

107TH CONGRESS  
1ST SESSION

# S. 1004

To provide for the construction and renovation of child care facilities, and  
for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JUNE 7, 2001

Mr. JEFFORDS (for himself and Mr. DODD) introduced the following bill;  
which was read twice and referred to the Committee on Banking, Housing,  
and Urban Affairs

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## A BILL

To provide for the construction and renovation of child care  
facilities, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Child Care Construc-  
5       tion and Renovation Act”.

6       **SEC. 2. USE OF COMMUNITY DEVELOPMENT BLOCK**  
7               **GRANTS TO ESTABLISH CHILD CARE FACILI-**  
8               **TIES.**

9       Section 105(a) of the Housing and Community De-  
10       velopment Act of 1974 (42 U.S.C. 5305(a)) is amended—

1 (1) in paragraph (22), by striking “and” at the  
2 end;

3 (2) in paragraph (23), by striking the period at  
4 the end and inserting a semicolon;

5 (3) in paragraph (24), by striking “and” at the  
6 end;

7 (4) in paragraph (25), by striking the period at  
8 the end and inserting “; and”; and

9 (5) by adding at the end the following:

10 “(26) the construction and renovation of child  
11 care facilities.”.

12 **SEC. 3. INSURANCE FOR MORTGAGES ON NEW AND REHA-**  
13 **BILITATED CHILD CARE FACILITIES.**

14 Title II of the National Housing Act (12 U.S.C. 1707  
15 et seq.) is amended by adding at the end the following:

16 **“SEC. 257. MORTGAGE INSURANCE FOR CHILD CARE FA-**  
17 **CILITIES.**

18 “(a) DEFINITIONS.—In this section:

19 “(1) CERTIFICATION OF COMPLIANCE.—The  
20 term ‘certification of compliance’ means a certifi-  
21 cation that a facility complies with the standards  
22 and requirements applicable to the facility under the  
23 laws of the State or unit of general local government  
24 in which the facility is or is to be located.

1           “(2) CHILD CARE FACILITY.—The term ‘child  
2       care facility’—

3           “(A) means a public or private facility  
4       that—

5           “(i) has as its purpose the care and  
6       development of—

7           “(I) children who are less than  
8       16 years of age; or

9           “(II) school-age children and  
10      youth during non-school hours; and

11          “(ii) is operated in accordance with all  
12      applicable State and local laws and regula-  
13      tions; and

14          “(B) does not include any facility for  
15      school-age children that is primarily for use  
16      during normal school hours.

17          “(3) EQUIPMENT.—The term ‘equipment’  
18      includes—

19          “(A) machinery, utilities, and built-in  
20      equipment, and any necessary enclosure or  
21      structure to house them; and

22          “(B) any other items necessary for the  
23      functioning of a particular facility as a child  
24      care facility, including necessary furniture,  
25      books, and curricular and program materials.

1           “(4) FIRST MORTGAGE.—The term ‘first  
2 mortgage’—

3           “(A) means such classes of first liens as  
4 are commonly given to secure advances (includ-  
5 ing advances during construction) on, or the  
6 unpaid purchase price of, real estate under the  
7 laws of the State in which the real estate is lo-  
8 cated, together with the credit instrument or in-  
9 struments (if any) secured thereby; and

10           “(B) includes any mortgage in the form of  
11 1 or more trust mortgages or mortgage inden-  
12 tures or deeds of trust, securing notes, bonds,  
13 or other credit instruments, that, by the same  
14 instrument or by a separate instrument, creates  
15 a security interest in initial equipment, whether  
16 or not attached to the realty.

17           “(5) MORTGAGE.—The term ‘mortgage’ means  
18 a first mortgage on real estate in fee simple, or on  
19 the interest of either the lessor or lessee thereof  
20 under a lease having a period of not less than 7  
21 years to run beyond the maturity date of the mort-  
22 gage.

23           “(6) MORTGAGOR.—The term ‘mortgagor’ has  
24 the meaning given the term in section 207(a).

1       “(b) INSURANCE OF MORTGAGES.—In order to facili-  
2       tate the establishment and rehabilitation of child care fa-  
3       cilities, the Secretary may—

4               “(1) insure a mortgage that is secured by a  
5       property or project that is—

6                       “(A) a new child care facility, including a  
7                       new addition to an existing child care facility  
8                       (regardless of whether the existing facility is  
9                       being rehabilitated); or

10                      “(B) a substantially rehabilitated child  
11                      care facility, including equipment to be used in  
12                      the operation of the facility; and

13               “(2) make a commitment to insure any mort-  
14       gage described in paragraph (1) before the date of  
15       execution or disbursement of the mortgage.

