I

105TH CONGRESS
2D SESSION

H. R. 3637

To amend the National Housing Act to authorize the Secretary of Housing and Urban Development to insure mortgages for the acquisition, construction, or substantial rehabilitation of child care and development facilities and to establish the Children's Development Commission to certify such facilities for such insurance, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 1, 1998

Mrs. MALONEY of New York (for herself, Mr. BAKER, Mr. KANJORSKI, Mr. JACKSON of Illinois, Mrs. MEEK of Florida, Mr. MANTON, Mr. ALLEN, Ms. VELÁZQUEZ, Ms. WOOLSEY, and Mrs. TAUSCHER) introduced the following bill; which was referred to the Committee on Banking and Financial Services

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A BILL

To amend the National Housing Act to authorize the Secretary of Housing and Urban Development to insure mortgages for the acquisition, construction, or substantial rehabilitation of child care and development facilities and to establish the Children's Development Commission to certify such facilities for such insurance, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Development Commission Act".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds the following:

(1) The need for quality nursery schools, both full-time and part-time child care centers and after-school programs, after school programs, neighborhood-run mothers-day-out programs, and family child care providers has grown among working parents, and parents who stay at home, who want their children to have access to early childhood education.

(2) All parents should have access to safe, stimulating, and educational early childhood education programs for their children, whether such programs are carried out in a child care center, a part-time nursery school (including a nursery school operated by a religious organization), or a certified child care provider's home.

(3) The number of available enrollment opportunities for children to receive quality child care services is not meeting the demand for such services.

(4) In 1995 there were about 21,000,000 children less than 6 years of age, of whom 31 percent were participating in center-based child care services and 14 percent were receiving child care in homes.

Between 1992 and 2005 the participation of women 24 to 54 years of age in the labor force is projected to increase from 75 percent to 83 percent.

(5) In States that have set up a mechanism to provide capital improvements for child care facilities, the demand for services of such facilities still has not been met.

(6) The United States is behind other western, industrialized countries when it comes to providing child care services. In France, almost 100 percent of all children 3 to 5 years of age attend nursery school. In Germany this number is 65 to 70 percent. In Japan 90 percent of such children attend some form of preschool care. In all of these countries early childhood care has proven to increase children's development and performance.

SEC. 3. INSURANCE FOR MORTGAGES ON NEW AND REHABILITATED CHILD CARE AND DEVELOPMENT FACILITIES.

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

"MORTGAGE INSURANCE FOR CHILD CARE AND DEVELOPMENT FACILITIES

"SEC. 257. (a) PURPOSE.—The purpose of this section is to facilitate and assist in the provision and development of licensed child care and development facilities.

"(b) GENERAL INSURANCE AUTHORITY.—The Secretary may insure mortgages (including advances on such mortgages during construction) in accordance with the provisions of this section and upon such terms and conditions as the Secretary may prescribe and may make commitments for insurance of such mortgages before the date of their execution or disbursement thereon.

"(c) ELIGIBLE MORTGAGES.—To carry out the purpose of this section, the Secretary may insure any mortgage that covers a new child care and development facility, including a new addition to an existing child care and development facility (regardless of whether the existing facility is being rehabilitated), or a substantially rehabilitated child care and development facility, including equipment to be used in the operation of the facility, subject to the following conditions:

"(1) APPROVED MORTGAGOR.—The mortgage shall be executed by a mortgagor approved by the Secretary. The Secretary may, in the discretion of the Secretary, require any such mortgagor to be regulated or restricted as to charges and methods of financing and, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary may make such contracts with and acquire for not more than $100 such stock or interest in such mortgagor as the Secretary may consider necessary. Any stock or interest so purchased shall be paid for out of the General Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

"(2) PRINCIPAL OBLIGATION.—The mortgage shall involve a principal obligation in an amount not to exceed 90 percent of the estimated value of the property or project, or 95 percent of the estimated value of the property or project in the case of a mortgagor that is a private nonprofit corporation or association (as such term is defined pursuant to section 221(d)(3)), including—

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

"(B) a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a)) or residential energy conservation measures (as defined in subparagraphs (A) through (G) and (I) of section 210(11) of the National Energy Conservation Policy Act), in cases in which the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure.

"(3) AMORTIZATION AND INTEREST.—The mortgage shall—

"(A) provide for complete amortization by periodic payments under such terms as the Secretary shall prescribe;

"(B) have a maturity satisfactory to the Secretary, but in no event longer than 25 years; and

"(C) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee, and the Secretary shall not issue any regulations or establish any terms or conditions that interfere with the ability of the mortgagor and mortgagee to determine the interest rate.

"(d) CERTIFICATION BY CHILDREN'S DEVELOPMENT COMMISSION.—The Secretary may not insure a mortgage under this section unless the Children's Development Commission established under section 258 certifies that the facility is in compliance, or will be in compliance not later than 12 months after such certification, with—

"(1) any laws, standards, and requirements applicable to such facilities under the laws of the State, municipality, or other unit of general local government in which the facility is or is to be located; and

"(2) after the effective date of the standards and requirements established under section 258(c)(2), such standards and requirements.

"(e) RELEASE.—The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as the Secretary may prescribe.

"(f) MORTGAGE INSURANCE TERMS.—The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 shall apply to mortgages insured under this section, except that all references in such subsections to section 207 shall be considered, for purposes of mortgage insurance under this section, to refer to this section.

"(g) MORTGAGE INSURANCE FOR FIRE SAFETY EQUIPMENT LOANS.—

"(1) AUTHORITY.—The Secretary may, upon such terms and condition as the Secretary may prescribe, make commitments to insure and insure loans made by financial institutions or other approved mortgagees to child care and development facilities to provide for the purchase and installation of fire safety equipment necessary for compliance with the 1967 edition of the Life Safety Code of the National Fire Protection Association (or any subsequent edition specified by the Secretary of Health and Human Services).

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

"(A) not exceed the Secretary's estimate of the reasonable cost of the equipment fully installed;

"(B) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee;

"(C) have a maturity satisfactory to the Secretary;

"(D) be made by a financial institution or other mortgagee approved by the Secretary as eligible for insurance under section 2 or a mortgagee approved under section 203(b)(1);

"(E) comply with other such terms, conditions, and restrictions as the Secretary may prescribe; and

"(F) be made with respect to a child care and development facility that complies with the requirement under subsection (d).

"(3) INSURANCE REQUIREMENTS.—The provisions of paragraphs (5), (6), (7), (9), and (10) of section 220(h) shall apply to loans insured under this subsection, except that all references in such paragraphs to home improvement loans shall be considered, for purposes of this subsection, to refer to loans under this subsection. The provisions of subsections (c), (d), and (h) of section 2 shall apply to loans insured under this subsection, except that all references in such subsections to 'this section' or 'this title' shall be considered, for purposes of this subsection, to refer to this subsection.

"(h) SCHEDULES AND DEADLINES.—The Secretary shall establish schedules and deadlines for the processing and approval (or provision of notice of disapproval) of applications for mortgage insurance under this section.

"(i) DEFINITIONS.—For the purposes of this section, the following definitions shall apply:

"(1) CHILD CARE AND DEVELOPMENT FACILITY.—The term 'child care and development facility' means a public facility, proprietary facility, or facility of a private nonprofit corporation or association that—

"(A) has as its purpose the care and development of children less than 12 years of age; and

"(B) is licensed or regulated by the State in which it is located (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located).

The term does not include facilities for school-age children primarily for use during normal school hours. The term includes facilities for training individuals to provide child care and development services.

"(2) EQUIPMENT.—The term 'equipment' includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and any other items necessary for the functioning of a particular facility as a child care and development facility, including necessary furniture. Such term includes books, curricular, and program materials.

"(3) MORTGAGE; FIRST MORTGAGE; MORTGAGEE.—The term 'mortgage' means a first mortgage on real estate in fee simple, or on the interest of either the lessor or lessee thereof under a lease having a period of not less than 7 years to run beyond the maturity date of the mortgage. The term 'first mortgage' means such classes of first liens as are commonly given to secure advances (including advances during construction) on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located, together with the credit instrument or instruments (if any) secured thereby, and any mortgage may be in the form of one or more trust mortgages or mortgage indentures or deeds of trust, securing notes, bonds, or other credit instruments, and, by the same instrument or by a separate instrument, may create a security interest in initial equipment, whether or not attached to the realty. The term 'mortgagor' has the meaning given the term in section 207(a).

"(j) LIMITATION ON INSURANCE AUTHORITY.—

"(1) TERMINATION.—No mortgage may be insured under this section or section 223(h) after September 30, 2005, except pursuant to a commitment to insure issued on or before such date.

"(2) AGGREGATE PRINCIPAL AMOUNT LIMITATION.—The aggregate principal amount of mortgages for which the Secretary enters into commitments to insure under this section or section 223(h) on or before the date under paragraph (1) may not exceed $2,000,000,000. If, upon the date under paragraph (1), the aggregate insurance authority provided under this paragraph has not been fully used, the Secretary of the Treasury shall submit a report to the Congress evaluating the need for continued mortgage insurance under this section.".

"(k) REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section. In issuing such regulations, the Secretary shall consult with the Secretary of Health and Human Services with respect to any aspects of the regulations regarding child care and development facilities.".

SEC. 4. INSURANCE FOR MORTGAGES FOR ACQUISITION OR REFINANCING DEBT OF EXISTING CHILD CARE AND DEVELOPMENT FACILITIES.

Section 223 of the National Housing Act (12 U.S.C. 1715n) is amended by adding at the end the following new subsection:

"(h) MORTGAGE INSURANCE FOR PURCHASE OR REFINANCING OF EXISTING CHILD CARE AND DEVELOPMENT FACILITIES.—

"(1) AUTHORITY.—Notwithstanding any other provision of this Act, the Secretary may insure under any section of this title a mortgage executed in connection with the purchase or refinancing of an existing child care and development facility, the purchase of a structure to serve as a child care and development facility, or the refinancing of existing debt of an existing child care and development facility.

"(2) PURCHASE OF EXISTING FACILITIES AND STRUCTURES.—In the case of the purchase under this subsection of an existing child care and development facility or purchase of an existing structure to serve as such a facility, the Secretary shall prescribe any terms and conditions that the Secretary considers necessary to ensure that—

"(A) the facility or structure purchased continues to be used as a child care and development facility; and

"(B) the facility complies with the same requirements applicable under subsections (d) and (e) of section 257 to facilities having mortgages insured under such section.

"(3) REFINANCING OF EXISTING FACILITIES.—In the case of refinancing of an existing child care and development facility, the Secretary shall prescribe any terms and conditions that the Secretary considers necessary to ensure that—

"(A) the refinancing is used to lower the monthly debt service costs (taking into account any fees or charges connected with such refinancing) of the existing facility;

"(B) the proceeds of any refinancing will be employed only to retire the existing indebtedness and pay the necessary cost of refinancing on the existing facility;

"(C) the existing facility is economically viable; and

"(D) the facility complies with the same requirements applicable under section 257(d) to facilities having mortgages insured under such section.

"(4) DEFINITIONS.—For purposes of this subsection, the terms defined in section 257(i) shall have the same meanings as provided under such section.

"(5) LIMITATION ON INSURANCE AUTHORITY.—The authority of the Secretary to enter into commitments to insure mortgages under this subsection is subject to the limitations under section 257(j).".

SEC. 5. CHILDREN'S DEVELOPMENT COMMISSION.

Title II of the National Housing Act (12 U.S.C. 1707 et seq.) is amended by adding at the end (after section 257, as added by section 3 of this Act) the following new section:

"CHILDREN'S DEVELOPMENT COMMISSION

"SEC. 258. (a) ESTABLISHMENT.—There is hereby established a commission to be known as the Children's Development Commission.

