

118TH CONGRESS  
1ST SESSION

# S. 1567

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.

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## IN THE SENATE OF THE UNITED STATES

MAY 11, 2023

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

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## 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 2021, the national median pay of early  
7 childhood educators was a mere \$30,210, 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 the 2021–2022 academic year, the aver-  
21 age teacher salary in public elementary schools and  
22 secondary schools was only \$66,397, a 2 percent in-  
23 crease from the previous academic year. When ad-  
24 justed for inflation, the average teacher salary has  
25 declined by 6.4 percent over the past decade.

1           (8) On average, public elementary school and  
2 secondary school teachers were paid 23.5 percent  
3 less than other college graduates working in non-  
4 teaching fields, and many teachers struggle with  
5 large amounts of student loan debt.

6           (9) In 2021, the average teacher salary for a  
7 first-year teacher in a public elementary school or  
8 secondary school was \$41,770.

9           (10) An experienced, well-qualified education  
10 workforce must also be reflective of the diversity of  
11 the student body across race, ethnicity, and dis-  
12 ability.

13           (11) Higher pay for teachers can result in a  
14 more diverse teacher workforce, and minority stu-  
15 dents often perform better on standardized tests,  
16 have improved attendance, and are suspended less  
17 frequently when they have at least one same-race  
18 teacher.

19           (12) Experienced, well-qualified school leaders  
20 and school-based mental health service providers are  
21 essential for providing strong educational opportuni-  
22 ties and services for students and promoting teacher  
23 retention through improved professional supports  
24 and teaching conditions.

1           (13) Between February 2020 and May 2022, at  
 2           least 300,000 teachers at public elementary schools  
 3           and secondary schools left the field, a nearly 3 per-  
 4           cent decline in the teacher workforce.

5 **SEC. 4. REFUNDABLE TAX CREDIT FOR TEACHER AND**  
 6 **SCHOOL LEADER RETENTION.**

7           (a) IN GENERAL.—Subpart C of part IV of sub-  
 8           chapter A of chapter 1 of subtitle A of the Internal Rev-  
 9           enue Code of 1986 is amended by inserting after section  
 10          36B the following new section:

11 **“SEC. 36C. TEACHER AND SCHOOL LEADER RETENTION**  
 12 **CREDIT.**

13          “(a) ALLOWANCE OF CREDIT.—

14                 “(1) IN GENERAL.—In the case of an individual  
 15                 who is employed in a position described in paragraph  
 16                 (2) during a school year ending with or within the  
 17                 taxable year, there shall be allowed as a credit  
 18                 against the tax imposed by this subtitle for the tax-  
 19                 able year an amount equal to the applicable amount  
 20                 (as determined under subsection (b)).

21                 “(2) ELIGIBLE POSITIONS.—The positions de-  
 22                 scribed in this paragraph shall consist of the fol-  
 23                 lowing:

24                         “(A) An eligible early childhood educator.

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

3           “(C) An eligible early childhood education  
4 provider.

5           “(D) An eligible teacher.

6           “(E) An eligible paraprofessional.

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

9           “(G) An eligible school leader.

10          “(b) APPLICABLE AMOUNT.—

11           “(1) IN GENERAL.—For purposes of this sec-  
12 tion, the applicable amount shall be an amount de-  
13 termined based on the number of school years for  
14 which the individual has been continuously employed  
15 in any position described in subsection (a)(2), as fol-  
16 lows:

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

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

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

23           “(D) For the fifth, sixth, seventh, eighth,  
24 and ninth continuous year of employment,  
25 \$8,700.

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

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

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

8           “(H) For the seventeenth, eighteenth,  
9           nineteenth, and twentieth continuous year of  
10          employment, \$5,800.

11          “(2) FIRST YEAR.—For purposes of the first  
12          year of employment ending with or within a taxable  
13          year, an individual must have been so employed for  
14          a period of not less than 4 months before the first  
15          day of such taxable year.

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

22          “(c) INFLATION ADJUSTMENT.—

23          “(1) IN GENERAL.—In the case of any taxable  
24          year beginning after 2024, each of the dollar

1 amounts in subsection (b)(1) shall be increased by  
2 an amount equal to—

3 “(A) such dollar amount, multiplied by

4 “(B) the cost-of-living adjustment deter-  
5 mined under section 1(f)(3) for such calendar  
6 year by substituting ‘calendar year 2023’ for  
7 ‘calendar year 2016’ in subparagraph (A)(ii)  
8 thereof.

