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mileage expenses of the employees in moving their household from Norfolk to Seattle to be included in computing the total transportation and moving expenses to which they are entitled. In effect, the bill will make possible payments to the employees in accordance with the administrative memorandum originally issued to them prior to their move.

"The committee is impressed by the statement in the Department of Commerce report that the employees named in the bill relied in good faith on erroneous administrative advice to the effect that they could make the second trip from Norfolk to Seattle to move their household effects and that they would be reimbursed for their expenses of that trip. The Department further expressly stated that the enactment of the bill "is justified in order to avoid an inequitable situation which would otherwise exist." The Department therefore recommended that the bill be enacted with the amendment recommended by the committee that the travel expenses of each of the named persons be computed or recomputed "to provide payment of mileage traveled in privately owned vehicles at a rate not to exceed 12 cents per mile per diem at a rate not to exceed \$16 per day for actual traveltime between duty stations not to exceed 8½ days."

"The Department further advised the committee that it estimated that the total costs involved in this computation would be estimated at \$6,000.

"It is recommended that the bill be considered favorably."

In agreement with the views of the House of Representatives, the committee recommends that H.R. 1316, as amended, be favorably considered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT OF THE SOCIAL SECURITY ACT

The Senate resumed the consideration of the bill (H.R. 3153) to amend the Social Security Act to make certain technical and conforming changes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the vote on the Mondale amendment be delayed an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum—Mr. President, I withhold that request.

Mr. CRANSTON. Mr. President, I ask unanimous consent that Louise Ringwald

be given the privileges of the floor during debate and consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TAFT. Mr. President, I ask unanimous consent that Rod Solomon be given the privilege of the floor during debate and consideration and the vote on this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MONDALE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, I ask unanimous consent that I may modify my amendment.

When that request is granted, I will describe my modifications.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Minnesota? The Chair hears none, and it is so ordered. The amendment is so modified.

Will the Senator please send his modification to the desk?

Mr. MONDALE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. DOMINICK. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard and the clerk will state the amendment.

The assistant legislative clerk read as follows:

At the appropriate place in the bill, insert the following new section:

Sec. . Title IV—A of the Social Security Act is amended by adding at the end thereof the following new section:

"CHILD CARE STANDARDS

"Sec. . Child day care services provided under the Social Security Act shall meet the following standards: (1) in-home care shall meet standards established by the State, reasonably in accord with recommended standards of national standards-setting organizations (such as the Child Welfare League of America and the National Council of Homemaker-Home Health Aid Services), and (II) out-of-home day care facilities shall be licensed by the State or approved as meeting the standards for such licensing, and shall comply with the requirements of section 422(a)(1) of the Social Security Act and the provisions of the Federal Interagency Day Care Requirements of 1968, and provided that subdivision III of such requirements with respect to educational services shall be recommended to the States and not required, and that staffing standards for children aged ten and above in day-care centers may be revised by the Secretary, provided that for children ten to fourteen such standards shall in no case require fewer than one adult to twenty children, and for school-aged children nine and less years of age shall in no case require fewer than one adult to fifteen children.

Mr. MONDALE. Mr. President—

The PRESIDING OFFICER. The

Chair will state that there is no time for debate on this amendment. The time for the vote has arrived.

Mr. MONDALE. Mr. President, I ask unanimous consent for 2 minutes on the amendment, because I think this compromise now takes away all or most of the controversy.

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. Mr. President, reserving the right to object, may I have 2 minutes?

Mr. MONDALE. I ask for 4 minutes, and I would like 2 of them.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MONDALE. Mr. President, I have talked with the distinguished floor manager, and I have made two changes in the pending amendment which I believe makes the amendment, as revised, acceptable to the chairman of the Finance Committee.

The first change would be to recommend to the States that day care programs include an educational component, but not to require that the States provide an educational component. Right now, the standards require it.

Second, we say that for school age children in after-hours day care centers, the staff ratios could be changed from what the day care standards now require. Under the modification, for children age 9 and below in day care centers, you could have 1 staff person for 15, whereas you must now have 1 staff person for 10; and for children over 9, you could have a staff ratio of 1 adult to 20, whereas the present regulations require 1 staff person for 10.

In a sense, we go a substantial way toward meeting the criticisms of our amendment by the distinguished chairman of the Finance Committee, and I hope that, as revised, it might have the support of the chairman.

Mr. CURTIS. Mr. President, I think we should have our attention called to the fact that we are running far afield in legislating. If a community wants to admit one more child to a day care center, they have to get an act of Congress to do it.

By the Senator's proposal, we do not delegate to the Secretary the authority to lay down regulations for the conduct of day care. We fix into law how many teachers or supervisors or custodians shall be required.

The time may come when some Senators will receive letters asking them to amend the law so that a day care center can take in one more child.