"(b) MEMBERSHIP.—

"(1) APPOINTMENT.—The Commission shall be composed of 7 members appointed by the President, not later than the expiration of the 3-month period beginning upon the enactment of this section, by and with the advice and consent of the Senate, as follows:

"(A) 1 member shall be appointed from among 3 individuals recommended by the Secretary of Housing and Urban Development or the Secretary's designee.

"(B) 1 member shall be appointed from among 3 individuals recommended by the Secretary of Health and Human Services or the Secretary's designee.

"(C) 1 member shall be appointed from among 3 individuals recommended by the Secretary of the Treasury or the Secretary's designee.

"(D) 4 members shall be appointed from among 12 individuals recommended jointly by the Speaker of the House of Representatives, the Majority Leader of the Senate, Minority Leader of the House of Representatives, the Minority Leader of the Senate.

"(2) QUALIFICATIONS OF CONGRESSIONALLY RECOMMENDED MEMBERS.—Of the members appointed under paragraph (1)(D)—

"(A) each shall be an individual who actively participates or is employed in the field of child care and has academic, licensing, or other credentials relating to such participation or employment; and

"(B) not more than 2 may be of the same political party.

"(3) TERMS.—Each appointed member of the Commission shall serve for a term of 3 years.

"(4) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

"(5) CHAIRPERSON.—The chairperson of the Commission shall be designated by the President at the time of appointment.

"(6) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

"(7) VOTING.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

"(8) PROHIBITION ON ADDITIONAL PAY.—Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

"(c) FUNCTIONS.—The Commission shall carry out the following functions:

"(1) CERTIFICATION OF COMPLIANCE.—The Commission shall collect such information and make such determinations as may be necessary to determine, for purposes of section 257(d), whether child care and development facilities comply, or will be in compliance within 12 months, with—

"(A) any laws, standards, and requirements applicable to such facilities under the laws of the State, municipality, or other unit of general local government in which the facility is or is to be located, and

"(B) after the effective date of the standards and requirements established under paragraph (2), such standards and requirements,

and shall issue certifications of such compliance.

"(2) ESTABLISHMENT OF STANDARDS.—

"(A) STUDY.—Not later than 12 months after the date on which appointment of initial membership of the Commission is completed, the Commission, in consultation with the Secretary of Housing and Urban Development and the Secretary of Health and Human Services, shall conduct a study to determine the laws, standards, and requirements referred to in paragraph (1)(A) that are applicable in each State. Taking into consideration the findings of the study, the Secretary shall establish standards and requirements regarding child care and development facilities that are designed to ensure that mortgage insurance is provided under section 257 and section 223(h) only for safe, clean, and healthy facilities that provide appropriate care and development services for children.

"(B) PUBLICATION.—The Commission shall issue regulations providing for the standards and requirements established under subparagraph (A) to take effect, for purposes of sections 257(d)(2) and 223(h)(2)(B) and paragraph (1)(B) of this section, not later than 18 months after the date of the enactment of this section.

"(3) SMALL PURPOSE LOANS.—The Commission shall, to the extent amounts are made available for such purpose pursuant to subsection (i) and qualified requests are received, make loans, directly or indirectly to providers of child care and development facilities for reconstruction or renovation of such facilities, subject to the following requirements:

"(A) Loans under this paragraph shall be made only for such facilities that are financially and operationally viable, as determined under standards and guidelines to be established by the Commission.

"(B) The aggregate amount of loans made under this paragraph to a single borrower may not exceed $50,000.

"(C) A loan made under this paragraph may not have a term to maturity exceeding 7 years.

"(D) Loans under this paragraph shall bear interest at rates and be made under such other conditions and terms as the Commission shall provide.

"(4) NOTIFICATION.—The Commission shall take such actions as may be necessary to publicize the availability of the programs for mortgage insurance under sections 257 and 223(h) and loans under paragraph (3) of this subsection in a manner that ensures that information concerning such programs will be available to child care providers throughout the United States.

"(5) LIABILITY INSURANCE.—Not later than 12 months after the date on which appointment of initial membership of the Commission is completed, the Commission shall establish standards and guidelines, applicable to mortgage insurance under sections 257 and 223(h) and loans under paragraph (3) of this subsection, requiring child care providers operating child care and development facilities assisted under such provisions to obtain and maintain liability insurance in such amounts and subject to such requirements as the Commission considers appropriate.

"(6) RESEARCH FOUNDATION.—Not later than 12 months after the date of the enactment of this section, the Commission shall submit a report to the Congress recommending a plan for establishing and funding a foundation that is an entity independent of the Commission (but which maintains association with the Commission), the purpose of which shall be—

"(A) to support research relating to child care and development facilities;

"(B) to fund pilot programs to test innovative methods for improving child care; and

"(C) to engage in activities and publish materials to assist persons interested in mortgage insurance under sections 257 and 223(h) and other assistance provided by the Commission.

"(d) NONDISCRIMINATION REQUIREMENT.—

"(1) IN GENERAL.—The Commission may not certify under subsection (c)(1) or carry out any activities of the Commission with respect to any child care and development facility if the provider of the facility discriminates on account of race, color, religion (subject to paragraph (2)), national origin, sex (to the extent provided in title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.)), or handicapping condition.

"(2) FACILITIES OF RELIGIOUS ORGANIZATIONS.—The prohibition with respect to religion shall not apply to a child care and development facility which is controlled by or which is closely identified with the tenets of a particular religious organization if the application of this subsection would not be consistent with the religious tenets of such organization.

"(3) CERTIFICATION.—As a condition of certification under subsection (c)(1) and eligibility for a loan under subsection (c)(3), the provider of a child care and development facility shall certify to the Commission that the provider does not discriminate, as required by the provisions of paragraph (1) of this subsection.

"(e) POWERS.—

"(1) ASSISTANCE FROM FEDERAL AGENCIES.—The Commission may secure directly from any department or agency of the Federal Government such information as the Commission may require for carrying out its functions. Upon request of the Commission, any such department or agency shall furnish such information.

"(2) ASSISTANCE FROM GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

"(3) ASSISTANCE FROM DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—Upon the request of the Commission, the Secretary of Housing and Urban Development shall, to the extent possible and subject to the discretion of the Secretary, detail any of the personnel of the Department of Housing and Urban Development, on a nonreimbursable basis, to assist the Commission in carrying out its functions under this section.

"(4) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

"(f) STAFF.—

"(1) EXECUTIVE DIRECTOR.—The Commission shall appoint an executive director of the Board, who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level I of the Executive Schedule under title 5, United States Code.

"(2) OTHER PERSONNEL.—In addition to the executive director, the Commission may appoint and fix the compensation of such personnel as the Commission considers necessary, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

"(g) REPORTS.—Not later than March 31 of each year, the Commission shall submit a report to the President and the Congress regarding the operations and activities of the Commission during the preceding calendar year. Each annual report shall include a copy of the Commission's financial statements and such information and other evidence as is necessary to demonstrate that the activities of the Commission during the year for which the report is made. The Commission may also submit reports to the Congress and President at such other times as the Commission deems desirable.

"(h) DEFINITIONS.—For purposes of this section, the terms defined in section 257(i) shall have the same meanings as provided under such section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission to carry out this section $10,000,000 for fiscal year 1999, to remain available until expended, of which not more than $2,500,000 shall be available for administrative costs of the Commission and the remainder of which shall be available only for loans under subsection (e)(3).".

SEC. 6. STUDY OF AVAILABILITY OF SECONDARY MARKETS FOR MORTGAGES ON CHILD CARE FACILITIES.

The Secretary of the Treasury shall conduct a study of the secondary mortgage markets to determine—

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

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

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

The Secretary of the Treasury shall submit to the Congress a report regarding the results of the study conducted under this section not later than the expiration of the 2-year period beginning on the date of the enactment of this Act.

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THE WHITE HOUSE

WASHINGTON

April 22, 1998

Dear Carolyn:

Thank you for your letter, following up on our recent conversation, regarding your "Kiddie Mac" proposals. I am happy to learn that you are continuing to work closely with Representative Baker to craft bipartisan legislation.

As you know, millions of American families struggle to find affordable, high-quality child care. Your bill addresses an issue that concerns working parents day in and day out across our country. I have sent a copy of your proposal to my domestic policy advisors and they are working with your staff and the Department of Treasury to review the details.

Thank you for your work on child care and on so many other issues on behalf of America's children and families.

Sincerely,

Bill

The Honorable Carolyn B. Maloney
House of Representatives
Washington, D.C. 20515

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March 19, 1998

President William J. Clinton
The White House
Washington, DC 20500

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Dear ~~Mr. President~~: Mr. President

As you may recall, during a conversation we had earlier this month I mentioned to you a piece of legislation I am developing which will address the increasing need for quality child care facilities. The members of the child care community with whom I have spoken about this have called it revolutionary, and a new approach to addressing the needs which exist. This bill will create a new government sponsored enterprise which we are calling "Kiddie Mac," which I hope will do for day care what Fannie Mae and Freddie Mac have done for home ownership. Equally as important, Kiddie Mac will be an incubator for new ways of addressing issues regarding child care and development.

Kiddie Mac will allow working parents, single parents and stay-at-home parents to have access to quality child care. Rep. Richard Baker of Louisiana, chairman of the Subcommittee on Capital Markets, Securities and Government Sponsored Enterprises, has agreed to co-sponsor this legislation with me, making it a bipartisan proposal.

Kiddie Mac will have four basic components. First, it will have child care facilities be part of the secondary mortgage market by selling the paper to Fannie Mae so it can be bundled into their securities they sell on Wall Street, taking advantage of their high volume and lower interest rates. Second, Kiddie Mac will offer guaranty insurance to those who lend to child care facilities, thereby acting as a catalyst for the private sector, reducing the risk and thereby encouraging lending.

Third, for those who are not building or completely rehabilitating facilities, Kiddie Mac will offer micro-loans. These loans can be used for start-up costs, rent payments, or for improvements for facilities which wish to be licensed.

Finally, Kiddie Mac will offer liability insurance to all child care providers so as to make certain that the costs associated with liability are not a factor against the creation of a facility.

Through the profits created from Kiddie Mac's activities, a foundation will be funded. This foundation will focus on researching child care and development, funding projects and pilot programs. It will also develop materials and aids in order to people in accessing, understanding and taking advantage of the Kiddie Mac process.

Certain elements have been added to the bill in order to make certain that Kiddie Mac stays focussed on the task at hand. These include a capped salary structure for executives, an annual report with congressional hearings similar to Humphrey-Hawkins hearings, and a $2 billion limit on total activity which can be raised by congressional approval.

I believe that this approach to addressing the growing need for quality child care is innovative and feasible. Most importantly, Kiddie Mac, after an initial appropriation for its incorporation, is self-financing. It also provides a location withing the federal government which focusses solely on child care and child development.

Mr. President, Kiddie Mac adds to your child care program by addressing the lack of quality facilities. It allows both for-profit businesses and not-for-profit organizations, including churches and synagogues, to supply their communities. The passage of this bill will mean greater access to quality child care for all American families.

I am enclosing the latest draft of the bill, though there are still a few items to be worked out. I am also adding an outline of the bill and an information sheet. I hope you find the proposal stimulating and I look forward to any questions and comments you or your staff may have.

Thank you for your commitment to affordable and available child care.

Sincerely,

Carolyn

CAROLYN B. MALONEY
Member of Congress

cc: Vice-President Albert Gore
Secretary Robert Rubin

Enclosures

KIDDIE MAC SUMMARY

Legislation to be introduced by Rep. Carolyn Maloney (NY)

Status as of 3/20/98

GOAL: *To fill the unmet need for quality, affordable child care, the Children's Development Insurance and Mortgage Corporation ("Kiddie Mac"), will be created as a government sponsored enterprise which will be a catalyst for private-sector construction and development lending.*

THE BASIC ELEMENTS:

1. The Concept: The private sector now hesitates to provide loans for construction or operation of child care facilities because it perceives a high risk of borrower liability in running such centers. Kiddie Mac will reduce that perceived risk to lenders, thus encouraging loans for the construction and opening of child care facilities.

