The original documents are located in Box 42, folder "1976/04/06 HR9803 Child Day Care Services under Title XX of the Social Security Act (vetoed) (1)" of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

VETOED 4/6/76 Veto message delivered to House of Representatives - 3:0P pm

S 4/6/76

THE WHITE HOUSE

WASHINGTON

DECISION
Last Day: April 6, 1976

April 5, 1976

MEMORANDUM FOR: THE PRESIDENT

FROM: JIM CANNON

SUBJECT: Enrolled Bill H.R. 9803 - Child Day Care Services under Title XX of the Social Security Act

This is to present for your action H.R. 9803, a bill on the child day care services under Title XX of the Social Security Act.

BACKGROUND

H.R. 9803 postpones until July 1, 1976 enforcement of child day care staffing standards contained in the Title XX social services program; increases the $2.5 billion annual ceiling on Title XX outlays by $125 million through September 30, 1976 for child day care services and raises the Federal matching rate for these services; provides incentives for employment of welfare recipients by child day care providers including extension of present tax credit provisions; and makes other changes in Title XX.

Despite Administration opposition, H.R. 9803 was passed in the House by a vote of 316-72 and in the Senate by a vote of 59-30.

The Administration consistently opposed strongly the Senate version of H.R. 9803 and the conference report. Opposition to the latter has been based on three major objections: (1) the formulation of child day care staffing ratios should be determined by the States, as proposed in the Administration's Title XX social services block grant reform proposal. That proposal would repeal the controversial child day care standards in Title XX and would require instead that each State have in effect its own appropriate mandatory standards, including requirements relating to safety, sanitation, and protection of civil rights, (2) the bill would increase States' Title XX allocations, and therefore the budget, by $125 million through the transition quarter, and undoubtedly more in later years,

and (3) earmarking specific Title XX funds for child day care as opposed to other social services is contrary to the basic Title XX philosophy of giving States flexibility to determine uses of Title XX funds.

A description of the major provisions of the bill and agency recommendations are included in Jim Lynn's memorandum, attached at Tab A.

RECOMMENDATIONS AND COMMENTS

HEW	Disapproval. HEW supports an extension of the current moratorium on Title XX day care staffing requirements and states that "if the enrolled bill is vetoed we would expect its moratorium provision to be repassed as a freestanding law."
Treasury	No objection, defers to other agencies. Has serious questions regarding the effectiveness of the tax credit provisions as a device for remedying the problem of hard-core unemployment.
OMB	Disapproval. Apart from budgetary concerns, the bill represents a clear departure from the Administration's block grant proposal.
Seidman	Disapproval.
Friedersdorf	Disapproval.
Lazarus	No recommendation.

A veto message to the House of Representatives, the text of which has been approved by Robert T. Hartmann, is attached at Tab B. The enrolled bill is attached at Tab C.

RECOMMENDATION

I recommend disapproval of H.R. 9803. The intent of the bill is contrary to your proposed Title XX block grant. Among other things, it would reduce State flexibility in the use of Title XX social services funds and specify certain of those funds for child day care.

I also recommend that you sign the veto message at Tab B.

DECISION

_____ Approve H.R. 9803 (Tab C)

_____ Disapprove and issue veto message. (Tab B)

THE WHITE HOUSE

WASHINGTON

ACTION

May 5, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON

SUBJECT: Statement by the President

As you may know, this afternoon the Senate voted to sustain your veto of the Child Day Care Services Bill (60 - 34).

Attached for your approval is a statement congratulating members of the Senate who voted with you on this action. It has been reviewed and approved by Paul O'Neill and Max Friedersdorf. Doug Smith has approved the text.

RECOMMENDATION

I recommend that you approve the attached statement so that it can be issued immediately.

Approve MC 7 Disapprove _____

STATEMENT BY THE PRESIDENT

I am pleased that the Senate has voted to sustain my veto of H.R. 9803, the Child Day Care Services under Title XX of the Social Security Act.

As I have said before, this legislation would have run counter to a basic principle of government important to all Americans -- the vesting of responsibility in State and local government and the removal of burdensome Federal regulations in areas where state and local government can best meet the needs of their citizens.

I congratulate the members of the Senate from both parties who resisted heavy pressure to vote for this bill and voted instead for good government and fiscal responsibility.

THE WHITE HOUSE

WASHINGTON

ACTION

May 4, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON

SUBJECT: H.R. 9803, Child Day Care Services Act

This afternoon the House failed to sustain your veto of the Child Day Care Services Act. The vote was 301 to 101. Attached for your consideration is a proposed statement expressing your regret at the House action, restating your reasons for vetoing the bill, and urging the Senate to uphold your veto.

OMB (McGurk), Max Friedersdorf and I recommend approval of the proposed statement which has been cleared by the White House Editorial Office (Smith).

RECOMMENDATION

That you approve the statement at Tab A.

Approve_____ Disapprove_____

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

APR 1 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 9803 - Child day care services under Title XX of the Social Security Act
Sponsor - Rep. Jones (D) Oklahoma and 6 others

Last Day for Action

April 6, 1976 - Tuesday

Purpose

Postpones until July 1, 1976 enforcement of child day care staffing standards contained in the Title XX social services program; increases the $2.5 billion annual ceiling on Title XX outlays by $125 million through September 30, 1976 for child day care services and raises the Federal matching rate for these services; provides incentives for employment of welfare recipients by child day care providers including extension of present tax credit provisions; and makes other changes in Title XX.

Agency Recommendations

Office of Management and Budget	Disapproval (Veto message attached)
Department of Health, Education, and Welfare	Disapproval (Veto message attached)
Council of Economic Advisers	Disapproval
Department of Commerce	No objection
Department of the Treasury	No objection and defers
Department of Labor	Defers to other agencies

Discussion

Although the enrolled bill bears a House number, it is essentially similar to the Senate-passed version of this legislation initiated by Senators Long and Mondale. The House passed its version of H.R. 9803 by voice vote last September, which would have simply postponed enforcement of the Federal

interagency day care requirements (FIDCR) in Title XX of the Social Security Act until April 1, 1976. The original Senate-passed (65-24) version of H.R. 9803 differed from the enrolled bill largely in that it would have increased the funding available for child day care under Title XX by $125 million in the remainder of fiscal year 1976, $62.5 million in the transition quarter, and $250 million annually beginning in fiscal year 1977.

The more restricted funding provisions in the enrolled bill mainly reflect limitations imposed by the Congressional Budget Act. Although no funding is provided beyond September 30, 1976, Senators Long and Mondale probably represented the prevailing congressional view when they indicated in floor debate that they expect funding to be provided in fiscal year 1977 and later years at an annual rate of $250 million. The Chairman of the House Budget Committee has recommended $240 million in fiscal year 1977 for this bill.

The Republican conferees and Senator Harry F. Byrd, Jr. (Ind., Va.) did not sign the conference report. It was passed by the House by a vote of 316-72. The Senate agreed to the conference report 59-30.

Major provisions of the bill

The enrolled bill is explained in detail in an attachment to the HEW views letter. Briefly, its major provisions would:

(1) postpone until July 1, 1976 enforcement of the Title XX FIDCR day care staffing requirements for children aged 6 weeks to 6 years.

(2) increase the present $2.5 billion annual ceiling for Title XX social services outlays by adding an entitlement of $62.5 million each for fiscal year 1976 and the transition quarter.

-- Of the added $125 million, 20% would be allocated for assisting States with special problems in meeting the child day care staffing requirements; the rest could be used by States either

  -- for child day care services at an 80% Federal share, instead of the present 75%,

-- to pay the full wage cost, up to $5,000, of employing welfare recipients to provide day care services through public and private nonprofit (tax exempt) providers, or

-- to pay 80% (up to $4,000) of such wage cost in the case of other providers; this is coupled with an extension, from July 1, 1976 until October 1, 1976, of the welfare recipient employment tax credit in the Tax Reduction Act of 1975, solely for providers of child day care who have a tax liability and with a limit of up to $1,000 in any taxable year per welfare recipient employed.

