

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

3615 HSTA DAY CARE IN STATE BUILDINGS (FILE 1)


491



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Date

DAY CARE

IN STATE

BUILDINGS

FILE 1



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

Pouch Y, State Capitol  
Juneau, Alaska 99811  
(907) 465-3991

March 28, 1985

MEMORANDUM

TO: Representative Kate Hurley

ATTN: Patti Macklin

FROM: Rob Waldman *RW*  
Legislative Analyst

RE: Child Care Centers  
Research Request 85-253

You asked that we provide information on child care programs operated by other state governments and by private industry. The attached data was obtained from the National Conference of State Legislatures, the Empire State Day Care Program (New York), Alaska Women's Commission, the Child Care Program section of the Department of Community and Regional Affairs, and the Department of Administration.

I hope that this information is useful to you. It is anticipated that additional information will be forthcoming, and it will be forwarded. If you have any questions, please contact us.

RW

Attachments



**National  
Conference  
of State  
Legislatures**

Headquarters  
Office  
(303) 292-6600

1125  
Seventeenth  
Street  
Suite 1500  
Denver,  
Colorado  
80202

President  
John T. Bragg  
Deputy Speaker  
House of Representatives  
State of Tennessee  
Executive Director  
Earl S. Mackey

January 1984

**TAX CREDITS AS INCENTIVES FOR EMPLOYER-SPONSORED CHILD CARE**

Public and private employers are increasingly facilitating and participating in the expansion of child care services. States have turned to shoring up these public/private initiatives through tax incentives and tax credit provisions.

States use several different types of incentives. Foremost among these is the federal Dependent Care Tax Credit that allows employed parents a dependent credit against the actual tax bill for work-related child care expenses. Currently, 29 states allow similar dependent care credits; 23 of these are tied into the federal code.

Corporate tax credits to stimulate child care development compose another major area of state law. Connecticut, Florida and Michigan are notable in this regard. Several variations exist. The first is to provide a tax credit to employers who construct or renovate a child care facility (Connecticut). The second is to allow private business a credit on their state income tax liability for contributions to local community development projects, such as day care. The enabling statutes are generally known as Neighborhood Assistance Acts. A third strategy enables a business to deduct as ordinary and necessary business expenses those paid by the employee on behalf of employees for child care costs.

This packet includes model legislation from Connecticut and Michigan, and 50 state information on the dependent care tax credit. Background information on this topic, additional resources, and a bibliography are also provided.

For more information, contact the NCSL Children and Youth Program in the Denver Office at (303) 292-6600.

DRAFT

CHILD CARE AND TAX CREDITS

The availability of quality child care at affordable prices is an urgent need for many American families. With the Bureau of Labor Statistics reporting that 45 percent of women with children under the age of one and 59 percent of single mothers with children under the age of six are working, child care services are vital to a family's ability to maintain or obtain economic self-sufficiency. While the demand for child care services soars, the current supply falls far short. Beyond the need for infant and preschool care an estimated 7 million "latchkey" children under 13 years are left to care for themselves for part of each day.

Congressman George Miller, Chairman, U.S. House Select Committee on Children, Youth, and Families states "the advent of women in the workplace has drastically altered the picture. The old arguments - how do we define the family and do we need child care - are irrelevant now. The question is, how do we address the obvious need? The demand is widespread but so are the expenses. Should it be federal money, state and local money, private money, employer sponsored, church sponsored, or school sponsored? And the new economics - and its impact on Title XX funds - dictate increased burdens to be shouldered by state and local government."

States suffered major set backs in providing child care services when Congress in 1981 amended Title XX, the major source of direct federal funding for child care, to create the Social Services Block Grant (SSBG). In FY 1980 \$3.1 billion was provided by Title XX for all social services

programs, with \$200 million of this earmarked for child care. With the establishment of the SSBG the budget was cut from \$3.1 billion to \$2.4 billion in FY 1981 with no funds allocated specifically for child care. The current FY 1984 level is \$2.675 billion, and the FY 1985 is projected to remain at the same level.

Consequently many states were forced to reduce expenditures on child care, tighten eligibility requirements, and cut back training opportunities for child care workers. To augment their capacity to meet family needs for child care services, states have increasingly turned to shoring up public/private initiatives through tax incentives and tax credits for parents, providers, and employers.

Presently, twenty-seven states and the District of Columbia offer taxpayers a child and dependent care credit. The federal credit currently is the largest single form of public expenditure on child care and is expected to cost the federal government \$1.8 billion for 1984. Unlike a tax deduction that is subtracted from gross income, the credit comes directly off of the tax bill itself.

Currently, the federal Dependent Care Tax Credit allows employed parents a dependent credit against the actual tax bill ranging from 20 to 30 percent of their work related expenses. The allowable cost is \$2,400 for one child, and \$4,800 for two or more children, so the maximum credit that can be used is \$720 for one child or \$1440 for two or more children. A sliding-scale percentage in the law makes a maximum credit - 30 percent of allowable child-care cost - available to taxpayers with annual incomes below \$10,000.

The percentage of allowable cost is reduced as the income level exceed \$10,000 and bottoms out at 20 percent for incomes of \$28,000 or more.

In addition to the state income tax credits, state legislatures are providing incentives through tax benefits to employers to provide child care support to working parents. Several states provide a tax credit to employers who construct or renovate a day care facility for their employees. Michigan and Connecticut have taken the lead in allowing this tax credit. Representative Debbie Stabenow, one of the sponsors of the Michigan legislation, states that "we are trying to encourage involvement through employers by saying that child care is not a frill, but a necessary item for employees as well as for the employers."

In Michigan an employer who pays for child care services for an employee during the employee's hours of employment and does not charge the employee for the services shall be allowed a credit against the tax imposed for the taxable year, in an amount determined by multiplying the sum of all resulting equivalent hours by \$45. The credit shall not be in excess of ten percent of the tax liability of the taxpayer and the child care center must be a licensed facility by the State Department of Social Services. Connecticut allows corporations a credit against taxes imposed equalling to 25 percent of the total expenditures paid or incurred for planning, renovation, or acquisition of a child care facility provided it is a licensed center and is operated without profit.

The tax credit is the primary tool to encourage corporate investment in distressed communitites. The enabling statutes are generally know as

Neighborhood Assistance Acts, the first of which was enacted by Pennsylvania in 1967. During the next decade, Delaware, Indiana, and Missouri adopted their own programs and more recently, Connecticut, Florida, Michigan, Virginia, and Wisconsin began similar use of tax incentives to promote community development. The National Economic Development and Law (NEDL) Center reports that 22 other states were considering similar programs in 1983.

In most states, the type of Neighborhood Assistance Programs (NAP) eligible for funding include job training, education, crime prevention, neighbor revitalization and community service. Child care is generally considered a community service. Employers providing child care through a NAP are usually eligible for a 50 percent credit against state tax liability. Private businesses are allowed a 50 percent credit on their state income tax for contributions to local community development projects.

In Pennsylvania, the NAP emphasis is on social services rather than on economic development. Child care is considered an ancillary program, justified in terms of its relationship to education or job training. Delaware uses the NAP law to support non-profit day care facilities, usually through donations for construction or renovation. This is used to encourage business firms to donate funds for other family services. Florida currently has six community day care programs that utilize NAP. Justification for their NAP credit was the need to attract corporate contributions that would pay for children who need care, but who could not otherwise be served.

Another form of tax deduction enables a business to deduct as ordinary and necessary business expenses those paid by the employer on behalf of employees for child care costs. California successfully passed legislation in this area in 1981. The law states that a deduction is allowed for expenses, "including, but not limited to, any payments, reimbursements, or contributions to employees for child care." This plan offers flexibility to the employer and the parent by encouraging parental choice in selecting the type of child care that best meets their needs.

Child care remains an economic issue and is a necessary service for families that are working, in training programs, or hoping to enter the labor force. Tax credits and incentives are among the favored initiatives being considered and developed by state legislatures to address the present child care demand. In the long run it will take a joint effort between the states, private sector, providers, and parents to develop child care policy that highlights the need for affordable, quality child care services.

Prepared by: Dee Coronado  
Research Analyst  
Children and Youth Program  
September, 1984

CHILD AND DEPENDENT CARE CREDIT

6/84

STATE	CREDIT	EXPLANATION
ALABAMA	No	
ALASKA	Yes <sup>1</sup>	16% of federal credit
ARIZONA	No	
ARIZONA	Yes <sup>2</sup>	10% of federal credit
CALIFORNIA	Yes	3% of employment related expenses
COLORADO	Yes	Fed. amount X 100%/Fed. %
CONNECTICUT	No	
DELAWARE	No	
FLORIDA	NO PERSONAL INCOME TAX	
GEORGIA	Yes	2% of employment related expenses
HAWAII	Yes	15% of employment related expenses
IDAHO	Yes	100% deduction of expenses
ILLINOIS	No	
INDIANA	No	
IOWA	Yes	10% of employment related expenses
KANSAS	Yes	0-100% of fed. credit, dependent upon income
KENTUCKY	Yes	\$400 deduction
LOUISIANA	Yes	10% of federal credit
MAINE	Yes	15% of federal credit
MARYLAND	Yes	Federal credit
MASSACHUSETTS	Yes	Federal credit
MICHIGAN	No	
MINNESOTA	Yes	Varies upon income, \$720 max. for one dependent
MISSISSIPPI	No	
MISSOURI	No	
MONTANA	Yes	Varies upon income
NEBRASKA	No	
NEVADA	NO PERSONAL INCOME TAX	
NEW HAMPSHIRE	ONLY TAXES	INTEREST AND DIVIDENDS
NEW JERSEY	No	
NEW MEXICO	Yes	40% of comp. to caregiver, less than/= \$480
NEW YORK	Yes	20% of fed. credit for each dependent
NORTH CAROLINA	Yes	Deduction up to \$4,000 or \$1,200
NORTH DAKOTA	No	
OHIO	No	
OKLAHOMA	Yes	20% of federal credit
OREGON	Yes	40% of federal credit
PENNSYLVANIA	No	
RHODE ISLAND	No	
SOUTH CAROLINA	Yes	Up to \$400/no deduction
SOUTH DAKOTA	NO PERSONAL INCOME TAX	
TENNESSEE	TAXES ONLY	DIVIDENDS FROM STOCKS & INTEREST ON BONDS & OBLIG.
TEXAS	NO PERSONAL INCOME TAX	
UTAH	No	
VERMONT	Yes	26% of federal tax liability
VIRGINIA	Yes	Up to \$2,000 deduction
WASHINGTON	NO PERSONAL INCOME TAX	
WEST VIRGINIA	No	
WISCONSIN	Yes	30% of federal credit
WYOMING	NO PERSONAL INCOME TAX	
D.C.	Yes	30% of federal credit

NOTES: 1) AK has no state personal income tax, but residents may file for the child and dependent care credit.  
 2) AR gives a \$500 tax credit (per child) to taxpayers who care for a mentally retarded child at home, in addition to the dep. care credit.

# THE MERCER BULLETIN

Number 109 Published Monthly by William M. Mercer-Meidinger, Incorporated  
The Employee Benefit and Compensation Consulting Firm

July 1984

## Dependent Care— A Family Benefit

With more mothers working outside their homes and people living longer, America's dependent population is growing at both ends of the age spectrum. By 1990, the number of children under age six, the preschool population, is projected to be 23 million with adults over age 65 numbering 32 million. Favorable tax laws allow companies to provide dependent care benefits to their employees on a tax-free basis. Although there has not been a rush to provide these benefits, there is increasing interest and a number of companies now offer such programs.

### DEMOGRAPHIC TRENDS

In the 1960's, high schools and colleges were swollen with the baby boom generation. In the 1980's the baby boomers are becoming parents, leading to a growth in population generally known as the "echo boom." There are presently about 7 million preschool children cared for in day care facilities, and this number is projected to double to about 14 million by 1990. Today, more than 50 percent of children under the age of six are cared for by someone other than a parent, and nearly 70 percent of women with school age children are in the work force. Two-thirds of working mothers leave their children with other adults for a large part of the day.

At the other end of the age range, people over age 65 number 26.8 million; by the year 1990, they will number 32 million; and by 2030, they will number 55 million. The fastest growth will be senior citizens over age 80, a significant part of the dependent population; an age group that is vulnerable to serious illness and long-term disablements.

### ECONOMIC AND SOCIAL TRENDS

There are important components affecting these numbers: changes in social attitudes, increasing percentages of women in the work force, increases in the cost of living and a difficult, changing economy. These forces are acting to change the work

force. Due to relatively high rates of separation and divorce and social acceptance of single motherhood, there are increasing numbers of families headed by one parent. For these families, dependent care is a critical need. Even in two parent families, there may be no one to stay home to care for dependents where paychecks from both parents are necessary. Almost two-thirds of all husband-wife families now have two wage earners. A working mother was once seen as neglecting her children; she may now be seen as a capable worker, managing two careers. Few mothers with dependents work for pin money. Their salaries are often necessary.

As more people enter the work force, there are the nagging questions of "What to do with the children?" and "What to do with grandparents?" Improved medical care, in extending our lives, has also helped create the problem of care for the elderly. With the extended family of the past having given way to the nuclear family, a parent may not always be home to take care of the children or to help grandparents.

### DEPENDENT CARE AS AN EMPLOYEE BENEFIT

How do new benefits become part of the employee benefit package? Group life insurance, medical insurance, pensions, disability coverage and dental care were added to the benefit package as the demand for such benefits increased. In each case, the additional benefit placed within the reach of all employees what would be expensive or unavailable to a specific individual. For each benefit, the process was considerably aided by favorable tax treatment. To the extent that benefits are provided by employers, they reduce government spending on major social programs.

How does providing dependent care aid the employer? Dependent care benefits can reduce involuntary employee turnover and absenteeism among the affected group which, in turn, can reduce the costs of recruitment and training while improving productivity. This is, of course, especially true in industries with large female work forces, such as health care, education and banking. Offering dependent care benefits increases an employer's ability to attract and retain employees and can create a favorable image of the company. Rightly or wrongly, it is perceived as adding to benefit equity. Younger employees may consid-

er many benefit plans to be of limited value because, after all, they do not expect to die or become disabled or get sick, and retirement is far into the future. Dependent care benefits are generally used and appreciated by younger employees.

#### *HOW TO PROVIDE DEPENDENT CARE BENEFITS*

Many employers shy away from providing dependent care benefits because they think that this means staffing and running on-site facilities. Actually, on-site day care is the extreme in day care benefits; there are other possibilities requiring less direct involvement. Some companies directly subsidize local day care centers, eliminating employer on-site involvement. Others have negotiated volume discounts, guaranteeing a certain level of participation in a local center. Generally, either approach results in a relatively small cost which can be monitored for effectiveness over time. Other companies have developed programs that particularly benefit parents with dependents, but can benefit other employees as well, such as permanent part-time work and flexible work schedules.

Day care centers are available for children, senior citizens and the disabled. These facilities are of two types: centers with medical services provided and those with recreational services only. Costs for these health or social center programs range up to \$50 per day, with an extra charge for transportation. Although the cost of this kind of day care is high, it is less than the cost of nursing home care and allows the elderly and the disabled to remain with their families.

#### *RECENT LEGISLATION*

The Economic Recovery Tax Act of 1981 (ERTA) added IRC Section 129 to the Internal Revenue Code. Employees may exclude from gross income benefits received under an employer funded dependent care assistance program that

qualifies under Section 129; and the employer may deduct the cost of the program as an ordinary and necessary business expense. As with many other employee benefits, a Section 129 dependent care assistance program cannot discriminate in favor of officers, owners, highly-compensated employees or their dependents. Not more than 25% of benefits may be utilized by 5% owners. The program must have a written plan stating, among other things, that benefits are to be for the exclusive benefit of employees. Dependent care assistance programs do not require advance funding.

A "dependent" for purposes of Section 129 can be a child under age 15 or a spouse or other dependent of the taxpayer who is physically or mentally incapacitated. It is not necessary for both spouses in a two-earner home to have full-time employment to qualify for child care benefits provided the benefits do not exceed the earned income of the lower-paid wage earner.

A dependent care plan under Section 129 can be added easily to a benefit program that uses the "cafeteria" approach. Here, employees select among various benefits to arrive at the individual package that suits their needs. For example, a young employee with dependent children might elect day care coverage and minimal amounts of disability coverage. With careful planning, the cost of each employee's benefit package can be kept within the limits set by the employer.

#### *CONCLUSION*

Congress has passed favorable tax legislation and employers are beginning to offer day care benefits in a variety of forms. While 86% of respondents to a recent American Management Association survey thought there was a great need for child care benefits, only 14 percent currently sponsor day care programs. Dependent day care assistance as an employee benefit is only slowly coming of age. ■

**WILLIAM M.**  
**MERCER - Meidinger**  
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TAX CREDITS FOR EMPLOYER-SPONSORED CHILD CARE

<u>STATE</u>	<u>CODE CITE</u>	<u>DATE ENACTED</u>	<u>CREDIT DEDUCTION</u>	<u>TIED INTO FEDERAL CODE</u>	<u>EXPLANATION</u>
Alaska	Alas Stat. § 43.20.013(B)	1990	True Credit	Yes	Individuals are allowed a credit equal to sixteen percent (16%) of the Federal Credit (IRC § 44A) for dependent care expenses attributable to payments within the state of Alaska.
Arizona	Ariz. Revised Stat. § 43-1050	1978	True Deduction	No	Individuals are allowed a deduction not to exceed \$100 per month for dependent care expenses, including those for care of a child under 16 years of age. The deduction is inapplicable if the household's gross income exceeds \$6,000 per year.
Arkansas	Ark. Stat. 84-2089 § 84-2089	1-1-77	True Credit	Yes	Individuals may credit against their Arkansas Personal Income Tax on an amount equal to 10% of the credit allowable for Federal income tax purposes for dependent care expenses. Non-refundable.
California	Cal. Revised & Tax. Code § 17052.6	Enacted 1977 amended 1978, 79	True Credit	No	Individuals are allowable a credit against their "net tax" in the amount of 3 percent of their employment-related expenses for dependents. The credit is reduced to 2 percent if the taxpayer's gross income is over \$15,000. Amount of expenses may not exceed \$2,000 if there is one qualifying individual and \$4,000 employment-related expenses for two or more.

