



**TO THE HONORABLE MAYOR AND COUNCIL:**

DATE: April 27, 2010

**SUBJECT: ADOPT RESOLUTION No. 10-37 ENDORSING H.R. 4812, THE LOCAL JOBS FOR AMERICA ACT, TO HELP CREATE PUBLIC AND PRIVATE JOBS IN THE LOCAL COMMUNITY**

**Report in Brief**

With states and municipalities facing more potential layoffs amidst budget squeezes, U. S. Representative George Miller, Chair of the House Education and Labor Committee has authored and announced new legislation to create one million public and private sector jobs in local communities. H.R. 4812, entitled “Local Jobs for America Act,” has garnered 145 co-sponsors to date. The National League of Cities, the U.S. Conference of Mayors, and the National Association of Counties, are among those who have endorsed the legislation.

Staff recommends the City Council adopt Resolution No. 10-37 and join the other agencies who have endorsed H.R. 4812 to help create jobs in both the public and private sectors and help restore vital services to the residents of Concord.

**Discussion**

The financial collapse is forcing states and municipalities to cut jobs that are critically important to local communities such as teachers, police officers, firefighters, childcare workers, and others. The City of Concord has not been immune to these cuts. Representative George Miller has authored H.R. 4812 in an attempt to provide \$75 billion over a two year period to local communities to stem planned cuts and to retain workers for local services who may be laid off because of tight budgets. Funding would go directly to eligible local communities and nonprofit community organizations to decide how best to use the funds.

The bill also provides the potential to fund approximately 50,000 additional private-sector on-the-job training positions to help businesses put people back to work. Workers will be able to acquire core job skills and important work experience for private employers. In addition, the City has been advised that H. R. 4812 also includes \$24 billion, already approved by the House in December, to help states support 250,000 education jobs, 5,500 law enforcement officers, and retain, rehire, and hire firefighters.

**ADOPT RESOLUTION No. 10-37 ENDORSING H.R. 4812, THE LOCAL JOBS FOR AMERICA ACT, TO HELP CREATE PUBLIC AND PRIVATE JOBS IN THE LOCAL COMMUNITY**

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**Fiscal Impact**

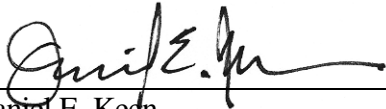
Adoption of this resolution would have no immediate fiscal impact on the City of Concord. If enacted, it is anticipated that this bill would provide financial assistance to the City of Concord and other community agencies. The amount of such assistance is unknown at this time.

**Public Contact**

An addendum to the April 27, 2010 agenda was properly posted to allow the City Council to take action on this item.

**Recommendation for Action**

Staff recommends the City Council adopt Resolution No. 10-37 and join the other agencies who have endorsed H.R. 4812 to help create jobs in both the public and private sectors and help restore vital services to the residents of Concord.



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City Manager

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Attachment No. 1: Resolution No. 10-37

Attachment No. 2: Bill H.R. 4812

**BEFORE THE CITY COUNCIL OF THE CITY OF CONCORD  
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

**A Resolution endorsing H.R. 4812, the Local Jobs  
for America Act, to help create public and private  
jobs in the local community**

**Resolution No. 10-37**

**WHEREAS**, our nation is going through one of the most difficult economic times in its history with the national unemployment rate hovering around 10 percent; and

**WHEREAS**, despite signs of an economic recovery at the national level, economic conditions in cities and towns across the country continue to worsen with more municipal governments facing significant budget shortfalls and increased demand for services; and

**WHEREAS**, the City of Concord employs 603 full-time and part-time workers who provide critical services to our residents ranging from public safety, community and economic development, infrastructure maintenance, trash collection, and waste water treatment; and

**WHEREAS**, the unemployment rate in Contra Costa County has risen to 11.7% effective February, 2010; and

**WHEREAS**, the City of Concord is facing an additional \$12.4 Million budget shortfall over the next two years and may have to choose between laying off employees, eliminating services, and raising taxes to balance its budget; and

**WHEREAS**, such action to counter the recession’s impact on the City of Concord would contribute to an increase in the lack of fiscal stability for this community and further contribute to the nation’s unemployment rate just as the economy begins to recover; and

**WHEREAS**, federal aid will be necessary if the City of Concord is to avoid public service worker layoffs including fire and police, teachers and other important city workers or significant increases in taxes to pay the salaries of these employees.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CONCORD DOES  
RESOLVE AS FOLLOWS:**

**Section 1.** The City Council of City of Concord endorses H.R. 4812, the Local Jobs for America Act, because it will help create one million public and private jobs in local communities this

1 year, including in the City of Concord.

2           **Section 2.**     The City of Concord supports the Local Jobs for America Act because it will  
3 help ensure that our city can continue to provide services essential to families in our community.

4           **Section 3.**     The City of Concord supports H.R. 4812 because it would help prevent state  
5 and local tax increases, while helping governments avoid making the choice between eliminating  
6 services and raising taxes.

7           **Section 4.**     The City of Concord supports H.R. 4812 because it would help stimulate local  
8 businesses and create more jobs in the local economy.

9           **Section 5.**     The City of Concord urges Congress and the President to adopt H.R. 4812 into  
10 law immediately so that cities and towns across America can retain existing employees and provide  
11 employment opportunities in the public and private sectors.

