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 to prevent teacher layoffs and support the creation of additional jobs in public early childhood, elementary, and secondary education in the 2011–2012 and 2012–2013 school years.

SEC. 2. GRANTS FOR THE OUTLYING AREAS AND THE SECRETARY OF THE INTERIOR; AVAILABILITY OF FUNDS.

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

(1) shall reserve up to one-half of one percent to provide assistance to the outlying areas on the basis of their respective needs, as determined by the Secretary, for activities consistent with this Act under such terms and conditions as the Secretary may determine;
(2) shall reserve up to one-half of one percent to provide assistance to the Secretary of the Interior to carry out activities consistent with this Act, in schools operated or funded by the Bureau of Indian Education; and 

(3) may reserve up to $2,000,000 for administration and oversight of this Act, including program evaluation.

(b) AVAILABILITY OF FUNDS.—Funds made available under section 11 shall remain available to the Secretary until September 30, 2012.

SEC. 3. STATE ALLOCATION.

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

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

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

(b) AWARDS.—The Secretary shall award a State’s allocation under subsection (a) to the Governor of the State only if the Secretary has approved the State’s application under section 4.

(c) ALTERNATE DISTRIBUTION OF FUNDS.—
IN GENERAL.—If, within 30 days after the date of enactment of this Act, a Governor has not submitted an approvable application to the Secretary, the Secretary shall, consistent with paragraph (2), provide for funds allocated to that State to be distributed to another entity or other entities in the State for the support of early childhood, elementary, and secondary education, under such terms and conditions as the Secretary may establish.

MAINTENANCE OF EFFORT.—

(A) GOVERNOR ASSURANCE.—The Secretary shall not allocate funds under paragraph (1) unless the Governor of the State provides an assurance to the Secretary that the State will for fiscal years 2012 and 2013 meet the requirements of section 8.

(B) ALLOCATIONS TO OTHER ENTITIES.—Notwithstanding subparagraph (A), the Secretary may allocate up to 50 percent of the funds that are available to the State under paragraph (1) to another entity or entities in the State, provided that the State educational agency submits data to the Secretary demonstrating that the State will for fiscal year 2012 meet the requirements of section 8(a) or
the Secretary otherwise determines that the
State will meet those requirements, or such
comparable requirements as the Secretary may
establish, for that year.

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

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

SEC. 4. STATE APPLICATION.

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

SEC. 5. STATE RESERVATION AND RESPONSIBILITIES.

(a) RESERVATION.—Each State receiving a grant
under section 3(b) may reserve—
(1) not more than 10 percent of the grant funds for awards to State-funded early learning programs; and

(2) not more than 2 percent of the grant funds for the administrative costs of carrying out its responsibilities under this Act.

(b) State Responsibilities.—Each State receiving a grant under this Act shall, after reserving any funds under subsection (a)—

(1) use the remaining grant funds only for awards to local educational agencies for the support of early childhood, elementary, and secondary education; and

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

(A) 60 percent on the basis of the local educational agencies’ relative shares of enrollment; and

(B) 40 percent on the basis of the local educational agencies’ relative shares of funds received under part A of title I of the Elementary and Secondary Education Act of 1965 for fiscal year 2011; and
(3) make those funds available to local educational agencies no later than 100 days after receiving a grant from the Secretary.

(e) Prohibitions.—A State shall not use funds received under this Act to directly or indirectly—

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

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

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

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

SEC. 6. LOCAL EDUCATIONAL AGENCIES.

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

(1) shall use the subgrant funds only for compensation and benefits and other expenses, such as support services, necessary to retain existing employees, recall or rehire former employees, or hire new employees to provide early childhood, elementary, or secondary educational and related services;
(2) shall obligate those funds not later than September 30, 2013; and

(3) may not use those funds for general administrative expenses or for other support services or expenditures, as those terms are defined by the National Center for Education Statistics in the Common Core of Data, as of the date of enactment of this Act.

SEC. 7. EARLY LEARNING.

Each State-funded early learning program that receives funds under this Act shall—

(1) use those funds only for compensation, benefits, and other expenses, such as support services, necessary to retain early childhood educators, recall or rehire former early childhood educators, or hire new early childhood educators to provide early learning services; and

(2) obligate those funds not later than September 30, 2013.

SEC. 8. MAINTENANCE OF EFFORT.

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

(1) for State fiscal year 2012—
(A) the State will maintain State support for early childhood, elementary, and secondary education (in the aggregate or on the basis of expenditure per pupil) and for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students) at not less than the level of such support for each of the two categories for State fiscal year 2011; or

(B) the State will maintain State support for early childhood, elementary, and secondary education and for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students) at a percentage of the total revenues available to the State that is equal to or greater than the percentage provided for State fiscal year 2011; and

(2) for State fiscal year 2013—

(A) the State will maintain State support for early childhood, elementary, and secondary education (in the aggregate or on the basis of expenditure per pupil) and for public institutions of higher education (not including support
for capital projects or for research and development or tuition and fees paid by students) at not less than the level of such support for each of the two categories for State fiscal year 2012; or

(B) the State will maintain State support for early childhood, elementary, and secondary education and for public institutions of higher education (not including support for capital projects or for research and development or tuition and fees paid by students) at a percentage of the total revenues available to the State that is equal to or greater than the percentage provided for State fiscal year 2012.

(b) WAIVER.—The Secretary may waive the requirements of this section if the Secretary determines that a waiver would be equitable due to—

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

(2) a precipitous decline in the financial resources of the State.

SEC. 9. REPORTING.

Each State that receives a grant under this Act shall submit, on an annual basis, a report to the Secretary that contains—
(1) a description of how funds received under 
this part were expended or obligated; and 

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

SEC. 10. DEFINITIONS.

In this Act:

(1) ESEA DEFINITIONS.—Except as otherwise 
provided, the terms “local educational agency”, 
“outlying area”, “Secretary”, “State”, and “State 
educational agency” have the meanings given those 
terms in section 9101 of the Elementary and Sec-

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

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

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

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

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

(4) **State-funded early learning program.**—The term “State-funded early learning program” means a program that provides educational services to children from birth to kindergarten entry and receives funding from a State.

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

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