SOURCE: CHILDREN'S DEFENSE FUND  
WASHINGTON, D.C.

<u>STATE</u>	<u>CODE CITE</u>	<u>DATE ENACTED</u>	<u>CREDIT DEDUCTION</u>	<u>TIED INTO FEDERAL CODE</u>	<u>EXPLANATION</u>
Colorado	Colo. Revised St. 39-2-110(m)	1-1-78	True Deduction	Yes	A Colorado taxpayer may deduct a fraction of his/her income under Federal Credit for Dependent Care. The numerator of that fraction is 100 percent and the denominator is the percentage used to compute the Federal Child Care Credit.
District of Columbia	D.C. Code § 47-18033		True Deduction	Yes	Individuals are allowed to deduct dependent care expenses to the same extent that such amount is deductible under § 214 of the IRC of 1954, as amended prior to its 1976 repeal. Dependent is defined as someone who is under age 15 and with respect to whom the taxpayer is entitled to a deduction under § 151 (e) of IRC 1976. Employment-related expenses which may be taken into account may not exceed \$200 per month in the case of 1 individual, \$300 in the case of two individuals and \$400 in the case of three or more individuals.
Georgia	91A Georgia Code § 3609	1978	True Credit	Yes	Individuals are allowed a credit against taxes imposed in an amount equal to 2 percent of employment-related expenses. This amount shall not exceed \$2,000 if there is one qualifying individual and \$4,000 if there are 2 or more qualifying individuals. Non-refundable.

<u>STATE</u>	<u>CODE CITE</u>	<u>DATE ENACTED</u>	<u>CREDIT DEDUCTION</u>	<u>TIED INTO FEDERAL CODE</u>	<u>EXPLANATION</u>
Hawaii	Haw. Stat. § 235-55.6	Enacted 1977 Amended 1981	True Credit	No	Individuals are allowed a credit against taxes imposed in an amount equal to 10 percent of the employment-related expenses. The amount of employment-related expenses which may be taken into account may not exceed \$2,000 if there is one qualifying individual and \$4,000 if there are two or more qualifying individuals. Non-refundable.
Idaho	Idaho Code § 63-3022D	1977	True Deduction	Yes	Individuals are allowed as a deduction, the employment-related expenses for dependent care as defined in IRC 44A(c)(2). The amount of employment-related expenses which may be taken into account may not exceed \$2,000 if there is one qualifying individual and \$4,000 if there are two or more qualifying individuals. Non-refundable.
Iowa	Iowa Code § 422.12	1977 Amended 1980	True Credit	Yes	Individuals are allowed as a credit against taxes imposed, an amount equal to 5 percent employment-related expenses, subject to the limitations provided by IRC § 44A. Non-refundable.
Kansas	Kan. Stat. § 79-32.111A		True Credit	Yes	Individuals may credit a percentage of the Federal Credit for Dependent Care expenses against his/her Kansas Personal Income Tax liability. The percentage is determined on a graduated scale depending upon an individual's Kansas adjusted gross income. The percentages range from 100 percent for taxpayers with an adjusted gross income of not over \$5,000; to 0 percent for taxpayers with an adjusted gross income of \$14,000.01 and over.

<u>STATE</u>	<u>CODE CITE</u>	<u>DATE ENACTED</u>	<u>CREDIT DEDUCTION</u>	<u>TIED INTO FEDERAL CODE</u>	<u>EXPLANATION</u>
Kentucky	Ky. Revised Stat. § 141.010	1979	True Credit	Yes	A Kentucky taxpayer computes his/her Kentucky income tax on the Federal taxable income actually paid or accrued for the year of income taxed in Kentucky, minus any Federal tax credits actually used by the taxpayer, thus the Federal Credit for Dependent Care services is available against Kentucky tax liability.
Louisiana	47 La. Revised Stat. §§ 296 et. seq.		True Credit	Yes	A Louisiana taxpayer computes his/her personal income tax as a fraction of the Federal income tax liability, thereby incorporating the Federal credit for dependent and child care expenses.
Maine	36 Me. Revised Stat. § 5127(2)	1969	True Credit	Yes	Individuals are allowed as a credit against taxes imposed, an amount equal to 15 percent of the Federal tax credit allowable for child care expenses. In no case will this credit reduce the income tax to less than zero. Non-refundable.
Maryland	81 Md. Code § 280(c)		True Deduction	Yes	A Maryland taxpayer may deduct those dependent care expenses for which a credit is allowable under IRC § 44A. Non-refundable.
Massachusetts	62 Mass. Gen. Laws § 3B		True Deduction		Individuals are allowed to reduce their adjusted gross income in an amount equal to the child care credit allowable under IRC § 44A computed without regard to Section 44A(b) of the Code multiplied by 5.

<u>STATE</u>	<u>CODE CITE</u>	<u>DATE ENACTED</u>	<u>CREDIT DEDUCTION</u>	<u>TIED INTO FEDERAL CODE</u>	<u>EXPLANATION</u>
Minnesota	Minn. Stat. § 290.067	1977 Amended 1980, 81	True Credit	Yes	<p>An individual may take as a credit against tax due an amount equal to the dependent care credit for which he is eligible under IRC § 44A subject to the following limitations:</p> <ol style="list-style-type: none"> <li>1) The credit for expenses incurred for employment-related dependent care may not exceed \$400 for one individual and \$800 for two or more dependents.</li> <li>2) The credit is refundable.</li> <li>3) The total credit is reduced by 5 percent of the amount by which the combined Federal adjusted gross income of the taxpayers exceeds \$15,000.</li> </ol>
Montana	Revised Code of Mont. § 15-30-121		True Deduction	Yes	<p>In computing net income, there are allowed as deductions, child and dependent care services determined in accordance with the provisions of § 214 of the IRC of 1954 that were in effect for the taxable year that began January 1, 1974. The amount of employment-related expenses which may be taken into account is limited to \$600 for one individual and an amount not greater than \$900 for 2 or more dependents. Dependent is defined as a person with respect to whom the taxpayer is entitled to an exemption under Sec. 15(e) who has not attained the age of 13 years.</p>
Nebraska	Neb. Revised Stat. § 77-2715		True Credit	Yes	<p>A Nebraska taxpayer computes his/her income tax as a fraction of the Federal Income Tax liability, therefore, adopting the Federal Dependent Care Credit IRC § 44A.</p>

<u>STATE</u>	<u>CODE CITE</u>	<u>DATE ENACTED</u>	<u>CREDIT DEDUCTION</u>	<u>TIED INTO FEDERAL CODE</u>	<u>EXPLANATION</u>
New York	60 NY Consol. Laws Art. 23 B 606	Amended 1977	True Credit	Yes	Individuals are allowed a credit against taxes imposed in an amount equal to 20 percent of the credit allowed such taxpayer pursuant to IRC § 44A. The amount of the credit allowable against New York tax may not exceed the amount of New York tax. Non-refundable.
New Jersey	NJ Revised Stat. § 54:8A-15.1	Enacted 1978 Amended 1981	True Credit	Yes	Individuals are allowed a credit against taxes imposed in an amount equal to 20 percent of the credit allowed such taxpayer pursuant to IRC § 44A. The amount of the credit allowable against New Jersey tax may not exceed the amount of state tax. Non-refundable.
North Carolina	NC Gen. Stat. § 105-147	1981	True Credit	No	Individuals are allowed a credit against taxes imposed in an amount equal to 7 percent of employment-related expenses. The expenses on which the credit is computed shall not exceed \$2,000 for one qualifying individual and \$4,000 per year total. Non-refundable.
Oklahoma	68 OK Stat. § 2357	1975	True Credit	Yes	Individuals are allowed a credit against taxes imposed in an amount equal to 20 percent of the credit allowed such a taxpayer pursuant to IRC § 44A. The maximum child care credit allowable on the Oklahoma tax return shall be prorated on the ratio that Oklahoma adjusted gross income bears to the Federal adjusted gross income.

<u>STATE</u>	<u>CODE CITE</u>	<u>DATE ENACTED</u>	<u>CREDIT DEDUCTION</u>	<u>TIED INTO FEDERAL CODE</u>	<u>EXPLANATION</u>
Oregon	Ore. Stat. § 316.078		True Credit	Yes	Individuals are allowed a credit against taxes imposed in an amount equal to 40 percent of the credit allowed such a taxpayer pursuant to IRC § 44A. Non-refundable.
South Carolina	SC Code 12-7-700		True Deduction	Yes	Individuals are allowed to deduct up to \$400 per month in dependent care expenses, subject to rules like those of IRC § 44A. This deduction is reduced if the taxpayer's adjusted gross income exceeds \$18,000. Employment-related expenses incurred during any month shall be reduced by that portion of one-half of the excess of the adjusted gross income of the taxpayer over eighteen thousand dollars which is properly allocated to such month.
Vermont	32 Vt. Stat. § 5822		True Credit	Yes	A Vermont taxpayer computes his/her Vermont personal income tax as a fraction of the individual's Federal income tax liability, thereby incorporating the provisions of the Federal child care credit.
Virginia	Va. Code § 58-151-013	Amended 1981, 82	True Deduction	Yes	Individuals are allowed a deduction equal to the amount of employment-related expenses upon which the Federal credit is based under § 44A of the Internal Revenue Code.
Wisconsin	Wis. Code § 71.02		True Credit	Yes	A Wisconsin taxpayer may receive a credit based on 30 percent of the federal credit beginning with the 1984 tax year.

<u>STATE</u>	<u>CODE CITE</u>	<u>DATE ENACTED</u>	<u>CREDIT DEDUCTION</u>	<u>TIED INTO FEDERAL CODE</u>	<u>EXPLANATION</u>
Addendum--					
New Mexico			Refundable Credit		
<u>CORPORATE TAX CREDITS</u>					
Connecticut	Public Act 81-100	May 1981	True Credit	No	Corporations are allowed a credit against taxes imposed in amount equal to 25 percent of total expenditures paid or incurred for planning, renovation, or acquisition of a child day care facility provided it is a licensed center and is operated without profit.
Florida	Chapt. 80-249 Laws of Fla.	July 1980	True Credit	No	Private businesses are allowed a 50 percent credit on their state income tax for contributions to local community development projects. Day care is considered a community service. Credit is non-refundable.
Michigan	Mich. Com. Laws § 7.558(39a)	1980	True Credit	No	Corporations are allowed as a credit against tax imposed, an amount determined by multiplying the sum of all equivalent hours (each child's total number divided by 2,000) of child care provided by \$45.00. The credit shall not be in excess of 10 percent of the tax liability of the taxpayer. The child care center must be a facility licensed by the state's department of social services.

<u>STATE</u>	<u>CODE CITE</u>	<u>DATE ENACTED</u>	<u>CREDIT DEDUCTION</u>	<u>TIED INTO FEDERAL CODE</u>	<u>EXPLANATION</u>
<u>Dependent Care Assistance Plan Related Tax Provisions</u>					
California	Assembly Bill 2595 Ch. 1558	1982		No	Gross income of an employee shall not include amounts paid or incurred by the employer for dependent care assistance provided to the employee. Such program shall be a separate written plan of an employer for the exclusive benefit of his or her employees to provide those employees with dependent care assistance which meets the requirements set out in 2 through 6 of Sec. (d) of the amendment.

**GOVERNMENT  
INITIATIVES  
TO ENCOURAGE  
EMPLOYER-SUPPORTED  
CHILD CARE:**

**The State and Local Perspective**

by  
DANA E. FRIEDMAN  
for  
THE CENTER FOR  
PUBLIC ADVOCACY RESEARCH

Copies of this report may be obtained from the Center for Public Advocacy Research, Inc., 12 West 37 Street, New York, New York 10018, (212) 564-9220 for \$10.00.

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GOVERNMENT INITIATIVES TO ENCOURAGE  
EMPLOYER-SUPPORTED CHILD CARE: THE  
STATE AND LOCAL PERSPECTIVE

by: Dana E. Friedman

for: Center for Public Advocacy Research, Inc.

Ronald Soloway  
Executive Director

Tracy Huling  
Assistant Director

Kristin Anderson  
Project Director, Employer-Supported  
Child Care Project

July, 1983

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**TAX INCENTIVES  
FOR EMPLOYER-SPONSORED  
DAY CARE PROGRAMS**

**BAY AREA CHILD CARE LAW PROJECT**

9 First Street (at Market), Suite 803  
San Francisco, California 94105  
(415) 495-5498

**Kathleen A. Murray**  
Attorney at Law

**Lujuana Wolfe Treadwell**  
Attorney at Law

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need for quality day care services for employees' pre-school has increased dramatically in the last decade. Many employees have recognized the problems that employees face due to unavailability of quality day care services for their young children and have attempted to solve these problems by providing such services to employees as a fringe benefit.

This book explores the subject of employer-sponsored day care programs from two perspectives. First, it discusses various types of employer-sponsored day care programs in terms of how the business and personal needs of the employer and employee can be met under each program. Second, it compares the tax benefits that can flow to the employer from establishing each of the various types of day care programs, with particular emphasis on deductions that may be claimed for business expenses, depreciation and amortization. Other alternatives that can maximize tax savings, such as the use of an exempt organization or a voluntary employee benefit association to administer or operate a day care facility, are also examined.

Also included in this book is a discussion of the tax effects on the employees of employer-sponsored day care. The question of whether the benefits received under such programs will be includable in the employee's gross income is explored, and the relevance of the tax treatment of child care expenses is explained.

**COMMERCE CLEARING HOUSE, INC.**

October 17, 1980

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## ¶ 1 Overview

The increasing awareness of employers of the need for providing quality day care services for employees' preschool children has prompted many employers to offer employer-sponsored day care programs as part of their overall employee benefit packages. Such programs can be structured so as to provide tax benefits for both the employer and the employee. Further, studies have shown that employers can reap benefits that extend beyond potential tax advantages. In many instances, employers report a more positive employee attitude, a declining level of absenteeism, a decreased rate of employee turnover, and increased success in employee recruitment.

In structuring an employer-sponsored day care program, an employer must take into account both its physical and business needs and the tax consequences that may flow from its decision to operate the program in a particular form. There are two basic types of employer-sponsored day care programs: (1) employer-responsibility programs and (2) employer-assistance programs. Under an employer-responsibility program, the employer develops and operates the day care center for the benefit of the employees. Employer-assistance programs are those in which the employer aids the employee either in paying for day care services or in selection of a day care center. See ¶ 3-8, below.

Generally, an employer-responsibility program involves large capital expenditures on the part of the employer. Such expenses are not currently deductible, but can be depreciated or amortized. See ¶ 11-16, below. Conversely, an employer-assistance program generally involves only currently deductible business expenses on the part of the employer. See ¶ 10, below.

In structuring a day care program, an employer may also choose to create a separate tax-exempt corporation to administer and operate the day care facility. In some cases, a voluntary employee benefit association (a specific type of exempt organization) may also be used as a vehicle for establishing an employer-sponsored day care program. See ¶ 18-19, below.

**Employee benefits.** An employer-sponsored day care program can offer multiple benefits for employees. First, qualifying employees are provided with a needed service at a reduced cost. Second, the employee receives a tax credit for expenses incurred with respect to payment for day care services. Third, the employee may not be taxable on that portion of the costs that is assumed by the employer if such costs are not deemed to be fringe benefits the value of which is includible in his or her gross income. See ¶ 20-21, below.

## STRUCTURING DAY CARE PROGRAMS

### In General

There are a number of basic programs under which an employer provide day care services to employees, and each type can be advantageous to a particular class of employer. The various programs designed to meet the business and physical needs of the employer and his employees, but each has its own tax consequences.

The most common types of employer-provided day care services for employees' children are described herein. The tax ramifications of each such program are discussed at ¶ 9 and following.

As a general rule, although there are numerous variations, the programs can be divided into two basic groups: (1) where the employer has the primary and direct responsibility for developing and financing the day care program (called an "employer-responsibility program"), and (2) where the employer assists in paying for and financing independent day care services for employees' pre-school children (called an "employer-assistance program").

An *employer-responsibility program* generally involves setting aside a portion of the work facilities for a day care center or the establishment of a building in the area for this purpose. This type of program usually requires a large capital investment and provides the employer with the tax choice of electing depreciation (¶ 11) or amortization (¶ 14) of capital expenditures. An employer-responsibility program gives the employer maximum control over the operation of the day care center, but also exposes it to greater liability for the actions of the center. See ¶ 4-5, below, for examples of employer-responsibility programs.

An *employer-assistance program* is one in which the employer assists the employee in paying for the day care services or assists in the election of a commercial day care service. Since the employer has minimal control over the operation of the center, its liability and tax involvement are less than they would be under an employer-responsibility program. This type of program provides business expense deductions only; amortization and depreciation deductions are not available. See ¶ 6-8, below, for examples of employer-assistance programs.

