The original documents are located in Box 54, folder "9/7/76 HR12455 Child Day Care and Social Services Amendments (2)" of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library

STATEMENT BY THE PRESIDENT

I have today signed into law H.R. 12455, a bill concerning child day care staffing standards and social services supported with Federal financial assistance.

Earlier this year, I vetoed the predecessor version of this bill, H.R. 9803, and the Congress sustained my veto. I have signed H.R. 12455 because it embodies a major compromise on a key issue which led to that veto--the imposition on States and localities of costly and controversial Federal staffing requirements for child day care services funded under Title XX of the Social Security Act.

H.R. 9803 would have imposed these standards effective July 1 of this year. Had that bill become law, it would have brought about an unwarranted Federal preemption of State and local responsibility to ensure quality day care services.

H.R. 12455, by postponing the Federal standards until October 1, 1977, will enable the States to operate day care programs for more than another year free of onerous and costly Federal intrusion, while HEW completes a required major study and report with recommendations on the day care standards. In addition, the Congress will have the opportunity to act on my proposed "Federal Assistance for Community Services Act," submitted to the Congress last February to reform the Title XX social services program.

My proposal would provide the States with the opportunity to administer the Title XX program with the necessary flexibility to meet their most pressing needs as they themselves determine those needs. It would simplify program operations and remove many of the burdensome and

restrictive Federal requirements so that social services can be provided in the most efficient and effective manner, and can be most responsive to the needs of our citizens. As part of this overall approach, it would require the States to adopt and enforce their own standards for federally-assisted child day care.

While I am disappointed that the Congress has not, in H.R. 12455, clearly placed this responsibility and authority in the States, the bill's lengthy suspension of the standards is a positive step toward this objective.

H.R. 12455 does adopt a concept contained in my Federal Assistance to Community Services proposal by permitting States to provide Title XX services on a "group eligibility" basis, except for most child day care services. Under this bill, States will not have to require that senior citizens and other persons who need and depend on social services programs be subjected to individual income and assets tests in order to determine whether they can participate in these programs. Such persons will be eligible as members of groups, when the States can reasonably assume that substantially all those to be served have incomes less than 90% of the State's median income.

This provision will make it possible for older persons and families who obviously qualify for federally-assisted services to obtain those services without a demeaning scrutiny of their personal affairs. It will also eliminate unnecessary and costly administrative trappings for many service programs, thereby freeing more Federal and State funds for the actual delivery of services.

H.R. 12455 embodies, in part, still another central element of my Federal Assistance for Community Services proposal: that States should no longer be required to match their share of the Federal Title XX social service

funds with State and local tax dollars. Under this bill, as much as $200 million in new Title XX funds would be distributed in fiscal year 1977 without a requirement for State matching, if States choose to spend that amount for child day care services. I am hopeful that this tentative step indicates the willingness of the Congress to consider seriously the elimination of the matching requirement for all Federal social services funds under Title XX.

I do have serious reservations about the amount of additional Federal funding provided in H.R. 12455, although it is less than the amount in the bill I earlier vetoed. It is also unfortunate that this bill, for the first time under Title XX, designates certain ~~amounts of money~~ levels of funding for specified purposes. This is the antithesis of the spirit and intent of Title XX ~~to~~ which permits States the maximum flexibility to determine their own priorities in using their share of Federal social services funds. I am also concerned that the child care provisions of this bill have not been adequately coordinated with child care provisions in the pending tax reform bill.

Much remains to be done to help the States improve their delivery of social services funded under Title XX. I am gratified that the Congress, in this bill, has moved in some measure toward accepting concepts in my proposed Federal Assistance for Community Services Act. Further action is needed, however, to provide more comprehensive reform that will provide States the tools and flexibility to deliver social services to those in need without cumbersome Federal regulation. I again urge the Congress to act promptly to give my proposal a full and favorable hearing.

OK as edited
9/14/76

Rec. 9/3/76 - 9:50 am
m

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: September 3 Time: 821am

FOR ACTION: Spencer Johnson
Sarah Massengale
Ken Lazarus
Max Friedersdorf
Robert Hartmann

cc (for information): Jack Marsh
Ed Schmults
Bill Seidman Jim Connor

FROM THE STAFF SECRETARY

DUE: Date: September 3 Time: 100pm

SUBJECT:

H.R. 12455-Child Day Care and Social Services Amendments

ACTION REQUESTED:

Recommend approval

____ For Necessary Action ____ For Your Recommendations

____ Prepare Agenda and Brief ____ Draft Reply

__x__ For Your Comments ____ Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

9/3/76 - copy sent for recording. nm
9/3/76 - Recorded copy returned. nm

Sorry memo edited; and memo still edited (but it is weak)
9/4/76

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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

James M. Cannon
For the President

STATEMENT BY THE PRESIDENT

I have today signed into law H.R. 12455, a bill concerning child day care staffing standards and social services supported with Federal financial assistance. Ensuring adequate day care for children was an important social service. It protects the well-being of thousands of American children -- and the economic independence of their parents. to a worthwhile end.

Earlier this year, I vetoed the predecessor version of this bill, H.R. 9803 -- not because I disagreed with its goals -- but because that bill was the wrong means and the Congress sustained my veto. ~~I have signed H.R. 12455 because it~~ embodies a major compromise on a key issue which led to that veto -- the imposition on States and localities of costly and controversial Federal staffing requirements for child day care services funded under Title XX of the Social Security Act.

Today I have signed a new and better child day care bill -- the result of compromise and cooperation between the Congress and my Administration. H.R. 12455

H.R. 9803 would have imposed these standards effective July 1 of this year. Had that bill become law, it would have brought about an unwarranted Federal preemption of State and local responsibility to ensure quality day care services.

H.R. 12455, by postponing the Federal standards until October 1, 1977, will enable the States to operate day care programs for more than another year free of onerous and costly Federal intrusion, while HEW completes a required major study and report with recommendations on the day care standards. In addition, the Congress will have the opportunity to act on my proposed "Financial Assistance for Community Services Act," submitted to the Congress last February to reform the Title XX social services program.

My proposal would provide the States with the opportunity to administer the Title XX program with the necessary flexibility to meet their most pressing needs as they themselves determine those needs. It would simplify program operations and remove many of the burdensome and

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H.R. 9803 would have imposed these standards effective July 1 of this year. Had that bill become law, it would have brought about an unwarranted Federal preemption of State and local responsibility to ensure quality day care services.

H.R. 12455, by postponing the Federal standards until October 1, 1977, will enable the States to operate day care programs for more than another year free of onerous and costly Federal intrusion, while HEW completes a required major study and report with recommendations on the day care standards. In addition, the Congress will have the opportunity to act on my proposed "Financial Assistance for Community Services Act," submitted to the Congress last February to reform the Title XX social services program.

My proposal would provide the States with the opportunity to administer the Title XX program with the necessary flexibility to meet their most pressing needs as they themselves determine those needs. It would simplify program operations and remove many of the burdensome and

restrictive Federal requirements so that social services can be provided in the most efficient and effective manner, and can be most responsive to the needs of our citizens. As part of this overall approach, it would require the States to adopt and enforce their own standards for federally-assisted child day care.

While I am disappointed that the Congress has not, in H.R. 12455, clearly placed this responsibility and authority in the States, the bill's lengthy suspension of the standards is a positive step toward this objective.

H.R. 12455 does adopt a concept contained in my Financial Assistance to Community Services proposal by permitting States to provide Title XX services on a "group eligibility" basis, except for most child day care services. Under this bill, States will not have to require that senior citizens and other persons who need and depend on social services programs be subjected to individual income and assets tests in order to determine whether they can participate in these programs. Such persons will be eligible as members of groups, when the States can reasonably assume that substantially all those to be served have incomes less than 90% of the State's median income.

This provision will make it possible for older persons and families who obviously qualify for federally-assisted services to obtain those services without a demeaning scrutiny of their personal affairs. It will also eliminate unnecessary and costly administrative trappings for many service programs, thereby freeing more Federal and State funds for the actual delivery of services.

H.R. 12455 embodies, in part, still another central element of my Financial Assistance for Community Services proposal: that States should no longer be required to match their share of the Federal Title XX social service

funds with State and local tax dollars. Under this bill, as much as $200 million in new Title XX funds would be distributed in fiscal year 1977 without a requirement for State matching, if States choose to spend that amount for child day care services. I am hopeful that this tentative step indicates the willingness of the Congress to consider seriously the elimination of the matching requirement for all Federal social services funds under Title XX.

I do have serious reservations about the amount of additional Federal funding provided in H.R. 12455, although it is less than the amount in the bill I earlier vetoed. It is also unfortunate that this bill, for the first time under Title XX, designates levels of funding for specified purposes. This is the antithesis of the spirit and intent of Title XX which permits States the maximum flexibility to determine their own priorities in using their share of Federal social services funds. I am also concerned that the child care provisions of this bill have not been adequately coordinated with child care provisions in the pending tax reform bill.

Much remains to be done to help the States improve their delivery of social services funded under Title XX. I am gratified that the Congress, in this bill, has moved in some measure toward accepting concepts in my proposed financial Assistance for Community Services Act. Further action is needed, however, to provide more comprehensive reform that will provide States the tools and flexibility to deliver social services to those in need without cumbersome Federal regulation. I again urge the Congress to act promptly to give my proposal a full and favorable hearing.

DRAFT SIGNING STATEMENT ON H.R. 12455

I have today signed into law H.R. 12455, the day care staffing standards bill, despite serious reservations over certain features of this bill.

I have signed H.R. 12455 because it embodies a major compromise on the key issue which led to my veto of H.R. 9803, the predecessor version of this bill, and because this bill incorporates several concepts from my proposed Financial Assistance for Community Services Act.

First, this bill postpones for the third time--until October 1, 1977--imposition of the costly and controversial Federal Interagency Day Care Requirements (FIDCR) staffing ratios for day care services funded under title XX of the Social Security Act. H.R. 9803 would have imposed these standards effective July 1 of this year. Had that bill become law, it would have brought about an unwarranted Federal preemption of State and local responsibility to ensure quality day care services and would have vastly increased the cost--but not the quantity--of these services.

While I am deeply disappointed that the Congress has not, in this bill, completely eliminated the FIDCR standards as would my proposed Financial Assistance for Community Services Act, this further suspension of the standards is a positive step. Pending congressional action on my proposal and

pending the outcome of a major HEW study of the appropriateness of Federal standards in this area, enactment of H.R. 12455 will permit the States to operate day care programs for another year free of onerous and costly Federal intrusion.

Second, this bill embodies a major concession to another central element of my Financial Assistance for Community Services proposal under which the States would no longer be required to match their share of the $2.5 billion in Federal title XX social services funds with State and local tax dollars. Under this bill, as much as $240 million in new title XX funds would be distributed among the States on a match-free basis if States choose to spend that amount for day care services and employment incentive grants. I am hopeful that this tentative step indicates that the Congress is willing to seriously consider the elimination of the matching requirement for all Federal services funds under title XX and I urge that it do so quickly.

It is unfortunate that this bill would, for the first time under title XX, designate certain amounts of money for specified purposes. This is the antithesis of the spirit and intent of title XX which permits States to determine their own priorities for use of their share of Federal services funds. However, the Congress has, in this bill, at least acknowledged this fundamental title XX concept by permitting States to disregard the earmarking of the new funds for day care by simply substituting any new funds received under this bill for an equal amount of Federal or State funds already committed to day care. This would free such committed funds for any social service program the State may wish to provide.

Third, this bill adopts elements of yet another concept embodied in my Financial Assistance for Community Services proposal by permitting States, at their option, to provide title XX services on a group eligibility basis. Generally speaking, States may do so for any service other than non-migrant day care when they are confident that "substantially all" of those to be served have incomes of less than 90 percent of the State's median income.

This provision will make it possible for States to eliminate costly administrative trappings for many service programs, thereby freeing more Federal and State funds for the delivery of services. It will also make it easier for individuals and families to obtain services. Many individuals, particularly senior citizens, have found the individual eligibility determination process to be a barrier to seeking help from the social service system.

While this bill does not, as would my proposal, strengthen title XX audit and public accountability processes to help deter abuses of the group eligibility concept, I am confident that the States will exercise this option with great care to ensure that those able to obtain services through their own financial means will not consume services intended for those least able to help themselves.

Fourth, enactment of this bill will enhance Federal and State efforts to carry out a high priority of my Administration by making family planning services funded under title XX available to any individual who seeks such services regardless of his or her income level.

While I am gratified that the Congress, in this bill, has moved at least part way toward accepting many of the concepts embodied in my proposed Financial Assistance for Community Services Act, there is much yet to be done to help the States improve their delivery of social services funded under title XX. I strongly urge the Congress to act as quickly as possible to give this proposal a full and favorable hearing.

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I have today signed into law H.R. 12455, a bill concerning child day care staffing standards and social services supported with Federal financial assistance.

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H.R. 9803 would have imposed these standards effective July 1 of this year. Had that bill become law, it would have brought about an unwarranted Federal preemption of State and local responsibility to ensure quality day care services.

H.R. 12455, by postponing the Federal standards until October 1, 1977, will enable the States to operate day care programs for more than another year free of onerous and costly Federal intrusion, while HEW completes a required major study and report with recommendations on the day care standards. In addition, the Congress will have the opportunity to act on my proposed "Financial Assistance for Community Services Act," submitted to the Congress last February to reform the Title XX social services program.

My proposal would provide the States with the opportunity to administer the Title XX program with the necessary flexibility to meet their most pressing needs as they themselves determine those needs. It would simplify program operations and remove many of the burdensome and

restrictive Federal requirements so that social services can be provided in the most efficient and effective manner, and can be most responsive to the needs of our citizens. As part of this overall approach, it would require the States to adopt and enforce their own standards for federally-assisted child day care.

While I am disappointed that the Congress has not, in H.R. 12455, clearly placed this responsibility and authority in the States, the bill's lengthy suspension of the standards is a positive step toward this objective.

H.R. 12455 does adopt a concept contained in my Financial Assistance to Community Services proposal by permitting States to provide Title XX services on a "group eligibility" basis, except for most child day care services. Under this bill, States will not have to require that senior citizens and other persons who need and depend on social services programs be subjected to individual income and assets tests in order to determine whether they can participate in these programs. Such persons will be eligible as members of groups, when the States can reasonably assume that substantially all those to be served have incomes less than 90% of the State's median income.

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funds with State and local tax dollars. Under this bill, as much as $200 million in new Title XX funds would be distributed in fiscal year 1977 without a requirement for State matching, if States choose to spend that amount for child day care services. I am hopeful that this tentative step indicates the willingness of the Congress to consider seriously the elimination of the matching requirement for all Federal social services funds under Title XX.

