

**AMENDMENT TO H.R. 3094, AS REPORTED
OFFERED BY MR. HOLT OF NEW JERSEY**

Strike all after the enacting clause and insert the following:

1 SECTION 1. PURPOSE.

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

**7 SEC. 2. GRANTS FOR THE OUTLYING AREAS AND THE SEC-
8 RETARY OF THE INTERIOR; AVAILABILITY OF
9 FUNDS.**

10 (a) RESERVATION OF FUNDS.—From the amount
11 made available to carry out this Act under section 11, the
12 Secretary of Education—

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

1 (2) shall reserve up to one-half of one percent
2 to provide assistance to the Secretary of the Interior
3 to carry out activities consistent with this Act, in
4 schools operated or funded by the Bureau of Indian
5 Education; and

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

9 (b) AVAILABILITY OF FUNDS.—Funds made avail-
10 able under section 11 shall remain available to the Sec-
11 retary until September 30, 2012.

12 **SEC. 3. STATE ALLOCATION.**

13 (a) ALLOCATION.—After reserving funds under sec-
14 tion 3(a), the Secretary shall allocate the remaining funds
15 made available under section 11 to States, of which—

16 (1) 60 percent shall be allocated to States on
17 the basis of their relative population of individuals
18 aged 5 through 17; and

19 (2) 40 percent shall be allocated to States on
20 the basis of their relative total population.

21 (b) AWARDS.—The Secretary shall award a State's
22 allocation under subsection (a) to the Governor of the
23 State only if the Secretary has approved the State's appli-
24 cation under section 4.

25 (c) ALTERNATE DISTRIBUTION OF FUNDS.—

1 (1) IN GENERAL.—If, within 30 days after the
2 date of enactment of this Act, a Governor has not
3 submitted an approvable application to the Sec-
4 retary, the Secretary shall, consistent with para-
5 graph (2), provide for funds allocated to that State
6 to be distributed to another entity or other entities
7 in the State for the support of early childhood, ele-
8 mentary, and secondary education, under such terms
9 and conditions as the Secretary may establish.

10 (2) MAINTENANCE OF EFFORT.—

11 (A) GOVERNOR ASSURANCE.—The Sec-
12 retary shall not allocate funds under paragraph
13 (1) unless the Governor of the State provides
14 an assurance to the Secretary that the State
15 will for fiscal years 2012 and 2013 meet the re-
16 quirements of section 8.

17 (B) ALLOCATIONS TO OTHER ENTITIES.—
18 Notwithstanding subparagraph (A), the Sec-
19 retary may allocate up to 50 percent of the
20 funds that are available to the State under
21 paragraph (1) to another entity or entities in
22 the State, provided that the State educational
23 agency submits data to the Secretary dem-
24 onstrating that the State will for fiscal year
25 2012 meet the requirements of section 8(a) or

1 the Secretary otherwise determines that the
2 State will meet those requirements, or such
3 comparable requirements as the Secretary may
4 establish, for that year.

5 (3) REQUIREMENTS.—An entity that receives
6 funds under paragraph (1) shall use those funds in
7 accordance with the requirements of this Act.

8 (d) REALLOCATION.—If a State does not receive
9 funding under this Act or only receives a portion of its
10 allocation under subsection (c), the Secretary shall reallo-
11 cate the State’s entire allocation or the remaining portion
12 of its allocation, as the case may be, to the remaining
13 States in accordance with subsection (a).

14 **SEC. 4. STATE APPLICATION.**

15 The Governor of a State desiring to receive a grant
16 under this Act shall submit an application to the Secretary
17 within 30 days of the date of enactment of this Act, in
18 such manner, and containing such information as the Sec-
19 retary may reasonably require to determine the State’s
20 compliance with applicable provisions of law.

21 **SEC. 5. STATE RESERVATION AND RESPONSIBILITIES.**

22 (a) RESERVATION.—Each State receiving a grant
23 under section 3(b) may reserve—

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

4 (2) not more than 2 percent of the grant funds
5 for the administrative costs of carrying out its re-
6 sponsibilities under this Act.

7 (b) STATE RESPONSIBILITIES.—Each State receiving
8 a grant under this Act shall, after reserving any funds
9 under subsection (a)—

10 (1) use the remaining grant funds only for
11 awards to local educational agencies for the support
12 of early childhood, elementary, and secondary edu-
13 cation; and

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

16 (A) 60 percent on the basis of the local
17 educational agencies' relative shares of enroll-
18 ment; and

19 (B) 40 percent on the basis of the local
20 educational agencies' relative shares of funds
21 received under part A of title I of the Elemen-
22 tary and Secondary Education Act of 1965 for
23 fiscal year 2011; and

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

4 (c) PROHIBITIONS.—A State shall not use funds re-
5 ceived under this Act to directly or indirectly—