### On-Site Facility

An on-site facility program is a type of employer-responsibility program in which a day care center is located on the business premises of the employer or in an area close to the worksite. It is convenient for the employee because he or she does not have to travel to a commercial day care center before going to work. In addition to making commuting more convenient, it also provides the employee with the security of knowing that, if his or her child should become ill, he or she will not have to drive across town in order to seek comfort and care. Some employers even provide an infirmary for children who contract contagious diseases.

The on-site facility may be operated directly by the employer or by a private company that contracts with the employer to operate the day care center. As with the company cafeteria, the day care program generally is not provided free of charge, but the employee does obtain the services at a bargain rate.

The on-site facility can be economically advantageous where a large number of children are cared for and the parents work at the same location as the center. Properly operated, the facility can provide the children with high quality care at a reasonable cost and with maximum convenience to the parents. The on-site facility generally involves the largest capital investment for the employer, but it has the potential for providing the greatest convenience and security for the employees. This can translate into a work force with high morale and low employee turnover.

### ¶ 5 Industrial or Commercial Complex Facility

The industrial or commercial complex facility, a type of employer-responsibility program, is an extension of the on-site facility. It is established in an industrial or commercial complex by various employers in the community for their mutual benefit. Because it is necessarily larger than the on-site facility and draws children from a larger base of employees, the industrial or commercial complex day care facility will be cushioned from the significant variations in enrollment that can plague an on-site facility. Such a day care facility is designed to handle a fluctuating number of children within maximum and minimum limits; enrollment in excess of the maximum number prevents the children from receiving adequate care, and a minimum number of children must be enrolled in order to maintain a reasonable cost per child.

For a general discussion of the tax consequences of this type of day care program, see ¶ 17, and, for a discussion of its use as it relates to amortization, see ¶ 16.

### ¶ 6 Vendor Program

A vendor day care program, a type of employer-assistance program, involves the purchase by the employer of a number of enrollment spaces in one or more local commercial day care centers, and a subsequent resale of the spaces to the employees at a bargain rate. Such a program allows the employer to provide the employees day care services without incurring the management problems of operating such a center and to do so with minimal bookkeeping. An advantage of this plan is the elimination of administration and other difficulties involved in providing the employees with on-site day care. It also helps to insulate the employer from potential liability arising from direct operation of a day care center. The flexibility of this plan, along with the absence of any capital investment on the part of the employer, makes it ideal for companies with a relatively small number of employees.

## 7 Voucher Program

In a voucher day care program, another type of employer-assistance program, the employer gives the employee a coupon worth a specified amount of money. The voucher may be used to pay for a responding portion of day care services from any licensed provider such services. This program gives the employee the full responsibility for and control over placement of his or her child in a licensed center, and affords the employer with maximum protection from liability. A voucher program is useful for the employer with many small locations that are scattered over a large area, i.e., a chain store operation.

## 8 Family Satellite Program

The family satellite day care program, which was pioneered by the hospital industry, involves the recruiting, training, and coordination of private homeowners who convert their houses into small day care centers. It is a "hybrid" program in that it contains aspects of both an employer-responsibility program and an employer-assistance program.

Under the satellite program, the employer is responsible for seeking out and training potential day care operators. In addition, the employer generally provides or subsidizes various auxiliary services such as hot lunches, health programs, and low-interest loans for needed renovations to meet licensing requirements. Through the use of existing homes and with minimal administration, this can be an economical way in which to provide day care services for employees. It relieves the employer of the need to make a large capital investment, and it provides local families who have a desire to establish a day care center in their homes with the assistance they need to establish a high-quality day care facility.

## TAX CONSEQUENCES

### ¶ 9 Overview

The day care programs discussed at ¶ 3-8, above, are designed to meet the business and physical needs of the employer and the employees. Although a day care program will not be designed to achieve a particular tax consequence, the tax consequences to the employer do vary from program to program and should be taken into account when deciding which program to adopt.

Whether a day care program is categorized as an employer-responsibility program or an employer-assistance program has a major effect on the tax treatment resulting under the program. An employer-assistance program involves annual expenses on the part of the employer that are completely deductible as business expenses. An employer-responsibility program usually involves the employer's making a sizable capital investment, a portion of which can be deducted each year the center is in operation. To the extent of the

capital expenditure, the employer will be able to elect from the various forms of depreciation and amortization. Thus, in proportion to what the employer spends, the adoption of an employer-responsibility program will restrict the employer's deduction in the first year of day care service operation, but the employer will be able to claim deductions in subsequent years. An investment in an industrial or commercial complex day care facility would give the employer a depreciation deduction if the complex was owned as a partnership by the various employers; however, if it was held as a corporation, then no deduction would be available. See ¶ 17, below.

Creating an exempt organization may provide the employer with another tax alternative: The employer may establish a separate, not-for-profit corporation that owns and operates the day care center, but the initial start-up cost and any additional money needed for the daily operation are "donated" by the employer. Assuming that the day care corporation does qualify as an exempt organization, the employer's donation is fully deductible as a contribution to a not-for-profit corporation even though the donation is used to purchase a capital asset.

### ¶ 10 Business Expenses

With a few exceptions, the costs of operating an employer-assistance program qualify as business expenses and are deductible in the year of payment. Although employer-responsibility programs primarily involve capital expenditures that are not currently deductible, they may generate some currently deductible business expenses attributable to operating costs. But a distinction must be made between operating costs and capital costs. These are terms of art and each program and the expenses attributable thereto must be examined individually.

Generally, an employer wants to deduct as much of the day care program expenses as possible in the current tax year so as to reduce tax liability for that year. But, in some cases, the employer may feel that postponement of the deduction will result in greater overall tax savings. Because both corporate and individual income are taxed at graduated rates, it may not be fruitful for an employer to offset the entire current year's income with day care expense deductions because some of that income will be taxed at a low or zero rate. Rather, the employer may find it more advantageous to postpone claiming a portion of the deduction until a later year so as to lower tax brackets in several years and achieve greater overall tax savings.

Day care program expenses are deductible by the employer in the year of payment if they are related to the employer's business and produce a benefit that lasts for no more than a year. Business expenses incurred in the operation of a day care center include amounts paid for salaries, supplies, monthly rent, and other items on an annual or more frequent basis. Capital expenses incurred in the operation of a day care center include amounts paid for assets that have an expected useful life of more than a year, such as land, buildings, playground equipment, machines, and furniture. Capital expenditures can also include intangible assets that last for more than

a year, such as contract rights or a long-term lease. Generally, an employer will prefer to classify a day care program expense as business rather than capital so as to reap the benefit of an immediate deduction instead of having to wait for the long-term benefits of a depreciation or amortization deduction. (See ¶ 11-16, below.)

Business expenses are deductible to the extent that they are "ordinary and necessary" (Code Sec. 162(a)). That is, the cost must be reasonable in light of the objective sought. The definition of the term "ordinary and necessary" was provided by the U.S. Supreme Court in *Welch v. Helvering* (357 U.S. 1164, 290 US 111): "Necessary" means an expense that is appropriate and helpful to the development of the business, and "ordinary" means an expense that is not unique in the group or community of which the employer is a part.

The cost of providing day care facilities to employees is a legitimate business expense (Rev. Rul. 73-348, 1973-2 CB 31). However, the expense must be reasonable in terms of the per child cost, and the cost per employee must be in line with the objective of attracting, and retaining, good employees.

As stated above, the vendor and voucher programs provide the employer with an annual deduction for the entire cost of operation because neither program involves an investment in capital assets. However, an exception may be found where the vendor program is used if a certain part of the cost is allocated to the reservation of enrollment spaces at the day care center for future years.

## ¶ 11 Depreciation of Day Care Facilities

The establishment of an employer-responsibility program usually involves capital expenditures by the employer. The employer has the choice of electing depreciation or amortization deductions (see ¶ 12-16, below) with respect to certain capital expenditures. Under its depreciation provisions, the Code (Sec. 167) allows the employer to deduct the cost of qualified capital expenditures purchased for the operation of the day care center, but the deduction is spread over the projected life of each particular asset. The depreciation provisions are applied to any qualified asset that is consumed or rendered worthless through use or time spanning more than one year, so that, on an average, the amount deducted in any one year will reflect the decrease in value for that year. In a day care center, a depreciable asset includes the portion of the building in which the center is located, furniture, appliances, or any other items that are not used up, consumed or destroyed within one year. Land on which the building sits is not a depreciable asset because it is not consumed through use and does not lose its value by passage of time.

## ¶ 12 Factors Involved in Depreciation

There are three factors that an employer must use in determining the annual deduction for depreciation in connection with a day care facility: basis, useful life, and salvage value. The annual straight-line depreciation is determined by deducting the salvage value from the basis, and then dividing the remainder by the useful life of the asset.

**Basis.** Generally, an employer's basis in an asset is the purchase price or cost of construction. Basis does not include interest on the purchase loan or other costs of financing, but does include transportation costs, set-up costs, and construction permit costs. The employer can increase the basis of an asset after acquisition by making improvements or additions to the asset that extend its life or increase its value. In the case of a building, the costs of excavation, permits, contractors, and materials are included in determining basis for purposes of the depreciation calculation, but the cost of the land on which it stands is not included. If the building was purchased with the land, an allocation of the purchase price must be made between the land and the building. This is because land is neither consumed nor rendered worthless through use. If a wing or new room is added to the building later, the basis will be increased.

**Useful life.** The useful life of an asset is a projected figure determined when the asset is acquired. It refers to the number of years the employer expects to use the asset rather than to the number of years that it could be used. If an employer establishes a policy of replacing a type of day care equipment more frequently than is the normal practice in the industry, the useful life established by the employer is the figure to be used.

**Salvage value.** The salvage value of an asset, determined at acquisition, is the projected value of the asset when it is disposed of at the end of its projected useful life. Once established, the salvage value is not adjusted for unexpected changes in the market value of the asset, but it is affected by the employer's plans for using and maintaining the asset.

In determining the salvage value of an asset with a useful life of three years or more, the projected salvage value may be reduced by 10 percent of the full adjusted basis of the property when acquired. The salvage value cannot, however, be reduced below zero.

**Calculation of straight-line depreciation.** Straight-line depreciation, the easiest to use (and most commonly used) method of depreciation, is calculated by reducing the basis by the salvage value and dividing the remainder by the useful life. If the employer did not acquire the asset at the beginning of the tax year, the depreciation for the first year must be prorated accordingly.

**Example:** T.L. Jones Manufacturing Company constructed a free-standing building on the industrial property of its factory for the purpose of providing its employees with a day care center. The construction cost of the building was \$80,000, and it had a useful life of 40 years, after which the salvage value of the building

would be \$15,000. Straight-line depreciation on the building is calculated as follows:

Basis	\$80,000
Less: Salvage value reduced by 10% of basis \$15,000 - (\$80,000 × 10%)	7,000
Basis subject to depreciation	<u>\$73,000</u>
Annual depreciation (\$73,000 ÷ 40)	<u>\$ 1,825</u>

The calculation of the depreciation for the furniture and machines in the day care center must be made separately, using useful lives ranging from three to ten years and salvage values that will often be zero.

### 13 Other Methods of Depreciation

Although a detailed discussion of the various methods of calculating depreciation is beyond the scope of this book, some comprehension of accelerated depreciation must be acquired before an employer can compare the value of electing depreciation to that of electing amortization of day care facilities under Code Sec. 188 (see 14-16, below). Straight-line depreciation remains constant throughout the life of the asset, except for the first and last years, but accelerated depreciation is different every year with a large deduction the first full year and a steady decline in the amount of the deduction in each succeeding year. The two most popular methods of accelerated depreciation are declining-balance depreciation and sum-of-the-years-digits depreciation. Declining-balance depreciation can double the depreciation deduction the first full year, and sum-of-the-years-digits depreciation can produce an even larger first-year deduction.

An employer's use of accelerated depreciation with respect to buildings is severely limited. New buildings may be depreciated by an employer on an accelerated basis by use of the declining-balance method only, which is limited to 150 percent of straight-line depreciation. This means that the first year of accelerated depreciation on a new building cannot exceed 150 percent of the depreciation that would be allowable under the straight-line method, and the amount of the deduction will slowly decline in succeeding years. An employer can claim depreciation on used buildings on an accelerated basis only after obtaining special permission from the Commissioner of the Internal Revenue Service. However, both methods of accelerated depreciation can be used with respect to furniture and machines used in a day care program.

**Additional first-year depreciation.** In addition to claiming depreciation on certain kinds of assets, an employer may claim "additional first-year depreciation." Additional first-year depreciation may be applied to personal property (buildings are not eligible) with a useful life of six years or more. The property can be new or used, but it must have been purchased by the employer for use in the day care

operation. The additional first-year depreciation is equal to 20 percent of the cost of the asset and is taken in addition to the normal depreciation claimed in the first year. An employer is limited to a total annual cost of \$10,000, against which the additional first-year depreciation can be applied. One of the most attractive features of the additional first-year depreciation is that the total amount can be claimed no matter how late in the year the employer purchases the asset for the day care facility unlike normal depreciation, which must be prorated.

### ¶ 14 Amortization of Day Care Facilities

Amortization of certain expenditures for day care facilities may be achieved under Code Sec. 188 (and *only* under that Code section). Although the objective of this Code section was to encourage the establishment of employer-sponsored day care facilities, its actual effect appears to be minimal. The provision is elective, but, in electing amortization under Code Sec. 188, the employer foregoes many of the advantages of ordinary depreciation.

The Code uses the term "amortization" as a tax mechanism for writing off a capital expenditure, but it also uses the term "depreciation" to mean the same thing. The distinction between the two, as they are used in the Code, is slight. Simply stated, depreciation is designed to permit a write-off of a capital expenditure that roughly coincides with the decrease in value of the asset, while amortization permits a more rapid write-off of the expenditure that bears no direct relation to the decrease in value of the asset.

Code Sec. 188 provides the employer with an election to deduct the cost of acquiring, constructing, reconstructing, or rehabilitating employer-sponsored day care facilities over a 60-month (5 years) period, beginning with the month the property was placed in service. The day care facility must be: (1) tangible property, (2) used primarily for the children of the employer's employees, (3) subject to depreciation, and (4) located within the United States. The facility must be placed into service some time after 1971 and prior to 1982.

The calculation of the amortization is as follows: The cost of the asset (usually a building housing the child care facilities) is divided by 60, and the quotient is multiplied by the number of months of service provided in the first year. In determining the amount of the amortization for each of the second through the fifth years, the quotient is multiplied by 12, with any remaining amount deducted in the sixth year.

### ¶ 15 Property Qualifying for Amortization

Day care property that qualifies for amortization under Code Sec. 188 is more limited than day care property that qualifies for depreciation. To qualify as Code Sec. 188 property, the asset must meet the following qualifications:

- (1) It must be of a character subject to depreciation;
- (2) It must be located within the United States;

(3) It must be a qualified "child care facility"—that is, it must be:

(a) particularly suited to provide day care services, and specifically used by the employer for such services primarily for its employees;

(b) operated as a licensed or approved facility under applicable local law, if any, relating to the day care of children; and

(c) if directly or indirectly funded to any extent by the United States, established and operated in compliance with the requirements contained in Part 71 of Title 45 of the Code of Federal Regulations, relating to Federal Interagency Day Care Requirements.

**Use of converted property.** The most difficult problem for an employer in determining whether day care facility property qualifies as Code Sec. 188 property occurs when it converts property previously used for some other purpose to day care property. First, in order to qualify, the property, when converted, must be used solely for day care purposes. Thus, for example, a day care facility cannot be used as an employee recreation room in the evening. Also, it must have permanent physical barriers that separate it from other parts of the building.

The conversion of property currently used for other purposes to day care property may disqualify the property for amortization, although the law is not clear on this point. The Code provides that the election to amortize day care property applies to the employer's cost to "acquire, construct, reconstruct, or rehabilitate Section 188 property." Although this seems to be all-inclusive, it may not include a building purchased or built by the employer for some other purpose and then converted to a day care facility, because the building was not acquired as Code Sec. 188 property. In such a situation, the result may be that the employer will be able to depreciate any basis he has in the property, but will not be able to amortize it. To date, the courts have not considered this question, and the Regulations simply restate the language of the Code.

## ¶ 16 Disadvantages of Electing Amortization

There are a number of disadvantages to electing rapid amortization under Code Sec. 188, most of which can be found in other sections of the Code.

**Depreciation.** The 60-month amortization election is in lieu of use of the various methods of depreciation. The system that is preferable will depend primarily on the nature of the asset. If the asset is a piece of machinery, such as a dishwasher, its useful life may be no longer than five years, and amortization will not produce a better tax result than straight-line depreciation, even though some form of accelerated depreciation would allow the employer to claim a greater deduction in the first year or two. On the other hand, a building with a useful life of 30 to 40 years (subject to limitations on the use of accelerated depreciation) may be amortized over a five-year period to the

advantage of the employer. The employer may elect to amortize some assets and at the same time elect to depreciate others, so as to derive the maximum tax benefit from all assets.

**Additional first-year depreciation allowance.** Where the employer elects to use amortization, it loses the benefit of regular depreciation as well as the use of additional first-year depreciation allowance. As stated at ¶ 13, above, the additional first-year depreciation allowance is applicable only to personal property, not buildings, that has a useful life of six years or more, and is limited to total annual purchases of \$10,000. This option can make election of depreciation a better alternative for personal property even though it may have a useful life of more than five years.

**Investment tax credit.** An employer cannot claim an investment tax credit for day care facilities regardless of whether it elects depreciation or amortization (Code Sec. 48(a)(8)).

**Tax preference.** The annual amortization claimed for a day care facility, reduced by any depreciation that could have been claimed on the facility, constitutes a tax preference item, and, thus, it increases the employer's minimum tax (Code Sec. 57(a)(10)).

