treated as refugees, and therefore have been eligible for all benefits and services. This special treatment is based on the numbers and circumstances of their arrival. This has been of particular importance since the signing of our migration agreements with Cuba, which provide that a minimum of 20,000 Cubans will be allowed to enter the United States every year and therefore arguably creates a special federal responsibility for their care.

Impact of Welfare Bill on Cuban-Haitian entrants

Under the welfare reform bill, refugees are excepted during their first five years in the United States from benefit restrictions that apply to most other legal immigrants. In other words, refugees are eligible for Food Stamps, SSI, Medicaid, and the successor program to AFDC (the Transitional Assistance for Needy Families, or TANF) for their first five years. However, this exception does not apply to Cuban and Haitian entrants. Concretely:

- **For Cuban-Haitians who were in the U.S. prior to enactment of the law (8/22/96):** Unlike refugees, entrants who are current recipients will be ineligible for Supplemental Security Income (SSI) and Food Stamps immediately after redetermination of eligibility. Their eligibility for Medicaid, TANF, and Social Services Block Grants (SSBG) is at the States' option.
- **For Cuban-Haitians who arrive after enactment:** Unlike refugees, new entrants will not be eligible for SSI or Food Stamps. They also will be ineligible for Medicaid, TANF OR

SSBG during the first five years after their arrival in the U.S.

In short, there now is a significant disparity in the treatment of refugees and Cuban/Haitian entrants. This is of great concern to the State of Florida which houses the vast majority of Cubans and Haitians, largely as a result of federal policy, and which is likely to cover some of these benefits strictly with State funds. Governor Chiles has pointed in particular to the treatment of Cuban and Haitian entrants who are lawfully admitted after enactment of the bill.

Proposed Interim Response:

At the time he signed the bill, the President announced that he would seek modifications of immigrant-related provisions. Pending such corrections, however, we can take some limited steps that will both mitigate the impact on state and local communities and provide a safety net to new Cuban/Haitian entrants. Specifically, INS and HHS would issue regulations, the combined effect of which would be to put -- for a limited period of time -- newly arriving Cuban-Haitians in roughly the same category as those who were here prior to enactment of the law. *In other words they would still be ineligible for Food Stamps and SSI, but would become eligible, at the States' discretion, for Medicaid, TANF, and SSBG.*

For technical reasons, this reclassification of Cuban/Haitian entrants would need to be undone at a later stage. This would thus be an interim measure, pending adoption by the Congress of a technical amendment to the welfare bill that would achieve the same result or of other appropriate Congressional action.

Justification:

- 20,000 Cubans are lawfully admitted in the United States every year as a result of our migration accord with Cuba. Federal government has a special responsibility toward citizens of Florida to minimize fiscal burden on State this creates. If we do not take this step, State in all likelihood will carry burden alone.
- Measure will provide safety net for Cuban/Haitian entrants and help them reach self-sufficiency.
- Interim measure is justified by what appears to be technical error in bill denying newly arriving Cuban-Haitians benefits available to those already here.

3

Concurrence by: Stephen Warnath; Jack Smalligan; Emily Bromberg

RECOMMENDATION

That we request DOJ/INS and HHS to issue regulations along the lines outlined above.

Approve _____ Disapprove _____ Discuss _____

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TO

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highly vulnerable refugee populations, ORR entered into interagency agreements with the Office of Refugee Health to provide technical assistance to service providers. This included \$75,000 to assist grantees who received special discretionary funds for services to former political prisoners from Vietnam, and \$150,000 to assist communities receiving large numbers of Soviet Pentecostal refugees.

4) ORR has initiated a series of four refugee English language training conferences to promote the exchange of information on current developments in the field of English language training and to gain information about the state of refugee ELT programs across the nation.

Notice of Proposed Rulemaking

On August 12, 1994, ORR published a Notice of Proposed Rulemaking (NPRM) which sets forth regulatory requirements reflective of current shifts in policy. In recent years, annual refugee admissions have been high, resulting in an expanding pool of refugees in need of services. As of September 30, 1993, 1.8 million refugees have been resettled in the U.S. since 1975. All of these refugees, with the exception of those who have become U.S. citizens, are eligible to receive refugee program services. At the same time, the level of funds appropriated for services has remained essentially unchanged, making it difficult to serve all refugees in need of services with available resources.

The NPRM proposes to: limit eligibility for refugee services to a refugee's first 36 months in the U.S. for social services and 5 years for targeted assistance; would make RMA available for the full period of time-eligibility for RMA recipients which would ensure continued medical coverage to refugees for a clearly specified period of time and would reduce the States' administrative burden of separate determinations of eligibility; eliminate the current requirements for job search and for service restrictions that hinder States' flexibility in designing appropriate services for local needs; ensure that comprehensive refugee-specific services are provided to refugee families within the first few years after arrival.

