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to the United States under immigration parole, an arrangement worked out with the assistance of my office.

All told, in the past 20 years, the United States Refugee Program has provided care and resettlement for nearly 400,000 people, of whom about two-thirds have found new lives in America. However, the normal refugee flow to the U.S. is 10,200 a year under our immigration laws plus those who come in under special parole status.

I hope my mention of these programs has not conjured up pictures of platoons and regiments of U.S. Government civil servants swarming into the refugee areas of the world, with offices and secretaries and in-boxes and the other trappings of bureaucracy.

This, I am happy to say, is not the case. My staff is a small one, concentrated in Washington with outposts in Geneva and Hong Kong. The field operators of U.S. refugee relief, unsung heroes for the most part, are the paid and unpaid workers of the voluntary agencies, some Americans, some recruited from local populations. It is these people who serve in the front lines of refugee assistance. They work almost inevitably in situations of physical hardship, sustained—as I have noted on my frequent trips abroad by dedication to humanitarianism and an enduring belief in what is right and good.

My office executes contracts with many of these agencies; these funds usually are spent for such services as care and maintenance transportation and supplies for refugees and migrants. The funds in some cases are augmented by grants of agricultural commodities under the Food for Peace Program. But by far the largest proportion of the resources of the private agencies comes from the millions of generous and compassionate Americans who subscribe to their campaigns. Last year alone, 92 Government accredited voluntary agencies had humanitarian programs in 130 countries, for which they raised from private donors more than \$470 million, undeniable evidence of the real and tangible response by Americans to the needs of the less-fortunate around the globe.

If you count our domestic effort to assist Cubans who have reached this country, your Government currently is spending about \$330 million a year for refugee assistance. But let me not give the impression that we are in this alone. Other countries—Denmark, West Germany, Sweden, Norway, the Netherlands—on the basis of population and wealth contribute more than we to international refugee programs.

A special case in point is the small, neutral nation of Austria, which for years has upheld principles of human rights and humanitarianism at great financial cost and a great political peril.

Austria, as you know, has borders with Czechoslovakia, Hungary and Yugoslavia and is within easy distance of the rest of Eastern Europe, including the Soviet Union. Ever since the end of World War II, refugees from communist oppression have been entering Austria in a steady flow of some thousands of persons a year, interspersed by sudden and dramatic mass arrivals resulting from such events as the Hungarian revolt of 1956 and the Soviet invasion of Czechoslovakia of 1968.

Despite their exposed position, the Austrians have never flinched. Austria is avowedly and successfully neutral. But it has placed the needs of human beings and the importance of meeting their needs on a plane of compassion above the crosscurrents of political controversy. Austria has received refugees in the many hundreds of thousands over the years. And it has joined in programs, including those we support, to pass the refugees on to other countries for resettlement. Since World War II Austrian taxpayers have spent more than \$185 million for these purposes. Both in human and fi-

nanacial terms, it is an admirable and outstanding performance. I am proud that the United States is a leader among the other nations which have helped Austria carry the load.

As to specific refugee situations overseas, the most dramatic in recent years came in 1971-1972, not in Europe but in South Asia, when violence in what was East Pakistan sent Bengalis streaming into India at a rate which sometimes reached 150,000 persons a day. Ultimately there were nearly 10 million of them, huddled in more than a thousand primitive camps.

India accepted the burden but appealed to the United Nations for help, and this triggered probably the most intensive relief operation ever mounted. Before it was over, 70 nations and scores of voluntary agencies had contributed commodities and money, a cholera epidemic had been averted, millions of blankets had been supplied, children had been saved from malnutrition—well, it was a great example of world humanitarianism at work. Ultimately, with establishment of Bangladesh, the refugees went home and began to rebuild their lives.

The U.S. contribution to this program was more than \$90 million in commodities and funds from the government plus \$11 million from private sources—we were the first and largest foreign donor. It was this mammoth crisis which confronted me only weeks after I took office—to find myself projected into the chairmanship of an across-the-board Government committee which coordinated the U.S. response. I pride myself that the United States did well.

Although not of this magnitude, there have been many other crises in the three-plus years of my term in office. Quite recently, our diplomatic efforts helped to protect alien refugees during and after the revolution in Chile. We have been able to speed the arrival of U.S.-bound Cuban refugees stranded in Spain. In the Sudan, we have helped the U.N. High Commissioner repatriate refugees from that country's long civil war. In South Asia we presently are assisting what probably is history's largest airlift between Bangladesh and Pakistan. We have joined in the effort to resettle thousands of Asians expelled from Uganda.

The programs I have just enumerated—Chile, Cubans, Sudanese, South Asians, Uganda Asians—have helped or are helping more than a million dispossessed people to the opportunity to achieve dignity and self-sufficiency. They are mere samples of what has been occurring in today's world, and what is going to continue to occur for the foreseeable future.