I do have serious reservations about the amount of additional Federal funding provided in H.R. 12455, although it is less than the amount in the bill I earlier vetoed. It is also unfortunate that this bill, for the first time under Title XX, designates levels of funding for specified purposes. This is the antithesis of the spirit and intent of Title XX which permits States the maximum flexibility to determine their own priorities in using their share of Federal social services funds. I am also concerned that the child care provisions of this bill have not been adequately coordinated with child care provisions in the pending tax reform bill.

Much remains to be done to help the States improve their delivery of social services funded under Title XX. I am gratified that the Congress, in this bill, has moved in some measure toward accepting concepts in my proposed financial Assistance for Community Services Act. Further action is needed, however, to provide more comprehensive reform that will provide States the tools and flexibility to deliver social services to those in need without cumbersome Federal regulation. I again urge the Congress to act promptly to give my proposal a full and favorable hearing.

Calendar No. 815

94TH CONGRESS
2d Session

SENATE

REPORT
No. 94-857

CHILD CARE AND SOCIAL SERVICES PROGRAMS

MAY 13, 1976.—Ordered to be printed

Mr. LONG, from the Committee on Finance, submitted the following

REPORT

[To accompany H.R. 12455]

The Committee on Finance, to which was referred the bill (H.R. 12455) to extend from April 1 to October 1, 1976, the maximum period during which recipients of services on September 30, 1975, under titles IV-A and VI of the Social Security Act, may continue to receive services under title XX of that Act without individual determinations, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill as amended do pass.

I. SUMMARY OF THE BILL

The bill as passed by the House of Representatives on March 16, 1976 contained a single section providing temporary relief (through September 30, 1976) from a requirement of existing law which, in effect, mandates that social services be provided by the States only to persons who have been individually determined to have incomes which are below specified limits. The Committee amendment substitutes for this House provision a permanent change in the law giving States complete flexibility in determining social services eligibility and adds a provision suspending certain child care standards and providing additional child care funding.

Eligibility for social services.—The Committee amendment would eliminate from the social services law requirements that Federal funding under that program be limited to individuals with incomes below specified amounts and that 50 percent of Federal funding be used for welfare recipients. The effect of the amendment would be to allow States to determine what income or other eligibility conditions they wish to establish for participation in social services programs and how those conditions are to be enforced. The Committee amendment is a substitute for the House-passed provision which would

have continued until October 1, 1976 a Department of Health, Education, and Welfare policy of not enforcing in certain cases the present statutory requirement that services be provided only to individuals whose incomes have been determined to be within specified limits.

Child care services.—The Committee amendment to H.R. 12455 also suspends Federal staffing standards for child care for pre-school children until October 1, 1977, provides $375 million in additional child care Federal funding between now and October 1, 1977, and provides incentives for the employment of welfare recipients in child care jobs.

The Social Services Amendments of 1974 established minimum Federal staffing standards for child care funded under the Social Security Act effective October 1, 1975. Subsequent legislation suspended the application of these Federal standards as they apply to children between 6 weeks and 6 years of age to February 1, 1976. The Committee amendment reinstitutes that suspension effective retroactive to February 1 and continuing until October 1, 1977; by that time the Department of Health, Education, and Welfare is expected to have completed its ongoing study to determine what standards are most appropriate.

To assist States in the effort to upgrade child care standards, the Committee amendment also provides for new social services funding at a rate of $250 million per year until October 1, 1977. ($125 million is provided through September 30, 1976, and $250 million is provided for fiscal year 1977.) Special provisions are included to permit these funds to be used (in combination with tax credit provisions) to provide full Federal funding for the cost of employing welfare recipients in child care jobs (up to $5,000 per employee per year).

The Committee amendment also waives Federal staffing standards for child care in the case of facilities serving only a few Federally funded children and allows family day care mothers to not count their school-age children in determining the maximum number of children they may care for. In addition, certain social services provisions relating to the treatment of drug addicts and alcoholics, which had previously been enacted on a temporary basis, are made permanent under the Committee amendment.

II. General Explanation of the Bill

NEED FOR LEGISLATION

Eligibility for services.—Under the social services programs as they existed prior to the 1974 amendments, States sometimes provided certain services to members of groups without requiring an individual determination of eligibility. For example, services provided through a senior citizen center would be made available to all elderly persons without any requirement that the individual demonstrate that he was a welfare recipient or that his income was below a certain level. Similarly, a family planning clinic might be established to serve all residents of a low-income neighborhood, and the services would be provided without individual income determinations. This approach to eligibility determination was made impermissible by the enactment of the 1974 amendments which restructured the Social Services program under a new title XX of the Social Security Act.

Title XX specifically requires that services be provided only to persons with incomes below certain limits. This requirement can be complied with only if the income of those served is, in fact, determined. The regulations originally issued by the Department of Health, Education, and Welfare, therefore, required that when the title XX program became effective on October 1, 1975, States would have to determine the income eligibility of each recipient. Because of objections raised by various groups and particularly by the aged, the Department subsequently modified this regulation to permit States which had been making group eligibility determinations in the quarter prior to the October 1, 1975 effective date to defer coming into compliance with the law until March 31, 1976. In February 1976 the Department again modified this regulation to permit States which had come into compliance with the new law to revert to noncompliance if they had used group eligibility determinations in any of the three quarters preceding October 1, 1975. Again, the Department specified that it would permit noncompliance only through March 31, 1976. On April 2 the Department issued additional regulations to permit States to establish any method or methods, including a declaration method, to determine eligibility and to use different methods for different services, categories, or geographical areas.

The Committee recognizes that the Department's issuance of this series of regulations has been the result of concern that overly rigid requirements might damage legitimate and useful State programs. The Committee believes, however, that these regulations may well be only the first of many regulations which the Department will issue in order to deal with the very complex issues involved in the determination of eligibility for the large variety of State programs which now exist. The Committee believes that the States should not be subjected to continuing concern about the nature of future Federal regulations, but should be able to develop their social services programs to meet their own individual State needs. The Committee bill thus gives States complete flexibility to determine who would be eligible for services and whether fees would be charged.

The amount of Federal funding available to the States under the social services program is subject to a statutory limit which has almost been reached (for fiscal year 1977 it is estimated that 96 percent of the limit will be used). The funding is thus already largely committed by the States to particular programs. The social services law will continue, under the Committee amendment, to require that States use their funding in accord with social services plans, which are developed through a procedure which assures broad public awareness of the types of services to be provided and the categories of persons to be served. The Committee believes, therefore, that there is no reason to anticipate that the amendment will affect in any significant way the purposes for which social services funds are used.

The Committee does believe that the amendment will relieve the States of burdensome administrative requirements which necessarily result from the establishment of specific Federal eligibility requirements in a State-administered program. As long as there are such Federal requirements, the Department of Health, Education, and Welfare would have an obligation to assure that they are being complied with and would be properly subject to criticism if it did not carry out that obligation. The Committee cannot agree that the

proper solution is the retention of Federal requirements coupled with intentionally lax enforcement thereof.

Under the Committee amendment, the States will be able to establish such income limitations as they may believe appropriate in the light of the types of services involved, the categories of intended recipients, and the amount of Federal and State funding available for the program. In many instances States will wish to provide income eligibility requirements which may even be more restrictive than the Federal standards now in law. In other instances, however, States may find that income eligibility requirements are inconsistent with the objectives of the services being provided. Some States, for example, may wish to provide certain services for mentally retarded children, or for elderly or disabled individuals, without requiring them to meet specific income limits. This bill would enable them to develop their own criteria for eligibility. The bill also would remove the requirement in present law that 50 percent of the Federal funds be spent for services to specified categories of individuals, and would allow States to serve those individuals and groups which they consider most in need of services, unhampered by arbitrary Federal restrictions and limitations. The Committee bill retains the 25 percent State matching requirement and the overall limit on Federal funding which are in present law, thereby providing a continuing incentive to the States for effective and efficient use of social services funds.

The Committee believes that this approach, rather than the six-month extension of regulations allowing group eligibility under limited circumstances as provided in the House bill, will enable the States to develop their long-term plans for social services programs on a rational basis.

Child care standards.—The Social Services Amendments of 1974 (Public Law 93–647) require that certain Federal standards be met where child care is provided outside the child's home in order to qualify for Federal funds under the social services program (title XX of the Social Security Act). Generally, title XX sets as these standards the Federal Interagency Day Care Requirements promulgated in 1968 by the Department of Health, Education, and Welfare. The Federal Interagency Day Care Requirements limit the number of children per staff member, impose safety and sanitation standards, set general requirements for the suitability of physical facilities, and have provisions relating to a number of other matters. While the greatest attention has been given thus far to the staffing standards, the other standards in the Federal Interagency Day Care Requirements will also involve additional costs in many States.

The 1974 amendments originally required that the Federal standards be met by October 1, 1975. However, as that date drew near, it became clear that a significant number of providers in many States would not be able to meet the requirements. Responding to the concern that enforcement of the requirements would result in a decrease in the availability of care for the low-income children served under title XX and would also have an adverse effect on many child care providers, the Congress enacted Public Law 94–120, which provided that no penalties for noncompliance could be imposed prior to February 1, 1976. The postponement applied only to staffing requirements for care provided for children between the ages of 6 weeks and 6 years in day care centers and group day care homes. During the period of postponement staffing levels in centers and group homes could be no lower than was required by current State law, any subsequent modifications of State law, or the staffing levels actually in effect in each child care program as of September 15, 1975.

Since the enactment of Public Law 94–120, Congress passed additional legislation, H.R. 9803, which would have (1) postponed further the effective date of the pre-school staffing requirements until July 1, 1976; (2) provided an additional $125 million in Federal funding for child care through September 30, 1976; (3) permitted the States to make grants to child care providers for the hiring of welfare recipients; (4) increased the Federal matching rate for child care expenditures from 75% to 80% (applicable only to the additional $125 million provided by the bill); and (5) extended the welfare recipient tax credit provision for child care jobs from July 1, 1976 until October 1, 1976. This bill was vetoed by the President and the veto was sustained by the Senate.

In vetoing H.R. 9803, the President indicated that the major objection he had to the bill was based on his view that it represented an endorsement of the specific Federal staffing standards which had been enacted in 1974. In the current bill, therefore, the Committee recommends that the most controversial of those standards—those related to staffing levels for pre-school children—be suspended until the Department of Health, Education, and Welfare has completed its study of the appropriateness of Federal staffing requirements. The Committee recognizes, however, that many States have undertaken to come into compliance with the standards which were enacted in 1974 and have experienced considerable additional expenditures as a result. Moreover, States will still be required to meet many Federal standards relating to matters other than staffing, and it is appropriate to encourage States to improve their staffing ratios even in the absence of a Federal mandate to do so. For these reasons, the Committee bill again includes a significant increment to the current social services funding with a view toward meeting increases in child care costs needed to meet the Federal standards which remain effective and to improve child care programs generally.

The following letter was received by the Committee from the Department of Health, Education, and Welfare concerning the need for legislation to suspend the staffing requirements.

THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., May 7, 1976.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Now that the Congress has sustained the President's veto of H.R. 9803, the child day care staffing standards bill, it is urgently necessary for the Congress to act to extend further the moratorium on implementation of those standards. Otherwise, if current law is left intact, many day care providers and most of the States may lose Federal reimbursement.

As you know, the four-month moratorium on these standards enacted last October in P.L. 94–120 expired on February 1 of this year. Thus day care providers and the States have been liable since that date for loss of Federal reimbursement for any day care supported

under title XX of the Social Security Act which has not been provided in strict conformity with the Federal requirements. The language of title XX is explicit on this issue in requiring the Department to deny reimbursement for any non-compliant day care services unless the Congress once again suspends these controversial standards.

As the President noted in his April 6 veto message on H.R. 9803, the Administration has urged the Congress to convert title XX into a block grant program, under which the States would be given far greater flexibility—and responsibility—than they now have to fashion their social services programs in ways they believe will best meet the needs of their citizens. A central element in that proposal is the deletion of burdensome Federal restrictions on the States' use of the $2.5 billion provided annually under title XX, including the rigid and costly Federal day care staffing standards that were at issue in H.R. 9803. Under the Administration's block grant proposal, day care staffing standards would be set and enforced by the States themselves, a right—and responsibility—most properly vested in the States just as is the responsibility to set and enforce teacher-pupil ratios in public schools.

Pending Congressional action on this proposal, we urge that the day care staffing standards moratorium of P.L. 94–120 be reinstated, retroactive to February 1, 1976 and prospective to October 1, 1976. This action would relieve day care providers and the States of the danger of losing Federal support for day care services and would give the Congress ample time to act on the Administration's title XX block grant proposal to resolve this unfortunate impasse once and for all.

Cordially,

DAVID MATHEWS, *Secretary.*

The staffing requirements which are in law and which went into effect when the suspension expired on February 1 are shown in table 1.

Table 2 shows the staffing requirements imposed by State law in the various States for child care centers generally as of October 1975 and table 3 shows State estimates of increased child care costs assuming full compliance with the standards enacted in 1974. Table 3 also shows States' estimates of the potential for employing welfare recipients in child care jobs.

Social services funds available to the States under present law and the additional amounts which would be made available in fiscal year 1977 by the committee bill are shown in table 4.