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Annual Survey

Each year ORR conducts a survey of refugee households to examine the economic adjustment of the refugee population arriving in the United States within the five-year period preceding the survey interview. Survey questions relate to the education, training, employment, and labor force participation of each adult member of the refugee household, as well as the family income of the entire household.

Prior to 1993, the annual survey was restricted to a randomly selected sample of Southeast Asian refugees. In 1993, ORR expanded the survey beyond the Southeast Asian refugee population to include refugee arrivals from all regions of the world. This change will enable ORR to gather and analyze data on the attainment of self-sufficiency of all refugees regardless of national origin or ethnicity.

Finally, ORR has taken steps towards simplifying the application process for Wilson/Fish programs, supporting a refugee women's initiative, and consultation with national voluntary agencies to improve the matching grant program.

Finally, ORR has continued the discussions begun in late 1993 on restructuring, dialogue, and partnership with over 250 public and private agencies who are actively engaged in refugee resettlement and services.

TESTIMONY

by

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BEFORE THE

U.S. House of Representatives

Judiciary Committee

Subcommittee on Immigration and Claims

AUGUST 1, 1996

Mr. Chairman, Members of the Committee, thank you for the opportunity to share my observations as you approach reconsideration of the Refugee Act.

By our calculations, the State of Illinois has resettled more than 90,000 refugees since 1975, the fifth largest concentration in the nation. They have made singular economic and cultural contributions. In 1994, Illinois refugees paid an estimated \$222 million in taxes; \$161 million went to the federal government. In contrast, ORR/DHHS provided the State approximately \$12 million for the costs of social services, cash and medical assistance.

The Illinois Refugee Social Services Consortium has a distinguished record of expediting refugee self-sufficiency and social self-reliance through comprehensive, community-based, multi-cultural service delivery. Deep support from the Governor's Office, the Department of Public Aid, the education system, health care agencies, and the private sector, as well as the extraordinary motivation of refugees themselves, has made the system work. Every dollar of refugee social services expended in FY'95 resulted in \$3.08 in welfare avoidance.

A number of design principles are fundamental to the Illinois program:

- We recognize that resettlement is a process, not an event. The 36-month time frame established by the Refugee Act, or at minimum 24 months, is a realistic period of adjustment, insofar as refugees require 4 to 5 job placements before reaching relatively stable economic self-sufficiency.

- Resettlement takes place at the local level. We recognize that the resources available to facilitate effective resettlement differ from community to community, within our state as well as nationwide.
- The private sector is critical to effective resettlement. Our religious communities have provided millions of dollars in monetary and material contributions, as well as countless hours of volunteerism, without which our accomplishments would not have been possible.
- The local voluntary agencies (volags) play a critical role as both a bridge between government and the broad private sector, and as the initial resource in the Reception and Placement (R&P) of refugees. We have recognized the insufficiency of the R&P grant from the Department of State to provide adequate local volag staffing for time intensive responsibilities, and have endeavored to build a seamless continuum of services from initial reception through longer term needs by providing support to the local volags through ORR/DHHS funding. Our major volags have 24 months of service responsibility for those they resettle; their reimbursement is tied to numbers of new arrivals and performance in job placement.

- The Illinois Program promotes holistic service delivery beginning with family-focused case management. In this regard, the Illinois Department of Public Aid (IDPA) has been able to leverage education, health, and mental health resources, as well as corporate and foundation support, to address the broad range of refugee needs in adjusting to life in America.
- The Illinois Program stresses up front the refugee's responsibility for seeking employment. The emphasis is sustained by close cooperation between the refugee-specific service providers and the IDPA local offices that provide transitional cash assistance for the unemployed refugee.

Given our experience, we support the fundamental integrity of the Refugee Act. It provides the flexibility that is required for effective resettlement, and it establishes the need for an appropriate balance of public and private participation. The coordination of federal, state, and local government resources with private sector efforts is essential.

PRIVATIZATION

From time to time over the past twenty years, policy makers have revisited the concept of privatizing refugee resettlement. Although the State of Illinois has been a long term advocate for

private sector participation and has provided major support to the voluntary agencies charged with reception and placement, it has opposed privatization in the past for several reasons: in 1992, in particular, the proposed action was introduced precipitously, without adequate planning or preparation; it was based on unrealistic expectations of a limited budget projection; and it did not provide sufficient consideration for refugee health care and mental health service needs.