(3) allow a State to waive the staffing standards until October 1, 1976, for a child care facility where fewer than 20% of the children are charged to Title XX funding, when the facility is complying with State standards, but cannot feasibly comply with the FIDCR standards.

(4) provide that, until October 1, 1976, in applying the above waiver authority to family day care homes, the children of the mother operating the home would not be counted unless they are under age 6.

(5) make permanent an exception, enacted last October, to the limit in Title XX on Federal financial participation with respect to medical or remedial care and room and board for treatment of drug addicts or alcoholics.

Background

The Social Services Amendments of 1974, P.L. 93-647, which added Title XX to the Social Security Act (SSA), included Federal funding for the delivery of child day care services at a 75% Federal matching rate. Under Title XX, no Federal payment could be made after September 30, 1975, unless day care outside the home met a modified version of the FIDCR, approved by HEW and OEO in 1968. The FIDCR, among other things, establish rigorous staffing ratios for day care. For example, a ratio of not more than 5 children to one adult is required for children 3 to 4 years of age.

A number of States were not meeting the FIDCR standards as the deadline approached and were in danger of losing Federal funding. Therefore, P.L. 94-120 was enacted last October, postponing until February 1, 1976, the enforcement of the Federal child day care staffing standards, provided that the State's staffing standards complied with State law and were no lower than those in effect on September 15, 1975.

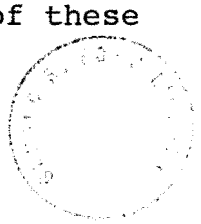
Since their inception, the FIDCR staffing ratios have been the subject of controversy between those who claim they are not strict enough and others who claim that they are far too rigid and costly. Uncertainty about their appropriateness led to a mandate in Title XX that HEW evaluate the FIDCR and report to Congress between January 1 and July 1, 1977, any recommendations for modifications.

Day care centers in a number of States still do not meet the staffing standards of Title XX. Accordingly, enforcement of the standards would result in denial of Federal funds to these States, which could cause substantial service cutbacks or greatly increased State spending for the costs of meeting the standards.

The Administration consistently opposed strongly the Senate version of H.R. 9803 and the conference report. Opposition to the latter has been based on three major objections: (1) the formulation of child day care staffing ratios should be determined by the States, as proposed in the Administration's Title XX social services block grant reform proposal. That proposal would repeal the controversial child day care standards in Title XX and would require instead that each State have in effect its own appropriate mandatory standards, including requirements relating to safety, sanitation, and protection of civil rights, (2) the bill would increase States' Title XX allocations, and therefore the budget, by $125 million through the transition quarter, and undoubtedly more in later years, and (3) earmarking specific Title XX funds for child day care as opposed to other social services is contrary to the basic Title XX philosophy of giving States flexibility to determine uses of Title XX funds.

Arguments for Approval

-- The bill represents an "emergency" measure which would at least temporarily end the present uncertain situation in which most States are in violation of the law's FIDCR standards and HEW has not taken steps to enforce the law by cutting off funds. Although the Administration has recommended repeal of the FIDCR standards, it has favored postponement of these standards until October 1, 1976.



-- Proponents of this legislation believe the FIDCR standards represent a useful and necessary upgrading in child day care services, and the Federal Government should assist the States in paying for the added cost of meeting the standards set by Federal law.

-- Proponents also argue that without increased Federal assistance States would have to curtail day care services for the poor due to the added costs, and that this would run counter to the objective of providing child care to enable mothers to work, rather than stay on the welfare rolls.

-- The proposed payments and tax credits to day care institutions for hiring welfare recipients would, supporters of the bill believe, provide greater income to the poor, reduce the welfare rolls, and provide welfare recipients with needed work experience and skills to become self-supporting. As taxpayers, they will return some of the added cost in the bill to the Treasury.

Arguments Against Approval

-- The enrolled bill would perpetuate the imposition of Federal child day care standards on the States, undercutting the Administration's block grant philosophy of allowing States to set such standards. It would thus effectively require States to put in place Federal standards which are quite costly and extremely controversial and which many child care professionals believe exceed demonstrable need.

-- The bill would increase the budget for 1976 and the transition quarter by $125 million, as an entitlement to the States, plus an amount--impossible to estimate, but most likely small--for tax credits to day care institutions that hire welfare recipients. Moreover, the funding provision would probably be extended at an annual cost of about $250 million per year above the $2.5 billion ceiling in present law.

-- The earmark proposed for one particular service--child day care--is counter to a basic principle that guided the development of the Title XX program; namely, that States should have the greatest flexibility in selecting the services they will fund in meeting their own priority needs.

-- There is considerable doubt whether the bill's provisions would result in any appreciable number of welfare recipients being hired in child day care centers. Treasury believes in all likelihood the tax credit would simply be a windfall in the few cases in which it will apply. Moreover, it is not universally accepted that the staffing of centers

largely with welfare recipients would necessarily be the most beneficial approach for the children served. The qualifications of the person hired should be the primary concern to safeguard the best interests of the children served.

-- The authority provided in the bill for a State to waive FIDCR staffing standards for facilities with fewer than 20% of the children charged to Title XX could result in serious disparities in the conditions which prevail in such facilities compared with facilities with greater proportions of Title XX-funded children.

Recommendations

HEW recommends disapproval, primarily for reasons stated in the arguments against approval. The Department also is concerned about inclusion of a substantial technical defect which may be challenged in the courts thereby disrupting Title XX's administration.

HEW notes that it supports an extension of the current moratorium on Title XX day care staffing requirements and states that "if the enrolled bill is vetoed we would expect its moratorium provision to be repassed as a freestanding law."

Treasury, as noted above, has serious questions regarding the effectiveness of the tax credit provisions as a device for remedying the problem of hard-core unemployment. The Department states, however, that it has no objection to approval, since the tax provisions are relatively unimportant in relation to the bill as a whole, and defers to other agencies.

CEA recommends disapproval for two reasons: (1) the use of additional Federal funds to implement Federal child care staff ratios when there is no reliable evidence that these ratios are a necessary ingredient of quality in institutional child care and (2) doubt as to whether the incentive to employ welfare recipients in child care centers is in the best interest of the welfare recipient or the children. CEA believes the incentive is not likely to reduce welfare expenditures because of earnings disregards and deductions for work-related expenses before an individual's welfare payment are reduced.

* * * * * * *

We concur with HEW that H.R. 9803 should be vetoed. Apart from budgetary concerns, the bill represents a clear departure from the block grant proposal we have recently sent to the

Congress. It would reduce rather than increase the States' flexibility in utilizing social services funds by earmarking funds for day care, changing the Federal matching rate for one particular service, and providing special funding inducements for hiring welfare recipients.

The bill would also mandate the costly and controversial Federal day care standards instead of allowing States to set their own standards as proposed in the block grant reform proposal.

In summary, both from a budget standpoint and programmatically, there is little to be said for this bill. We are attaching a draft veto message for your consideration.

James T. Lynn
Director

Attachments

GENERAL COUNSEL OF THE
UNITED STATES DEPARTMENT OF COMMERCE
Washington, D.C. 20230

MAR 29 1976

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

Attention: Assistant Director for Legislative Reference

Dear Mr. Lynn:

This is in reply to your request for the views of this Department concerning H.R. 9803, an enrolled enactment

> "To facilitate and encourage the implementation by States of child day care services programs conducted pursuant to title XX of the Social Security Act, and to promote the employment of welfare recipients in the provision of child day care services, and for other purposes."

The principal purpose of H.R. 9803 is to amend the Social Security Act so as to suspend until July 1, 1976, the requirement that a child day care center meet specified staffing requirements in order to qualify for Federal payments under title XX of the Act. In addition, H.R. 9803 amends the Internal Revenue Code to permit tax credits for a portion of the wages paid to Federal welfare recipients who are employed in connection with a child day care services program. The enrolled bill also makes several changes in the rules applicable to the computation of the tax credit allowable for expenses of employing welfare recipients and in the funding provisions of the existing law.

