

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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**HOUSE BILL 439
Committee Substitute Favorable 5/25/11**

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.

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

EMPLOYEE SALARIES



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

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

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

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

18 **STATE CONTROLLER SHALL NOT TRANSFER FUNDS ON JUNE 30**

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

23 **SECTION 3.(b)** Notwithstanding G.S. 143C-4-2, for the 2010-2011 fiscal year
24 only, funds shall not be reserved to the Savings Reserve Account, and the State Controller shall
25 not transfer funds from the unreserved credit balance to the Savings Reserve Account on June
26 30, 2011.

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

28 **CERTAIN FUNDS SHALL NOT REVERT**

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

33 **SECTION 4.(b)** If the provisions of S.L. 2009-451, as amended, or S.L. 2010-31,
34 as amended, direct that funds appropriated for a purpose shall not revert on June 30, 2010,
35 funds appropriated for that purpose for the 2010-2011 fiscal year shall not revert on June 30,
36 2011.

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

38 **FEDERAL BLOCK GRANTS**

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

42 **ENROLLMENT INCREASES**

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

46 **MEDICAID**

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

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9 **UNEMPLOYMENT INSURANCE/IMPLEMENT THREE-YEAR LOOK BACK**

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

12 "3. This section applies as provided under the Tax Relief,
13 Unemployment Insurance Reauthorization, and Job Creation
14 Act of 2010 (P.L. 111-312) as it existed on December 17,
15 2010, and is applicable to compensation for weeks of
16 unemployment beginning after December 17, 2010, and
17 ending on or before December 31, 2011, provided that:

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

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

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

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

43 ...

44 e. Total extended benefit amount.

45 1. The total extended benefit amount payment to any eligible
46 individual with respect to the applicable benefit year shall be
47 the least of the following amounts:

48 I. Fifty percent (50%) of the total amount of regular
49 benefits which were payable to the individual under
50 this Chapter in the individual's applicable benefit year;
51 or

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

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

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

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EFFECTIVE DATES

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