12           **Section 6.** This resolution shall become effective immediately upon its passage and adoption.

13           **PASSED AND ADOPTED** by the City Council of the City of Concord on April 27, 2010 by  
14 the following vote:

15 **AYES:**           Councilmembers -

16 **NOES:**           Councilmembers -

17 **ABSTAIN:**       Councilmembers -

18 **ABSENT:**        Councilmembers -

19           **I HEREBY CERTIFY** that the foregoing Resolution No. 10-37 was duly and regularly  
20 adopted at a regular joint meeting of the City Council and the Redevelopment Agency of the City of  
21 Concord on April 27, 2010.

22  
23 \_\_\_\_\_  
Mary Rae Lehman  
City Clerk

24 **APPROVED AS TO FORM:**

25  
26 \_\_\_\_\_  
27 Craig Labadie  
City Attorney

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**H.R.4812 - Local Jobs for America Act**

To provide funds to States, units of general local government, and community-based organizations to save and create local jobs through the retention, restoration, or expansion of services needed by local communities, and for other purposes.

Display Version **Introduced in House** 

Rollover any line of text to comment and/or link to it.

HR 4812 IH

111th CONGRESS

2d Session

H. R. 4812

To provide funds to States, units of general local government, and community-based organizations to save and create local jobs through the retention, restoration, or expansion of services needed by local communities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

**March 10, 2010**

Mr. GEORGE MILLER of California (for himself, Mr. LARSON of Connecticut, Mr. HARE, Mr. ELLISON, Ms. SUTTON, Mr. PIERLUISI, Mr. SABLAN, Ms. CLARKE, Mr. HASTINGS of Florida, Mr. LEVIN, Mr. RANGEL, Mr. GARAMENDI, Mr. HOLT, Mr. GRIJALVA, Ms. ESHOO, Mr. KILDEE, Ms. MCCOLLUM, Mr. LOEBSACK, Mr. POLIS of Colorado, Mr. DINGELL, and Mr. TIERNEY) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To provide funds to States, units of general local government, and community-based organizations to save and create local jobs through the retention, restoration, or expansion of services needed by local communities, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the 'Local Jobs for America Act'.

**TITLE I--LOCAL COMMUNITY JOBS****SEC. 101. STABILIZATION FUNDING FOR LOCAL JOBS.**

From the amount appropriated under section 111, the Secretary, acting through the Employment and Training Administration of the Department of Labor and in consultation with the Secretary of Housing and Urban Development, shall provide funds to States, units of general local government, and community-based organizations to save and create local jobs through the retention, restoration, or expansion of services needed by local communities.

**SEC. 102. ALLOTMENT FORMULA.**

(a) Reservations by the Secretary- Of the amount appropriated under section 111 for each fiscal year, the Secretary may reserve--

(1) not more than 1 percent to administer this title;

(2) not more than 0.5 percent to award grants, on a competitive basis, to Indian tribes for purposes of this title.

(b) Making Funds Available for Allotment by the Secretary- Of the amounts appropriated under section 111 and not reserved under subsection (a), the Secretary shall make available for allotment the amounts for each fiscal year as follows:

(1) Seventy percent to entitlement communities, of which the Secretary shall make available for allotment--

(A) 25 percent to each entitlement community in an amount which bears the same ratio to the total amount made available under this subparagraph as the population of the entitlement community bears to the total population of all entitlement communities;

(B) 25 percent to each entitlement community in an amount which bears the same ratio to the total amount made available under this subparagraph as the extent of poverty in the entitlement community bears to the extent of poverty in all entitlement communities; and

(C) 50 percent to each entitlement community in an amount which bears the same ratio to the total amount made available under this subparagraph as the number of unemployed individuals in the entitlement community bears to the total number of unemployed individuals in all entitlement communities.

(2) Thirty percent to States, of which the Secretary shall make available for allotment--

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(A) 25 percent to each State in an amount which bears the same ratio to the total amount made available under this subparagraph as the population of the State bears to the total population of all States;

(B) 25 percent to each State in an amount which bears the same ratio to the total amount made available under this subparagraph as the extent of poverty in the State bears to the extent of poverty in all States; and

(C) 50 percent to each State in an amount which bears the same ratio to the total amount made available under this subparagraph as the number of unemployed individuals in the State bears to the total number of unemployed individuals in all States.

(c) Reservation and Allotments by States-

(1) RESERVATION- Of the amount of funds allotted to a State under section 104(c)(1)(A) for each fiscal year, a State may reserve not more than 2 percent for administrative purposes.

(2) ALLOTMENTS BY STATES-

(A) IN GENERAL- A State shall provide all of the funds allotted to the State under section 104(c)(1)(A) that are not reserved under paragraph (1) as follows:

(i) Not more than 50 percent of the funds to units of general local government located in nonentitlement areas of the State to continue to provide employee compensation to employees employed by the unit, as of the date of the enactment of this Act, in positions that--

(I) provide local public services for the unit; and

(II) would otherwise be terminated or reduced as a result of fiscal constraints of such unit.

(ii) Not more than 50 percent of the remainder of the funds (after allotting funds under clause (i)) to community-based organizations to employ individuals newly hired or employed under a contract entered into after the date of the enactment of this Act to provide services or functions that are not customarily provided by a unit of general local government located in a nonentitlement area of the State where such services or functions will be provided by the organization.

