

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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HOUSE DRH70282-LR-59A (03/20)

Short Title: Establish e-NC Authority. (Public)

Sponsors: Representative Tolson.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE THE "E-NC" AUTHORITY TO CONTINUE THE WORK OF
3 THE RURAL INTERNET ACCESS AUTHORITY.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 10 of Chapter 143B of the General Statutes is amended
6 by adding a new Part to read:

7 "Part 2F. e-NC Initiative.

8 **"§ 143B-437.44. Legislative findings.**

9 The General Assembly finds that:

- 10 (1) An organized effort must continue to ensure that the citizens of North
11 Carolina keep pace with the ever faster technological changes in
12 telecommunications and information networks in order to assure the
13 economic competitiveness of North Carolina with special focus on
14 rural and urban distressed areas.
- 15 (2) Access to computers and the Internet, along with the ability to
16 effectively use these technologies, continues to be increasingly
17 important for full participation in America's economic, political, and
18 social life.
- 19 (3) Affordable, high-speed Internet access is a key competitive factor for
20 economic development and quality of life in the New Economy of the
21 global marketplace.
- 22 (4) High-speed Internet access and the broadband applications it delivers
23 are the necessary platforms that will support development of emerging
24 technology-based sectors of great economic promise, for example,
25 biotechnology and nanotechnology, as well as the continued
26 competitiveness of traditional industries.

- 1 (5) In this digital economy, universal connectivity at affordable prices is a
2 necessity for business operations, education and training, health care,
3 homeland security and crisis management, government services, and
4 the democratic process.
- 5 (6) Unequal access to computer technology and Internet connectivity by
6 income, educational level, or geography will deepen and reinforce the
7 divisions that exist in our society.
- 8 (7) The intent of the e-NC Authority is to continue to close this digital
9 divide and to continue to work to see that the information
10 infrastructure of North Carolina remains in a competitive condition to
11 enhance the economy for the citizens of North Carolina.

12 **"§ 143B-437.45. Definitions.**

13 The following definitions apply in this Part:

- 14 (1) Authority. – The e-NC Authority.
- 15 (2) Commission. – The governing body of the Authority.
- 16 (3) High-speed broadband Internet access. – Internet access with
17 transmission speeds of at least 384 kilobits per second symmetrical for
18 residential and business customers.
- 19 (4) Rural county. – A county with a density of fewer than 250 people per
20 square mile based on the 2000 United States decennial census.
- 21 (5) Urban distressed areas. – Areas where at least one of the following
22 requirements is met: (i) more than ten percent (10%) of children
23 enrolled in public schools meet the requirements for the Food Stamp
24 Program of the United States Department of Agriculture, (ii) ten
25 percent (10%) of the citizens meet the TANF guidelines of the United
26 States Department of Health and Human Services, or (iii) twenty-five
27 percent (25%) of the children in the public school district meet the
28 requirements for a federal government-sponsored free lunch.
- 29 (6) Regional Partnerships. – As defined in G.S. 143B-437.21(6).

30 **"§ 143B-437.46. e-NC Authority.**

31 (a) Creation. – The e-NC Authority is created within the Department of
32 Commerce for organizational and budgetary purposes only, and the Commission shall
33 exercise all of its statutory authority under this Part independent of the control of the
34 Department of Commerce. The functions of the Secretary of Commerce are ministerial
35 and shall be performed only pursuant to the direction and policy of the Commission.

36 The purpose of the Authority is to promote, manage, oversee, and monitor efforts to
37 provide rural counties and distressed urban areas with high-speed broadband Internet
38 access. The Authority shall also serve as the central rural and urban distressed areas
39 Internet access policy planning body of the State and shall communicate and coordinate
40 with State, regional, and local agencies and private entities in order to implement a
41 coordinated Internet access policy for the citizens of North Carolina.