This Department would have no objection to approval by the President of H.R. 9803.

Enactment of this legislation will not involve the expenditure of any funds by this Department.

Sincerely,

General Counsel

THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

March 30, 1976

Dear Mr. Frey:

The Council of Economic Advisers has two major objections to the enrolled bill H.R. 9803 "To facilitate and encourage the implementation by States of child day care services programs conducted pursuant to title XX of the Social Security Act, and to promote the employment of welfare recipients in the provision of child day care services, and for other purposes."

First is the use of additional Federal funds for implementing federally mandated ratios of children to staff in child care facilities. There is no reliable evidence that these ratios, in fact, are a necessary ingredient of quality in institutional child care. Indeed, many facilities considered to be of high quality do not meet the requirements. Because of the lack of professional evidence on this point, Congress has itself requested HEW to conduct a study of the effectiveness of such standards which is not due until January 1977. Yet Congress would impose their own arbitrary standards as of July 1976.

Another objectionable feature of the bill is the incentive to employ welfare recipients as staff in child care centers by means of a Federal subsidy. It is dubious whether such a restrictive employment subsidy is in the best interest of either the welfare recipient or the children who attend the institutions. Moreover, such an employment incentive is not likely to reduce public welfare expenditures since AFDC recipients would be entitled to considerable earnings disregards and deductions for work related expenses before any welfare payments were reduced. Moreover, free child care services would be provided for their own children.

The bill is clearly in conflict with the President's proposal for a social services block grant which would allow the States flexibility to decide on the allocation of funds among different services (including day care) and to determine their own health and safety standards for institutions.

We urge that H.R. 9803 be vetoed.

Sincerely,

Paul W. MacAvoy
Acting Chairman

Mr. James M. Frey
Assistant Director
for Legislative Reference
Office of Management and Budget

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

MAR 30 1976

Dear Sir:

This is in response to your request for the views of the Treasury Department on the enrolled bill, An Act To facilitate and encourage the implementation by States of child day care services programs conducted pursuant to title XX of the Social Security Act, and to promote the employment of welfare recipients in the provision of child day care services, and for other purposes.

Section 5 of the bill would amend the work incentive (WIN) tax credit provisions of the Internal Revenue Code.

The WIN program was established in 1967 to provide job training and employment opportunities to welfare recipients as a method of removing them from the category of the hard-core unemployed and, thus, off the welfare roll, and the WIN tax credit provisions were adopted in 1971 as an incentive to employers to participate in the WIN program. Under the basic WIN tax credit provisions, an employer may obtain a tax credit equal to 20 percent of wages paid to a WIN participant during the first 12 months of his employment, if he is employed for at least 2 years. The credit provisions apply only if the Secretary of Labor certifies that the employee has been placed in employment under a WIN program established under section 432(b)(1) of the Social Security Act and has not displaced any individual from employment.

The Tax Reduction Act of 1975 extended the WIN tax credit to the employment of an individual who had been on welfare for at least 90 days prior to employment, on condition that the employment last at least 1 month, thus severing the tie to the WIN program. The amendment was proposed by Senator Talmadge, the original sponsor of the WIN program and the WIN tax credit, because of dissatisfaction with the administration of the WIN program.

The 1975 amendment was effective for wages paid after March 29, 1975, for services rendered before July 1, 1976. The temporary character of the amendment was in keeping with the temporary character of the tax cuts provided by the Tax Reduction Act, and it can be expected that an effort will be made to make the 1975 amendment permanent when, and if, the tax cuts are extended.

Section 5 of the bill would extend the 1975 amendment for three months, until October 1, 1976, solely with respect to "an eligible employee whose services are performed in connection with a child day care services program of the taxpayer," and would limit to $1,000 the maximum credit in any taxable year with respect to any such employee. In addition, the tax credit for wages paid to such an employee would be creditable against the entire tax liability of the employer rather than just the first $25,000 of tax liability and 50 percent of tax liability in excess of $25,000, as provided in present law.

The Treasury Department has serious questions regarding the effectiveness of the WIN tax credit provisions as a device for remedying the problem of hard-core unemployment. These provisions are estimated in the tax expenditure budget to cost $10 million annually, which implies $50 million in wages eligible for the credit and perhaps 10,000 employees, many of whom would presumably have been employed whether or not the credit existed. In any event, the tax system is not an apt mechanism for administering programs of such limited scope, and this observation obviously applies with particular force to the amendments that would be made by section 5 of the bill. In all likelihood, the tax credit will simply be a windfall in the few cases in which it will apply.

However, the bill's provisions are a distinct improvement over the Senate bill, which would have made the credit for employment in a child care program refundable and would have provided for an equivalent payment to tax-exempt employers. Moreover, section 5 of the bill is relatively unimportant in relation to the bill as a whole.

Accordingly, the Treasury Department would have no objection to approval of the bill and defers to those Departments more concerned with the main provisions of the bill dealing with standards for child care programs and the funding of such programs.

Sincerely yours,

Charles M. Walker

Charles M. Walker
Assistant Secretary

Director, Office of Management and Budget
Attention: Assistant Director for
Legislative Reference, Legislative
Reference Division
Washington, D.C. 20503

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

MAR 31 1976

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

Dear Mr. Lynn:

This is in response to your request of March 26, 1976, for a report on H.R. 9803, an enrolled bill "To facilitate and encourage the implementation by States of child day care services programs conducted pursuant to title XX of the Social Security Act, and to promote the employment of welfare recipients in the provision of child day care services, and for other purposes."

The enrolled bill, which we recommend be vetoed, is described in detail in the enclosed summary. Briefly stated, the bill's principal objectives are to induce the nationwide employment of AFDC eligibles to provide child day care services and to provide the States with additional amounts, under title XX of the Social Security Act, for meeting their expenses in complying with the title's again-to-be-postponed child day care requirements.

For these purposes the enrolled bill would first enlarge the current $2.5 billion annual ceiling for social services by an additional $62.5 million each for fiscal year 1976 and the transition quarter, allocating $12.5 million of this amount in each of those periods for distribution by the Secretary to those States that demonstrate a need for assistance in meeting the child day care staffing ratios. The States would be authorized to use the remainder either for unmatched "welfare recipient employment incentive expenses" (i.e., the costs of employing AFDC eligibles to provide day care services), or for child day care services at a Federal share that the bill would increase from 75 to 80 percent. A new tax credit of $1,000 per AFDC eligible (roughly speaking)

employed in connection with the provision of child day care services would be made available to each provider of day care services, without an aggregate limit, for offset against the provider's Federal income tax liability (if any).

Although the President's Budget does not provide for these additional amounts (amounts which would be entitlements for all practical purposes and would therefore add to non-controllable spending), we think that, from the standpoint of the Administration's recent social services block grant proposal (the Federal Assistance for Community Services Act), there is less objection to the additional expenditure than to the bill's long term consequence of perpetuating Federal child day care requirements that the Administration is seeking to replace with standards established by the States.

In this latter regard, we have twice acquiesced in the postponement of the effective date of the title XX day care requirements partly because the requirements have been called into considerable question on their merits. At substantial expense to the Treasury, the enrolled bill would nevertheless ultimately bring into effect child day care requirements of a rigor that exceeds demonstrable need.

Even apart from any question of the value of the requirements in particular cases, the enrolled bill, by earmarking money for child day care services, undercuts a principle central to the current title XX as well as the Administration's proposed amendments to it: that the States should retain the flexibility to make their own decisions on the best uses of Federal financial assistance for social services because the services are addressed to problems that are primarily the States' responsibility.

