

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 439  
PROPOSED COMMITTEE SUBSTITUTE H439-PCS70221-LR-13

Short Title: Allow EB Look Back/Continue Expenditures 2011.

(Public)

Sponsors:

Referred to:

March 24, 2011

A BILL TO BE ENTITLED

AN ACT AUTHORIZING THE DIRECTOR OF THE BUDGET TO CONTINUE EXPENDITURES FOR THE OPERATION OF GOVERNMENT UNTIL SEPTEMBER 30, 2011, AT THE LEVEL IN EFFECT ON JUNE 30, 2011, AND IMPLEMENTING THE THREE-YEAR LOOK BACK PERIOD FOR FEDERALLY FUNDED EXTENDED UNEMPLOYMENT BENEFITS AS AUTHORIZED BY SECTION 502 OF THE TAX RELIEF, UNEMPLOYMENT INSURANCE REAUTHORIZATION, AND JOB CREATION ACT OF 2010, PUBLIC LAW 111-312, WITH THE AMENDMENTS EFFECTIVE APRIL 16, 2011, AND EXPIRING JANUARY 1, 2012.

The General Assembly of North Carolina enacts:

**BUDGET CONTINUATION**

**SECTION 1.(a)** The Director of the Budget may continue to allot funds for expenditure by State agencies, departments, and institutions, at a level not to exceed the level of recurring expenditures authorized in S.L. 2009-451, as amended, or in S.L. 2010-31, as amended.

**SECTION 1.(b)** The Director of the Budget shall not allocate funds for any of the purposes set out in the budget reductions in House Bill 200, 4th edition.

**SECTION 1.(c)** Vacant positions subject to the proposed budget reductions in House Bill 200, 4th edition, shall not be filled. State employees in positions set out in House Bill 200, 4th edition, to be eliminated for the 2011-2012 fiscal year shall be given notice of termination as required by law.

**SECTION 1.(d)** The appropriations and the authorizations to allocate and spend funds which are set out in this section shall remain in effect until the Current Operations and Capital Improvements Appropriations Act of 2011 (2011 Appropriations Act) becomes law, at which time that act shall become effective and shall govern appropriations and expenditures. When the 2011 Appropriations Act becomes law, the Director of the Budget shall adjust allotments to give effect to that act from July 1, 2011.

**SECTION 1.(e)** Except as otherwise provided by this section, the limitations and directions for the 2010-2011 fiscal year in S.L. 2009-451, as amended, or in S.L. 2010-31, as amended, remain in effect.



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1           **SECTION 1.(f)** There is appropriated from the appropriate State funds and cash  
2 balances, federal receipts, and departmental receipts for the 2011-2012 fiscal year funds  
3 necessary to carry out the provisions of this act.  
4

#### 5 **EMPLOYEE SALARIES**

6           **SECTION 2.(a)** The salary schedules and specific salaries established for the  
7 2010-2011 fiscal year by or under S.L. 2010-31 and in effect on June 30, 2011, or the last day  
8 in pay status during the 2010-2011 fiscal year if earlier, for offices and positions, including  
9 positions in the UNC Health Care System, shall remain in effect and shall not be increased  
10 regardless of funding source of the increase or regardless of the exceptions established in  
11 Section 26.1A of S.L. 2009-451, as amended by S.L. 2009-575, Section 21; S.L. 2010-31,  
12 Section 29.7(c); and S.L. 2010-123, Section 9.2 until the date the 2011 Appropriations Act  
13 becomes law.

14           **SECTION 2.(b)** State employees subject to G.S. 7A-102(c), 7A-171.1, or 20-187.3  
15 shall not move up on salary schedules or receive automatic increases, including automatic step  
16 increases, until authorized by the General Assembly.

17           **SECTION 2.(c)** Public school employees paid on the teacher salary schedule or the  
18 school-based administrator salary schedule and other employees shall not move up on salary  
19 schedules or receive automatic step increases, annual, performance, merit, or other increments  
20 until authorized by the General Assembly.