2. The Key: the Secondary Mortgage Market: Kiddie Mac will do for child care and development what Fannie Mae and Freddie Mac have done for home ownership. Kiddie Mac will purchase mortgages and then sell them to Fannie Mae who will bundle them into the securities they sell on Wall Street. This should allow Kiddie Mac to be able to take advantage of the volume of business done in the mortgage market, which leads to lower interest rates.

3. Guaranty Insurance=Low-Cost Loans: Kiddie Mac will offer guaranty insurance to commercial banks for potential child care facility builders and operators. Currently, while the private sector appears to want to do something in this area, the perceived risk is to high. A guaranty should be enough security to spur lending with reasonable terms. In order to prevent the cost of insurance from becoming a barrier for starting a facility, Kiddie Mac will also offer reasonably priced liability insurance to qualifying child care providers.

4. Start-up Costs and Rent: Besides actual facilities being built or rehabilitated, often what is needed is money for start-up costs and rent. Kiddie Mac will offer mini-loans to qualifying child care providers for these costs. These loans will also be available for a facility which needs to make certain improvements in order to meet licensing standards.

5. **Foundation:** With the money made from its other activities, Kiddie Mac will establish a foundation that will research issues in early childhood development, fund pilot programs and produce educational materials. It will also provide materials and activities to guide applicants through the Kiddie Mac process.

SPECIAL CHARACTERISTICS OF KIDDIE MAC:

1. Executive salaries will be capped.

2. An annual report to Congress and hearings on activities and performance will be required, similar to the Humphrey-Hawkins hearings the banking committees hold with the Federal Reserve Chairman.

3. Total lending and guaranty activity will be limited to $2 billion. If a need is found beyond this amount, Congress may increase the ceiling.

Common Questions about KIDDIE MAC

1. **Why is Kiddie Mac Necessary?**

   A: The United States is falling behind in meeting the needs of its children for high-quality care. Other nations understand the critical role that child care plays in early development, but the quality and quantity of child care space in this country are below acceptable levels. While demand is enormous and growing for trustworthy infant and pre-school slots nationwide, the need is not being met.

2. **Do we really need another government sponsored enterprise to do this?**

   A: YES. Such an enterprise is chartered when private-sector market mechanisms fail for some reason to address a major demand. Child care is an example of a broad demand that profit-seeking firms have been unwilling to meet.

   Reasons involve lenders' view that loans to child care facilities carry a high risk because of possible liability claims. Such facilities are also regarded as bad risks because they must be constructed or modified to meet strict safety and facility licensing standards, and are therefore seen as inflexible for conversion to other uses.

   The result is that too little space is available; most existing space is too expensive for working parents to afford; and much of what is available is of a quality too low to help much in developing children's potential. Government intervention is needed to overcome the startup barriers and get good child care facilities into operation nationwide.

3. **How would Kiddie Mac work?**

A: It would have two main components:

1. Use of the secondary mortgage market: In this market, Fannie Mae and Freddie Mac buy mortgages, bundle them and sell them as securities on Wall Street. The transactions create additional capital volume, and the mechanism has served to keep interest rates low and home ownership affordable even during market recessions. Kiddie Mac would do the same for child care facilities, buying mortgages for sale to Fannie Mae. In this way it would produce more low-interest capital for child care facilities.

2. Guaranty insurance: Many private lenders want to invest in child care facilities but are uncomfortable with the risks. Kiddie Mac will provide guaranty insurance for mortgages, loans and some other debts, encouraging private lenders to invest in the needs of our children.

4. **Will Kiddie Mac help someone who wants to convert a building to child care, add to existing facilities or bring a center up to licensing standards?**

A: Yes. Kiddie Mac will provide small-facilities loans for improvements to existing centers for the purpose of meeting licensing standards, or to improve the quality of care and/or increase the number of children who can take part. A family-run child-care home, for example, could qualify for one of these loans to make the changes needed for licensing.

5. **Who will pay for Kiddie Mac?**

A: After a small appropriation to fund its initial incorporation, Kiddie Mac will offer shares for sale to investors. This stock offering will fund Kiddie Mac startup operations, after which it will become self-financing, *never costing the taxpayer anything more*.

6. **Who will have access to Kiddie Mac?**

A: Anyone who is currently licensed or who can demonstrate the ability to be licensed can use Kiddie Mac's services. This includes community organizations, not-for-profit groups, community development financial institutions, for-profit businesses, family-home facilities, churches and other employers.

7. Will those operations be competing against private businesses?

A: Private businesses which want to develop child care facilities, nursery schools or after-school programs are allowed to access Kiddie Mac just like anyone else. As for private lenders, since the problem in child care has been that the needs are not being met by the open market. Kiddie Mac is needed to fill this role..

8. How about churches and synagogues? Aren't they banned from taking government money?

A: Kiddie Mac will be a government-*sponsored* entity, not part of government itself. If a church or synagogue or any other religious body can qualify to be licensed as a child care provider, Kiddie Mac's services are available.

9. Will Kiddie Mac help in addressing some of the other problems of child care and child development?

A: Yes. Using some of the funds generated by its financial activity, Kiddie Mac will establish a foundation to research problems in child care and child development, fund pilot programs and educational materials, and find ways to make the Kiddie Mac process efficient and accessible to as many people as possible.

The Honorable Carolyn B. Maloney
U.S. House of Representatives
Washington, D.C. 20515

Dear Ms. Maloney:

This responds to your March 18 letter to Secretary Rubin requesting the views of the Department of the Treasury on H.R. 3637, the "Children's Development Commission Act." Since the bill as introduced on April 1 differs from the draft that you sent to us in March, we will confine our comments to the bill as introduced. Your bill has been carefully reviewed within the Administration, and we have consulted widely within the Administration in developing the views set forth here.

The Administration shares your interest in increasing the availability of, and access to, quality child care services. We regret that we cannot support H.R. 3637 as it is currently drafted. We would like to suggest ways in which the bill might be improved.

H.R. 3637 would authorize the Secretary of Housing and Urban Development (HUD) to insure mortgages related to child care and development facilities and to establish a Children's Development Commission. The Commission would be charged with certifying child care and development facilities for insurance and for other purposes. The bill would require the Department of the Treasury to submit three nominees for the Children's Development Commission, submit a report to Congress concerning the possibility of creating a secondary market for child care and development facility loans, and submit a report to Congress after the program's expiration in 2005 that evaluates the need for continued mortgage insurance for child care facilities.

We have doubts about whether potential child care facility operators -- either large or small -- face different capital constraints than other types of businesses of like size. It is therefore unclear whether there exists a credit market imperfection that would warrant the establishment of the proposed credit program. Moreover, full HUD insurance of what are essentially commercial property loans with loan-to-value ratios up to 90 percent may not provide sufficient private sector incentives to underwrite reasonably good credit. Poor underwriting or excessive Federal guarantees would increase the government's potential risk exposure. We note that the Small Business Administration (SBA) achieved favorable loss mitigation results by decreasing its maximum risk exposure from 100 percent to 90 percent, and losses were further decreased when its maximum risk exposure was decreased to 75 percent. Accordingly, we recommend that the degree of government guarantee in this proposal be reconsidered.

The proposed Children's Development Commission raises several concerns. First, by establishing national child care standards for program participants, the Commission could actually increase the cost of child care by creating another layer of regulation. Second, the proposed micro-loan program places all of the credit risk associated with these loans on the government and duplicates other Federal programs (e.g., the SBA's micro-loan program). Third, the proposed research foundation is unlikely to be "independent" of the Federal government, particularly if it ultimately relies on the government for funding. For these reasons, we recommend that this section of the bill be eliminated.

From a technical perspective, we note that the terms and conditions of the proposed programs do not conform to the principles of OMB Circular No. A-129, "Policies for Federal Credit Programs and Non-Tax Receivables." In keeping with that circular, the proposed guarantees should be limited to a certain percent of the outstanding principal and interest of each loan, as recommended above. The bill also should require a determination that there is a reasonable assurance of repayment before a loan could be guaranteed or made, authorize the collection of guarantee fees, provide a maximum term to maturity for guaranteed loans that is less than the useful life of the physical assets to be financed by such loans, prohibit any guaranteed or direct loan from being subordinated to other debt contracted by a borrower, and prohibit a guaranteed or direct loan from being used to provide significant collateral or security for tax-exempt obligations.

We are also concerned that proposed section 257(c)(1), in authorizing HUD to acquire certain interests in a borrower to facilitate regulatory compliance, would authorize HUD to acquire equity interests in child care and development centers. As a general policy, Treasury opposes the Federal government acquiring equity interests in private businesses.

Several terms and conditions of existing HUD insurance programs would be explicitly applied to the proposed new insurance programs, including the authority of the HUD Secretary to pay default claims by issuing debentures instead of by paying cash. The issuance of such debentures is essentially a form of borrowing by the issuing Federal agency. We oppose such authority because it would be more costly and less efficient than other readily available methods of financing HUD's obligation to make payments under the proposed new insurance programs. We would note that the Federal Credit Reform Act of 1990 gives agencies authority to borrow directly from the Treasury if a program agency lacks funds to honor its obligations under its guarantee contracts.

The Office of Management and Budget has advised us that the views set forth herein are consistent with the Administration's policy.

Sincerely,

998-SE-003655

[illegible] Longworth Building
Washington, DC 20515-3214
[illegible]

Committees:
BANKING AND FINANCIAL SERVICES

GOVERNMENT REFORM AND OVERSIGHT

JOINT ECONOMIC COMMITTEE

Congress of the United States
House of Representatives
Washington, DC 20515-3214

District Offices:
110 East 59th Street
2nd Floor
New York, NY 10022
(212) 832-6531

28-11 Astoria Boulevard
Astoria, NY 11102
(718) 932-1804

619 Lorimer Street
Brooklyn, NY 11211
(718) 349-1260

March 18, 1998

Secretary Robert Rubin
Department of the Treasury
1500 Pennsylvania Ave, NW
ashington, DC 20220

Dear Secretary Rubin: Bob

Attached please find a copy of a letter I have sent to the President regarding the Kiddie Mac bill about which I spoke with you in New York earlier this month. Shortly I will be submitting it to Congress. As I explained then, this bill would create a government sponsored enterprise to address the growing need for child care facilities using the secondary mortgage market, guarantees, and micro-loans.

I am including for your review the latest draft of the bill and some fact sheets regarding the proposal. Your thoughts, comments and questions would be greatly appreciated.

Sincerely,

Carolyn

CAROLYN B. MALONEY
Member of Congress

cc: Under Secretary John Hawke, Jr.

Dear Congresswoman Maloney:

Thank you for your letter following up our on our earlier conversation about Kiddie Mac. I am happy to learn that you are working closely with Congressman Baker to create a bipartisan proposal, and I know that since you have written, you have made some changes to your bill.

Millions of American families struggle to find affordable, high quality child care. Your bill addresses an issue that weighs on the minds of working parents day in and day out across our country. I have sent a copy of your proposal to my domestic policy staff members who work on child care, and they are also working with your staff and the Department of Treasury to review this proposal in its most current form.

Thank for your work on child care and for so many other issues on behalf of America's children and families.

Sincerely,

THE WHITE HOUSE

WASHINGTON

March 24, 1998

MEMORANDUM FOR BRUCE REED

FROM: JANET MURGUIA
LEGISLATIVE AFFAIRS

SUBJECT: CONGRESSIONAL CORRESPONDENCE

Enclosed please find a copy of a letter that was sent to the President by Rep. Carolyn B. Maloney (D-NY).