(iii) All of the remainder of the funds (after allotting funds under clauses (i) and (ii)) to units of general local government located in nonentitlement areas of the State to provide employee compensation to individuals newly hired to carry out the local public services described in subclauses (I) and (II) of section 104(c)(1)(B)(i) for the unit.

(B) ALLOTMENTS- In allotting funds under subparagraph (A) for a fiscal year, a State shall--

(i) subject to clause (i), provide to units of general local government and community-based organizations located in a non-entitlement area of a Congressional district of the State not less than an amount of funds that bears the same ratio to the total amount made available to be allotted to the State under section 102(b)(2) for such fiscal year as the population of the nonentitlement area of the Congressional district bears to the total population of all nonentitlement areas of the State;

(ii) if the total amount of funds allotted by the Secretary to a State under section 104(c)(1)(A) on behalf of units of general local government and community-based organizations located in the nonentitlement area of a Congressional district of the State is less than the amount to be provided to the units and organizations under clause (i) for such fiscal year, provide to the units and organizations an amount of funds equal to the amount of funds so allotted for such fiscal year; and

(iii) consult with local elected officials from among units of general local government located in nonentitlement areas of such State in determining the method of allotment of such funds.

(d) Rule for Providing Funds to Community-Based Organizations- In providing funds under this Act to community-based organizations, a unit of general local government or State shall, to the extent practicable, give priority to community-based organizations that will provide services or functions in accordance with this Act to--

(1) public use microdata areas that have a poverty rate of 12 percent or more; or

(2) units of general local government that have an unemployment rate that is 2 percent higher than the national unemployment rate.

### **SEC. 103. USES OF FUNDS BY UNITS OF GENERAL LOCAL GOVERNMENT AND COMMUNITY-BASED ORGANIZATIONS.**

(a) Entitlement Communities- Of the amount of funds received under section 104(c)(2) for each fiscal year, a unit of general local government that is an entitlement community--

(1) may use not more than 5 percent for administrative purposes;

(2) may use up to 50 percent of the remainder of such funds (after using the funds pursuant to paragraph (1)) to continue to provide employee compensation to employees employed by the unit, as of the date of the enactment of this Act, in positions that--

(A) provide local public services for the unit; and

(B) would otherwise be terminated or reduced as a result of fiscal constraints of such unit;

(3) may provide up to 50 percent of the remainder of such funds (after using the funds pursuant to paragraphs (1) and (2)) to community-based organization to employ individuals newly hired or employed under a contract entered into after the date of the enactment of this Act to provide services or functions that are not customarily provided by the unit, of which--

(A) not less than 93 percent shall be used to provide employee compensation to such individuals;

(B) not more than 5 percent may be used by the organization for supportive services; and

(C) not more than 2 percent may be used by the organization for administrative purposes; and

(4) shall use all of the remainder of such funds (after using the funds pursuant to paragraphs (1) through (3)), to the extent that the unit determines that it has a need for additional employees, to provide employee compensation to individuals newly hired by the unit to carry out the local public services

described in subclauses (I) and (II) of section 104(c)(1)(B)(i) for the unit.

(b) Nonentitlement Areas- Of the amount of funds received under section 104(c)(2)(B) for each fiscal year--

(1) a unit of general local government that is located in a nonentitlement area of a State--

(A) may use not more than 2 percent for administrative purposes; and

(B) shall use all of the remainder of such funds (after using the funds pursuant to subparagraph (A)) to provide employee compensation to individuals described in clause (i) or (iii) of section 102(c)(2)(A), as determined by the State; and

(2) a community-based organization--

(A) shall use not less than 93 percent to provide employee compensation to individuals described in section 102(c)(2)(A)(ii);

(B) may use up to 5 percent for supportive services; and

(C) may use up to 2 percent for administrative purposes.

(c) Funded Positions; Consultation by Chief Executive Officers-

(1) FUNDED POSITIONS-

(A) FULL-TIME, FULL-YEAR EMPLOYMENT-

(i) IN GENERAL- An individual hired under this title by a unit of general local government or community-based organization shall fill a position that offers full-time, full-year employment.

(ii) DEFINITIONS- For purposes of this subparagraph--

(I) the term 'full-time' when used in relation to employment has the meaning already established or, if the meaning has not been established, determined to be appropriate for purposes of this title, by the unit of general local government or community-based organization hiring an individual under this title; and

(II) the term 'full-year' when used in relation to employment means a position that provides employment for a 12-month period, except that in the case of a position that provides a service required by a unit or organization for only the duration of a school year, the term means a position that provides employment for such duration.

(B) SERVICES FOR UNITS- An individual hired under this title--

(i) by a unit of general local government, shall fill a position to assist the unit in--

(I) restoring local public services terminated within the preceding 5 years;

(II) expanding existing local public services; or

(III) retaining local public services that would otherwise be reduced as a result of the fiscal constraints of such unit; or

(ii) by a community-based organization, shall fill a position to provide services or functions that are not customarily provided by a unit of general local government where such services or functions will be provided by the organization.

(2) CONSULTATION BY CHIEF EXECUTIVE OFFICERS- A chief executive officer of a unit of general local government shall consult with the local community and labor organizations representing employees of such unit in determining the positions that should be funded under this title for such unit for each fiscal year.