6 (1) establish, restore, or supplement a rainy-day
7 fund;

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

11 (3) reduce or retire debt obligations incurred by
12 the State; or

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

16 **SEC. 6. LOCAL EDUCATIONAL AGENCIES.**

17 Each local educational agency that receives a
18 subgrant under this Act—

19 (1) shall use the subgrant funds only for com-
20 pensation and benefits and other expenses, such as
21 support services, necessary to retain existing employ-
22 ees, recall or rehire former employees, or hire new
23 employees to provide early childhood, elementary, or
24 secondary educational and related services;

1 (2) shall obligate those funds not later than
2 September 30, 2013; and

3 (3) may not use those funds for general admin-
4 istrative expenses or for other support services or ex-
5 penditures, as those terms are defined by the Na-
6 tional Center for Education Statistics in the Com-
7 mon Core of Data, as of the date of enactment of
8 this Act.

9 **SEC. 7. EARLY LEARNING.**

10 Each State-funded early learning program that re-
11 ceives funds under this Act shall—

12 (1) use those funds only for compensation, ben-
13 efits, and other expenses, such as support services,
14 necessary to retain early childhood educators, recall
15 or rehire former early childhood educators, or hire
16 new early childhood educators to provide early learn-
17 ing services; and

18 (2) obligate those funds not later than Sep-
19 tember 30, 2013.

20 **SEC. 8. MAINTENANCE OF EFFORT.**

21 (a) **REQUIREMENT.**—The Secretary shall not allocate
22 funds to a State under this Act unless the State provides
23 an assurance to the Secretary that—

24 (1) for State fiscal year 2012—

1 (A) the State will maintain State support
2 for early childhood, elementary, and secondary
3 education (in the aggregate or on the basis of
4 expenditure per pupil) and for public institu-
5 tions of higher education (not including support
6 for capital projects or for research and develop-
7 ment or tuition and fees paid by students) at
8 not less than the level of such support for each
9 of the two categories for State fiscal year 2011;
10 or

11 (B) the State will maintain State support
12 for early childhood, elementary, and secondary
13 education and for public institutions of higher
14 education (not including support for capital
15 projects or for research and development or tui-
16 tion and fees paid by students) at a percentage
17 of the total revenues available to the State that
18 is equal to or greater than the percentage pro-
19 vided for State fiscal year 2011; and
20 (2) for State fiscal year 2013—

21 (A) the State will maintain State support
22 for early childhood, elementary, and secondary
23 education (in the aggregate or on the basis of
24 expenditure per pupil) and for public institu-
25 tions of higher education (not including support

1 for capital projects or for research and develop-
2 ment or tuition and fees paid by students) at
3 not less than the level of such support for each
4 of the two categories for State fiscal year 2012;
5 or

6 (B) the State will maintain State support
7 for early childhood, elementary, and secondary
8 education and for public institutions of higher
9 education (not including support for capital
10 projects or for research and development or tui-
11 tion and fees paid by students) at a percentage
12 of the total revenues available to the State that
13 is equal to or greater than the percentage pro-
14 vided for State fiscal year 2012.

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

18 (1) exceptional or uncontrollable circumstances,
19 such as a natural disaster; or

20 (2) a precipitous decline in the financial re-
21 sources of the State.

22 **SEC. 9. REPORTING.**

23 Each State that receives a grant under this Act shall
24 submit, on an annual basis, a report to the Secretary that
25 contains—

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

3 (2) an estimate of the number of jobs supported
4 by the State using funds received under this Act.

5 **SEC. 10. DEFINITIONS.**

6 In this Act:

7 (1) ESEA DEFINITIONS.—Except as otherwise
8 provided, the terms “local educational agency”,
9 “outlying area”, “Secretary”, “State”, and “State
10 educational agency” have the meanings given those
11 terms in section 9101 of the Elementary and Sec-
12 ondary Education Act of 1965 (20 U.S.C. 7801).

13 (2) STATE.—The term “State” does not include
14 an outlying area.

15 (3) EARLY CHILD EDUCATOR.—The term
16 “early childhood educator” means an individual
17 who—

18 (A) works directly with children in a State-
19 funded early learning program in a low-income
20 community;

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

24 (C) has completed a baccalaureate or ad-
25 vanced degree in early childhood development or

1 early childhood education, or in a field related
2 to early childhood education.

3 (4) STATE-FUNDED EARLY LEARNING PRO-
4 GRAM.—The term “State-funded early learning pro-
5 gram” means a program that provides educational
6 services to children from birth to kindergarten entry
7 and receives funding from a State.

8 **SEC. 11. AUTHORIZATION OF APPROPRIATIONS.**

9 There are authorized to be appropriated
10 \$30,000,000,000 for fiscal year 2012 to carry out this
11 Act.