We did not want to fully answer the issues addressed in the Members' letter without advice from your office; therefore, I am requesting that your office draft a response and return it to Chris Walker.

Thank you very much for your assistance in this matter. If you have any questions, please feel free to call Chris at 456-7500.

Enclosure

CAROLYN B. MALONEY
14TH DISTRICT, NEW YORK

1330 LONGWORTH BUILDING
WASHINGTON, DC 20515-3214
(202) 225-7944

COMMITTEES:
BANKING AND FINANCIAL SERVICES

GOVERNMENT REFORM AND OVERSIGHT

JOINT ECONOMIC COMMITTEE

Congress of the United States
House of Representatives
Washington, DC 20515-3214

DISTRICT OFFICES:

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NEW YORK, NY 10022
(212) 832-6531

☐ 28-11 ASTORIA BOULEVARD
ASTORIA, NY 11102
(718) 932-1804

☐ 619 LORIMER STREET
BROOKLYN, NY 11211
(718) 349-1260

March 19, 1998

President William J. Clinton
The White House
Washington, DC 20500

MAR 23 PM5:05

Dear ~~Mr. President~~: Mr. President

As you may recall, during a conversation we had earlier this month I mentioned to you a piece of legislation I am developing which will address the increasing need for quality child care facilities. The members of the child care community with whom I have spoken about this have called it revolutionary, and a new approach to addressing the needs which exist. This bill will create a new government sponsored enterprise which we are calling "Kiddie Mac," which I hope will do for day care what Fannie Mae and Freddie Mac have done for home ownership. Equally as important, Kiddie Mac will be an incubator for new ways of addressing issues regarding child care and development.

Kiddie Mac will allow working parents, single parents and stay-at-home parents to have access to quality child care. Rep. Richard Baker of Louisiana, chairman of the Subcommittee on Capital Markets, Securities and Government Sponsored Enterprises, has agreed to co-sponsor this legislation with me, making it a bipartisan proposal.

Kiddie Mac will have four basic components. First, it will have child care facilities be part of the secondary mortgage market by selling the paper to Fannie Mae so it can be bundled into their securities they sell on Wall Street, taking advantage of their high volume and lower interest rates. Second, Kiddie Mac will offer guaranty insurance to those who lend to child care facilities, thereby acting as a catalyst for the private sector, reducing the risk and thereby encouraging lending.

Third, for those who are not building or completely rehabilitating facilities, Kiddie Mac will offer micro-loans. These loans can be used for start-up costs, rent payments, or for improvements for facilities which wish to be licensed.

Finally, Kiddie Mac will offer liability insurance to all child care providers so as to make certain that the costs associated with liability are not a factor against the creation of a facility.

Through the profits created from Kiddie Mac's activities, a foundation will be funded. This foundation will focus on researching child care and development, funding projects and pilot programs. It will also develop materials and aids in order to people in accessing, understanding and taking advantage of the Kiddie Mac process.

Certain elements have been added to the bill in order to make certain that Kiddie Mac stays focussed on the task at hand. These include a capped salary structure for executives, an annual report with congressional hearings similar to Humphrey-Hawkins hearings, and a $2 billion limit on total activity which can be raised by congressional approval.

I believe that this approach to addressing the growing need for quality child care is innovative and feasible. Most importantly, Kiddie Mac, after an initial appropriation for its incorporation, is self-financing. It also provides a location withing the federal government which focusses solely on child care and child development.

Mr. President, Kiddie Mac adds to your child care program by addressing the lack of quality facilities. It allows both for-profit businesses and not-for-profit organizations, including churches and synagogues, to supply their communities. The passage of this bill will mean greater access to quality child care for all American families.

I am enclosing the latest draft of the bill, though there are still a few items to be worked out. I am also adding an outline of the bill and an information sheet. I hope you find the proposal stimulating and I look forward to any questions and comments you or your staff may have.

Thank you for your commitment to affordable and available child care.

Sincerely,

Carolyn

CAROLYN B. MALONEY
Member of Congress

cc: Vice-President Albert Gore
Secretary Robert Rubin

Enclosures

KIDDIE MAC SUMMARY

Legislation to be introduced by Rep. Carolyn Maloney (NY)

Status as of 3/20/98

GOAL: *To fill the unmet need for quality, affordable child care, the Children's Development Insurance and Mortgage Corporation ("Kiddie Mac"), will be created as a government sponsored enterprise which will be a catalyst for private-sector construction and development lending.*

THE BASIC ELEMENTS:

1. <u>The Concept</u>: The private sector now hesitates to provide loans for construction or operation of child care facilities because it perceives a high risk of borrower liability in running such centers. Kiddie Mac will reduce that perceived risk to lenders, thus encouraging loans for the construction and opening of child care facilities.

2. <u>The Key: the Secondary Mortgage Market</u>: Kiddie Mac will do for child care and development what Fannie Mae and Freddie Mac have done for home ownership. Kiddie Mac will purchase mortgages and then sell them to Fannie Mae who will bundle them into the securities they sell on Wall Street. This should allow Kiddie Mac to be able to take advantage of the volume of business done in the mortgage market, which leads to lower interest rates.

3. <u>Guaranty Insurance=Low-Cost Loans</u>: Kiddie Mac will offer guaranty insurance to commercial banks for potential child care facility builders and operators. Currently, while the private sector appears to want to do something in this area, the perceived risk is to high. A guaranty should be enough security to spur lending with reasonable terms. In order to prevent the cost of insurance from becoming a barrier for starting a facility, Kiddie Mac will also offer reasonably priced liability insurance to qualifying child care providers.

4. <u>Start-up Costs and Rent</u>: Besides actual facilities being built or rehabilitated, often what is needed is money for start-up costs and rent. Kiddie Mac will offer mini-loans to qualifying child care providers for these costs. These loans will also be available for a facility which needs to make certain improvements in order to meet licensing standards.

5. **Foundation:** With the money made from its other activities, Kiddie Mac will establish a foundation that will research issues in early childhood development, fund pilot programs and produce educational materials. It will also provide materials and activities to guide applicants through the Kiddie Mac process.

SPECIAL CHARACTERISTICS OF KIDDIE MAC:

1. Executive salaries will be capped.

2. An annual report to Congress and hearings on activities and performance will be required, similar to the Humphrey-Hawkins hearings the banking committees hold with the Federal Reserve Chairman.

3. Total lending and guaranty activity will be limited to $2 billion. If a need is found beyond this amount, Congress may increase the ceiling.

Common Questions about KIDDIE MAC

1. **Why is Kiddie Mac Necessary?**

   A: The United States is falling behind in meeting the needs of its children for high-quality care. Other nations understand the critical role that child care plays in early development, but the quality and quantity of child care space in this country are below acceptable levels. While demand is enormous and growing for trustworthy infant and pre-school slots nationwide, the need is not being met.

2. **Do we really need another government sponsored enterprise to do this?**

   A: YES. Such an enterprise is chartered when private-sector market mechanisms fail for some reason to address a major demand. Child care is an example of a broad demand that profit-seeking firms have been unwilling to meet.

   Reasons involve lenders' view that loans to child care facilities carry a high risk because of possible liability claims. Such facilities are also regarded as bad risks because they must be constructed or modified to meet strict safety and facility licensing standards, and are therefore seen as inflexible for conversion to other uses.

   The result is that too little space is available; most existing space is too expensive for working parents to afford; and much of what is available is of a quality too low to help much in developing children's potential. Government intervention is needed to overcome the startup barriers and get good child care facilities into operation nationwide.

3. How would Kiddie Mac work?

A: It would have two main components:

1. Use of the secondary mortgage market: In this market, Fannie Mae and Freddie Mac buy mortgages, bundle them and sell them as securities on Wall Street. The transactions create additional capital volume, and the mechanism has served to keep interest rates low and home ownership affordable even during market recessions. Kiddie Mac would do the same for child care facilities, buying mortgages for sale to Fannie Mae. In this way it would produce more low-interest capital for child care facilities.

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4. Will Kiddie Mac help someone who wants to convert a building to child care, add to existing facilities or bring a center up to licensing standards?

A: Yes. Kiddie Mac will provide small-facilities loans for improvements to existing centers for the purpose of meeting licensing standards, or to improve the quality of care and/or increase the number of children who can take part. A family-run child-care home, for example, could qualify for one of these loans to make the changes needed for licensing.

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A: Anyone who is currently licensed or who can demonstrate the ability to be licensed can use Kiddie Mac's services. This includes community organizations, not-for-profit groups, community development financial institutions, for-profit businesses, family-home facilities, churches and other employers.

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A: Private businesses which want to develop child care facilities, nursery schools or after-school programs are allowed to access Kiddie Mac just like anyone else. As for private lenders, since the problem in child care has been that the needs are not being met by the open market. Kiddie Mac is needed to fill this role.

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[INCOMPLETE DISCUSSION DRAFT]

MARCH 17, 1998

105TH CONGRESS
2D SESSION

H. R. ____

IN THE HOUSE OF REPRESENTATIVES

Mrs. MALONEY of New York (for herself and) introduced the following bill; which was referred to the Committee on ______________

A BILL

To provide for the establishment of the Children's Development Insurance and Mortgage Corporation for the purpose of expanding the availability of child care services.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Kiddie Mac Act of 1998".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The need for quality nursery schools, both full-time and part-time child care centers, after school programs, neighborhood-run mothers-day-out programs, and family child care providers has grown among working parents, and parents who stay at home, who want their children to have access to early childhood education.

(2) All parents in the labor force should have access to safe, stimulating, and educational early childhood education programs for their children, whether such programs are carried out in a child care center, a part-time nursery school (including a nursery school operated by a religious organization), or a family child care provider's home.

(3) The number of available enrollment opportunities for children to receive quality child care services is not meeting the demand for such services due to several factors. Child care facilities are tailored to meet specific regulations, so banks are concerned that if they acquire such facilities as a result of foreclosure, such facilities will be unusable for other purposes. Because the profit margin for child care providers is so small, lenders are concerned about the viability of such providers, even though defaults have historically been low for such providers.

(4) In 1995 there were about 21,000,000 children less than 6 years of age, of whom 31 percent were participating in center-based child care services and 14 percent were receiving child care in homes. Between 1992 and 2005 the participation of women 24 to 54 years of age in the labor force is projected to increase from 75 percent to 83 percent.

(5) In States that have set up a mechanism to provide capital improvements for child care facilities, the demand for services of such facilities still has not been met. [In New Hampshire, a program set up with a $10,000,000 grant from Providence Bank received requests every 30 minutes and ran out of money solely through funding rehabilitation of such facilities, failing to even begin funding the construction of new child care facilities.]

(6) The United States is behind other western, industrialized countries when it comes to providing child care services. In France, virtually 100 percent of all children 3 to 5 years of age attend nursery school. In Germany this number is 65 to 70 percent. In Japan 90 percent of such children attend some form of preschool care. In all of these countries early childhood care has proven to increase children's development and performance.

SEC. 3. CONGRESSIONAL DECLARATION OF PURPOSE; DEFINITION; INCORPORATION.

(a) PURPOSE.—The Congress hereby declares that it is the purpose of this Act to authorize participation of the United States Government and the Federal National Mortgage Association in a private, for profit corporation to be known as the Children's Development Insurance and Mortgage Corporation (in this Act referred to as the "Corporation") which will, directly or indirectly, alone or in collaboration with others—

(1) guarantee, insure, and reinsure bonds, debentures, notes, evidences of debt, loans, and interests therein, the proceeds of which are to be used for a child care and development facilities purpose;

(2) guarantee and insure leases of personal, real, or mixed property to be used for a child care and development facilities purpose;

(3) issue letters of credit and undertake obligations and commitments as the Corporation deems necessary to carry out the purposes described in paragraphs (1) and (2);

(4) make loans, directly or indirectly, to child care providers for reconstruction or renovation of facilities described in section 13(1)(A) for the purpose of bringing such facilities into compliance with State and local safety requirements;

(5) sell, subject to State law applicable to the business of insurance, liability insurance against risks arising from providing child care services for compensation; and

(6) establish a nonprofit foundation—

(A) to carry out research relating to child care and development facilities purposes; and

(B) to conduct pilot programs to test innovative methods for improving child care and development facilities purposes.