**Gain on sale of day care facilities.** Gain on the sale of a capital asset is determined by subtracting the basis from the sale price. The gain is taxed as ordinary income if the asset has been held for a year or less, and as long-term capital gain (only 40 percent of the gain is taxed) if it has been held for more than a year. The Code requires that any gain on the sale of depreciable personal property be taxed as ordinary income to the extent that depreciation was or could have been claimed by the employer. The depreciation recaptured on real property is the amount of accelerated depreciation in excess of straight-line depreciation.

If the employer elects to amortize a day care facility over five years, and later sells the building and land for more than the basis as reduced by amortization, the employer must recapture as ordinary income (to the extent of its gain) the amount deducted through amortization. The employer cannot deduct the amount that it could have deducted as straight-line depreciation and recapture that amount as long-term capital gain.

**Industrial and commercial complex facilities.** Because business enterprises are often clustered in proximity to each other, it would seem natural for a number of employers to combine their efforts in establishing a day care center that would be available to the employees of all the participating employers. A wider base of employees would help to diminish the problem of fluctuating need and would promote economy of size. Unfortunately, Code Sec. 188 discourages such cooperation.

The Code does not actually prohibit such joint ventures, but it does define day care facilities only as property that is used "primarily for the children of employees of the taxpayer." Because two employers cannot both be the primary users of a shared facility, it appears that the Code prohibits such cooperative efforts. Further, the

regulations have foreclosed any possibility of a multiemployer facility because they define usage "primarily for the children of employees of the taxpayer" as a situation in which "no more than 20 percent of the average daily enrolled or attending children for such month are other than children of such employees" (Reg. §1.188-1(d)(4). See, also, ¶17, below.

## 17 Tax Aspects of the Industrial or Commercial Complex Facility

The tax ramifications of establishing an industrial or commercial complex day care facility (see ¶5, above) are difficult to assess because of the necessity of coordinating a number of employers. Coordination can be accomplished in a number of different ways—through establishment of a nonprofit corporation (see ¶18, below), a corporation-for-profit or a partnership.

**Corporation.** If the employers in a given community form a corporation to operate the day care facility, each employer becomes a stockholder of the corporation. However, this form yields no tax benefits since the cost of the stock is not a business expense or a depreciable capital expenditure for the employers. Further, the corporation will probably lose money because day care services are provided at a bargain rate, but the losses incurred cannot be passed on to the employers to offset gains.

**Partnership.** A partnership may be the preferable business form because it can provide a means of passing through all tax benefits to the employers. Because a partnership is a tax-reporting rather than a tax-paying entity, it passes through (on a pro rata basis) all of its gross income, business deductions, and annual depreciation to the employer-partners. Thus, each of the employers involved will be entitled to a proportionate share of business deductions and depreciation. (Of course, the partners could not amortize the capital assets of the day care center (see ¶16, above).)

**Exempt organization.** For a discussion of the use of exempt organizations in establishing day care centers, see ¶18, below.

## 18 Use of an Exempt Organization

A number of companies and unions have used the exempt organization as a vehicle for establishing day care centers. The advantage of using an exempt organization is that any contribution to an organization obtaining tax-exempt status under Code Sec. 501(c)(3) qualifies for a charitable deduction, while allowing the day care center to operate tax-free (in the event that the operation shows a profit). The problem with such a legal device is that the facilities must be open to all children in the community, and any enrollment criteria may not favor the children of employees in any way.

In Rev. Rul. 70-533, 1970-2 CB 112, the Internal Revenue Service examined a day care facility operated by an industrial company for the benefit of the general community, with coincidental benefits flowing to the employees of the company. The facilities were available to the children of the company's employees, the children of employees of nearby companies, and the children of people

recommended by antipoverty and welfare agencies—but employment with the principal company did not give an employee the right to place his children with the center. The IRS ruled that, because the center based enrollment on financial need and a child's need to be enrolled in the program, the day care center was a qualified charitable organization.

A day care facility established by a labor union was denied recognition as a charitable organization under Code Sec. 501(c)(3), and the Tax Court upheld the finding of the IRS (*Baltimore Health and Welfare Fund*, 69 TC 554, Dec. 34,906). The day care facility was not qualified as a charitable organization because of the favored status enjoyed by the members of the union. The enrollment fee for employees' children was \$10 per week, and the fee for the children of nonemployees ranged from \$17.50 to \$25, if there was available space. Although, in this case, the day care center qualified as a voluntary employees' beneficiary association under Code Sec. 501(c)(9) (see ¶19, below), the employer wanted to qualify it as an exempt organization under Code Sec. 501(c)(3) so that it would be eligible for federal assistance.

In order for a day care facility to qualify as an exempt organization under Code Sec. 501(c)(3), it must accept children from the community in addition to the children of the employer's employees. However, there is at least one employer-sponsored day care facility that offers lower rates and preferred entrance status to the children of employees while at the same time retaining its status as an exempt organization under Code Sec. 501(c)(3).

The use of an exempt organization might work very well for an industrial or commercial complex day care facility. The exempt organization would provide a corporate structure for the day care facility, and payments by the employer to the center would be deductible as charitable contributions.

## ¶19 Voluntary Employees' Beneficiary Association

Another possible way for an employer to organize a day care program is through a voluntary employees' beneficiary association. Code Sec. 501(c)(9) recognizes that a voluntary employees' beneficiary association that provides benefits to the members of the association, or to their dependents and designated beneficiaries, is exempt from taxation, provided no part of the net earnings of the association benefits a private shareholder or individual other than through the stated purpose of the organization.

There are very few cases or rulings that interpret this subsection of the Code, and proposed regulations introduced under Code Sec. 501(c)(9) in 1969 were withdrawn. However, new proposed regulations were promulgated on July 17, 1980, and the interpretation of the Code given by the proposed regulations is favorable to the employer contemplating the establishment of a day care facility for its employees' children.

The language of the Code indicates that the purpose of a voluntary employees' beneficiary association is to provide for the

payment of life, sickness, accident, or other benefits to the employees, together with their dependents and beneficiaries. The proposed regulations define "other" to include benefits that protect the employee from a contingency that interrupts or impairs a member's earning power and provide that day care facilities are "other benefits" (Proposed Reg. § 1.501(c)(9)-2(d) and (e)).

In order to qualify as a voluntary employees' beneficiary association, the day care association must be open to employees on a voluntary basis, subject to objective standards relating to length of employment and type of employment. The employee-members would have to have some meaningful control of the day care center management. An acceptable formula would be to place the management of the day care center in the hands of a group of trustees, some of whom were appointed by the employees and some of whom were appointed by the employer (Proposed Reg. § 1.501(c)(9)-2(c)(3) and (4)). Also, the day care center would have to maintain records that reflect the amount contributed by each member, the amount contributed by the employer, and the type of benefits received by each member (Proposed Reg. § 1.501(c)(9)-5(a)).

**Multiple employer sponsors.** The proposed regulations allow multiple employers in the same geographic area to join in the operation of one tax-exempt employee day care association provided the employers are "in the same line of business." Unfortunately, that phrase is not defined, and, in many instances, diverse types of manufacturers may desire to form an industrial or commercial day care complex facility for the benefit of their employees (Proposed Reg. § 1.501(c)(9)-2(a)(1)).

The proposed regulations limit the number of nonemployees that can be served by the day care facility to 10 percent of total enrollment in the program. This restriction would have to be interpreted in a manner complementary with the provision allowing multiple employers; thus, "nonemployees" would mean those not employed by any of the multiple employers participating in the day care program. The term "employee" would include an employee within the meaning of employment taxes (Subtitle C), an employee for purposes of collective bargaining, or a person who would qualify as an employee except for the fact that he is on a leave of absence, works temporarily for another employer, works as an independent contractor, or has been terminated by reason of retirement, disability or layoff (Proposed Reg. § 1.501(c)(9)-2(b)). A dependent of an employee-member would include a member's spouse, any child of the member or the member's spouse, and any other individual who the association, relying on information furnished to it by the member, in good faith believes is a dependent (for tax purposes) of the member (Proposed Reg. § 1.501(c)(9)-3(a)).

**Income to the employee.** The proposed regulations state that the monetary value of the day care services received by a member must be included in the member's gross income to the extent that such amount would be included under the Code (Proposed Reg. § 1.105(c)(9)-6(a)). This provision would place the taxation of the

employee's benefit from the association on the same uncertain footing as day care benefits derived from any other employer-sponsored day care program. See ¶ 20, below.

**Dissolution of day care program.** Using an employees' beneficiary association can create problems in the event that the day care services are discontinued. The proposed regulations state that the assets of a dissolved day care association may not be distributed to the contributing employer. However, they could be distributed in an equitable manner to the members of the association, i.e., the employees. This proposed provision might be circumvented by placing the capital assets of the day care center in the name of the employer and then renting the facilities to the association at a nominal rate.

## EMPLOYEES' TAX CONSIDERATIONS

### ¶ 20 Taxation of Fringe Benefits to Employees

An employer's provision of day care services to employees at a bargain rate raises the issue of whether such employee benefits are fringe benefits the value of which is includible in gross income. In the past, the Internal Revenue Service has stated that the bargain element of the price is compensation to the employee, and, thus, should be included in the employee's gross income. Although, Congress has forbidden the IRS to issue any regulations or rulings on the subject until May 31, 1981, the IRS will continue to follow existing regulations, rulings, case law and the like in determining what fringe benefits are compensation taxable as income (IR-80-119, November 17, 1980, announcing Rev. Proc. 80-53).

**Code provisions.** The Code provides that gross income includes all income from whatever source derived, unless otherwise provided (Code Sec. 61). The Code treats a number of specific categories of fringe benefits and states which categories will or will not be included in gross income. For example, an employee must include in gross income the cost of life insurance premiums paid by his employer to the extent that such premiums are for life insurance in excess of \$50,000. But premiums for life insurance up to \$50,000 are not includible in gross income (Code Sec. 79). Gross income does not include the first \$5,000 in employee death benefits (Code Sec. 101(b)), employer contributions to an employee's accident and health care premiums (Code Sec. 105), employer-provided group legal services (Code Sec. 120), or tuition costs paid by an employer (Code Sec. 127).

**Work-related expense benefits.** The fringe benefits dealt with in the Code, and listed in the preceding paragraph, would all be beneficial to an employee, but none of them would relieve the employee of expenses he or she must incur in order to continue his or her employment. Among those fringe benefits that do relieve the employee of such expenses and that are specifically dealt with in the Code are employer payment of moving expenses, certain meals and lodging costs, and the value of employer-provided commuting services. Work-related moving expenses paid by an employer are specifically included in gross income (Code Sec. 82), but the

employee also gets a limited deduction for work-related moving expenses in the determination of his or her adjusted gross income, so there usually is not a net tax loss to the employee. The value of meals and lodging provided to an employee and his family for the convenience of the employer and on the premises of the employer are excluded from gross income (Code Sec. 119). The value of qualified commuting expenses provided to an employee is not included in the employee's gross income (Code Sec. 124). The tax treatment of these fringe benefits is of particular interest because employer-sponsored day care services are also work-related expense benefits.

When Congress has been presented with the question of whether fringe benefits designed to ease the employee's work-related expenses should be taxed, it generally has answered in the affirmative, but an expense for which an employee may receive a tax credit or deduction can create problems. Because money paid by an employer for day care services can qualify for a tax credit (see ¶ 120), it is conceivable that Congress might decide that the value of the day care fringe benefit should be included in gross income, with a tax credit applied to the amount included. However, because there is a ceiling on the maximum allowable credit, the employee would probably pay more in taxes under such an arrangement than if day care expenses were tax-free.

**Proposed regulations.** In September 1975, the IRS issued a discussion draft of proposed regulations prescribing standards for determining whether employee fringe benefits result in taxable gross income. These proposed regulations were withdrawn in December 1976, following a great deal of criticism. Subsequently, Congress passed legislation forbidding the IRS to issue any rules or regulations on fringe benefits and reserving the area for Congressional action. Since that time, Congress has considered legislation on the subject, but has passed only extensions of its IRS prohibition, which currently is scheduled to expire on May 31, 1981.

The present proposed regulations and the prior Congressional bills bear some similarities that may provide a preview of future legislation. There is general agreement to adopting a *de minimis* rule: Fringe benefits that create a benefit so small that it is uneconomical to calculate their value would be tax-free. Day care services would not come under this rule; for example, a reduction in price of only \$20 per week would yield an annual benefit of \$1,000 (commercial rates are often about \$65 per week). Both Congress and the IRS have suggested a general rule that would exempt from gross income fringe benefits that, while they are valuable to the employee, are inexpensive to the employer. Day care services generally will be quite expensive to the employer and, thus, would not qualify under this rule.

Both the IRS and Congress have also considered rules that would give tax-free status to fringe benefits designed to reduce the employee's cost of working. The convenience-of-the-employer test recognizes that accepting employment increases the employee's monthly expenses and so allows a fringe benefit to be tax-free, provided the employee receives the benefit of the services during, or

immediately before or after, working hours. Day care services would probably fall within this category.

**Withholding by employer.** The employer must also be concerned about the taxability of fringe benefits because, if the value of the day care services is considered wages to the employee, the employer may be required to include the value of the services in the employee's gross income for purposes of withholding tax. The regulations do exempt from withholding tax the fair market value of any facilities or privileges available to the employee if the facilities or privileges: (1) have a relatively small value and (2) are offered by the employer merely as a means of promoting the health, good will, contentment, or efficiency of its employees (Reg. § 31.3401(a)-1(b)(10)). Day care services would certainly meet the second requirement but could not be classified as having a "relatively small value."

The U.S. Supreme Court ruled, in *Central Illinois Public Service Co.* (78-1 USTC ¶ 9254, 98 S.Ct. 917), that, while an employee may be taxable on the value of meals provided by the employer, the employer is not obligated to withhold on the value of such meals. The court indicated that the employer was not obligated to withhold in that case because there was no indication in the Code or regulations at that time that such payments would be considered wages for withholding purposes.

The Internal Revenue Service, in implementing the mandate of the *Central Illinois* case, has stated that employee fringe benefits that are includible in gross income will not be treated as wages subject to withholding if two tests are met: (1) the payments are not of the type of benefit treated as wages under Code Sec. 3401(a), and (2) there is a reasonable belief that such benefits should not be considered remuneration for services. However, employers must report on Forms W-2, Wage and Tax Statements, employee fringe benefits that are includible in gross income even if they are not subject to withholding under the *Central Illinois* case (IR-80-119, November 17, 1980, announcing Rev. Proc. 80-53).

## ¶ 21 Credit for Child Care Expenses

Although there is no clear answer to the taxation of day care fringe benefits question (¶ 20), there is no doubt that the employee is entitled to a tax credit for his or her cost for employer-sponsored day care services if he or she maintains a household in which a dependent child resides and the expenses are incurred for the care of the child so that the employee (and his or her spouse, where pertinent) can work (Code Sec. 44A). The credit is equal to 20 percent of the qualifying day care expenses paid in a taxable year. To be eligible for the credit for the day care expenses for his or her dependent child, the parent must be able to claim a dependency exemption for such child. Although not pertinent to this book, a taxpayer may claim dependent care expenses for a spouse or other dependent who is physically or mentally incapable of caring for himself.

If an employee is married, the credit is allowed only if a joint return is filed. However, a married person is treated as "unmarried"

or credit purposes if he or she (1) is living apart from his or her spouse for the last six months of the year, (2) files a separate return, (3) maintains as his or her home a household which is for more than half the year the principal place of abode of a qualifying individual, and (4) furnishes over half the cost of maintaining the household for the year.

A divorced or separated employee having custody for a longer period than his or her former spouse of a child who is disabled or under age 15 may qualify for the credit even though the employee is not entitled to claim a dependency exemption for the child. However, the child must be in the custody of one or both of the parents for more than half of the calendar year, and the child must receive over half of his or her support from the parents during the taxable year.

The maximum amount of employment-related expenses to which the credit can be applied is \$2,000 if one qualifying child or dependent is involved and \$4,000 if more than one is involved. The maximum credit for one qualifying individual is \$400 (20 percent of \$2,000); it is \$800 for two or more.

The qualifying employment-related expenses may be taken into account in determining the credit only to the extent of earned income—wages, salary, remuneration for personal services, net self-employment income, etc. In the case of married employees, expenses are limited to the earned income of the spouse with the lesser amount. Generally, if one spouse is not working, no credit is allowed. If the nonworking spouse is physically or mentally disabled or is a full-time student at an educational institution for at least five calendar months during the year, however, the law assumes an earned income—for each month of being disabled or attending school—of \$166 if there is one qualifying child or dependent, or of \$333 if there are two or more.

**Qualifying employment-related expenses.** Qualifying expenses include an employee's cost of having a dependent child (under the age of 15) cared for in an employer-sponsored day care facility. The credit for child care is for expenses paid for the care of the child, not for the child's education. However, during the period the child is in nursery school or pre-school, no distinction is made between care and education. Expenses for education in the first and higher grade levels are not deductible, but a portion of the cost allocated to the daily care of the child can be used in the calculation of the credit. Child and dependent care expenses incurred in one year and paid in the following year may be eligible for the credit in the year paid, provided that such expenses did not exceed the limitations in the year incurred.

