IN THE SENATE OF THE UNITED STATES

JULY 26 (legislative day, JULY 19), 1977

Mr. Cranston (for himself, Mr. Moynihan, Mr. Bingie, Mr. Williams, Mr. Randolph, Mr. Pell, Mr. Anderson, Mr. Brooke, Mr. Durkin, and Mr. Inouye) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Social Security Act to strengthen and improve the program of Federal support for foster care of dependent children, to establish a program of Federal support to encourage adoptions of children with special needs, and for other purposes.

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

That this Act may be cited as the “Child Welfare Amendments of 1977”.

FEDERAL PAYMENTS FOR FOSTER CARE AND ADOPTION ASSISTANCE

Sec. 2. (a) Title IV of the Social Security Act is amended by adding at the end thereof the following new part:
"PART E—FEDERAL PAYMENTS FOR FOSTER CARE AND
ADOPTION ASSISTANCE

STATE PLAN FOR FOSTER CARE AND ADOPTION
ASSISTANCE

"SEC. 470. (a) In order for a State to be eligible for
payments under this part, it shall have a plan approved by
the Secretary which provides—

"(1) that the State agency responsible for adminis-
tering the program authorized by part B of this title
shall administer the program authorized by this part;

"(2) that the plan shall be in effect in all political
subdivisions of the State, and, if administered by them,
be mandatory upon them;

"(3) that the State shall assure that the programs
at the local level assisted under this part will be coor-
dinated with the programs at the State or local level
assisted under parts A and B of this title, under title XX
of this Act, or under any other appropriate provision
of Federal law;

"(4) that the State will, in the administration of
its programs under this part, use such methods relating
to the establishment and maintenance of personnel stand-
ards on a merit basis as are found by the Secretary to
be necessary for the proper and efficient operation of
the programs, except that the Secretary shall exercise

no authority with respect to the selection, tenure of
office, or compensation of any individual employed in
accordance with such methods;

"(5) that the State agency referred to in paragraph
(1) (hereinafter in this part referred to as the 'State
agency') will make such reports, in such form and con-
taining such information as the Secretary may from time
to time require, and comply with such provisions as the
Secretary may from time to time find necessary to assure
the correctness and verification of such reports;

"(6) that the State agency will monitor and con-
duct periodic evaluations of activities carried out under
this part;

"(7) that the State agency will conduct a pro-
gram of foster care maintenance payments as described
in section 471 and a program of adoption assistance as
described in section 472;

"(8) safeguards which restrict the use of or dis-
closure of information concerning individuals assisted
under the State plan to purposes directly connected
with (A) the administration of the plan of the State
approved under this part, the plan or program of the
State under part A, B, C, or D of this title or under
title I, V, X, XIV, XVI (as in effect in Puerto Rico,
Guam, and the Virgin Islands), XIX, or XX, or the
supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, and (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need; and the safeguards so provided shall prohibit disclosure, to any committee or a legislative body, of any information which identifies by name or address any such applicant or recipient; except that nothing contained herein shall preclude a State from providing standards which restrict disclosure to purposes more limited than those specified herein, or which, in the case of adoptions, prevent disclosure entirely;

"(9) that where any agency of the State has reason to believe that the home or institution in which a child resides whose care is being paid for in whole or in part with funds provided under this part or part B of this title is unsuitable for the child because of the neglect, abuse, or exploitation of such child, it shall bring such condition to the attention of the appropriate court or law enforcement agency;

"(10) that the standards referred to in section 2003(d)(1)(F) shall be applied by the State to any foster family home or child care institution receiving funds under this part or part B of this title;

"(11) for periodic review of the standards referred to in the preceding paragraph and amounts paid as foster care maintenance payments and adoption assistance payments to assure their continuing appropriateness;

"(12) that any individual who is denied a request for benefits available pursuant to this part or part B of this title (or whose request for benefits is not acted upon within a reasonable time) will be informed of the reasons for the denial or delay and, if requested, will be offered an opportunity to meet with a representative of the agency administering the plan to discuss the reasons for the denial or delay; and

"(13) that the State shall arrange for a periodic and independently conducted audit of the programs assisted under this part and part B of this title, which shall be conducted no less frequently than once every three years.