## **SEC. 104. STATEMENTS OF NEED; APPROVAL AND ALLOTMENT OF FUNDS.**

(a) Submission of Statements; Notice of Allotment and Intent-

(1) IN GENERAL-

(A) NOTICE OF ALLOCATION- The Secretary shall post on a publicly accessible Internet Web site of the Department of Labor, the total amount of funds made available for allotment under this title for a fiscal year to each unit of general local government that is an entitlement community and each State that is eligible to receive funds under this title for such fiscal year.

(B) SUBMISSION- In order to receive funds under this title for a fiscal year for which funds are appropriated to carry out this title, a unit of general local government, community-based organization, or a State shall submit a statement in accordance with paragraph (2) or (3), as applicable, certifying the information described in subsection (b) for such fiscal year.

(C) NOTICE OF INTENT-

(i) IN GENERAL- Seven days prior to the submission of a statement under subparagraph (B), a unit of general local government that is an entitlement community or State shall publish public notice of the intent to submit a statement under such subparagraph, which includes a copy of the statement.

(ii) INTERNET WEB SITE- In publishing public notice under clause (i), a unit of general local government or State shall post the notice and information described in such clause on a publicly available Internet Web site of the unit or State, as applicable.

(2) ENTITLEMENT COMMUNITIES-

(A) STATEMENTS FROM UNITS- In order to receive funds under this title for a fiscal year for which funds are appropriated to carry out this title, a unit of general local government that is an entitlement community shall submit to the Secretary, at such time and in such manner as determined by the Secretary, a statement that certifies the information described in subsection (b)--

(i) with respect to such unit for such fiscal year; and

(ii) with respect to the community-based organizations the unit plans to fund, using funds the unit receives under this title, for such fiscal year.

(B) STATEMENTS FROM COMMUNITY-BASED ORGANIZATIONS- In order to receive funds for a fiscal year from a unit of general local government that is an entitlement community receiving funds for such fiscal year under this title, a community-based organization shall submit to a unit of general local government that is an entitlement community, at such time and in such manner as determined by the unit, a statement certifying the information

described in subsection (b) with respect to such organization for such fiscal year.

(3) NONENTITLEMENT AREAS-

(A) STATEMENT FROM UNITS AND ORGANIZATIONS- In order to receive funds for a fiscal year from a State receiving funds for such fiscal year under this title, a unit of general local government that is located in a nonentitlement area of the State, or a community-based organization, shall submit to the State, at such time and in such manner as determined by the State, a statement certifying the information described in subsection (b)--

(i) with respect to such unit for such fiscal year; or

(ii) with respect to such organization for such fiscal year.

(B) STATEMENTS FROM STATES- After reviewing the statements received under subparagraph (A) for a fiscal year, a State shall submit to the Secretary, at such time and in such manner as determined by the Secretary, a statement certifying the information described in subsection (b) with respect to the units of general local government and community-based organizations that the State plans to fund, using funds the State receives under this title, for such fiscal year.

(b) Information Certified- A statement submitted under subsection (a) shall certify, with respect to a unit of general local government or community-based organization, as applicable, the following information:

(1) The amount of funds requested by such unit or organization.

(2) The number of individuals who will receive employee compensation with such funds.

(3) The job titles of, and the amount of employee compensation and the employers (units or organizations) for, the positions that will be filled by the individuals.

(4) Whether the positions will--

(A) in the case of employment with a unit, assist in retaining, restoring, or expanding an existing local public service; or

(B) in the case of employment with an organization, provide services or functions that are not customarily provided by a unit that is an entitlement community, or a unit located in a nonentitlement area of a State, where such services or functions will be provided by the organization.

(5) The estimated date of hiring for the positions.

(6) A statement documenting the need for the services to be carried out by the individuals hired for the positions.

(7) In the case of a unit that desires to use funds received under this title to continue to provide employee compensation for existing employees of the unit in accordance with section 102(c)(2)(A)(i) or 103(a)(2), a statement documenting the fiscal constraints of the unit that would result in the termination or reduction of the positions of such employees.

(8) A description of the unit's or organization's plan to target recruitment efforts for positions funded under this title in accordance with section 105(b).

(9) An assurance by the unit or organization that the unit or organization will comply with all provisions of this title.

(10) An assurance by the unit or organization that the unit or organization will comply with all applicable Federal, State, and local labor laws, including laws concerning wages and hours, labor relations, family and medical leave, occupational safety and health, and nondiscrimination.

(c) Approval and Allotment of Funds-

(1) ENTITLEMENT COMMUNITIES- Within 30 days of receipt of a statement submitted under subsection (a)(2)(A) by unit of general local government that is an entitlement community, the Secretary shall allot to the unit the amount of funds requested by the unit for a fiscal year, not to exceed the total amount of funds available to be allotted under section 102(b)(1) to the unit for such fiscal year.

(2) NONENTITLEMENT AREAS-

(A) APPROVAL BY THE SECRETARY- Within 30 days of receipt of a statement submitted under subsection (a)(3)(B) by a State with respect to a unit of general local government located in a nonentitlement area, or a community-based organization to provide services or functions that are not customarily provided by a unit of general local government located in a nonentitlement area where such services or functions will be provided by the organization, for a fiscal year, the Secretary shall allot to the State the amount of funds requested by the State for such unit or organization for such fiscal year, not to exceed the total amount of funds available to be allotted under section 102(b)(2) to the State for such fiscal year.