In light of welfare reform, the concept takes on a new resonance, promising a single transitional cash program for employable refugees rather than an AFDC/RCA bifurcation. In particular, privatization has the potential of delaying refugee entry into the variety of AFDC designs that will be forthcoming and thus could preserve a level of consistency across the country, which was a goal of the original Refugee Cash Assistance (RCA) design. The draft legislation by Mr. Obey of Wisconsin proposes bold change; however, we consider it to be imperfect and must view it as the opening of deliberations which lead toward Reauthorization of the Refugee Act in 1997. For the sake of discussion, I will refer to Mr. Obey's as an actual bill, knowing full well that it is only a draft with much discussion and presumably revisions to follow.

At the onset, we can only observe that "one size does not fit all." The draft language assumes the same level of resources and professionalism exist in each and every host community and across voluntary agencies. A universal mandate threatens to eliminate

small site resettlement, such as New Hampshire or Champaign, Illinois where local volags do not have an expansive infrastructure, but rely on substantive volunteerism. Please note:

- The current Refugee Act, under the Fish-Wilson Amendment, provides states with the prerogative to implement alternative programs for the distribution of transitional cash assistance.
- The Fish-Wilson Amendment is consistent with current Congressional efforts to promote states' flexibility in program design. The proposed Obey language would require one program structure nationwide.

Fish-Wilson initiatives have been pursued in Alaska, Kentucky, Massachusetts, Nevada, Oregon, and San Diego County (California). New York has made application. I am unaware of any evaluation that demonstrates cost savings, earlier entered employment, or otherwise more effective service delivery as a result of these initiatives. At the least, it seems prudent to pursue such a study before mandating nationwide implementation.

In fact, Illinois was the first state to explore private sector distribution of transitional cash assistance through the Chicago Resettlement Demonstration Project in 1983-84. The project almost doubled funding for initial resettlement, did not measurably improve rates of entered employment, and posed a range of policy and procedural problems, even for well-established, professional,

multi-service agencies.

A bifurcated system seems unavoidable. Currently it appears that about 10% of new arrivals are aged or disabled, hence the volags must sustain cooperative relations with the public welfare system. More to the point, an alternative to Medicaid has not been established to support health care for employed, uninsured refugees or those who require transitional cash assistance. The proposed privatized system thus doubles the administrative eligibility and monitoring procedures by creating one system for cash and another for medical assistance.

Given these considerations, it is not clear what the Obey legislation aims to accomplish. If the goal is to strengthen the responsibility of local volags in expediting refugee entered employment, it might be more prudent and more universally operable to divert AFDC refugees from JOBS requirements to refugee-specific resources where they exist. In combination with the State Department's careful monitoring of the local volags' early employment of free cases which now takes place, those relatively few unmotivated refugees would be less able to languish on AFDC benefits.

In this regard, an area that has not been studied methodically is the correlation between successful Reception and Placement and the distribution of Refugee Social Service (RSS) and Targeted Assistance Grant (TAG) dollars at the state and local level. In Illinois, we know that RSS funding has been essential for volags with major reception and placement responsibilities. We also know

that RSS funds provide a safety net of auxiliary services in areas with small resettlement numbers, such as Rockford, Elgin, and Wheaton, that are heavily dependent on private donations and volunteerism. It is not known if that pattern exists nationwide, or to what extent ORR/DHHS policies could promote greater coordination of reception and placement and longer term service resources through placement planning.

COST IMPLICATIONS

The draft legislation by Representative Obey has significant fiscal implications, as did the Private Resettlement Program (or Transitional Resettlement Program) proposed in 1992. It is difficult to justify "such sums as may be necessary" to implement the proposed initiative in the current federal and state fiscal environment.

Historically, Congress has resisted a zero-based budgeting approach to Refugee Resettlement. Resources to serve the massive influx in 1980-81 were not forthcoming until 1983. Although refugee funding nationwide has remained relatively level for the past ten years, a situation for which states, localities, and the service providers are grateful, the increase in arrivals from 1988-1995 has meant diminished cash and medical assistance as well as social services. The Refugee Education Assistance Act has not been funded since 1987. The Refugee Program has been sustained through major cost transfer to state and local governments. It is not

clear, then, where additional funds can be found to sustain a 12-month privatized program, and at the same time address the ongoing needs of refugees already resident in the United States.

One must consider that the R&P grant of 1996, \$700 per arrival, is barely above 1975 levels. Although the grant was never configured as full cost reimbursement and has leveraged significant volunteerism and private donations, the local volags face a constant struggle to raise private contributions, which are minimized absent a major crisis. Enhancing local volag capacity to execute the sound and clear responsibilities of the State Department Cooperative Agreement might more simply be accomplished with an increased appropriation and advisory language in the State Department budget. If it is the intent in Mr. Obey's design to transfer the post R&P administration to ORR/DHHS, a transaction such as that which enabled the Matching Grant is possible without altering the Refugee Act. Again, such a transaction would be aimed at increased appropriations at a time of rigid constraints.