21           **SECTION 2.(d)** Nothing in this section prohibits a salary reduction when  
22 authorized by the Director of the Budget or other authorized officer.  
23

#### 24 **STATE CONTROLLER SHALL NOT TRANSFER FUNDS ON JUNE 30**

25           **SECTION 3.(a)** Notwithstanding G.S. 143C-4-3, for the 2010-2011 fiscal year  
26 only, funds shall not be reserved to the Repairs and Renovations Reserve Account, and the  
27 State Controller shall not transfer funds from the unreserved credit balance to the Repairs and  
28 Renovations Reserve Account on June 30, 2011.

29           **SECTION 3.(b)** Notwithstanding G.S. 143C-4-2, for the 2010-2011 fiscal year  
30 only, funds shall not be reserved to the Savings Reserve Account, and the State Controller shall  
31 not transfer funds from the unreserved credit balance to the Savings Reserve Account on June  
32 30, 2011.

33           **SECTION 3.(c)** This section becomes effective June 30, 2011.  
34

#### 35 **CERTAIN FUNDS SHALL NOT REVERT**

36           **SECTION 4.(a)** If the provisions of House Bill 200, Fourth Edition, direct that  
37 funds shall not revert, the funds shall not revert on June 30, 2011. Unless these funds are  
38 encumbered on or before June 30, 2011, these funds shall not be expended after June 30, 2011,  
39 except as provided by a law enacted after June 30, 2011.

40           **SECTION 4.(b)** If the provisions of S.L. 2009-451, as amended, or S.L. 2010-31,  
41 as amended, direct that funds appropriated for a purpose shall not revert on June 30, 2010,  
42 funds appropriated for that purpose for the 2010-2011 fiscal year shall not revert on June 30,  
43 2011.

44           **SECTION 4.(c)** This section becomes effective June 30, 2011.  
45

#### 46 **FEDERAL BLOCK GRANTS**

47           **SECTION 5.** The Director of the Budget shall continue to allocate federal block  
48 grant funds at the levels provided in S.L. 2010-31 and as otherwise provided by law, and  
49 appropriations from federal block grants are hereby made.  
50

#### 51 **ENROLLMENT INCREASES**

1           **SECTION 6.** Funds appropriated in this act may be used to fund increases in  
2 average daily membership in public schools and increases in enrollment in the North Carolina  
3 Community College System, and The University of North Carolina.  
4

#### 5 **MEDICAID**

6           **SECTION 7.** The Director of the Budget may use up to one hundred twenty-five  
7 million dollars (\$125,000,000) to repay the federal Centers for Medicare and Medicaid Services  
8 for excess Medicaid funds drawn down during the 2009-2010 fiscal year. The Director of the  
9 Budget shall report the amount of funds used under this section no later than 30 days after  
10 payment to the Joint Legislative Commission on Governmental Operations, the Chairs of the  
11 Senate and House of Representatives Appropriations Committees, and the Fiscal Research  
12 Division.  
13

#### 14 **UNEMPLOYMENT INSURANCE/IMPLEMENT THREE-YEAR LOOK BACK**

15           **SECTION 8.(a)** G.S. 96-12.01(a1)(4)c. is amended by adding a new  
16 sub-sub-subdivision to read:

17                   "3.   This section applies as provided under the Tax Relief,  
18                   Unemployment Insurance Reauthorization, and Job Creation  
19                   Act of 2010 (P.L. 111-312) as it existed on December 17,  
20                   2010, and is applicable to compensation for weeks of  
21                   unemployment beginning after December 17, 2010, and  
22                   ending on or before December 31, 2011, provided that:

23                   I.    The average rate of (i) insured unemployment, not  
24                   seasonally adjusted, equaled or exceeded one hundred  
25                   twenty percent (120%) of the average of such rates for  
26                   the corresponding 13-week period ending in all of the  
27                   preceding three calendar years and equaled or  
28                   exceeded five percent (5%) or (ii) total  
29                   unemployment, seasonally adjusted, as determined by  
30                   the United States Secretary of Labor, for the period  
31                   consisting of the most recent three months for which  
32                   data for all states are published before the close of the  
33                   week equals or exceeds six and one-half percent  
34                   (6.5%); and

35                   II.   The average rate of total unemployment in this State,  
36                   seasonally adjusted, as determined by the United  
37                   States Secretary of Labor, for the three-month period  
38                   referred to in this subsection, equals or exceeds one  
39                   hundred ten percent (110%) of the average for any of  
40                   the corresponding three-month periods ending in the  
41                   three preceding calendar years."