I am confident that we Americans, in or out of Government, are going to continue to respond, until we ultimately can edge mankind toward the day that basic rights are universally recognized and human dignity universally respected. It is not going to be a short haul.

MODEL STATE DAY CARE FACILITY LICENSING ACT

Mr. MONDALE. Mr. President, we have all become aware, especially during recent months, of the tragic consequences of failing to provide adequate care and support to the Nation's families and children. In an effort to assist families and others working to support families in their task of adequately caring for children, the Congress passed and the President signed important legislation which aims to preventing child abuse.

There is another aspect to child abuse, involving children out of their own homes, that has also come to the attention of Congress and the Nation. That

involves the quality of day care services. We have all come to realize the horror that can result when, inadvertently, we do not adequately protect our children.

Some of the terrible things that can happen to children are so stark that they need no explanation—six children are burned to death in a basement, a 5-week-old baby dies of head injuries during nap time in a family day care home. There are less dramatic, but equally compelling reasons to insist that children be protected, but it is these instances that remain in one's mind.

Because of the need to protect children, because families want and need our support in this effort, and because there is such a broad consensus among professional groups in support of a floor of protection, the Congress has repeatedly and overwhelmingly voted in favor of basic day care standards. This essentially noncontroversial aspect of the Congress work has resulted in the maintenance, at the Federal level, of a basic floor for day care called the Federal Interagency Day Care Requirements. These Federal requirements have now been in effect nearly 6 years.

At the State level, work has also gone forth on behalf of children. In many States, there was a sound floor in law or regulation before we recognized the need at the Federal level. For many of those States, the move to revise and improve their day care standards has been a continuous process.

One aspect of that process has been proceeding quietly, through the work of local, State, and national organizations, under the auspices of the National Council of Organizations for Children and Youth—NCOCY—headed by its able and creative executive director, Ms. Judith S. Helms. NCOCY members, constituting themselves as a "Day Care Alliance," have been working for nearly a year to arrive at the point where they could offer assistance to States that wish to revise and improve their day care licensing. It is through the exercise of licensing that we are assured that our children are protected. In addition, licensing is a protection for parents, in that they may be assured that the places their children are cared for are beneficial. And those who care for other children have the guidance and support of licensing staff, as they carry out day care services or plan new services.

The Day Care Alliance has now completed work on a model statute which States may wish to consider, a statute that has several excellent features:

First, The Day Care Facility Licensing Act generally provides for a quality of care similar to that which is reimbursable under Federal legislation—it is sound from the intergovernmental viewpoint;

Second, The Day Care Facility Licensing Act provides for appropriate involvement by that most essential group of persons, parents of children actually receiving day care services—it is sound from the point of view of families;

Third, The Day Care Facility Licensing Act provides a quality of care that has won the support of 35 organizations concerned about families and their chil-

dren, ranging from the AFL-CIO and other national groups such as the Child Welfare League of America and the National Council of Jewish Women to groups with experience at the State level such as the Minnesota Children's Lobby and Quality Child Care, Inc., of Minneapolis—a group with special expertise in family day care—it is sound from the point of view of experts and operators;

Fourth. The Day Care Facility Licensing Act, finally, provides the States with a moderate approach in terms of suggested legislation, moderate in its clarity of language, its brevity, and its reliance on State legislators and State agencies to utilize the framework of the model act as they deem appropriate—it is sound from the standpoint of being adaptable for each State.

Mr. President, I believe that it is very important to know the breadth of support that the Day Care Facility Licensing Act has won. Therefore, I ask unanimous consent to have printed at the end of my remarks in the RECORD a complete list of the National, State and local organizations that have endorsed the act.

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

(See exhibit 1.)

Mr. MONDALE. Mr. President, finally, let me say that it is my hope that this proposed act will encourage States to reexamine their existing licensing codes and to compare them. Just as many States are reexamining their child-abuse laws in the light of recent experience and the recommendation of groups with special expertise, so also States might wish to look at this related matter of day care from a fresh perspective. I believe the model legislation which the Day Care Alliance has prepared to be enormously useful, and I commend it to you for your consideration. I ask unanimous consent to print the text of the act in the RECORD.

In order that we may understand the background of the act, and the way it compares to other guidelines issued for the consideration of the States, I refer my colleagues to the introduction to the act, and I also ask unanimous consent that this introduction be permitted in the RECORD at the close of my remarks.

There being no objection, the introduction was ordered to be printed in the RECORD, as follows:

THE STATE DAY CARE FACILITY LICENSING ACT
INTRODUCTION

There is little disagreement that children in day care need adequate protection. There is a great deal of difference of opinion about what is "adequate." On the one hand, many organizations hold that the interests of the child are most important and need to be protected by the licensing process. This position grows out of and is directly related to their position in regard to child neglect and abuse: some parents and guardians do not care for their children adequately. On the other hand, there are those who hold that there is no need to license day care, and that the responsibility of deciding what is and what is not adequate care for children should be left to the caregivers and the parents.