The service capacity through R&P has steadily diminished as resources flattened and arrivals increased. RCA has been reduced from 36 to 8 months; and the state costs for AFDC and General Assistance are no longer reimbursed. That is to say, Mr. Obey's proposal would potentially increase the current RCA costs by 50% - 8 months to 12 months; add what is now the state's share of AFDC for 12 months; move the federal share of AFDC to the Refugee Program; require a minimum of \$25 million by my estimate for enhanced Case Management; and require additional administrative

funds for development and implementation of private cash assistance distribution.

Insofar as refugee AFDC data has not been collected nationwide for several years, and time has been short, I cannot project the additional nationwide costs for all cash assistance that would be required to implement 12 month privatization. With approximately 125,000 arrivals in FY'94, eight months of RCA ran \$55.3 million. With projected arrivals of 90,000 (including 15,000 Cubans), twelve months of RCA at comparable levels of participation would be \$59.7 ($55,300,000/125,000 \times 1.5 \times 90,000$). There would be an 8% increase in RCA costs.

A rough Illinois projection serves as a further illustration.

	<u>\$ (millions)</u>
Illinois FY'95 (8 mos.) RCA	\$1,764
est. Illinois FY'95 (12 mos.) AFDC	<u>\$2.416</u>
	\$4.180
est. FY'97 (12 mos.) RCA	\$2.584
est. FY'97 AFDC (12 mos.)	<u>\$2.198</u>
	\$4.782

Based on the estimation, the federal cost in Illinois for refugee cash assistance in FY'96 (100% RCA, \$1.764; 50% AFDC, \$1.208) was \$2.972 million; under the proposed legislation it would be \$4.782 million in FY'97. There would be a 16.7% reduction in arrivals nationwide from FY'96 to FY'97, but, at least in Illinois,

a 61% increase in federal cash assistance costs. I believe the pattern would be somewhat comparable in states with large refugee AFDC caseloads like New York and California.

From another perspective, the systemwide Chicago Resettlement Demonstration Project (CRDP) was made possible by enhanced resources provided by the State Department in 1983-84. The project aimed to withhold public assistance from refugees for six months through enhanced case management and private sector control of cash assistance.

In CRDP, the State Department provided \$883 per client served, however, when the additional ORR resources are counted the cost per client was \$1689. The cost per entered employment was \$3436. By comparison, the FY'95 cost per entered employment in Illinois was \$950 for the employment service component, \$1753 for all program component costs.

CRDP operated under almost ideal conditions. The arrival numbers were low. The economy was in an upswing. The refugee demography in Illinois was favorable to early employment. RSS and TAG resources were almost double current levels. The State Department resources were an additional enhancement. In the end, there were inadequate funds and little enthusiasm to continue the privatization of cash assistance.

TIMELINESS

In this current era of human service reform, we urge a cautious

pace in approaching revisions of the Refugee Act. The national resettlement program, while not perfect, has been extraordinarily successful. We have accrued a wealth of experience that should come to the fore in examining the need for change in the Refugee Act, and the ways in which to implement it.

At this point, we are on the threshold of welfare, health care, and immigration reform - all of which interface with refugee resettlement. We will not know the final forms and local implications for some time. It seems prudent to consider those larger changes before enacting revision of the Refugee Act.

The Obey draft raises a range of unexamined implementation issues with both budgetary and programmatic implications.

- How would secondary migrants be handled?
- Who would serve those individuals given asylum that relate to no volag?
- How much money will be required for a 12 month program of cash? What will it cover? At what monetary levels?
- How much money will be devoted to case management? administration?
- If there is a privatized cash system, will states continue to provide Medical Assistance? Would single adults and

childless couples, categorically ineligible for Medicaid, continue to receive Refugee Medical Assistance?

- Who will oversee the local distribution of cash assistance? the states? the national volags?
- If the national volags administer a private cash program, what effect will that have on state or county participation?

The Refugee Act merits thoughtful answers to these and other questions before it is substantively revised.

The bipartisan U.S. Commission on Immigration Reform has begun a review of the Refugee Program; and ORR/DHHS is about to establish an "academy" to re-examine refugee resettlement in light of decreased arrivals. By the end of the year, Congress will have reports and recommendations to examine as it approaches the scheduled time for Reauthorization. Given the importance of refugee resettlement and American leadership both domestically and abroad, we ask that the Subcommittee await these reports and weigh proposed revisions of the Refugee Act with care.

Thank you again for this opportunity.