TABLE 1.—CHILD CARE CENTER STAFFING REQUIREMENTS UNDER LAW AND HEW REGULATION

Age of child	Maximum number of children per staff member	
Under 6 weeks	1	Required by regulation.
6 weeks to 3 yr	4	Required by regulation.
3 to 4 yr	5	Required by law.
4 to 6 yr	7	Required by law.
6 to 9 yr	15)	Maximum number allowed by law (though Secretary of
10 to 14 yr	20)	HEW may lower the maximum number of children per staff member, thus increasing the staff required)

TABLE 2.- CHILD CARE CENTERS: MINIMUM STAFFING REQUIREMENTS, BY AGE OF CHILDREN, UNDER STATE LICENSING REGULATIONS

	Maximum number of children per staff member [1] if age of children is—					
	Under 2	2 to 3	3 to 4	4 to 5	5 to 6	School age
Alabama	5	[1] 5	10	20	20	[2] 22
Alaska	5	5	10	10	10	10
Arizona	[3] 8	10	15	20	25	25
Arkansas	[4] 6	[5] 6	12	15	18	NS
California	[6] 4	12	12	12	12	12
Colorado	[7] 5	[8] 7	10	12	15	15
Connecticut	4	4	[9] 5	[9] 7	[9] 7	[10] 10
Delaware [13]	[11] 5	[12] 8	15	20	20	25
District of Columbia	[14] 4	[15] 4	8	10	15	15
Florida [17]	[16] 6	12	15	20	25	25
Georgia	[18] 7	10	15	18	20	[19] 25
Hawaii	[20] X	10	15	20	25	25
Idaho	[21] 6	[22] 8	10	10	10	NS
Illinois	6	8	10	[23] 10	25	25
Indiana	[24] 4	5	10	12	15	20
Iowa	4	6	8	12	15	15
Kansas	[25] 3	[26] 5	10	[27] 10	[27] 10	16
Kentucky	6	8	10	12	15	[28] 15
Louisiana [30]	[29] 6	12	14	16	20	25
Maine [32]	[29] X	[31] 8	10	15	15	15
Maryland	[33] NS	6	10	10	13	NS
Massachusetts	[34] 10	[34] 10	[35] 10	[35] 10	15	[35] 15
Michigan	[20] X	[29] 10	10	12	20	NS
Minnesota	[40] 4	[41] 4	10	10	10	15
Mississippi	NS	NS	NS	NS	NS	[20] X
Missouri	[20] X	5	10	10	15	15
Montana	NS	NS	NS	NS	NS	NS
Nebraska	4	5	7	7	7	12
Nevada	[42] 4	[43] 8	[44] 10	[44] 10	[44] 10	[45] 3
New Hampshire	4	[46] 4	10	15	18	20
New Jersey	[20] X	[47] NS	[47] NS	[47] NS	[47] NS	[20] X
New Mexico	10	10	10	[48] 15	[48] 15	15
New York	[49] 4	5	5	7	7	10
North Carolina	[50] 8	[50] 12	[50] 15	[50] 20	[50] 25	[50] 25
North Dakota	4	4	10	10	12	[51] 12
Ohio	[52] 8	10	15	15	20	20
Oklahoma [53]	[54] 4	8	12	15	15	20
Oregon	[55] 4	10	10	10	10	[55] 10
Pennsylvania	[20] X	[20] X	8	10	10	13
Rhode Island	[20] X	[20] X	10	15	25	NS
South Carolina	6	8	10	14	15	15
South Dakota	[57] 1	4	5	7	7	[58] 15
Tennessee	[59] 5	8	10	15	25	[60] 30
Texas	[61] 4	8	12	15	18	[62] 20
Utah	[20] X	10	15	15	20	[63] 20
Vermont	4	5	10	10	12	12
Virginia	3	10	10	10	10	10
Washington	[64] 5	[65] 7	10	10	10	10
West Virginia	4	8	10	12	15	16
Wisconsin	[66] 3	[67] 6	10	12	16	[60] 16
Wyoming	5	8	10	15	20	25

[1] 5 if 2 to 2½; 10 if 2½ to 3.
[2] 22 if 6 to 8; 25 if 8 and over.
[3] 8 if 0 to 15 mo; 10 if 15 mo to 2 yr.
[4] In infant-toddler centers.
[5] 6 in infant-toddler centers; 12 if 2½ to 3 in other centers.
[6] In infant centers.
[7] If 6 weeks to 8 mo in infant center; or if 12 mo to 3 yr in toddler center.
[8] 7 if all 2-yr-olds in toddler center; 8 if 2½ to 3 in large or small center.
[9] Recommended FIDCR child/staff ratios.
[10] If under title XX funding; 15, if 6 to 10 yr of age; 20 if 10 to 14 yr of age (FIDCR ratios).
[11] 5 if 0 to 1; 8 if 1 to 2.
[12] 8 if 2 to 2½; 15 if 2½ to 3.
[13] In Delaware, centers receiving Federal funds have the following mandated ratios: Under 2:5, 2 to 3:5; 3 to 4:5; 4 to 5:7; 5 to 6:7; school age: 10.
[14] Pending issue of new infant center regulations.
[15] 4 if 2 to 2½; 8 if 2½ to 3.
[16] 6 if under 1 yr; 8 if 1 to 2.
[17] Mandated ratio for handicapped children: Under 2:4; 2 to 3: 6; 3 to 4: 8; 4 to 5: 10; 5 to 6: 14; school age: 14.
[18] 7 if 0 to 18 mo; 10 if 18 mo to 2 yr.
[19] 25 if 7 and over; 6 to 7 not specified.
[20] Children in this age group generally not accepted.
[21] 6 if 0 to 18 mo; 8 if 18 mo to 2 yr.
[22] 8 if 2 to 2½; 10 if 2½ to 3.
[23] 10 if full-day; 20 if half-day.
[24] 4 if 6 weeks-walking; 5 if walking—2.
[25] 3 if 2 weeks—nonwalking under 24 mo only; 5 if walking—2 yr.
[26] 5 if walking—2½; 7 if 2½ to 3.
[27] 10 if full-day; 12 if part-day.
[28] 15 if 6 to 8; 20 if 8 and over.

[29] 6 if nonwalking; 8 if toddlers.
[30] Centers serving 10 children with no more than 2 children under 2 yr of age have mandated child/staff ratio of 10 to 1 in all age categories.
[31] 8 if 2½ to 3 yr.
[32] In Maine, separate before and after shcool programs have 10 to 1 ratio in school age category.
[33] Admitted only upon approval of local health officer.
[34] Admitted only upon prior approval.
[35] 10 in care over 3 hr; 12 in care 3 hr or less.
[36] 10 in care over 3 hr; 13 in care 3 hr or less.
[37] 15 in care over 3 hr; 25 in care 3 hr or less.
[38] 15 if 6 to 7 in care over 3 hr; 25 if 6 to 7 in care 3 hr or less.
[39] 10 if 2½ to 3.
[40] 4 if 6 weeks to 16 mo; 7 if 16 mo to 2 yr.
[41] 7 if 2 yr to 31 mo; 10 if 31 mo to 3 yr.
[42] 4 if 6 weeks to 9 mo; 6 if 9 to 18 mo; 8 if 18 mo to 2 yr.
[43] 8 in infant-toddler center; 10 for 1st 20 children; 15 for excess over 20.
[44] 10 for 1st 20 children; 15 for excess over 20.
[45] 3 or 10 percent over licensed capacity, whichever is greater, if before or after school care.
[46] 4,8 if maximum of 24 children under 3 yr of age in care.
[47] 2 adults for any total group.
[48] 20 if in care 3 hr or less.
[49] 4 if under 18 mo; 5 if over 18 mo.
[50] If 30 or more in care; 10 if less than 30.
[51] If 4 to 7 yr.
[52] 8 if 0 to 18 mo; 10 if 18 mo to 2 yr.
[53] Recommended ratios.
[54] 4 if 0 to 10 mo in cribs; 6 if 10 mo to 2 yr.
[55] If 6 weeks to 30 mo.
[56] If 6 yr; 15 if over 6 yr.
[57] 1 if 0 to 6 mo; 3 if 6 to 18 mo; 4 if 18 mo to 2 yr.
[58] 15 if 6 to 10 yr; 20 if 10 to 14.
[59] 5 if 6 weeks to 1 yr; 6 if 1 to 2.
[60] If 6 to 7.
[61] 4 if 0 to 18 mo; 6 if 18 mo to 2 yr.
[62] 20 if 6 to 8; 25 if 8 or over.
[63] 20 if 6; 25 if 7 to 15.
[64] 5 if 1 mo to 1 yr; 7 if 1 to 2.
[65] 7 if 2 to 2½; 10 if 2½ to 3.
[66] 3 if 0 to 1; 4 if 1 to 3.
[67] 6 if 2 to 2½; 8 if 2½ to 3.

Note: NS indicates "not specified."

Source: Department of Health, Education, and Welfare. Current as of Oct. 21 1975.

TABLE 3.—STATE ESTIMATES OF INCREASE IN COST AND STAFFING FOR CHILD CARE FROM FISCAL 1975 TO FISCAL 1976

	Increased title XX costs (millions)	Increased staffing: For title XX children	Increased staffing: For non-title XX children	Potential employment of welfare recipients as percent of added staffing
Total	$206.3			
Alabama	0.6	122	[1]	[2]
Alaska	1.4	150	[1]	50
Arizona	2.6	548	[2]	20–25
Arkansas	0	0	0	[3]
California	20.7	0	0	[3]
Colorado	2.4	400	200	[2]
Connecticut	[3]	0	0	[3]
Delaware	.9	99	[1]	[4]
District of Columbia	.4	56	81	20
Florida	12.1	766	1,036	[3]
Georgia	3.8	600	[1]	80
Hawaii	.4	60	1,577	20
Idaho	1.1	[2]	[2]	[2]
Illinois	23.5	700	[10] 7,000	71
Indiana	1.4	215	[2]	[2]
Iowa	2.0	167	[1]	[2]
Kansas	1.5	202	303	15
Kentucky	1.2	400	800	[2]
Louisiana	2.6	509	437	100
Maine	.1	0	0	[3]
Maryland	0	0	0	[3]
Massachusetts	5.3	600	0	100
Michigan	7.0	959	0	20
Minnesota	11.0	1,760	1,580	20
Mississippi	1.0	0	0	[4]
Missouri	2.5	1,246	[2]	5
Montana	.9	1,000	[1]	7–10
Nebraska	.3	155	[2]	100
Nevada	.1	[5] 160	[5] 160	[2]
New Hampshire	.2	40	50	20

See footnotes at end of table.

TABLE 3.—STATE ESTIMATES OF INCREASE IN COST AND STAFFING FOR CHILD CARE FROM FISCAL 1975 TO FISCAL 1976—Continued

	Increased title XX costs (millions)	Increased staffing: For title XX children	Increased staffing: For non-title XX children	Potential employment of welfare recipients as percent of added staffing
New Jersey	3.7	92	10	100
New Mexico	2.2	96	0	50
New York [6]	12.0	300	0	67
North Carolina	9.8	1,800	400	60–70
North Dakota	[7]	0	0	[4]
Ohio	[8]	0	0	[3]
Oklahoma	21.5	1,022	2,366	93
Oregon	.2	0	0	[3]
Pennsylvania	8.2	235	171	96
Rhode Island	.9	46	138	[3]
South Carolina	2.4	308	0	25–50
South Dakota	.6	650	150	23
Tennessee	1.7	200	[1]	5–8
Texas	16.2	1,720	1,514	20–30
Utah	1.4	199	739	70
Vermont	.8	428	[9]	75
Virginia	7.8	436	1,000	50
Washington	4.7	1,300	[2]	[3]
West Virginia	2.0	216	84	80–100
Wisconsin	2.6	234	750	50–100
Wyoming	.6	0	0	7 5

[1] Included in estimates for columns 1 and 2. Unable to show separately.
[2] Unable to estimate.
[3] Not applicable since State estimates no additional staffing needs.
[4] Additional employees already hired.
[5] Unable to estimate on a man-year basis; represents number of staff.
[6] Estimates cover urban counties only.
[7] Less than $50,000.
[8] Unable to estimate. No increased staffing but some increased cost to meet other standards and/or monitoring and reporting requirements of title XX.
[9] Unable to estimate numbers; cost estimated at $1,900,000.
[10] Includes a need for 6,000 new family day care homes.

Source: Committee staff survey of Governors.

TABLE 4.—FEDERAL FUNDING ALLOCATIONS FOR SOCIAL SERVICES

[In thousands]

	Social services allocation for fiscal year 1977	Full year additional child care allocation under H.R. 12455		Social services allocation for fiscal year 1977	Full year additional child care allocation under H.R. 12455
Total	$2,500,000	$250,000	Missouri	$56,500	$5,650
			Montana	8,700	870
Alabama	42,300	4,230	Nebraska	18,250	1,825
Alaska	3,975	398	Nevada	6,775	678
Arizona	25,450	2,545	New Hampshire	9,550	955
Arkansas	24,375	2,438	New Jersey	86,700	8,670
California	247,250	24,725	New Mexico	13,275	1,328
Colorado	29,525	2,952	New York	214,200	21,420
Connecticut	36,525	3,652	North Carolina	63,425	6,342
Delaware	6,775	678	North Dakota	7,525	752
District of Columbia	8,550	855	Ohio	126,975	12,698
Florida	95,675	9,568	Oklahoma	32,050	3,205
Georgia	57,725	5,772	Oregon	26,800	2,680
Hawaii	10,025	1,002	Pennsylvania	139,975	13,998
Idaho	9,450	945	Rhode Island	11,075	1,108
Illinois	131,650	13,165	South Carolina	32,925	3,292
Indiana	63,025	6,302	South Dakota	8,075	808
Iowa	33,775	3,378	Tennessee	48,825	4,882
Kansas	26,850	2,685	Texas	142,500	14,250
Kentucky	39,700	3,970	Utah	13,875	1,388
Louisiana	44,525	4,452	Vermont	5,550	555
Maine	12,375	1,238	Virginia	58,050	5,805
Maryland	48,425	4,842	Washington	41,100	4,110
Massachusetts	68,600	6,860	West Virginia	21,175	2,118
Michigan	107,575	10,758	Wisconsin	54,000	5,400
Minnesota	46,325	4,632	Wyoming	4,250	425
Mississippi	27,475	2,748			

ELIGIBILITY FOR SERVICES

(Section 1 of the bill)

Under present law States may not provide services (with certain limited exceptions) to individuals in families with incomes above 115 percent of State median family income. Present law also requires States to charge fees for services to those with incomes between 80 and 115 percent of State median family income, and allows them, subject to HEW regulations, to charge fees for services to those with incomes below 80 percent. States are also required to spend at least 50 percent of their Federal social services allotment on services for specified categories of individuals. The net effect of these requirements is to limit State discretion in determining who in the State is most in need of services, and to require that the income of each individual applicant for services be determined before eligibility can be established.

The Committee bill would eliminate these requirements in law, thereby allowing the States complete flexibility in determining eligibility for services under their State social services plans. States would be free to provide for neighborhood or group eligibility, if they so chose, or to develop any income or other eligibility criteria which they considered desirable. In addition they could establish fee schedules for any income groups and for any types of services which they considered appropriate.

A similar provision giving the States the right to set their own eligibility requirements for social services was included in Finance Committee bills which passed the Senate in 1973 and again in 1974. The rationale then, as now, was that the States should have maximum freedom, within funding limits, to determine the persons who are eligible for services. The Committee believes that, although the present bill does not provide the total flexibility in all aspects of social services programs that would have been possible under the prior Senate bills, it goes far toward eliminating the source of many of the States' problems with the restrictions in Federal law and with the very lengthy and complex regulations which HEW has issued to implement the income-related provisions of current law.

The Committee bill does not eliminate the requirements now in law for the provision of certain services to recipients of AFDC and SSI. Family planning services must still be offered to all AFDC recipients, and States must offer 3 services of their choosing to SSI recipients. Services to WIN participants must also be provided. Services must also meet the five social services goals included in present law and certain types of expenditures remain ineligible for matching as services.