In addition to this basic disagreement about whose interests are paramount, there are also conflicting interests apart from those at issue in the day care of children.

If the various problems connected with licensing day care were solved, as a service caring for children, there would be still three related areas: fire codes; safety codes; building codes. In each of these three areas, there are legitimate concerns which also must be addressed. For instance, it can be said that day care centers should be allowed wherever there is a need for such services. On the other hand, allowing day care centers to be built in some areas would be ill-advised: certain residential areas have zoning restrictions; certain other areas are inappropriate for children because of hazardous conditions.

In recognition of these problems, and stimulated by a substantial growth in interest by governments and others in more rapid development of day care services, a licensing project was begun by the Federal government beginning in September, 1970. Many organizations sent representatives to the various meetings called in connection with that project, but some were dissatisfied with the day care licensing act and related materials which HEW eventually published. The dissatisfaction with the HEW document was along two lines: 1) the document attempted to cover too much detail, and was not in a format which could be easily addressed by most state legislatures; 2) the document reflected a philosophy of day care licensing which was not sufficiently protective of children.

The Act drafted by the Day Care Alliance does not attempt to discuss all of the issues related to day care facility licensing. Although the Day Care Alliance recognizes that there are problems with fire, safety, and building codes for day care facilities, the Alliance believes that those issues must be dealt with in other documents, not as part of any suggested legislation. Additionally, the Alliance believes that the variance between states is, to some degree, the result of practical experience gained over time and that any adjustments in the fire, safety, and building codes within a state must be done with utmost caution. Many of the organizations in the Alliance have published materials relating to these matters and at some future date the Alliance may draft some general guidelines in the area. For now, the Alliance believes that the major need is for a licensing act that responds to the needs identified early by the HEW study:

1. "The three categories of day care facilities—family day care homes, group day care homes, and day care centers—are defined in different terms from State to State, but some States do not include all three definitions in their regulations."
2. "State licensing of family day care homes is not mandatory in 10 States."
3. "Some States do not apply mandatory State licensing requirements in all cities and counties."

The Alliance's draft legislation is aimed at meeting these three major deficiencies. The Alliance draft:

1. Defines the three categories of day care facilities (cited above) in terms similar to those contained in the chief Federal regulation which applies to day care and with which most states must comply in order to receive reimbursement, the 1968 *Federal Interagency Day Care Requirements*.
2. Makes licensing of family day care homes mandatory.
3. Provides a legal base for states to apply mandatory state licensing requirements in all cities and counties.

The Alliance draft, since it is related closely to the 1968 *Federal Interagency Day Care Requirements*, would provide slightly higher quality care than the HEW draft. The Alliance believes that, essentially, the quality floor should be higher than those who published the HEW draft. There are also important differences in two other areas: the Alliance draft stresses parental involvement;

the Alliance code recognizes the fact that day care services involve a number of professional disciplines.

The Alliance draft also differs from the HEW draft in that it requires most family day care homes to be individually licensed. This recommendation, while it differs from that of some licensing experts, is based on the history of failure of the alternative approach—registration or non-licensing. An important study just completed in England shows that unlicensed family day care homes are a key factor in the continuing incidence of deprivation and poverty, and that there are clear connections between school failure, delinquency, and the like, and the use of non-licensed family day care homes.

The Alliance draft also differs from the HEW draft in that it does not allow for a delegation of licensing authority to large operators of day care programs called "day care systems." Some believe that it may be a conflict of interest for a day care operator to license or otherwise enforce regulations which pertain to his programs.

The Alliance draft grows out of a belief that children require "an extra pound of protection," that the evidence shows that even well-meaning care-givers can and do harm children, and that it is the duty of the states to set such licensing requirements as are necessary to guarantee the health, safety and well-being of these particularly vulnerable citizens, young children.

It is the hope of the Alliance that consideration of this draft legislation will lead to an examination of the existing state and other licensing codes, and that such amendments will be made as are necessary to protect children.

STATE DAY CARE FACILITY LICENSING ACT

(Most states currently have statutes that provide for the licensing of day care facilities; however, when legally challenged, it has been demonstrated that some of the statutes are deficient. The draft legislation below constitutes no more than suggestions with respect to the problems posed by some licensing statutes. The language should, therefore, be introduced only after careful consideration of local conditions. Existing constitutional and statutory requirements should be examined.)

In general, the draft is based on these premises: 1) government's responsibility to protect the rights and welfare of its citizens in matters related to the provision and use of services rests on a benevolent exercise of the police powers of the individual states; 2) day care as a facility or a service to be regulated to be an exercise of the doctrine of *parens patriae*—the state acting as protector or ultimate guardian in matters affecting the welfare of children.)

