

117TH CONGRESS
1ST SESSION

S. 686

To amend the Internal Revenue Code of 1986 to address the teacher and school leader shortage in early childhood, elementary, and secondary education, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 10, 2021

Mr. DURBIN (for himself, Ms. BALDWIN, and Ms. SMITH) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to address the teacher and school leader shortage in early childhood, elementary, and secondary education, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Retaining Educators
5 Takes Added Investment Now Act” or the “RETAIN
6 Act”.

1 **SEC. 2. PURPOSE.**

2 The purpose of this Act is to create a refundable tax
3 credit for early childhood educators, teachers, early child-
4 hood education program directors, school leaders, and
5 school-based mental health services providers in early
6 childhood, elementary, and secondary education settings
7 that rewards retention based on the time spent serving
8 high-need students.

9 **SEC. 3. FINDINGS.**

10 Congress finds the following:

11 (1) The shortage of experienced, qualified early
12 childhood educators and elementary school and sec-
13 ondary school teachers is a national problem that
14 compromises the academic outcomes and long-term
15 success of students.

16 (2) The shortage is the result of many factors
17 including low pay, frequent turnover in school lead-
18 ership, poor teaching conditions, and inadequate
19 teacher supports.

20 (3) The shortage is worse in high-poverty areas
21 where the factors contributing to the shortage are
22 particularly acute and have an increased negative
23 impact on teachers of color remaining in the field.

24 (4) A child's access to high-quality early child-
25 hood education is critical to supporting positive out-
26 comes, and early childhood educators—

1 (A) play an important role in setting the
2 foundation for future learning, and

3 (B) promote the development of vital skills,
4 habits, and mindsets that children need to be
5 successful in school and in life.

6 (5) In 2019, the national median pay of early
7 childhood educators was a mere \$30,520, with many
8 early childhood educators relying on government as-
9 sistance programs such as Medicaid, the supple-
10 mental nutrition assistance program established
11 under the Food and Nutrition Act of 2008 (7 U.S.C.
12 2011 et seq.), or the temporary assistance for needy
13 families program established under part A of title IV
14 of the Social Security Act (42 U.S.C. 601 et seq.),
15 and struggling to provide for their own families.

16 (6) Studies have demonstrated that well-quali-
17 fied, experienced teachers are the single most impor-
18 tant school-based element contributing to a child's
19 academic achievement and success.

20 (7) In 2019, the average teacher salary in pub-
21 lic elementary schools and secondary schools was
22 only \$64,470, which is on average 19.2 percent less
23 than other college graduates working in non-teach-
24 ing fields, and with many teachers struggling with
25 large amounts of student loan debt.

1 (8) An experienced, well-qualified education
2 workforce must also be reflective of the diversity of
3 the student body across race, ethnicity, and dis-
4 ability.

5 (9) Experienced, well-qualified school leaders
6 and school-based mental health service providers are
7 essential for providing strong educational opportuni-
8 ties and services for students and promoting teacher
9 retention through improved professional supports
10 and teaching conditions.

11 (10) In 2020, surveys found nearly 27 percent
12 of educators were considering leaving teaching due
13 to the COVID–19 pandemic, including 55 percent of
14 teachers with more than 30 years of experience.

15 **SEC. 4. REFUNDABLE TAX CREDIT FOR TEACHER AND**
16 **SCHOOL LEADER RETENTION.**

17 (a) IN GENERAL.—Subpart C of part IV of sub-
18 chapter A of chapter 1 of subtitle A of the Internal Rev-
19 enue Code of 1986 is amended by inserting after section
20 36B the following new section:

21 **“SEC. 36C. TEACHER AND SCHOOL LEADER RETENTION**
22 **CREDIT.**

23 “(a) ALLOWANCE OF CREDIT.—

24 “(1) IN GENERAL.—In the case of an individual
25 who is employed in a position described in paragraph

(2) during a school year ending with or within the taxable year, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the applicable amount (as determined under subsection (b)).

“(2) ELIGIBLE POSITIONS.—The positions described in this paragraph shall consist of the following:

“(A) An eligible early childhood educator.

“(B) An eligible early childhood education program director.

“(C) An eligible early childhood education provider.

“(D) An eligible teacher.

“(E) An eligible paraprofessional.

