

111TH CONGRESS  
1ST SESSION

# S. 2661

To create a 3-year pilot program that makes small, nonprofit child care businesses eligible for loans under title V of the Small Business Investment Act of 1958.

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 2, 2009

Mr. KERRY introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

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## A BILL

To create a 3-year pilot program that makes small, nonprofit child care businesses eligible for loans under title V of the Small Business Investment Act of 1958.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Child Care Lending  
5 Pilot Act of 2009”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

1           (1) the terms “Administration” and “Adminis-  
2           trator” mean the Small Business Administration  
3           and the Administrator thereof, respectively;

4           (2) the term “program” means the loan pro-  
5           gram under section 502(b)(1)(B) of the Small Busi-  
6           ness Investment Act of 1958, as added by this Act;

7           (3) the term “small business concern” has the  
8           meaning given the term “small-business concern” in  
9           section 103 of the Small Business Investment Act of  
10          1958 (15 U.S.C. 662); and

11          (4) the term “State” has the meaning given  
12          that term in section 103 of the Small Business In-  
13          vestment Act of 1958 (15 U.S.C. 662).

14 **SEC. 3. CHILD CARE LENDING PILOT PROGRAM.**

15          (a) IN GENERAL.—Section 502 of the Small Business  
16          Investment Act of 1958 (15 U.S.C. 696) is amended—

17                 (1) in the matter preceding paragraph (1)—

18                         (A) by striking “The Administration may,  
19                         in addition to its” and inserting the following:

20                         “(a) AUTHORIZATION.—The Administration may, in  
21                         addition to the”;

22                         (B) by striking “and such loans” and in-  
23                         serting “. Such loans”; and

24                         (C) by striking “: *Provided, however,* That  
25                         the foregoing powers shall be subject to the fol-

1           lowing restrictions and limitations:” and insert-  
2           ing a period;

3           (2) by inserting before paragraph (1) the fol-  
4           lowing:

5           “(b) RESTRICTIONS AND LIMITATIONS.—The author-  
6           ity under subsection (a) shall be subject to the following  
7           restrictions and limitations:”; and

8           (3) in subsection (b)(1), as so designated—

9           (A) by striking “The proceeds” and insert-  
10          ing the following:

11          “(A) IN GENERAL.—The proceeds”;

12          (B) by striking “such loan” and inserting  
13          “loan described in subsection (a)”;

14          (C) by adding at the end the following:

15          “(B) LOANS TO SMALL, NONPROFIT CHILD  
16          CARE BUSINESSES.—

17          “(i) IN GENERAL.—Notwithstanding  
18          paragraph (1), the proceeds of any loan  
19          described in subsection (a) may be used by  
20          a development company to assist a small,  
21          nonprofit child care business, if—

22          “(I) the loan is used for a sound  
23          business purpose that has been ap-  
24          proved by the Administrator;

1                   “(II) the small, nonprofit child  
2                   care business meets all of the eligi-  
3                   bility requirements applicable to for-  
4                   profit businesses under this title, ex-  
5                   cept for status as a for-profit busi-  
6                   ness;

7                   “(III) 1 or more individuals has  
8                   personally guaranteed the loan;

9                   “(IV) the small, nonprofit child  
10                  care business has clear and singular  
11                  title to the collateral for the loan; and

12                  “(V) the small, nonprofit child  
13                  care business has sufficient cash flow  
14                  from the operations of the business to  
15                  meet the obligations on the loan and  
16                  the normal and reasonable operating  
17                  expenses of the business.

18                  “(ii) LIMITATION ON VOLUME.—Not  
19                  more than 7 percent of the total number of  
20                  loans guaranteed in any fiscal year under  
21                  this title may be used for purposes de-  
22                  scribed in this subparagraph.

23                  “(iii) DEFINITION.—In this subpara-  
24                  graph, the term ‘small, nonprofit child care  
25                  business’ means an establishment that—

1           “(I) is organized in accordance  
2 with section 501(c)(3) of the Internal  
3 Revenue Code of 1986;

4           “(II) is primarily engaged in pro-  
5 viding child care for infants, toddlers,  
6 pre-school, or pre-kindergarten chil-  
7 dren (or any combination thereof),  
8 and may provide care for older chil-  
9 dren when the children are not in  
10 school and offer pre-kindergarten edu-  
11 cational programs;

12           “(III) including its affiliates,  
13 has—

14           “(aa) a tangible net worth of  
15 not more than \$7,000,000; and

16           “(bb) an average net income  
17 (excluding any carryover losses)  
18 for the 2 completed fiscal years  
19 before the date of the application  
20 of not more than \$2,500,000;  
21 and

22           “(IV) is licensed as a child care  
23 provider by the State in which the es-  
24 tablishment is located.”.

25           (b) SUNSET.—

1           (1) IN GENERAL.—Effective October 1, 2012,  
2           section 502(b)(1) of the Small Business Investment  
3           Act of 1958 (15 U.S.C. 696(b)(1)) is amended—

4                     (A) by striking subparagraph (B); and

5                     (B) by striking “USE OF PROCEEDS.—”

6           and all that follows through “The proceeds”  
7           and inserting “USE OF PROCEEDS.—The pro-  
8           ceeds”.