SUGGESTED LEGISLATION

(Title, enacting clause etc.)

Section 1. Short Title. This Act shall be entitled The Child Day Care Facility Licensing Act.¹

Section 2. Purpose. The purpose of this Act is to authorize the licensing of day care facilities for children. Licenses are authorized if the Act and applicable rules and regulations are met. Penalties are established if day care facilities are operated without the required license. The purpose of licensing is to regulate day care facilities so as to assure that those facilities will offer and assure children the care, protection, supervision and the promotion of sound growth and development necessary to their health, safety and welfare.

¹ (Comment. The statute is addressed to day care and not to the licensing of other child care or child placement facilities. Some legislatures may wish to conclude other licensing tasks in a single statute.)

Section 3. Definitions. As used in this Act:

(1) "day care" means the care, supervision, and guidance of a child or children, unaccompanied by a parent, on a regular basis, with or without pay, for periods of at least 2 hours but less than 24 hours per day, in a place other than the child's or the children's own home or homes;

(2) "day care facility" means a "family day care home," a "group day care home," or a "day care center," as defined in this Act, whether known or incorporated under some other descriptive title or name such as "Day Nursery," "Nursery School," "Child Play School," "Day Camp," "Child Development Center," "Early Childhood Center," "Recreation Center," and the like: provided, however, that "day care center" does not include a public or private elementary or secondary school engaged in providing legally authorized educational and related functions and which meets the accreditation standards applicable in that state;²

(3) "family day care home" means an occupied private residence which receives one or more but fewer than seven children who are related or unrelated to the resident caregiver. No more than five children may be received when children under 3 years of age are received, and no more than two children under 3 may be received at the same time. The maximum number of children to be received shall be reduced by the number of children normally residing in the home.

(4) "group day care home" means an occupied private residence which receives seven through twelve children who are related or unrelated to the resident caregiver. The maximum number of children to be received shall be reduced by the number of children normally residing in the home.³

(5) "day care center" means (1) any facility other than an occupied residence which receives one or more children for day care, or (11) any facility including an occupied residence which provides day care for 13 or more children including the children normally residing in the home and children received for day care who are related or unrelated to the resident caregiver.⁴

Child-staff ratios in all facilities should be lowered in all instances where children with handicapping conditions or special needs are served.

² (Comment. It is recognized, however, that a day care facility, subject to licensing, might be operated in connection with these public or private schools.)

³ (Comment. It is recognized, however, that the group day care home would probably require some modification of the home and that the modified home should serve only as many children as it can integrate into its own physical setting and pattern of living. It is especially suitable for school-age children, who do not require a great deal of mothering or individual care, and who can profit from considerable association with their peers. If preschool children are received, appropriate reduction should be made in the total number of children received or additional staff should be obtained. Preschool children should be cared for somewhat separately, and the child-staff ratio for the preschool group should not exceed five to one. If children under 3 are received, they should be cared for separately, by caregivers who are solely responsible for their care, and the child-staff ratio should not exceed two to one.)

⁴ (Comment. Day care centers should not accept children under 3 years of age unless the care approximates the mothering in the family home. If children under 3 are received, they should be cared for in a separate part of the center, by caregivers who are solely responsible for their care, and the child-staff ratio should not exceed two to one. As far as a reasonable staffing pattern will permit, the same persons would be charged with the care of the same infants.)

(6) Day Care Operator. The person, corporation, partnership, voluntary association, or other public or private organization ultimately responsible for the overall operation of a day care facility.

(7) Caregiver. Any person whose duties include direct care, supervision and guidance of children in a day care facility.

(8) Child. A person who has not reached the eighteenth birthday.

(9) Department. The State agency designated to administer day care licensing under this Act.⁵

(10) Board. The State Advisory Board on day care licensing named under this Act to advise the department.

(11) Director. The administrative head of the department.

(12) Related. Any of the following relationships by marriage, blood, or adoption: parent, grandparent, brother, sister, step-parent, step-brother, step-sister, uncle, aunt.

(13) License. A license issued to an operator of a new day care facility authorizing the licensee to operate in accordance with the provisions of the license, this Act, and the rules and regulations of the department.

(14) Provisional License. A license issued to an operator of a new day care facility authorizing the licensee to begin operations although the licensee is temporarily unable to comply with all of the requirements for a license, but in no case shall such a provisional license be effective beyond 18 months.

(15) Approval. A written notice issued to a department, agency, or institution of the State, or a county, city, or other political subdivision, approving the operation of a day care facility in accordance with the provision of the notice, this Act, and the rules and regulations of the department.

(16) Provisional Approval. A written notice issued to a department, agency, or institution of the State, or a county, city, or other political subdivision approving the commencement of operations of a day care facility although the operator is temporarily unable to comply with all of the requirements for approval, but in no case shall such provisional approval be effective beyond 18 months.

