

Public Law 85-620

AN ACT

August 12, 1958
[H. R. 11378]

To amend Public Laws 815 and 874, Eighty-first Congress, to make permanent the programs providing financial assistance in the construction and operation of schools in areas affected by Federal activities, insofar as such programs relate to children of persons who reside and work on Federal property, to extend such programs until June 30, 1961, insofar as such programs relate to other children, and to make certain other changes in such laws.

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

Schools.
Construction in
federally affected
areas.

TITLE I—AMENDMENT OF PUBLIC LAW 815, EIGHTY-FIRST CONGRESS

SEC. 101. The Act of September 23, 1950 (Public Law 815, Eighty-first Congress), as amended, is amended to read as follows:

“PURPOSE AND APPROPRIATION

“SECTION 1. The purpose of this Act is to provide assistance for the construction of urgently needed minimum school facilities in school districts which have had substantial increases in school membership as a result of new or increased Federal activities. There are hereby authorized to be appropriated for the fiscal year ending June 30, 1959, and each fiscal year thereafter, such sums as the Congress may determine to be necessary for such purpose. Sums so appropriated, other than sums appropriated for administration, shall remain available until expended.

“PORTION OF APPROPRIATIONS AVAILABLE FOR PAYMENTS

“SEC. 2. For each fiscal year the Commissioner shall determine the portion of the funds appropriated pursuant to section 1 which shall be available for carrying out the provisions of sections 9 and 10. The remainder of such funds shall be available for paying to local educational agencies the Federal share of the cost of projects for the construction of school facilities for which applications have been approved under section 6.

“ESTABLISHMENT OF PRIORITIES

“SEC. 3. The Commissioner shall from time to time set dates by which applications for payments under this Act with respect to construction projects must be filed, except that the last such date with respect to applications for payments on account of children referred to in paragraphs (2) or (3) of section 5 (a) shall be not later than June 30, 1961. The Commissioner shall by regulation prescribe an order of priority, based on relative urgency of need, to be followed in approving applications in the event the funds appropriated under this Act and remaining available on any such date for payment to local educational agencies are less than the Federal share of the cost of the projects with respect to which applications have been filed prior to such date (and for which funds under this Act have not already been obligated). Only applications meeting the conditions for approval under this Act (other than section 6 (b) (2) (C)) shall be considered applications for purposes of the preceding sentence.

64 Stat. 967.
20 USC 251-255,
271-280.

"FEDERAL SHARE FOR ANY PROJECT

"SEC. 4. Subject to section 5 (which imposes limitations on the total of the payments which may be made to any local educational agency), the Federal share of the cost of a project under this Act shall be equal to such cost, but in no case to exceed the cost, in the school district of the applicant, of constructing minimum school facilities, and in no case to exceed the cost in such district of constructing minimum school facilities for the estimated number of children who will be in the membership of the schools of such agency at the close of the increase period and who will otherwise be without such facilities at such time. For the purposes of the preceding sentence, the number of such children who will otherwise be without such facilities at such time shall be determined by reference to those facilities which (1) are built or under contract as of the date on which the Commissioner set, under section 3, the earliest date on or before which the application for such project was filed, or (2) as of the date the application for such project is approved, are included in a project the application for which has been approved under this Act.

"LIMITATION ON TOTAL PAYMENTS TO ANY LOCAL EDUCATIONAL AGENCY

"SEC. 5. (a) Subject to the limitations in subsections (c) and (d), the total of the payments to a local educational agency under this Act may not exceed the sum of the following:

"(1) the estimated increase, since the base year, in the number of children residing on Federal property with a parent employed on Federal property (situated in whole or in part in the same State as the school district of such agency or within reasonable commuting distance from such school district), multiplied by 95 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated; and

"(2) the estimated increase, since the base year, in the number of children residing on Federal property, or residing with a parent employed on Federal property (situated in whole or in part in the same State as the school district of such agency or within reasonable commuting distance from such school district), multiplied by 50 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated. A child of a parent who commenced residing in or near the school district of such an agency while assigned to employment, as a member of the Armed Forces on active duty, on Federal property (situated in whole or in part in the same State as the school district of such agency or within reasonable commuting distance from such school district) and who was subsequently assigned elsewhere on active duty as a member of the Armed Forces, shall continue to be considered as residing with a parent employed on such Federal property, for purposes of this paragraph and paragraph (1) of this subsection, for so long as the parent is so assigned; and

"(3) the estimated increase, since the base year, in the number of children whose membership results directly from activities of the United States (carried on either directly or through a contractor), multiplied by 45 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated. For purposes of this paragraph, the Commissioner shall not consider as activities of the United States those activities which are car-

ried on in connection with real property excluded from the definition of Federal property by the last sentence of paragraph (1) of section 15, but shall (if the local educational agency so elects pursuant to subsection (b)) consider as children whose membership results directly from activities of the United States children residing on Federal property or residing with a parent employed on Federal property.

