

Calendar No. 204

112TH CONGRESS
1ST SESSION**S. 1723**

To provide for teacher and first responder stabilization.

IN THE SENATE OF THE UNITED STATES

OCTOBER 17, 2011

Mr. MENENDEZ (for himself, Ms. STABENOW, Mr. CASEY, Mr. REID, Mr. HARKIN, Mr. LEAHY, Mr. BLUMENTHAL, and Mrs. FEINSTEIN) introduced the following bill; which was read the first time

OCTOBER 18, 2011

Read the second time and placed on the calendar

A BILL

To provide for teacher and first responder stabilization.

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 “Teachers and First
5 Responders Back to Work Act of 2011”.

1 **TITLE I—TEACHER**
2 **STABILIZATION**

3 **SEC. 101. PURPOSE.**

4 The purpose of this title is to provide funds to States
5 to prevent teacher layoffs and support the creation of ad-
6 ditional jobs in public early childhood, elementary, and
7 secondary education in the 2011–2012 and 2012–2013
8 school years.

9 **SEC. 102. GRANTS FOR THE OUTLYING AREAS AND THE**
10 **SECRETARY OF THE INTERIOR; AVAILABILITY**
11 **OF FUNDS.**

12 (a) **RESERVATION OF FUNDS.**—From the amount ap-
13 propriated to carry out this title under section 111, the
14 Secretary—

15 (1) shall reserve up to one-half of one percent
16 to provide assistance to the outlying areas on the
17 basis of their respective needs, as determined by the
18 Secretary, for activities consistent with this part
19 under such terms and conditions as the Secretary
20 may determine;

21 (2) shall reserve up to one-half of one percent
22 to provide assistance to the Secretary of the Interior
23 to carry out activities consistent with this part, in
24 schools operated or funded by the Bureau of Indian
25 Education; and

1 (3) may reserve up to \$2,000,000 for adminis-
2 tration and oversight of this part, including program
3 evaluation.

4 (b) AVAILABILITY OF FUNDS.—Funds made avail-
5 able under section 111 shall remain available to the Sec-
6 retary until September 30, 2012.

7 **SEC. 103. STATE ALLOCATION.**

8 (a) ALLOCATION.—After reserving funds under sec-
9 tion 102(a), the Secretary shall allocate to the States—

10 (1) 60 percent on the basis of their relative
11 population of individuals aged 5 through 17; and

12 (2) 40 percent on the basis of their relative
13 total population.

14 (b) AWARDS.—From the funds allocated under sub-
15 section (a), the Secretary shall make a grant to the Gov-
16 ernor of each State who submits an approvable application
17 under section 104.

18 (c) ALTERNATE DISTRIBUTION OF FUNDS.—

19 (1) IN GENERAL.—If, within 30 days after the
20 date of enactment of this Act, a Governor has not
21 submitted an approvable application to the Sec-
22 retary, the Secretary shall, consistent with para-
23 graph (2), provide for funds allocated to that State
24 to be distributed to another entity or other entities
25 in the State for the support of early childhood, ele-

1 mentary, and secondary education, under such terms
2 and conditions as the Secretary may establish.

3 (2) MAINTENANCE OF EFFORT.—

4 (A) GOVERNOR ASSURANCE.—The Sec-
5 retary shall not allocate funds under paragraph
6 (1) unless the Governor of the State provides
7 an assurance to the Secretary that the State
8 will, for fiscal years 2012 and 2013, meet the
9 requirements of section 108.

10 (B) SPECIAL RULE.—Notwithstanding sub-
11 paragraph (A), the Secretary may allocate up to
12 50 percent of the funds that are available to the
13 State under paragraph (1) to another entity or
14 entities in the State, provided that the State
15 educational agency submits data to the Sec-
16 retary demonstrating that the State will for fis-
17 cal year 2012 meet the requirements of section
18 108(a) or the Secretary otherwise determines
19 that the State will meet those requirements, or
20 such comparable requirements as the Secretary
21 may establish, for that year.

22 (3) REQUIREMENTS.—An entity that receives
23 funds under paragraph (1) shall use those funds in
24 accordance with the requirements of this title.

1 (d) REALLOCATION.—If a State does not receive
2 funding under this title or only receives a portion of its
3 allocation under subsection (c), the Secretary shall reallo-
4 cate the State’s entire allocation or the remaining portion
5 of its allocation, as the case may be, to the remaining
6 States in accordance with subsection (a).