Section 4. [Licensing and approval.]

(a) No person, corporation, partnership, voluntary association, or other organization may operate a day care facility unless licensed to do so by the Department: Provided, however, that operation of a home specifically excluded from the definition of family day care home shall not preclude the issuance of a license if application is made for one.

(b) Day care facilities operated by the State, or by a county, city, or other political subdivision, must meet or exceed requirements for all other licensed operators of day care facilities. The department, agency, or institution of the State, or the county, city, or other political subdivision which operates a day care facility or facilities shall obtain approval from the department rather than licensure in order to operate such facility or facilities. The department shall provide visitation, consultation, and information services to such departments, agencies, or institutions of the State, and to such counties, cities, or other political subdivisions.

(c) Application for license or approval shall be made on forms supplied by the Department and in the manner it prescribes.

(d) Before issuing a license or approval the Department shall conduct an investigation of the applicant and the proposed plan of care, maintenance, and supervision for children and for operating a day care facility. If the results of the investigation satisfy the department that the provisions of this Act and

⁵ (Comment. The licensing function should be carried by a state agency which has a major interest and responsibility for comprehensive services to children and their families. The legislature in each state can best identify that agency.)

the applicable rules and regulations promulgated by the department are satisfied, a license or approval shall be issued. If the results of the investigation satisfy the Department that all of the applicable rules and regulations cannot be met immediately but can and will be met within six months or less, and the deviations do not threaten the health or safety of the children, then a provisional license or provisional approval shall be issued for a period not to exceed six months from the date of such issuance.

Section 5. [Denial and Notice.]

(a) An applicant who has been denied a license by the Department shall be given prompt written notice thereof by certified or registered mail to the address shown in the application. The notice shall contain a statement of the reasons for the denial and shall inform the applicant that there is a right to appeal the decision to the Director in writing within 30 days after the mailing of notice of denial. Upon receiving a timely written appeal the Director shall give the applicant reasonable notice and an opportunity for a prompt hearing before an impartial hearing examiner with respect to the denial of the application. On the basis of the evidence adduced at the hearing, the hearing examiner shall make the final decision of the Department as to whether the application shall be granted either for a license or a provisional license or denied.

(b) An applicant who has been denied approval by the Department shall be given prompt written notice thereof, which shall include a statement of the reasons for the denial. The notice also shall inform the applicant that it may, within 30 days after the mailing of the notice of denial appeal the denial by making a written request to the director for an opportunity to show cause why its application should not be denied. Upon receiving a timely written request the director shall give the applicant reasonable notice and an opportunity for a prompt, informal meeting with the director or his designee with respect to the denial of the application and an opportunity to submit written material with respect thereto. On the basis of the available evidence, including information obtained at the informal meeting and from the written material, the Director shall decide whether the application shall be granted for approval, provisional approval or denial. The decision of the Director shall be in writing, shall contain findings of fact and rulings of law, and shall be mailed to the parties to the proceedings by certified or registered mail to their last known addresses as may be shown in the application, or otherwise.

Section 6. [Powers to suspend, revoke, or make probationary.]

(a) The Department shall have power to suspend, revoke, or make probationary a license or approval if a licensee or approved operator is found not to comply with the rules and regulations of the Department respecting day care facilities.

(b) A licensee or approved operator whose license or approval is about to be suspended, revoked or made probationary shall be given written notice by certified or registered mail addressed to the location shown on the license or approval.⁶

The notice shall contain a statement of and the reasons for the proposed action and shall inform the licensee or approved operator that there is a right to appeal the decision to the director in writing within 10 days after the mailing of the notice of the proposed action. If no timely written appeal is made, the license shall be suspended, revoked or made probationary as of the termination of the 10-day period.

⁶ (Comment. The text permits suspension and revocation only after opportunity for a hearing. It should be noted that Section 7 of the Act provides for injunctive relief where serious harm to children is threatened.)

In the case of a license, upon receiving a timely written appeal the director shall give the licensee reasonable notice and an opportunity for a prompt hearing before a hearing examiner with respect to the proposed action. On the basis of the evidence adduced at the hearing, the hearing examiner shall make the final decision of the Department as to whether the license shall be suspended, revoked or made probationary.

In the case of an approval, upon receiving a timely written appeal, the director shall give the approved operator reasonable notice and an opportunity for a prompt, informal meeting with the Director or his designee with respect to the proposed action, and an opportunity to submit written material with respect thereto. On the basis of the available evidence including information obtained at the informal meeting and from the written material, the Director shall decide whether the approval shall be suspended, revoked or made probationary. The decision of the Director shall be in writing, shall contain findings of fact and rulings of law, and shall be mailed to the parties to the proceedings by certified or registered mail to their last known addresses as may be shown in the application, or otherwise.