As we pointed out in our March 15 letter to Senator Scott, title XX was enacted in response to the States' long and hard-fought struggle to win this new flexibility. In approving the title, the President lauded it as a response to his call for communication, cooperation, conciliation and compromise between the States and the Federal Government. Then, in February of this year, the Administration proposed "the next important step toward further enhancing States' discretion and reducing

unnecessary Federal control over the States' exercise of that discretion". That step was the proposal of the Federal Assistance for Community Services bill.

Approval of H.R. 9803 could not readily be reconciled, therefore, with the Administration's announced social services policy.

Equally questionable is the enrolled bill's attempt to use title XX as a means of increasing the employment of AFDC eligibles. We do not debate the desirability of opening employment opportunities to persons who would otherwise be forced to resort to public assistance. In the best interests of children served by the program, however, persons who provide day care services should be selected wholly with regard to their qualifications. To introduce into title XX an incentive to employ persons in day care facilities without regard to their qualifications is therefore not in the children's best interests.

Moreover, each AFDC eligible who is so employed would be entitled to an annual disregard of $360 plus work-related expenses and one-third of her earnings, and would therefore, in many cases, remain on the public assistance rolls. She would also become entitled, by virtue of that employment to free day care for her children. Thus the economics of seeking to reduce the AFDC rolls in this fashion are not encouraging.

With respect to other aspects of the bill:

1. We support an extension of the current moratorium on continuing in effect the title XX day care staffing requirements. However, if the enrolled bill is vetoed we would expect its moratorium provision to be repassed as a freestanding law.

2. The desirability of a new tax credit for welfare recipient employment incentive expenses incurred in the provision of child day care services cannot be considered in isolation from the bill's establishment of the corresponding incentive expense grant under title XX. We believe the tax credit to be an inappropriate inducement because it encourages, to the exclusion of other means, an approach to the provision of child day care services that seems not to be in the best interests of the child.

3. We oppose the extension of authority to a State to waive the staffing standards in the case of facilities that are providing care for children not more than 20 percent of whom are charged to title XX. The use of that waiver would be patently unfair to the children in the facilities so benefited as compared to children in facilities that are caring for a larger proportion of title XX-assisted children.

4. Enactment of the proposed Federal Assistance for Community Services bill would eliminate title XX's strictures against using social services funds for medical or custodial services in alcohol and drug abuse programs. In light of the Administration's proposed FACS bill, we raise no objection to this.

5. Finally, the enrolled bill contains a substantial technical defect. As explained in the enclosed summary, Senator Long has attempted to correct this defect by a floor statement establishing the intent of section 3(d)(2) of the bill to limit the bill's increased Federal matching (from 75 to 80 percent) for child day care services to the $125 million by which the bill would increase title XX funding. Because this intent is so imperfectly rendered by the section, the bill instead appears to limit the "total amount of the Federal payments which may be paid to any State" for fiscal year 1976 and the transition quarter to a small fraction of the amount that would be paid under current law. Although we may choose to interpret this provision as the Congress probably intended to write it, it is open to question whether our interpretation would be sustained by the courts. Enactment of the enrolled bill may therefore, at least for a temporary period, disrupt title XX's administration.

* * *

For the reasons given we urge that the President return the bill to the Congress without his approval. A draft veto message is enclosed for consideration.

Sincerely,

Marjorie Lynch

Under Secretary

Enclosures

SUMMARY OF THE PROVISIONS OF ENROLLED BILL H.R. 9803

Extension of moratorium on day care staffing requirements

Section 2 of H.R. 9803 would extend the current moratorium on the application of title XX day care staffing requirements, contained in §2002(a)(9)(A)(ii) of the Social Security Act, from January 31, 1976, through June 30, 1976. The Social Services Amendments of 1974, Public Law 93-647, originally provided for the requirements to come into effect on July 1, 1975. This date was first postponed to August 1, 1975, by Public Law 94-46, and further postponed (under certain conditions) to February 1, 1976, by Public Law 94-120.

The Administration's proposed Federal Assistance for Community Services Act (H.R. 12175; S. 3061) would repeal the staffing requirements altogether, effective October 1, 1976, as well as the mandatory application of the Federal interagency day care requirements to day care services under titles XX, IV-A, and IV-B of the Social Security Act. In their place, a State that provides child day care services under title XX would be required to have in effect its own appropriate mandatory standards for all day care services provided under the title.

Increase of State limitation to include welfare recipient employment incentive expenses

Section 3 of the enrolled bill would increase each State's title XX allotment by up to 2 percent for fiscal year 1976 and up to 8 percent for the transition quarter. The increase (within those limits) would be equal to 80 percent of the State's title XX expenditures for child day care services, plus 100 percent of State grants to each "qualified provider of child day care services". The qualified provider must use the grant for what are known as "Federal welfare recipient employment incentive expenses" in connection with individuals in jobs related to the provision of child day care services in the provider's child day care facilities.

A qualified provider, for these purposes, is a provider of day care services to childen at least 20 percent of whom are receiving child day care services, in the facility with respect to which the State grant is made, paid for in whole or in part by title XX.

Individuals with respect to whom Federal welfare recipient employment incentive expenses may be incurred are, inter alia, those who (under current 26 U.S.C. 50B(g)) have been receiving AFDC for 90 days prior to the date that the provider first employed them. The State grant at the enriched matching rate may not be used to pay an individual a wage of more than $5,000 in the case of an employee of a public or nonprofit private provider of child day care services; nor, in the case of any other provider, of more than $4,000 or 80 percent of the employee's wage. Federal financial participation in the balance of salaries above these levels would be at the normal title XX 75 percent rate.

The new grants may not in the aggregate exceed the amount by which the title XX payments to the State are increased by the section (i.e., a maximum of 2 percent for FY 1976 and 8 percent for the TQ). Correspondingly, the additional Federal funds that become payable on account of the section must be used by each State, to the extent it determines feasible, to increase the employment of welfare recipients and other low-income persons to provide child day care services.

The section would also increase from 75 to 80 percent the title XX share of each State's child day care services expenditures for FY 1976 and the TQ. In connection with the increase, the section contains a paragraph (paragraph (2) of subsection (d)) that, according to a floor statement of Senator Long, is intended to operate as follows:

> The provisions of section 3(d)(2) of the bill as agreed to by the conferees are intended to operate only as a limitation on the provisions of section 3(d)(1). Thus, these two paragraphs

> taken together have the effect of increasing the Federal matching rate for child care services from 75 to 80 percent but making that increased matching applicable only to the additional $125 million in funding provided by this bill. There is no intent to in any way limit, restrict, or reduce the social services funding otherwise available to States under existing law. [Cong. Rec. for March 24, 1976, p. S 4169.]

The paragraph is also presumably intended to reduce that portion of a State's title XX grant matched at the 80 percent rate by the amounts paid under title XX at the 100 percent rate (i.e., by the payments for Federal welfare recipient employment incentive expenses with respect to individuals employed in jobs related to the provision of child day care services).

Unfortunately the provision is inexpertly drafted. Literally, it would limit each State's total title XX grant to the amount of the State's expenditures for child day care services, after reduction by the amount of the State's grants for Federal welfare recipient employment incentive expenses. Moreover, the grant could not exceed that portion of those expenditures (as so reduced) that are in excess of the amount that the State would receive for FY 1976 and the TQ under current law.

Increase of State allotments to enable States to comply with staffing requirements

Section 4 of the enrolled bill would require the Secretary, no later than 45 days after the bill's enactment, to determine the amount of additional Federal funds that are needed by the States to enable them to comply with the child day care services staffing ratios imposed by section 2002(a)(9)(A)(ii) of the Social Security Act for fiscal year 1976 and the transition quarter.

The section then provides for an aggregate increase in State allotments of $12.5 million for FY 76 and an equal amount for the TQ, to be distributed in accordance with the Secretary's determination of need previously described. If the Secretary's determination exceeds these amounts, each State's share (as

determined by its need) of the respective $12.5 million allotments is proportionately reduced. If the Secretary's determination of State need falls below the allotment ceiling, the difference is distributed on the basis of State population (like the current $2.5 billion allotment).

