

Calendar No. **204**112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION**S. 1723**

To provide for teacher and first responder stabilization.

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## 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

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**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.





Calendar No. 204

112<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**S. 1723**

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**A BILL**

To provide for teacher and first responder  
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