Provided, however, that if the Director finds that the health or safety of the children so requires, he shall order the immediate suspension of the license or approval. The licensee or approved operator shall be given written notice of the order by personal service or by certified or registered mail addressed to the location shown on the license or approval. The notice shall contain a statement of the reasons for the suspension and shall inform the licensee or approved operator that there is a right to petition the Director to reconsider the order. The petition shall be in writing and shall be made within 10 days after the personal service or the mailing of the order. In the case of a license, upon receiving a timely written petition, the Director shall give the licensee or approved operator reasonable notice and an opportunity for a prompt hearing before a hearing examiner with respect to the order of suspension of the license or approval. On the basis of the evidence adduced at the hearing, the hearing examiner shall make the final decision of the Department as to whether the order of suspension shall be affirmed or reversed.

In the case of an approval, upon receiving a timely written petition, the Director shall give the approved operator reasonable notice and an opportunity for a prompt, informal meeting with the Director or his designee with respect to the proposed action, and an opportunity to submit written material with respect thereto. On the basis of the available evidence including information obtained at the informal meeting and from the written material, the Director shall decide whether the order of suspension shall be affirmed or reversed. The decision of the Director shall be in writing, shall contain findings of fact and rulings of law, and shall be mailed to the parties to the proceedings by certified or registered mail to their last known addresses as may be shown in the application, or otherwise.

(c) At the hearing provided for by this section or by Section 5, the applicant or licensee may be represented by counsel, and has the right to call, examine and cross-examine witnesses. The hearing examiner is empowered to require the presence of witnesses and evidence by subpoena on behalf of the appellant or Department. Hearing examiner decisions shall be in writing, shall contain findings of fact and rulings of law, and shall be mailed to the parties to the proceedings by certified or registered mail to their last known addresses as may be shown in the application, or otherwise.⁵

⁵ (Comment. The licensee is entitled to a trial-type hearing on the issue of suspension or revocation.)

Section 7. [Rules and regulations.]

(a) The Department shall develop and promulgate rules and regulations for the operation and maintenance of day care facilities, and for the granting, suspending, revoking and making probationary of both licenses and approvals and provisional licenses and provisional approvals. In developing such rules and regulations the Department shall consult with:

(1) Other appropriate State agencies (including the State Board of Health, the State Department of Education, the State Fire Marshal and the State Attorney General). The agencies consulted are hereby directed to cooperate with and assist the Department in developing appropriate rules and regulations for the licensing and approval of day care facilities.

(2) Parents, guardians or custodians of those children who use the service.

(3) Child advocacy groups.

(4) The State Advisory Board on day care licensing established by this Act.

(5) Representatives of those who operate day care facilities.

(6) Experts in the various professional fields which are relevant to child care, child development, child health, and early childhood education.

Draft formulations shall be widely circulated for criticism and comment.^{6a}

(b) The rules and regulations for operating and maintaining day care facilities shall be designed to promote the health, safety and welfare of the children who are to be served by assuring safe and adequate surroundings and healthful food; by assuring supervision and care of the children by capable, qualified personnel of sufficient number; by assuring an adequate program of activities and services to enhance the development of each child; and by assuring continuous parental participation in all aspects of the program.

The rules and regulations with respect to granting, suspending, revoking and making probationary licenses and approvals and licensing and approval administration shall be designed to promote the proper and efficient processing of matters within the cognizance of the Department and to assure applicants, licensees and approved operators fair and expeditious treatment under the law.⁹

(c) The Department shall conduct a comprehensive review of its licensing and approval rules and regulations, at least once each three years.

(d) The rules and regulations shall be published in such a way as to make them readily available to the public.

(e) The Department shall publish a proposed final draft of the rules and regulations, and amendments, as required by the provisions of (the State Code of Administrative Procedure); provided, however, that, in any event, they shall be published in media of general circulation in order to reach the public statewide at least 60 days and no more than 90 days before they are proposed to go into effect. The publication

^{6a} (Comment. The main thrust of the Act is to enable the appropriate state agency to develop and promulgate the detailed standards, rules and regulations needed both for the substantive and procedural aspects of licensing day care facilities. The agency will possess the experience and the expert assistance which such detail requires. Further, legislation is not as easily amended as licensing regulations ought to be in light of accumulated experience.)

⁹ (Comment. The text offers the legislative standards which are to guide the development and promulgation of administrative standards, rules and regulations. More specific legislative guidelines may be necessary in states where serious constitutional issues of delegation of power may arise.)

also shall invite comments by interested parties. A public hearing will be held at least 30 days prior to adoption of the rules and regulations by the Department.

Section 8. [Penalties.]