7 **SEC. 104. STATE APPLICATION.**

8 The Governor of a State desiring to receive a grant
9 under this title shall submit an application to the Sec-
10 retary within 30 days of the date of enactment of this Act,
11 in such manner, and containing such information, as the
12 Secretary may reasonably require to determine the State’s
13 compliance with applicable provisions of law.

14 **SEC. 105. STATE RESERVATION AND RESPONSIBILITIES.**

15 (a) RESERVATION.—Each State receiving a grant
16 under section 103(b) may reserve—

17 (1) not more than 10 percent of the grant
18 funds for awards to State-funded early learning pro-
19 grams; and

20 (2) not more than 2 percent of the grant funds
21 for the administrative costs of carrying out its re-
22 sponsibilities under this title.

23 (b) STATE RESPONSIBILITIES.—Each State receiving
24 a grant under this title shall, after reserving any funds
25 under subsection (a)—

1 (1) use the remaining grant funds only for
2 awards to local educational agencies for the support
3 of early childhood, elementary, and secondary edu-
4 cation; and

5 (2) distribute those funds, through subgrants,
6 to its local educational agencies by distributing—

7 (A) 60 percent on the basis of the local
8 educational agencies' relative shares of enroll-
9 ment; and

10 (B) 40 percent on the basis of the local
11 educational agencies' relative shares of funds
12 received under part A of title I of the Elemen-
13 tary and Secondary Education Act of 1965 for
14 fiscal year 2011; and

15 (3) make those funds available to local edu-
16 cational agencies no later than 100 days after receiv-
17 ing a grant from the Secretary.

18 (c) PROHIBITIONS.—A State shall not use funds re-
19 ceived under this title to directly or indirectly—

20 (1) establish, restore, or supplement a rainy-day
21 fund;

22 (2) supplant State funds in a manner that has
23 the effect of establishing, restoring, or
24 supplementing a rainy-day fund;

1 (3) reduce or retire debt obligations incurred by
2 the State; or

3 (4) supplant State funds in a manner that has
4 the effect of reducing or retiring debt obligations in-
5 curred by the State.

6 **SEC. 106. LOCAL EDUCATIONAL AGENCIES.**

7 Each local educational agency that receives a
8 subgrant under this title—

9 (1) shall use the subgrant funds only for com-
10 pensation and benefits and other expenses, such as
11 support services, necessary to retain existing employ-
12 ees, recall or rehire former employees, or hire new
13 employees to provide early childhood, elementary, or
14 secondary educational and related services;

15 (2) shall obligate those funds no later than Sep-
16 tember 30, 2013; and

17 (3) may not use those funds for general admin-
18 istrative expenses or for other support services or ex-
19 penditures, as those terms are defined by the Na-
20 tional Center for Education Statistics in the Com-
21 mon Core of Data, as of the date of enactment of
22 this Act.

23 **SEC. 107. EARLY LEARNING.**

24 Each State-funded early learning program that re-
25 ceives funds under this title shall—

1 (1) use those funds only for compensation, ben-
2 efits, and other expenses, such as support services,
3 necessary to retain early childhood educators, recall
4 or rehire former early childhood educators, or hire
5 new early childhood educators to provide early learn-
6 ing services; and

7 (2) obligate those funds no later than Sep-
8 tember 30, 2013.

9 **SEC. 108. MAINTENANCE OF EFFORT.**

10 (a) The Secretary shall not allocate funds to a State
11 under this title unless the State provides an assurance to
12 the Secretary that—

13 (1) for State fiscal year 2012—

14 (A) the State will maintain State support
15 for early childhood, elementary, and secondary
16 education (in the aggregate or on the basis of
17 expenditure per pupil) and for public institu-
18 tions of higher education (not including support
19 for capital projects or for research and develop-
20 ment or tuition and fees paid by students) at
21 not less than the level of such support for each
22 of the 2 categories for State fiscal year 2011;
23 or

24 (B) the State will maintain State support
25 for early childhood, elementary, and secondary

1 education and for public institutions of higher
2 education (not including support for capital
3 projects or for research and development or tui-
4 tion and fees paid by students) at a percentage
5 of the total revenues available to the State that
6 is equal to or greater than the percentage pro-
7 vided for State fiscal year 2011; and