**Itemized deduction.** An election applies for an expense that either may be claimed as an itemized medical deduction or may be included in the amount on which the child care credit is based. An employee who pays such an expense must elect to claim it as part of the medical expense deduction or as part of the child care credit, and cannot use it twice, for both the deduction and the credit. However, if an employee elects to treat the expense as part of the credit computation amount, any part of the expense that cannot be used

because of the \$2,000 or \$4,000 maximum limitation can be included in the medical deduction. If an expense is included in the medical deduction, the part that is not deductible because of the three-percent medical deduction limitation cannot be used as part of the credit.

Substitute Senate Bill No. 524

PUBLIC ACT NO. 81-100

AN ACT ALLOWING CREDIT AGAINST CORPORATION BUSINESS TAXES FOR EXPENDITURES TO ESTABLISH DAY CARE FACILITIES FOR CHILDREN OF EMPLOYEES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 7. (NEW) There shall be allowed a credit for any taxpayer against the tax imposed under chapters 208, 211 or 212 of the general statutes for any income year, in an amount equal to twenty-five per cent of total expenditures paid or incurred by such taxpayer in such income year for planning, site preparation, construction, renovation or acquisition of facilities for purposes of establishing a child day care facility to be used primarily by the children of such taxpayer's employees and equipment installed for permanent use within or immediately adjacent to such facility, including kitchen appliances, to the extent that such equipment or appliances are necessary in the use of such facility for purposes of child day care, provided (1) such facility is operated under the authority of a license issued by the commissioner of health services in accordance with sections 19-43b to 19-43l, inclusive, of the general statutes, (2) such facility is operated without profit by such taxpayer related to any charges imposed for the use of such facility for purposes of child day care and (3) the amount of tax credit allowed any taxpayer under the provisions of this section for any income year may not exceed ten thousand dollars. If two or more taxpayers share in the cost of establishing such a facility for the children of their employees, each such taxpayer shall be allowed such credit in relation to the respective share, paid or incurred by such taxpayer, of the total expenditures for the facility in such income year. If the amount of such tax credit allowed any taxpayer for any income year exceeds the amount of tax, without reduction for such tax credit, any balance of the credit remaining may be claimed against the tax imposed for any of the three income years next succeeding, provided any such balance of credit may not be claimed for any such succeeding income year in which the child day care facility is operated for purposes of child day care for less than six months. Any taxpayer allowed such tax credit against the tax imposed under any of said

Substitute Senate Bill No. 524

chapters 208, 211 or 212 shall not be allowed such credit under more than one of said chapters.

Sec. 2. This act shall take effect from its passage and shall be applicable with respect to income years commencing on or after January 1, 1981.

Certified as correct by

\_\_\_\_\_  
*Legislative Commissioner.*

\_\_\_\_\_  
*Clerk of the Senate.*

\_\_\_\_\_  
*Clerk of the House.*

Approved \_\_\_\_\_, 1981

\_\_\_\_\_  
*Governor.*

Act No. 468  
Public Acts of 1980  
Approved by Governor  
January 17, 1981

STATE OF MICHIGAN  
80TH LEGISLATURE  
REGULAR SESSION OF 1980

Introduced by Reps. Watkins, McNeely, Collins, Gingrass, Conroy, Dongvillo, McCollough, Clodfelter, Bullard, Cushingberry, Mary C. Brown, Ryan, O'Neill, Hellman, Jacobetti, Wilson, Burkhalter, Spaniola, Sietsema, Padden, Ciaramitaro, Anderson, Dillingham, Raymond W. Hood, Terrell, Joe Young, Jr., Legel, Forbes, Virgil C. Smith, Vaughn, Dutko, Rocca, Vanek, Hollister, Harrison, DeBeaussaert, Kilpatrick, Fitzpatrick, Alley, Stabenow, Lalonde, Evans, Morris Hood, Jr., Mathieu, Thaddeus C. Stopczynski and Tombouliau

## ENROLLED HOUSE BILL No. 4616

AN ACT to amend Act No. 226 of the Public Acts of 1975, entitled "An act to provide for the imposition, levy, computation, collection, assessment and enforcement, by lien or otherwise, of taxes on certain commercial, business, and financial activities; to prescribe the manner and times of making certain reports and paying taxes; to prescribe the powers and duties of public officers and state departments; to permit the inspection of records of taxpayers; to provide for interest and penalties on unpaid taxes; to provide exemptions, credits, and refunds; to provide penalties; to provide for the disposition of funds; to provide for the interrelation of this act with other acts; and to provide an appropriation," as amended, being sections 205.1 to 205.145 of the Compiled Laws of 1970, by adding section 39a.

*The People of the State of Michigan enact:*

Section 1. Act No. 226 of the Public Acts of 1975, as amended, being sections 205.1 to 205.145 of the Compiled Laws of 1970, is amended by adding section 39a.

Sec. 39a. (1) Added in this section:

(a) "Child care services" means the care and protection of a child who is:

(i) Under 14 years of age.

(ii) A dependent of an employee of that employer and not a member of the family of a sole propriety or partnership.

(iii) Enrolled in a facility licensed by the department of social services pursuant to Act No. 116 of the Public Acts of 1973, as amended, being sections 722.111 to 722.125 of the Michigan Compiled Laws.

(b) "Equivalent hour" is determined by taking the total number of hours of child care services provided to each eligible child which is paid by the employer, as defined in this act, and dividing each eligible child's total number of hours by 2,000. The result shall be carried to the second decimal place.

(2) An employer who pays for child care services for an employee during the employee's hours of employment and does not charge the employee for the service shall be allowed a credit against the tax imposed by this act for the taxable year, in an amount determined by multiplying the sum of all resulting equivalent hours, as determined in subsection (b), by \$45.00.

(3) The credit allowed by this section shall not be in excess of 10% of the tax liability of the taxpayer under this act.

(4) This section shall take effect for tax years beginning after December 31, 1980 and before January 1, 1983.

*T. Thos. Thatcher*

Clerk of the House of Representatives.

*Willam C. Londer*

Secretary of the Senate.

Approved .....

.....  
Governor.



**National  
Conference  
of State  
Legislatures**

Headquarters  
Office  
(303) 292-6600

1125  
Seventeenth  
Street  
Suite 1500  
Denver,  
Colorado  
80202

President  
John I. Bragg  
Deputy Speaker  
House of Representatives  
State of Tennessee  
Executive Director  
Earl S. Mackey

February 1985

**DAY CARE FOR GOVERNMENT EMPLOYEES**

According to the Bureau of Labor Statistics, 45 percent of women with children under the age of one and 59 percent of single mothers with children under the age of six are in the workforce and require child care. The need for child care for government employees has been recognized by Congress and two states.

The Congressional Child Care Center was established through House Resolution 515 in 1979 and provides services for children of Senators, Representatives, and Congressional employees.

The provisions of the California law (1980) require adequate child care facilities for state employees in any state office building which can accommodate 700 or more employees if a review of these employees shows that there is a need for child care services for 30 or more children.

In 1984 the state of Washington recognized that appropriate child care enhances employee productivity and lowers absenteeism. As a result, a demonstration day care program for government employees was established with \$45,000 appropriated for startup costs.

These laws are included in this packet. For more information, contact the NCSL Children and Youth Program in the Denver office, (303) 292-6600.

# **The CHILD CARE HANDBOOK**

## **NEEDS, PROGRAMS, & POSSIBILITIES**

Children's Defense Fund





## Empire State Day Care Services, Inc. Albany, New York

Public employers have a direct self-interest in sponsoring child care programs for their employees. More visible and accountable to the general public than corporations, governments have as much—if not more—to gain by providing such services. Empire State Day Care Services has proven that government-sponsored child care can reduce turnover, give public agencies a "pro-family" image, and improve productivity. Empire State, which runs the Children's Place at Albany's huge Capitol Mall Plaza for New York State employees, succeeds for the same reasons corporate child care programs succeed: support from upper-level management; careful monitoring and evaluation to make sure the program satisfies parents' needs; and innovative ways of holding down fees.

### Management Support Key

Getting the Children's Place at the Plaza off the ground took the commitment and leadership of a top manager. Every other year from 1972 to 1978, the state of New York and the 219,000-member Civil Service Employees Association (CSEA)—52 percent of whose members are women—agreed in their contract to "study the feasibility of child care." Yet for six years, neither side acted. Contract language notwithstanding, "anytime anybody looked at it, it was either too expensive a proposition or they did not know where to go," says Empire State's Executive Director, Molly Hardy. This situation changed dramatically in 1979 with the appointment of Meyer S. Frucher as the new Director of the Governor's Office of Employee Relations. Several years before, Frucher and his wife had started a day care center in the basement of their home in New York City. "His wife was a professional and they were both working and had no place to put their children, so he was very aware of the problem," she recalls.

According to Hardy, when child care resurfaced during negotiations over CSEA's current agreement with the state, Frucher argued that contract language

by itself had thus far not accomplished anything, and that what was needed "was a mechanism to actually make it happen." His arguments were persuasive, but no one present on either side was able to suggest more specific language. To break the impasse, Frucher made a "gutsy" proposal: he would give an "over-the-table verbal commitment" to union President William L. McGowan to establish a model on-site day care center for the children of state workers if the union head would agree not to "tie his hands" by insisting that express language to that effect be written into the new contract. In an "equally gutsy" move, McGowan agreed to trust the young director's motives and to work to sell his offer to the membership — certain segments of which "by that point were really beginning to agitate" around the issue of employer-supported child care.

Shortly after this unorthodox agreement, Frucher hired Hardy, and Empire State Day Care Services was incorporated with an ongoing mandate "to open and operate child care centers at state facilities throughout New York for the children of state employees."<sup>1</sup> Once the Corporation was formed, Frucher immediately set to work to secure the active support of those whose help he knew would be critical. "All of a sudden, everywhere you looked, this was a top priority project," Hardy says. For example, the Office of General Services (OGS) quickly approved the use of 10,000 square feet of space on the first floor of one of the main state office buildings, the personnel overtime needed to relocate the agency offices that had been there, and the complete remodeling of the area to make it suitable for young children. Even the Department of Social Services—the state day care licensing bureau—pitched in to help with renovations. "Everybody was very much behind us and it really made a big difference," she reflects. "For a state the size of New York, with lots of bureaucracy and all the processes that entails, to carry out everything involved in the planning stages right through to the opening—all in less than six months—was just unbelievable."

## Convenience at a Reasonable Price

The Children's Place at the Plaza opened its doors in September 1979 with \$50,000 in seed money from the U.S. Department of Health, Education, and Welfare (now Health and Human Services). Its goal is not to provide free care but, rather, reasonably priced care of a quality parents can trust. Therefore, instead of subsidizing the center, the State of New York pays Hardy's salary and provides a range of in-kind services that help keep parent fees low (between \$39 per child per week for a family earning under \$10,000 a year, and \$55 for those with incomes over \$40,000), including a free space lease agreement, moving arrangements for the agency that previously occupied the space, renovations, and daily maintenance. (The Corporation itself receives no direct funding; its primary purpose is to serve as a conduit and to protect the state from liability). Also helping to hold down fees is a policy requiring parents to supply formula, diapers, lotions, and special foods their children need. The same food service company that operates the Plaza's regular cafeteria provides lunch and two snacks at a cost of under \$1 a day per child. About 90 percent of

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<sup>1</sup> Empire State Day Care Services, Inc., "Fact Sheet," p. 1 (processed)

the program's \$260,000 operating budget comes from parent fees, the remainder from miscellaneous fundraising events.

The Children's Place is open from 7:00 a.m. to 5:30 p.m. Monday through Friday (except state holidays) all year long. Some 100 children from 8 weeks to 5 years old are enrolled; they are grouped by age for programming purposes. Thirty percent of the children served live in single-parent families; 4 percent are handicapped; and 8 percent are minorities. The incomes of their families range from \$7,000 to over \$40,000; the average is between \$20,000 and \$25,000. The center has a staff of 21 teachers. Since the fall of 1980, it has operated a full-day kindergarten in addition to its day care activities; graduates of this program are accepted directly into first grade by the public schools.

In exchange for the reasonable but significant fees they pay, parents get a convenient center located within underground walking distance of the office buildings where they work, frequent contact with their children, and a large say in how the Children's Place is run. All automatically belong to a Parent Advisory Committee, which is responsible for recommending changes in policies and program components to the Board of Directors. The Board includes officials from the major public employee unions and the executive branch, the Speaker of the State Assembly, the State Senate President, child care professionals and advocates, and parent representatives elected by the Advisory Committee. Parents are encouraged to visit their children as often as possible. A special program arranged in conjunction with supervisors allows breastfeeding mothers to return to work but to continue to nurse their infants during breaks.

## The Program Proves Itself

"As a child care person and a mother," Molly Hardy knew that a new program has to prove itself before parents will use it. Thus, she was not worried when the Children's Place — geared for 80 children — opened with only 35. "The higher-ups were horrified," but "common sense" told her that "nobody is going to move their child to a place that doesn't exist yet and which they don't know anything about, unless they are really desperate." Her instincts proved correct. Throughout the fall, word spread, prospective applicants dropped by to see the center for themselves, and by January 1980 all the slots were filled. By February, it had a waiting list, which by June had grown to over 300 infants alone.

Less than a year after opening day, Hardy arranged for an evaluation of the Children's Place. It showed that productivity had improved, turnover had declined, and families were more than pleased with the program. Of the parents surveyed, 88 percent had actually observed "positive effects in their children" since they began attending the center, and 92 percent said their children looked forward eagerly to going each day.<sup>2</sup> "That says a lot," she believes, "because if you feel comfortable that your child is being well cared for, it just follows that you're going to be much happier at work. This has been confirmed by many people who tell us that not only are individual employees happier and doing better work, but that whole offices have been affected because there

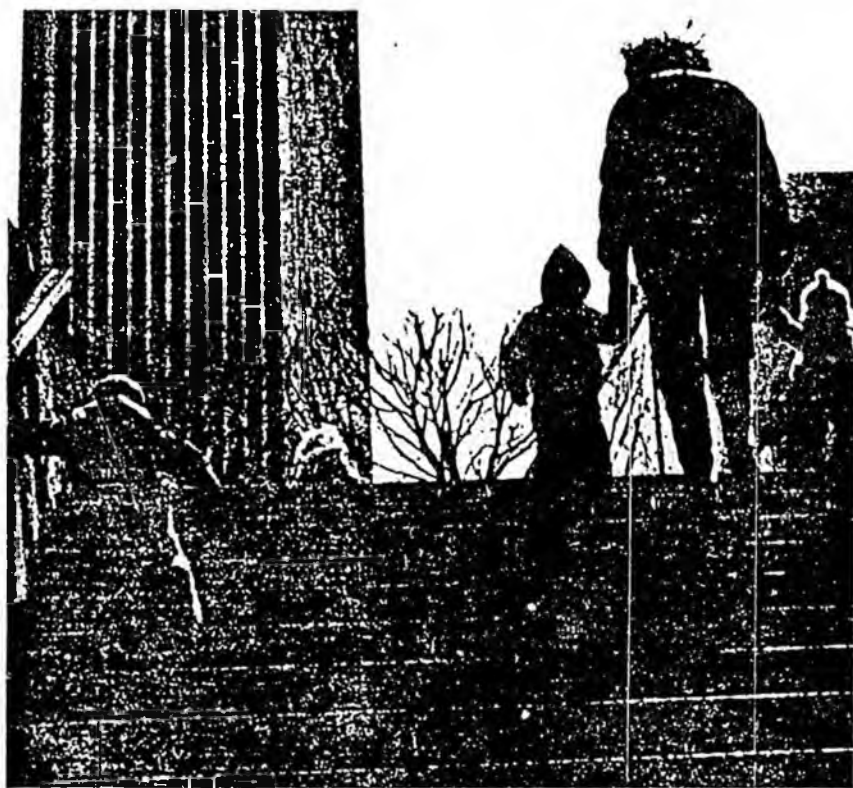
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<sup>2</sup> See Welfare Research, Incorporated, "Children's Place at the Plaza: Evaluation Report" (Albany, June 1980), p. 18 (processed)

aren't as many three to five o'clock phone calls going home or to the center [to check on children], disrupting everybody." In addition:

- 62 percent of the parents said they would experience child care problems if the Children's Place did not exist;
- 83 percent reported that they worry less about their children during the day than they did before they were enrolled nearby at the center;
- 47 percent felt that their work productivity had improved;
- 45 percent of women respondents said that the center had enabled them to either become employed, remain employed, or return to work sooner than would have otherwise been possible;
- 52 percent of all respondents chose the Children's Place because of its location and convenience to their workplace;
- another 41 percent selected the center because of the quality of care provided; and
- the reasons for the one to three withdrawals each month (during the period studied) were unrelated to program operations.<sup>3</sup>

<sup>3</sup> *Ibid.*, pp. 16-19.



The Children's Place has been so successful that the state's joint labor-management groups are planning, with help from Empire State Day Care, to open 15 to 20 more worksite centers. The vehicle for accomplishing this goal is the New York State Committee on the Work Environment and Productivity, a joint labor-management group formed in 1979 as a result of contract talks with CSEA's Institutional Services Unit and two other public employee unions (the Public Employees Federation, AFL-CIO, and Council 82 of the American Federation of State, County, and Municipal Employees) to systematically address issues relating to "the quality of working life." With the success of the Children's Place and continuing pressure from the rank and file as a backdrop, the Committee decided to make expansion of state-supported child care an early priority, agreeing in the spring of 1981 to funnel \$100,000 of seed money through the Day Care Corporation for this purpose. The unions—which are still "strongly behind the idea"—also had their labor-management groups contribute to the pot, as did the non-union, state-level Management Confidential Group, bringing the total amount in it to \$150,000.

