



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL  
BOISE 83720

JIM JONES  
ATTORNEY GENERAL

TELEPHONE  
(208) 334-2400

February 4, 1985

The Honorable Christopher R. Hooper  
Idaho State Representative  
STATEHOUSE MAIL

THIS IS NOT AN OFFICIAL ATTORNEY GENERAL OPINION BUT IS  
SUBMITTED SOLELY TO PROVIDE LEGAL GUIDANCE

Re: Proposed Daycare Licensing Acts--House Bills 94 and 95

Dear Representative Hooper:

As I indicated to you at the committee hearing on February 4, 1985, our office would be providing written comments concerning the above-referenced bills. I am enclosing for the review of your committee on informal guideline provided to Senator Gayle Bray concerning House Bill 94 and a written analysis of House Bill 95.

In part C of the analysis provided to Senator Bray, deputy attorney general Robie Russell correctly points out certain changes that would be necessary in order to comply with decisions of the Idaho Supreme Court. See for example Benewah County Cattlemen's Association, Inc. v. Board of Commissioners of Benewah County, 105 Idaho 209, 668 P.2d 85 (1983) and Hobbs v. Abrahams, 104 Idaho 205, 657 P.2d 1073. The basic problem identified by Mr. Russell is that House Bill 94 provides for too much discretion to local county commissioners. This defeats the requirement of Article 12 § 2 of the Idaho Constitution of being a true state mandated program, which exists for example, with driver's licenses.

The other approach I mentioned to your committee in relationship to House Bill 94 would be to create a state mandated program administered by cities and counties. I have attached for your committee's review handwritten modifications to House Bill 94 which would accomplish this purpose. If there is anything further we can provide, please feel free to call upon us.

Very truly yours,

PATRICK J. KOLE  
Chief, Legislative and  
Public Affairs Division

PJK/tg