"(b) The Secretary shall approve any plan which complies with the provisions of subsection (a) of this section. However, in any case in which the Secretary finds, after reasonable notice and opportunity for a hearing, that a State plan which has been approved by the Secretary no longer complies with the provisions of subsection (a), or that in
the administration of the plan there is a substantial failure to comply with the provisions of the plan, the Secretary shall notify the State that further payments will not be made to the State but reduced by an amount which the Secretary determines appropriate, until the Secretary is satisfied that there is no longer any such failure to comply, and until he is so satisfied he shall make no further payments to the State, or shall reduce such payments by the amount specified in his notification to the State.

"FOSTER CARE MAINTENANCE PAYMENTS PROGRAM"

"Sec. 471. (a) Each State with a plan approved under this part may make foster care maintenance payments (as defined in section 475 (7)) under this part only with respect to a child who would meet the requirements of section 406 (a) or of section 407 of this Act but for his removal from the home of a relative (specified in section 406 (a)) if—

"(1) the removal from the home was (A) the result of a judicial determination to the effect that (i) such removal was necessary to protect the child from harm or the likelihood of harm, and (ii) effective with respect to any such removal occurring after December 31, 1977, the child will be ordered placed in the least restrictive (family-like) setting available and in close proximity to the parents' home, consistent with the best interests and special needs of the child; (B) carried out on an emergency basis, in accordance with the laws of the State, in order to protect the health or safety of the child and is or was followed by a judicial determination, meeting the conditions specified in clause (A) of this paragraph, within seventy-two hours of the time of the child's removal from the home; or (C) the result of a voluntary placement pursuant to a voluntary placement agreement: Provided, That, if a child remains in voluntary placement for a period in excess of one hundred and eighty days, there is, within that period, a judicial determination or administrative review (as defined in section 475 (1) of this part) to the effect that (i) such placement was, and continues to be, in the best interest of the child and continues to be voluntary on the part of the parents, and (ii) effective with respect to any such placement occurring after December 31, 1977, the child will be ordered placed in the least restrictive (family-like) setting available and in close proximity to the parents' home, consistent with the best interests and special needs of the child;

"(2) such child's placement and care are the responsibility of (A) the State agency administering the State plan approved under section 470, or (B) any other public agency with whom the State agency admin-
istering or supervising the administration of the State plan approved under section 470 has made an agreement which is still in effect;

"(3) such child has been placed in a foster family home or child-care institution following his removal from the home;

"(4) such child—

"(A) received aid under the State plan approved under section 402 in or for either the month in which court proceedings leading to the removal of such child from the home was initiated or the month in which such removal occurred, or

"(B) (i) would have received such aid in or for either such month if application had been made thereof, or (ii) had been living with a relative specified in section 406(a) within six months prior to the month in which such proceedings were initiated or the month in which such removal occurred, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made; and

"(5) there is a case plan (as defined in section 475(2) of this part) for such child (including periodic

review of the necessity for the child's being in a foster family home or child-care institution).

"(b) Foster care maintenance payments may be made under this part only in behalf of a child described in subsection (a) of this section—

"(1) in the foster family home of any individual, whether the payments therefor are made to such individual or to a public or nonprofit private child-placement or child-care agency, or

"(2) in a child-care institution, whether the payments therefor are made to such institution or to a public or nonprofit private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term 'foster care maintenance payment' for purposes of foster care in the foster family home of an individual.

"(c) For the purposes of this part and part B of this title, (1) the term 'foster family home' means a foster family home for children which is licensed by the State in which it is situated or has been approved by the agency of such State responsible for licensing homes of this type, as meeting the standards established for such licensing; and

(2) the term 'child-care institution' means a nonprofit pri-
Each State with a plan approved under this part may, directly or through another public or nonprofit private agency, make adoption assistance payments pursuant to an adoption assistance agreement in amounts determined under paragraph (3) of this subsection to parents who are eligible for such payments pursuant to paragraph (2) of this subsection and who, after the effective date of this section, adopt a child who would meet the requirements of section 406 (a) or of section 407 of this Act but for his removal from the home of a relative (specified in section 406 (a)), and who the State has determined, pursuant to subsection (d) of this section, is a child with special needs.