42           **SECTION 8.(b)** G.S. 96-12.01(a1)(4)e. reads as rewritten:

43           "(4) There is an "on indicator" for this State for a week if the Commission  
44 determines, in accordance with the regulations of the United States Secretary  
45 of Labor, that for the period consisting of such week and the immediate  
46 preceding 12 weeks, the rate of insured unemployment (not seasonally  
47 adjusted) under this Chapter:

48           ...

49           e.       Total extended benefit amount.

- 1                                    1.     The total extended benefit amount payment to any eligible  
2                                    individual with respect to the applicable benefit year shall be  
3                                    the least of the following amounts:  
4                                    I.     Fifty percent (50%) of the total amount of regular  
5                                    benefits which were payable to the individual under  
6                                    this Chapter in the individual's applicable benefit year;  
7                                    or  
8                                    II.    Thirteen times the individual's weekly benefit amount  
9                                    that was payable to the individual under this Chapter  
10                                   for a week of total unemployment in the applicable  
11                                   benefit year.
- 12                                  2.     I.     Effective with respect to weeks beginning in a high  
13                                  unemployment period, sub-subdivision e.1. of this  
14                                  subdivision shall be applied by substituting:  
15                                  A.     "Eighty percent (80%)" for "fifty percent  
16                                  (50%)" in sub-subdivision e.1.I., and  
17                                  B.     "Twenty" for "thirteen" in sub-subdivision  
18                                  e.1.II.
- 19                                  II.    For purposes of sub-subdivision 2.I., the term "high  
20                                  unemployment period" means any period during  
21                                  which an extended benefit period would be in effect if  
22                                  sub-subdivision c. of this subdivision were applied by  
23                                  substituting "eight percent (8%)" for six and one-half  
24                                  percent (6.5%).
- 25                                  3.     This subdivision applies as provided under the Tax Relief,  
26                                  Unemployment Insurance Reauthorization, and Job Creation  
27                                  Act of 2010 (P.L. 111-312) as it existed on December 17,  
28                                  2010, and is applicable to compensation for weeks of  
29                                  unemployment beginning after December 17, 2010, and  
30                                  ending on or before December 31, 2011, provided that:
- 31                                  I.     The average rate of total unemployment, seasonally  
32                                  adjusted, as determined by the United States Secretary  
33                                  of Labor, for the period consisting of the most recent  
34                                  three months for which data for all states are  
35                                  published before the close of the week equals or  
36                                  exceeds eight percent (8%); and
- 37                                  II.    The average rate of total unemployment in this State,  
38                                  seasonally adjusted, as determined by the United  
39                                  States Secretary of Labor, for the three-month period  
40                                  referred to in this subdivision equals or exceeds one  
41                                  hundred ten percent (110%) of the average for any of  
42                                  the corresponding three-month periods ending in the  
43                                  three preceding calendar years."

44                                  **SECTION 8.(c)** The intent of this section is to allow extended benefits to be paid  
45 as provided under the Federal Tax Relief, Unemployment Insurance Reauthorization, and Job  
46 Creation Act of 2010 so long as the payment of the benefits does not hinder the State's ability to  
47 reduce the debt it owes the federal government to pay unemployment benefits. It is not the  
48 intent of this section to pay for the extended benefits with contributions paid by employers  
49 under Chapter 96 of the North Carolina General Statutes or with contributions paid by  
50 employers under the federal payroll tax that would otherwise be used to pay down the amount  
51 borrowed from the federal government by the State to pay unemployment benefits. Nothing in

1 this section obligates the State to pay extended benefits provided by this section with  
2 contributions payable under Chapter 96 of the General Statutes or with any other State funds.  
3 This section is null and void if the payment of the benefits would divert federal payroll tax  
4 revenue payable by North Carolina employers that would otherwise be used to pay down the  
5 amount borrowed from the federal government by the State to pay unemployment benefits.

6 **SECTION 8.(d)** This section becomes effective April 16, 2011, and expires  
7 January 1, 2012.

8  
9 **EFFECTIVE DATES**

10 **SECTION 9.** Except as otherwise provided, this act becomes effective July 1,  
11 2011, and expires the earlier of September 30, 2011, at 11:59 P.M. or the date the Current  
12 Operations and Capital Improvements Appropriations Act of 2011 becomes law.