8 (2) for State fiscal year 2013—

9 (A) the State will maintain State support
10 for early childhood, elementary, and secondary
11 education (in the aggregate or on the basis of
12 expenditure per pupil) and for public institu-
13 tions of higher education (not including support
14 for capital projects or for research and develop-
15 ment or tuition and fees paid by students) at
16 not less than the level of such support for each
17 of the two categories for State fiscal year 2012;
18 or

19 (B) the State will maintain State support
20 for early childhood, elementary, and secondary
21 education and for public institutions of higher
22 education (not including support for capital
23 projects or for research and development or tui-
24 tion and fees paid by students) at a percentage
25 of the total revenues available to the State that

1 is equal to or greater than the percentage pro-
2 vided for State fiscal year 2012.

3 (b) WAIVER.—The Secretary may waive the require-
4 ments of this section if the Secretary determines that a
5 waiver would be equitable due to—

6 (1) exceptional or uncontrollable circumstances,
7 such as a natural disaster; or

8 (2) a precipitous decline in the financial re-
9 sources of the State.

10 **SEC. 109. REPORTING.**

11 Each State that receives a grant under this title shall
12 submit, on an annual basis, a report to the Secretary that
13 contains—

14 (1) a description of how funds received under
15 this part were expended or obligated; and

16 (2) an estimate of the number of jobs supported
17 by the State using funds received under this title.

18 **SEC. 110. DEFINITIONS.**

19 In this title:

20 (1) Except as otherwise provided, the terms
21 “local educational agency”, “outlying area”, “Sec-
22 retary”, “State”, and “State educational agency”
23 have the meanings given those terms in section 9101
24 of the Elementary and Secondary Education Act of
25 1965 (20 U.S.C. 7801).

1 (2) The term “State” does not include an out-
2 lying area.

3 (3) The term “early childhood educator” means
4 an individual who—

5 (A) works directly with children in a State-
6 funded early learning program in a low-income
7 community;

8 (B) is involved directly in the care, devel-
9 opment, and education of infants, toddlers, or
10 young children age five and under; and

11 (C) has completed a baccalaureate or ad-
12 vanced degree in early childhood development or
13 early childhood education, or in a field related
14 to early childhood education.

15 (4) The term “State-funded early learning pro-
16 gram” means a program that provides educational
17 services to children from birth to kindergarten entry
18 and receives funding from the State.

19 **SEC. 111. AUTHORIZATION OF APPROPRIATIONS.**

20 There are authorized to be appropriated, and there
21 are appropriated, \$30,000,000,000 to carry out this title
22 for fiscal year 2012.

1 **TITLE II—FIRST RESPONDER**
2 **STABILIZATION**

3 **SEC. 201. PURPOSE.**

4 The purpose of this title is to provide funds to States
5 and localities to prevent layoffs of, and support the cre-
6 ation of additional jobs for, law enforcement officers and
7 other first responders.

8 **SEC. 202. GRANT PROGRAM.**

9 The Attorney General shall carry out a competitive
10 grant program pursuant to section 1701 of title I of the
11 Omnibus Crime Control and Safe Streets Act of 1968 (42
12 U.S.C. 3796dd) for hiring, rehiring, or retention of career
13 law enforcement officers under part Q of such title. Grants
14 awarded under this section shall not be subject to sub-
15 sections (g) or (i) of section 1701 or to section 1704 of
16 such Act (42 U.S.C. 3796dd–3(c)).

17 **SEC. 203. APPROPRIATIONS.**

18 There are hereby appropriated to the Community
19 Oriented Policing Stabilization Fund out of any money in
20 the Treasury not otherwise obligated, \$5,000,000,000, to
21 remain available until September 30, 2012, of which
22 \$4,000,000,000 shall be for the Attorney General to carry
23 out the competitive grant program under section 202; and
24 of which \$1,000,000,000 shall be transferred by the Attor-
25 ney General to a First Responder Stabilization Fund from

1 which the Secretary of Homeland Security shall make
 2 competitive grants for hiring, rehiring, or retention pursu-
 3 ant to the Federal Fire Prevention and Control Act of
 4 1974 (15 U.S.C. 2201 et seq.), to carry out section 34
 5 of such Act (15 U.S.C. 2229a). In making such grants,
 6 the Secretary may grant waivers from the requirements
 7 in subsections (a)(1)(A), (a)(1)(B), (a)(1)(E), (c)(1),
 8 (c)(2), and (c)(4)(A) of section 34. Of the amounts appro-
 9 priated herein, not to exceed \$8,000,000 shall be for ad-
 10 ministrative costs of the Attorney General, and not to ex-
 11 ceed \$2,000,000 shall be for administrative costs of the
 12 Secretary of Homeland Security.