"(2) Parents may be eligible for adoption assistance payments under this part only if their income at the time of the adoption does not exceed 115 per centum of the median income of a family of four in the State, adjusted in accordance with regulations of the Secretary to take into account the size of the family after adoption. Notwithstanding the preceding sentence, parents whose income is above the limit specified therein may be eligible for assistance payments under this part if the State or local agency administering the program under this section determines that there are special circumstances (as defined in regulations of the Secretary) in the family which warrant adoption assistance payments.

"(3) The amount of the adoption assistance payments shall be determined by the State or local agency administering the program under this section, based upon the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may...
the amount of the adoption assistance payment exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

"(4) Notwithstanding the preceding two paragraphs, (A) no payment may be made to parents pursuant to this section with respect to any month in a calendar year following a calendar year in which the income of such parents exceeds the limits specified in paragraph (2), unless the State or local agency administering the program under this section has determined, pursuant to paragraph (2), that there are special circumstances in the family which warrant adoption assistance payments, (B) no payment may be made to parents with respect to any child who has attained either the age of eighteen, or, if the State determines that there are special circumstances (as defined in regulations of the Secretary) which warrant a continuation of adoption assistance payments, the age of twenty-one, and (C) no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents. Parents who have been receiving adoption assistance payments under this section shall keep the State informed of circumstances which would, pursuant to this subsection, make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.

"(5) For the purposes of this part, individuals with whom a child (who the State determines, pursuant to subsection (d), is a child with special needs) is placed for adoption, pursuant to an interlocutory decree, shall be eligible for adoption assistance payments under this subsection, during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted a child.

"(b) In addition to any payments which may be made pursuant to subsection (a) of this section, a State may pay the parents who agree to adopt a child who the State determines, pursuant to subsection (d) of this section, is a child with special needs, an amount necessary to cover part or all of the nonrecurring expenses (as defined in regulations of the Secretary) associated with the proceedings related to the adoption of the child.

"(c) Any child—

"(1) who the State determines, pursuant to subsection (d), is a child with special needs;

"(2) who the State determines has a medical con-
14

dition which is a contributing factor to the determination
made by the State pursuant to paragraph (1);

“(3) who is placed for adoption or adopted follow-
ing such determination; and

“(4) who was, in the month preceding his place-
ment for adoption, or adoption, eligible for medical
assistance under title XIX of this Act
shall retain such eligibility until the age of eighteen, or,
if the State determines that there are special circumstances
(as defined in regulations of the Secretary) which warrant
the continuation of medical assistance payments under XIX,
until the age of twenty-one. However, a State may limit a
child’s eligibility for medical assistance, which is provided
on account of this subsection, to medical assistance necessary
for the treatment of the medical condition (or medical con-
ditions) referred to in paragraph (2) of this subsection.

“(d) For purposes of this section, a child shall not be
considered a child with special needs unless—

“(1) the State has determined that the child
cannot or should not be returned to the home of his
parents; and

“(2) the State has first determined that a reason-
able effort, consistent with the best interest of the child,
has been made to place the child with appropriate
adoptive parents without providing adoption assis-

15

under this section but has been unable to do so on
account of his ethnic background, age, membership in
a minority or sibling group, or the presence of factors
such as physical, mental, or emotional handicaps.

“AUTHORIZATION OF APPROPRIATIONS; ALLOTMENTS TO
STATES

“Sec. 473. (a) For the purpose of carrying out this
part, other than section 476, there are authorized to be
appropriated for the fiscal years 1978 and 1979 such sums
as may be necessary; for the fiscal years 1980, 1981, 1982,
1983, and 1984 a sum equal to 110 per centum of the
amount appropriated in the preceding fiscal year; and for
each fiscal year thereafter an amount equal to the amount
appropriated in the fiscal year 1984. Beginning with the
fiscal year 1980, sums appropriated pursuant to this section
which a State determines will not be required for carrying
out this part may be expended for the purpose of carrying
out the program authorized by part B of this title.

“(b) (1) For the fiscal years 1978 and 1979, each
State shall be entitled to an allotment from the appropria-
tion pursuant to subsection (a) equal to the amount such
State is entitled to be paid pursuant to section 474(a).

“(2) For the fiscal years 1980, 1981, 1982, 1983, and
1984, each State shall be entitled to an allotment from the
appropriation pursuant to subsection (a) equal to 110 per
centum of the amount of its allotment for the preceding fiscal year.