Ground rules for distribution of the funds are as follows: proposals must come from localized child care committees consisting of both labor and management representatives; before submitting a proposal, committees must have already secured a space commitment through their facility director; no single center will receive more than \$10,000, which may be used only for equipment and supplies needed to get it started, to pay a director for one or at most two months before opening, and to cover the first year's insurance; and, after the seed money is spent, all centers—like the one in Albany—must be self-sustaining, with the exception of the provision of space and maintenance services. The role of the Corporation will be "more to consult with than to monitor or regulate" the new programs. "We will share our expertise and connect them up with the local licensing authorities and day care community," promises Hardy, "but we will not rubber-stamp centers. Each one must be unique and fit the particular child care needs of the employees it is set up to serve."

### Advice to Others

Molly Hardy says that the severe need for child care makes programs like the Children's Place almost "a noncontroversial issue" for public employers, at least in New York State. But according to a report commissioned by the Committee on the Work Environment and Productivity, a successful worksite center depends on eight elements:

- a commitment by the employer to continued support through some form of in-kind or direct subsidy;<sup>4</sup>
- a "relatively large" female labor force, including a significant number of single parents with preschool children;
- a needs assessment conducted prior to opening;

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<sup>4</sup> For more information, see Commerce Clearing House, Inc., *Tax Incentives for Employer-Sponsored Day Care Programs* (Chicago: Commerce Clearing House, Inc., 1980).

- a high-quality program (in terms of "staff qualifications, staff-child ratios, curriculum, and facilities");
- an enrollment big enough to "ensure cost-efficiency [and] maintain employer commitment" (experience "suggests about 100 children");
- an "attractive tuition rate" ( \$30- \$60 per week");
- operating hours that closely mirror employee schedules; and
- continuous evaluation of "program objectives and components" and factors such as "cost and parental satisfaction."<sup>5</sup>

Hardy urges those interested in establishing workplace child care programs to begin by talking to officials of public employee unions because "they are in a strong position through frequent contract negotiations to bring real pressure to bear." In non-unionized areas, she suggests starting with state affirmative action officers or local women's organizations. In either case, she says, "the most important thing is to form an employee-management group early on so you're dealing not just with one side or the other, but with both sides."

Finally, Hardy feels it is absolutely crucial that, as people "see the handwriting on the wall" spelling out cutbacks in public social service programs, they realize that the reason New York has gotten involved in the issue of child care "is not as a government project but because it is an employer—and there is a difference." The Children's Place at the Plaza, and other on-site day care centers around the state that will follow in its steps, do not represent *government* subsidizing families in which it has "at best a very indirect interest," but rather an *employer* subsidizing families in which it has "a profound, direct self-interest from both a productivity and public relations perspective." State agencies should be approached with this difference and the potential payoff *to them* firmly in mind, in essence with the "bottom-line, foot-in-the-door message: 'We're not looking for free day care; the parents are willing to pay for it. . . . All you have to do is provide the space and perhaps a little seed money. We'll see that the center is self-sustaining and you'll get all these great benefits.'"

<sup>5</sup> Welfare Research, Incorporated, *On-Site Day Care: State of the Art and Models Development* (Albany, February 1980), p. 33. (Available for \$10 from Molly Hardy, Executive Director, Empire State Day Care Services, Inc., P.O. Box 2021, Agency Building 2, 12th Floor, Empire State Plaza, Albany, New York 12223.)

96TH CONGRESS  
1ST SESSION

# H. RES. 515

Establishing the Congressional Child Care Center.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 20, 1979

Mr. THOMPSON (for himself, Mr. BROOKS, Mr. BUCHANAN, Mr. JOHN L. BURTON, Mr. CARR, Mr. CONABLE, Mr. CONYERS, Mr. COUGHLIN, Mr. DE LA GARZA, Mr. DIXON, Mr. EDWARDS of Oklahoma, Mr. FAZIO, Mr. FISHER, Mr. FORD of Michigan, Mr. GREEN, Mr. HAWKINS, Mrs. HECKLER, Ms. HOLTZMAN, Mr. JEFFORDS, Mr. JONES of Tennessee, Mr. LEWIS, Mr. LONG of Louisiana, Mr. LOTT, Mr. MARKEY, Mr. MICHEL, Ms. MIKULSKI, Mr. MURPHY of New York, Ms. OAKAR, Mr. PUSELL, Mr. QUAYLE, Mr. RATCHFORD, Mr. ROSE, Mr. ROYBAL, Mrs. SCHROEDER, Mrs. SPELLMAN, Mr. STARK, Mr. SWIFT, Mr. VANDER JAGT, and Mr. WIRTH) submitted the following resolution; which was referred to the Committee on House Administration

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## RESOLUTION

Establishing the Congressional Child Care Center.

- 1 *Resolved*, That (a) there is established in the House of
- 2 Representatives and under the direction of the Committee on
- 3 House Administration a Congressional Child Care Center
- 4 (hereinafter in this resolution referred to as the "Center") to
- 5 provide child care services for children of Senators, Repre-
- 6 sentatives, and congressional employees.

★

1 (b) All operating expenses of the Center shall be recov-  
2 ered through fees charged for child care services provided by  
3 the Center.

4 SEC. 2. (a) The chairman of the Committee on House  
5 Administration shall appoint a nonpartisan advisory board to  
6 carry out the functions described in subsections (c) and (d).

7 (b) The advisory board shall be composed of a minimum  
8 of eleven individuals (including a chairman, so designated at  
9 the time of appointment) who—

10 (1) shall be chosen from among Senators, Repre-  
11 sentatives, parents of children enrolled in the Center,  
12 and other individuals with expertise in child care or in-  
13 terest in the Center; and

14 (2) shall serve during the Congress in which they  
15 are appointed, except that members may continue to  
16 serve after the expiration of their term until a succes-  
17 sor is appointed.

18 (c) The advisory board shall make recommendations to  
19 the Committee on House Administration with respect to mat-  
20 ters relating to the Center, including—

- 21 (1) management and operation;  
22 (2) curriculum and program of activities;  
23 (3) personnel selection and management;  
24 (4) fee structure, finance, and budget;  
25 (5) admissions policy;

1 (6) nutrition and health; and

2 (7) facilities and equipment.

3 (d). The advisory board shall conduct semiannual re-  
4 views of the operations of the Center and shall submit a writ-  
5 ten report of each such review to the chairman of the Com-  
6 mittee on House Administration, who shall make such report  
7 available for inspection by the public.

8 SEC. 3. There is established in the Treasury a revolving  
9 fund within the contingent fund of the House of Representa-  
10 tives to be known as the Congressional Child Care Center  
11 Revolving Fund. Any amount received under subsection (b)  
12 of the first section in payment for child care services shall be  
13 transmitted to the Clerk of the House of Representatives for  
14 deposit in the revolving fund and shall be available for dis-  
15 bursement by the Clerk to offset operating expenses of the  
16 Center.

17 SEC. 4. The Committee on House Administration is au-  
18 thorized to acquire such facilities as may be necessary for the  
19 operation of the Center.

20 SEC. 5. Until otherwise provided by law, the contingent  
21 fund of the House of Representatives shall be available to  
22 carry out this resolution.

23 SEC. 6. As used in this resolution, the term "Repre-  
24 sentative" means a Representative in, and a Delegate or  
25 Resident Commissioner to, the Congress.

been laid this session in committee, including a lobby reform bill, reported out by the Judiciary Committee last week, that sets out more stringent reporting and financial disclosure requirements for lobbyists; and a criminal code revision measure, the subject of Judiciary Committee hearings throughout the session.

The Senate has begun work on court reform legislation designed to ease the backlog of court cases and speed the administration of justice. Revision of the charters for the intelligence agencies has received committee attention in the first session and will likely be under consideration in the second.

Other revision plans scheduled to receive congressional attention include deregulation of the communications and trucking and railroad industries; reform of the drug laws to allow promising new drugs to be marketed earlier and dangerous drugs recalled promptly; and changes in the Food Safety Act to allow Federal regulators to consider both the risks and benefits of certain additives.

Congress might also take under consideration proposals for the stricter enforcement of antitrust laws such as restrictions on corporate mergers, and permission for retail purchasers to bring class action suits against manufacturers for price fixing.

The House this session passed the largest single conservation bill in history setting aside over 120 million acres in Alaska as parks, preserves, forests, and wilderness areas. If the Senate completes action on the measure, conferees next session will attempt to reconcile differences and have legislation that adequately protects some of this Nation's most spectacular and precious resources, without endangering Alaska's economic health.

And, of course, continuing to fashion a comprehensive energy package and monitoring the economy's performance in the new year will continue to be dominant concerns of the 96th Congress.

#### CHARLES DELAURENTI, RETIRING MAYOR, RENTON, WASH.

(Mr. LOWRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOWRY. Mr. Speaker, I rise today to commend Charles Delaurenti, an outstanding public servant from the Seventh District of Washington State. This commendation for Mr. Delaurenti, retiring mayor of the city of Renton, is made also on behalf of speaker of the house, Washington State, John Bagnariol, State Senator Bud Shinpoeh and State Representative Avery Garrett.

Charles J. Delaurenti began his 38 years of public service to the city of Renton when he was elected to the city council in 1942. He was reelected to the council for each succeeding term until 1975, when he ran for, and was elected to, the office of mayor. During this lengthy term of service to his community, Charles Delaurenti has always been an effective and dedicated public servant and a warm and gracious host for the

city of Renton. His genuine love for his fellow men will be long cherished by all who have worked with him. Upon his retirement, we wish him happiness and hope that Charlie's example of unselfish service to our community will be followed by others in the future.

#### ESTABLISHMENT OF CHILD CARE CENTER ON CAPITOL HILL

(Mr. THOMPSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMPSON. Mr. Speaker, I am today introducing a resolution which would provide for the establishment of a child care center here on Capitol Hill to serve children of congressional employees and Members of Congress. Thirty-eight of my colleagues, including 13 from the Republican side of the aisle, have joined me in sponsoring this resolution. In the Senate, a similar resolution is being introduced by the Senator from South Dakota, the Honorable GEORGE MCGOVERN.

There are several reasons to move promptly on the establishment of a Congressional Child Care Center under congressional sponsorship. The most obvious and pressing is the fact that it is a service sorely needed by a substantial number of employees. A survey conducted last year determined that nearly 300 Hill parents, with 371 children under the age of 6, were potentially interested in enrolling their children in such a facility. Since then many new parents have joined their ranks.

Furthermore, Mr. Speaker, it is important for the Congress, as an employer of over 10,000 workers, to set an example for other public and private employers. We should respond to the burdens of the working parent, as inflation and other factors force more and more persons into the category. The working parent is fast becoming the predominate pattern either because of economic necessity, career commitment or both. For a great many one- and two-parent families, a full-time homemaker is no longer an option. Therefore, as a matter of public policy, employers should be encouraged to be sensitive and responsive to this growing social need.

Our children are national resources for the future. I believe the House can provide quality care to children, while setting an important example for public and private sector employers, because without initial financial support, it is almost impossible for a group of employees to do it on their own.

Assisting working parents in arranging for the care of their children is a legitimate concern of all employers. By establishing a Congressional Child Care Center, the legislative branch would be setting not only an important example for other employers, but would be making a major improvement in the ability of its own employees to fully respond to the needs of the Congress, their families and children.

There is considerable historical precedent for Federal involvement in the es-

tablishment and maintenance of child care centers. The roots go back to the Works Progress Administration of 1933 where day care was authorized to help families during the economic crisis. During war time, as women were drawn into the labor force in record numbers, the Government—under the Lanham Act of 1942—appropriated \$51 million to establish 3,100 centers to support the needs of working mothers. This war time effort was renewed during the Korean conflict.

Recent new directions in civil rights and equal employment practices provide the strongest case for Federal involvement in child care for its own employees. The authority is derived from the Equal Employment Opportunity Act of 1972 and Executive Order 11478. The Civil Service Commission was charged with implementing these mandates as they relate to Federal employment.

The clearest indicator of both the need for, and the appropriateness of child care centers is the fact that Federal employers have already established nine centers in the Washington area. While there is general agreement that ongoing operating costs to sustain a center should be the responsibility of the parents of the children served, Federal cooperation has included provisions for space, renovations, and in some cases support for initial staff and other start-up expenses. Thus, there appears to be substantial need for establishing and maintaining day care services under the auspices of the Federal Government. This authority is based not only on historical precedent and the EEO but more specifically on recent authorizations given to both HUD and HEW.

A number of support services currently are available to Members and employees. Such services are generally available in any large institution or corporation. Without leaving the Hill, one can find cafeterias, carry-outs, vending machines, credit unions, and so forth. Most of these facilities are available, not out of a sense of altruism, but because the availability of such services helps employees to perform better and to spend more time on the job. This argument is even stronger in the case of child care.

Having a child care center located near the Hill offices would allow immediate access to one's children in the event of sickness or emergency. And with on-site care, there is an opportunity for parents to eat lunch with their children, and to share more time. This "breaks up" the time the child is away from the parent. The added time with one's child would of course be available to working fathers, thus strengthening the opportunities for fathering in our society. And all parents would share additional time with their children in traveling together between home and the workplace. Travel time is a good time for conversation and closeness between parent and child. And a Hill-based center would offer extended hours to cover the inevitable occasions when the work day runs past 5:30 p.m.

Finally, parents would be freed from the anxieties, tardiness and absenteeism associated with unreliable babysitting

arrangements, or nonparticipatory or commercial child care. They would save energy by abandoning the exhausting, twice-daily and frequently long-distance triangular commuting patterns between home, child care and work. In short, quality child care services located near the Hill would permit working parents peace of mind regarding their children's welfare, and allow them to focus their attention and energies on their office work.

The resolution would establish the Child Care Center under a revolving fund arrangement similar to the restaurant system, and "all operating expenses of the Center would be recovered through fees charged for child care services." Thus, the operation would be self-supporting.

An Advisory Board would be appointed, composed of Members of Congress, parents of children enrolled in the Center, and other individuals with expertise in child care or interest in the Center. The Board would make recommendations regarding the operation of the Center, including such matters as its management, curriculum and program of activities, personnel selection and management, fee structure, finance and budget, admissions policy, nutrition and health services and facilities and equipment. It is vital that parents have more direct input into the care of their children, and this Board insures them the means for expressing their views to the committee. As an additional safeguard, this Advisory Board would be required to conduct semiannual reviews of the operations of the Center, and to submit written reports which would be available for public inspection.

Although the operation of the Center, once it is established, is intended to be self-supporting, the revolving fund would finance the startup costs associated with the launching of such a service—renovation of a suitable facility, acquisition of equipment and material, and salaries for staff prior to the opening of the center.

We recommend the establishment of a revolving fund as a means of starting and operating the Center, because it involves less of a commitment of Federal funds than the approaches used by the other Federal agencies. More importantly, it can serve as a model which could be readily adapted by private employers. After expenditure for the initial startup costs, the fund would be repaid through fees collected from those using the Center.

Thus, the establishment of a child care center for congressional employees is a goal which is both economically and administratively feasible.

Finding a location for a child care facility is always an obstacle in establishing a new center. A hard-working group of Hill employees in the House and Senate have been meeting regularly in an attempt to deal with this and the other problems. They have identified a number of possible locations for the Center. The most promising is a facility recently vacated by another day care center, which is immediately available, and already suitable for child care. How-

ever, the space is sufficient to serve only 35 or so children, so it would suffice only as a temporary location, or as a supplemental facility. Using it would permit the Center to get started while continuing the search for more suitable space.

The planning committee has already progressed through a considerable mountain of paperwork, budgeting, planning, and preparation for a center. I plan to ask the Members of the House Administration Committee to consider this resolution in early in the second session. I am optimistic that, with the prompt passage of this resolution and the continuing involvement of this group of parents and employees, we can have a center functioning by mid 1980.

Following is a list of the cosponsors and the complete text of the resolution:

#### H. RES. —

#### Resolution establishing the Congressional Child Care Center

Resolved, That (a) there is established in the House of Representatives and under the direction of the Committee on House Administration a Congressional Child Care Center (hereinafter in this resolution referred to as the "Center") to provide child care services for children of Senators, Representatives, and congressional employees.

(b) All operating expenses of the Center shall be recovered through fees charged for child care services provided by the Center.

SEC. 2. (a) The Chairman of the Committee on House Administration shall appoint a nonpartisan Advisory Board to carry out the functions described in subsections (c) and (d).

(b) The Advisory Board shall be composed of a minimum of 11 individuals (including a Chairman, so designated at the time of appointment) who—

(1) shall be chosen from among Senators, Representatives, parents of children enrolled in the Center, and other individuals with expertise in child care or interest in the Center; and

(2) shall serve during the Congress in which they are appointed, except that members may continue to serve after the expiration of their term until a successor is appointed.

(c) The Advisory Board shall make recommendations to the Committee on House Administration with respect to matters relating to the Center, including—

- (1) management and operation;
- (2) curriculum and program of activities;
- (3) personnel selection and management;
- (4) fee structure, finance, and budget;
- (5) admissions policy;
- (6) nutrition and health; and
- (7) facilities and equipment.

(d) The Advisory Board shall conduct semi-annual reviews of the operations of the Center and shall submit a written report of each such review to the Chairman of the Committee on House Administration, who shall make such report available for inspection by the public.

SEC. 3. There is established in the Treasury a revolving fund within the contingent fund of the House of Representatives to be known as the Congressional Child Care Center Revolving Fund. Any amount received under subsection (b) of the first section in payment for child care services shall be transmitted to the Clerk of the House of Representatives for deposit in the revolving fund and shall be available for disbursement by the Clerk to offset operating expenses of the Center.

SEC. 4. The Committee on House Administration is authorized to acquire such facilities as may be necessary for the operation of the Center.