16       “(c) TERMS AND CONDITIONS.—

17               “(1) ELIGIBLE CHILD CARE FACILITIES.—Each  
18       mortgage insured under this section shall be secured  
19       by a child care facility for which a certification of  
20       compliance has been issued by the Secretary during  
21       the 12-month period preceding the date on which the  
22       commitment to insure the mortgage is issued under  
23       this section.

24               “(2) APPROVED MORTGAGOR.—

1           “(A) IN GENERAL.—Each mortgage in-  
 2           sured under this section shall be executed by a  
 3           mortgagor approved by the Secretary.

4           “(B) REGULATION.—The Secretary may—

5                 “(i) require an approved mortgagor  
 6                 who executes a mortgage under subpara-  
 7                 graph (A) to be regulated with respect to  
 8                 charges and methods of financing and, if  
 9                 the mortgagor is a corporate entity, with  
 10                respect to capital structure and rate of re-  
 11                turn; and

12               “(ii) as an aid to the regulation of any  
 13               mortgagor under clause (i), make such  
 14               contracts with and acquire for not more  
 15               than \$100 such stock or interest in such  
 16               mortgagor as the Secretary considers to be  
 17               necessary.

18           “(C) STOCK OR INTEREST.—Any stock or  
 19           interest purchased under subparagraph (B)(ii)  
 20           shall be—

21               “(i) paid for out of the General Insur-  
 22               ance Fund; and

23               “(ii) redeemed by the mortgagor at  
 24               par upon the termination of all obligations  
 25               of the Secretary under the insurance.

1           “(3) PRINCIPAL OBLIGATION.—Each mortgage  
 2           insured under this section shall involve a principal  
 3           obligation in an amount not to exceed 90 percent of  
 4           the estimated value of the property or project, or 95  
 5           percent of the estimated value of the property or  
 6           project in the case of a mortgagor that is a private  
 7           nonprofit corporation or association (as described in  
 8           section 221(d)(3)), including—

9                   “(A) equipment to be used in the operation  
 10                  of the facility when the proposed improvements  
 11                  are completed and the equipment is installed; or

12                  “(B) a solar energy system (as defined in  
 13                  subparagraph (3) of the last paragraph of sec-  
 14                  tion 2(a)) or residential energy conservation  
 15                  measures (as defined in subparagraphs (A)  
 16                  through (G) and (I) of section 210(11) of the  
 17                  National Energy Conservation Policy Act (42  
 18                  U.S.C. 8211(11)), in cases in which the Sec-  
 19                  retary determines that such measures are in ad-  
 20                  dition to those required under the minimum  
 21                  property standards and will be cost-effective  
 22                  over the life of the measure.

23           “(4) AMORTIZATION AND INTEREST.—Each  
 24           mortgage insured under this section shall—

1           “(A) provide for complete amortization by  
2           periodic payments under such terms as the Sec-  
3           retary shall prescribe;

4           “(B) have a maturity date satisfactory to  
5           the Secretary, but in no event longer than 25  
6           years; and

7           “(C) bear interest at such rate as may be  
8           agreed upon by the mortgagor and the mort-  
9           gagee, and the Secretary shall not issue any  
10          regulations or establish any terms or conditions  
11          that interfere with the ability of the mortgagor  
12          and mortgagee to determine the interest rate.

13          “(5) RELEASE.—The Secretary may consent to  
14          the release of a part or parts of the mortgaged prop-  
15          erty or project from the lien of any mortgage in-  
16          sured under this section upon such terms and condi-  
17          tions as the Secretary may prescribe.

18          “(6) MORTGAGE INSURANCE TERMS.—Sub-  
19          sections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of  
20          section 207 apply to any mortgage insured under  
21          this section, except that all references in such sub-  
22          sections to section 207 shall be construed, for pur-  
23          poses of mortgage insurance under this section, to  
24          refer to this section.



1       “(d) MORTGAGE INSURANCE FOR FIRE SAFETY  
2 EQUIPMENT LOANS.—

3           “(1) AUTHORITY.—The Secretary may, upon  
4       such terms and conditions as the Secretary may pre-  
5       scribe, make commitments to insure and insure  
6       loans made by financial institutions or other ap-  
7       proved mortgagees to child care facilities to provide  
8       for the purchase and installation of fire safety equip-  
9       ment necessary for compliance with the 1967 edition  
10      of the Life Safety Code of the National Fire Protec-  
11      tion Association (or any subsequent edition specified  
12      by the Secretary of Health and Human Services).