42 (b) Commission. – The Authority shall be governed by a Commission. The
43 Commission shall consist of 15 voting members, as follows:

- 1 (1) Four members appointed by the Governor. The Association of North
2 Carolina Electric Cooperatives, the North Carolina Telephone
3 Cooperatives, and the North Carolina Internet Service Providers
4 Organization shall each nominate one appointee.
- 5 (2) Four members appointed by the General Assembly upon the
6 recommendation of the President Pro Tempore of the Senate in
7 accordance with G.S. 120-121. The North Carolina Association of
8 County Commissioners and the North Carolina Electronic and
9 Information Technologies Association shall each nominate one of
10 those recommended. At least one appointee shall represent the
11 interests of rural counties.
- 12 (3) Four members appointed by the General Assembly upon the
13 recommendation of the Speaker of the House of Representatives in
14 accordance with G.S. 120-121. The North Carolina League of
15 Municipalities and the North Carolina Telephone Association shall
16 each nominate one of those recommended. At least one appointee shall
17 represent the interests of distressed urban areas.
- 18 (4) Three ex officio, voting members, including the Secretary of
19 Commerce, the State Chief Information Officer, and the President of
20 the North Carolina Rural Economic Development Center, Inc.

21 (c) Oath. – As the holder of an office, each member of the Commission must take
22 the oath required by Section 7 of Article VI of the North Carolina Constitution before
23 assuming the duties of a Commission member.

24 (d) Terms; Commencement; Staggering. – Except as provided in subsection (f) of
25 this section, all terms of office shall commence on January 1, 2004. The appointing
26 officers shall designate one-half of their appointees to serve one-year terms. Members
27 may serve up to four consecutive one-year terms. The appointing officers shall
28 designate their remaining appointees to serve three-year terms. Members may serve up
29 to two consecutive three-year terms.

30 (e) Chair. – The Governor shall designate one of the members appointed by the
31 Governor as the Chair of the Commission.

32 (f) Vacancies. – All members of the Commission shall remain in office until
33 their successors are appointed and qualify. A vacancy in an appointment made by the
34 Governor shall be filled by the Governor for the remainder of the unexpired term. A
35 vacancy in an appointment made by the General Assembly shall be filled in accordance
36 with G.S. 120-122. A person appointed to fill a vacancy must qualify in the same
37 manner as a person appointed for a full term.

38 (g) Removal of Commission Members. – The Governor may remove any
39 member of the Commission for misfeasance, malfeasance, or nonfeasance in accordance
40 with G.S. 143B-13(d). The Governor or the person who appointed a member may
41 remove the member for using improper influence in accordance with G.S. 143B-13(c).

42 (h) Compensation of the Commission. – No part of the revenues or assets of the
43 Authority shall inure to the benefit of or be distributable to the members of the
44 Commission or officers or other private persons. The members of the Commission shall

1 receive no salary for their services but may receive per diem and allowances in
2 accordance with G.S. 138-5.

3 (i) Staff. – The North Carolina Rural Economic Development Center, Inc., shall
4 provide administrative and professional staff support for the Authority under contract.

5 (j) Conflicts of Interest. – Members of the Authority shall comply with the
6 provisions of G.S. 14-234 prohibiting conflicts of interest. In addition, if any member,
7 officer, or employee of the Authority is interested either directly or indirectly, or is an
8 officer or employee of or has an ownership interest in any firm or corporation, not
9 including units of local government, interested directly or indirectly, in any contract
10 with the Authority, the member, officer, or employee must disclose the interest to the
11 Commission, which must set forth the disclosure in the minutes of the Commission. The
12 member, officer, or employee having an interest may not participate on behalf of the
13 Authority in the authorization of any contract.

14 **"§ 143B-437.47. Powers, duties, and goals of the Authority.**

15 (a) Powers. – The Authority shall have the following powers:

16 (1) To employ, contract with, direct, and supervise all personnel and
17 consultants.

18 (2) To apply for, accept, and utilize grants, contributions, and
19 appropriations in order to carry out its duties and goals as defined in
20 this Part.

21 (3) To enter into contracts and to provide support and assistance to local
22 governments, nonprofit entities, for-profit entities, Regional
23 Partnerships, and Business and Technology Centers in carrying out its
24 duties and goals under this Part.

25 (4) To operate telecommunications entities in areas where the
26 Commission determines no alternatives exist.

27 (5) To review and recommend changes in all laws, rules, programs, and
28 policies of this State or any agency or subdivision thereof to further the
29 goals of high-speed broadband Internet access for rural counties and
30 urban distressed areas.

31 (b) Duties. – The Authority shall have the following duties:

32 (1) To develop and recommend to the Governor and to the General
33 Assembly a plan to provide rural counties and urban distressed areas
34 with high-speed broadband Internet access.