9 “(2) ROUNDING.—If any increase determined  
10 under paragraph (1) is not a multiple of \$100, such  
11 increase shall be rounded to the nearest multiple of  
12 \$100.

13 “(d) SUPPLEMENTING, NOT SUPPLANTING, STATE  
14 AND LOCAL EDUCATION FUNDS.—

15 “(1) IN GENERAL.—A State educational agency  
16 or local educational agency shall not reduce or ad-  
17 just any compensation, or any assistance provided  
18 through a loan forgiveness program, to an employee  
19 of the State educational agency or local educational  
20 agency who serves in any position described in sub-  
21 section (a)(2) due to the individual’s eligibility for  
22 the credit under this section.

23 “(2) METHODOLOGY.—Upon request by the  
24 Secretary of Education, a State educational agency  
25 or local educational agency shall reasonably dem-



1       onstrate that the methodology used to allocate  
2       amounts for compensation and for loan forgiveness  
3       to the employees described in paragraph (1) at  
4       qualifying schools or qualifying early childhood edu-  
5       cation programs ensures that employees at each  
6       qualifying school or qualifying early childhood edu-  
7       cation program in the State or served by the local  
8       educational agency, respectively, receive the same  
9       amount of State or local funds for compensation and  
10      loan forgiveness that the qualifying school or quali-  
11      fying early childhood education program would re-  
12      ceive if the credit under this section had not been  
13      enacted.

14      “(e) INFORMATION SHARING.—The Secretary of  
15      Education and the Secretary of Health and Human Serv-  
16      ices shall provide the Secretary with such information as  
17      is necessary for purposes of determining whether an early  
18      childhood education program or an elementary school or  
19      secondary school satisfies the requirements for a quali-  
20      fying early childhood education program or a qualifying  
21      school, respectively.

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

23              “(1) ESEA DEFINITIONS.—The terms ‘elemen-  
24              tary school’, ‘local educational agency’, ‘secondary  
25              school’, and ‘State educational agency’ have the

1 meanings given the terms in section 8101 of the Ele-  
2 mentary and Secondary Education Act of 1965 (20  
3 U.S.C. 7801).

4 “(2) ELIGIBLE EARLY CHILDHOOD EDUCATION  
5 PROGRAM DIRECTOR.—The term ‘eligible early child-  
6 hood education program director’ means an em-  
7 ployee or officer of a qualifying early childhood edu-  
8 cation program who is responsible for the daily in-  
9 structional leadership and managerial operations of  
10 such program.

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

14 “(A) who—

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

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

22 “(B) who is responsible for the daily in-  
23 structional leadership and managerial oper-  
24 ations of a qualifying early childhood education  
25 program in a home-based setting.

1           “(4) ELIGIBLE EARLY CHILDHOOD EDUCA-  
2           TOR.—The term ‘eligible early childhood educator’  
3           means an individual—

4                   “(A) who—

5                           “(i) has an associate’s degree or high-  
6                           er degree in early childhood education or a  
7                           related field, or

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

12                   “(B) who has credentials or a license  
13                   under State law for early childhood education,  
14                   as applicable, and

15                   “(C) whose primary responsibility is for  
16                   the learning and development of children in a  
17                   qualifying early childhood education program  
18                   during the taxable year.

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

21                   “(A) who is a paraprofessional, as defined  
22                   in section 3201 of the Elementary and Sec-  
23                   ondary Education Act of 1965 (20 U.S.C.  
24                   7011),

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

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

7           “(D) who is employed in a qualifying  
8           school or a qualifying early childhood education  
9           program.

10          “(6) ELIGIBLE SCHOOL-BASED MENTAL  
11          HEALTH SERVICES PROVIDER.—The term ‘eligible  
12          school-based mental health services provider’ means  
13          an individual—

14                 “(A) described in section 4102(6) of the  
15                 Elementary and Secondary Education Act of  
16                 1965 (20 U.S.C. 7112(6)), and

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

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

23                 “(A) an employee or officer of a qualifying  
24                 school, and

1           “(B) responsible for the daily instructional  
2 leadership and managerial operations in the  
3 qualifying school.