In addition, the Committee bill retains the current law provisions for a limit on Federal matching funds, and for a State matching requirement of 25 percent. The Committee believes that these provisions are adequate assurance that Federal social services funds will not be spent on a "runaway" basis, as was the case in some States prior to the imposition of the $2.5 billion funding limit in 1972. Most States are now spending their full allocations under title XX. The Committee bill therefore will not result in the expenditure of additional Federal funds, but in their more effective use, as determined by the States.

The Federal requirements with respect to eligibility would be eliminated retroactive to October 1, 1975.

POSTPONEMENT OF PENALTIES FOR NONCOMPLIANCE

(Section 2 of the bill)

Under Public Law 94–120, certain staffing standards for day care provided under title XX to children from age 6 weeks to 6 years were suspended until February 1, 1976. The Committee bill would further postpone the effective date of the standards until October 1, 1977. The Committee believes that the postponement will enable the Department of HEW to complete its "appropriateness study" of the day care requirements mandated by Public Law 93–647 and give Congress time to review the findings and recommendations of the Secretary. (The report is to be submitted to Congress by June 30, 1977.)

ADDITIONAL FUNDS TO ENABLE STATES TO IMPROVE THEIR DAY CARE PROGRAMS

(Section 3 of the bill)

The Committee bill would increase the $2.5 billion limit on Federal funding for social services programs by $250 million for fiscal year 1977 (with $62.5 million for the remainder of fiscal year 1976 and an equal amount for July–September 1976).

The Committee believes that these amounts are required to enable the States to make necessary improvements in the day care services currently being provided under title XX. Many programs do not now meet basic health and safety standards. Many are also far from meeting State staffing requirements, which are considerably less stringent than any Federal criteria which have thus far been considered. The additional funds would be allocated among the States on the basis of State population. This is the same formula which is used for allocating the $2.5 billion available for social services under current law. (Table 4 shows the distribution of the additional $250 million by State.)

The Committee bill requires that the new funds be used in such a way as to increase the employment of welfare recipients and other low-income persons in child care related jobs to the maximum extent feasible as determined by the States. The Committee believes that most States have both the desire and the ability to promote the employment of welfare recipients as employees in child care facilities. Testimony presented to the Committee reinforced the Committee's belief that States are ready to undertake this effort, and that there are large numbers of welfare recipients who are able and willing to be employed to care for children.

The Committee bill permits States to use a part of their share of the additional $250 million to make grants to providers of child care to assist them with the costs of employing welfare recipients. Such grants could be made only to child care providers where at least 20 percent of the children cared for have all or part of their care funded under the Social Security Act. The grants would be payable for employees

with respect to whom the child care provider is eligible for the welfare recipient employment tax credit under section 50A of the Internal Revenue Code. The amount of the grant could be 80 percent of the employees' wages which in combination with the 20 percent tax credit would fully meet the cost of wages except that both the tax credit and State grant would apply only to the first $5,000 of wages. The cost of the State grant would be met fully with Federal funds (within the State's share of the additional funding) since the 20 percent covered by the tax credit would be considered to meet the matching requirement. However, public and nonprofit providers would not be eligible for a tax credit, and the full $5,000 grant would have to come out of the additional social services allotment.

The Committee bill would increase the Federal social services matching as it applies to child care costs from 75 percent to 80 percent. However, this matching percentage would be available only for those expenditures funded out of the State's share of the additional $250 million made available under the bill.

TAX CREDIT FOR EMPLOYING WELFARE RECIPIENTS IN CHILD CARE

(Section 4 of the bill)

The Committee wishes to encourage child care providers to hire welfare recipients in meeting the additional staff needs. For this reason, the Committee bill extends the tax credit for child care providers hiring welfare recipients. Under existing law, this tax credit is scheduled to expire June 30, 1976. The Committee bill extends it for child care jobs through September 30, 1977.

The tax credit would equal 20 percent of up to the first $5,000 in wages per year paid each welfare recipient employed in the provision of child care (an annual limit of $1,000 per employee). This 20 percent credit on the wages of welfare recipients could be used by centers to match Federal funds for child care under title XX of the Social Security Act.

With regard to public and non-profit providers who have no tax liability, States could make payments up to $5,000 per year per employee.

A tax credit for hiring welfare recipients was first authorized under the 1971 Revenue Act. This credit applies only to wages paid recipients of aid to families with dependent children (AFDC) who are placed in employment through the Work Incentive (WIN) program. In order to be eligible for this credit (generally equal to 20 percent of the gross wages of the employee during the first 12 months of employment), the employee must be retained by the employer for an additional 12-month period following the first 12 months.

In the Tax Reduction Act of 1975, the Congress authorized for a temporary period a new Federal Welfare Recipient Employment Incentive Tax Credit broader in application than the WIN tax credit. The tax credit in the Committee bill for hiring welfare recipients in the provision of child care is modeled after the Federal Welfare Recipient Employment Incentive Tax Credit in that it applies solely to the employment of a welfare recipient who:

(A) has been certified by the State or local welfare department as being eligible for financial assistance for aid to families with dependent children and as having continuously received such financial assistance during the 90-day period which immediately precedes the date on which such individual is hired by the taxpayer,

(B) has been employed by the taxpayer for a period in excess of 30 consecutive days on a substantially full-time basis (thus after the eligible employee had worked the first 30 days, the taxpayer would receive the credit for the wages paid or incurred by the taxpayer for the first 30 days of employment plus the wages for all days the employee continued to work after the original 30-day period),

(C) has not displaced any other individual from employment by the taxpayer,

(D) is not a migrant worker (for purposes of this tax credit, a migrant worker means an individual who is employed for services for which the customary period of employment by one employer is less than 30 days if the nature of such services requires the employee to travel from place to place for a short period of time), and

(E) is not a close relative of the taxpayer (bearing any of the relationships to the taxpayer described in paragraphs (1) through (8) of section 152(a) of the Internal Revenue Code of 1954 as amended).

The tax credit for child care providers in the Committee bill differs from the Federal Welfare Recipient Employment Incentive Tax Credit in that:

(1) It is applicable through September 30, 1977; and

(2) It applies in all cases only to the first $5,000 of wages (The Federal Welfare Recipient Employment Incentive Tax Credit is limited to the first $5,000 of wages only in the case of services not performed in connection with a trade or business).

LIMITED WAIVER OF STAFFING STANDARDS

(Section 5 of the bill)

Waiver of Federal standards in certain circumstances.—In some areas, the only child care available may be in facilities primarily serving children whose care is not funded under title XX of the Social Security Act. The committee recognizes that in some cases these facilities might simply refuse to provide care paid for under title XX rather than meet the required standards. This problem will be largely alleviated by the provisions of the Committee bill suspending the Federal staffing standards for pre-school children. In addition the Committee bill deals with this problem by authorizing the States through September 30, 1977, to waive staffing standards otherwise applicable in the case of a day care center or group day care home in which no more than 20 percent of the children (or, in the case of a center, no more than 5 children) are children whose care is paid for from title XX social services funds. However, the State agency must find that it is not feasible to furnish day care for the children in a day care facility which complies with the required standards, and the facility must comply with applicable State standards.

Family day care homes.—Under the requirements imposed by title XX the number of children who may be cared for by a family day care mother is limited as follows:

(1) Infancy through 6 years. No more than two children under two and no more than five in total, including the family day care mother's own children under 14 years old.

(2) Three through 14 years. No more than six children, including the family-day-care mother's children under 14 years old.

The requirement that the day care mother's own children *up to age 14* must be counted in meeting the staffing requirement has created a problem in some States. The children must be counted whether they are at home or attending school. A number of States have indicated that, although there may be no objection to including the mother's own children *under age 6* in meeting the staffing requirement, family day care home providers have raised strong objections to counting the older children who are normally attending school. Many mothers begin to provide care for other children in their homes after their own children have started school. The requirement that their school age children must be counted means in some cases that the number of children they may care for is unreasonably small, and this makes their work unprofitable.

The Committee bill allows the family-day-care mother's own children age 6 and over to be disregarded in determining if the title XX standards are met. This provision is made retroactive to October 1, 1975, the date the present law provision would otherwise first apply and would continue in effect through September 30, 1977.

ALCOHOLISM AND DRUG ABUSE

(Section 6 of the bill)

Public Law 94–120 included temporary modifications of the social services statute as it relates to funding of services for drug addicts and alcoholics. These temporary modifications expired January 31, 1976; the Committee amendment would make these modifications permanent.

Confidentiality.—Title XX of the Social Security Act under current law requires that individuals served by the program have incomes within specified limits related to State median income levels. Regulations of the Department of Health, Education, and Welfare require the States to verify an applicant's statement that his income is within the permitted limits and verification may sometimes require an employer contact. While the Committee amendment deletes the Federal income standards, States may still wish to set income eligibility requirements for services. This raises the possibility that an employer could be informed in the process of verifying income that the individual is undergoing treatment for addiction or alcoholism which in turn could result in the loss of his job, defeating the purpose of the rehabilitation effort. To prevent such situations, a provision already enacted into law in the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1974 requires a special degree of confidentiality in dealing with the treatment of such individuals. The modification made permanent in the Committee amendment does

not in any way prohibit the verification of an applicant's eligibility for social services, but it does require that in the case of drug addicts and alcoholics the special confidentiality requirements of the Comprehensive Alcohol Abuse Act be observed.

Rehabilitation process.—Another problem is related to the fact that under the new law social services funding generally is not applicable to medical or residential types of care, which is more appropriately funded under other programs. Funding is available only when the care involved is a subordinate and integral part of a social service program. In itself this provision creates no difficulty for drug addiction and alcoholism programs, provided that the whole rehabilitation process is considered. However, there is a possibility under the law and regulations that certain elements of the process could be looked at in isolation and found to be ineligible for funding. The Committee amendment would make permanent two temporary changes in the law designed to correct this problem.

The first change in the law makes clear that in evaluating services of a medical nature provided to an addict or alcoholic, the rehabilitative process for an individual is to be looked at in its entirety and not in segments. Thus initial detoxification, short-term residential treatment, usually about a month in duration, and subsequent counseling and other services are all to be considered together.

The second change specifically authorizes social service funding for initial detoxification programs up to a duration of 7 days, without regard to the usual ban on funding of services to institutionalized individuals. The detoxification must be integral to the further provision of services for which the individual is eligible.

III. Budgetary Impact of the Legislation

In compliance with section 252(a) of the Legislative Reorganization Act of 1970 and sections 308 and 403 of the Congressional Budget Act of 1974, the following statements are made concerning the budgetary impact of the bill.

The Committee estimates that the enactment of H.R. 12455 with the amendments proposed by the Committee will result in net increased budget authority and outlays and decreased revenues (equivalent to "tax expenditures") as shown in the following table. The net figures reflect both the increased grants to States for child care and the offsetting reductions in welfare costs resulting from the hiring of welfare recipients as child care staff. (Prior to preparing the estimates as contained in the table, the Committee contacted the Congressional Budget Office. Within the time available, that agency was unable to prepare a cost estimate.)

Fiscal period	Increase in budget authority and outlays (millions)	Decrease in revenues (millions)
Fiscal year 1976	$42	$0
July–September 1976	55	0
Fiscal year 1977	218	4

The bill has no budgetary impact beyond fiscal year 1977. The Committee states that it has received no analysis of the budgetary impact of the legislation pursuant to the provisions of section 403 of the Congressional Budget Act of 1974. The Committee estimates that the enactment of this bill is consistent with the budgetary totals provided for in H. Con. Res. 466 and with the functional totals in the conference report on that resolution. The Committee further estimates that the enactment of this bill is consistent with the budgetary totals provided for in S. Con. Res. 109 and with the functional totals in the conference report on that resolution. The Committee states that the entire amount estimated as increased budget authority and outlays under this legislation as shown in the table above constitutes financial assistance to State and local governments.

IV. Vote of the Committee in Reporting the Bill

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made relative to the vote by the Committee on the motion to report the bill. The bill was ordered reported by voice vote.

A motion to delete the provisions of the bill providing additional Federal funding for child care services was defeated by the following rollcall vote:

In favor of the motion (6): Senators Talmadge, Byrd, Curtis, Fannin, Hansen, and Roth.

Opposed to the motion (11): Senators Long, Hartke, Ribicoff, Mondale, Gravel, Bentsen, Hathaway, Haskell, Dole, Packwood, and Brock.

V. Changes in Existing Law

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Excerpt From Public Law 93–647, as Amended

* * * * * * *

Sec. (a)(1) * * *

* * * * * * *

(3) Notwithstanding paragraph (1) of this subsection or section 3(f), payments under title IV or section 2002(a)(1) of the Social Security Act with respect to expenditures made prior to [February 1, 1976] *October 1, 1977*, in connection with the provision of child day care services in day care centers and group day care homes, in the case of children between the ages of six weeks and six years, may be made without regard to the requirements relating to staffing standards which are imposed by or under section 2002(a)(9)(A)(ii) of such Act, so long as the staffing standards actually being applied in the provision of the services involved (A) comply with applicable State law (as in

effect at the time the services are provided), (B) are no lower than the corresponding staffing standards which were imposed or required by applicable State law on September 15, 1975, and (C) are no lower, in the case of any day care center or group day care home, than the corresponding standards actually being applied in such center or home on September 15, 1975.

* * * * * * *

Excerpt From Public Law 94–120

* * * * * * *

Sec. 4. (a) Section 2003 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f) The provisions of section 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 shall be applicable to services provided by any State pursuant to this title with respect to individuals suffering from drug addiction or alcoholism.".

(b)(1) Section 2002(a)(7) of such Act is amended by adding at the end thereof the following new sentence: "With regard to ending the dependency of individuals who are alcoholics or drug addicts, the entire rehabilitative process for such individuals, including but not limited to initial detoxification, short term residential treatment, and subsequent outpatient counseling and rehabilitative services, whether or not such a process involves more than one provider of services, shall be the basis for determining whether standards imposed by or under subparagraph (A) or (E) of this paragraph have been met.".

(2) Section 2002(a)(11) of such Act is amended by—

(A) striking out "and" at the end of clause (B) thereof,

(B) striking out the period at the end of clause (C) thereof and inserting in lieu of such period "; and", and

(C) adding after clause (C) thereof the following new clause:

"(D) any expenditure for the initial detoxification of an alcoholic or drug dependent individual, for a period not to exceed 7 days, if such detoxification is integral to the further provision of services for which such individual would otherwise be eligible under this title.".