(B) STATE ALLOTMENT OF FUNDS- Not later than 15 days after receiving an allotment of funds from the Secretary under subparagraph (A), the State shall allot, in accordance with section 102(c)(2), all of the funds to the unit or organization for which such funds were provided by the Secretary under subparagraph (A).

(3) WITHHELD FUNDS- Notwithstanding paragraphs (1) and (2), any funds under this title withheld pursuant to a grievance filed under section 110(b) shall be withheld until such grievance is resolved.

(d) Reallotment of Funds-

(1) UNITS- The funds made available for allotment under this title for a fiscal year for a unit of general local government that is an entitlement community that does not submit, within 6 months after the date the Secretary publishes a notice of allotment under subsection (a)(1)(A) for such unit, to the Secretary a statement under subsection (a) that indicates an intention to hire at least 1 individual under this title for such fiscal year, shall be made available to be reallotted by the Secretary for the fiscal year immediately following such fiscal year, in accordance with the allotment formula under section 102(b)(1).

(2) STATES- The funds made available for allotment under this title for a fiscal year for a State that does not submit, within 6 months after the date the Secretary publishes a notice of allotment under subsection (a)(1)(A) for such State, shall be allotted by the Secretary to units of general local government and community-based organizations located in the nonentitlement area of the State to carry out the purposes of this title for such fiscal year.

**SEC. 105. COMPLIANCE WITH LOCAL LAWS AND CONTRACTS; RECRUITMENT REQUIREMENTS.**

(a) Compliance With Local Laws and Contracts- In hiring individuals for positions funded under this title, or using funds under this title to continue to provide employee compensation for existing employees, a unit of general local government or community-based organization shall comply with all applicable Federal, State, and local laws, personnel policies and regulations, and collective bargaining agreements, as if such individual was hired, or such employee compensation was provided, without assistance under this title.

(b) Targeting Recruitment Efforts- In recruiting individuals for positions funded under this title, a unit of general local government or community-based organization shall target recruitment efforts with respect to individuals who--

(1) have been in receipt of unemployment compensation for at least 25 weeks;

(2) have exhausted unemployment compensation within the last 2 years;

(3) are veterans; or

(4) are unemployed individuals who are not eligible to receive unemployment compensation because they do not have sufficient wages to meet the minimum qualifications for such compensation.

(c) Bonus Grants-

(1) IN GENERAL- From the amounts made available under paragraph (2), the Secretary may award grants to each unit of general local government and each community-based organization where at least 15 percent of the individuals hired for a position under this Act for a fiscal year are individuals described in subsection (b).

(2) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated \$100,000,000 to carry out this subsection for each fiscal year.

**SEC. 106. EMPLOYMENT STATUS AND COMPENSATION.**

(a) Employee Status- An individual hired for a position funded under this title shall--

(1) be considered an employee of the unit of general local government, or community-based organization, by which such individual was hired; and

(2) receive the same employee compensation, have the same rights and responsibilities and job classifications, and be subject to the same job standards, employer policies, and collective bargaining agreements as if such individual was hired without assistance under this title.

(b) Limit on Number of Executive, Administrative, or Professional Positions-

(1) UNITS- Of the total number of positions funded under this title for a fiscal year for each unit of general local government and each community-based organization--

(A) not more than 20 percent shall be in a bona fide executive, administrative, or professional capacity; and

(B) at least 80 percent shall not be in a bona fide executive, administrative, or professional capacity.

(2) DEFINITIONS- For purposes of this subsection, the terms 'bona fide executive', 'bona fide administrative'; and 'bona fide professional' when used in relation to capacity shall have the meanings given such terms under section 13(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 213(a)(1)).

(c) Total Amount of Compensation- For each fiscal year for which funds are appropriated to carry out this title, each unit of general local government and each community-based organization that receives funds under this title for any such fiscal year shall use such funds to provide an amount equal to the total amount of employee compensation for individuals hired under this title.

(d) Limit on Period of Employment- Notwithstanding any agreement or other provision of law (other than those provisions of law pertaining to civil rights in employment), a unit of general local government or community-based organization shall not be obligated to employ the individuals hired under this title or retain the positions filled by such individuals beyond the period for which the unit or organization receives funding under this title.

**SEC. 107. NONDISPLACEMENT.**

(a) Nondisplacement of Existing Employees-

(1) IN GENERAL- Except as provided under sections 102(c)(2)(A)(i) and 103(a)(2), a unit of general local government or community-based organization may not employ an individual for a position funded under this title, if--

(A) employing such individual will result in the layoff or partial displacement (such as a reduction in hours, wages, or employee benefits) of an existing employee of the unit or organization; or

(B) such individual will perform the same or substantially similar work that had previously been performed by an employee of the unit or organization who--

(i) has been laid off or partially displaced (as such term is described in subparagraph (A)); and

(ii) has not been offered by the unit or organization, to be restored to the position the employee had immediately prior to being laid off or partially displaced.

(2) ELIMINATION OF POSITION- For the purposes of this subsection, a position shall be considered to have been eliminated by a unit of general local government or community-based organization if the position has remained unfilled and the unit or organization has not sought to fill such position for at least a period of one month.

(3) PROMOTIONAL OPPORTUNITIES- An individual may not be hired for a position funded under this title in a manner that infringes upon the promotional opportunities of an existing employee (as of the date of such hiring) of a unit or organization receiving funding under this title.

