



## **Summary of Education Jobs Fund Provisions in the House Amendment to HR 4899, the FY 10 Emergency Supplemental Appropriations bill**

July 2, 2010

This provision appropriates \$10 billion in Fiscal Year 2010 for an Education Jobs Fund in the U.S. Department of Education (ED). The Secretary within 45 days of enactment must award funds to States that have submitted approvable applications. The application may not require information “beyond what is necessary to determine compliance with applicable provisions of law.”

The \$10 billion is to be distributed subject to conditions described below, under the terms of the State Fiscal Stabilization Fund (SFSF) established by the American Recovery and Reinvestment Act (ARRA) and Title XV of ARRA (Accountability and Transparency requirements).

The \$10 billion shall be allocated by the Secretary of Education as follows:

1. 0.5 percent (\$50 million) to the outlying areas;
2. \$1 million for administration;
3. 0.5 percent (\$50 million) to BIA schools;
4. the remaining \$9.899 billion to the States (defined as the Governor) as under SFSF: 61 percent on the basis of their relative population of individuals aged 5 through 24 and 39 percent on the basis of their relative total population.

Any funds that a Governor does not award to Local Education Agencies (LEAs) within one year of receiving funds must be returned to the Secretary for reallocation to other States.

Any State that has an approved application for SFSF Phase II (as of July 2, 40 states plus DC had such approved applications) is deemed in compliance with the “education reform” assurances contained in ARRA. If within 30 days of enactment, a Governor has not submitted an approvable application, the Secretary shall distribute funds to one or more other entities in the State. However, the Secretary must determine that the Maintenance of Effort (MOE) requirements described below will be met notwithstanding

the lack of an application by the Governor.

Each State may reserve up to 2 percent of its allocation for its administrative costs of carrying out its responsibilities.

States must use their funds “only for awards to [LEAs] for the support of elementary and secondary education” to retain or create education jobs for the 2010-11 school year (or for funds received through state reallocations, for both the 2010-11 and 2011-12 school year).

Governors must distribute funds to LEAs either through “the State's primary elementary and secondary funding formulae” (same as under SFSF) or based on LEAs relative shares of funds under Title I, Part A of ESEA.

A State may not use funds directly or indirectly to: “establish, restore, or supplement a rainy-day fund”, “supplant State funds in a manner that has the effect of establishing, restoring, or supplementing a rainy-day fund”, “reduce or retire debt obligations incurred by the State”, or “supplant State funds in a manner that has the effect of reducing or retiring debt obligations incurred by the State.”

To receive funds a State must meet certain MOE requirements for their State fiscal year 2011 (these MOE requirements are not subject to any waivers by the Secretary):

1. “maintain State support for elementary and secondary education (in the aggregate, or on the basis of expenditures 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, respectively, for State fiscal year 2009”;  
OR
2. “maintain State support for 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 each of the two categories, respectively, for State fiscal year 2010” OR
3. for States that had lower state tax revenues in calendar year 2009 than calendar year 2006, “maintain State support for elementary and secondary education (in the aggregate) 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, respectively, for State fiscal year 2006; ...or at a percentage of the total revenues available to the State that is equal to or greater than the percentage provided for each of the two categories, respectively, for State fiscal year 2006.”

Funds received by LEAs may only be used for “compensation and benefits and other expenses, such as support services, necessary to retain existing employees, to recall or rehire former employees, and to hire new employees, in order to provide early childhood, elementary, or secondary, educational and related services.”

Funds may not be used for "general administrative expenses" or for "other support services expenditures".

LEAs that certified compliance with assurances required by Section 442 of the General Education Provision Act (GEPA) in their previously submitted State application for funds under SFSF do not have to recertify their compliance with such assurances.

It appears that LEAs would have until September 30, 2012 to “obligate” funds based on Sec. 421 of GEPA, which automatically extends the period available for obligation of funds by one additional fiscal year beyond the year in which funds are appropriated.

Other provisions of ARRA applicable to SFSF apply to funds under this bill including:

- SEC. 14008. State Reports
- SEC. 14011. Prohibition on provision of certain assistance.  
“No recipient of funds under this title shall use such funds to provide financial assistance to students to attend private elementary or secondary schools.”
- SEC. 14012. Fiscal Relief. However, the waivers of the MOE requirements applicable to SFSF do not apply to these funds. Thus, no waiver is available for the MOE requirements. Paragraph (D), concerning the Secretary granting approval for LEAs to treat funds received from this program as non-Federal funds for the purpose of any requirement to maintain fiscal effort under any other education program, is still applicable.
- SEC. 14013. Definitions

There are requirements applicable just to the State of Texas:

1. Funds must be allocated to LEAs using their share of Title I funds and shall be used to supplement and not supplant State formula funding.
2. The Governor of Texas must provide an assurance that “the State will for fiscal years 2011, 2012, and 2013 maintain State support for elementary and secondary education at a percentage of the total revenues available to the State that is equal to or greater than the percentage provided for such purpose for fiscal year 2011 prior to the enactment of this Act.”
3. The Secretary shall not distribute funds to another State entity in the absence of an application from the Governor of Texas unless the Governor assures that the State will meet the two above requirements.