In computing for any local educational agency the number of children in an increase under paragraph (1), (2), or (3), the estimated number of children described in such paragraph who will be in the membership of the schools of such agency at the close of the increase period shall be compared with the estimated number of such children in the average daily membership of the schools of such agency during the base year.

“(b) If two or more of the paragraphs of subsection (a) apply to a child, the local educational agency shall elect which of such paragraphs shall apply to such child, except that, notwithstanding the election of a local educational agency to have paragraph (2) apply to a child instead of paragraph (1), the determination of the maximum amount for such agency under subsection (a) shall be made without regard to such election.

“(c) A local educational agency shall not be eligible to have any amount included in its maximum by reason of paragraph (1), (2), or (3) of subsection (a) unless the increase in children referred to in such paragraph, prior to the application of the limitation in subsection (d), is at least twenty and is equal to at least 5 per centum in the case of paragraph (1) or (2), and 10 per centum in the case of paragraph (3), of the number of all children who were in the average daily membership of the schools of such agency during the base year, and unless, in the case of paragraph (3), the construction of additional minimum school facilities for the number of children in such increase will, in the judgment of the Commissioner, impose an undue financial burden on the taxing and borrowing authority of such agency: *Provided*, That children residing on any housing property which, prior to sale or transfer by the United States, was considered to be Federal property for the purposes of this Act, shall not be considered as having been federally connected in determining the eligibility of the local educational agency under this subsection.

“(d) If (1) the estimated number of nonfederally connected children who will be in the membership of the schools of a local educational agency at the close of the increase period is less than (2) 107 per centum of the number of such children who were in the average daily membership of such agency during the base year, the total number of children counted for purposes of subsection (a) with respect to such agency shall be reduced by the difference between (1) and (2) hereof. For purposes of this subsection, all children in the membership of a local educational agency shall be counted as nonfederally connected children except children whose membership in the base year and increase period was compared in computing an increase which meets the requirements of subsection (c).

“(e) Notwithstanding the provisions of subsections (c) and (d) of this section, whenever and to the extent that, in his judgment, exceptional circumstances exist which make such action necessary to avoid inequity and avoid defeating the purposes of this Act, the Commissioner may do any one or more of the following: (1) he may waive or reduce any percentage requirement or requirements in subsection (c); (2) he may waive the requirement contained in the first sentence of subsection (d) or reduce the percentage specified in clause (2) of such sentence.

“(f) If—

“(1) the first year of the increase period for an application made by a local educational agency constitutes the second year of the increase period for a previous application made by such agency under this Act, or under this Act as in effect January 1, 1958, and

“(2) any payment has been or may be made to such agency on the basis of such previous application,

then, in determining under this section the total of the payments which may be made to such agency on the basis of the later application, the total number of children counted for purposes of paragraph (1), (2), or (3), as the case may be, of subsection (a) may not exceed—

“(3) the number of children whose membership at the close of the increase period for the later application is compared with membership in the base year for purposes of such paragraph, minus

“(4) the number of such children whose membership at the close of the increase period for the previous application was compared with membership in the base year for purposes of such paragraph.

“APPLICATIONS

“SEC. 6. (a) No payment may be made to any local educational agency under this Act except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with regulations prescribed by him.

“(b) (1) Each application by a local educational agency shall set forth the project for the construction of school facilities for such agency with respect to which it is filed, and shall contain or be supported by—

Approval conditions.