Tax credit for Federal welfare recipient employment expenses related to child day care services

Section 5 of the bill would provide a tax credit to providers of child day care services of up to $1,000 for each of the provider's "eligible employees". The tax credit would be for welfare recipient employment incentive expenses incurred, before October 1, 1976, with respect to that employee's services (if the employee is hired after the bill becomes law) in the provision of child day care services. As explained previously, an AFDC recipient would be an "eligible employee" for these purposes.

Section 50A of the Internal Revenue Code currently provides such a credit for eligible employees of any employer, except that the aggregate credit of an employer may not exceed so much of the taxpayer's liability for tax for the taxable year as equals $25,000 plus 50 percent of the employer's tax liability in excess of $25,000. The bill would retain the current credit, which applies only to services rendered before July 1, 1976.

Waiver of staffing standards

Section 6 of the enrolled bill would, for a temporary period, allow a State agency to waive the staffing requirements otherwise applicable to certain day care centers or group day care homes if the agency finds that it is not feasible for the center or home to comply with them, and the center or home complies with applicable State standards. A center would be eligible for the waiver if the care for not more than 20 percent of the facility's children is wholly or partly paid from title XX funds. A group day care home would be eligible for the waiver if the care for not more than five of its children were so paid for.

The waiver authority would expire with the beginning of fiscal year 1977. (Note that because of section 2 of the bill, the staffing requirements will not come into effect until July 1, 1976.)

Disregard of child in family day care home

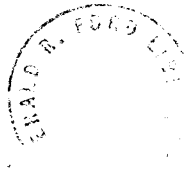
In addition to enacting the above-described waiver authority, section 6 of the enrolled bill would also provide that, in the case of applying the title XX day care services staffing requirements to family day care homes, the children of the mother operating the home shall not be counted unless they are under age 6. Like the waiver requirement, this exception would be effective only through the transition quarter.

Rehabilitative services for alcoholics and drug addicts

Section 2002(a)(7) of the Social Security Act now imposes a limit on Federal financial participation under title XX with respect to medical or remedial care and room and board. Essentially, the care must be an integral but subordinate part of a title XX service, the expenditure for which care is not available to the State under its Medicaid program. A related provision, section 2002(a)(11), prohibits payments under title XX for expenditures for the provision of services to any individual living in any hospital, subject to certain exceptions.

Public law 94-120, for the four-month period, October 1, 1975, through January 31, 1976, enacted an addition to the exceptions in section 2002(a)(11). The additional exception was for expenditures for up to 7 days of initial detoxification of an alcoholic or drug dependent individual. It also required that the entire rehabilitative process for ending the dependency of individuals who are alcoholics or drug addicts, including but not limited to initial detoxification, short-term residential treatment, and subsequent outpatient counseling and rehabilitative services, be used as the basis for determining whether the relevant section 2002(a)(7) standards are met.

Section 7 of the enrolled bill would make these P.L. 94-120 amendments permanent.



DRAFT VETO MESSAGE ON H.R. 9803

I am returning H.R. 9803 without my approval.

Enactment of this bill would not make day care services more widely available -- only more costly to the American taxpayer. It would demand the expenditure of $125 million over the next six months -- and lead to $250 million more each year thereafter -- and yet it would accomplish no more than to "solve" a problem of the Congress' own making.

But the Congress can solve that problem at no cost to the taxpayer, if it so chooses.

This bill would lock into Federal law highly controversial, and obviously costly, day care staff-to-children ratios, thereby denying States the right -- and the responsibility -- to establish and enforce their own staffing standards for Federally-assisted day care just as they now do with respect to teacher-pupil ratios in Federally-supported elementary and secondary schools. The principle is the same -- and yet the Congress has chosen, in this bill, to override this basic right of State government and impose instead a paternalistic rubric, at great cost to all taxpayers, on Federally-supported day care services.

The "double-think" in this bill is made all the more explicit in its earmarking of a specific portion of Federal social service funds available under title XX of the Social

Security Act for a specific purpose. The States and the voluntary service sector fought long and hard in the deliberations leading to enactment of title XX just a year ago to win the right to fashion both the form and the content of services they themselves choose to operate to meet their own priorities. In this bill, the Congress would renege on the title XX commitment to the prerogatives of the States by dictating not only how day care services are to be provided, but also how certain of those services are to be funded under title XX.

Moreover, this bill embodies a highly cynical provision under which some day care services would be provided without regard to the controls dictated for other day care services available to the same target population. This bill would effect this double standard by exempting from Federal rules those day care centers in which fewer than 20 percent of those served are eligible under title XX. This provision would have the inevitable effect of reducing the availability of day care services in some instances by encouraging day care centers to reduce the proportion of title XX-eligible children in their care to meet the "quota" Congress would set as the threshold for imposition of the onerous Federal staffing standards. In those centers not choosing to meet this Congressional loophole, the effect could well be an increase in day care costs to families who use these centers on a fee-paying basis. They would be, in effect, helping subsidize the high costs imposed on day care providers serving title XX-eligible children.

This bill would further complicate the States' administration of social services programs by introducing not only a higher matching rate for certain day care costs than for other title XX-supported services but also by creating yet another special tax incentive to encourage the hiring of welfare mothers. We now have, in the Federal tax laws, other mechanisms designed to promote the hiring of welfare recipients. We do not need yet another, especially one targeted as narrowly as the incentive that would be created under this bill.

While some proponents of this bill have argued that more Federal funds are needed to upgrade fire safety and health standards which apply to day care centers, the fact is that such standards are now, and would continue to be under this bill, established by State and local governments as part of their licensing and building codes governing buildings open to members of the public. The Federal government does not set special safety standards for schools, gymnasiums, movie theaters or other public or public-access buildings operated by States, localities or private organizations.

Rather than pursue the unwise course charted in this bill, I urge that the Congress extend, until October 1, 1976, the moratorium on imposition of Federal day care staffing standards it first voted last October in P.L. 94-120. This would give the Congress ample time to act on my proposal -- the Federal

Aid for Community Services Act, introduced as H.R. 12175 and S. 3061 -- under which States would establish and enforce their own day care staffing standards.

There is by no means unanimity as to the appropriateness or efficacy of the Federal day care standards this bill would perpetuate. Indeed, fewer than one in four of the States have chosen to follow them closely in the administration of their day care programs. And the Congress itself, in framing title XX, called upon the Department of Health, Education and Welfare to conduct an 18-month study of the appropriateness of these standards with a report on that study not due until after January 1, 1977. Further evidence of the controversial, costly nature of these standards was the enactment of P.L. 94-120 last October which suspended their enforcement until February 1 of this year. This bill would carry that extension forward to June 30 to give States time to begin spending the $125 million in new funds that would be provided to help States meet these standards.

It is clear that the States would prefer the right -- and the responsibility -- to establish and enforce their own day care standards. My Federal Aid for Community Services Act proposal would grant this prerogative along with greater State flexibility in all other aspects of their use of the $2.5 billion in Federal social services funds available annually under title XX.

This Administration is firmly committed to assisting States in the provision of social services they deem essential to meeting needs they themselves identify. We are opposed, however, to any approach in Federal law or regulation which would deny States the right to fashion those services in ways they believe will best meet those needs.

Gerald R. Ford

U. S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

WASHINGTON

March 31, 1976

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

Dear Mr. Lynn:

This is in response to your request for a report from this Department on the enrolled enactment of H.R. 9803, "To encourage and facilitate the implementation by States of child day care services programs conducted pursuant to title XX of the Social Security Act, and to promote the employment of welfare recipients in the provision of child day care services, and for other purposes."

This Department supports the basic objectives of this legislation, to provide for increased child day care opportunities so that parents may more readily enter the workforce, and to promote the employment of welfare recipients in child day care facilities. However, with respect to Presidential action on the specific provisions of H.R. 9803, we defer to those agencies more directly involved, such as the Departments of the Treasury, and Health, Education, and Welfare.