13          “(2) LOAN REQUIREMENTS.—To be eligible for  
14      insurance under this subsection a loan shall—

15           “(A) not exceed the estimate by the Sec-  
16      retary of the reasonable cost of the equipment  
17      fully installed;

18           “(B) bear interest at such rate as may be  
19      agreed upon by the mortgagor and the mort-  
20      gagee;

21           “(C) have a maturity date satisfactory to  
22      the Secretary;

23           “(D) be made by a financial institution or  
24      other mortgagee approved by the Secretary as

1 eligible for insurance under section 2 or a mort-  
 2 gagee approved under section 203(b)(1);

3 “(E) comply with other such terms, condi-  
 4 tions, and restrictions as the Secretary may  
 5 prescribe; and

6 “(F) be made with respect to a child care  
 7 facility for which a certification of compliance  
 8 has been issued by the Secretary during the 12-  
 9 month period preceding the date on which the  
 10 commitment to insure is issued under this sub-  
 11 section.

12 “(3) INSURANCE REQUIREMENTS.—

13 “(A) SECTION 2.—Subsections (c), (d),  
 14 and (h) of section 2 shall apply to any loan in-  
 15 sured under this subsection, except that all ref-  
 16 erences in such subsections to ‘this section’ or  
 17 ‘this title’ shall be construed, for purposes of  
 18 this subsection, to refer to this subsection.

19 “(B) SECTION 220.—Paragraphs (5), (6),  
 20 (7), (9), and (10) of section 220(h) shall apply  
 21 to any loan insured under this subsection, ex-  
 22 cept that all references in such paragraphs to  
 23 home improvement loans shall be construed, for  
 24 purposes of this subsection, to refer to loans  
 25 under this subsection.

1       “(e) SCHEDULES AND DEADLINES.—The Secretary  
2 shall establish schedules and deadlines for the processing  
3 and approval (or provision of notice of disapproval) of ap-  
4 plications for mortgage insurance under this section.

5       “(f) LIMITATION ON INSURANCE AUTHORITY.—

6               “(1) TERMINATION.—No mortgage may be in-  
7 sured under this section or section 223(h) after Sep-  
8 tember 30, 2006, except pursuant to a commitment  
9 to insure issued on or before such date.

10              “(2) AGGREGATE PRINCIPAL AMOUNT LIMITA-  
11 TION.—

12                      “(A) IN GENERAL.—The aggregate prin-  
13 cipal amount of mortgages for which the Sec-  
14 retary enters into commitments to insure under  
15 this section or section 223(h) on or before the  
16 date described in paragraph (1) may not exceed  
17 \$2,000,000,000.

18                      “(B) REPORT.—If, on the date described  
19 in paragraph (1), the aggregate insurance au-  
20 thority provided under this paragraph has not  
21 been fully used, the Secretary of the Treasury  
22 shall submit to Congress a report evaluating the  
23 need for continued mortgage insurance under  
24 this section.

25       “(g) NONDISCRIMINATION REQUIREMENT.—

1           “(1) IN GENERAL.—A child care facility receiv-  
2           ing assistance under this title may not discriminate  
3           on the basis of race, color, or national origin (to the  
4           extent provided in title VI of the Civil Rights Act of  
5           1964 (42 U.S.C. 2000d et seq.)), religion (subject to  
6           paragraph (2)), national origin, sex (to the extent  
7           provided in title IX of the Education Amendments  
8           of 1972 (20 U.S.C. 1681 et seq.)), or disability (to  
9           the extent provided in section 504 of the Rehabilita-  
10          tion Act of 1973 (29 U.S.C. 794)), under any pro-  
11          gram or activity receiving Federal financial assist-  
12          ance under this title.

13           “(2) FACILITIES OF RELIGIOUS ORGANIZA-  
14          TIONS.—The prohibition with respect to religion  
15          under paragraph (1) shall not apply to a child care  
16          facility that is controlled by, or that is closely identi-  
17          fied with, the tenets of a particular religious organi-  
18          zation, if the application of this paragraph would not  
19          be consistent with the religious tenets of such orga-  
20          nization.

21           “(h) LIABILITY INSURANCE.—A child care provider  
22          operating a child care facility assisted under this section  
23          or section 223(h) shall obtain and maintain liability insur-  
24          ance in such amounts and subject to such requirements  
25          as the Secretary considers to be appropriate.

1 “(i) SMALL PURPOSE LOANS.—

2 “(1) IN GENERAL.—To the extent that amounts  
3 are made available pursuant to subsection (l), the  
4 Secretary shall make loans, directly or indirectly, to  
5 providers of child care facilities for reconstruction or  
6 renovation of such facilities, in accordance with this  
7 subsection.