“(A) a description of the project and the site therefor, preliminary drawings of the school facilities to be constructed thereon, and such other information relating to the project as may reasonably be required by the Commissioner;

“(B) assurance that such agency has or will have title to the site, or the right to construct upon such site school facilities as specified in the application and to maintain such school facilities on such site for a period of not less than twenty years after the completion of the construction;

“(C) assurance that such agency has legal authority to undertake the construction of the project and to finance any non-Federal share of the cost thereof as proposed, and assurance that adequate funds to defray any such non-Federal share will be available when needed;

“(D) assurance that such agency will cause work on the project to be commenced within a reasonable time and prosecuted to completion with reasonable diligence;

“(E) assurance that the rates of pay for laborers and mechanics engaged in the construction will be not less than the prevailing local wage rates for similar work as determined in accordance with Public Law Numbered 403 of the Seventy-fourth Congress, approved August 30, 1935, as amended;

“(F) assurance that the school facilities of such agency will be available to the children for whose education contributions are provided in this Act on the same terms, in accordance with the laws of the State in which the school district of such agency is situated, as they are available to other children in such school district; and -

64 Stat. 1100.
20 USC 236 et
seq.

“(G) assurance that such agency will from time to time prior to the completion of the project submit such reports relating to the project as the Commissioner may reasonably require.

“(2) The Commissioner shall approve any application if he finds (A) that the requirements of paragraph (1) have been met and that approval of the project would not result in payments in excess of those permitted by sections 4 and 5, (B) after consultation with the State and local educational agencies, that the project is not inconsistent with overall State plans for the construction of school facilities, and (C) that there are sufficient Federal funds available to pay the Federal share of the cost of such project and of all other projects for which Federal funds have not already been obligated and applications for which, under section 3, have a higher priority: *Provided*, That the Commissioner may approve any application for payments under this Act at any time after it is filed and before any priority is established with respect thereto under section 3 if he determines that—

“(i) on the basis of information in his possession, it is likely that the urgency of the need of the local educational agency is such that it would have a priority under section 3 which would qualify it for payments under this Act when such priorities are established, and

“(ii) the number of children in the increase under section 5 (a) is in large measure attributable to children who reside or will reside in housing newly constructed on Federal property.

Hearing.

“(c) No application under this Act shall be disapproved in whole or in part until the Commissioner of Education has afforded the local educational agency reasonable notice and opportunity for hearing.

“PAYMENTS

“SEC. 7. (a) Upon approving the application of any local educational agency under section 6, the Commissioner of Education shall pay to such agency an amount equal to 10 per centum of the Federal share of the cost of the project. After final drawings and specifications have been approved by the Commissioner of Education and the construction contract has been entered into, the Commissioner shall, in accordance with regulations prescribed by him and at such times and in such installments as may be reasonable, pay to such agency the remainder of the Federal share of the cost of the project.

“(b) Any funds paid to a local educational agency under this Act and not expended for the purposes for which paid shall be repaid to the Treasury of the United States.

“ADDITIONAL PAYMENTS

“SEC. 8. Not to exceed 10 per centum of the sums appropriated pursuant to this Act for any fiscal year (exclusive of any sums appropriated for administration) may be used by the Commissioner, under regulations prescribed by him, to make grants to local educational agencies where (1) the application of such agencies would be approved under this Act but for the agencies' inability, unless aided by such grants, to finance the non-Federal share of the cost of the projects set forth in their applications, or (2) although the applications of such agencies have been approved, the projects covered by such applications could not, without such grants, be completed, because of flood, fire, or similar emergency affecting either the work on the projects or the agencies' ability to finance the non-Federal share of the cost of the projects. Such grants shall be in addition to the payments otherwise provided under this Act, shall be made to those local educational

agencies whose need for additional aid is the most urgent and acute, and insofar as practicable shall be made in the same manner and upon the same terms and conditions as such other payments.

“WHERE EFFECT OF FEDERAL ACTIVITIES WILL BE TEMPORARY

“SEC. 9. Notwithstanding the preceding provisions of this Act, whenever the Commissioner determines that the membership of some or all of the children, who may be included in computing under section 5 the maximum on the total of the payments for any local educational agency, will be of temporary duration only, such membership shall not be included in computing such maximum. Instead, the Commissioner may make available to such agency such temporary school facilities as may be necessary to take care of such membership; or he may, where the local educational agency gives assurance that at least minimum school facilities will be provided for such children, pay (on such terms and conditions as he deems appropriate to carry out the purposes of this Act) to such agency for use in constructing school facilities an amount equal to the amount which he estimates would be necessary to make available such temporary facilities. In no case, however, may the amount so paid exceed the cost, in the school district of such agency, of constructing minimum school facilities for such children. The Commissioner may transfer to such agency or its successor all the right, title, and interest of the United States in and to any temporary facilities made available to such agency under this section (or section 309 of this Act as in effect January 1, 1958); any such transfer shall be without charge, but may be made on such other terms and conditions, and at such time as the Commissioner deems appropriate to carry out the purposes of this Act.