9           (2) APPLICABILITY.—Notwithstanding para-  
10          graph (1), section 502(b)(1)(B) of the Small Busi-  
11          ness Investment Act of 1958, as added by this Act,  
12          shall apply to any loan authorized under that sub-  
13          paragraph that is applied for, approved, or disbursed  
14          during the period beginning on the date of enact-  
15          ment of this Act and ending on September 30, 2012.

16 **SEC. 4. REPORTS.**

17          (a) SMALL BUSINESS ADMINISTRATION.—

18                 (1) IN GENERAL.—Not later than 6 months  
19                 after the date of enactment of this Act, and every  
20                 6 months thereafter until March 31, 2013, the Ad-  
21                 ministrator shall submit a report on the implementa-  
22                 tion of the program to—

23                     (A) the Committee on Small Business and  
24                     Entrepreneurship of the Senate; and

1 (B) the Committee on Small Business of  
2 the House of Representatives.

3 (2) CONTENTS.—Each report under paragraph  
4 (1) shall contain—

5 (A) the date on which the program is im-  
6 plemented;

7 (B) the date on which the rules are issued  
8 under section 5; and

9 (C) the number and dollar amount of loans  
10 under section 502 of the Small Business Invest-  
11 ment Act of 1958 (15 U.S.C. 696) applied for,  
12 approved, and disbursed during the 6-month pe-  
13 riod before the date of the report—

14 (i) to assist nonprofit child care busi-  
15 nesses under the program; and

16 (ii) to assist for-profit child care busi-  
17 nesses.

18 (b) GOVERNMENT ACCOUNTABILITY OFFICE.—

19 (1) IN GENERAL.—Not later than March 31,  
20 2012, the Comptroller General of the United States  
21 shall submit a report on the program to—

22 (A) the Committee on Small Business and  
23 Entrepreneurship of the Senate; and

24 (B) the Committee on Small Business of  
25 the House of Representatives.

1           (2) CONTENTS.—The report under paragraph  
2 (1) shall contain information gathered during the  
3 first 2 years of the program, including—

4           (A) an evaluation of the timeliness of the  
5 implementation of the program;

6           (B) a description of the effectiveness and  
7 ease with which development companies, lend-  
8 ers, and small business concerns have partici-  
9 pated in the program;

10          (C) a description and assessment of how  
11 the program was marketed;

12          (D) the number of small child care busi-  
13 nesses in each State and in the United States,  
14 categorized by status as a for-profit or non-  
15 profit business, that—

16           (i) applied for a loan under section  
17 502 of the Small Business Investment Act  
18 of 1958 (15 U.S.C. 696) (and, for each  
19 such business, whether the business was a  
20 new or expanding small child care busi-  
21 ness;

22           (ii) were approved for a loan under  
23 section 502 of that Act; and

24           (iii) received a loan disbursement  
25 under section 502 of that Act (and, for

1 each such business, whether the business  
2 was a new or expanding small child care  
3 business); and

4 (E) categorized by status as a for-profit or  
5 nonprofit business—

6 (i) with respect to small child care  
7 businesses described under subparagraph  
8 (D)(iii), the number of such businesses in  
9 each State, as of the year of enactment of  
10 this Act;

11 (ii) the total amount loaned to small  
12 child care businesses under section 502 of  
13 the Small Business Investment Act of  
14 1958 (15 U.S.C. 696);

15 (iii) the total number of loans to small  
16 child care businesses under section 502 of  
17 that Act;

18 (iv) the average amount and term of  
19 loans to small child care businesses under  
20 section 502 of that Act;

21 (v) the currency rate, delinquencies,  
22 defaults, and losses of loans to small child  
23 care businesses under section 502 of that  
24 Act;

1 (vi) the number and percent of chil-  
2 dren who receive subsidized assistance that  
3 are served using a loan to a small child  
4 care business under section 502 of that  
5 Act; and

6 (vii) the number and percent of chil-  
7 dren who are low income that are served  
8 using a loan to a small child care business  
9 under section 502 of that Act.

10 (3) ACCESS TO INFORMATION.—

11 (A) IN GENERAL.—The Administrator  
12 shall collect and maintain such information as  
13 may be necessary to carry out this subsection  
14 from development companies and small child  
15 care businesses, and such companies and busi-  
16 nesses shall comply with a request for informa-  
17 tion from the Administration for that purpose.

18 (B) PROVISION OF INFORMATION TO GOV-  
19 ERNMENT ACCOUNTABILITY OFFICE.—The Ad-  
20 ministration shall provide information collected  
21 under this paragraph to the Comptroller Gen-  
22 eral of the United States for purposes of the re-  
23 port required under this subsection.

1 **SEC. 5. RULEMAKING AUTHORITY.**

2       Not later than 120 days after the date of enactment  
3 of this Act, the Administrator shall issue final rules to  
4 carry out the loan program authorized under section  
5 502(b)(1)(B) of the Small Business Investment Act of  
6 1958, as added by this Act.

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