(3) Section 2002(a)(7)(A) of such Act is amended by inserting "(except as provided in paragraph (11)(D))" immediately after "other remedial care".

(4) Section 2002(a)(7)(E) of such Act is amended by inserting "and paragraph (11)(D)" immediately after "paragraph (11)(C)".

(c) The amendments made by this section shall be effective [only for the period beginning October 1, 1975, and ending January 31, 1976; and, on and after February 1, 1976, sections 2002(a)(7), 2002(a)(11), and 2003 of the Social Security Act shall read as they would if such amendments had not been made.] *on and after October 1, 1975.*

* * * * * * *

Excerpt From the Social Security Act, as Amended

* * * * * * *

TITLE XX—GRANTS TO STATES FOR SERVICES

* * * * * * *

PAYMENTS TO STATES

SEC. 2002(a) * * *

* * * * * * *

[(4) So much of the aggregate expenditures with respect to which payment is made under this section to any State for any fiscal year as equals 50 per centum of the payment made under this section to the State for that fiscal year must be expended for the provision of services to individuals—

[(A) who are receiving aid under the plan of the State approved under part A of title IV or who are eligible to receive such aid, or

[(B) whose needs are taken into account in determining the needs of an individual who is receiving aid under the plan of the State approved under part A of title IV, or who are eligible to have their needs taken into account in determining the needs of an individual who is receiving or is eligible to receive such aid, or

[(C) with respect to whom supplemental security income benefits under title XVI or State supplementary payments, as defined in section 2007(1), are being paid, or who are eligible to have such benefits or payments paid with respect to them, or

[(D) whose income and resources are taken into account in determining the amount of supplemental security income benefits or State supplementary payments, as defined in section 2007(1), being paid with respect to an individual, or whose income and resources would be taken into account in determining the amount of such benefits or payments to be paid with respect to an individual who is eligible to have such benefits or payments paid with respect to him, or

[(E) who are eligible for medical assistance under the plan of the State approved under title XIX.

[(5) No payment may be made under this section to any State with respect to any expenditure for the provision of any service to any individual—

[(A) who is receiving, or whose needs are taken into account in determining the needs of an individual who is receiving, aid under the plan of the State approved under part A of title IV, or with respect to whom supplemental security income benefits under title XVI or State supplementary payments, as defined in section 2007(1), are being paid, or

[(B) who is a member of a family the monthly gross income of which is less than the lower of—

[(i) 80 per centum of the median income of a family of four in the State, or

[(ii) the median income of a family of four in the fifty States and the District of Columbia,

adjusted, in accordance with regulations prescribed by the Secretary, to take into account the size of the family,

if any fee or other charge (other than a voluntary contribution) imposed on the individual for the provision of that service is not consistent with such requirements (including requirements prohibiting the imposition of any such fee or charge) as the Secretary shall prescribe.

[(6) No payment may be made under this section to any State with respect to any expenditure for the provision of any service, other than an information or referral service or a service directed at the goal of preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, to any individual who is not an individual described in paragraph (5), and—

[(A) who is a member of a family the monthly gross income ofwhich exceeds 115 per centum of the median income of a family of four in the State, adjusted, in accordance with regulations prescribed by the Secretary, to take into account the size of the family, or

[(B) who is a member of a family the monthly gross income of which—

[(i) exceeds the lower of—

[(I) 80 per centum ofthe median income of a family of four in the State, or

[(II) the median income of a family of four in the fifty States and the District of Columbia,

adjusted, in accordance with regulations prescribed by the Secretary, to take into account the size of the family, and

[(ii) does not exceed 115 per centum of the median income of a family of four in the State, adjusted, in accordance with regulations prescribed by the Secretary, to take into account the size of the family,

unless a fee or other charge reasonably related to income is imposed on the individual for the provision of the service.

The Secretary shall promulgate the median income of a family of four in each State and the fifty States and the District of Columbia applicable to payments with respect to expenditures in each fiscal year prior to the first day of the third month of the preceding fiscal year.]

* * * * * * *

(9)(A) No payment may be made under this section with respect to any expenditure in connection with the provision of any child day care service, unless—

(i) in the case of care provided in the child's home, the care meets standards established by the State which are reasonably in accord with recommended standards of national standard-setting organizations concerned with the home care of children, or

(ii) in the case of care provided outside the child's home, the care meets the Federal interagency day care requirements as approved by the Department of Health, Education, and Welfare and the Office of Economic Opportunity on September 23, 1968; except that (I) subdivision III of such requirements with respect to educational services shall be recommended to the States and not required, and staffing standards for school-age children in day care centers may be revised by the Secretary, (II) the staffing standards imposed with respect to such care in the case of children

under age 3 shall conform to regulations prescribed by the Secretary, [and] (III) the staffing standards imposed with respect to such care in the case of children aged 10 to 14 shall require at least one adult for each 20 children, and in the case of school-aged children under age 10 shall require at least one adult for each 15 children, *(IV) the State agency may waive the staffing standards otherwise applicable in the case of a day care center or group day care home in which not more than 20 per centum of the children in the facility (or, in the case of a day care center, not more than 5 children in the center) are children whose care is being paid for (wholly or in part) from funds made available to the State under this title, if such agency finds that it is not feasible to furnish day care for the children, whose care is so paid for, in a day care facility which complies with such staffing standards, and if the day care facility providing care for such children complies with applicable State standards, and (V) in determining whether applicable staffing standards are met in the case of day care provided in a family day care home, the number of children being cared for in such home shall include a child of the mother who is operating the home only if such child is under age 6,*

except as provided in subparagraph (B).

(B) The Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives, after December 31, 1976, and prior to July 1, 1977, an evaluation of the appropriateness of the requirements imposed by subparagraph (A), together with any recommendations he may have for modification of those requirements. No earlier than ninety days after the submission of the report, the Secretary may, by regulation, make such modifications in the requirements imposed by subparagraph (A) as he determines are appropriate.

(C) The requirements imposed by this paragraph are in lieu of any requirements that would otherwise be applicable under section 522(d) of the Economic Opportunity Act of 1964 to child day care services with respect to which payment is made under this section.

* * * * * * *

SEC. 2007. For purposes of this title—

[(1) the term "State supplementary payment" means any cash payment made by a State on a regular basis to an individual who is receiving supplemental security income benefits under title XVI or who would but for his income be eligible to receive such benefits, as assistance based on need in supplementation of such benefits, as determined by the Secretary, and

[(2)] the term "State" means the fifty States and the District of Columbia.

INTERNAL REVENUE CODE OF 1954

* * * * * * *

PART IV. CREDITS AGAINST TAX

* * * * * * *

SUBPART C—RULES FOR COMPUTING CREDIT FOR EXPENSES OF WORK INCENTIVE PROGRAMS

Sec.
50A. Amount of credit.
50B. Definitions; special rules.

Sec. 50A. Amount of credit.

(a) DETERMINATION OF AMOUNT.—

(1) GENERAL RULE.—The amount of the credit allowed by section 40 for the taxable year shall be equal to 20 percent of the work incentive program expenses (as defined in section 50B(a)).

(2) LIMITATION BASED ON AMOUNT OF TAX.—Notwithstanding paragraph (1), the credit allowed by section 40 for the taxable year shall not exceed—

(A) so much of the liability for tax for the taxable year as does not exceed $25,000, plus

(B) 50 percent of so much of the liability for tax for the taxable year as exceeds $25,000.

The preceding sentence shall not apply to so much of the credit allowed by section 40 as it is attributable to Federal welfare recipient employment incentive expenses described in subsection (a)(6)(B).

(3) LIABILITY FOR TAX.—For purposes of paragraph (2), the liability for tax for the taxable year shall be the tax imposed by this chapter for such year, reduced by the sum of the credit allowable under—

(A) section 33 (relating to foreign tax credit),

(B) section 35 (relating to partially tax exempt interest),

(C) section 37 (relating to retirement income),

(D) section 38 (relating to investment in certain depreciable property), and

(E) section 41 (relating to contributions to candidates for public office).

For purposes of this paragraph, any tax imposed for the taxable year by section 56 (relating to minimum tax for tax preferences), section 72(m)(5)(B) (relating to 10 percent tax on premature distributions to owner-employees), section 408(e) (relating to additional tax on income from certain retirement accounts), section 402(e) (relating to tax on lump sum distributions), section 531 (relating to accumulated earnings tax), section 541 (relating to personal holding company tax), or section 1378 relating to tax on certain capital gains of subchapter S corporations), and any additional tax imposed for the taxable year by section 1351(d)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by this chapter for such year.

(4) MARRIED INDIVIDUALS.—In the case of a husband or wife who files a separate return, the amount specified under subparagraphs (A) and (B) of paragraph (2) shall be $12,500 in lieu of $25,000. This paragraph shall not apply if the spouse of the taxpayer has no work incentive program expenses for, and no unused credit carryback or carryover to, the taxable year of such spouse which ends within or with the taxpayer's taxable year.

(5) CONTROLLED GROUPS.—In the case of a controlled group, the $25,000 amount specified under paragraph (2) shall be reduced for each component member of such group by apportioning $25,000 among the component members of such group in such manner as the Secretary or his delegate shall by regulations prescribe. For purposes of the preceding sentence, the term "controlled group" has the meaning assigned to such term by section 1563(a).

[(6) LIMITATION WITH RESPECT TO NONBUSINESS ELIGIBLE EMPLOYEES.—Notwithstanding paragraph (1), the credit allowed by section 40 with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxable year to an eligible employee whose services are not performed in connection with a trade or business of the taxpayer shall not exceed $1,000.]

(6) LIMITATION WITH RESPECT TO CERTAIN ELIGIBLE EMPLOYEES.—

(A) NONBUSINESS ELIGIBLE EMPLOYEES.—Notwithstanding paragraph (1), the credit allowed by section 40 with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxable year to an eligible employee whose services are not performed in connection with a trade or business of the taxpayer shall not exceed $1,000.

(B) CHILD DAY CARE SERVICES ELIGIBLE EMPLOYEES.—Notwithstanding paragraph (1), the credit allowed by section 40 with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxable year to an eligible employee whose services are performed in connection with a child day care services program, conducted by the taxpayer, shall not exceed $1,000.

(b) CARRYBACK AND CARRYOVER OF UNUSED CREDIT.—

(1) ALLOWANCE OF CREDIT.—If the amount of the credit determined under subsection (a)(1) for any taxable year exceeds the limitation provided by subsection (a)(2) for such taxable year (hereinafter in this subsection referred to as "unused credit year"), such excess shall be—

(A) a work incentive program credit carryback to each of the 3 taxable years preceding the unused credit year, and

(B) a work incentive program credit carryover to each of the 7 taxable years following the unused credit year.

and shall be added to the amount allowable as a credit by section 40 for such years, except that such excess may be a carryback only to a taxable year beginning after December 31, 1971. The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 10 taxable years to which (by reason of subparagraphs (A) and (B)) such credit may be carried, and then to each of the other 9 taxable years to the credit that, because of the limitation contained in paragraph (2), such unused credit may not be added for a prior taxable year to which such unused credit may be carried.

(2) LIMITATION.—The amount of the unused credit which may be added under paragraph (1) for any preceding or succeeding taxable year shall not exceed the amount by which the limitation

provided by subsection (a)(2) for such taxable year exceeds the sum of—

(A) the credit allowable under subsection (a)(1) for such taxable year, and

(B) the amounts which, by reason of this subsection, are added to the amount allowable for such taxable year and attributable to taxable years preceding the unused credit year.

(c) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER, ETC.—

(1) GENERAL RULE.—Under regulations prescribed by the Secretary or his delegate—

(A) WORK INCENTIVE PROGRAM EXPENSES. If the employment of any employee with respect to whom work incentive program expenses are taken into account under subsection (a) is terminated by the taxpayer at any time during the first 12 months of such employment (whether or not consecutive) or before the close of the 12th calendar month after the calendar month in which such employee completes 12 months of employment with the taxpayer, the tax under this chapter for the taxable year in which such employment is terminated shall be increased by an amount (determined under such regulations) equal to the credits allowed under section 40 for such taxable year and all prior taxable years attributable to work incentive program expenses paid or incurred with respect to such employee.

(B) CARRYBACKS AND CARRYOVERS ADJUSTED. In the case of any termination of employment to which subparagraph (A) applies, the carrybacks and carryovers under subsection (b) shall be properly adjusted.

(2) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

(A) IN GENERAL.—Paragraph (1) shall not apply to—

(i) a termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

(ii) a termination of employment of an individual who, before the close of the period referred to in paragraph (1)(A), becomes disabled to perform the services of such employment, unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual,

(iii) a termination of employment of an individual, if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual, or

(iv) a termination of employment of an individual with respect to whom Federal welfare recipient employment incentive expenses (as described in section 50B(a)(2)) are taken into account under subsection (a).

(B) CHANGE IN FORM OF BUSINESS, ETC.—For purposes of paragraph (1), the employment relationship between the taxpayer and an employer shall not be treated as terminated—

(i) by a transaction to which section 381(a) applies, if the employee continues to be employed by the acquiring corporation, or

(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the em-

ployee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

(3) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under subpart A.

(d) FAILURE TO PAY COMPARABLE WAGES.—

(1) GENERAL RULE.—Under regulations prescribed by the Secretary or his delegate, if during the period described in subsection (c)(1)(A), the taxpayer pays wages (as defined in section 50B (b)) to an employee with respect to whom work incentive program expenses are taken into account under subsection (a) which are less than the wages paid to other employees who perform comparable services, the tax under this chapter for the taxable year in which such wages are so paid shall be increased by an amount (determined under such regulations) equal to the credits allowed under section 40 for such taxable year and all prior taxable years attributable to work incentive program expenses paid or incurred with respect to such employee, and the carrybacks and carryovers under subsection (b) shall be properly adjusted.

(2) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit allowable under subpart A.

Sec. 50B. Definitions; special rules.

(a) WORK INCENTIVE PROGRAM EXPENSES.—

(1) IN GENERAL.—For purposes of this part, the term "work incentive program expenses" means the sum of—

(A) the amount of wages paid or incurred by the taxpayer for services rendered during the first 12 months of employment (whether or not consecutive) of employees who are certified by the Secretary of Labor as—

(i) having been placed in employment under a work incentive program established under section 432(b)(1) of the Social Security Act, and

(ii) not having displaced any individual from employment, plus

(B) the amount of Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxable year.

[(2) DEFINITION.—For purposes of this section, the term "Federal welfare recipient employment incentive expenses" means the amount of wages paid or incurred by the taxpayer for services rendered to the taxpayer before July 1, 1976, by an eligible employee.]