67 Stat. 525.

“CHILDREN FOR WHOM LOCAL AGENCIES ARE UNABLE TO PROVIDE
EDUCATION

“SEC. 10. In the case of children who it is estimated by the Commissioner in any fiscal year will reside on Federal property at the end of the next fiscal year—

“(1) if no tax revenues of the State or any political subdivision thereof may be expended for the free public education of such children; or

“(2) if it is the judgment of the Commissioner, after he has consulted with the appropriate State educational agency, that no local educational agency is able to provide suitable free public education for such children,

the Commissioner shall make arrangements for constructing or otherwise providing the minimum school facilities necessary for the education of such children. To the maximum extent practicable school facilities provided under this section shall be comparable to minimum school facilities provided for children in comparable communities in the State. This section shall not apply (A) to children who reside on Federal property under the control of the Atomic Energy Commission, and (B) to Indian children attending federally operated Indian schools. Whenever it is necessary for the Commissioner to provide school facilities for children residing on Federal property under this section, the membership of such children may not be included in computing under section 5 the maximum on the total of the payments for any local educational agency.

"WITHHOLDING OF PAYMENTS

"SEC. 11. (a) Whenever the Commissioner of Education, after reasonable notice and opportunity for hearing to a local educational agency, finds (1) that there is a substantial failure to comply with the drawings and specifications for the project, (2) that any funds paid to a local educational agency under this Act have been diverted from the purposes for which paid, or (3) that any assurance given in an application is not being or cannot be carried out, the Commissioner may forthwith notify such agency that no further payment will be made under this Act with respect to such agency until there is no longer any failure to comply or the diversion or default has been corrected or, if compliance or correction is impossible, until such agency repays or arranges for the repayment of Federal moneys which have been diverted or improperly expended.

Judicial review.

"(b) The final refusal of the Commissioner to approve part or all of any application under this Act, and the Commissioner's final action under subsection (a) of this section, shall be subject to judicial review on the record, in the United States court of appeals for the circuit in which the local educational agency is located, in accordance with the provisions of the Administrative Procedure Act.

60 Stat. 237.
5 USC 1001 note.

"ADMINISTRATION

"SEC. 12. (a) In the administration of this Act, no department, agency, officer, or employee of the United States shall exercise any direction, supervision, or control over the personnel, curriculum, or program of instruction of any school or school system of any local or State educational agency.

"(b) The Commissioner of Education shall administer this Act, and he may make such regulations and perform such other functions as he finds necessary to carry out the provisions of this Act.

Report to Congress.

"(c) The Commissioner shall include in his annual report to the Congress a full report of the administration of his functions under this Act, including a detailed statement of receipts and disbursements.

"(d) With respect to compliance with and enforcement of the prevailing wage provisions of section 6 (b) (1) (E), the Secretary of Labor shall prescribe appropriate standards, regulations, and procedures, which shall be observed by the agencies administering such provisions, and shall cause to be made by the Department of Labor such investigations as he deems desirable.

"USE OF OTHER FEDERAL AGENCIES; TRANSFER AND AVAILABILITY OF APPROPRIATIONS

"SEC. 13. (a) The Commissioner may delegate to any officer or employee of the Office of Education any of his functions under this Act, except the making of regulations. In carrying out his functions under this Act, the Commissioner of Education may also utilize the facilities and services of any other Federal department or agency and may delegate the performance of any of his functions, except the making of regulations, to any officer or employee of any other Federal department or agency. The Commissioner of Education shall exercise the authority contained in the preceding sentence whenever such exercise will avoid the creation within the Office of Education of a staff and facilities which duplicate existing available staffs and facilities. Any such utilization or delegation shall be pursuant to proper agreement with the Federal department or agency concerned; and payment to cover the cost thereof shall be made either in advance or by way of reimbursement, as may be pro-

vided in such agreement. Any delegation of functions or authority authorized under this section will not relieve the Commissioner of the responsibility placed on him by this Act.

“(b) All Federal departments or agencies administering Federal property on which children reside, and all such departments or agencies principally responsible for Federal activities which may give rise to a need for the construction of school facilities, shall to the maximum extent practicable, comply with requests of the Commissioner for information he may require in carrying out the purposes of this Act.