(b) STATUS AS NONGOVERNMENTAL ENTITY.—The Corporation shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a "Government corporation" nor a "Government controlled corporation" as defined in section 103 of title 5, United States Code. No action under section 1491 of title 28, United States Code (commonly known as the Tucker Act) shall be allowable against the United States based on the actions of the Corporation.

(c) CORPORATE POWERS AND LIMITATIONS.—The Corporation shall be subject to the provisions of this Act and, to the extent not inconsistent with this Act, to the District of Columbia Business Corporation Act. The business activities of the Corporation shall always be limited to the purposes set forth in subsection (a) of this section.

It shall have the powers conferred upon a corporation by the District of Columbia Business Corporation Act as from time to time in effect in order to conduct its corporate affairs and to carry out its purposes and activities incidental thereto.

(d) SPECIFIC LIMITATIONS.—

(1) MAXIMUM COMPENSATION.—The Corporation may not pay to any officer or employee compensation the exceeds the maximum rate of compensation payable from time to time under section 5312 of title 5 of

(2) MAXIMUM AGGREGATE OUTSTANDING AMOUNT OF LOANS AND GUARANTEES.—The maximum aggregate outstanding amount of all loans and guarantees made by the Corporation may not exceed $2,000,000,000.

(3) LOANS MADE FOR RECONSTRUCTION AND RENOVATION.—(1) The aggregate amount of loans made under subsection (a)(4) to a single borrower may not exceed $50,000.

(2) The term of a loan made under such subsection may not exceed 15 years.

SEC. 4. CRITERIA FOR GUARANTEES AND INSURANCE.

(a) GENERAL RULE.—The Corporation shall provide direct insurance, guarantees, and reinsurance on obligations issued for child care and development facilities purposes only in accordance with the requirements of this section.

(b) DIRECT INSURANCE AND GUARANTEE ACTIVITIES; LIMITATIONS..—(1) All of the assets and obligations directly covered by primary insurance or guarantees issued by the Corporation shall be assets or obligations of child care providers.

(2) At least the percentages specified in paragraph (3) of the aggregate dollar amount of the assets and obligations reinsured, insured, and guaranteed by the Corporation under this section shall be in the direct insurance and guarantee activities specified in this subsection.

(3) For the purpose of paragraph (2) of this paragraph, the percentages specified in this paragraph shall be—

(A) 10 percent for the first full year of operation of the Corporation;

(B) 30 percent for the second full year of such operation; and

(C) 50 percent for the third full year of such operation and thereafter.

(4) For the purpose of paragraph (1), the assets and obligations which may be directly covered by primary insurance or guarantees issued by the Corporation are—

(A) bonds, debentures, notes, evidences of debt, loans, and interests therein, the proceeds of which are to be used for a child care and development facilities purpose; and

(B) leases of personal, real, or mixed property to be used for a child care and development facilities purpose.

(5) Notwithstanding paragraph (1), the Corporation may issue primary insurance or guarantees covering the assets or obligations of child care providers, subject to all of the following conditions and limitations:

(A) The proposed transaction shall have been declined for coverage by all unaffiliated monoline insurers that are authorized to write financial guarantee insurance and that, in the previous year, provided primary insurance or guarantees on child care and development facility obligations. The Secretary shall publish by January 31 of each year a list of all such insurers.

(B) Within 2 business days of receiving complete documentation concerning a proposed transaction by an child care provider seeking insurance from the Corporation pursuant to this paragraph, an insurer shall offer to provide coverage or execute an affidavit of declination, or its failure to respond shall be deemed a declination. The child care provider seeking insurance from the Corporation shall file with the Corporation the affidavits from all declining insurers, as well as an affidavit of the child care provider's financial advisor specifically identifying the pertinent terms of the proposed transaction, the requested insurance coverage, and the date on which complete documentation concerning the proposed transaction was submitted to each insurer and certifying that such information was provided to each insurer that declined coverage.

(C) The proceeds of the assets or obligations insured or guaranteed by the Corporation pursuant to this paragraph shall be used exclusively for the renovation, repair, replacement, or construction of child care and development facilities.

(D) The aggregate par value of assets and obligations insured or guaranteed by the Corporation under this paragraph shall not exceed—

(i) $100,000,000 per year during calendar years 1999, 2000, and 2001; or

(ii) $150,000,000 per year during calendar years 2002 and 2003.

(E) The aggregate dollar amount of transactions under this paragraph shall not exceed—

(i) in calendar year 1999, 2000, or 2001, 10 percent of the aggregate dollar amount of assets and obligations directly covered by primary insurance or guarantees issued by the Corporation under this section in such year; or

(ii) in calendar year 2002 or 2003, 15 percent of the aggregate dollar amount of assets and obligations directly covered by primary insurance or guarantees issued by the Corporation under this section in such year.

(d) NOTICE OF SERVICES.—The Corporation shall take such steps as may be necessary to publicize the availability of its insurance and reinsurance programs under this section in a manner that assures that information concerning such programs will be available to child care providers throughout the United States.

(e) NONDISCRIMINATION REQUIRED.—(1) The Corporation may not carry out any activities with respect to any child care and development facilities purpose of a participating child care provider if the child care provider discriminates on account of race, color, religion (subject to paragraph (2)), national origin, sex (to the extent provided in title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.)), or handicapping condition.

(2) The prohibition with respect to religion shall not apply to a child care and development facility which is controlled by or which is closely identified with the tenets of a particular religious organization if the application of this section would not be consistent with the religious tenets of such organization.

(3) Each participating child care provider shall certify to the Corporation that the child care provider does not discriminate as required by the provisions of paragraph (1).

SEC. 5. PROCESS OF ORGANIZATION.

The Secretary of the Treasury, the Secretary, the Secretary of Housing and Urban Development, and the Federal National Mortgage Association shall each appoint 2 persons to be incorporators of the Corporation. The incorporators so appointed shall each sign the articles of incorporation and shall serve as the initial Board of Directors until the members of the first regular Board of Directors shall have been appointed and elected. Such incorporators shall take whatever actions are necessary or appropriate to establish the Corporation, including the filing of articles of incorporation.

SEC. 6. OPERATION AND ELECTION OF BOARD OF DIRECTORS.

(a) IN GENERAL.—(1) The Corporation shall have a Board of Directors which shall consist of 13 members, of whom 1 shall be elected annually by the Board to serve as chairman. Directors shall serve for terms of 3 years or until their successors have been appointed and qualified, and any member so appointed to fill a vacancy shall be appointed only for the unexpired term of the Director whom he succeeds.

(2) Two Directors shall be appointed by the Secretary; 2 directors shall be appointed by the Secretary of the Treasury; 2 Directors shall be appointed by the Secretary of Housing and Urban Development; 3 Directors shall be appointed by the Federal National Mortgage Association; and the remaining 4 Directors shall be elected by the holders of the Corporation's voting common stock at least 2 of whom shall be chief executive officers of organizations that are primarily engaged in child care and development purposes.

(3) The failure of the Secretary, the Secretary of the Treasury, or the Secretary of Housing and Urban Development to make 1 or more appointments to the Board of Directors of the Corporation shall not affect or diminish the right and power of—

(A) the other directors who have been appointed or elected to assume and carry out their duties as directors; and

(B) the Board so constituted to act for all purposes as the full Board of the Corporation.

(b) CUMULATIVE VOTING.—The articles of incorporation of the Corporation shall provide for cumulative voting under section 27(d) of the District of Columbia Business Corporation Act (D.C. Code, sec. 29–327(d)).

SEC. 7. INITIAL CAPITAL.

(a) AUTHORITY TO ISSUE COMMON STOCK.—The Corporation shall issue shares of voting common stock of no par value at such time within 6 months of its incorporation as shall be designated by the initial Board of Directors, and from time to time thereafter.

(b) SUBSCRIPTION BY SECRETARY.—The Secretary is authorized and directed to subscribe to and purchase, in each of the 5 years following the incorporation of the Corporation, voting common stock of the Corporation having an aggregate purchase price of not more than $20,000,000, subject to availability of appropriations.

(c) SUBSCRIPTION BY ASSOCIATION.—The Federal National Mortgage Association is authorized to subscribe to and purchase during the 5 years following the incorporation of the Corporation voting common stock of the Corporation having an aggregate purchase price of $25,000,000 or more.

(d) ANNUAL ISSUANCE.—The Corporation is authorized to offer for subscription and purchase to the general public during the 5 years following the incorporation of the Corporation, voting common stock having an aggregate purchase price of $125,000,000.

SEC. 8. ISSUE OF NONVOTING STOCK AND DEBT TO THE PUBLIC.

The Corporation may issue, without limitation as to amount or restriction as to ownership, such nonvoting common, preferred, and preference stock, debt, and such other securities and obligations, in such amounts, at such times, and having such terms and conditions as may be deemed necessary or appropriate by its Board of Directors.

SEC. 9. OBLIGATIONS NOT FEDERALLY GUARANTEED; NO FEDERAL PRIORITY.

No obligation which is insured, guaranteed, or otherwise backed by the Corporation, shall be deemed to be an obligation which is guaranteed by the full faith and credit of the United States. No obligation which is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation which is guaranteed by the Federal National Mortgage Association. This section shall not affect the determination of whether such obligation is guaranteed for purposes of Federal income taxes.

SEC. 10. AUTHORITY OF SECRETARY TO SELL COMMON STOCK; RIGHT OF FIRST REFUSAL.

(a) AUTHORITY TO SELL.—The Secretary may, at any time after a date which is 5 years after the date of incorporation of the Corporation, sell (in one or more transactions) the voting common stock of the Corporation owned by the Secretary. Prior to offering such common stock for sale to any other person, the Secretary shall offer such stock to the Federal National Mortgage Association at the price determined pursuant to subsection (b). Not later than 30 days prior to the sale of such stock, the Secretary shall advise, in writing, the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking and Financial Services of the House of Representatives of plans of the Secretary.

(b) PURCHASE PRICE.—The price at which the Secretary may sell the voting common stock of the Corporation under subsection (a) shall be the market value of such shares as determined by the Secretary, on the basis of an independent appraisal, but shall not be less than the value of such shares as shown on the books of account of the Corporation as of the date of closing of such purchase.

In no event shall the purchase price be less than the original issuance price.

(c) RIGHT OF FIRST REFUSAL TO ASSOCIATION.—Until such time as the Federal National Mortgage Association acquires all of the voting common stock owned by the Secretary, the Federal National Mortgage Association shall have the right to purchase all, or any lesser portion it shall select, of each of the issues of equity securities or other securities convertible into equity of the Corporation as the Corporation may issue from time to time, on the same terms and conditions as such securities are to be offered to other persons.

(d) AUTHORITY OF ASSOCIATION WITH RESPECT TO CORPORATION.—The Federal National Mortgage Association is authorized and empowered to purchase stock and to carry out such other activities as are necessary and appropriate for carrying out the Association's obligations and responsibilities with respect to the Corporation. The Federal National Mortgage Association is also authorized to enter into such other transactions with the Corporation, including the acquisition of securities and obligations of the Corporation referred to in this section and sections 7 and 8, and arrangements for the provision of management and other services to the Corporation, as shall be approved by the Federal National Mortgage Association and the Corporation.

SEC. 11. USE OF STOCK SALE PROCEEDS.

The proceeds received by the Secretary upon the sale of any shares of the Corporation to the Federal National Mortgage Association or any other person shall be deposited in the general fund of the Treasury.