The operation of a day care facility without a license is a misdemeanor punishable _____. The Department is empowered to seek an injunction in the _____ Court against the continuing operation of a day care facility:

(1) When there is any violation of this Act or of the rules and regulations promulgated by the Department which threatens serious harm to children in the day care facility, or

(2) When a licensee or approved operator has repeatedly violated this Act or any of the rules and regulations of the Department.

Proceedings for securing such injunctions may be brought by (the Attorney General, or by the County Attorney or District Attorney of the Jurisdiction in which the day care facility is located).

Section 9. [Expiration and Renewal.]

Regular licenses and approvals expire at the end of one year from the date of issuance except that when a license or approval is issued immediately following the expiration of a provisional license or approval the expiration of the license or approval shall be one year from the date of the expiration of the original license or approval. Licenses and approvals may be renewed upon application and approval.

Each license certificate and written approval shall clearly state the kind of program the licensee or approved operator is permitted to undertake, the address of the licensee or approved operator, the location of the facility, and the number of children who may be served.

Section 10. [Investigation and Inspection.]

In exercising the powers of licensing, renewing, approving, suspending, revoking, or making probationary licenses and approvals the Department shall investigate and inspect licensees and approved operators and applicants for a license or an approval. The authorized representative of the Department may visit a day care facility at any time during the hours of operation for purposes of investigations and inspections. In conducting investigations and inspections, the Department may call on political subdivisions and governmental agencies for appropriate assistance within their authorized fields and it is authorized to contract for and effect payment for such assistance.

The licensee, approved operator or applicant shall cooperate with the investigation and inspection by providing access to its facilities, records and staff. Failure to comply with the lawful requests of the Department in connection with the investigation and inspection is a ground for revocation of license or approval or for a denial of application. The investigation and inspection may involve consideration of any facts, conditions or circumstances relevant to the operation of the day care facility, including references and other information about the character and quality of the personnel of the facility.

Section 11. [Appeal and Judgment.]

Any final decision of the Department made by a hearing examiner after a hearing, or by the Director after an informal meeting and review of the available evidence may be appealed by a party to the hearing or the informal meeting to the _____ Court for review (by commencement of a civil action) within _____ days after the mailing to the party of the notice of the decision. The review shall not consist of a trial *de novo*. The findings of the hearing examiner or the Director as to any fact, if supported by substantial evidence, shall be conclusive. The Court shall have power to enter judgment upon the pleadings and a certified transcript of the record which shall include the evi-

dence upon which the findings and decision appealed are based.

Section 12. [Consultation.]

The Department shall offer consultation through employed staff or other qualified persons to assist a potential applicant, applicants, licensees, and approved operators in meeting and maintaining requirements for licensing and approval and to help them otherwise to achieve programs of excellence related to the care of children served.

Section 13. [Establishment of State Advisory Board.]

A State Advisory Board on day care facility licensing is hereby established. It shall consist of _____ members appointed by the (Governor), in accordance with the following:

(a) At least 50% of the members appointed shall be parents of children receiving day care services at the time of appointment who are broadly representative of all such parents in the State. They shall be appointed from a list which has been compiled and submitted to the Governor by the Department. The list shall contain a number of names equal to twice the number of parent vacancies plus one.

(b) Approximately 1/2 of the remainder of the members appointed shall be representatives of licensees and approved operators. They shall be appointed from a list compiled and submitted to the Governor by the Department, which shall consist of the names of persons who own, operate, administer, or serve on the staff or governing board of day care facilities. The list shall contain a number of names equal to twice the number of vacant positions in this category plus one.

(c) The remainder of the members appointed shall be specialists in the various professional fields which are relevant to child care, child development, child health, and early childhood education. They shall be appointed from a list compiled and submitted to the Governor by the Department, which shall consist of the names of persons who have special qualifications, either by training or experience, in one of said fields. The list shall contain a number of names equal to twice the number of vacant positions in this category plus one.

(d) Members shall serve without pay, but shall be entitled to reimbursement for the reasonable expenses of attending meetings, and a per diem allowance of \$_____ for each day the board is in session.

(e) Members shall serve for a term of three years from their appointment. Those appointed to fill vacancies created for any reason shall serve only the unexpired portion of the term unless reappointed thereafter. Notwithstanding the foregoing, approximately one-third of the initial appointees shall serve for a one year period and approximately one third shall serve for a two year period; the approximately two thirds of the members whose initial terms shall be so shortened shall be chosen by casting lots among all the appointees. No board member shall be permitted to succeed himself after serving a full three year term of office.

Section 14. [Powers of State Advisory Board.]

The State Advisory Board on day care facility licensing shall:

(a) Review rules and regulations proposed by the Department and make recommendations thereon to the Director.

(b) Make proposals for the improvement of day care licensing by proposing legislation or rules and regulations to the Department.

(c) Advise the Department on matters of licensing policy, planning and priorities.

EXHIBIT 1

Member organizations who have endorsed the State Day Care Facility Licensing Act as of April 26, 1974:

AFL-CIO.