SEC. 5. Until otherwise provided by law, the

contingent fund of the House of Representatives shall be available to carry out this resolution.

SEC. 6. As used in this resolution, the term "Representative" means a Representative in the Congress and a Delegate or Resident Commissioner to the Congress.

#### COSPONSORS OF RESOLUTION TO ESTABLISH CONGRESSIONAL CHILD CARE CENTER

Mr. Brooks, Texas; Mr. Buchanan, Alabama; Mr. J. Burton, California; Mr. Calhoun, Michigan; Mr. Conable, New York; Mr. Coyne, Michigan; Mr. Coughlin, Pennsylvania; Mr. de la Garza, Texas; Mr. Dixon, California; and Mr. Edwards, Oklahoma.

Mr. Pazio, California; Mr. Fisher, Virginia; Mr. Ford, Michigan; Mr. Green, New York; Mr. Hawkins, California; Mrs. Hockler, Massachusetts; Ms. Holtzman, New York; Mr. Jepsen, Vermont; Mr. Jones, Tennessee; and Mr. Lewis, California.

Mr. Long, Louisiana; Mr. Lott, Mississippi; Mr. Markey, Massachusetts; Mr. Michel, Illinois; Ms. Mikulski, Maryland; Mr. Murphy, New York; Ms. Oaker, Ohio; and Mr. Puzell, Michigan.

Mr. Quayle, Indiana; Mr. Ratchford, Connecticut; Mr. Rose, North Carolina; Mr. Robb, California; Mrs. Schroeder, Colorado; Mrs. Spellman, Maryland; Mr. Stark, California; Mr. Swift, Washington; Mr. Vandenberg, Michigan; and Mr. Wirth, Colorado.

#### THE ANTIFAMILY MOVEMENT'S "7 PERCENT" DISTORTION

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, almost every editorial or propaganda piece by militant feminist or other antifamily activist declares that "the traditional family now includes only 7 percent total families." From this, it is concluded that the family is dying, and "new alternatives"—antifamily alternatives—the traditional family are needed.

The 7 percent these people are referring to are described in Janet L. Norwood's July 1977 article, "New A: Proaches to Statistics on the Family" in the Monthly Labor Review. Needless to say, it is distorted out of any relation what she is discussing.

Miss Norwood said:

For illustrative purposes (T)his type of family frequently is defined as consisting of a husband who works, a wife who is not in the labor force, and two children.

By torturing this definition, by saying that the "traditional family" one with two children, a mother who is not working and a father who works, the antifamily movement has concluded that the family is dying out, since only 7 percent of them in America have exact those characteristics.

It is true that only 7 percent of American families consist of exactly two children, a working father and a non-working mother. I doubt seriously whether, all of our history as a nation, much more than 7 percent of our families have exactly those characteristics. According to his warped view, the family was dying out in the 19th century, when families had an average of four or five or even more children, because they had to have exactly two to be "traditional."

Married couples who want, but cannot

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

**SENATE RESOLUTION 321—SUBMISSION OF A RESOLUTION ESTABLISHING A CONGRESSIONAL CHILD CARE CENTER**

Mr. MCGOVERN submitted the following resolution, which was referred to the Committee on Rules and Administration:

**S. RES. 321**

Resolved, That (a) there is established in the Senate, under the direction of the Committee on Rules and Administration, a Congressional Child Care Center (hereinafter in this resolution referred to as the "center") to provide child care services for children of Senators, Representatives, and congressional employees

(b) All operating expenses of the Center shall be recovered through fees charged for child care services provided by the Center.

SEC. 2. (a) At the beginning of each Congress, the Chairman of the Committee on Rules and Administration shall appoint a nonpartisan Advisory Board to carry out the functions described in subsections (c) and (d).

(b) The Advisory Board shall be composed of a minimum of eleven individuals (including a Chairman so designated at the time of appointment) who—

(1) shall be selected from among those Senators, Representatives, parents of children enrolled in the Center, and other individuals with expertise in child care, who express an interest in the Center; and

(2) shall serve during the Congress in which they are appointed, except that a member may continue to serve after the expiration of his term until a successor is appointed

(c) The Advisory Board shall make recommendations to the Committee on Rules and Administration with respect to matters relating to the Center, including—

- (1) management and operation;
- (2) curriculum and program of activities;
- (3) personnel selection and management;
- (4) fee structure, finance, and budget;
- (5) admissions policy;
- (6) nutrition and health; and
- (7) facilities and equipment.

(d) The Advisory Board shall conduct semi-annual reviews of the operations of the Center and shall submit a written report of each such review to the Chairman of the Committee on Rules and Administration, who shall make such reports available for inspection by the public.

SEC. 3. (a) There is hereby established in the United States Treasury a revolving fund within the contingent fund of the Senate to be known as the Congressional Child Care Center Revolving Fund (hereinafter referred to as the "revolving fund").

(b) All moneys received by the Center from fees obtained under subsection (b) of the first section in payment for child care services shall be deposited to the credit of the revolving fund. Moneys in the revolving fund shall be available without fiscal year limitation for disbursement by the Secretary of the Senate for operating expenses of the Center.

(c) Disbursements from the revolving fund shall be made upon vouchers signed by the Chairman of the Advisory Board, except that

vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

SEC. 4. The Committee on Rules and Administration is authorized to acquire, by lease only, such facilities as may be necessary for the operation of the Center, and to prescribe such regulations as may be necessary to carry out the provisions of this resolution.

SEC. 5. Notwithstanding any other provision of this resolution and until otherwise provided by law, operating expenses of the Center under this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the Chairman of the Advisory Board, except that vouchers shall not be required for the disbursement of salaries of employees paid at an annual rate.

**CONGRESSIONAL CHILD CARE CENTER**

• Mr. MCGOVERN. Mr. President, today I am submitting legislation that will hopefully ease some of the burdens that the families of many of our staffers and other congressional employees must bear. Last year, I introduced a resolution calling for the establishment of a child care center for the children of congressional employees. In conjunction with the Congressional Clearinghouse on Women's Rights, I sent a questionnaire to congressional employees to determine whether or not there was a real need for this service. The results of the questionnaire clearly indicated an overwhelming need for a worksite child care center. Over 150 parents responded that at least one of their children would attend a child care center if it were located at or near their place of work. Results of the questionnaire indicated that 190 children are in need of the service. The resolution I am introducing today calls for specific action to be taken by the Senate in order for the Congressional Child Care Center to become a reality.

There is not a Member of the Senate who is not aware of the increasing pressures placed on the American family. Unfortunately, Government policies can often exacerbate family burdens. High taxes, inflation, education costs, high medical bills, unemployment, and inadequate child care for children of working parents all help to contribute to family problems. Statistics bear out the bad situation: Over 11 nations have a lower infant mortality rate than the United States; we continue to incarcerate juvenile offenders when most should remain with their families; every year 1 million children are victims of child abuse, with 5,000 children dying as a result of these injuries; and it is estimated that one-fifth of our children have no regular source of health care.

We know it can be difficult for families when both parents work. For many generations our society has described a "good" family as one where the father makes enough money to allow the mother to stay home and care for the children. Although social scientists tell us that children of working mothers are not necessarily disadvantaged, working parents

fear that their children are being neglected. And unfortunately, in too many cases this is true. Children are neglected not because their parents are negligent, but because proper child care is not available.

There are millions of children in this country who come home after school to a locked, empty house. These "latch key" children have no relatives to take care of them; babysitters often have proved to be untrained or unavailable on a regular basis, and there are very few after school child care programs available to children. The situation is worse for parents with preschool children. In the questionnaire that was sent to our employees, many parents commented that a child care center on Capitol Hill would be preferable to their present arrangement because their child is usually alone all day with a babysitter who is merely putting in time, and who pays very little attention to the child. Other parents wrote that they worry about the child being miles away from them during the day. If an emergency arises, mother or dad cannot be there to help and comfort the child.

A new urban institute book, "The Subtle Revolution: Women at Work," states that by 1990, 55 percent of American women aged 16 and over will be in the work force. Most of these women, says editor Ralph E. Smith, will be married mothers. Smith states that by the end of the next decade, two-thirds of all married women under age 55 will be working outside the home, including half of all mothers with children under age 6.

Other authors of the book, Sandra Moore and Kristin Hofferth found that neither maternal employment nor day care hurt children. "We can report that the overwhelming consensus of different studies is that most children of working mothers seem to develop normally and well," the authors say. "The research literature is unanimous in finding that high quality child care does not harm children."

The authors further emphasize that although the use of child care centers has doubled in the last 10 years, more child care services will be needed in the future to serve the 10.5 million children under the age of 6 whose mothers will work outside the home in 1990. "The availability and quality of such care will depend in part on public policy over the next decade," say authors Moore and Hofferth.

The resolution I am introducing today would establish the child care center under a revolving fund arrangement. All operating expenses of the center would be recovered through fees charged for child care services. Thus, the operation would be self-supporting.

Although the operation of the center, once it is established, is intended to be self-supporting, the revolving fund would finance the startup costs associated

with the launching of such a service—renovation of a suitable facility, acquisition of equipment and materials, and salaries for staff prior to the opening of the center.

I recommend the establishment of a revolving fund as a means of starting and operating the center, because it involves less of a commitment of Federal funds than the approaches used by the other Federal agencies. After expenditure for the initial startup costs, the fund would be repaid through fees collected from those using the center.

In addition, the resolution establishes an advisory board to make recommendations concerning the overall policy and management of the center. Although final decisions regarding the center's operation will be made by the Senate Committee on Rules and Administration, semiannual reviews of the operation of the center must be made by the advisory board, and these reports must be made available to the public. Consequently, if the advisory board objects to a particular policy, the issue can be raised in the report which will be submitted to the Senate Committee on Rules and Administration and made known to the public.

The advisory board is crucial to the success of the center. The board shall be selected from among those Senators, Representatives, parents of children enrolled in the center, and other individuals with expertise in child care who express an interest in the center and will assist the committee in its efforts to provide the best care possible for our employees' children.

Recently, I organized an informal child-care center task force composed of those employees who indicated on the questionnaire that they would like to help in the effort to establish a worksite child-care center. The group meets once a week and is preparing a report recommending a plan of operation which will include: A program description including the objectives of the child-care program, a description of the type of curricula to be offered, the hours of operation, and the number of children to be served.

Also included will be a method for grouping children and providing for an economic mix of children, a staff-hire and admissions policy, a plan for involving parents and volunteers, a description of the nutritional, social, health, and medical services to be offered, an outline of the business management and record-keeping procedures to be followed, and a plan for meeting the physical, intellectual, emotional, and social needs of the children to be served by the center. In addition, the report will include a proposed budget for the startup costs and first year of operation, a fee structure and schedule with provisions for a sliding scale or scholarship, and a job descrip-

tion and qualifications for the position of center director.

I look forward to reading this report. A good many of the task force members are parents who would wish to place their children in the child-care center. Because parents know better than anyone else what is best for their children, the recommendations they make for the overall operation of the center should be seriously studied.

We are all aware of the controversy surrounding Government funding of child care. Many legislators, parents, and concerned citizens are understandably skeptical of the Government's involvement in their lives. I appreciate this concern. But this legislation is not charity or welfare. All of the Capitol Hill employees interested in this service are paying for their present child-care arrangements, and responded favorably to the questionnaire knowing that a Capitol Hill child-care center would not be free of cost.

It is evident, however, that most parents who need this service for their children cannot afford the initial start-up costs of a day care center. The U.S. Senate houses the restaurant, the credit union, the barber shop, and the Senate beauty salon services that assist our employees. Now we have substantial evidence of what would seem to be a more fundamental need for more adequate child care facilities to serve the children of our employees while their parents are at work.

Mr. President, we in the U.S. Senate have an opportunity to assist our staffs and their families. This effort is not without precedent. There are presently eight Government agencies in the area operating child care centers for the children of their employees. Many of these centers are operating successfully, experiencing low drop out rates, and have long waiting lists. By establishing a child care center on Capitol Hill, the home, in a sense, can be brought to the work place, bringing children and parents together. Lunch hours and/or coffee breaks could afford parents the opportunity to be with their children; eat lunch with them, participate in their activities. If a child becomes ill, the parent is immediately available. The psychological well being of children and parents is supported in these ways. Parental work attendance also becomes more stable.

Mr. President, I urge my colleagues to support this resolution creating child care facilities for Capitol Hill employees. The distinguished chairman of the Committee on House Administration, my long time friend and colleague, Congressman FRANK THOMPSON of New Jersey, is also committed to the concept of work-site child care and is today introducing a similar resolution in the House of Representatives.●

#### SENATE RESOLUTION 322—SUMMARY OF A RESOLUTION RELATING TO THE PURGE OF RIKIZO HIRANO

Mr. MATSUNAGA submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 322

Whereas in 1947, the Honorable Rikizo Hirano was the Japanese Minister of Agriculture and Forestry, and a member of the Japanese Diet;

Whereas recently released American military records of the Occupation of Japan following the Second World War reveal that

(1) Rikizo Hirano was effectively purged from his positions as Minister of Agriculture and Forestry and as a member of the Diet in the House of Representatives, as a result of the intervention against its orders, by the office of the Supreme Commander for the Allied Powers (SCAP) in the Japanese judicial process, and

(2) the intervention of SCAP was without basis or justification in that it violated the Allies' duty to respect the Japanese judicial process in the Japanese administration of the purges, and to carry out the task of teaching the principles of democracy and justice; and

Whereas the result of the purge was subject Mr. Hirano to public scorn, humiliation, and loss of honor, as well as loss of public office: Now, therefore, be it

Resolved, That in recognition of the egregious harm inflicted upon Rikizo Hirano by the intervention of the office of SCAP in the Japanese judicial process, resulting in his being purged, and, in recognition of Rikizo Hirano's distinguished career of public service in the office of agriculture, where his contributions have been lauded throughout the agricultural world, it is the sense of the Senate that the intervention of the office of SCAP resulting in the purge of Rikizo Hirano in 1947 was without basis or justification, improper and in violation of its own rules, and that all records of all United States Government agencies involved should be corrected to clear Rikizo Hirano of any wrongdoing and to restore the honor and reputation of Rikizo Hirano to their rightful standing in his country and the world.

Mr. MATSUNAGA. Mr. President, today I am submitting a resolution that will help, in a small way, to correct an injustice that has existed for over 30 years: an injustice which tarnishes the almost unblemished record of our rehabilitative efforts in postwar Japan.

The wrong I seek to redress is an old one. Soon after the allied occupation of Japan, the supreme commander of allied powers (SCAP) initiated various rules designed to purge undesirable individuals from Japan's Government and political parties. As prescribed by SCAP the purge could be initiated in two ways: by the supreme allied commander or by the Japanese Government.

In 1947, Mr. Rikizo Hirano was the secretary of agriculture and forestry of the Japanese Government. Despite his high visibility, his reputation for hon-

## FACT SHEET

1. Senator George McGovern with the aid of the Congressional Clearinghouse on Women's Rights conducted a survey of Capitol Hill employees. 139 responses from House, Senate and Supreme Court; 152 responses from the Library of Congress. The results of the questionnaire indicated that approximately 190 children need this service.
2. Thompson/McGovern introduced concurrent resolutions in late 1978 stating the need for a child care center for congressional employees.
3. Employees of the House, Senate, Library of Congress and Supreme Court have been meeting regularly in an attempt to get a center started. McGovern has a full-time staff person working on this project.
4. 8 Federal agencies in the D.C. area currently have child care centers which are extremely successful. They occupy federal space and each agency provided initial start-up funds in the form of a grant. The centers do not pay for space, utilities or maintenance.
5. A center needs financial aid in the first year due to three factors: 1) a director being hired before the center is operational in order to organize the center, 2) low initial enrollment, and 3) large equipment purchases.
6. Our recommendation for a revolving fund provides start-up funds; fees received for the service are returned to the fund. The restaurant accounting system can handle the extra book-keeping within their present system.
7. Start-up costs (depending on space available) would run approximately \$17,000 and operating expenses for 34 children

would be approximately \$73,070, including 5 staff persons (director, 2 teachers, 2 aides).

8. An Advisory Board ensures parental participation and input into the development of their children.
9. The House will benefit through the improved productivity and retention of satisfied employees. Satisfaction will increase when family responsibilities can more easily be met, employee's children are in close proximity, and children and parents can spend more time together, i.e., commuting and lunch times.
10. Depending on locations available, it is anticipated that the center will initially provide services to children from 2 1/2 to 5 years. House Members and employees would receive priority but the service will be provided to other federal employees in order to fill vacancies, i.e., Senate, Library of Congress, etc.
11. The House can provide quality care to children which, of course, is in the best interest of all of society.
12. A House sponsored child care center would be a model for other employers.

State of California

Health and Welfare Agency  
Governor's Advisory Committee  
on Child Development Programs  
1600 9th Street, Room 138  
Sacramento 95814



Jack Hailey  
Executive Secretary

(916) 322-8181

*Wingrove*

Senate Bill No. 764

CHAPTER 913

An act to add Chapter 11 (commencing with Section 4540) to Division 5 of Title 1 of the Government Code, relating to state buildings.

[Approved by Governor September 17, 1980. Filed with Secretary of State September 17, 1980.]

LEGISLATIVE COUNSEL'S DIGEST

SB 764, Watson. State buildings: child care facilities.

Existing law provides for the construction, acquisition, or receipt as a gift of buildings for use by the state.