Sincerely,

W. J. Usery Jr.

Secretary of Labor

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

DATE: 4-6-76

TO: Bob Linder

FROM: Jim Frey

Attached is the Justice views letter on H.R. 49. Please have it included in the enrolled bill file. Thanks.

OMB FORM 38
REV AUG 73

ASSISTANT ATTORNEY GENERAL
LEGISLATIVE AFFAIRS

Department of Justice
Washington, D.C. 20530

April 5, 1976

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

Dear Mr. Lynn:

In compliance with your request, I have examined a facsimile of the enrolled bill H.R. 49, "To authorize the Secretary of the Interior to establish on certain public lands of the United States national petroleum reserves the development of which needs to be regulated in a manner consistent with the total energy needs of the Nation, and for other purposes".

The Department of Justice interposes no objection to the approval of this bill.

Sincerely,

Michael M. Uhlmann

Michael M. Uhlmann
Assistant Attorney General

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

DATE: 4-6-76

TO: Bob Linder

FROM: Jim Frey

Attached is the Interior views letter on H.R. 49. Please have it included in the enrolled bill file. Thanks.

OMB FORM 38
REV AUG 73

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

APR 5 - 1976

Dear Mr. Lynn:

This is in response to your request for the views of this Department with respect to an enrolled bill, H.R. 49, "To authorize the Secretary of the Interior to establish on certain public lands of the United States national petroleum reserves the development of which needs to be regulated in a manner consistent with the total energy needs of the Nation, and for other purposes."

The Department recommends that the bill be signed.

The bill will contribute to the President's energy independence program by providing for accelerated petroleum production from the Naval Petroleum Reserves 1, 2, and 3, and by requiring intensified study and exploration and the development of a program for ultimate production from NPR 4 in Alaska.

Title I of the bill would transfer jurisdiction of Naval Petroleum Reserve Number 4 in Alaska from the Department of the Navy to the Department of the Interior on June 1, 1977, and would rename the Reserve the "National Petroleum Reserve in Alaska." The bill provides for continued management of the Reserve by Navy until the transfer, assigns certain responsibilities to Interior in the interim and calls for cooperation between the two agencies during that time. There is to be no production from the Reserve, and no development leading to production, until a further act of Congress.

Title I of the bill also authorizes two separate studies of the Reserve. The first of these, to be conducted by such departments and agencies as the President shall direct, is for the purpose of determining the best of the possible alternatives for development, production, and distribution of petroleum resources in the Reserve. The study is to be completed no later than January 1, 1980.

Because of Interior's substantial responsibilities under this bill, including especially the management of the Reserve after the transfer, and because of Interior's current involvement and expertise in all

aspects of Alaskan affairs, including the management of public lands, wildlife, native affairs, and mineral and other natural resources, Interior is the logical and most qualified agency to lead this study.

The second study, to be conducted by a task force led by Interior, will consider other uses and values of the lands in the Reserve and is to be completed within three years from enactment of the bill.

Other provisions of Title I provide for accelerated exploration by Interior of the Reserve, continued exploration by Navy until the transfer, continued operation of the South Barrow gas field by Navy and Interior, and assistance to municipalities and villages impacted by study and exploration activities.

Title II of the bill provides for increased production from Naval Petroleum Reserves 1, 2, and 3, under the continued management of the Navy. Because it provides for additional domestic production of petroleum, this Title contributes to the President's energy independence program, and we therefore support it. Of concern to this Department, however, is the provision in Title II for a special petroleum reserves fund which is to be used for certain specified purposes associated with the reserves, including exploration and study of the National Petroleum Reserve in Alaska. Recommendations for appropriations from this fund are to be made by the President to the Congress independently of other budgetary recommendations. Since Interior will be directly affected by this recommendation, Interior should be consulted concerning it.

Interior has already begun to address responsibilities conferred on the Department by the legislation, including particularly: (1) immediate assumption of all responsibilities for the protection of environmental, fish and wildlife, historic or scenic values, and promulgation of regulations to provide such protection; (2) immediate cooperation with the Navy regarding the transfer and regarding interim management on matters of mutual concern; and (3) immediate establishment of a Task Force of appropriate Interior bureaus, and State and Native groups to study the values and uses of the lands in the Reserve. In addition we are assisting the FEA in implementing the preliminary study of NPR 4 authorized by the Energy Policy and Conservation Act of 1975 (89 Stat. 871).

H.R. 49 is highly desirable from the point of view of this Department as well as for its favorable implications for the President's energy program, and we strongly recommend its enactment.

Sincerely yours,

Assistant William L. Fisher
Secretary of the Interior

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

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: April 1 Time: 220pm

FOR ACTION: Spencer Johnson
Max Friedersdorf
Ken Lazarus
Robert Hartmann
Bill Seidman
David Lissy

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

(veto message attached) Joanne Hdm

FROM THE STAFF SECRETARY

DUE: Date: April 2 Time: 100pm

SUBJECT:

H.R. 9803 - Child Day Care Services under Title XX of the Social Security Act

ACTION REQUESTED:

____ 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

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

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

K. R. COLE, JR.
For the President

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: April 1 Time: 220pm

FOR ACTION: Spencer Johnson
Max Friedersdorf
Ken Lazarus
Robert Hartmann (veto message
Bill Seidman attached)
David Lissy

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: April 2 Time: 100pm

SUBJECT:

H.R. 9803 - Child Day Care Services under Title XX of the Social Security Act

ACTION REQUESTED:

____ For Necessary Action
____ Prepare Agenda and Brief
__x__ For Your Comments
____ For Your Recommendations
____ Draft Reply
____ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

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James M. Cannon
For the President

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: April 1 Time: 220pm

FOR ACTION: Spencer Johnson
Max Friedersdorf
Ken Lazarus
Robert Hartmann (veto message attached)
Bill Seidman
David Lissy

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: April 2 **Time:** 100pm

SUBJECT: 4/1 - 2:40 pm

H.R. 9803 - Child Day Care Services under Title XX of the Social Security Act

ACTION REQUESTED:

____ 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

4/1 - Copy sent to Bruce for researching. mm

Veto msg edited after conference w/ Sarah Mawengale 4/5/76

Rec'd 10:49 4/6

OR as amended

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

TO THE HOUSE OF REPRESENTATIVES

I am returning without my approval, H.R. 9803, a bill which would perpetuate rigid Federal child day care standards for all the States and localities in the Nation, with the cost to be paid by the Federal taxpayer.

I cannot approve legislation ~~that~~ which runs directly counter to a basic principle of government I strongly believe in and ~~which is supported by~~ ~~and the~~ American people support--restoring responsibility to State and local government and removing burdensome Federal restrictions.

I am firmly committed to providing Federal assistance to States for social services programs, including child day care. But I am opposed to unwarranted Federal interference in States' administration of these programs, and I ~~am also~~ remain opposed to ~~trying to solve~~ the problem of reducing a problem by throwing more Federal dollars at it.

The States should have the responsibility--and the right--to establish and enforce their own day care standards. My recently proposed Federal Assistance for Community Services Act would ~~assure~~ assert this principle, ~~along with~~ and with it greater State flexibility in ~~all~~ other aspects of the use of the $2.5 billion in Federal social services funds which are available annually under Title XX of the Social Security Act.

H.R. 9803 is the direct antithesis of my proposal. It would lock into Federal law highly controversial and costly day care staff-to-children ratios, thereby denying States the flexibility to establish and enforce their own staffing standards for federally assisted day care, just as they now do with respect to teacher-pupil ratios in federally supported elementary and secondary schools.

This bill would not make day care services more widely available, ~~only~~ It would only make them more costly to the American taxpayer. It

would demand the expenditure of $125 million over the next six months--and lead to $250 million more each year therafter.