(2) Definitions.—For purposes of this section, the term "Federal welfare recipient employment incentive expenses" means the amount of wages paid or incurred by the taxpayer for services rendered to the taxpayer or by an eligible employee—

(A) before July 1, 1976, or

(B) in the case of an eligible employee whose services are performed in connection with a child day care services program of the taxpayer, before October 1, 1977.

(3) EXCLUSION.—No item taken into account under paragraph (1)(A) shall be taken into account under paragraph (1)(B). No item taken into account under paragraph (1)(B) shall be taken into account under paragraph 1(A).

(b) WAGES.—

For purposes of subsection (a), the term "wages" means only cash remuneration (including amounts deducted and withheld).

(c) LIMITATIONS.—

(1) TRADE OR BUSINESS EXPENSES.—No item shall be taken into account under subsection (a)(1)(A) unless such item is incurred in a trade or business of the taxpayer.

(2) REIMBURSED EXPENSES.—No item shall be taken into account under subsection (a) to the extent that the taxpayer is reimbursed for such item.

(3) GEOGRAPHICAL LIMITATION.—No item shall be taken into account under subsection (a) with respect to any expense paid or incurred by the taxpayer with respect to employment outside the United States.

(4) MAXIMUM PERIOD OF TRAINING OR INSTRUCTION.—No item with respect to any employee shall be taken into account under subsection (a)(1)(A) after the end of the 24-month period beginning with the date of initial employment of such employee by the taxpayer.

(5) INELIGIBLE INDIVIDUALS.—No item shall be taken into account under subsection (a) with respect to an individual who—

(A) bears any of the relationships described in paragraphs (1) through (8) of section 152(a) to the taxpayer, or, if the taxpayer is a corporation, to an individual who owns directly or indirectly, more than 50 percent in value of the outstanding stock of the corporation (determined with the application of section 267(c)).

(B) if the taxpayer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in paragraphs (1) through (8) of section 152(a) to a grantor, beneficiary, or fiduciary of the estate or trust, or

(C) is a dependent (described in section 152(a)(9)) of the taxpayer, or if the taxpayer is a corporation, of an individual described in subparagraph (A), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust.

(d) SUBCHAPTER S CORPORATIONS.—

In case of an electing small business corporation (as defined in section 1371)—

(1) the work incentive program expenses for each taxable year shall be apportioned pro rata among the persons who are shareholders of such corporation on the last day of such taxable year, and

(2) any person to whom any expenses have been apportioned under paragraph (1) shall be treated (for purposes of this subpart) as the taxpayer with respect to such expenses.

(e) ESTATES AND TRUSTS.—

In the case of an estate or trust—

(1) the work incentive program expenses for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each,

(2) any beneficiary to whom any expenses have been apportioned under paragraph (1) shall be treated (for purposes of this subpart) as the taxpayer with respect to such expenses, and

(3) the $25,000 amount specified under subparagraphs (A) and (B) of section 50A(a)(2) applicable to such estate or trust shall be reduced to an amount which bears the same ratio to $25,000 as the amount of the expenses allocated to the trust under paragraph (1) bears to the entire amount of such expenses.

(f) LIMITATIONS WITH RESPECT TO CERTAIN PERSONS.—

In the case of—

(1) an organization to which section 593 applies,

(2) a regulated investment company or a real estate investment trust subject to taxation under subchapter M (section 851 and following), and

(3) a cooperative organization described in section 1381(a),

rules similar to the rules provided in section 46(e) shall apply under regulations prescribed by the Secretary or his delegate.

(g) ELIGIBLE EMPLOYEE.—

(1) ELIGIBLE EMPLOYEE.—For purposes of subsection (a)(1)(B), the term "eligible employee" means an individual—

(A) who has been certified by the appropriate agency of State or local government as being eligible for financial assistance under part A of title IV of the Social Security Act and as having continuously received such financial assistance during the 90 day period which immediately precedes the date on which such individual is hired by the taxpayer.

(B) who has been employed by the taxpayer for a period in excess of 30 consecutive days on a substantially full-time basis,

(C) who has not displaced any other individual from employment by the taxpayer, and

(D) who is not a migrant worker.

The term "eligible employee" includes an employee of the taxpayer whose services are not performed in connection with a trade or business of the taxpayer.

(2) MIGRANT WORKER.—For purposes of paragraph (1), the term "migrant worker" means an individual who is employed for services for which the customary period of employment by one employer is less than 30 days if the nature of such services requires that such individual travel from place to place over a short period of time.

(h) CROSS REFERENCE.—

For application of this subpart to certain acquiring corporations, see section 381(c)(24).

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( )

94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 94–1317

CHILD DAY CARE SOCIAL SERVICES UNDER TITLE XX OF THE SOCIAL SECURITY ACT

JUNE 30, 1976.—Ordered to be printed

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

CONFERENCE REPORT

[To accompany H.R. 12455]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12455) to extend from April 1 to October 1, 1976, the maximum period during which recipients of services on September 30, 1975, under titles IV–A and VI of the Social Security Act, may continue to receive services under title XX of that Act without individual determinations, having met, after full and free conference, have been unable to agree.

AL ULLMAN,
JAMES C. CORMAN,
CHARLES B. RANGEL,
PETE STARK,
JOE D. WAGGONNER, Jr.,
BILL M. KETCHUM,
Managers on the Part of the House.

RUSSELL B. LONG,
HERMAN TALMADGE,
W. F. MONDALE,
WILLIAM HATHAWAY,
BOB PACKWOOD,
W. V. ROTH,
Managers on the Part of the Senate.

57–006 O

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12455) to extend from April 1 to October 1, 1976, the maximum period during which recipients of services on September 30, 1975, under titles IV–A and VI of the Social Security Act, may continue to receive services under title XX of that Act without individual determinations, report that the conferees are in technical disagreement.

It is the intention of the conferees that the managers on the part of the House will offer a motion in the House to recede and concur in the Senate amendment to the text of the House-passed bill with an amendment (in the nature of a substitute) consisting of language agreed to in conference, and that upon the adoption of such amendment in the House the managers on the part of the Senate will offer a motion in the Senate to concur therein.

The managers on the part of the House and the Senate submit the following joint statement in explanation of the action agreed upon by the managers:

The substitute language which is to be offered as described above—hereinafter in this statement referred to as the "conference substitute"—is as follows:

That (a) section 2002(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(14)(A) For purposes of paragraphs (5) and (6), an individual shall, at the option of the State, be deemed to be an individual described in paragraph (5)(B) if, because of the geographic area in which any particular service is provided to him, the characteristics of the community to which it is provided, the nature of the service, the conditions (other than income) of eligibility to receive it, or other factors surrounding its provision, the State may reasonably conclude, without individual determinations of eligibility, that substantially all of the persons who receive the service are members of families with a monthly gross income which is not more than 90 per centum of the median income of a family of four in the State, adjusted (in accordance with regulations prescribed by the Secretary) to take into account the size of the family.

"(B) The provisions of subparagraph (A) shall not be applicable to child day care services furnished to any child other than a child of a migratory agricultural worker.".

(b) Section 2000(a)(4) of such Act is amended by adding at the end thereof (after and below subparagraph (E)) the following new sentence:

"In any case in which services are provided to individuals to whom the provisions of paragraph (14) are applied, the proportion of the

expenditures for such services which are attributable to individuals described in the preceding sentence may be determined on the basis of generally accepted statistical sampling procedures.".

(c) Section 2002(a)(6) of such Act is amended, in the matter preceding subparagraph (A), by inserting ", family planning services," immediately after "referral service".

(d) The amendments made by this section shall be effective on and after October 1, 1975.

SEC. 2. Effective February 1, 1976, section 7(a)(3) of Public Law 93–647 is amended by striking out "February 1, 1976" and inserting in lieu thereof "October 1, 1977".

SEC. 3. (a) For purposes of title XX of the Social Security Act, the amount of the limitation (imposed by section 2002(a)(2) of such Act) which is applicable to any State for the fiscal period beginning July 1, 1976, and ending September 30, 1976, or which is applicable to any State for the fiscal year ending September 30, 1977, shall be deemed to be equal to whichever of the following is the lesser:

(1) an amount equal to—

(A) 106.4 per centum of the amount of the limitation so imposed (as determined without regard to this section) in the case of such fiscal period, or

(B) 108 per centum of the amount of the limitation so imposed (as determined without regard to this section) in the case of such fiscal year ending September 30, 1977, or

(2) an amount equal to (A) 100 per centum of such limitation for such fiscal period or fiscal year (as determined without regard to this section), plus (B) an amount equal to the sum of (i) 75 per centum (in the case of such fiscal period) or 100 per centum (in the case of such fiscal year) of the total amount of expenditures (I) which are made during such fiscal period or year in connection with the provision of any child day care service, and (II) with respect to which payment is authorized to be made to the State under such title for such fiscal period or year, and (ii) the aggregate of the amounts of the grants, made by the State during such fiscal period or year, to which the provisions of subsection (c)(1) are applicable.

(b) The additional Federal funds which become payable to any State for the fiscal period or fiscal year specified in subsection (a) by reason of the provisions of such subsection shall, to the maximum extent that the State determines to be feasible, be employed in such a way as to increase the employment of welfare recipients and other low-income persons in jobs related to the provision of child day care services.

(c)(1) Subject to paragraph (2), sums granted by a State to a qualified provider of child day care services (as defined in paragraph (3)(A) during the fiscal period or fiscal year specified in subsection (a), to assist such provider in meeting its Federal welfare recipient employment incentive expenses (as defined in paragraph (3)(B)) with respect to individuals employed in jobs related to the provision of child day care services in one or more child day care facilities of such provider, shall be deemed, for purposes of title XX of the Social Security Act, to constitute expenditures made by the State, in accordance with the requirements and conditions imposed by such Act, for

the provision of services directed at one or more of the goals set forth in clauses (A) through (E) of the first sentence of section 2002(a)(1) of such Act. With respect to sums to which the preceding sentence is applicable (after application of the provisions of paragraph (2)), the figure "75", as contained in the first sentence of section 2002 (a)(1) of such Act, shall be deemed to read "100".

(2) The provisions of paragraph (1) shall not be applicable—

(A) to the amount, if any, by which the aggregate of the sums (as described in such paragraph) granted by any State during the fiscal period or fiscal year specified in subsection (a) exceeds the amount by which such State's limitation (as referred to in subsection (a)) is increased pursuant to such subsection for such fiscal period or year, or

(B) with respect to any grant made to a particular qualified provider of child day care services to the extent that (as determined by the Secretary) such grant is or will be used—

(i) to pay wages to any employee at an annual rate in excess of $5,000, in the case of a public or nonprofit private provider, or

(ii) to pay wages to any employee at an annual rate in excess of $4,000, or to pay more than 80 per centum of the wages of any employee, in the case of any other provider.

(3) For purposes of this subsection—

(A) the term "qualified provider of child day care services", when used in reference to a recipient of a grant by a State, includes a provider of such services only if, of the total number of children receiving such services from such provider in the facility with respect to which the grant is made, at least 20 per centum thereof have some or all of the costs for the child day care services so furnished to them by such provider paid for under the State's services program conducted pursuant to title XX of the Social Security Act; and

(B) the term "Federal welfare recipient employment expenses" means expenses of a qualified provider of child day care services which constitute Federal welfare recipient employment incentive expenses as defined in section 50B(a)(2) of the Internal Revenue Code of 1954, or which would constitute Federal welfare recipient employment incentive expenses as so defined if the provider were a taxpayer entitled to a credit (with respect to the wages involved) under section 40 of such Code.

(d)(1) In the administration of title XX of the Social Security Act, the figure "75", as contained in the first sentence of section 2002 (a)(1) of such Act, shall, subject to paragraph (2), be deemed to read "100" for purposes of applying such sentence to expenditures made by a State for the provision of child day care services during the fiscal year ending September 30, 1977.

(2) The total amount of Federal payments which may be paid to any State for such fiscal year under title XX of the Social Security Act at the rate specified in paragraph (1) shall not exceed an amount equal to the excess (if any) of—

(A) the amount by which such State's limitation (as referred to in subsection (a)) is increased pursuant to such subsection for such year, over

(B) the aggregate of the amounts of the grants, made by the State during such year, to which the provisions of subsection (c)(1) are applicable.

SEC. 4. (a) Section 50A(a) of the Internal Revenue Code of 1954 (relating to amount of credit for work incentive program expenses) is amended—

(1) by adding at the end of paragraph (2) the following new sentence: "The preceding sentence shall not apply to so much of the credit allowed by section 40 as is attributable to Federal welfare recipient employment incentive expenses described in subsection (a)(6)(B).", and

(2) by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) LIMITATION WITH RESPECT TO CERTAIN ELIGIBLE EMPLOYEES.—

"(A) NONBUSINESS ELIGIBLE EMPLOYEES.—Notwithstanding paragraph (1), the credit allowed by section 40 with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxable year to an eligible employee whose services are not performed in connection with a trade or business of the taxpayer shall not exceed $1,000.

"(B) CHILD DAY CARE SERVICES ELIGIBLE EMPLOYEES.—Notwithstanding paragraph (1), the credit allowed by section 40 with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxable year to an eligible employee whose services are performed in connection with a child day care services program, conducted by the taxpayer, shall not exceed $1,000.".

(b) Section 50(a)(2) of such Code (relating to definitions; special rules) is amended to read as follows:

"(2) DEFINITIONS.—For purposes of this section, the term 'Federal welfare recipient employment incentive expenses' means the amount of wages paid or incurred by the taxpayer for services rendered to the taxpayer by an eligible employee—

"(A) before July 1, 1976, or

"(B) in the case of an eligible employee whose services are performed in connection with a child day care services program of the taxpayer, before October 1, 1977.".

(c) The amendments made by this section with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer to an eligible employee whose services are performed in connection with a child day care services program of the taxpayer shall apply to such expenses paid or incurred by a taxpayer to an eligible employee whom such taxpayer hires after the date of the enactment of this Act.

SEC. 5. (a) Section 2002(a)(9)(A)(ii) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (II), and

(2) by adding after the comma at the end of clause (III) the following: "(IV) the State agency may waive the staffing standards otherwise applicable in the case of a day care center or group day care home in which not more than 20 per centum of the children in the facility (or, in the case of a day care center, not more than 5 children in the center) are children whose care is

being paid for (wholly or in part) from funds made available to the State under this title, if such agency finds that it is not feasible to furnish day care for the children, whose care is so paid for, in a day care facility which complies with such staffing standards, and if the day care facility providing care for such children complies with applicable State standards, and (V) in determining whether applicable staffing standards are met in the case of day care provided in a family day care home, the number of children being cared for in such home shall include a child of the mother who is operating the home only if such child is under age 6,".