"(3) For the fiscal year 1985 and each fiscal year thereafter, each State shall be entitled to an allotment from the appropriation pursuant to subsection (a) equal to the amount of its allotment for the fiscal year 1984 (as calculated pursuant to the preceding paragraph).

"PAYMENT TO STATES

"SEC. 474. (a) For each quarter beginning after September 30, 1977, and ending prior to October 1, 1979, each State which has a plan approved under this part shall be entitled to a payment equal to the sum of—

"(1) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as foster care maintenance payments under section 471 for children in foster family homes or child-care institutions which accommodate no more than twenty-five children and as adoption assistance payments under section 472; plus

"(2) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as foster care maintenance payments under section 471 for children in child-care institutions which accommodate more than twenty-five children; plus

"(3) an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan—

"(A) 75 per centum of so much of such expenditures as are for the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision, and

"(B) one-half of the remainder of such expenditures.

"(b) For each quarter beginning after September 30, 1979, each State which has a plan approved under this part shall be entitled to a payment from its allotment equal to the sum of—

"(1) an amount equal to that described in subsection (a) (1); plus

"(2) an amount equal to 80 per centum of that described in subsection (a) (2); plus
3 "(c) For the fiscal year 1980, and each fiscal year thereafter, sums available to a State from its allotment under subsection (a) for carrying out this part, which the State does not claim as reimbursement for expenditures in such year pursuant to subsection (b) of this section, may be claimed by the State as reimbursement for expenditures in such year pursuant to part B of this title, in addition to such sums available pursuant to section 420 for carrying out that part.

"DEFINITIONS

"SEC. 475. As used in this part or part B of this title:

"(1) The term 'administrative review' means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

"(2) The term 'case plan' means a written document which includes at least the following information: a description of the type of home or institution in which a child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to carry out the judicial determination made with respect to the child in accordance with section 471

"(3) The term 'parents' means biological or adoptive parents or legal guardians, as determined by applicable State law.

"(4) The term 'voluntary placement' means an out-of-home placement of a minor, by or with the participation of a State agency, after the parents or guardians of the minor have requested the assistance of the agency and signed a voluntary placement agreement.

"(5) The term 'voluntary placement agreement' means a written and consensual agreement, binding on the parties to the agreement, between the State agency, or any other agency acting on its behalf, and the parents of a minor which specifies, at a minimum, the legal status of the minor and the rights and obligations of the parents while the child is in placement.

"(6) The term 'adoption assistance agreement' means a written and consensual agreement, binding on the parties to the agreement, between the State agency, other relevant
agencies, and the prospective adopting parents of a minor which specifies, at a minimum, the amounts of the adoption assistance payments and any additional services and assistance which are to be provided as part of such agreement.

"(7) The term 'foster care maintenance payments' means payments to cover the cost of food, clothing, shelter, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation, but may not be used to cover the cost of educational services or construction or other capital costs or any other costs which the Secretary may specify in regulations.

"TECHNICAL ASSISTANCE; DATA COLLECTION AND EVALUATION; INTERSTATE COOPERATION

"Sec. 476. (a) The Secretary may provide technical assistance to the States to assist them to develop the programs authorized under this part and shall periodically (1) evaluate the programs authorized under this part and part B of this title and (2) collect and publish data pertaining to the incidence and characteristics of foster care and adoptions in this country.

"(b) The Secretary may make grants to, and enter into contracts with, the State agencies referred to in section 470(a) (1) for the purpose of assisting each such agency to develop interstate systems, in cooperation with the State agencies of other States, for facilitating the exchange of information pertaining to the programs authorized under this part and part B.

"(c) There are authorized to be appropriated $1,500,000 for fiscal year 1978 and each fiscal year thereafter to permit the Secretary to carry out his responsibilities under subsections (a) and (b) of this section.

"PERIOD FOR FILING OF CLAIMS

"Sec. 477. (a) No Federal payment may be made under this part or part B of this title with respect to any State expenditure made in fiscal years beginning after September 30, 1977, unless the Secretary receives a claim from the State for Federal reimbursement for such expenditure on or before the last day of the second fiscal year following the fiscal year in which the expenditure was made.