H.R. 9803 would also earmark a specific portion of Federal social services funds available under Title XX of the Social Security Act for a narrow, categorical purpose. The States and ~~the~~ voluntary service organizations ~~sector fought long and hard~~ In the deliberations leading to enactment of Title XX a little over a year ago to win the right to fashion both the form and the content of services to be provided ~~they themselves choose to provide to meet~~ their own priorities. This bill would undermine the Title XX commitment to State initiative by dictating not only how day care services are to be provided, but also how ~~certain of~~ these services are to be financed under Title XX.

It would introduce two additional Federal matching rates for ~~certain~~ some day care costs that are higher than the rates for other Title XX-supported services, thereby further complicating the States' administration of social services programs. My proposal would, on the other hand, eliminate State matching requirements altogether.

Moreover, H.R. 9803 would create an unfair situation in which some child day care centers would operate under a different set of standards than other centers within the same State. Those day care centers in which fewer than 20 percent of those served are eligible under Title XX could be exempt from Federal day care standards. This provision would ~~have the inevitable~~ tend to have the effect of reducing the availability of day care services in some instances by encouraging day care centers to reduce the proportion of children in their care who are eligible under Title XX ~~in their care~~ in order to meet the "quota" set by H.R. 9803 ~~as the threshold for imposition of the onerous Federal standards~~. In those centers not choosing to take advan-

of this loophole, the effect could well be to increase day care costs to families who use these centers on a fee-paying basis. In effect, they would be ~~, in effect,~~ helping to subsidize the high costs imposed on day care providers serving Title XX-eligible children.

There is ~~by no means unanimity~~ considerable debate as to the appropriateness or efficacy of the Federal day care standards imposed by H.R. 9803. ~~would perpetuate~~. In fact, the bill recognizes ~~the~~ many of the questions ~~that have been raised about the standards~~ by postponing their enforcement for the third time, in this case to July 1 of this year. Fewer than one in four of the States have chosen to follow ~~the~~ these standards ~~closely~~ in the administration of their day care programs. ~~And~~ The Congress itself ~~apparently has doubts about these standards because~~ it has required by law that the Department of Health, Education, and Welfare conduct an 18-month study ending in 1977, to evaluate their appropriateness.

Rather than pursue the unwise course charted in this bill, I urge that the Congress extend, until October 1, 1976, the moratorium on imposition of Federal day care staffing standards that it voted last October. This would give the Congress ample time to enact my proposed Federal Assistance for Community Services Act, under which States would establish and enforce their own day care staffing standards and [illegible] their social services programs in ways they believe will best meet the needs of their citizens.

THE WHITE HOUSE

April , 1976

THE HOUSE OF REPRESENTATIVES

I am returning without my approval, H.R. 9803, a bill which would perpetuate rigid Federal child day care standards for all the States and localities in the Nation, with the cost to be paid by the Federal taxpayer.

I cannot approve legislation that runs directly counter to a basic principle of government I strongly believe in and the American people support--restoring responsibility to State and local government and removing burdensome Federal restrictions.

I am firmly committed to providing Federal assistance to States for social services programs, including child day care. But I am opposed to unwarranted Federal interference in States' administration of these programs, and I am also opposed to trying to solve a problem by throwing more Federal dollars at it.

The States should have the responsibility--and the right--to establish and enforce their own day care standards. My recently proposed ~~Federal~~ FINANCIAL Assistance for Community Services Act would assure this principle, along with greater State flexibility in all other aspects of the use of the $2.5 billion in Federal social services funds available annually under Title XX of the Social Security Act.

H.R. 9803 is the direct antithesis of my proposal. It would lock into Federal law highly controversial and costly day care staff-to-children ratios, thereby denying States the flexibility to establish and enforce their own staffing standards for federally assisted day care, just as they now do with respect to teacher-pupil ratios in federally supported elementary and secondary schools.

This bill would not make day care services more widely available--only more costly to the American taxpayer. It

would demand the expenditure of $125 million over the next six months--and lead to $250 million more each year therafter.

H.R. 9803 would also earmark a specific portion of Federal social services funds available under Title XX of the Social Security Act for a narrow, categorical purpose. The States and the voluntary service sector fought long and hard in the deliberations leading to enactment of Title XX a little over a year ago to win the right to fashion both the form and the content of services they themselves choose to provide to meet their own priorities. This bill would undermine the Title XX commitment to State initiative by dictating not only how day care services are to be provided, but also how certain of these services are to be financed under Title XX.

It would introduce two additional Federal matching rates for certain day care costs that are higher than the rates for other Title XX-supported services, thereby further complicating the States' administration of social services programs. My proposal would, on the other hand, eliminate State matching requirements altogether.

Moreover, H.R. 9803 would create an unfair situation in which some child day care centers would operate under a different set of standards than other centers within the same State. Those day care centers in which fewer than 20 percent of those served are eligible under Title XX could be exempt from Federal day care standards. This provision would have the inevitable effect of reducing the availability of day care services in some instances by encouraging day care centers to reduce the proportion of children eligible under Title XX in their care to meet the "quota" set by H.R. 9803 as the threshold for imposition of the onerous Federal standards. In those centers not choosing to take advan-

of this loophole, the effect could well be to increase day care costs to families who use these centers on a fee-paying basis. They would be, in effect, helping subsidize the high costs imposed on day care providers serving Title XX-eligible children.

There is by no means unanimity as to the appropriateness or efficacy of the Federal day care standards H.R. 9803 would perpetuate. In fact, the bill recognizes the many questions that have been raised about the standards by postponing their enforcement for the third time, in this case to July 1 of this year. Fewer than one in four of the States have chosen to follow the standards closely in the administration of their day care programs. And the Congress itself apparently has doubts about these standards because it has required by law that the Department of Health, Education, and Welfare conduct an 18-month study ending in 1977, to evaluate their appropriateness.

Rather than pursue the unwise course charted in this bill, I urge that the Congress extend, until October 1, 1976, the moratorium on imposition of Federal day care staffing standards that it voted last October. This would give the Congress ample time to enact my proposed Federal Assistance for Community Services Act, under which States would establish and enforce their own day care staffing standards and fashion their social services programs in ways they believe will best meet the needs of their citizens.

THE WHITE HOUSE

April , 1976

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: April 1 Time: 220pm

FOR ACTION: Spencer Johnson
Max Friedersdorf
Ken Lazarus
Robert Hartmann (veto message
Bill Seidman attached)
David Lissy

cc (for information): Jack Marsh
Jim Cavanaugh
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: April 2 Time: 100pm

SUBJECT:

H.R. 9803 - Child Day Care Services under Title XX of the Social Security Act

ACTION REQUESTED:

_____ 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

Disapproved JWS

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. C...
For the Pres...

THE WHITE HOUSE

WASHINGTON

April 2, 1976

MEMORANDUM FOR: JIM CAVANAUGH

FROM: MAX L. FRIEDERSDORF

SUBJECT: H.R. 9803 - Child Day Care Services under Title XX of the Social Security Act

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

Attachments

THE HOUSE OF REPRESENTATIVES

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I cannot approve legislation ~~that~~ which runs directly counter to a basic principle of government ~~in~~ in which I strongly believe ~~and the American people support~~ -- ~~restoring~~ the vesting of responsibility ~~to~~ in State and local government and removing the burdensome Federal restrictions.

I am firmly committed to providing Federal assistance to States for social services programs, including child day care. But I am opposed to unwarranted Federal interference in States' administration of these programs, ~~and I am also opposed to trying to solve a problem by throwing more Federal dollars at it.~~

The States should have the responsibility--and the right--to establish and enforce their own quality day care standards. My recently proposed Federal Assistance for Community Services Act would ~~assure~~ adopt this principle, ~~along with~~ and with it greater State flexibility in ~~all~~ other aspects of the use of ~~the $2.5 billion in Federal~~ social services funds available ~~annually~~ under Title XX of the Social Security Act.