“(F) An eligible school-based mental health services provider.

“(G) An eligible school leader.

“(b) APPLICABLE AMOUNT.—

“(1) IN GENERAL.—For purposes of this section, the applicable amount shall be an amount determined based on the number of school years for which the individual has been continuously employed in any position described in subsection (a)(2), as follows:

1 “(A) Subject to paragraph (2), for the first
2 year of employment, \$5,800.

3 “(B) For the second continuous year of
4 employment, \$5,800.

5 “(C) For the third and fourth continuous
6 year of employment, \$7,000.

7 “(D) For the fifth, sixth, seventh, eighth,
8 and ninth continuous year of employment,
9 \$8,700.

10 “(E) For the tenth continuous year of em-
11 ployment, \$11,600.

12 “(F) For the eleventh, twelfth, thirteenth,
13 fourteenth, and fifteenth continuous year of em-
14 ployment, \$8,700.

15 “(G) For the sixteenth continuous year of
16 employment, \$7,000.

17 “(H) For the seventeenth, eighteenth,
18 nineteenth, and twentieth continuous year of
19 employment, \$5,800.

20 “(2) FIRST YEAR.—For purposes of the first
21 year of employment ending with or within a taxable
22 year, an individual must have been so employed for
23 a period of not less than 4 months before the first
24 day of such taxable year.

1 “(3) LIMITATION BASED ON TOTAL NUMBER OF
 2 SCHOOL YEARS.—In the case of any individual who
 3 has been employed in any position described in sub-
 4 section (a)(2) for a total of more than 20 school
 5 years, the applicable amount shall be reduced to
 6 zero.

7 “(c) INFLATION ADJUSTMENT.—

8 “(1) IN GENERAL.—In the case of any taxable
 9 year beginning after 2022, each of the dollar
 10 amounts in subsection (b)(1) shall be increased by
 11 an amount equal to—

12 “(A) such dollar amount, multiplied by

13 “(B) the cost-of-living adjustment deter-
 14 mined under section 1(f)(3) for such calendar
 15 year by substituting ‘calendar year 2021’ for
 16 ‘calendar year 2016’ in subparagraph (A)(ii)
 17 thereof.

18 “(2) ROUNDING.—If any increase determined
 19 under paragraph (1) is not a multiple of \$100, such
 20 increase shall be rounded to the nearest multiple of
 21 \$100.

22 “(d) SUPPLEMENTING, NOT SUPPLANTING, STATE
 23 AND LOCAL EDUCATION FUNDS.—

24 “(1) IN GENERAL.—A State educational agency
 25 or local educational agency shall not reduce or ad-

1 just any compensation, or any assistance provided
2 through a loan forgiveness program, to an employee
3 of the State educational agency or local educational
4 agency who serves in any position described in sub-
5 section (a)(2) due to the individual's eligibility for
6 the credit under this section.

7 “(2) METHODOLOGY.—Upon request by the
8 Secretary of Education, a State educational agency
9 or local educational agency shall reasonably dem-
10 onstrate that the methodology used to allocate
11 amounts for compensation and for loan forgiveness
12 to the employees described in paragraph (1) at
13 qualifying schools or qualifying early childhood edu-
14 cation programs ensures that employees at each
15 qualifying school or qualifying early childhood edu-
16 cation program in the State or served by the local
17 educational agency, respectively, receive the same
18 amount of State or local funds for compensation and
19 loan forgiveness that the qualifying school or quali-
20 fying early childhood education program would re-
21 ceive if the credit under this section had not been
22 enacted.

23 “(e) INFORMATION SHARING.—The Secretary of
24 Education and the Secretary of Health and Human Serv-
25 ices shall provide the Secretary with such information as

1 is necessary for purposes of determining whether an early
 2 childhood education program or an elementary school or
 3 secondary school satisfies the requirements for a quali-
 4 fying early childhood education program or a qualifying
 5 school, respectively.

6 “(f) DEFINITIONS.—For purposes of this section—

7 “(1) ESEA DEFINITIONS.—The terms ‘elemen-
 8 tary school’, ‘local educational agency’, ‘secondary
 9 school’, and ‘State educational agency’ have the
 10 meanings given the terms in section 8101 of the Ele-
 11 mentary and Secondary Education Act of 1965 (20
 12 U.S.C. 7801).