- Amalgamated Clothing Workers of America (AFL-CIO).
- American Association of University Women.
- American Federation of Teachers (AFL-CIO).
- American Home Economics Association.
- American Institute of Family Relations.
- American Nurses Association.
- American Occupational Therapy Association.
- American Optometric Association.
- American Parents Committee.
- American Psychological Association.
- Association for Childhood Education International.
- Children's Foundation.
- Child Welfare League of America.
- Daughters of Isabella.
- Day Care Council of Nassau County.
- Day Care Council of New York City.
- Home and School Institute.
- Lutheran Church.
- Minnesota Children's Lobby.
- National Association of Social Workers.
- National Association of Training Schools and Juvenile Agencies.
- Nat'l Child Day Care Ass'n.
- Nat'l Consumers League.
- Nat'l Council of Jewish Women.
- National Women's Conference of the American Ethical Union.
- National Youth Council on Civic Affairs.
- Parents Without Partners.
- Quality Child Care, Inc.
- Salvation Army.
- Teen-Age Assembly of America.
- United Church of Christ—Board for Home-land Ministries.
- United Church of Christ—Division of Health and Welfare.
- United Neighborhood Houses.
- Volunteers of America.

STRONG SUPPORT FOR LAND USE LEGISLATION

Mr. JACKSON, Mr. President, on April 26, the Subcommittee on the Environment of the House Interior Committee completed its 18th day of hearings on land use legislation over the last 3 years and its fifth day of hearings on H.R. 10294—the "Land Use Planning Act of 1974"—now pending before the House Rules Committee. As my colleague will recall, on June 21, 1973 the Senate passed a similar measure—S. 268, the "Land Use Policy and Planning Assistance Act," by a very similar vote, the Senate passed S. 268's predecessor. That bill failed in the 92d Congress when the House Rules Committee refused to grant it a rule. When, on February 26, 1974, the House Rules Committee deferred action on H.R. 10294, S. 168's counterpart, it appeared that land use legislation might languish again this Congress. There is now, however, reason to hope that, thanks to the able leadership of Chairman HALEY and Representative UDALL and other land use proponents, the legislation might yet become law.

Should this event occur, those of us who have favored reforms in land use decisionmaking should be particularly appreciative of the efforts of a wide diversity of interests who have worked for strong land use legislation. Opponents of this legislation have taken great pains to depict it as a radical measure supported only by environmentalists. Yet, from the very beginning, Governors,

mayors, county executives, and labor and professional groups have favored strong land use bills. Most heartening was the strong support given by the business community to H.R. 10294 in last week's hearings.

Mr. President, I ask unanimous consent that testimony and communications from representatives of the Mortgage Bankers Association of America, the National Association of Homebuilders, and the League of New Community Developers be printed at the end of my statement.

I also ask unanimous consent that letters from representatives of the AFL-CIO and the UAW, reconfirming their long-standing support, be printed at the end of my statement.

Finally, so as to lay rest to any notion that the land use bills are opposed by local government, I also ask unanimous consent that the statements of the New Coalition—representing Governors county executives, and mayors—and of the National Association of Counties be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MORTGAGE BANKERS ASSOCIATION OF AMERICA, Washington, D.C., April 25, 1974.

Hon. MORRIS K. UDALL, Chairman, Subcommittee on the Environment, Committee on Interior and Insular Affairs, Washington, D.C.

DEAR MR. UDALL: The Mortgage Bankers Association appreciates the opportunity to comment on H.R. 10294, the Land Use Planning Act of 1974.

The Mortgage Bankers Association supports H.R. 10294 because of its potential influence on producing reliable and consistent land use plans and policies at local and state governmental levels. The mortgage bankers, as you know, bring together a major portion of the capital behind commercial, industrial and residential development. These major land uses are privately initiated and are subject to a variety of local land use controls. It will be a major benefit to the land development and mortgage banking industries to have these controls consistently and appropriately applied throughout a local jurisdiction or a state. In addition, passage of the Land Use Planning Act during 1974 is of utmost importance in getting on with the jobs of achieving the nation's development and environmental goals.

Since exhaustive hearings have already been held and many people have already been heard on the subject of the bill, we will not address ourselves to specific technical details. However, MBA does wish to go on record as continuing to support the objectives of this legislation, particularly three of them which have important relevance to MBA and the land development industry:

1. to establish land use policy;
2. to make grants to states to develop and implement comprehensive land use planning processes, and;
3. to coordinate federal programs and policies which have a land use impact.

First, the development of land use policy throughout the United States is long overdue. Such land use policy, actually implemented in a practical, comprehensive and consistent manner is virtually non-existent at the federal level. The development of state-wide land use policy via adopted land use legislation is just beginning in only one-third of the states and land use policy at the local governmental level is often inconsis-