“(c) No appropriation to any department or agency of the United States, other than an appropriation to carry out this Act, shall be available for the same purpose as this Act; except that nothing in this subsection shall affect the availability of appropriations authorized, prior to September 23, 1950, for the construction of school facilities to be attended by Indian children or appropriations (1) for the construction of school facilities on Federal property under the control of the Atomic Energy Commission, (2) for the construction of school facilities which are to be federally operated for Indian children, or (3) for the construction of school facilities under the Alaska Public Works Act, approved August 24, 1949.

63 Stat. 627.
48 USC 486 note.

“SCHOOL CONSTRUCTION ASSISTANCE IN OTHER FEDERALLY-AFFECTED
AREAS

“SEC. 14. (a) If the Commissioner determines with respect to any local educational agency that—

“(1) such agency is providing or, upon completion of the school facilities for which provision is made herein, will provide free public education for children who reside on Federal property, and whose membership in the schools of such agency has not formed and will not form the basis for payments under other provisions of this Act, and that the total number of such children represents a substantial percentage of the total number of children for whom such agency provides free public education or that the total number of such children who reside on Indian lands located outside the school district of such agency equals or exceeds 100;

“(2) the immunity of such Federal property to taxation by such agency has created a substantial and continuing impairment of its ability to finance needed school facilities;

“(3) such agency is making a reasonable tax effort and is exercising due diligence in availing itself of State and other financial assistance available for the purpose; and

“(4) such agency does not have sufficient funds available to it from other Federal, State, and local sources to provide the minimum school facilities required for free public education in its school district,

he may provide the additional assistance necessary to enable such agency to provide such facilities, upon such terms and in such amounts (subject to the provisions of this section) as the Commissioner may consider to be in the public interest; but such additional assistance may not exceed the portion of the cost of such facilities which the Commissioner estimates is attributable to children who reside on Federal property, and which has not been, and is not to be, recovered by the local educational agency from other sources, including payments by the United States under any other provisions of this Act or any other law. Notwithstanding the provisions of this subsection, the Commissioner may waive the percentage requirement in paragraph (1) in the case of any application for additional assistance on account of children who reside on Indian lands whenever, in his judgment, exceptional circumstances exist which make such action necessary to

avoid inequity and avoid defeating the purposes of this section. Assistance may be furnished under this subsection without regard to paragraph (2) (but subject to the other provisions of this subsection and subsection (c)) to any local educational agency which provides free public education for children who reside on Indian lands located outside its school district. For purposes of this subsection 'Indian lands' means Indian reservations or other real property referred to in the third sentence of section 15 (1).

Appropriation.

"(b) There are hereby authorized to be appropriated for each fiscal year ending prior to July 1, 1961, such sums, not to exceed \$40,000,000 in the aggregate, as may be necessary to carry out the provisions of this section. There are also authorized to be appropriated such sums as may be necessary for administration of such provisions. Amounts so appropriated, other than amounts appropriated for administration, shall remain available until expended, except that after June 30, 1961, no agreement may be made to extend assistance under this section.

"(c) No payment may be made to any local educational agency under subsection (a) except upon application therefor which is submitted through the appropriate State educational agency and is filed with the Commissioner in accordance with regulations prescribed by him, and which meets the requirements of section 6 (b) (1). In determining the order in which such applications shall be approved, the Commissioner shall consider the relative educational and financial needs of the local educational agencies which have submitted approvable applications and the nature and extent of the Federal responsibility. No payment may be made under subsection (a) unless the Commissioner finds, after consultation with the State and local educational agencies, that the project or projects with respect to which it is made are not inconsistent with over-all State plans for the construction of school facilities. All determinations made by the Commissioner under this section shall be made only after consultation with the appropriate State educational agency and the local educational agency.

"(d) Amounts paid by the Commissioner to local educational agencies under subsection (a) may be paid in advance of, or by way of reimbursement for, work performed or purchases made pursuant to the agreement with the Commissioner under this section, and may be paid in such installments as the Commissioner may determine. Any funds paid to a local educational agency and not expended or otherwise used for the purposes for which paid shall be repaid to the Treasury of the United States.

"(e) None of the provisions of sections 1 to 10, both inclusive, other than section 6 (b) (1), shall apply with respect to determinations made under this section.