13 “(2) ELIGIBLE EARLY CHILDHOOD EDUCATION
 14 PROGRAM DIRECTOR.—The term ‘eligible early child-
 15 hood education program director’ means an em-
 16 ployee or officer of a qualifying early childhood edu-
 17 cation program who is responsible for the daily in-
 18 structional leadership and managerial operations of
 19 such program.

20 “(3) ELIGIBLE EARLY CHILDHOOD EDUCATION
 21 PROVIDER.—The term ‘eligible early childhood edu-
 22 cation provider’ means an individual—

23 “(A) who—

1 “(i) has an associate’s degree or high-
 2 er degree in early childhood education or a
 3 related field, or

4 “(ii) is enrolled during the taxable
 5 year in a program leading to such an asso-
 6 ciate’s or higher degree and is making sat-
 7 isfactory progress toward such degree, and

8 “(B) who is responsible for the daily in-
 9 structional leadership and managerial oper-
 10 ations of a qualifying early childhood education
 11 program in a home-based setting.

12 “(4) ELIGIBLE EARLY CHILDHOOD EDUCA-
 13 TOR.—The term ‘eligible early childhood educator’
 14 means an individual—

15 “(A) who—

16 “(i) has an associate’s degree or high-
 17 er degree in early childhood education or a
 18 related field, or

19 “(ii) is enrolled during the taxable
 20 year in a program leading to such an asso-
 21 ciate’s or higher degree and is making sat-
 22 isfactory progress toward such degree,

23 “(B) who has credentials or a license
 24 under State law for early childhood education,
 25 as applicable, and

1 “(C) whose primary responsibility is for
2 the learning and development of children in a
3 qualifying early childhood education program
4 during the taxable year.

5 “(5) ELIGIBLE PARAPROFESSIONAL.—The term
6 ‘eligible paraprofessional’ means an individual—

7 “(A) who is a paraprofessional, as defined
8 in section 3201 of the Elementary and Sec-
9 ondary Education Act of 1965 (20 U.S.C.
10 7011),

11 “(B) who meets the applicable State pro-
12 fessional standards and qualifications pursuant
13 to section 1111(g)(2)(M) of such Act (20
14 U.S.C. 6311(g)(2)(M)),

15 “(C) whose primary responsibilities involve
16 working or assisting in a classroom setting, and

17 “(D) who is employed in a qualifying
18 school or a qualifying early childhood education
19 program.

20 “(6) ELIGIBLE SCHOOL-BASED MENTAL
21 HEALTH SERVICES PROVIDER.—The term ‘eligible
22 school-based mental health services provider’ means
23 an individual—

1 “(A) described in section 4102(6) of the
2 Elementary and Secondary Education Act of
3 1965 (20 U.S.C. 7112(6)), and

4 “(B) who is employed in a qualifying
5 school or a qualifying early childhood education
6 program.

7 “(7) ELIGIBLE SCHOOL LEADER.—The term
8 ‘eligible school leader’ means a principal, assistant
9 principal, or other individual who is—

10 “(A) an employee or officer of a qualifying
11 school, and

12 “(B) responsible for the daily instructional
13 leadership and managerial operations in the
14 qualifying school.

15 “(8) ELIGIBLE TEACHER.—The term ‘eligible
16 teacher’ means an individual who—

17 “(A) is an elementary school or secondary
18 school teacher who, as determined by the State
19 or local educational agency, is a teacher of
20 record who provides direct classroom teaching
21 (or classroom-type teaching in a nonclassroom
22 setting) to students in a qualifying school, and

23 “(B) meets applicable State certification
24 and licensure requirements, including any re-
25 quirements for certification obtained through

1 alternative routes to certification, in the State
2 in which such school is located and in the sub-
3 ject area in which the individual is the teacher
4 of record.