(b) Nondisplacement of Local Government Services- A community-based organization receiving funds under this title may not use such funds to provide services or functions that are customarily provided by a unit of general local government where such services or functions are provided by the

organization.

### **SEC. 108. REPORTING REQUIREMENTS.**

(a) Entitlement Community- A unit of general local government that is an entitlement community that receives funds under this title shall submit, every 90 days during the period the unit receives such funds, to the Secretary, a report that provides--

(1) the status of the unit's compliance with the statement submitted by the unit under section 104(a)(2)(A); and

(2) the status of the compliance of any community-based organization that receives funds from the unit pursuant to this title with the statement submitted by the organization under section 104(a)(2)(B).

(b) Nonentitlement Area-

(1) UNITS AND ORGANIZATIONS- A unit of general local government located in a nonentitlement area of a State that is receiving funds under this title, or a community-based organization that is providing services in a non-entitlement area of such State, shall submit, every 90 days during the period the unit or organization receives funds from the State pursuant to this title, to the State, a report that provides the status of the compliance of the unit or organization with the statements submitted under section 104(a)(3)(A).

(2) STATES- A State shall submit, every 90 days during the period the State receives funds under this title, to the Secretary, a report containing the information received under paragraph (1).

(c) Posting of Reports- Upon receiving the reports submitted under subsections (a) and (b)(2), the Secretary shall post on a publicly accessible Web site of the Department of Labor such reports.

### **SEC. 109. AUDITING BY THE SECRETARY.**

The Secretary shall perform random, periodic audits to determine compliance with this title.

### **SEC. 110. DISPUTE RESOLUTIONS, WHISTLEBLOWER HOTLINE, AND ENFORCEMENT BY THE SECRETARY.**

(a) Establishment of Arbitration Procedure-

(1) IN GENERAL- Each unit of general local government that is an entitlement community and each State that receives funding under this title shall agree to the arbitration procedure described in this subsection to resolve disputes described in subsections (b) and (c).

(2) WRITTEN GRIEVANCES-

(A) IN GENERAL- If an employee (or an employee representative) wishes to use the arbitration procedure described in this subsection, such party shall file a written grievance within the time period required under subsection (b) or (c), as applicable, simultaneously with the chief executive officer of a unit or State involved in the dispute and the Secretary.

(B) IN-PERSON MEETING- Not later than 10 days after the date of the filing of the grievance, the chief executive officer (or the designee of the chief executive officer) shall have an in-person meeting with the party to resolve the grievance.

(3) ARBITRATION-

(A) SUBMISSION- If the grievance is not resolved within the time period described in paragraph (2)(B), a party, by written notice to the other party involved, may submit such grievance to binding arbitration before a qualified arbitrator who is jointly selected and independent of the parties.

(B) APPOINTMENT BY SECRETARY- If the parties cannot agree on an arbitrator within 5 days of submitting the grievance to binding arbitration under subparagraph (A), one of the parties may submit a request to the Secretary to appoint a qualified and independent arbitrator. The Secretary shall appoint a qualified and independent arbitrator within 15 days after receiving the request.

(C) HEARING- Unless the parties mutually agree otherwise, the arbitrator shall conduct a hearing on the grievance and issue a decision not later than 30 days after the date such arbitrator is selected or appointed.

(D) COSTS-

(i) IN GENERAL- Except as provided in clause (ii), the cost of an arbitration proceeding shall be divided evenly between the parties to the arbitration.

(ii) EXCEPTION- If a grievant prevails under an arbitration proceeding, the unit of general local government or State involved in the dispute shall pay the cost of such proceeding, including attorneys' fees.

(b) Disputes Concerning the Allotment of Funds- In the case where a dispute arises as to whether a unit of general local government that is an entitlement community or State has improperly requested funds for services or functions to be provided by a community-based organization that are customarily provided by the unit or, in the case of a State, by a unit located in the nonentitlement area of the State where services or functions will be provided by the organization, an employee or employee representative of the unit or State may file a grievance under subsection (a) not later than 15 days after public notice of an intent to submit a statement under section 104(a) is published in accordance with paragraph (1)(C) of such section. Upon receiving a copy of the grievance, the Secretary shall withhold the funds subject to such grievance, unless and until the grievance is resolved under subsection (a), by the parties or an arbitrator in favor of providing such funding.

(c) All Other Disputes-

(1) IN GENERAL- In the case of a dispute not covered under subsection (b) concerning compliance with the requirements of this title by a unit of general local government that is an entitlement community, State, or community-based organization receiving funds under this title, an employee or employee representative of the unit or State may file a grievance under subsection (a) not later than 90 days after the dispute arises. In such cases, an arbitrator may award such remedies as are necessary to make the grievant whole, including the reinstatement of a displaced employee or the payment of back wages, and may submit recommendations to the Secretary to ensure further compliance with the requirements of this title, including

recommendations to suspend or terminate funding, or to require the repayment of funds received under this title during any period of noncompliance.

(2) EXISTING GRIEVANCE PROCEDURES- A party to a dispute described in paragraph (1) may use the existing grievance procedure of a unit or State involved in such dispute, or the arbitration procedure described in this subsection, to resolve such dispute.

(d) Party Defined- For purposes of subsections (a), (b), and (c), the term 'party' means an employee, employee representative, unit of general local government, or State, involved in a dispute described in subsection (b) or (c).