"DEFINITIONS

"SEC. 15. For the purposes of this Act—

"(1) The term 'Federal property' means real property which is owned by the United States or is leased by the United States, and which is not subject to taxation by any State or any political subdivision of a State or by the District of Columbia. Such term includes real property which is owned by the United States and leased therefrom and the improvements thereon, even though the lessee's interest, or any improvement on such property, is subject to taxation by a State or a political subdivision of a State or by the District of Columbia. Except for the purposes of section 10, such term also includes (A) real property held in trust by the United States for individual Indians or Indian tribes, and real property held by individual Indians or Indian tribes which is subject to restrictions on alienation imposed by the United States, and (B) any school which is providing flight training to members of the Air Force under con-

tractual arrangements with the Department of the Air Force at an airport which is owned by a State or a political subdivision of a State. Notwithstanding the foregoing provisions of this paragraph, such term does not include (A) any real property used by the United States primarily for the provision of services or benefits to the local area in which such property is situated, (B) any real property used for a labor supply center, labor home, or labor camp for migratory farm workers, (C) any real property under the jurisdiction of the Post Office Department and used primarily for the provision of postal services, or (D) any low-rent housing project held under title II of the National Industrial Recovery Act, the Emergency Relief Appropriation Act of 1935, the United States Housing Act of 1937, the Act of June 28, 1940 (Public Law 671, Seventy-sixth Congress), or any law amendatory of or supplementary to any of such Acts.

"(2) The term 'child' means any child who is within the age limits for which the applicable State provides free public education.

"(3) The term 'parent' includes a legal guardian or other person standing in loco parentis.

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

"(5) The membership of schools shall be determined in accordance with State law or, in the absence of State law governing such a determination, in accordance with regulations of the Commissioner; except that, notwithstanding any other provision of this Act, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this Act the membership of such child, shall be held and considered—

"(A) if the two local educational agencies concerned so agree, and if such agreement is approved by the Commissioner, as membership of a school of the local educational agency receiving such tuition payment;

"(B) in the absence of any such approved agreement, as membership of a school of the local educational agency so making or contracting to make such tuition payment.

In any determination of membership of schools, children who are not provided free public education (as defined in paragraph (4)) shall not be counted.

"(6) The average per pupil cost of constructing minimum school facilities in the State in which the school district of a local educational agency is situated shall be determined by the Commissioner of Education on the basis of the contract cost per square foot under contracts for the construction of school facilities (exclusive of costs of site improvements, equipment, and architectural, engineering, and legal fees) entered into in the State for the base year designated in the application, increased by a percentage estimated by the Commissioner to represent additional costs for site improvements, equipment, and architectural, engineering, and legal fees, and multiplied by a factor estimated by the Commissioner to represent the area needed per pupil in minimum school facilities. If the Commissioner finds that the information available for the State concerned for such preceding fiscal year is inadequate or not sufficiently representative, he shall determine such cost on the basis of such information as he has available and after consultation with the State educational agency. The cost of constructing minimum school facilities in the school district of a local educational agency shall be determined by the Com-

48 Stat. 200.
40 USC 414.
49 Stat. 115.
50 Stat. 888.
42 USC 430.
54 Stat. 676.
50 U S C app.
1151.

missioner, after consultation with the State and local educational agencies, on the basis of such information as may be contained in the application of such local educational agency and such other information as he may obtain.

“(7) Estimates of membership, and all other determinations with respect to eligibility and maximum amount of payment, shall be made as of the time of the approval of the application for which made, and shall be made on the basis of the best information available at the time of such approval.

“(8) The terms ‘construct’, ‘constructing’, and ‘construction’ include the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

“(9) The term ‘school facilities’ includes classrooms and related facilities; and initial equipment, machinery, and utilities necessary or appropriate for school purposes. Such term does not include athletic stadiums, or structures or facilities intended primarily for athletic exhibitions, contests, or games or other events for which admission is to be charged to the general public. Except as used in sections 9 and 10, such term does not include interests in land and off-site improvements.

“(10) Whether or not school facilities are minimum school facilities shall be determined by the Commissioner, after consultation with the State and local educational agencies, in accordance with regulations prescribed by him.

“(11) The term ‘local educational agency’ means a board of education or other legally constituted local school authority having administrative control and direction of free public education in a county, township, independent, or other school district located within a State. Such term includes any State agency which directly operates and maintains facilities for providing free public education or which has responsibility for the provision of such facilities.

“(12) The term ‘State educational agency’ means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

“(13) The term ‘State’ means a State, Alaska, Hawaii, Puerto Rico, Guam, the Virgin Islands, or Wake Island.