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

6           “(A) is an elementary school or secondary  
7 school teacher who, as determined by the State  
8 or local educational agency, is a teacher of  
9 record who provides direct classroom teaching  
10 (or classroom-type teaching in a nonclassroom  
11 setting) to students in a qualifying school, and

12           “(B)(i) meets applicable State certification  
13 and licensure requirements, including any re-  
14 quirements for certification obtained through  
15 alternative routes to certification, in the State  
16 in which such school is located and in the sub-  
17 ject area in which the individual is the teacher  
18 of record, or

19           “(ii) is enrolled during the taxable year in  
20 a program leading to State certification and li-  
21 censure as described in clause (i) and is making  
22 satisfactory progress toward such certification  
23 and licensure requirements.

24           “(9) QUALIFYING EARLY CHILDHOOD EDU-  
25 CATION PROGRAM.—

1           “(A) IN GENERAL.—The term ‘qualifying  
2 early childhood education program’ means an  
3 early childhood education program, as defined  
4 in section 103 of the Higher Education Act of  
5 1965 (20 U.S.C. 1003), that, regardless of set-  
6 ting—

7           “(i) serves children who receive serv-  
8 ices for which financial assistance is pro-  
9 vided in accordance with the Child Care  
10 and Development Block Grant Act of 1990  
11 (42 U.S.C. 9857 et seq.), the Head Start  
12 Act (42 U.S.C. 9831 et seq.), or the child  
13 and adult care food program established  
14 under section 17 of the Richard B. Russell  
15 National School Lunch Act (42 U.S.C.  
16 1766), and

17           “(ii) participates in a State tiered and  
18 transparent system for measuring program  
19 quality.

20           “(B) SPECIAL RULE.—Notwithstanding  
21 subparagraph (A), an early childhood education  
22 program that does not satisfy the requirements  
23 of subparagraph (A)(ii) shall be deemed to be  
24 a qualifying early childhood education program  
25 until September 30, 2023, if the program—

1 “(i) satisfies all requirements of sub-  
2 paragraph (A) except for clause (ii) of  
3 such subparagraph, and

4 “(ii)(I) meets the Head Start program  
5 performance standards described in section  
6 641A(a) of the Head Start Act (42 U.S.C.  
7 9836a(a)), if applicable, or

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

13 “(10) QUALIFYING SCHOOL.—The term ‘quali-  
14 fying school’ means—

15 “(A) a public elementary school or sec-  
16 ondary school that—

17 “(i) is in the school district of a local  
18 educational agency that is eligible for as-  
19 sistance under part A of title I of the Ele-  
20 mentary and Secondary Education Act of  
21 1965 (20 U.S.C. 6311 et seq.), or

22 “(ii) is served or operated by an edu-  
23 cational service agency that is eligible for  
24 such assistance, or

1           “(B) an elementary school or secondary  
2           school that is funded by the Bureau of Indian  
3           Education and that is in the school district of  
4           a local educational agency that is eligible for  
5           such assistance.”.

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

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

19           (c) CONFORMING AMENDMENTS.—

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

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



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

3           (3) Paragraph (2) of section 1324(b) of title  
4 31, United States Code, is amended by inserting  
5 “36C,” after “36B,”.

6           (d) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to taxable years beginning after  
8 December 31, 2023.

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

10          The Secretary of Labor, in coordination with the Sec-  
11 retary of the Treasury, the Secretary of Education, and  
12 the Secretary of Health and Human Services, shall—

13           (1) develop and publish on the internet website  
14 of the Bureau of Labor Statistics a data series that  
15 captures—

16           (A) the average base salary of teachers in  
17 elementary schools and secondary schools,  
18 disaggregated by—

19           (i) employment in public elementary  
20 schools and secondary schools that receive  
21 assistance under part A of title I of the El-  
22 elementary and Secondary Education Act of  
23 1965 (20 U.S.C. 6311 et seq.),

1                   (ii) employment in public elementary  
2                   schools and secondary schools that do not  
3                   receive such assistance, and

4                   (iii) geographic region, and

5                   (B) the average base salary of early child-  
6                   hood educators, disaggregated by highest level  
7                   of degree attained, and

8                   (2) update the data series under paragraph (1)  
9                   on an annual basis.

○