13 **TITLE III—SURTAX ON**
 14 **MILLIONAIRES**

15 **SEC. 301. SURTAX ON MILLIONAIRES.**

16 (a) IN GENERAL.—Subchapter A of chapter 1 of the
 17 Internal Revenue Code of 1986 is amended by adding at
 18 the end the following new part:

19 **“PART VIII—SURTAX ON MILLIONAIRES**

“Sec. 59B. Surtax on millionaires.

20 **“SEC. 59B. SURTAX ON MILLIONAIRES.**

21 “(a) GENERAL RULE.—In the case of a taxpayer
 22 other than a corporation for any taxable year beginning
 23 after 2012, there is hereby imposed (in addition to any
 24 other tax imposed by this subtitle) a tax equal to 0.5 per-

1 cent of so much of the modified adjusted gross income
2 of the taxpayer for such taxable year as exceeds
3 \$1,000,000 (\$500,000, in the case of a married individual
4 filing a separate return).

5 “(b) INFLATION ADJUSTMENT.—

6 “(1) IN GENERAL.—In the case of any taxable
7 year beginning after 2013, each dollar amount under
8 subsection (a) shall be increased by an amount equal
9 to—

10 “(A) such dollar amount, multiplied by

11 “(B) the cost-of-living adjustment deter-
12 mined under section 1(f)(3) for the calendar
13 year in which the taxable year begins, deter-
14 mined by substituting ‘calendar year 2011’ for
15 ‘calendar year 1992’ in subparagraph (B)
16 thereof.

17 “(2) ROUNDING.—If any amount as adjusted
18 under paragraph (1) is not a multiple of \$10,000,
19 such amount shall be rounded to the next highest
20 multiple of \$10,000.

21 “(c) MODIFIED ADJUSTED GROSS INCOME.—For
22 purposes of this section, the term ‘modified adjusted gross
23 income’ means adjusted gross income reduced by any de-
24 duction (not taken into account in determining adjusted
25 gross income) allowed for investment interest (as defined

1 in section 163(d)). In the case of an estate or trust, ad-
2 justed gross income shall be determined as provided in sec-
3 tion 67(e).

4 “(d) SPECIAL RULES.—

5 “(1) NONRESIDENT ALIEN.—In the case of a
6 nonresident alien individual, only amounts taken
7 into account in connection with the tax imposed
8 under section 871(b) shall be taken into account
9 under this section.

10 “(2) CITIZENS AND RESIDENTS LIVING
11 ABROAD.—The dollar amount in effect under sub-
12 section (a) shall be decreased by the excess of—

13 “(A) the amounts excluded from the tax-
14 payer’s gross income under section 911, over

15 “(B) the amounts of any deductions or ex-
16 clusions disallowed under section 911(d)(6)
17 with respect to the amounts described in sub-
18 paragraph (A).

19 “(3) CHARITABLE TRUSTS.—Subsection (a)
20 shall not apply to a trust all the unexpired interests
21 in which are devoted to one or more of the purposes
22 described in section 170(c)(2)(B).

23 “(4) NOT TREATED AS TAX IMPOSED BY THIS
24 CHAPTER FOR CERTAIN PURPOSES.—The tax im-
25 posed under this section shall not be treated as tax

1 imposed by this chapter for purposes of determining
2 the amount of any credit under this chapter or for
3 purposes of section 55.”.

4 (b) CLERICAL AMENDMENT.—The table of parts for
5 subchapter A of chapter 1 of the Internal Revenue Code
6 of 1986 is amended by adding at the end the following
7 new item:

“PART VIII. SURTAX ON MILLIONAIRES.”.

8 (c) SECTION 15 NOT TO APPLY.—The amendment
9 made by subsection (a) shall not be treated as a change
10 in a rate of tax for purposes of section 15 of the Internal
11 Revenue Code of 1986.

12 (d) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 2012.

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1ST Session
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A BILL

To provide for teacher and first responder
stabilization.

OCTOBER 18, 2011

Read the second time and placed on the calendar