“(14) The terms ‘Commissioner of Education’ and ‘Commissioner’ mean the United States Commissioner of Education.

“(15) The term ‘base year’ means the regular school year preceding the fiscal year in which an application was filed under this Act or the regular school year preceding such school year, as may be designated in the application, except that in the case of an application based on children referred to in paragraph (2) or (3) of section 5 (a), the base year shall in no event be later than the regular school year 1958-1959; and

“(16) The term ‘increase period’ means the period of two consecutive regular school years immediately following such base year.”

Effective date.

SEC. 102. The amendment made by section 101 shall be effective for the period beginning July 1, 1958, except that such amendment shall not apply in the determination of payments on applications based on the increase period ending with the regular school year 1958-1959, or any prior regular school year.

TITLE II—AMENDMENTS TO PUBLIC LAW 874, EIGHTY-FIRST CONGRESS

SEC. 201. (a) Section 2 (a) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), as amended, is amended by striking out "the fiscal year beginning July 1, 1950, or for any of the seven succeeding fiscal years" and inserting in lieu thereof the following: "any fiscal year ending prior to July 1, 1961".

Federal acquisition of real property.
64 Stat. 1101.
20 USC 237.

(b) Paragraph (1) of section 2 (b) of such Act is amended by inserting before the period at the end thereof the following: "; but shall not include payments pursuant to contract or other arrangement under section 1 of the Act of April 16, 1934, commonly referred to as the Johnson-O'Malley Act (25 U. S. C., sec. 452)".

48 Stat. 596.

SEC. 202. (a) Section 3 (a) of such Act is amended by striking out "ending prior to July 1, 1958".

Children residing on Federal property.
49 Stat. 1458.
25 USC 454.

(b) Section 3 (b) of such Act is amended—

(1) by striking out "For such purpose" and inserting in lieu thereof the following: "For the purpose of computing the amount to which a local educational agency is entitled under this section for any fiscal year ending prior to July 1, 1961";

(2) by inserting after "the number of children" the following: "(other than children to whom subsection (a) applies)"; and

(3) by striking out the last sentence thereof.

(c) Section 3 (c) of such Act is amended—

(1) by striking out "ending prior to July 1, 1958," where it appears in paragraph (1);

Special requirements applicable to local agencies.

(2) by striking out the period at the end of clause (B) of paragraph (2) and inserting in lieu thereof a comma and the following: "except that such 3 per centum requirement need not be met by such agency for any period of two fiscal years which follows a fiscal year during which such agency met such requirement and was entitled to payment under the provisions of this section, but the payment, under the provisions of this section to such agency for the second fiscal year of any such two-year period during which such requirement is not met, shall be reduced by 50 per centum of the amount thereof.

"For the purposes of this paragraph and paragraph (3), a local educational agency may count as children determined under subsection (b) any number of children determined under subsection (a).";

(3) by striking out "June 30, 1939" where it appears in paragraph (3) and inserting in lieu thereof "June 30, 1957";

(4) by striking out all of paragraph (3) which appears after "exceeded 35,000" and inserting in lieu thereof the following: ", such agency's percentage requirement for eligibility (as set forth in paragraph (2) of this subsection) shall be 6 per centum instead of 3 per centum (and the provisions of the last sentence of such paragraph (2) which relate to the lowering of the percentage requirement shall not apply) : *Provided*, That this paragraph shall not apply to any agency or consolidated agencies which have qualified for payments under this Act before the date of enactment of this proviso, by virtue of having less than thirty-five thousand average daily attendance during the fiscal year ending June 30, 1939.";

Provision.

(5) by striking out "ending prior to July 1, 1958" where it appears in clause (A) of paragraph (4); and

(6) by striking out "effective for the fiscal year beginning July 1, 1955, and the two succeeding fiscal years" where it appears in clause (D) of paragraph (4).