8 “(2) REQUIREMENTS.—A loan under this  
9 subsection—

10 “(A) may be made only for a child care fa-  
11 cility that is financially and operationally viable,  
12 as determined under standards established by  
13 the Secretary;

14 “(B) may not have a term to maturity ex-  
15 ceeding 7 years;

16 “(C) shall bear interest at a rate estab-  
17 lished by the Secretary; and

18 “(D) shall be subject to such other terms  
19 and conditions as the Secretary may establish  
20 by regulation.

21 “(3) AGGREGATE LOAN AMOUNT.—The aggre-  
22 gate amount of loans under this subsection to a sin-  
23 gle provider may not exceed \$30,000.

24 “(j) NOTIFICATION.—The Secretary shall take such  
25 actions as may be necessary to publicize the availability

1 of the programs for mortgage insurance under this section  
 2 and section 223(h), and the loan program under sub-  
 3 section (i) of this section, in a manner that ensures that  
 4 information concerning such programs will be available to  
 5 child care providers throughout the United States.

6 “(k) REGULATIONS.—The Secretary shall—

7 “(1) issue any regulations necessary to carry  
 8 out this section; and

9 “(2) in carrying out paragraph (1), consult with  
 10 the Secretary of Health and Human Services with  
 11 respect to any aspects of the regulations regarding  
 12 child care facilities.

13 “(l) AUTHORIZATION OF APPROPRIATIONS.—There is  
 14 authorized to be appropriated to carry out this section  
 15 \$30,000,000 for fiscal year 2002, to remain available until  
 16 expended, of which not more than 10 percent may be used  
 17 for loans under subsection (i).”.

18 **SEC. 4. INSURANCE FOR MORTGAGES FOR ACQUISITION OR**  
 19 **REFINANCING DEBT OF EXISTING CHILD**  
 20 **CARE FACILITIES.**

21 (a) IN GENERAL.—Section 223 of the National  
 22 Housing Act (12 U.S.C. 1715n) is amended by adding at  
 23 the end the following:

24 “(h) MORTGAGE INSURANCE FOR PURCHASE OR RE-  
 25 FINANCING OF EXISTING CHILD CARE FACILITIES.—

1           “(1) DEFINITIONS.—In this subsection, the  
2           terms that are defined in section 257(a) have the  
3           same meanings as in that section.

4           “(2) AUTHORITY.—Notwithstanding any other  
5           provision of this Act, the Secretary may insure  
6           under any section of this title a mortgage executed  
7           in connection with—

8                   “(A) the purchase or refinancing of an ex-  
9                   isting child care facility;

10                   “(B) the purchase of a structure to serve  
11                   as a child care facility; or

12                   “(C) the refinancing of existing debt of an  
13                   existing child care facility.

14           “(3) PURCHASE OF EXISTING FACILITIES AND  
15           STRUCTURES.—In the case of the purchase under  
16           this subsection of an existing child care facility or  
17           purchase of an existing structure to serve as such a  
18           facility, the Secretary shall prescribe any terms and  
19           conditions that the Secretary considers necessary to  
20           ensure that—

21                   “(A) the facility or structure purchased  
22                   continues to be used as a child care facility; and

23                   “(B) the facility receives a certification of  
24                   compliance.

1           “(4) REFINANCING OF EXISTING FACILITIES.—

2           In the case of refinancing of an existing child care  
3           facility, the Secretary shall prescribe any terms and  
4           conditions that the Secretary considers necessary to  
5           ensure that—

6                   “(A) the refinancing is used to lower the  
7                   monthly debt service costs (taking into account  
8                   any fees or charges connected with such refi-  
9                   nancing) of the existing facility;

10                   “(B) the proceeds of any refinancing will  
11                   be employed only to retire the existing indebted-  
12                   ness and pay the necessary cost of refinancing  
13                   on the existing facility;

14                   “(C) the existing facility is economically  
15                   viable; and

16                   “(D) the facility receives a certification of  
17                   compliance.

18           “(5) LIMITATION ON INSURANCE AUTHORITY.—

19           The authority of the Secretary to enter into commit-  
20           ments to insure mortgages under this subsection is  
21           subject to section 257(f).”.