SEC. 12. AUDITS; REPORTS TO THE PRESIDENT AND THE CONGRESS.

(a) ACCOUNTING.—The books of account of the Corporation shall be maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by an independent public accountant.

(b) REPORTS.—The Corporation shall transmit to the President and the Congress, annually and at such other times as it deems desirable, a report of its operations and activities under this Act, which annual report shall include a copy of the Corporation's financial statements and the opinion with respect thereto prepared by the independent public accountant reviewing such statements and a copy of any report made on an audit conducted under subsection (a). The annual reports shall include such information and other evidence as is necessary to demonstrate that the Corporation has complied with the requirements of section 4.

(c) APPEARANCE REQUIRED.—Not later than September 30 of each year, the chief executive officer of the Corporation shall appear before the Committee on Banking and Financial Services of the House of Representatives and the Committee on Finance of the Senate, and shall present the report required by subsection (b).

SEC. 13. DEFINITIONS.

For purposes of this Act:

(1) CHILD CARE AND DEVELOPMENT FACILITIES PURPOSE.—As used in this section, a "child care and development facilities purpose" includes any activity (including activities related to the payment of financing or transaction costs) relating to the construction, reconstruction, renovation, acquisition, or purchase of—

(A) facilities for the care and development of children less than 12 years of age, excluding facilities for school-age children primarily for use during normal school hours and including facilities for training individuals to provide child care and development services;

(B) any underlying real property or any interest therein;

(C) furniture, fixtures, and equipment to be used in connection with any facilities described in subparagraph (A); and

(D) instructional equipment and research instrumentation including site preparation for such equipment and instrumentation.

(2) CHILD CARE AND DEVELOPMENT FACILITY.—The term "child care and development facility" does not include a facility or institution of any agency of the United States.

(3) CONSTRUCTION.—(A) The term "construction" means—

(i) erection of new or expansion of existing structures, and the acquisition and installation of initial equipment therefor;

(ii) acquisition of existing structures not owned by the child care provider involved; or

(iii) a combination of either of the foregoing.

(B) For the purpose of subparagraph (A)—

(i) the term "equipment" includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an child care and development facility, including necessary furniture, but not including books, curricular, and program materials, and items of current and operating expense such as supplies and the like;

(ii) the term "initial equipment" means equipment acquired and installed in connection with construction; and

(iii) the terms "equipment", "initial equipment", and "built-in equipment", shall be more particularly defined by the Secretary by regulation.

(4) MAINTENANCE.—The term "maintenance", with respect to instructional and research equipment obtained with funding under this title, shall mean the care necessary to the optimal functioning of such equipment. With respect to the equipment and structural changes related to obtaining and sustaining the necessary environment (ventilation, etc.) for proper functioning of instructional and research equipment, "maintenance" shall mean that portion of care above and beyond normal overhead costs.

(5) RECONSTRUCTION OR RENOVATION.—The term "reconstruction or renovation" means rehabilitation, alteration, conversion, or improvement (in-

Evaluation of "Kiddie Mac" proposal

SUMMARY

Rep. Maloney and Rep. Baker have recently introduced a bill -- H.R. 3637 ("Kiddie Mac") -- to subsidize the supply of high-quality child care. We believe that the proposal in the President's FY 99 budget is a much more effective way of increasing the supply of high-quality, affordable child care. The need for affordable, quality child care is better met by giving subsidies directly to consumers of child care, rather than subsidizing the providers. Furthermore, the provider subsidy offered in Kiddie Mac may be particularly ineffective at increasing the supply of affordable child care. Finally, we are concerned that the bill sets a precedent for the federal government to set national standards for child care providers, a regulatory role that has traditionally been left to the states and could actually serve to limit the supply and increase the cost of child care.

THE PROPOSAL

The proposal is an amendment to the National Housing Act. In order to reduce the cost to qualifying child care providers of loans for construction or renovation, Kiddie Mac will, through HUD, offer guaranty insurance to lenders for making loans to child care facility builders and operators. This is intended to reduce the cost of loans to child care providers by reducing the risk faced by lenders. The HUD guarantee will cover no more than 90 percent of the loan, or 95 percent if the mortgagor is a non-profit.

In addition, Kiddie Mac will:

- Establish a Children's Development Commission which will, in conjunction with the Secretaries of HUD and HHS, determine the laws, standards and requirements that a facility must meet, in addition to any state requirements, in order to be eligible for the federal guarantee.
- Offer "mini-loans" to qualifying child care providers to help them meet licensing requirements. These loans will be made by the Development Commission.
- Provide "reasonably priced" liability and fire insurance to qualifying providers.
- Establish and fund a foundation that will research issues in early childhood development, fund pilot programs and produce education materials.

Total lending and guarantee activity will be limited to $2 billion and will expire in 2005.

ANALYSIS

Reducing the cost of child care

The bill argues that liability and fire insurance are not available at "reasonable prices" and that the interest rates on loans are "too high". These rates are high, but there is no evidence that there is some form of market failure that causes prices to be greater than what banks need to cover their costs. The rates are high because the risks are high. Efforts to reduce these rates are designed to increase the supply of affordable child care. But, as we discuss below, subsidies to consumers are a more effective way of achieving this aim.

Will Kiddie Mac increase the supply of affordable child care?

In order for the Kiddie Mac program to reduce the costs to consumers of child care (or, analogously, in order for it to increase the "supply of affordable child care") an affirmative answer would be needed to both of the following questions:

- **Would the interest rates that banks charge child care providers fall in response to the subsidy?** The federal guarantee reduces the risks to those who make loans to child care providers. If there are a large number of such lenders eligible for the government guarantee who participate in the program, then their reduced lending costs will be passed on to the child care providers in the form of lower interest rates on loans. But if only a small number of firms are eligible to make such loans or have an incentive to participate in the program, then a large portion of the government subsidy would benefit banks and other lenders rather than child care providers.

  The bill stipulates that the HUD secretary must approve the lender. Even if the approval criteria are sufficiently unrestrictive that many lenders are eligible, there is reason to be concerned that few institutions will choose to participate. For example, there may be large start up costs to learning about the program or costs involved in monitoring providers to ensure that they comply with Commission standards.

- **Would a reduction in provider costs have much benefit for consumers?** Even if the proposed subsidies lower costs to child care providers, consumers may not benefit from these lower provider costs. Available evidence suggests this is not likely to be a problem. But if eligibility standards were made sufficiently restrictive (for example through stringent quality standards) that relatively few providers were eligible, then eligible providers would face little competition from other providers, and could pass through only a limited portion of their cost reductions to their consumers in the form of lower prices.

The uncertain answers to these questions suggest that subsidies to consumers are much more likely to be effective in increasing the supply of affordable child care than indirect subsidies to providers. Evidence that the supply of child care will respond to increases in demand at roughly current prices indicates that subsidizing consumers will decrease the cost to consumers and increase the supply of child care at these lower costs, rather than merely driving up the price of care.

If the proposal did result in an increased supply of affordable child care, what consumers would benefit?

- **Reaching particular consumers.** Subsidies administered to consumers can be targeted to benefit particular consumer groups, such as low-income parents. Subsidies to providers, however, even if they do result in lower costs to consumers, benefit all of the providers' customers, regardless of income level, employment of the mother, or any other consumer characteristic.

- **Likely beneficiaries are centers rather than family day care.** Although in principle any provider that meets the state and Commission's standards can benefit from Kiddie Mac, in practice the federally guaranteed loans to establish and renovate facilities are likely to benefit centers disproportionately, since their operating costs are much higher than family day care homes. This creates an artificial advantage for centers -- without any evidence that center care is better for children than family day care. In addition, center care is used disproportionately by higher income parents and hence benefits would accrue disproportionately to these parents, since any consumer cost reductions benefit the families who were already purchasing the care as well as the families who now start doing so.

Improving the quality

The proposal calls for the establishment of a national Commission which, in conjunction with HUD and HHS, would determine the standards that providers must meet in order to be eligible for any of the subsidies offered by Kiddie Mac. These standards would apply *in addition to* any state standards.

The federal government currently does not set national standards for child care providers. In doing so, the Commission's work could undermine the goal of increasing the supply of affordable child care. Compliance with regulations can be costly, and the imposition of these federal regulations on top of existing state regulations might either impose costs that make it not worthwhile for providers to comply in order to get the Kiddie Mac benefits, or could result in providers having to raise their prices, thus counteracting the desired decrease in prices from federally guaranteed loans. Furthermore, as discussed above, the result of stringent standards and limited eligibility may be a situation in which a limited number of providers benefit without passing on much of their reduced costs to their consumers in the form of lower prices.

Additional concerns

Is the 5-10% portion of the loan that is not guaranteed the right amount? In choosing what percentage of the loan to guarantee, a tradeoff must be struck between the goal of encouraging an increase in lending and not distorting the incentives of the lenders to make good loans. In general, most government guarantee programs have addressed this tradeoff by choosing lower guarantee rates. For example, the SBA guarantees loans made to small businesses guarantees 80% of the loan if it is under $100,00 and only 75% if it is above $100,000.

Duplicating existing programs

- **SBA 7(a) program**. The SBA 7(a) program provides partial guarantees on loans to small businesses. Many commercial child care providers could therefore get reduced interest rates on loans for construction and renovation through this program rather than the proposed one.

- **"Micro loans" by Commission.** This is duplicative of SBA micro loan programs for many for-profit child care providers.

Is HUD the appropriate agency to administer the program? The loans to child care providers for construction and renovation are commercial real estate loans. It is not clear that HUD -- rather than, say, SBA, is the appropriate programmatic agency for the proposal.

Treasury Study of Secondary Markets. The proposed Treasury study of secondary markets for insured commercial real estate loans for child care and development facilities is likely to be infeasible. Due to relatively small loan volumes and geographic dispersion, a private secondary market is unlikely to develop.

Jen –
Is this nutty, or interesting?
Elena

FAX TRANSMISSION

CONGRESSWOMAN CAROLYN MALONEY
1330 LONGWORTH HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
202-225-7944
FAX: 202-225-4709

To:	Karen Tramontano	**Date:**	March 17, 1998
Fax #:	202 456 1121	**Pages:**	28, including this cover sheet.
From:	Benjamin Chevat		
Subject:	Something completely different.		

COMMENTS: When I am not working on the Census...

The following is a rough draft of Carolyn's "Kiddie Mac" bill, that I mentioned to you the other week.

You said when I had something you wanted to see it. You shouldn't ask cause look what happens.

This is a really neat idea.

Carolyn, per her conversation two weeks ago on Air Force One, is drafting a letter to the President presenting the idea.

Elena

fyi

KT

Send to Elena Kagan

KIDDIE MAC SUMMARY

Legislation to be introduced by Rep. Carolyn Maloney (NY)

Status as of 3/16/98

> **GOAL:** ***To address the unmet need for quality, affordable child care facilities, a government sponsored enterprise will be created to act as a catalyst for private-sector lending to build and develop facilities.***

THE BASIC ELEMENTS:

1. **Secondary Mortgage Market**: Kiddie Mac will do for child care and development what Fannie Mae has done for home ownership. Kiddie Mac will purchase mortgages and then sell them to Fannie Mae who will bundle them into the securities they sell on Wall Street. This should allow Kiddie Mac to be able to take advantage of the volume of business done in the mortgage market, which leads to lower interest rates.

2. **Guaranty Insurance**: By offering guaranty insurance to those who lend to child care facilities, favorable terms for loans should be achieved. Currently, while the private sector appears to want to do something in this area, the perceived risk is to high. A guaranty should be enough security to spur lending with reasonable terms.

3. **Micro-Loans**: Besides actual facilities being built or rehabilitated, often what is needed is money for start-up costs and rent. Kiddie Mac will offer mini-loans to qualifying child care providers for such costs. Also, micro-loans can be used for a facility which needs to make certain improvements in order to become licensed.