H.R. 9803 is the ~~direct~~ antithesis of my proposal. It would ~~lock into Federal law~~ make permanent highly controversial and costly day care staff-to-children ratios. And it would thereby ~~deny~~ the States the flexibility to establish and enforce their own staffing standards for federally assisted day care, ~~just as they now~~ do with ~~respect to teacher-pupil~~ ratios in ~~federally supported~~ elementary and secondary schools.

This bill would not make day care services more widely available, ~~only~~ but it would only make them more costly to the American taxpayer. It

would demand the expenditure of $125 million over the next six months, and lead to $250 million more each year thereafter.

H.R. 9803 would also ~~earmark a specific~~ specify that a portion of Federal social services funds be available under Title XX of the Social Security Act for a narrow, categorical purpose. The States and the voluntary service ~~sector~~ organizations fought ~~long and~~ hard in the deliberations leading to enactment of Title XX ~~a little~~ over a year ago to win the right to ~~fashion~~ determine both the form and the content of services ~~they themselves choose to provide to meet~~ to be provided according to their own priorities. This bill would undermine the Title XX commitment to State initiative by dictating not only how day care services are to be provided, but also how ~~certain of these services~~ they are to be financed under Title XX.

It would introduce two additional Federal matching rates for ~~certain~~ some day care costs that are higher than the rates for other Title XX-supported services, thereby further complicating the States' administration of social services programs. My proposal would, on the other hand, eliminate State matching requirements altogether.

Moreover, H.R. 9803 would create an unfair situation in which some child day care centers would operate under a different set of standards than other centers within the same State. Those day care centers in which fewer than 20 percent of those served are eligible under Title XX could be exempt from Federal day care standards. This provision would have the ~~inevitable~~ probable effect in some instances of reducing the availability of day care services ~~in some instances~~ by encouraging day care centers to reduce the proportion of children eligible under Title XX in their care who are in order ~~in their care~~ to meet the "quota" set by H.R. ~~as the threshold for imposition of the onerous Federal~~ standards. In those centers not choosing to take ad-

of this loophole, the effect could well be to increase day care costs to families who use these centers on a fee-paying basis. They would be, ~~in effect,~~ helping subsidize the high costs imposed on day care providers serving Title XX-eligible children.

There is ~~by no means unanimity~~ considerable debate as to the appropriateness or efficacy of the Federal day care standards ~~would perpetuate~~ proposed by H.R. 9803. In fact, the bill recognizes the many of these questions ~~that have been raised about the standards~~ by postponing their enforcement for the third time, in this case to July 1 of this year. Fewer than one in four of the States have chosen to follow ~~the~~ these standards closely in the administration of their day care programs. ~~And~~ The Congress itself ~~apparently has doubts about these standards because~~ it has required by law that the Department of Health, Education, and Welfare conduct an 18-month study ending in 1977, to evaluate their appropriateness.

Rather than pursue the unwise course charted in this bill, I urge that the Congress extend, until October 1, 1976, the moratorium on imposition of Federal day care staffing standards that it voted last October. This would give the Congress ample time to enact my proposed Federal Assistance for Community Services Act, under which States would establish and enforce their own day care staffing standards and operate their social services programs in ways they believe will best meet the needs of their citizens.

THE WHITE HOUSE

April , 1976

To- J. Cavanaugh
4-1-76
1:30 P.M.

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

APR 1 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 9803 - Child day care services under Title XX of the Social Security Act
Sponsor - Rep. Jones (D) Oklahoma and 6 others

Last Day for Action

April 6, 1976 - Tuesday

Purpose

Postpones until July 1, 1976 enforcement of child day care staffing standards contained in the Title XX social services program; increases the $2.5 billion annual ceiling on Title XX outlays by $125 million through September 30, 1976 for child day care services and raises the Federal matching rate for these services; provides incentives for employment of welfare recipients by child day care providers including extension of present tax credit provisions; and makes other changes in Title XX.

Agency Recommendations

Office of Management and Budget	Disapproval (Veto message attached)
Department of Health, Education, and Welfare	Disapproval (Veto message attached)
Council of Economic Advisers	Disapproval
Department of Commerce	No objection
Department of the Treasury	No objection and defers
Department of Labor	Defers to other agencies

Discussion

Although the enrolled bill bears a House number, it is essentially similar to the Senate-passed version of this legislation initiated by Senators Long and Mondale. The House passed its version of H.R. 9803 by voice vote last September, which would have simply postponed enforcement of the Federal

TO THE HOUSE OF REPRESENTATIVES

I am returning without my approval, H.R. 9803, a bill which would perpetuate rigid Federal child day care standards for all the States and localities in the Nation, with the cost to be paid by the Federal taxpayer.

I cannot approve legislation that runs directly counter to a basic principle of government I strongly believe in and the American people support--restoring responsibility to State and local government and removing burdensome Federal restrictions.

I am firmly committed to providing Federal assistance to States for social services programs, including child day care. But I am opposed to unwarranted Federal interference in States' administration of these programs, and I am also opposed to trying to solve a problem by throwing more Federal dollars at it.

The States should have the responsibility--and the right--to establish and enforce their own day care standards. My recently proposed Federal Assistance for Community Services Act would assure this principle, along with greater State flexibility in all other aspects of the use of the $2.5 billion in Federal social services funds available annually under Title XX of the Social Security Act.

H.R. 9803 is the direct antithesis of my proposal. It would lock into Federal law highly controversial and costly day care staff-to-children ratios, thereby denying States the flexibility to establish and enforce their own staffing standards for federally assisted day care, just as they now do with respect to teacher-pupil ratios in federally supported elementary and secondary schools.

This bill would not make day care services more widely available--only more costly to the American taxpayer. It

would demand the expenditure of $125 million over the next six months--and lead to $250 million more each year therafter.

H.R. 9803 would also earmark a specific portion of Federal social services funds available under Title XX of the Social Security Act for a narrow, categorical purpose. The States and the voluntary service sector fought long and hard in the deliberations leading to enactment of Title XX a little over a year ago to win the right to fashion both the form and the content of services they themselves choose to provide to meet their own priorities. This bill would undermine the Title XX commitment to State initiative by dictating not only how day care services are to be provided, but also how certain of these services are to be financed under Title XX.

It would introduce two additional Federal matching rates for certain day care costs that are higher than the rates for other Title XX-supported services, thereby further complicating the States' administration of social services programs. My proposal would, on the other hand, eliminate State matching requirements altogether.

Moreover, H.R. 9803 would create an unfair situation in which some child day care centers would operate under a different set of standards than other centers within the same State. Those day care centers in which fewer than 20 percent of those served are eligible under Title XX could be exempt from Federal day care standards. This provision would have the inevitable effect of reducing the availability of day care services in some instances by encouraging day care centers to reduce the proportion of children eligible under Title XX in their care to meet the "quota" set by H.R. 9803 as the threshold for imposition of the onerous Federal staffing standards. In those centers not choosing to take advantage

of this loophole, the effect could well be to increase day care costs to families who use these centers on a fee-paying basis. They would be, in effect, helping subsidize the high costs imposed on day care providers serving Title XX-eligible children.

There is by no means unanimity as to the appropriateness or efficacy of the Federal day care standards H.R. 9803 would perpetuate. In fact, the bill recognizes the many questions that have been raised about the standards by postponing their enforcement for the third time, in this case to July 1 of this year. Fewer than one in four of the States have chosen to follow the standards closely in the administration of their day care programs. And the Congress itself apparently has doubts about these standards because it has required by law that the Department of Health, Education, and Welfare conduct an 18-month study ending in 1977, to evaluate their appropriateness.

Rather than pursue the unwise course charted in this bill, I urge that the Congress extend, until October 1, 1976, the moratorium on imposition of Federal day care staffing standards that it voted last October. This would give the Congress ample time to enact my proposed Federal Assistance for Community Services Act, under which States would establish and enforce their own day care staffing standards and fashion their social services programs in ways they believe will best meet the needs of their citizens.

THE WHITE HOUSE

April , 1976