(e) Whistleblower Hotline; Enforcement by the Secretary-

(1) WHISTLEBLOWER HOTLINE- The Secretary shall post on a publicly accessible Internet Web site of the Department of Labor the contact information for reporting noncompliance with this title by a State, unit of general local government, community-based organization, or individual receiving funding under this title.

(2) ENFORCEMENT BY THE SECRETARY-

(A) IN GENERAL- If the Secretary receives a complaint alleging noncompliance with this title, the Secretary may conduct an investigation and after notice and an opportunity for a hearing, may order such remedies as the Secretary determines appropriate, including--

(i) withholding further funds under this title to a noncompliant entity;

(ii) requiring the entity to make an injured party whole; or

(iii) requiring the entity to repay to the Secretary any funds received under this title during any period of noncompliance.

(B) DEFINITION- For purposes of this paragraph, the term 'entity' means State, unit of general local government, community-based organization, or individual.

(C) RECOMMENDATION BY AN ARBITRATOR- A remedy described in subparagraph (A) may also be ordered by the Secretary upon recommendation by an arbitrator appointed or selected under this section.

## **SEC. 111. AUTHORIZATION OF APPROPRIATIONS.**

There are appropriated such amounts as may be necessary to carry out this title for each fiscal year.

## **SEC. 112. DEFINITIONS.**

In this title:

(1) IN GENERAL- The terms 'city'; 'extent of poverty'; 'metropolitan city'; 'urban county'; 'nonentitlement area'; 'population'; and 'State' have the meanings given the terms in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302).

(2) BENEFITS- The term 'benefits' has the meaning given the term 'employment benefits' in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 2611).

(3) COMMUNITY-BASED ORGANIZATION- The term 'community-based organization' means a private nonprofit organization that--

(A) is representative of a community within a unit of general local government or a significant segment of the community; and

(B) has demonstrated expertise and effectiveness in providing services or functions to the community not customarily provided by the unit.

(4) EMPLOYEE COMPENSATION- The term 'employee compensation' includes wages and benefits.

(5) ENTITLEMENT COMMUNITIES- The term 'entitlement communities' includes metropolitan cities and urban counties.

(6) INDIAN TRIBE- The term 'Indian tribe' has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(7) SECRETARY- The term 'Secretary' means the Secretary of Labor.

(8) SUPPORTIVE SERVICES- The term 'supportive services' means services such as transportation and child care that are necessary to enable an individual to be employed in a position funded under this title.

(9) UNEMPLOYED INDIVIDUAL- The term 'unemployed individual' has the meaning given such term in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801).

(10) UNIT OF GENERAL LOCAL GOVERNMENT- The term 'unit of general local government' means any city, county, town, township, parish, village, or other general purpose political subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa, or a general purpose political subdivision thereof; a combination of such political subdivisions that is recognized by the Secretary; and the District of Columbia.

(11) VETERAN- The term 'veteran' has the meaning given such term in section 101 of the Workforce Investment Act (29 U.S.C. 2801).

(12) WAGE- The term 'wage' has the meaning given such term in section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203).

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2010, and for other purposes, namely:

### **TITLE II--EDUCATION JOBS**

#### **DEPARTMENT OF EDUCATION**

##### **Education Jobs Fund**

For necessary expenses for an Education Jobs Fund, \$23,000,000,000, which shall remain available for obligation through September 30, 2010 and shall be administered under the terms and conditions of sections 14001 through 14013 of title XIV, and title XV, of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), except as follows:

(1) ALLOCATION TO BUREAU OF INDIAN AFFAIRS- From the amount appropriated to carry out this title, the Secretary of Education shall first allocate up to 0.5 percent to the Secretary of the Interior for schools operated or funded by the Bureau of Indian Affairs on the basis of their respective needs for activities consistent with this title under such terms and conditions as the Secretary may determine.

(2) ALLOTMENTS TO STATES AND TERRITORIES- Such funds shall be available only for allocations by the Secretary under subsections (a) and (d) of section 14001.

(3) RESERVATION- With respect to funds appropriated under this heading, a State that receives an allocation may reserve not more than 5 percent for-

(A) the administrative costs of carrying out its responsibilities with respect to those funds, provided the State reserves not more than 1 percent of its total allocation for those costs; and

(B) retaining or creating positions in the State educational agency or the State agency for higher education, and other State agency positions related to the administration or support of early childhood, elementary, secondary or postsecondary education.

(4) AWARDS TO LOCAL EDUCATIONAL AGENCIES AND PUBLIC INSTITUTIONS OF HIGHER EDUCATION-

(A) Except as specified under paragraph (2), an allocation of such funds to a State under section 14001(d) shall be used only for awards to local educational agencies and public institutions of higher education for the support of elementary, secondary, and postsecondary education. The Governor shall determine how the funds appropriated under this heading are allocated for elementary and secondary education and for public institutions of higher education. In making the determination in the preceding sentence, the Governor shall allocate funds among the categories of elementary and secondary education and public institutions of higher education generally in proportion to any reductions in State funds for such categories.

(B) Funds used to support elementary and secondary education shall be distributed through the State's primary elementary and secondary funding formulae.

(C) Section 14002(a) and (b) shall not apply.