4. **Liability Insurance**: In order to prevent the cost of insurance from becoming a barrier for starting a facility, Kiddie Mac will offer reasonably priced liability insurance to qualifying providers.

5. **Foundation**: With the money made from its other activities, Kiddie Mac will fund a foundation which will research issues in child care and development, fund pilot programs and produce educational materials and activities to guide people through the Kiddie Mac process.

SPECIAL CHARACTERISTICS OF KIDDIE MAC:

1. Capped Salary Structure for executives.

2. Annual Report and Congressional Hearings on Activities and Performance, similar to the Humphrey-Hawkins hearings the Banking committees hold with the Federal Reserve Chairman.

3. $2 billion limit on total lending and guaranty activity. If a need is found beyond this amount, Congress may increase the ceiling.

Common Questions about KIDDIE MAC

1. Why is Kiddie Mac Needed?

A: The United States is falling behind in meeting the needs of its children. While other countries understand the critical role that child care plays in early development, the quality and space available in this country is below acceptable and needed levels. While there is increasing demand for excellent infant care and nursery school slots in many parts of the country, the need is not being met.

2. Why a Government Sponsored Enterprise?

A: A Government Sponsored Enterprise (GSE) is chartered when there is some sort of market failure which should be addressed by a profit-seeking company, but instead there are barriers which require some initial government intervention to overcome. Child care is a perfect example of an area with just such barriers.

For whatever reason, the private sector has not been able to meet the needs of parents went it comes providing enough quality child care and nursery schools. Some of the reasons involve the view of lenders that because of costs, loaning to child care facilities is too high a risk as an investment. Also, since these facilities are unique in the way they are built in order to meet licensing standards, the property itself is not considered flexible enough for loan risk. The result is that not enough space is available for children, most existing programs are too expensive for even working parents, and what is available is not good enough to really help in child development.

3. How would Kiddie Mac work?

A: Kiddie Mac would have two main components:

1. *Secondary mortgage market*-- Fannie Mae and Freddie Mac have done a great job of making home ownership affordable and flexible, even during housing recessions. The reason they can do this is that by buying mortgages, bundling them, and then selling them as securities

on Wall Street, is that more capital is created for home mortgages, increasing the volume of the market and keeping interest rates low. Kiddie Mac would participate in that secondary mortgage market in order to provide more capital for child care and keep interest rates for these facilities low.

2. *Guaranty Insurance*-- For many private lenders, they want to invest in child care but are uncomfortable with the risk. By providing guaranty insurance for mortgages, loans and some other debts, the private lenders will invest in the needs of our children.

4. What if someone just wanted to add to existing facilities or bring their buildings up to licensing standards?

A: In addition to the two components described above, Kiddie Mac will provide small facilities loans to those who wish to make improvements to their centers in order to meet licensing standards or to make improvements in their facilities which would increase the quality of the care and/or expand the number of children who could participate. In other words, a woman who is taking care of children in her house could get one of these loans to make the necessary changes to become a legitimate care facility.

5. Who will pay for Kiddie Mac?

A: After a small, initial appropriation to fund its incorporation, Kiddie Mac will offer shares for sale to various investors. This stock offering will fund Kiddie Mac through its initial inception. After that, Kiddie Mac's financial activities will make it self-financing, ***never costing the taxpayer anything***.

6. Who can access Kiddie Mac?

A: Anyone who is currently licensed, or who can demonstrate an ability to be licensed, can access Kiddie Mac's services. This includes community organizations, not-for-profit organizations, community development financial institutions, for-profit businesses, family-home facilities, churches and employers.

7. Won't this be competing against private businesses?

A: Private businesses which want to develop child care facilities, nursery schools or after-school programs are allowed to access Kiddie Mac just like anyone else. As for private lenders, since the problem in child care has been that the needs are not being met by the open market, Kiddie Mac is needed to fill this role.

8. How about churches and synagogues... are they not allowed to access government money?

A: Kiddie Mac is a GSE and not actually government. So, if a church or synagogue or any other religious entity can qualify in terms of licensing, they can access Kiddie Mac's services.

9. But how will Kiddie Mac help address other problems with child care and child development?

A: Using some of the surplus generated by its financial activities, Kiddie Mac will fund a Foundation which will research problems in child care and child development, fund pilot programs and find ways to make the Kiddie Mac process accessible and efficient.

[INCOMPLETE DISCUSSION DRAFT]

MARCH 17, 1998

105TH CONGRESS
2D SESSION

H. R. 3637

IN THE HOUSE OF REPRESENTATIVES

Mrs. MALONEY of New York (for herself and   ) introduced the following bill; which was referred to the Committee on ____________

A BILL

To provide for the establishment of the Children's Development Insurance and Mortgage Corporation for the purpose of expanding the availability of child care services.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Kiddie Mac Act of 1998".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The need for quality nursery schools, both full-time and part-time child care centers, after school programs, neighborhood-run mothers-day-out programs, and family child care providers has grown among working parents, and parents who stay at home, who want their children to have access to early childhood education.

(2) All parents in the labor force should have access to safe, stimulating, and educational early childhood education programs for their children, whether such programs are carried out in a child care center, a part-time nursery school (including a nursery school operated by a religious organization), or a family child care provider's home.

(3) The number of available enrollment opportunities for children to receive quality child care services is not meeting the demand for such services due to several factors. Child care facilities are tailored to meet specific regulations, so banks are concerned that if they acquire such facilities as a result of foreclosure, such facilities will be unusable for other purposes. Because the profit margin for child care providers is so small, lenders are concerned about the viability of such providers, even though defaults have historically been low for such providers.

(4) In 1995 there were about 21,000,000 children less than 6 years of age, of whom 31 percent were participating in center-based child care services and 14 percent were receiving child care in homes. Between 1992 and 2005 the participation of women 24 to 54 years of age in the labor force is projected to increase from 75 percent to 83 percent.

(5) In States that have set up a mechanism to provide capital improvements for child care facilities, the demand for services of such facilities still has not been met. [In New Hampshire, a program set up with a $10,000,000 grant from Providence Bank received requests every 30 minutes and ran out of money solely through funding rehabilitation of such facilities, failing to even begin funding the construction of new child care facilities.]

(6) The United States is behind other western, industrialized countries when it comes to providing child care services. In France, virtually 100 percent of all children 3 to 5 years of age attend nursery school. In Germany this number is 65 to 70 percent. In Japan 90 percent of such children attend some form of preschool care. In all of these countries early childhood care has proven to increase children's development and performance.

SEC. 3. CONGRESSIONAL DECLARATION OF PURPOSE; DEFINITION; INCORPORATION.

(a) PURPOSE.—The Congress hereby declares that it is the purpose of this Act to authorize participation of the United States Government and the Federal National Mortgage Association in a private, for profit corporation to be known as the Children's Development Insurance and Mortgage Corporation (in this Act referred to as the "Corporation") which will, directly or indirectly, alone or in collaboration with others—

(1) guarantee, insure, and reinsure bonds, debentures, notes, evidences of debt, loans, and interests therein, the proceeds of which are to be used for a child care and development facilities purpose;

(2) guarantee and insure leases of personal, real, or mixed property to be used for a child care and development facilities purpose;

(3) issue letters of credit and undertake obligations and commitments as the Corporation deems necessary to carry out the purposes described in paragraphs (1) and (2);

(4) make loans, directly or indirectly, to child care providers for reconstruction or renovation of facilities described in section 13(1)(A) for the purpose of bringing such facilities into compliance with State and local safety requirements;

(5) sell, subject to State law applicable to the business of insurance, liability insurance against risks arising from providing child care services for compensation; and

(6) establish a nonprofit foundation—

(A) to carry out research relating to child care and development facilities purposes; and

(B) to conduct pilot programs to test innovative methods for improving child care and development facilities purposes.

(b) STATUS AS NONGOVERNMENTAL ENTITY.—The Corporation shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a "Government corporation" nor a "Government controlled corporation" as defined in section 103 of title 5, United States Code. No action under section 1491 of title 28, United States Code (commonly known as the Tucker Act) shall be allowable against the United States based on the actions of the Corporation.

(c) CORPORATE POWERS AND LIMITATIONS.—The Corporation shall be subject to the provisions of this Act and, to the extent not inconsistent with this Act, to the District of Columbia Business Corporation Act. The business activities of the Corporation shall always be limited to the purposes set forth in subsection (a) of this section.

It shall have the powers conferred upon a corporation by the District of Columbia Business Corporation Act as from time to time in effect in order to conduct its corporate affairs and to carry out its purposes and activities incidental thereto.

(d) SPECIFIC LIMITATIONS.—

(1) MAXIMUM COMPENSATION.—The Corporation may not pay to any officer or employee compensation the exceeds the maximum rate of compensation payable from time to time under section 5312 of title 5 of

(2) MAXIMUM AGGREGATE OUTSTANDING AMOUNT OF LOANS AND GUARANTEES.—The maximum aggregate outstanding amount of all loans and guarantees made by the Corporation may not exceed $2,000,000,000.

(3) LOANS MADE FOR RECONSTRUCTION AND RENOVATION.—(1) The aggregate amount of loans made under subsection (a)(4) to a single borrower may not exceed $50,000.

(2) The term of a loan made under such subsection may not exceed 15 years.

SEC. 4. CRITERIA FOR GUARANTEES AND INSURANCE.

(a) GENERAL RULE.—The Corporation shall provide direct insurance, guarantees, and reinsurance on obligations issued for child care and development facilities purposes only in accordance with the requirements of this section.

(b) DIRECT INSURANCE AND GUARANTEE ACTIVITIES; LIMITATIONS..—(1) All of the assets and obligations directly covered by primary insurance or guarantees issued by the Corporation shall be assets or obligations of child care providers.

(2) At least the percentages specified in paragraph (3) of the aggregate dollar amount of the assets and obligations reinsured, insured, and guaranteed by the Corporation under this section shall be in the direct insurance and guarantee activities specified in this subsection.

(3) For the purpose of paragraph (2) of this paragraph, the percentages specified in this paragraph shall be—

(A) 10 percent for the first full year of operation of the Corporation;

(B) 30 percent for the second full year of such operation; and

(C) 50 percent for the third full year of such operation and thereafter.

(4) For the purpose of paragraph (1), the assets and obligations which may be directly covered by primary insurance or guarantees issued by the Corporation are—

(A) bonds, debentures, notes, evidences of debt, loans, and interests therein, the proceeds of which are to be used for a child care and development facilities purpose; and

(B) leases of personal, real, or mixed property to be used for a child care and development facilities purpose.

(5) Notwithstanding paragraph (1), the Corporation may issue primary insurance or guarantees covering the assets or obligations of child care providers, subject to all of the following conditions and limitations:

(A) The proposed transaction shall have been declined for coverage by all unaffiliated monoline insurers that are authorized to write financial guarantee insurance and that, in the previous year, provided primary insurance or guarantees on child care and development facility obligations. The Secretary shall publish by January 31 of each year a list of all such insurers.

(B) Within 2 business days of receiving complete documentation concerning a proposed transaction by an child care provider seeking insurance from the Corporation pursuant to this paragraph, an insurer shall offer to provide coverage or execute an affidavit of declination, or its failure to respond shall be deemed a declination. The child care provider seeking insurance from the Corporation shall file with the Corporation the affidavits from all declining insurers, as well as an affidavit of the child care provider's financial advisor specifically identifying the pertinent terms of the proposed transaction, the requested insurance coverage, and the date on which complete documentation concerning the proposed transaction was submitted to each insurer and certifying that such information was provided to each insurer that declined coverage.

(C) The proceeds of the assets or obligations insured or guaranteed by the Corporation pursuant to this paragraph shall be used exclusively for the renovation, repair, replacement, or construction of child care and development facilities.