"(b) For purposes of subsection (a):

"(1) expenditures for assistance payments under this part or part B of this title shall be considered to have been made in the fiscal year in which payment was made to the assistance recipient, his protective payee, or a vendor payee, notwithstanding that the expenditure was made with respect to a month in a previous fiscal year; and

"(2) expenditures for administration, training, and the provision of services under those parts shall be con-
considered to have been made on the date payment was
made by a public agency to a private agency or indi-
vidual or in the fiscal year or fiscal quarter to which
costs were allocated in accordance with regulations of
the Secretary;
except that the Secretary may, at the request of any State,
approve with respect to that State standards other than those
specified in this subsection for determining when an expendi-
ture shall be considered to have been made.”.
(b) Effective with respect to expenditures after Sep-
tember 30, 1977, section 408 of the Social Security Act is
repealed.

LIMITS ON USE OF FUNDS PROVIDED UNDER PART B OF
TITLE IV
SEC. 3. Section 422 of the Social Security Act is
amended by adding at the end thereof the following new
subsection:
“(d) Notwithstanding any other provision of this part,
beginning with the fiscal year 1978, no State may spend
from sums paid to it pursuant to this section in any fiscal
year a total amount for foster care maintenance payments
and adoption assistance payments and for the provision of
child day care which is solely because of the employment,
or training to prepare for employment, of a parent, which
is greater than the total amount of its payment under this
section with respect to the fiscal year ending September 30,
1977.”.

CONVERSION OF CHILD WELFARE SERVICES TO AN
ENTITLEMENT PROGRAM
SEC. 4. Effective with respect to fiscal years beginning
after September 30, 1977, section 421 of the Social Secu-
ritv Act is amended to read as follows:
“ALLOTMENTS TO STATES
“SEC. 421. For each fiscal year, each State shall be
entitled to an allotment under this part for use by cooperat-
ing State public welfare agencies which have plans developed
jointly by the State agency and the Secretary. Each State’s
allotment shall be in an amount equal to $70,000 plus an
amount which bears the same ratio to the amount author-
ized to be appropriated in such year under section 420, after
first deducting $70,000 for each and every State, as the
product of (1) the population of such State under the age
of twenty-one and (2) the allotment percentage of such
State (as determined under section 423) bears to the cor-
responding products of all the States.”.

MODIFICATION OF FEDERAL SHARE
SEC. 5. (a) Effective with respect to fiscal years
beginning after September 30, 1977, section 422 (a) of
the Social Security Act is amended in the matter following
paragraph (2) by striking out “the Federal share (as
determined under section 423)’ and inserting instead ‘75 per centum’.

(b) (1) Section 423 of such Act is amended by striking out subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(2) Section 423(b) of such Act, as redesignated by the preceding paragraph, is amended by striking out ‘Federal share and’ and by striking out ‘Federal shares and’.

PURPOSES OF ADDITIONAL TITLE IV-B FUNDS

SEC. 6. (a) Section 422(a) of the Social Security Act, as amended by the preceding section, is amended in the matter following paragraph (2) by striking out ‘(including the cost of administration of the plan)’ and inserting instead ‘(including the cost of administration of the plan, but subject to the conditions specified in subsections (d), (e), and (f) of this section)’.

(b) Section 422 of such Act, as amended by section 3 of this Act, is further amended by adding at the end thereof the following new subsections:

‘(e) (1) Notwithstanding any other provision of this part, except as authorized by paragraph (2) of this subsection, a State may not be paid under this part with respect to any fiscal year after 1977 an amount greater than it was paid under this part with respect to fiscal year 1977 unless the Secretary determines that the State has met the requirements of paragraph (2).

(2) In order to be eligible for payment of the full amount of its allotment determined under section 421, each State must—

(A) conduct an inventory of all children who have been in foster care under the responsibility of the State for a period of six months preceding the inventory; determine the appropriateness of, and necessity for, the current foster placement, whether the child can be or should be returned to his parents or should be freed for adoption, and the services necessary to facilitate either the return of the child or the placement of the child for adoption; which inventory shall include, in the aggregate, the number of children in placement over six months, the ages and appropriate demographic characteristics of such children, the type of placement in which they reside, the length of time they have been in placement, the reason for the initial placement, the legal status of the child, and the number of children, by category, for whom the current plans envision an eventual return to parents, adoption, or legal guardianship; and which inventory, upon completion, shall be made public by the State; and
“(B) design, develop, and implement to the satisfaction of the Secretary—