(b) The amendments made by subsection (a) shall, insofar as such amendments add a new clause (V) to section 2002(a)(9)(A)(ii) of the Social Security Act, be effective for the period beginning October 1, 1975, and ending September 30, 1977; and on and after October 1, 1977, section 2002(a)(9)(A)(ii) of the Social Security Act shall read as it would if such amendments had not been made.

SEC. 6. Effective February 1, 1976, section 4(c) of Public Law 94-120 is amended by striking out "January 31, 1976" and "February 1, 1976" and inserting in lieu thereof "September 30, 1977" and "October 1, 1977", respectively.

DESCRIPTION OF CONFERENCE ACTION

Eligibility for social services.—The House bill would have permitted States now determining eligibility on a group rather than individual basis to continue this procedure until October 1, 1976. The Senate bill would have repealed all Federal eligibility requirements. The amendment agreed to by the conferees would, on a permanent basis, permit States to determine eligibility for social services on a group basis. The group would have to be such that the State can reasonably conclude that substantially all members of the group have incomes below 90 percent of State median income. Except for children of migrant workers, however, eligibility for child day care services would have to continue to be determined on an individual basis. Under the amendment, there would be no Federal eligibility requirements for family planning services.

Deferral of child care standards.—Federal staffing standards for child day care serving children aged 6 weeks to 6 years were suspended from October 1, 1975, to February 1, 1976, under prior legislation. The amendment approved by the conferees would extend this suspension retroactive to February 1, 1976, and forward to October 1, 1977. (State law requirements would have to be met, and standards could not be lowered from September 1975 levels.)

Increased social services funding for child care.—Through September 30, 1977, the conference amendment increases the existing $2.5 billion limit on social services by $40 million for the July–September 1976 quarter and by $200 million for fiscal year 1977. The additional funding cannot exceed the Federal funding due a State for child care expenditures. The additional funds would be allocated among the States on a population basis (as is the $2.5 billion available under current law).

Emphasis on employing welfare recipients.—Requires States, to the extent they determine feasible, to use the added Federal funding in a way which increases employment of welfare recipients and other low-income persons in child care jobs.

State grants to aid employment of welfare recipients.—Permits States, without regard to usual title XX requirements, to use the added Federal funding under the bill to make grants to child care providers to cover the cost of employing welfare recipients. These grants would be limited to $4,000 per year per employee in the case of proprietary providers thus providing (in conjunction with the tax credit under section (4)) full Federal funding of employment costs up to $5,000. (For public and nonprofit providers, which are ineligible for tax credits, the limit on grants under this section would be $5,000.) Grants could be made under this authority only if at least 20 percent of the children served by the child care provider have their care paid for through the title XX program.

Increased matching for child care.—Increases the Federal matching rate for child care expenditures from 75 percent to 100 percent. The increased rate would apply only to the additional amount of Federal funding provided under the amendment for fiscal year 1977.

Expiration of welfare recipient tax credit.—The present law provision granting a tax credit equal to 20 percent of wages to employers who hire persons who receive Aid to Families with Dependent Children is scheduled to expire June 30, 1976. The conferees agreed to continue this provision in effect, in the case of child care employers only, through September 30, 1977. This section would also limit the tax credit, in the case of child care jobs, to a maximum of $1,000 per employee per year.

Waiver provisions and modification of family day care requirements.—The amendment agreed to by the conferees permits State welfare agencies to waive the Federal staffing requirements in the case of child care centers and group day care homes which meet State standards if the children receiving federally funded care represent no more than 20 percent of the total number of children served (or, in the case of a center, there are no more than 5 such children), provided that it is infeasible to place the children in a facility which does meet the Federal requirements. The section would also modify the limitations on the number of children who may be cared for in a family day care home by providing that the family day care mother's own children not be counted unless they are under age 6. This change would apply retroactive to October 1, 1975. This entire section would be inapplicable after September 30, 1977.

Addicts and alcoholics.—The conferees agreed to extend through September 30, 1977, certain modifications provided under Public Law 94–120 governing funding of services for addicts and alcoholics. The provisions, which expired January 31, 1976, require that special confidentiality requirements of the comprehensive Alcohol Abuse Act be observed with regard to addicts and alcoholics, clarify that the entire rehabilitative process must be considered in determining whether medical services provided to addicts and alcoholics can be funded as an integral part of a State social services program, and provide for funding of a 7-day detoxification period even though social services funding is generally not available to persons in institutions.

The conferees note that there is nothing in the statute to preclude a State from using its title XX social services funds to provide child care services to otherwise eligible individuals who are participants in the Work Incentive (WIN) program where there are insufficient funds to provide such services under that program.

AL ULLMAN,
JAMES C. CORMAN,
CHARLES B. RANGEL,
PETE STARK,
JOE D. WAGGONNER, JR.,
BILL M. KETCHUM,
Managers on the Part of the House.

RUSSELL B. LONG,
HERMAN TALMADGE,
W. F. MONDALE,
WILLIAM HATHAWAY,
BOB PACKWOOD,
W. V. ROTH,
Managers on the Part of the Senate.

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94TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 94-903

CONTINUATION OF GROUP ELIGIBILITY DETERMINATIONS UNDER TITLE XX

MARCH 15, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ULLMAN, from the Committee on Ways and Means, submitted the following

REPORT

[To accompany H.R. 12455]

The Committee on Ways and Means, to whom was referred the bill (H.R. 12455) to extend from April 1 to October 1, 1976, the maximum period during which recipients of services on September 30, 1975, under titles IV–A and VI of the Social Security Act, may continue to receive services under title XX of that act without individual determinations, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

BACKGROUND AND SUMMARY

Congress enacted title XX of the Social Security Act as a major part of Public Law 93–647 at the end of the 93d Congress. Its effective date was October 1, 1975, when it superseded provisions for social services that had been made under titles IV–A and VI of the Social Security Act. As the effective date approached, there was substantial protest from some groups, particularly members of senior citizens centers, that an individual means test which title XX required was demeaning, complex, and administratively more costly than any useful purpose it could serve.

The Subcommittee on Public Assistance worked out with the Department of HEW an agreement that individual means tests would not have to be applied to services which had not formerly been subject to them prior to April 1, 1976. This date is approaching. Numerous proposals have been made, and the Subcommittee on Public Assistance has held public hearings. It is apparent that a permanent solution of the issues involved cannot be enacted by April 1. At the same time the Office of the General Counsel of the Department of HEW advises that the Department does not have statutory authority to extend the existing moratorium beyond March 31.

The bill, H.R. 12455, would provide such authority until September 30, during which time the Administration's proposals and other bills which have been introduced on this subject can be carefully considered. The bill would, for an additional six-month period, leave the guidelines exactly where they are now, a situation which has not been unsatisfactory.

REGULATIONS OF THE DEPARTMENT OF HEW THAT WOULD BE AFFECTED BY H.R. 12455

§ 228.61 Determination of eligibility.

* * * * * * *

(c) *Eligibility phase-in (IV–A and VI).*—Recipients of services under titles VI–A and VI on September 30, 1975 may continue to receive those services, if they are identified in the title XX services plan, until eligibility is determined, but in no event later than March 31, 1976. Individuals who meet the conditions which had been established for group eligibility under title IV–A or VI may begin participation after September 30, 1975 in a service provided in a facility on a group basis if:

(1) The individuals live in the geographic location where the facility was delivering the service on a group eligibility basis, as approved under title IV–A or VI, as of July 1, 1975 or during the preceding two quarters, and

* * * * * * *

OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER HOUSE RULES

In compliance with rule XIII, clause 7(a) of the Committee states that the bill will not result in changes in Federal costs.

In compliance with rule XI, clause 2(l)(2)(B), the committee states that the bill was ordered reported by unanimous voice vote.

In compliance with rule XI, clause 2(l)(4) the committee states that it is not expected that this legislation would have any inflationary impact.

In compliance with rule XI, clause 2(l)(3)(A) the committee states that hearings were held by the Subcommittee on Public Assistance of the Committee on Ways and Means and resulted in the findings contained in the Background and Summary section of this report.

In compliance with rule XI. clause 2(l)(3)(B) the committee states that the bill does not provide additional budget authority.

In compliance with rule XI, clause 2(l)(3)(C) the committee states that the Congressional Budget Office has examined the bill and finds that the bill appears to have no budget impact.

In compliance with rule XI, clause 2(l)(3)(D) the committee states that no oversight findings or recommendations have been received by the Committee on Ways and Means from the Committee on Government Operations.

SECTION-BY SECTION ANALYSIS OF H.R. 12455

The bill contains only one section which provides that 45 CFR § 228.61(c), as amended February 9, 1976, 41 F.R. 5635, shall continue

in effect prior to October 1, 1976. This is accomplished by deeming the date March 31, 1976 in the regulation to read "September 30, 1976."

OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER HOUSE RULES

In compliance with rule XIII, clause 7(a) the Committee states that the bill not result in changes in Federal costs.

In compliance with rule XI, clause 2(l)(2)(B), the committee states that the bill was ordered reported by unanimous voice vote.

In compliance with rule XI, clause 2(l)(4) the committee states that it is not expected that this legislation would have any inflationary impact.

In compliance with rule XI, clause 2(l)(3)(A) the committee states that hearings were held by the Subcommittee on Public Assistance of the Committee on Ways and Means and resulted in the findings contained in the Background and Summary section of this report.

In compliance with rule XI, clause 2(l)(3)(B) the committee states that the bill does not provide additional budget authority.

In compliance with rule XI, clause 2(l)(3)(C) the committee states that the Congressional Budget Office has examined the bill and finds that the bill appears to have no budget impact.

In compliance with rule XI, clause 2(l)(3)(D) the committee states that no oversight findings or recommendations have been received by the Committee on Ways and Means from the Committee on Government Operations.

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H. R. 12455

Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

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

An Act

To amend title XX of the Social Security Act so as to permit greater latitude by the States in establishing criteria respecting eligibility for social services, to facilitate and encourage the implementation by States of child day care services programs conducted pursuant to such title, to promote the employment of welfare recipients in the provision of child day care services, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2002(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(14)(A) For purposes of paragraphs (5) and (6), an individual shall, at the option of the State, be deemed to be an individual described in paragraph (5)(B) if, because of the geographic area in which any particular service is provided to him, the characteristics of the community to which it is provided, the nature of the service, the conditions (other than income) of eligibility to receive it, or other factors surrounding its provision, the State may reasonably conclude, without individual determinations of eligibility, that substantially all of the persons who receive the service are members of families with a monthly gross income which is not more than 90 per centum of the median income of a family of four in the State, adjusted (in accordance with regulations prescribed by the Secretary) to take into account the size of the family.

"(B) The provisions of subparagraph (A) shall not be applicable to child day care services furnished to any child other than a child of a migratory agricultural worker.".

(b) Section 2000(a)(4) of such Act is amended by adding at the end thereof (after and below subparagraph (E)) the following new sentence:

"In any case in which services are provided to individuals to whom the provisions of paragraph (14) are applied, the proportion of the expenditures for such services which are attributable to individuals described in the preceding sentence may be determined on the basis of generally accepted statistical sampling procedures.".

(c) Section 2002(a)(6) of such Act is amended, in the matter preceding subparagraph (A), by inserting ", family planning services," immediately after "referral service".

(d) The amendments made by this section shall be effective on and after October 1, 1975.

SEC. 2. Effective February 1, 1976, section 7(a)(3) of Public Law 93–647 is amended by striking out "February 1, 1976" and inserting in lieu thereof "October 1, 1977".

SEC. 3. (a) For purposes of title XX of the Social Security Act, the amount of the limitation (imposed by section 2002(a)(2) of such Act) which is applicable to any State for the fiscal period beginning July 1, 1976, and ending September 30, 1976, or which is applicable to any State for the fiscal year ending September 30, 1977, shall be deemed to be equal to whichever of the following is the lesser:

(1) an amount equal to—

(A) 106.4 per centum of the amount of the limitation so imposed (as determined without regard to this section) in the case of such fiscal period, or

(B) 108 per centum of the amount of the limitation so imposed (as determined without regard to this section) in the case of such fiscal year ending September 30, 1977, or

(2) an amount equal to (A) 100 per centum of such limitation for such fiscal period or fiscal year (as determined without regard to this section), plus (B) an amount equal to the sum of (i) 75 per centum (in the case of such fiscal period) or 100 per centum (in the case of such fiscal year) of the total amount of expenditures (I) which are made during such fiscal period or year in connection with the provision of any child day care service, and (II) with respect to which payment is authorized to be made to the State under such title for such fiscal period or year, and (ii) the aggregate of the amounts of the grants, made by the State during such fiscal period or year, to which the provisions of subsection (c) (1) are applicable.

(b) The additional Federal funds which become payable to any State for the fiscal period or fiscal year specified in subsection (a) by reason of the provisions of such subsection shall, to the maximum extent that the State determines to be feasible, be employed in such a way as to increase the employment of welfare recipients and other low-income persons in jobs related to the provision of child day care services.

(c) (1) Subject to paragraph (2), sums granted by a State to a qualified provider of child day care services (as defined in paragraph (3) (A)) during the fiscal period or fiscal year specified in subsection (a), to assist such provider in meeting its Federal welfare recipient employment incentive expenses (as defined in paragraph (3) (B)) with respect to individuals employed in jobs related to the provision of child day care services in one or more child day care facilities of such provider, shall be deemed, for purposes of title XX of the Social Security Act, to constitute expenditures made by the State, in accordance with the requirements and conditions imposed by such Act, for the provision of services directed at one or more of the goals set forth in clauses (A) through (E) of the first sentence of section 2002(a) (1) of such Act. With respect to sums to which the preceding sentence is applicable (after application of the provisions of paragraph (2)), the figure "75", as contained in the first sentence of section 2002(a) (1) of such Act, shall be deemed to read "100".

(2) The provisions of paragraph (1) shall not be applicable—

(A) to the amount, if any, by which the aggregate of the sums (as described in such paragraph) granted by any State during the fiscal period or fiscal year specified in subsection (a) exceeds the amount by which such State's limitation (as referred to in subsection (a)) is increased pursuant to such subsection for such fiscal period or year, or

(B) with respect to any grant made to a particular qualified provider of child day care services to the extent that (as determined by the Secretary) such grant is or will be used—

(i) to pay wages to any employee at an annual rate in excess of $5,000, in the case of a public or nonprofit private provider, or

(ii) to pay wages to any employee at an annual rate in excess of $4,000, or to pay more than 80 per centum of the wages of any employee, in the case of any other provider.