(5) REQUIREMENT TO USE FUNDS TO RETAIN OR CREATE EDUCATION JOBS- Notwithstanding sections 14003(a) and 14004(a), such funds may be used only for compensation and benefits and other expenses, such as support services, necessary to retain existing employees, for activities defined in section 101(31) of the Workforce Investment Act of 1998, and to hire new employees in order to provide early childhood, elementary, secondary, or postsecondary educational and related services or for modernization, renovation, and repair of public school facilities and facilities of institutions of higher education.

(6) PROHIBITION ON USE OF FUNDS FOR RAINY-DAY FUNDS OR DEBT RETIREMENT- A State that receives an allocation may not use such funds, directly or indirectly, to establish, restore, or supplement a rainy-day fund, or to supplant State funds in a manner that has the effect of establishing, restoring, or supplementing a rainy-day fund; or to reduce or retire debt obligations incurred by the State, or to supplant State funds in a manner that has the effect of reducing or retiring debt obligations incurred by the State, provided that this prohibition shall not apply to fund balances that are necessary to comply with any State requirement to maintain a balanced budget.

(7) APPLICATION CONSIDERATIONS- If, by a date set by the Secretary, a Governor has not submitted an approvable application under section 14005 (a), the Secretary may provide for the distribution of funds allocated under section 14001(d) to another entity or other entities in the State, under such terms and conditions as the Secretary may establish, provided that all terms and conditions that apply to the appropriation under this heading shall apply to such funds distributed to such entity or entities.

(8) LOCAL EDUCATIONAL AGENCY APPLICATION- Section 442 of the General Education Provisions Act does not apply to a local educational agency that has previously submitted an application to the State under title XIV of division A of the American Recovery and Reinvestment Act of 2009. The assurances provided under that application shall continue to apply to funds awarded under this heading.

(9) MAINTENANCE OF EFFORT- The Secretary shall not allocate funds to a State under paragraph (1) unless the Governor of the State provides an assurance to the Secretary that the State will--

(A) for fiscal year 2010--

(i) maintain State support for elementary, secondary, and public higher education (not including support for capital projects or research and development or tuition and fees paid by students), in the aggregate, at the level of such support for fiscal year 2009; or

(ii) maintain State support for elementary, secondary, and public higher education (not including support for capital projects or research and development or tuition and fees paid by students), in the aggregate, at a level no less than such support for fiscal year 2006, provided that if a State has enacted a reduction to such aggregate level of fiscal year 2010 State support for elementary, secondary, and public higher education after December 12, 2009, the State shall maintain State support for elementary, secondary, and public higher 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 2010 prior to December 12, 2009; and

(B) for fiscal year 2011--

(i) comply with subparagraph (A)(i); or

(ii) maintain State support for elementary, secondary, and public higher education (not including support for capital projects or research and development or tuition and fees paid by students), in the aggregate, 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 2010.

### TITLE III--LAW ENFORCEMENT AND FIREFIGHTER JOBS

#### DEPARTMENT OF JUSTICE

**Community Oriented Policing Services****(including transfer of funds)**

For an additional amount for 'Community Oriented Policing Services', for grants under section 1701 of title I of the 1968 Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3796dd) for hiring and rehiring of additional career law enforcement officers under part Q of such title, notwithstanding subsection (i) of such section, \$1,179,000,000, of which \$2,950,000 shall be transferred to 'State and Local Law Enforcement Activities, Salaries and Expenses' for management, administration and oversight of such grants.

**DEPARTMENT OF HOMELAND SECURITY****Federal Emergency Management Agency****firefighter assistance grants**

For an additional amount for 'Firefighter Assistance Grants' for necessary expenses for programs authorized by section 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229a), \$500,000,000: *Provided*, That notwithstanding any provision under section 34(a)(1)(A) of such Act specifying that grants must be used to increase the number of firefighters in fire departments, the Secretary of Homeland Security, in making grants under section 34 of such Act for fiscal year 2010, shall grant waivers from the requirements of subsections (a)(1)(B), (c)(1), (c)(2), and (c)(4)(A) of such section: *Provided further*, That section 34(a)(1)(E) of such Act shall not apply with respect to funds appropriated in this or any other Act making appropriations for fiscal year 2010 for grants under section 34 of such Act: *Provided further*, That the Secretary of Homeland Security, in making grants under section 34 of such Act, shall ensure that funds appropriated under this or any other Act making appropriations for fiscal year 2010 are made available for the retention of firefighters and shall award grants not later than 120 days after the date of enactment of this Act: *Provided further*, That the Secretary may transfer any unused funds under this heading to make grants for programs authorized by section 33 of such Act (15 U.S.C. 2229) after notification to the Committees on Appropriations of the Senate and the House of Representatives.

**TITLE IV--ON-THE-JOB TRAINING****DEPARTMENT OF LABOR****Employment and Training Administration****training and employment services**

For an additional amount for 'Training and Employment Services' for activities under the Workforce Investment Act of 1998 ('WIA'), \$500,000,000 which shall be available for obligation on the date of enactment of this Act, *Provided*, That such funds shall be used solely for on-the-job training (as such term is defined in section 101(31) of the WIA): *Provided further*, That \$250,000,000 of such amount shall be for such on-the-job training for individuals who reside in local areas that--

(1) have a poverty rate of 12 percent or more for each Public Use Microdata Area (PUMA) in such local area; or

(2) have an unemployment rate that is 2 percent higher than the national unemployment rate.

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