1 **SEC. 5. STUDY OF AVAILABILITY OF SECONDARY MARKETS**  
2 **FOR MORTGAGES ON CHILD CARE FACILI-**  
3 **TIES.**

4 (a) STUDY.—The Secretary of the Treasury shall  
5 conduct a study of the secondary mortgage markets to  
6 determine—

7 (1) whether such a market exists for purchase  
8 of mortgages eligible for insurance under sections  
9 223(h) and 257 of the National Housing Act (as  
10 added by this Act);

11 (2) whether such a market would affect the  
12 availability of credit available for development of  
13 child care facilities or would lower development costs  
14 of such facilities; and

15 (3) the extent to which such a market or other  
16 activities to provide credit enhancement for loans for  
17 child care facilities is needed to meet the demand for  
18 such facilities.

19 (b) REPORT.—Not later than 2 years after the date  
20 of enactment of this Act, the Secretary of the Treasury  
21 shall submit to Congress a report regarding the results  
22 of the study conducted under this section.

23 **SEC. 6. TECHNICAL AND FINANCIAL ASSISTANCE GRANTS.**

24 (a) DEFINITIONS.—In this section:

25 (1) CHILD CARE FACILITY.—The term ‘child  
26 care facility’ has the meaning given that term in sec-

tion 257(a) of the National Housing Act, as added by section 3.

(2) ELIGIBLE INTERMEDIARY.—The term “eligible intermediary” means a private, nonprofit intermediary organization that has demonstrated experience in—

(A) financing the construction and renovation of physical facilities;

(B) providing technical and financial assistance to child care providers or other similar entities;

(C) working with small businesses; and

(D) securing private sources for capital financing; and

(3) ELIGIBLE RECIPIENT.—The term “eligible recipient” means any—

(A) existing or start-up center-based or home-based child care provider; and

(B) organization in the process of establishing a center-based or home-based child care program or otherwise seeking to provide child care services.

(4) EQUIPMENT.—The term ‘equipment’ has the meaning given that term in section 257(a) of the National Housing Act, as added by section 3.

1 (b) GRANT AUTHORITY.—The Secretary of Housing  
2 and Urban Development, in consultation with the Sec-  
3 retary of Health and Human Services, may award grants  
4 on a competitive basis in accordance with this section to  
5 eligible intermediaries for use in accordance with sub-  
6 sections (e) and (f).

7 (c) APPLICATIONS.—To be eligible to receive a grant  
8 under this section an eligible intermediary shall submit to  
9 the Secretary an application, in such form and containing  
10 such information as the Secretary may require.

11 (d) PRIORITY.—In awarding grants under this sec-  
12 tion the Secretary shall give a priority to applicants under  
13 subsection (c) that serve low-income or rural areas.

14 (e) USE OF FUNDS.—

15 (1) REVOLVING LOAN FUND.—Each eligible  
16 intermediary that receives a grant under this section  
17 shall deposit the grant amount into a child care re-  
18 volving loan fund established by the eligible inter-  
19 mediary.

20 (2) PAYMENTS FROM FUND.—Subject to sub-  
21 section (f), from amounts deposited into the revolv-  
22 ing loan fund under paragraph (1), each eligible  
23 intermediary shall provide technical and financial as-  
24 sistance (in the form of loans, grants, investments,  
25 guarantees, interest subsidies, and other appropriate

1 forms of assistance) to eligible recipients for the ac-  
2 quisition or improvement of child care facilities or  
3 equipment.

4 (3) LOAN REPAYMENTS AND INVESTMENT PRO-  
5 CEEDS.—Any amount received by an eligible inter-  
6 mediary from an eligible recipient in the form of a  
7 loan repayment or investment proceeds shall be de-  
8 posited into the child care revolving fund of the eligi-  
9 ble intermediary for redistribution to other eligible  
10 recipients in accordance with this section.

11 (f) ALLOCATION OF FUNDS.—Of the amounts dis-  
12 tributed from the revolving loan fund of an eligible inter-  
13 mediary under subsection (e)(2) in each fiscal year—

14 (1) not less than 50 percent shall be used for  
15 the renovation or construction of child care facilities  
16 or the acquisition of equipment by eligible recipients,  
17 except that the amount made available to any eligi-  
18 ble recipient under this paragraph may not exceed  
19 40 percent of the total costs incurred by the eligible  
20 recipient in connection with such renovation, con-  
21 struction, or acquisition; and

22 (2) the amount remaining after distribution  
23 under paragraph (1), shall be used to provide direct  
24 assistance to eligible recipients in obtaining public or  
25 private financing for the renovation or construction

1 of child care facilities and the acquisition of equip-  
2 ment, including developing and implementing financ-  
3 ing resources, options, and plans for those recipi-  
4 ents.

5 (g) AUTHORIZATION OF APPROPRIATIONS.—There is  
6 authorized to be appropriated to carry out this section  
7 \$10,000,000 for each of fiscal years 2002 through 2006.

○