(3) For purposes of this subsection—

(A) the term "qualified provider of child day care services", when used in reference to a recipient of a grant by a State, includes a provider of such services only if, of the total number of children receiving such services from such provider in the facility with respect to which the grant is made, at least 20 per centum thereof have some or all of the costs for the child day care services so furnished to them by such provider paid for under the State's services program conducted pursuant to title XX of the Social Security Act; and

(B) the term "Federal welfare recipient employment expenses" means expenses of a qualified provider of child day care services which constitute Federal welfare recipient employment incentive expenses as defined in section 50B(a)(2) of the Internal Revenue Code of 1954, or which would constitute Federal welfare recipient employment incentive expenses as so defined if the provider were a taxpayer entitled to a credit (with respect to the wages involved) under section 40 of such Code.

(d)(1) In the administration of title XX of the Social Security Act, the figure "75", as contained in the first sentence of section 2002(a)(1) of such Act, shall, subject to paragraph (2), be deemed to read "100" for purposes of applying such sentence to expenditures made by a State for the provision of child day care services during the fiscal year ending September 30, 1977.

(2) The total amount of Federal payments which may be paid to any State for such fiscal year under title XX of the Social Security Act at the rate specified in paragraph (1) shall not exceed an amount equal to the excess (if any) of—

(A) the amount by which such State's limitation (as referred to in subsection (a)) is increased pursuant to such subsection for such year, over

(B) the aggregate of the amounts of the grants, made by the State during such year, to which the provisions of subsection (c)(1) are applicable.

SEC. 4. (a) Section 50A(a) of the Internal Revenue Code of 1954 (relating to amount of credit for work incentive program expenses) is amended—

(1) by adding at the end of paragraph (2) the following new sentence: "The preceding sentence shall not apply to so much of the credit allowed by section 40 as is attributable to Federal welfare recipient employment incentive expenses described in subsection (a)(6)(B).", and

(2) by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) LIMITATION WITH RESPECT TO CERTAIN ELIGIBLE EMPLOYEES.—

"(A) NONBUSINESS ELIGIBLE EMPLOYEES.—Notwithstanding paragraph (1), the credit allowed by section 40 with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxable year to an eligible employee whose services are not performed in connection with a trade or business of the taxpayer shall not exceed $1,000.

"(B) CHILD DAY CARE SERVICES ELIGIBLE EMPLOYEES.—Notwithstanding paragraph (1), the credit allowed by section 40 with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxable year to an eligible employee whose services are performed in connection with a child day care services program, conducted by the taxpayer, shall not exceed $1,000.".

(b) Section 50B(a)(2) of such Code (relating to definitions; special rules) is amended to read as follows:

"(2) DEFINITIONS.—For purposes of this section, the term 'Federal welfare recipient employment incentive expenses' means the amount of wages paid or incurred by the taxpayer for services rendered to the taxpayer by an eligible employee—

"(A) before July 1, 1976, or

"(B) in the case of an eligible employee whose services are performed in connection with a child day care services program of the taxpayer, before October 1, 1977.".

(c) The amendments made by this section with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer to an eligible employee whose services are performed in connection with a child day care services program of the taxpayer shall apply to such expenses paid or incurred by a taxpayer to an eligible employee whom such taxpayer hires after the date of the enactment of this Act.

SEC. 5. (a) Section 2002(a)(9)(A)(ii) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (II), and

(2) by adding after the comma at the end of clause (III) the following: "(IV) the State agency may waive the staffing standards otherwise applicable in the case of a day care center or group day care home in which not more than 20 per centum of the children in the facility (or, in the case of a day care center, not more than 5 children in the center) are children whose care is being paid for (wholly or in part) from funds made available to the State under this title, if such agency finds that it is not feasible to furnish day care for the children, whose care is so paid for, in a day care facility which complies with such staffing standards, and if the day care facility providing care for such children complies with applicable State standards, and (V) in determining whether applicable staffing standards are met in the case of day care provided in a family day care home, the number of children being cared for in such home shall include a child of the mother who is operating the home only if such child is under age 6,".

(b) The amendments made by subsection (a) shall, insofar as such amendments add a new clause (V) to section 2002(a)(9)(A)(ii) of the Social Security Act, be effective for the period beginning October 1, 1975, and ending September 30, 1977; and on and after October 1, 1977, section 2002(a)(9)(A)(ii) of the Social Security Act shall read as it would if such amendments had not been made.

SEC. 6. Effective February 1, 1976, section 4(c) of Public Law 94–120 is amended by striking out "January 31, 1976" and "February 1, 1976" and inserting in lieu thereof "September 30, 1977" and "October 1, 1977", respectively.

Speaker of the House of Representatives.

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

Please add to

the file.

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STATEMENT BY THE PRESIDENT

I have today signed into law H.R. 12455, a bill concerning child day care staffing standards and social services supported with Federal financial assistance. Ensuring adequate day care for children is an important social service. It protects the well-being of thousands of American children--and the economic independence of their working parents. ~~I continue to believe that~~ The integrity of the family is of paramount importance, but supportive government action is acceptable as long as it does not interfere with the family role.

Earlier this year, I vetoed the predecessor version of this bill, H.R. 9803 -- not because I disagreed with its goals--but because that bill was the wrong means to a worthwhile end. The Congress sustained my veto. Today I have signed a new and better child day care bill--the result of compromise and cooperation between the Congress and my Administration. H.R. 12455 embodies a major compromise on a key issue which led to that veto--the imposition on States and localities of costly and controversial Federal staffing requirements for child day care services funded under Title XX of the Social Security Act.

STATEMENT BY THE PRESIDENT

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Earlier this year, I vetoed the predecessor version of this bill, H.R. 9803, and the Congress sustained my veto. ~~I have signed H.R. 12455 because it~~ embodies a major compromise on a key issue which led to that veto -- the imposition on States and localities of costly and controversial Federal staffing requirements for child day care services funded under Title XX of the Social Security Act.

H.R. 9803 would have imposed these standards effective July 1 of this year. Had that bill become law, it would have brought about an unwarranted Federal preemption of State and local responsibility to ensure quality day care services.

H.R. 12455, by postponing the Federal standards until October 1, 1977, will enable the States to operate day care programs for more than another year free of onerous and costly Federal intrusion, while HEW completes a required major study and report with recommendations on the day care standards. In addition, the Congress will have the opportunity to act on my proposed "~~Financial~~ Federal Assistance for Community Services Act," submitted to the Congress last February to reform the Title XX social services program.

My proposal would provide the States with the opportunity to administer the Title XX program with the necessary flexibility to meet their most pressing needs as they themselves determine those needs. It would simplify program operations and remove many of the burdensome and

restrictive Federal requirements so that social services can be provided in the most efficient and effective manner, and can be most responsive to the needs of our citizens. As part of this overall approach, it would require the States to adopt and enforce their own standards for federally-assisted child day care.

While I am disappointed that the Congress has not, in H.R. 12455, clearly placed this responsibility and authority in the States, the bill's lengthy suspension of the standards is a positive step toward this objective.

H.R. 12455 does adopt a concept contained in my Federal ~~Financial~~ Assistance to Community Services proposal by permitting States to provide Title XX services on a "group eligibility" basis, except for most child day care services. Under this bill, States will not have to require that senior citizens and other persons who need and depend on social services programs be subjected to individual income and assets tests in order to determine whether they can participate in these programs. Such persons will be eligible as members of groups, when the States can reasonably assume that substantially all those to be served have incomes less than 90% of the State's median income.

This provision will make it possible for older persons and families who obviously qualify for federally-assisted services to obtain those services without a demeaning scrutiny of their personal affairs. It will also eliminate unnecessary and costly administrative trappings for many service programs, thereby freeing more Federal and State funds for the actual delivery of services.

H.R. 12455 embodies, in part, still another central element of my Federal ~~Financial~~ Assistance for Community Services proposal: that States should no longer be required to match their share of the Federal Title XX social service

funds with State and local tax dollars. Under this bill, as much as $200 million in new Title XX funds would be distributed in fiscal year 1977 without a requirement for State matching, if States choose to spend that amount for child day care services. I am hopeful that this tentative step indicates the willingness of the Congress to consider seriously the elimination of the matching requirement for all Federal social services funds under Title XX.

I do have serious reservations about the amount of additional Federal funding provided in H.R. 12455, although it is less than the amount in the bill I earlier vetoed. It is also unfortunate that this bill, for the first time under Title XX, designates levels of funding for specified purposes. This is the antithesis of the spirit and intent of Title XX which permits States the maximum flexibility to determine their own priorities in using their share of Federal social services funds. I am also concerned that the child care provisions of this bill have not been adequately coordinated with child care provisions in the pending tax reform bill.

Much remains to be done to help the States improve their delivery of social services funded under Title XX. I am gratified that the Congress, in this bill, has moved in some measure toward accepting concepts in my proposed ~~Federal financial assistance~~ act to provide financial assistance for community services ~~Act~~. Further action is needed, however, to provide more comprehensive reform that will provide States the tools and flexibility to deliver social services to those in need without cumbersome Federal regulation. I again urge the Congress to act promptly to give my proposal a full and favorable hearing.

FOR IMMEDIATE RELEASE SEPTEMBER 7, 1976

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

THE WHITE HOUSE

REMARKS OF THE PRESIDENT
UPON SIGNING H.R. 12455
THE CHILD DAY CARE BILL

THE ROSE GARDEN

12:06 P.M. EDT

Members of the Congress and members of the Administration, distinguished guests:

Insuring an adequate day care bill for children is an important social service. It protects the well-being of thousands of American children and the economic independence of their working parents.

Earlier this year I vetoed a bill on child day care -- not because I disagreed with its goals, but because that bill, in my judgment, was the wrong means to a worthwhile end.

Today I sign a new and better child day care bill, the result of cooperation between the Congress and my Administration, and I thank the Members of the Congress for working with the Administration in that regard.

This new and better bill embodies a major compromise on a key issue which led to my original veto. States and localities will be spared the heavy burden of costly and controversial Federal standards for child day care services.

In a different area of social service, I am happy to see that this bill also adopts a concept supported by many older Americans, and contained in my Federal assistance for community services proposal. Under the bill, older persons as well as families who obviously qualify for Federal assisted social services will be able to get those services without a demeaning scrutiny of their personal affairs.

This is a better bill than the one which first crossed my desk, and I am pleased to see the results of this compromise. It is a better bill because my veto exerted a balancing influence on the deliberations of the Congress in this important area. Without this Constitutional check and balance the original bill might now be law and making day care services more costly to the taxpayer and increasing the Federal intrusion into family life.

The Constitutional veto power has been used by me as well as my predecessors with one concern in mind -- to protect the American people from unrealistic responses to their very real needs; to see that the Federal Government does not merely serve the people but serves the people well.

Thank you very much.

END (AT 12:09 P.M. EDT)

HOLD FOR RELEASE UNTIL 12 NOON (EDT) September 7, 1976

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

I have today signed into law H.R. 12455, a bill concerning child day care staffing standards and social services supported with Federal financial assistance. Ensuring adequate day care for children is an important social service. It protects the well-being of thousands of American children -- and the economic independence of their working parents. The integrity of the family is of paramount importance but supportive government action is acceptable as long as it does not interfere with the family role.

Earlier this year, I vetoed the predecessor version of this bill, H.R. 9803 -- not because I disagreed with its goals -- but because that bill was the wrong means to a worthwhile end. The Congress sustained my veto. Today I have signed a new and better child day care bill -- the result of compromise and cooperation between the Congress and my Administration. H.R. 12455 embodies a major compromise on a key issue which led to that veto -- the imposition on States and localities of costly and controversial Federal staffing requirements for child day care services funded under Title XX of the Social Security Act.

H.R. 9803 would have imposed these standards effective July 1 of this year. Had that bill become law, it would have brought about an unwarranted Federal preemption of State and local responsibility to ensure quality day care services.

H.R. 12455, by postponing the Federal standards until October 1, 1977, will enable the States to operate day care programs for more than another year free of onerous and costly Federal intrusion, while HEW completes a required major study and report with recommendations on the day care standards. In addition, the Congress will have the opportunity to act on my proposed "Federal Assistance for Community Services Act," submitted to the Congress last February to reform the Title XX social services program.

My proposal would provide the States with the opportunity to administer the Title XX program with the necessary flexibility to meet their most pressing needs as they themselves determine those needs. It would simplify program operations and remove many of the burdensome and restrictive Federal requirements so that social services can be provided in the most efficient and effective manner, and can be most responsive to the needs of our citizens. As part of this overall approach, it would require the States to adopt and enforce their own standards for federally-assisted child day care.

While I am disappointed that the Congress has not, in H.R. 12455, clearly placed this responsibility and authority in the States, the bill's lengthy suspension of the standards is a positive step toward this objective.

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H.R. 12455 does adopt a concept contained in my Federal Assistance to Community Services proposal by permitting States to provide Title XX services on a "group eligibility" basis, except for most child day care services. Under this bill, States will not have to require that senior citizens and other persons who need and depend on social services programs be subjected to individual income and assets tests in order to determine whether they can participate in these programs. Such persons will be eligible as members of groups, when the States can reasonably assume that substantially all those to be served have incomes less than 90% of the State's median income.

This provision will make it possible for older persons and families who obviously qualify for federally-assisted services to obtain those services without a demeaning scrutiny of their personal affairs. It will also eliminate unnecessary and costly administrative trappings for many service programs, thereby freeing more Federal and State funds for the actual delivery of services.

H.R. 12455 embodies, in part, still another central element of my Federal Assistance for Community Services proposal: that States should no longer be required to match their share of the Federal Title XX social service funds with State and local tax dollars. Under this bill, as much as $200 million in new Title XX funds would be distributed in fiscal year 1977 without a requirement for State matching, if States choose to spend that amount for child day care services. I am hopeful that this tentative step indicates the willingness of the Congress to consider seriously the elimination of the matching requirement for all Federal social services funds under Title XX.

I do have serious reservations about the amount of additional Federal funding provided in H.R. 12455, although it is less than the amount in the bill I earlier vetoed. It is also unfortunate that this bill, for the first time under Title XX, designates levels of funding for specified purposes. This is the antithesis of the spirit and intent of Title XX which permits States the maximum flexibility to determine their own priorities in using their share of Federal social services funds. I am also concerned that the child care provisions of this bill have not been adequately coordinated with child care provisions in the pending tax reform bill.

Much remains to be done to help the States improve their delivery of social services funded under Title XX. I am gratified that the Congress, in this bill, has moved in some measure toward accepting concepts in my proposed act to provide financial assistance for community services. Further action is needed, however, to provide more comprehensive reform that will provide States the tools and flexibility to deliver social services to those in need without cumbersome Federal regulation. I again urge the Congress to act promptly to give my proposal a full and favorable hearing.

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