(D) The aggregate par value of assets and obligations insured or guaranteed by the Corporation under this paragraph shall not exceed—

(i) $100,000,000 per year during calendar years 1999, 2000, and 2001; or

(ii) $150,000,000 per year during calendar years 2002 and 2003.

(E) The aggregate dollar amount of transactions under this paragraph shall not exceed—

(i) in calendar year 1999, 2000, or 2001, 10 percent of the aggregate dollar amount of assets and obligations directly covered by primary insurance or guarantees issued by the Corporation under this section in such year; or

(ii) in calendar year 2002 or 2003, 15 percent of the aggregate dollar amount of assets and obligations directly covered by primary insurance or guarantees issued by the Corporation under this section in such year.

(d) NOTICE OF SERVICES.—The Corporation shall take such steps as may be necessary to publicize the availability of its insurance and reinsurance programs under this section in a manner that assures that information concerning such programs will be available to child care providers throughout the United States.

(e) NONDISCRIMINATION REQUIRED.—(1) The Corporation may not carry out any activities with respect to any child care and development facilities purpose of a participating child care provider if the child care provider discriminates on account of race, color, religion (subject to paragraph (2)), national origin, sex (to the extent provided in title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.)), or handicapping condition.

(2) The prohibition with respect to religion shall not apply to a child care and development facility which is controlled by or which is closely identified with the tenets of a particular religious organization if the application of this section would not be consistent with the religious tenets of such organization.

(3) Each participating child care provider shall certify to the Corporation that the child care provider does not discriminate as required by the provisions of paragraph (1).

SEC. 5. PROCESS OF ORGANIZATION.

The Secretary of the Treasury, the Secretary, the Secretary of Housing and Urban Development, and the Federal National Mortgage Association shall each appoint 2 persons to be incorporators of the Corporation. The incorporators so appointed shall each sign the articles of incorporation and shall serve as the initial Board of Directors until the members of the first regular Board of Directors shall have been appointed and elected. Such incorporators shall take whatever actions are necessary or appropriate to establish the Corporation, including the filing of articles of incorporation.

SEC. 6. OPERATION AND ELECTION OF BOARD OF DIRECTORS.

(a) IN GENERAL.—(1) The Corporation shall have a Board of Directors which shall consist of 13 members, of whom 1 shall be elected annually by the Board to serve as chairman. Directors shall serve for terms of 3 years or until their successors have been appointed and qualified, and any member so appointed to fill a vacancy shall be appointed only for the unexpired term of the Director whom he succeeds.

(2) Two Directors shall be appointed by the Secretary; 2 directors shall be appointed by the Secretary of the Treasury; 2 Directors shall be appointed by the Secretary of Housing and Urban Development; 3 Directors shall be appointed by the Federal National Mortgage Association; and the remaining 4 Directors shall be elected by the holders of the Corporation's voting common stock at least 2 of whom shall be chief executive officers of organizations that are primarily engaged in child care and development purposes.

(3) The failure of the Secretary, the Secretary of the Treasury, or the Secretary of Housing and Urban Development to make 1 or more appointments to the Board of Directors of the Corporation shall not affect or diminish the right and power of—

(A) the other directors who have been appointed or elected to assume and carry out their duties as directors; and

(B) the Board so constituted to act for all purposes as the full Board of the Corporation.

(b) CUMULATIVE VOTING.—The articles of incorporation of the Corporation shall provide for cumulative voting under section 27(d) of the District of Columbia Business Corporation Act (D.C. Code, sec. 29–327(d)).

SEC. 7. INITIAL CAPITAL.

(a) AUTHORITY TO ISSUE COMMON STOCK.—The Corporation shall issue shares of voting common stock of no par value at such time within 6 months of its incorporation as shall be designated by the initial Board of Directors, and from time to time thereafter.

(b) SUBSCRIPTION BY SECRETARY.—The Secretary is authorized and directed to subscribe to and purchase, in each of the 5 years following the incorporation of the Corporation, voting common stock of the Corporation having an aggregate purchase price of not more than $20,000,000, subject to availability of appropriations.

(c) SUBSCRIPTION BY ASSOCIATION.—The Federal National Mortgage Association is authorized to subscribe to and purchase during the 5 years following the incorporation of the Corporation voting common stock of the Corporation having an aggregate purchase price of $25,000,000 or more.

(d) ANNUAL ISSUANCE.—The Corporation is authorized to offer for subscription and purchase to the general public during the 5 years following the incorporation of the Corporation, voting common stock having an aggregate purchase price of $125,000,000.

SEC. 8. ISSUE OF NONVOTING STOCK AND DEBT TO THE PUBLIC.

The Corporation may issue, without limitation as to amount or restriction as to ownership, such nonvoting common, preferred, and preference stock, debt, and such other securities and obligations, in such amounts, at such times, and having such terms and conditions as may be deemed necessary or appropriate by its Board of Directors.

SEC. 9. OBLIGATIONS NOT FEDERALLY GUARANTEED; NO FEDERAL PRIORITY.

No obligation which is insured, guaranteed, or otherwise backed by the Corporation, shall be deemed to be an obligation which is guaranteed by the full faith and credit of the United States. No obligation which is insured, guaranteed, or otherwise backed by the Corporation shall be deemed to be an obligation which is guaranteed by the Federal National Mortgage Association. This section shall not affect the determination of whether such obligation is guaranteed for purposes of Federal income taxes.

SEC. 10. AUTHORITY OF SECRETARY TO SELL COMMON STOCK; RIGHT OF FIRST REFUSAL.

(a) AUTHORITY TO SELL.—The Secretary may, at any time after a date which is 5 years after the date of incorporation of the Corporation, sell (in one or more transactions) the voting common stock of the Corporation owned by the Secretary. Prior to offering such common stock for sale to any other person, the Secretary shall offer such stock to the Federal National Mortgage Association at the price determined pursuant to subsection (b). Not later than 30 days prior to the sale of such stock, the Secretary shall advise, in writing, the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking and Financial Services of the House of Representatives of plans of the Secretary.

(b) PURCHASE PRICE.—The price at which the Secretary may sell the voting common stock of the Corporation under subsection (a) shall be the market value of such shares as determined by the Secretary, on the basis of an independent appraisal, but shall not be less than the value of such shares as shown on the books of account of the Corporation as of the date of closing of such purchase.

In no event shall the purchase price be less than the original issuance price.

(c) RIGHT OF FIRST REFUSAL TO ASSOCIATION.—Until such time as the Federal National Mortgage Association acquires all of the voting common stock owned by the Secretary, the Federal National Mortgage Association shall have the right to purchase all, or any lesser portion it shall select, of each of the issues of equity securities or other securities convertible into equity of the Corporation as the Corporation may issue from time to time, on the same terms and conditions as such securities are to be offered to other persons.

(d) AUTHORITY OF ASSOCIATION WITH RESPECT TO CORPORATION.—The Federal National Mortgage Association is authorized and empowered to purchase stock and to carry out such other activities as are necessary and appropriate for carrying out the Association's obligations and responsibilities with respect to the Corporation. The Federal National Mortgage Association is also authorized to enter into such other transactions with the Corporation, including the acquisition of securities and obligations of the Corporation referred to in this section and sections 7 and 8, and arrangements for the provision of management and other services to the Corporation, as shall be approved by the Federal National Mortgage Association and the Corporation.

SEC. 11. USE OF STOCK SALE PROCEEDS.

The proceeds received by the Secretary upon the sale of any shares of the Corporation to the Federal National Mortgage Association or any other person shall be deposited in the general fund of the Treasury.

SEC. 12. AUDITS; REPORTS TO THE PRESIDENT AND THE CONGRESS.

(a) ACCOUNTING.—The books of account of the Corporation shall be maintained in accordance with generally accepted accounting principles and shall be subject to an annual audit by an independent public accountant.

(b) REPORTS.—The Corporation shall transmit to the President and the Congress, annually and at such other times as it deems desirable, a report of its operations and activities under this Act, which annual report shall include a copy of the Corporation's financial statements and the opinion with respect thereto prepared by the independent public accountant reviewing such statements and a copy of any report made on an audit conducted under subsection (a). The annual reports shall include such information and other evidence as is necessary to demonstrate that the Corporation has complied with the requirements of section 4.

(c) APPEARANCE REQUIRED.—Not later than September 30 of each year, the chief executive officer of the Corporation shall appear before the Committee on Banking and Financial Services of the House of Representatives and the Committee on Finance of the Senate, and shall present the report required by subsection (b).

SEC. 13. DEFINITIONS.

For purposes of this Act:

(1) CHILD CARE AND DEVELOPMENT FACILITIES PURPOSE.—As used in this section, a "child care and development facilities purpose" includes any activity (including activities related to the payment of financing or transaction costs) relating to the construction, reconstruction, renovation, acquisition, or purchase of—

(A) facilities for the care and development of children less than 12 years of age, excluding facilities for school-age children primarily for use during normal school hours and including facilities for training individuals to provide child care and development services;

(B) any underlying real property or any interest therein;

(C) furniture, fixtures, and equipment to be used in connection with any facilities described in subparagraph (A); and

(D) instructional equipment and research instrumentation including site preparation for such equipment and instrumentation.

(2) CHILD CARE AND DEVELOPMENT FACILITY.—The term "child care and development facility" does not include a facility or institution of any agency of the United States.

(3) CONSTRUCTION.—(A) The term "construction" means—

(i) erection of new or expansion of existing structures, and the acquisition and installation of initial equipment therefor;

(ii) acquisition of existing structures not owned by the child care provider involved; or

(iii) a combination of either of the foregoing.

(B) For the purpose of subparagraph (A)—

(i) the term "equipment" includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an child care and development facility, including necessary furniture, but not including books, curricular, and program materials, and items of current and operating expense such as supplies and the like;

(ii) the term "initial equipment" means equipment acquired and installed in connection with construction; and

(iii) the terms "equipment", "initial equipment", and "built-in equipment", shall be more particularly defined by the Secretary by regulation.

(4) MAINTENANCE.—The term "maintenance", with respect to instructional and research equipment obtained with funding under this title, shall mean the care necessary to the optimal functioning of such equipment. With respect to the equipment and structural changes related to obtaining and sustaining the necessary environment (ventilation, etc.) for proper functioning of instructional and research equipment, "maintenance" shall mean that portion of care above and beyond normal overhead costs.

(5) RECONSTRUCTION OR RENOVATION.—The term "reconstruction or renovation" means rehabilitation, alteration, conversion, or improvement (in-

cluding the acquisition and installation of initial equipment, or modernization or replacement of such equipment) of existing structures. For the purpose of the preceding sentence—

(A) the term "equipment" includes, in addition to machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, all other items necessary for the functioning of a particular facility as an child care and development facility, including necessary furniture, but not including books, curricular, and program materials, and items of current and operating expense such as fuel, supplies, and the like;

(B) the term "initial equipment" means equipment acquired and installed either in connection with construction as defined in paragraph (3)(A), or as part of the rehabilitation, alteration, conversion, or improvement of an existing structure, which structure would otherwise not be adequate for use as an child care and development facility;

(C) the terms "equipment", "initial equipment", and "built-in equipment" shall be more particularly defined by the Secretary by regulation; and

(D) the term "rehabilitation, alteration, conversion, or improvement" includes such action as may be necessary to provide for the architectural needs of, or to remove architectural barriers to, handicapped persons with a view toward increasing the accessibility to, and use of, child care and development facilities by such persons.

(6) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services unless the context specifies otherwise.

(7) STATE.—The term "State" means any of the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, or the Virgin Islands of the United States.

[SEC. 14. AUTHORIZATION OF APPROPRIATIONS.]

[to be supplied.]

[SEC. 15. ______________________________

[amendments to Federal National Mortgage Association charter]