(d) Section 3 (d) of such Act is amended—

(1) by striking out "most nearly" in clause (1) and inserting in lieu thereof "generally", and

(2) by striking out the fourth and fifth sentences and inserting in lieu thereof the following: "In no event shall the local contribution rate for any local educational agency in any State in the continental United States for any fiscal year be less than (i) 50 per centum of the average per pupil expenditure in such State or (ii) 50 per centum of the average per pupil expenditure in the continental United States, but not to exceed the average per pupil expenditure in the State: *Provided*, That if, for the fiscal year ending June 30, 1959, the application of clause (ii) of this sentence results in a lower local contribution rate than resulted from the application of such clause during the fiscal year ending June 30, 1958, as such clause was then in effect, then such clause, as in effect during the fiscal year ending June 30, 1958, shall be in effect during the fiscal year ending June 30, 1959. For the purposes of the preceding sentence the 'average per pupil expenditure' in a State, or in the continental United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all local educational agencies in the State, or in the continental United States, as the case may be (without regard to the sources of funds from which such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding fiscal year."

(e) Section 3 (e) of such Act is amended by adding the word "actually" after the words "(as defined in section 2 (b) (1)) and".

Sudden increases in attendance.

SEC. 203. (a) Section 4 (a) of such Act is amended (1) by striking out "1958" both times it appears therein and inserting in lieu thereof "1961" and (2) by inserting after "50 per centum of such product" the following: "reduced by the amount of such product which is attributable to children with respect to whom such agency is, or upon application would be, entitled to receive any payment under section 3 for such fiscal year".

(b) Subparagraph (A) of section 4 (c) of such Act is amended by striking out "year, and" and inserting in lieu thereof "year: *Provided*, That the Commissioner shall count for such purposes as an increase directly resulting from activities of the United States, an increase in the number of children who reside on Federal property or reside with a parent employed on Federal property, if the local educational agency files, in accordance with regulations of the Commissioner, its election that such increase be counted for such purposes instead of for the purposes of section 3; and".

Transfer and availability of appropriations.

SEC. 204. Subsection (d) of section 8 of such Act is amended—

(1) by striking out "during the period beginning July 1, 1953, and ending June 30, 1958,"; and

(2) by inserting before the period at the end thereof the following: "or the availability of appropriations under the Act of April 16, 1934, commonly referred to as the Johnson-O'Malley Act (25 U. S. C., sec. 452)".

48 Stat. 596; 49 Stat. 1458.

Definitions.

SEC. 205. (a) The third sentence of paragraph (1) of section 9 of such Act is amended by inserting after "(A)" the following: "except for purposes of section 6,".

(b) The last sentence of paragraph (1) of section 9 of such Act is amended—

(1) by inserting "or benefits" after "provision of services"; and

(2) by striking out "or (C)" and inserting in lieu thereof the following: "(C) any real property under the jurisdiction of the Post Office Department and used primarily for the provision of postal services, or (D)".

(c) Paragraph (2) of section 9 of such Act is amended by striking out the last sentence thereof.

SEC. 206. Section 10 of such Act is repealed.

SEC. 207. The amendments made by this title shall be effective for the period beginning July 1, 1958.

Approved August 12, 1958.

Repeal.
Effective date.

Public Law 85-621

AN ACT

For the relief of certain persons who sustained damages by reason of fluctuations in the water level of the Lake of the Woods.

August 12, 1958
[H. R. 10805]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to each claimant who filed a claim pursuant to the Act entitled "An Act to provide for the compensation of certain persons whose lands have been flooded and damaged by reason of fluctuations in the water level of the Lake of the Woods", approved August 13, 1954 (68 Stat. 728), or if deceased, to his heirs, a sum equal to the amount determined by the Secretary of the Army to be equitably due such claimants as set forth in the report to the Congress submitted in accordance with the provisions of such Act. No part of the amount appropriated in this Act for the payment of any one claim in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with such claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000.

Approved August 12, 1958.

Lake of the
Woods, Minn.
Water damage
claims.

Penalty.

Public Law 85-622

AN ACT

To provide for a display pasture for the bison herd on the Montana National Bison Range in the State of Montana, and for other purposes.

August 12, 1958
[H. R. 3402]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to provide adequate pasture for the display of bison in their natural habitat at a location readily available to the public, the Secretary of the Interior is authorized to procure title, in such manner as he shall consider to be in the public interest, including but not limited to, donation and the use of donated funds, not to exceed four hundred acres of land in Lake County, Montana, as he shall find to be suitable for development of a display pasture for a part of the bison herd on the Montana National Bison Range. The property so acquired shall be administered by the Secretary of the Interior as a part of the Montana National Bison Range.

SEC. 2. In furtherance of the aforesaid purposes, the Secretary may take such action and make such expenditures as he shall find to be necessary in order to secure satisfactory title in the United States to such properties, including the payment of expenses incidental to the

Montana National
Bison Range.