35 (2) To propose funding from other appropriate sources for incentives for
36 the private sector to make necessary investment to achieve the
37 Authority's goals and objectives.

38 (3) To set specific targets and milestones to achieve the goals and
39 objectives set out in subsection (c) of this section.

40 (c) Goals. – The principles, goals, and objectives of the Authority are:

41 (1) To monitor and safeguard the investments made by the Rural Internet
42 Access Authority in carrying out its functions under S.L. 2000-149.

43 (2) To provide leadership, coordination, and support for grassroots efforts
44 targeting technology-based economic development.

- 1 (3) To provide leadership, coordination, and support for
2 telecommunications policy assessment.
- 3 (4) To develop collaborative technology projects, programs, and activities
4 that reflect comprehensive efforts to develop technology-based
5 economic development initiatives that utilize high-speed broadband
6 Internet as a platform.
- 7 (5) To provide for replicable and scalable Internet applications that will
8 assist the communities of North Carolina to remain competitive with
9 respect to knowledge of, and use of, as well as affordable access to the
10 high-speed Internet. Continue to focus on significant increases in
11 ownership of computers, related web devices, and Internet
12 subscriptions throughout North Carolina.
- 13 (6) To attract and coordinate funding of federal, foundation, and corporate
14 dollars for regional and statewide technology initiatives and assist
15 local government, including e-communities (the 85 rural counties and
16 the Eastern Band of the Cherokee who have completed the
17 e-communities process), in obtaining grants to further enhance their
18 technology infrastructure.
- 19 (7) To continue to work to see that high-speed broadband Internet access
20 is made and remains available to every citizen of North Carolina by
21 2005, at affordable prices in rural counties and urban distressed areas.
- 22 (8) To work to create additional Business and Technology Centers in Tier
23 1 or Tier 2 areas by 2004. To the extent practicable, the Centers should
24 be established in existing facilities.
- 25 (9) To maintain accurate, current, and complete information provided
26 through the Internet to citizens about the availability of present
27 telecommunications and Internet services with periodic updates on the
28 future deployment of new telecommunications and broadband Internet
29 services, as well as information on public access sites and digital
30 literacy training programs in North Carolina.
- 31 (10) To facilitate and encourage development of government Internet
32 applications promoting citizen interactions with government agencies
33 making delivery of services easier and more convenient and to
34 facilitate the delivery of more comprehensive programs, including
35 training, education, and health care.
- 36 (11) To open technology approaches employed to encourage all potential
37 providers to participate in the implementation of high-speed Internet
38 access without technology bias.
- 39 (12) To coordinate activities, conduct and sponsor research, and
40 recommend and advocate actions, including regulatory and legislative
41 actions to achieve its goals and objectives.
- 42 (d) Limitations. – The Authority shall not have the power of eminent domain or
43 the power to levy any tax.

1 (e) Reports. – The Authority must submit quarterly reports to the Governor, the
2 Joint Select Committee on Information Technology, and the Joint Legislative
3 Commission on Governmental Operations. The reports must summarize the Authority's
4 activities during the quarter and contain any information about the Authority's activities
5 that is requested by the Governor, the Committee, or the Commission."

6 **SECTION 2.** G.S. 120-123 is amended by adding a new subdivision to read:

7 "(71) The e-NC Authority created in Part 2F of Article 10 of Chapter 143B
8 of the General Statutes."

9 **SECTION 3.** Section 5 of S.L. 2000-149 reads as rewritten:

10 **"SECTION 5.** This act is effective when it becomes law. The North Carolina Rural
11 Internet Access Authority created in this act is dissolved effective December 31, 2003.
12 This act is repealed effective December 31, 2003. Part 2E of Article 10 of Chapter
13 143B of the General Statutes and G.S. 120-123(71), as enacted by this act, are repealed
14 effective ~~December 1, 2003~~.December 31, 2003."

15 **SECTION 4.** Sections 1 and 2 of this act become effective December 31,
16 2003, with the e-NC Authority hereby designated as the successor entity of the Rural
17 Internet Access Authority, which is set to expire and dissolve on that date, as provided
18 by Section 5 of S.L. 2000-149. The remainder of this act is effective when it becomes
19 law.