This bill would provide that such buildings or state buildings which are added to, altered or repaired, which can accommodate 700 or more state employees, under specified circumstances, shall have designated therein adequate space for child care needs of the employees, if a sufficient need for child care services for 30 or more children is shown. It would require notice to employees of the availability of such space for child care purposes and would allow flexible use of the space, as specified. The bill would restrict the use of the child care facility to children of whom at least 1 parent or guardian is a state employee. Child care facilities for employees of the California State University and Colleges and the University of California would be required to be incorporated into campus master plans and be constructed subject to legislative appropriations, as specified. The bill would not apply to any state office building where the Public Works Board, prior to the effective date of this bill, has approved the commencement of the working drawing phase of the building.

*The people of the State of California do enact as follows:*

SECTION 1. Chapter 11 (commencing with Section 4540) is added to Division 5 of Title 1 of the Government Code, to read:

CHAPTER 11. CHILD CARE FACILITIES FOR STATE EMPLOYEES

4540. The Legislature finds and declares that there is a substantial need to provide adequate child care facilities for state employees.

When the state constructs, acquires, or receives as a gift any office building which can accommodate 700 or more state employees, or when additions, alterations, or repairs are made to existing state-owned office buildings which can accommodate 700 or more state employees, and such additions, alterations, or repairs both change and affect the use of 25 percent of the net square feet area

of such building and include the addition to, alteration of, or repair of the first floor. Adequate space shall be designated within such building to meet the child care needs of those employees, if a review of those employees slated to occupy the new or renovated building shows sufficient need for child care services for 30 or more children. The review shall be conducted by the Department of General Services and the Governor's Advisory Committee on Child Development Programs established pursuant to Section 8254 of the Education Code. The Director of the Department of General Services may secure space in any adequate facility for the same purposes only in the event that all other physical requirements controlling the development of such child care facilities within the office building cannot be utilized, provided that funds for such off-site facilities are made available.

It is the intent of the Legislature that existing state office buildings, at the discretion of the Director of General Services, may be retrofitted to accommodate a child care facility. State funds required for such retrofitting will be subject to regular budgetary procedures and approvals.

Space designed within a state-owned office building for such child care facility shall comply with the prevailing local and state safety building codes for child care facilities.

The indoor area shall not exceed 2,100 square feet, nor be less than that required to accommodate 30 children, excluding space for restrooms, kitchen facilities, storage areas, and teacher offices. Outdoor play area space shall correspond with the indoor play area as set forth in Title 22 of the California Administrative Code.

Utilization of the space shall be subject to terms and conditions as set forth by the Director of General Services. Such terms shall include payment of rent, proof of financial responsibility, and maintenance of space. The space shall be made available to the employees who wish to establish child care facilities at a rate to be established by the Director of the Department of General Services that is consistent with rental rates charged to state agencies occupying comparable state-owned space. Rent for non-state-owned space will be based upon the actual cost to the state.

The employee-occupants shall be notified in writing by the department or departments occupying the building, of the availability of space to be used for a child care facility no earlier than 180 days prior to the projected date of occupancy of a new building or space provided as the result of additions, alterations, or repairs to an existing state-owned building, and such additions, alterations, or repairs that both change and affect the use of 25 percent of the net square feet area of such building and include the addition to, alteration of, or repair of the first floor. If, within 30 days after full occupancy of a new office building or 30 days after the completion of additions, alterations, or repairs to an existing state-owned office building, the employee-occupants so desiring have not filed an

application with the Secretary of State as a nonprofit corporation for the purpose of organizing a child care center, deposited two months' rent in a commercial or savings account, and entered into a contract with the Department of General Services, the space may be used for any other purpose, as long as no permanent alteration of the space occurs. Other purposes may include, but are not limited to, conference rooms, storage areas, or offices. The space for child care shall be held for the employee-occupants' nonprofit corporation only as long as they pay the monthly rent and meet the terms set forth in the contract. Payment of rent shall commence 30 days after full occupancy of a new office building or 30 days after completion of additions, alterations, or repairs, as specified in this section.

If at a later date, the employee-occupants so desiring (a) file an application with the Secretary of State as a nonprofit corporation for the purpose of organizing a child care facility, (b) deposit two month's rent in a commercial or savings account, and (c) notify the Director of the Department of General Services of such actions, then the space shall be reconverted for child care purposes within 180 days of such notice.

Only children of whom at least one parent or guardian is a state employee may be served in the child care facility.

When a child care center has been operative for five years, the Director of the Department of General Services shall assess the child care needs of the state employees using the center and the office space needs of the building within which the center is located. If such assessment demonstrates a greater need for office space than for child care, the Director of the Department of General Services may close the child care center. Ninety days' written notice shall be given to the director or head teacher of the center of such closure.

This section shall not be construed to apply to those buildings which provide care or 24-hour residential care for patients, inmates, or wards of the state, such as state hospitals and correctional facilities.

4541. Child care facilities for the employees of the California State University and Colleges and the University of California shall be incorporated into the campus master plans and constructed subject to the provision of state funding appropriations by the Legislature. Determination of the need for, eligibility for use, and utilization of such facilities, shall be subject to terms and conditions of the trustees and the regents.

For the purposes of this chapter, only this section shall apply to the California State University and Colleges system and the University of California.

4542. This chapter shall not apply to the design of new state office buildings, additions, alterations, or repairs of existing state-owned office buildings, where the Public Works Board has approved, prior to the effective date of this chapter, the commencement of the working drawing phase of the new state office building.

cc

✓

IN THE LEGISLATURE  
of the  
**STATE OF WASHINGTON**



CERTIFICATION OF ENROLLED ENACTMENT

SUBSTITUTE HOUSE BILL NO. ....1655.....

CHAPTER NO .....

Passed the House..... February 6, ..... 1984  
as amended

Yeas 69 ..... Nays 28

Passed the Senate..... February 26, ..... 1984  
as amended

Yeas 26..... Nays 18

CERTIFICATION

2-29-84: The House  
concurred in the  
Senate amendment  
and passed the bill  
as amended by the  
Senate.

Yeas: 43 Nays: 11

I, Dean R. Foster, Chief Clerk of the House of  
Representatives of the State of Washington, do hereby  
certify that the attached is enrolled Substitute House Bill  
No. 1655 as passed by the House of  
Representatives and the Senate on the dates herein set  
forth

  
DEAN R. FOSTER, Chief Clerk

by Committee on State Government (originally sponsored by  
Representatives Reicher, Kreidler, Lewis, Allen, Miller, Wang,  
Galloway, Halsan and Jacobsen)

Read first time February 1, 1984.

1 AN ACT Relating to child care; adding new sections to chapter  
2 41.04 RCW; creating a new section; and making an appropriation.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. Sec. 1. The legislature recognizes that on-site  
5 child day care for employees of public and private organizations is a  
6 worthwhile pursuit. To further the goals of affordable, accessible,  
7 and quality child care for working parents, the legislature intends  
8 to establish a self-supporting child care demonstration project for  
9 employees of state government. The legislature recognizes that  
10 appropriate child day care services may enhance productivity and  
11 lower absenteeism among state employees.

12 NEW SECTION. Sec. 2. The department of general administration  
13 shall identify an amount of suitable space in state-owned or state-  
14 leased buildings in the Olympia area for use as child day care  
15 centers for the children of state employees.

16 The department of general administration shall establish a fair  
17 rental rate for the organization to pay for the space used.

18 NEW SECTION. Sec. 3. (1) The department of personnel shall  
19 conduct a needs assessment to determine the need for and interest in  
20 child day care facilities for the children of state employees;

21 (2) The department of personnel shall determine the number of  
22 children which may participate in the demonstration project required  
23 under sections 1 through 3 of this act; and

24 (3) If the suitable space is determined to be available, the  
25 department of personnel shall contract with one or more organizations  
26 to operate child day care facilities for the children identified  
27 under this section. Such facilities may be located in one or more  
28 buildings as identified under section 2 of this act.

Sec. 4

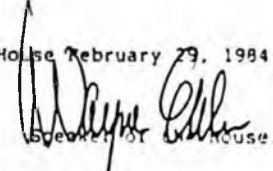
1 NEW SECTION. Sec. 4. The department of general administration  
2 and the department of personnel shall report on the project to the  
3 state government committees of the senate and house of  
4 representatives at the following times:

- 5 (1) Upon completion of the needs care assessment;  
6 (2) After space has been identified in buildings and child day  
7 care programs are established; and  
8 (3) After six months of operation of the child day care programs.

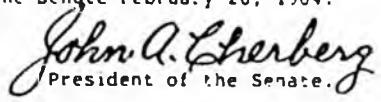
9 NEW SECTION. Sec. 5. There is appropriated from the general  
10 fund to the department of personnel for the biennium ending June 30,  
11 1985, the sum of forty-five thousand dollars, or so much thereof as  
12 may be necessary, to conduct a needs assessment to determine the need  
13 for and interest in child day care services for state employees and  
14 for start-up costs to implement this act.

15 NEW SECTION. Sec. 6. Sections 1 through 3 of this act are each  
16 added to chapter 41.04 RCW.

Passed the House February 29, 1984.

  
Speaker of the House.

Passed the Senate February 26, 1984.

  
President of the Senate.



Joan M. Smith  
Research Analyst  
Children & Youth Program

1125  
Seventeenth  
Street  
Suite 1500  
Denver,  
Colorado  
80202

1125  
Seventeenth  
Street  
Suite 1500  
Denver,  
Colorado  
80202

1125  
Seventeenth  
Street  
Suite 1500  
Denver,  
Colorado  
80202

1125 Seventeenth Street  
Suite 1500  
Denver, Colorado 80202

303 292 6600

## THE NATIONAL CONFERENCE OF STATE LEGISLATURES CHILDREN'S PROGRAM

The Children's Program is designed to meet the needs and interests of state legislatures in children's policy and program issues. Legislators are involved in every aspect of state policy and program issues affecting children. They intercept federal funding, establish law, review agency budgets, set performance standards, create programs, and provide guidelines for judicial proceedings. In this climate of fiscal scarcity and shifting responsibilities between the federal and state governments, state legislatures have become the focal point for determining policy and program priorities to address the welfare of children and their families.

The NCSL Children's Program will produce a national forum for addressing children's issues while providing individual state legislators with the tools to more effectively and efficiently address the needs of children. The establishment of the NCSL Advisory Committee on Children and Youth demonstrates the commitment of NCSL and the states to create a focus on children's issues.

### SERVICES

The following mix of services are available through the Children's Program. These activities provide a comprehensive, continuum of services required and requested by state legislators formulating policy affecting children and families.

#### Information Clearinghouse

The information clearinghouse contains current research developments, national and state newsletters and journals, model national and state legislation, and specific reports. All information is made available upon request at no cost.

#### Information Assistance

The clearinghouse serves as the high quality information base from which staff can respond quickly to information requests. NC legislative research councils, providing both primary and secondary research and analysis.

#### Publications

Monthly issue briefs provide a forum for informing legislators of innovative programs, developing trends, and new ideas in the field. Legislator's guides are currently available in the Child Support Enforcement and Youth Services areas.

#### Technical Assistance

Technical assistance includes testimony at committee hearings, briefing sessions for state legislators and their staffs, and actual bill drafting and analysis. Resources and expertise are provided by NCSL staff, national experts, legislators, judges, attorneys, and other state officials.

#### Education and Training

Assistance in producing a variety of educational forums is available. These include national conferences, regional conferences, state-specific seminars and issue-specific workshops.

## AREAS OF EMPHASIS

Children's Program staff are available to provide information and research assistance on all aspects of policy and program issues affecting children and their families. The following areas of emphasis represent particular expertise of the program.

### Child Support, Paternity, and Custody

There are over one million divorces each year -- half of them involve children. Seventeen percent of all children born each year do not have legitimate fathers. For these children, state laws protecting their rights in custody, visitation, support and paternity are vital lifelines to their well being. Child Support Enforcement is a cost effective approach to assisting dependent children. Federal law requires that each state establish a child support enforcement program. While each program receives 70 percent of its funding from the federal government, states still hold the lion's share of responsibility in protecting children's rights. The procedures for establishing custody, support and paternity are controlled by state law. The jurisdiction in which a case is heard is likely to be the single most important factor in the determination of custody awards, support orders, or paternity hearings.

The NCSL Child Support Enforcement Project began its fifth year of activity May 1, 1983. Program services include child support, program analysis, long-range planning, and assistance in drafting and assessing child support, paternity and custody legislation.

### Child Welfare

Approximately 500,000 children are currently in foster care (some estimates run as high as 750,000). Complete and accurate records of these children do not exist, but we do know that with adequate family reunification and prevention services most of the children in foster care could be returned to their families. Further, one-third of those children could be adopted if legal barriers were removed and adoptive services were provided. Still, foster care is the largest single item in the child welfare budget with 97 percent of it directed to foster care and 3 percent to adoption services.

The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) was enacted by Congress to reform the foster care system. The provisions of P.L. 96-272 are being phased in over a three year period. States must meet the requirements of the law to qualify for Title IV-B child welfare services federal funding in excess of \$141 million.

The NCSL Child Welfare Project assists legislators in their effort to review state laws, programs, and funding, as they bring their state laws into compliance by October 1, 1983, as required by P.L. 96-272. Information on model state programs and legislation aimed at prevention and family reunification services are highlighted.

### FOR MORE INFORMATION

For more information contact Carolyn K. Kastner or Michele R. Magri, National Conference of State Legislatures, 1125-17th Street, Suite 1500, Denver, Colorado 80202, 303/292-6600.

# On-site day care centers draw employees to firms

by Joyce A. Venezia  
Associated Press

Bloomfield, Conn. — Meg Lines faced more than just a language barrier when she recently adopted a Chilean child. As a single parent, she also had to find someone to care for the 4-year-old boy while she was at work.

Leaving her job to raise the child was out of the question since Lines is the sole support of the boy, named John. Hiring a live-in babysitter or putting John in a private day care center would be too expensive.

John also needed to be with other children in an educational atmosphere to learn English.

Fortunately, Lines works at the Cigna insurance company, one of the state's largest corporations and one of the first to build a day care center for its employees.

"I was very lucky," Lines says. "I'm not sure I could have adopted John if the day care center weren't there."

The day care center is sponsored by Cigna — which was formed two years ago by a merger of General Life Insurance Co. and INA Corp. — and employees get a discount on the tuition.

It is on the grounds of Cigna's main Connecticut office in Bloomfield, meaning parents and children are never far from one another. Sometimes the children are invited to lunch in the company cafeteria, says Allison Kenworthy, assistant director of employee services division.

"It's a good feeling knowing John is in the same environment I'm in," Lines says.

Nationally, more than 500 major corporations provide such day care centers on or near the company site, says Dana Friedman, a senior research fellow at the Conference Board, a non-profit, national clearinghouse for business-related research.

Of the 500, about 400 are hospitals, which initiated the program to lure nurses back to work during a nursing shortage several years ago.

Most corporate-sponsored day care centers in the United States



The fact that day care was available at her firm, Cigna Corp. of Bloomfield, Conn., was an important factor when Meg Lines adopted her son, John

average about 100 children. The largest — Intermedic in Freeport, Texas, a pacemaker manufacturer — accommodates 360 children, including 60 infants, Friedman says.

In the Boston area, many universities also sponsor day care centers, Friedman says.

"Colleges in New England tend to be very progressive and are generally more forward thinking," Friedman says. "The schools are older, with roots, and believe in the concept of the family work ethic."

In the Minneapolis area, large corporations such as Pillsbury, General Mills, 3-M and Honeywell are among those offering day care for children.

Corporate day care also is starting to spread to the Sun Belt, Friedman says. "Three years ago, Houston had nothing in the way of corporate day care, even with all the major oil companies and money down there," she says.

Successful new companies with young executives are usually among the first to establish

such programs.

"So many presidents of these companies are about 37, with spouses who work and preschoolers," Friedman says. "The lack of day care hits them closer to home."

In Cigna's case, the company's former president, Henry R. Roberts, thought a day care center "would give us an edge over other companies, because working women would be attracted back to the work force," says Cynthia Powell, director of the company's center.

"He made it as a business decision, not an altruistic decision," she says.

It seems to be working. Kenworthy says some women have turned down job offers at a higher salary from other companies because of the day care program.

"The center is definitely one thing that keeps me with Cigna," says Betty Caruso. After she and her husband divorced, the insurance company provided the day care option for her three boys.

Besides the discounted price, Cigna's grounds also provided an incentive for Caruso.

"There are lots of lawns, a duck pond, exercise rooms, playing fields — and the kids are allowed to use those things," she says. "Other day care centers usually just have a small playground."

In January 1973, Connecticut General's center was established with three children in a remodeled dairy barn on company property. By June of that year, 21 children were enrolled.

Today, operated by Cigna, the center is licensed to handle almost 100 children, including infants. An ever-growing waiting list has more than 200 children, "including some not even born yet," Powell says.

The center features bright, sunny rooms, a playground divided into areas for each age group so older children don't crowd the younger ones, and a cafeteria.

Operated by KinderCare, a private day care operation, Cigna's center is not restricted to

company employees, although they receive a 10 percent discount on tuition.

Another option for companies is to give employees subsidies for private day care, Roberts says.

Companies also can get together and form a mutual day care center, she says. In Wilton, five companies worked with state and local factions to renovate a former school. Today, about 45 children participate in the program, run by the Wilton Family Y and subsidized by the companies.

Several Connecticut companies also contribute on a sliding scale to the Winsted Area Public Day Care Center, a non-profit project started in 1981. The program started with state grants and continues to be aided by the United Way.

Roberts tells of one Hartford developer who is considering adding a day care center to a new office building.

"He thinks it will be an attraction to tenants," she says, "but I believe it's also because he has five kids too."