5 “(9) QUALIFYING EARLY CHILDHOOD EDU-
6 CATION PROGRAM.—

7 “(A) IN GENERAL.—The term ‘qualifying
8 early childhood education program’ means an
9 early childhood education program, as defined
10 in section 103 of the Higher Education Act of
11 1965 (20 U.S.C. 1003), that, regardless of set-
12 ting—

13 “(i) serves children who receive serv-
14 ices for which financial assistance is pro-
15 vided in accordance with the Child Care
16 and Development Block Grant Act of 1990
17 (42 U.S.C. 9857 et seq.), the Head Start
18 Act (42 U.S.C. 9831 et seq.), or the child
19 and adult care food program established
20 under section 17 of the Richard B. Russell
21 National School Lunch Act (42 U.S.C.
22 1766), and

23 “(ii) participates in a State tiered and
24 transparent system for measuring program
25 quality.

“(B) SPECIAL RULE.—Notwithstanding subparagraph (A), an early childhood program that does not satisfy the requirements of subparagraph (A)(ii) shall be deemed to be a qualifying early childhood education program until September 30, 2021, if the program—

“(i) satisfies all requirements of subparagraph (A) except for clause (ii) of such subparagraph, and

“(ii)(I) meets the Head Start program performance standards described in section 641A(a) of the Head Start Act (42 U.S.C. 9836a(a)), if applicable, or

“(II) is accredited by a national accreditor of early learning programs as of the date of enactment of the Retaining Educators Takes Added Investment Now Act.

“(10) QUALIFYING SCHOOL.—The term ‘qualifying school’ means—

“(A) a public elementary school or secondary school that—

“(i) is in the school district of a local educational agency that is eligible for assistance under part A of title I of the Ele-

1 elementary and Secondary Education Act of
 2 1965 (20 U.S.C. 6311 et seq.), or

3 “(ii) is served or operated by an edu-
 4 cational service agency that is eligible for
 5 such assistance, or

6 “(B) an elementary school or secondary
 7 school that is funded by the Bureau of Indian
 8 Education and that is in the school district of
 9 a local educational agency that is eligible for
 10 such assistance.”.

11 (b) W-2 REPORTING OF CONTINUOUS EMPLOYMENT
 12 FOR CERTAIN POSITIONS AT QUALIFYING EARLY CHILD-
 13 HOOD EDUCATION PROGRAMS OR QUALIFYING
 14 SCHOOLS.—Section 6051(a) of the Internal Revenue Code
 15 of 1986 is amended by striking “and” at the end of para-
 16 graph (16), by striking the period at the end of paragraph
 17 (17) and inserting “, and”, and by inserting after para-
 18 graph (17) the following new paragraph:

19 “(18) in the case of an employee who is em-
 20 ployed in a position described in subsection (a)(2) of
 21 section 36C, the number of school years for which
 22 such employee has been continuously employed in
 23 any such position.”.

24 (c) CONFORMING AMENDMENTS.—

1 (1) The table of sections for subpart C of part
 2 IV of subchapter A of chapter 1 of subtitle A of the
 3 Internal Revenue Code of 1986 is amended by in-
 4 serting after the item relating to section 36B the fol-
 5 lowing:

“Sec. 36C. Teacher and school leader retention credit.”.

6 (2) Section 6211(b)(4)(A) of such Code is
 7 amended by inserting “36C,” after “36B,”.

8 (3) Paragraph (2) of section 1324(b) of title
 9 31, United States Code, is amended by inserting
 10 “36C,” after “36B,”.

11 (d) EFFECTIVE DATE.—The amendments made by
 12 this section shall apply to taxable years beginning after
 13 December 31, 2021.

14 **SEC. 5. DEVELOPING INTERAGENCY DATA SERIES.**

15 The Secretary of Labor, in coordination with the Sec-
 16 retary of the Treasury, the Secretary of Education, and
 17 the Secretary of Health and Human Services, shall—

18 (1) develop and publish on the internet website
 19 of the Bureau of Labor Statistics a data series that
 20 captures—

21 (A) the average base salary of teachers in
 22 elementary schools and secondary schools,
 23 disaggregated by—

24 (i) employment in public elementary
 25 schools and secondary schools that receive

1 assistance under part A of title I of the El-
2 elementary and Secondary Education Act of
3 1965 (20 U.S.C. 6311 et seq.),
4 (ii) employment in public elementary
5 schools and secondary schools that do not
6 receive such assistance, and
7 (iii) geographic region, and
8 (B) the average base salary of early child-
9 hood educators, disaggregated by highest level
10 of degree attained, and
11 (2) update the data series under paragraph (1)
12 on an annual basis.

○