“(i) a statewide information system from which the status, demographic characteristics, location, and goals for the placement of every child in foster care or who has been in such care within the preceding twelve months can be readily determined; 

“(ii) a case review system to assure that each child receiving foster care under the supervision of the State has a case plan, and that the status of each child is reviewed no less frequently than once every six months by either a court or by administrative review (as defined in section 475 (1) of this title) in order to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship; 

“(iii) a service program designed to help children remain with their families and, where appropriate, help children return to families from which they have been removed or be placed for adoption or legal guardianship; and

“(iv) procedural safeguards to protect the rights of parents, foster parents, and children, which safeguards shall, among other things, assure each child in foster care under the supervision of the State of a dispositional hearing to be held, in a family or juvenile court or another court of competent jurisdiction, or by an administrative body appointed by the court, no later than eighteen months after the original placement, which hearing shall determine whether the child—

“(I) should be returned to the parent, 

“(II) requires continued placement for a specified period of time not to exceed six months, unless extended by the court (or administrative body) because of special needs or special circumstances which prevent immediate reunification, 

“(III) should be placed with a legal guardian, 

“(IV) should be freed for adoption through appropriate proceedings and placed in an adoptive home, or
"(V) requires a permanent long-term foster care placement because the child cannot or should not be returned home or placed in an adoptive home; and shall apply with respect to parental rights, to the removal of the child from the home of his parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents.

In order to assist States to comply with the conditions specified in this paragraph, the Secretary shall, notwithstanding the limitation on payments specified in paragraph (1) of this subsection, pay to each State for any fiscal year after 1977, in addition to an amount equal to such State's payment under this part for fiscal year 1977, an amount equal to 30 per centum of the remainder of the State's allotment under section 421 after deducting the amount of the State's payment under this part for fiscal year 1977.

"(f) With respect to fiscal years beginning after September 30, 1978, in the case of any State which the Secretary determines has complied with the conditions specified in subsection (e), the limitation on a State's payment contained in paragraph (1) of that subsection shall not apply. However, in the case of any such State—

"(1) no less than 40 per centum of the amount by which its payment in any fiscal year exceeds its payment under this part for fiscal year 1977 must be expended by such State for preventive and restorative services, including at least one of the following services: homemakers, day care, twenty-four-hour crisis intervention, emergency caretakers, emergency shelters, or any other services specified in regulations of the Secretary, which are designed to help children remain with their families or, where appropriate, help children return to families from which they have been removed; and

"(2) no payment in excess of the payment made under this part with respect to fiscal year 1977 may be made under this part with respect to any fiscal year in which the total of State expenditures for child welfare services (excluding expenditures for activities specified in subsection (d) of this section) is less than the total of such State expenditures in fiscal year 1977.".

CONFORMING AMENDMENTS TO CHILD WELFARE SERVICES STATE PLAN REQUIREMENTS

Sec. 7. (a) Section 422 (a) (1) of the Social Security Act is amended by adding after clause (C) the following new clauses:

"(D) provides that after the Secretary determines that the State has designed, developed, and implemented the systems and procedures described in subsection
SEC. 8. Section 424 of the Social Security Act is repealed.

TECHNICAL CONFORMING CHANGES; REPORT REQUIREMENT; TWO-YEAR AVAILABILITY OF FUNDS; EFFECTIVE DATE

SEC. 9. (a) (1) Section 402 (a) (20) of the Social Security Act is amended to read as follows:

"(20) provide for foster care maintenance payments and adoption assistance payments in accordance with part E of this title;"

(2) Section 406 (b) (2) is amended by inserting "and"
after clause (C), striking out clause (D), and redesignating clause (E) as clause (D).

(b) Not later than March 1, 1980, the Secretary of Health, Education, and Welfare shall submit a report on the implementation of the amendments made by this Act to the

Committee on Ways and Means, the Committee on Education and Labor, and the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Finance and the Committee on Human Resources of the Senate.

(c) Notwithstanding any other provision of law, funds appropriated for fiscal year 1978 pursuant to section 420 of the Social Security Act, and allotted to States for that year pursuant to section 421 of that Act, shall remain available for expenditure for child welfare services under part B of title IV of that Act until September 30, 1979.

(d) The amendments made by this Act shall be effective after September 30, 1977.