Mr. President, this is not a proper subject of legislation. The issue is, shall the regulations on day care be handled by the Federal Government or by the States? I happen to believe that it should be by the States. But to those who believe that it should be done by the Federal Government, I submit that the amended amendment is worse than the amendment itself. I think it should be defeated and that time should be given for it to be revised again.

Mr. LONG. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

The PRESIDING OFFICER. There is no further time.

Mr. LONG. Mr. President, I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. LONG. Mr. President, I believe that the vote on this amendment will be close, unless there is a compromise or agreement, and it is difficult to say how the Senate decision will go. I think the Senator's proposal is a fair compromise.

The Senator's amendment, as modified, would rely upon State law in several situations. In the health area, it would provide for the general requirements for sanitation and public health which are in existing State laws. The original amendment provides that provision must be made for education services under the supervision of a staff member trained or experienced in the field. But the modification, I think, would place the staffing requirements within the limits that the State could manage.

I discussed this matter and explained yesterday that with regard to small children, the amendment as first offered could double or even triple the staffing requirements, and the Senator has agreed to change that, in a spirit of compromise. He has modified his amendment so that in the area of school-age children it would present a problem for only 16 States. I think the States can comply with the modification.

It seems to me that in view of the fact that there is a strong degree of support for the amendment, this is a good compromise. I do not think any of us could expect to have our way entirely in these matters. The Senator certainly does not expect to have his way in all respects in taking the position he is offering here. I think we would be well advised to meet him half way on it.

Mr. HOLLINGS. Mr. President, as a cosponsor of this amendment, I rise to support it and urge its adoption. I listened with interest yesterday to the debate surrounding this proposal, and I would now respond to the criticisms raised.

The opponents of this amendment say that it will cost too much. But the question of cost for social services has already been settled, by the members of the Finance Committee, including the opponents of this amendment. This committee and the Senate as a whole has set a ceiling on the amount of Federal dollars which can be expended for social services. Hence, we are not talking about a cost to the Federal Government or to the American taxpayer. What we are talking about here is how this money should be spent. Are we fashioning the program whereby children can receive the kind of care which they need in an institutional setting? Certainly that is the case.

The question is what are the minimal amounts which need to be spent in order to guarantee that the children will receive the kinds of services and the quality of care to which they are entitled? Obviously, to do something right takes more money than to do it halfway or inadequately. We have a responsibility

to the parents who need these day care centers to insure that when they entrust their children to the care of a facility funded with Federal dollars it will meet certain minimum standards of care. As the proponents of the amendment have repeatedly pointed out, the standards to which we are now addressing ourselves have been in effect since 1968 and were promulgated after consultation with all groups having expertise in the area of child care. Hence, they reflect what the experts feel children need in order to receive proper care.

Opponents of the amendment also contend that the Federal Government cannot and should not set standards in this area and that rather, the States have the authority and responsibility to set the standards for child care centers. This argument ignores the obvious fact that Congress has on many occasions initiated standards directed toward assuring the safety and well-being of our children. I would cite only a few examples such as the Flammable Fabrics Act, which required the children's nightwear meet certain standards of flammability, the food and drug laws which protect the quality of food and medicines which our children consume, and the recently created Product Safety Commission which is directed to set standards for the safety of toys so that our children will not be injured and killed as a result of unsafe toys.

It is Congress which has set the goal, through the social services program, to establish and maintain, with Federal funds, day care centers in order to encourage families to break the welfare cycle. By giving their children a wholesome place to stay during the day, we hope to encourage the mothers to get off of welfare and begin to earn a living for their family or to supplement the marginal income of her husband so that the family can lift itself up. Since we have undertaken this task, we have a responsibility to these families and to their children of insuring that the task is done properly. We must see that the children receive the best possible care. We are not asking for gold-plated care; we do not want one "nanny" for each child, but any mother with three or four youngsters knows the demands that they make, and to ask, for example, that there be one adult to care for each five or six children of 1 to 2 years of age is certainly not extravagant. Understaffed centers, poor sanitation, inadequate heating or lighting, dangerous facilities are certainly not situations which we want to tolerate or perpetuate with the Federal dollar. With inadequate facilities, we can do positive harm to these young children. With adequate facilities, we can do positive good.

We have, therefore, a responsibility to insure that the program is carried out in a meaningful, responsible manner. By keeping in effect the Federal standards that were set in 1968, we are assuming that responsibility and guaranteeing the quality of care that our children deserve. If we were in fact treading on the States' toes, we would certainly hear the opposition of the Governors of the States. With respect to this amendment, Mr. President, the opposite is true, namely,

the National Governors' Conference has endorsed these standards, as a part of the social services amendments introduced in October, S. 2528. In addition the standards have been thrice adopted by the Senate.

My colleague from New York (Mr. BUCKLEY) has put this amendment in its most precise perspective. He contends, and I think rightly so, that regardless of your opinion concerning day care centers, if we are in fact going to fund such centers through a Federal program, we have a responsibility to the recipients of this Federal aid, the low income children, to see that the Federal aid is distributed in a safe, healthy and proper manner. This is all the standards do. It is a commendable goal, and I urge my colleagues to again approve its adoption.

Mr. ROTH. Mr. President, I called Dr. Miklos T. Lazar, director of Social Services Division, Health and Social Services Department, State of Delaware, for his comments on the proposed amendment. Dr. Lazar advised me as follows:

The State of Delaware favors retention of the 1968 Federal Interagency Day Care Requirements with some adaptations. The Federal Interagency Day Care Requirements provide a solid base from which each state can further develop its own Day Care Program. The removal of such requirements would give too much latitude to the individual states and would, therefore, open the stage for a weakening of the Nation's Day Care Programs.

In order to realistically accommodate the needs and capabilities of Day Care providers, revisions may be needed in the area of staff-child ratios. Provided steps are taken to assess the competencies of the Day Care staff, a slight reduction of the number of adults required would have the effect of lowering the cost of Day Care significantly, without jeopardizing the quality of care. In addition, a payment ceiling scale, adjusted according to geographic areas, should be developed to ensure quality care at a reasonable cost.

In conjunction with a revision of Day Care standards, specific guidelines, which currently do not exist, should be made available to the states so that they can effectively enforce these standards.

Mr. President, I intend to vote for the amendment.

Mr. DOMENICI. Mr. President, I would like to urge my colleagues' support for amendment No. 724 to H.R. 3153 which would simply maintain minimal standards to assure that federally assisted day care programs do not harm children. These standards have been in effect for 5 years.

As I understand it, the committee bill, without this amendment would drop entirely all standards for day care centers. No protections would be required for young children served by these programs.

Mr. President, I have listened to the debate among my colleagues and I have also read and been aware of many serious instances of deplorable child care conditions in some States due to the lack of proper minimal standards. In my own State of New Mexico, centers are already complying with the 1968 Federal interagency day care requirements. I do not see any reason to back away from these sensible requirements.

It seems only reasonable and honorable to insure adequate care and facilities to all our Nation's children entrusted

in the care of day care centers and I would hope my colleagues agree.

The PRESIDING OFFICER. All time on the amendment has expired.

The question is on agreeing to the amendment of the Senator from Minnesota, as amended. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Mexico (Mr. MONTOYA), the Senator from Texas (Mr. BENTSEN), and the Senator from Iowa (Mr. CLARK) are necessarily absent.

I also announce that the Senator from Missouri (Mr. SYMINGTON) is absent because of illness.

I further announce that, if present and voting, the Senator from Wyoming (Mr. MCGEE) and the Senator from Iowa (Mr. CLARK) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Virginia (Mr. WILLIAM L. SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The Senator from Idaho (Mr. McCLURE) and the Senator from Oregon (Mr. PACKWOOD) are absent on official business.

The Senator from Wyoming (Mr. HANSEN) and the Senator from Ohio (Mr. SAXBE) are detained on official business.

The result was announced—yeas 67, nays 20, as follows:

[No. 526 Leg.]

YEAS—67

Abourezk	Gravel	Mondale
Aiken	Griffin	Moss
Bayh	Gurney	Muskie
Beall	Hart	Nelson
Bible	Hartke	Pastore
Biden	Haskell	Pearson
Brock	Hatfield	Pell
Brooke	Hathaway	Fercy
Buckley	Hollings	Proxmire
Burdick	Huddleston	Randolph
Byrd, Robert C.	Hughes	Ribicoff
Cannon	Humphrey	Roth
Case	Inouye	Schweiker
Chiles	Jackson	Scott, Hugh
Church	Javits	Stafford
Cook	Johnston	Stevens
Cranston	Kennedy	Stevenson
Dole	Long	Taft
Domenici	Magnuson	Tunney
Dominick	Mansfield	Weicker
Eagleton	Mathias	Williams
Fong	McIntyre	
Fulbright	Metcalf	

NAYS—20

Allen	Curtis	McClellan
Bartlett	Eastland	Nunn
Bellmon	Ervin	Sparkman
Bennett	Fannin	Stennis
Byrd,	Goldwater	Talmadge
Harry F., Jr.	Helms	Thurmond
Cotton	Hruska	Tower

NOT VOTING—13

Baker	McGee	Scott,
Eentzen	McGovern	William L.
Clark	Montoya	Symington
Hansen	Packwood	Young
McClure	Saxbe	

So Mr. MONDALE's amendment (No. 724), as modified, was agreed to.

Mr. MONDALE. Mr. President, there is an amendment at the desk which I call up and ask unanimous consent to have its reading dispensed with.

The PRESIDING OFFICER. Is there objection?

Mr. CURTIS. Mr. President, reserving the right to object, is this a printed amendment?

Mr. MONDALE. This is not a printed amendment. I understood the Senator from Nebraska was a cosponsor. It is an amendment which I understand is acceptable to the committee. It deals with the appeals procedure for nursing homes and hospitals.

Mr. CURTIS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment offered by Mr. MONDALE for himself, Mr. TALMADGE, Mr. DOLE, and Mr. GURNEY, is as follows:

On page 153, after line 23, insert the following:

JUDICIAL REVIEW OF DECISIONS OF PROVIDER REIMBURSEMENT REVIEW BOARD

SEC. 183. (a) Section 1878(f) of the Social Security Act is amended to read as follows:

"(f) (1) A decision of the Board shall be final unless the Secretary, on his own motion, and within 60 days after the provider of services is notified of the Board's decision reverses, affirms, or modifies the Board's decision. Providers shall have the right to obtain judicial review of any final decision of the Board, or of any reversal, affirmation, or modification by the Secretary, by a civil action commenced within 60 days of the date on which notice of any final decision by the Board or of any reversal, affirmation or modification by the Secretary is received. Such action shall be brought in the district court of the United States for the judicial district in which the provider is located or in the District Court for the District of Columbia and shall be tried pursuant to the applicable provisions under chapter 7 of title 5, United States Code, notwithstanding any other provisions in section 205.

"(2) Where a provider seeks judicial review pursuant to paragraph (1), the amount in controversy shall be subject to annual interest beginning on the first day of the first month beginning after the 180 day period as determined pursuant to subsection (a) (3) and equal to the rate of return of equity capital established by regulation pursuant to section 1861(v) (1) (E) and in effect at the time the civil action authorized under paragraph (1) is commenced, to be awarded by the reviewing court in favor of the prevailing party.

"(3) No interest awarded pursuant to paragraph (2) shall be deemed income or cost for the purposes of determining reimbursement due providers under this Act."

(b) Notwithstanding any other provision of law, section 1878 of the Social Security Act shall not be construed as affecting any right to judicial review which may otherwise be available under law to providers of services with respect to cost reports for accounting periods ending prior to June 30, 1973.

Mr. FONG. Mr. President, will the Senator yield?

Mr. MONDALE. I yield.

Mr. FONG. Mr. President, I ask unanimous consent that Mr. Seto, of the staff, be allowed the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MONDALE. Mr. President, this is an amendment which I would have raised in the committee—Mr. President, may I have order?

The PRESIDING OFFICER. The Senate will come to order. The Senator will

suspend until the Chamber has come to order. Will those Senators who are conversing in the Chamber please remove themselves from the Chamber?

The Senator will suspend temporarily until we have had complete order.

The Senator will resume.

Mr. MONDALE. Mr. President, this is an amendment that I would have raised in committee, but there were some technical problems and we worked those out with the staff of the Finance Committee. I understand the amendment is now acceptable to the floor manager. As I understand it, the Department of HEW no longer objects.

It is designed to deal with what I think was an error in the social security amendments passed a few years ago.

The purpose of my amendment to H.R. 3153 is to make certain modifications in section 1878 of the Social Security Act in order to clarify the rights granted to providers of services to obtain administrative and judicial review of disputed reimbursement issues under medicare.

Last year's social security amendments, Public Law 92-603, established in section 1878 a provision for a Provider Reimbursement Review Board to hear appeals involving disputed reimbursement amounts. Under that provision, providers of services were granted judicial review only in the limited instance wherein the Secretary of HEW on his own motion, reverses or modifies a decision of the Board that was favorable to the provider. There was no provision for judicial review of Board decisions that are unfavorable to a provider.

The amendment which I am offering would correct this inequity by offering to providers the right of judicial review of any Board decision or subsequent modification or reversal by the Secretary.

This amendment would not alter in any way the administrative appeals procedures currently provided for in section 1878 of the act. Although the scope of judicial review in the medicare program would be broadened by my amendment, I do not anticipate that this would result in any significant increase in litigation. Section 1878 contains adequate safeguards against frivolous civil actions and protects the operational integrity of the program.

This amendment provides appeals for nursing homes and hospitals when they feel they have been aggrieved by certain decisions. This amendment is offered to correct that inequity and I think would be in the interest of justice. I understand the amendment will be taken by the committee.

Mr. NELSON. Mr. President, the amendment has been examined by the staff and is acceptable to the minority and majority sides. I think it serves an appropriate way of providing an appeal procedure. So, acting in behalf of the manager of the bill, I will accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President,