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HOUSE BILL 1194
Committee Substitute Favorable 4/24/03
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Short Title: Establish e-NC Authority.

(Public)

Sponsors:

Referred to:

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO CREATE THE "E-NC" AUTHORITY TO CONTINUE THE WORK OF
THE RURAL INTERNET ACCESS AUTHORITY.

The General Assembly of North Carolina enacts:

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

"Part 2F. e-NC Initiative.

"§ 143B-437.44. Legislative findings.

The General Assembly finds that:

- (1) The North Carolina Rural Internet Advisory Authority (RIAA) was created by the General Assembly in S.L. 2000-149 and, in large measure, successfully accomplished the goals set forth for the RIAA and then dissolved as required by law.
- (2) An organized effort must continue to ensure that the citizens of North Carolina keep pace with the ever faster technological changes in telecommunications and information networks in order to assure the economic competitiveness of North Carolina with special focus on rural and urban distressed areas.
- (3) Affordable, high-speed Internet access is a key competitive factor for economic development and quality of life in the New Economy of the global marketplace.
- (4) High-speed Internet access and the broadband applications it delivers are the necessary platforms that will support development of emerging technology-based sectors of great economic promise, for example, biotechnology and nanotechnology, as well as the continued competitiveness of traditional industries.
- (5) The intent of the e-NC Authority is to continue the work of the North Carolina Rural Internet Access Authority and develop, promote, and

1 coordinate initiatives and public policy to foster and maintain universal
2 broadband connectivity at affordable prices for all citizens and
3 businesses of North Carolina.

4 **"§ 143B-437.45. Definitions.**

5 The following definitions apply in this Part:

- 6 (1) Authority. – The e-NC Authority.
7 (2) Commission. – The governing body of the Authority.
8 (3) High-speed broadband Internet access. – Internet access with
9 transmission speeds of at least 256 kilobits per second for
10 downloading and 128 kilobits per second for uploading for residential
11 and business customers.
12 (4) Rural county. – A county with a density of fewer than 250 people per
13 square mile based on the 2000 United States decennial census.
14 (5) Distressed urban areas. – Areas where at least one of the following
15 requirements is met: (i) more than ten percent (10%) of children
16 enrolled in public schools meet the requirements for the Food Stamp
17 Program of the United States Department of Agriculture, (ii) ten
18 percent (10%) of the citizens meet the TANF guidelines of the United
19 States Department of Health and Human Services, or (iii) twenty-five
20 percent (25%) of the children in the public school district meet the
21 requirements for a federal government-sponsored free lunch.
22 (6) Regional Partnerships. – As defined in G.S. 143B-437.21(6).

23 **"§ 143B-437.46. e-NC Authority.**

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

29 The purpose of the Authority is to manage, oversee, promote, and monitor efforts to
30 provide rural counties and distressed urban areas with high-speed broadband Internet
31 access. The Authority shall also serve as the central rural and urban distressed areas
32 Internet access policy planning body of the State and shall communicate and coordinate
33 with State, regional, and local agencies and private entities in order to continue the
34 development and facilitation of a coordinated Internet access policy for the citizens of
35 North Carolina.

36 (b) Commission. – The Authority shall be governed by a Commission. The
37 Commission shall consist of nine voting members and four voting ex officio members,
38 as follows:

- 39 (1) Three members appointed by the Governor.
40 (2) Three members appointed by the General Assembly upon the
41 recommendation of the President Pro Tempore of the Senate in
42 accordance with G.S. 120-121.

1 (3) Three members appointed by the General Assembly upon the
2 recommendation of the Speaker of the House of Representatives in
3 accordance with G.S. 120-121.

4 (4) Four ex officio, voting members to include the State Chief Information
5 Officer, the President of the North Carolina Rural Economic
6 Development Center, Inc., the Executive Director of the North
7 Carolina League of Municipalities, the Executive Director of the North
8 Carolina Association of County Commissioners, or their designees.

9 It is the intent of the General Assembly that the appointing authorities, in making
10 appointments, shall consider members who represent the geographic, gender, and racial
11 diversity of the State, members who represent rural counties, members who represent
12 distressed urban areas, members who represent the regional partnerships, and members
13 who represent the communications industry. For the purpose of this subsection, the term
14 "communications industry" includes local telephone exchange companies, rural
15 telephone cooperatives, Internet service providers, commercial wireless
16 communications carriers, cable television companies, satellite companies, and other
17 communications businesses.

18 (c) Oath. – As the holder of an office, each member of the Commission shall take
19 the oath required by Section 7 of Article VI of the North Carolina Constitution before
20 assuming the duties of a Commission member.

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

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

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

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

39 (h) Compensation of the Commission. – No part of the revenues or assets of the
40 Authority shall inure to the benefit of or be distributable to the members of the
41 Commission or officers or other private persons. The members of the Commission shall
42 receive no salary for their services but may receive per diem and allowances in
43 accordance with G.S. 138-5.

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

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

12 **"§ 143B-437.47. Powers, duties, and goals of the Authority.**

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

14 (1) To employ, contract with, direct, and supervise all personnel and
15 consultants.

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

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

23 (4) To review and recommend changes in all laws, rules, programs, and
24 policies of this State or any agency or subdivision thereof to further the
25 goals of rural and distressed urban area Internet access.

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

27 (1) To monitor and safeguard the investments made and contracts
28 negotiated by the Rural Internet Access Authority in carrying out its
29 functions under S.L. 2000-149 until such time as all contracts
30 negotiated by the RIAA are complete.

31 (2) To maintain a web site with accurate, current, and complete
32 information about the availability of present telecommunications and
33 Internet services with periodic updates on the deployment of new
34 telecommunications and broadband Internet services, as well as
35 information on public access sites and digital literacy training
36 programs in North Carolina.

37 (3) To continue efforts to ensure that high-speed broadband Internet
38 access remains available to every citizen of North Carolina at
39 affordable prices in rural counties and urban distressed areas.

40 (4) To attract and coordinate funding of federal, foundation, and corporate
41 dollars for regional and Statewide technology initiatives and to assist
42 local government, including e-communities (the 85 rural counties and
43 the Eastern Band of the Cherokee who have completed the

1 e-communities process), in obtaining grants to further enhance their
2 technology infrastructure.

3 (5) To propose funding from other appropriate sources for incentives
4 without technology bias for the private sector to make necessary
5 investments to achieve the Authority's goals and objectives.

6 (6) To provide leadership, coordination, and support for grassroots efforts
7 targeting technology-based economic development.

8 (7) To provide leadership, coordination, and support for
9 telecommunications policy assessment as it relates to providing
10 high-speed Internet access in rural counties and urban distressed areas.

11 (8) To promote collaborative technology projects, programs, and activities
12 that reflect comprehensive efforts to develop technology-based
13 economic development initiatives that utilize high-speed broadband
14 Internet as a platform.

15 (9) To encourage replicable and scalable Internet applications in
16 government, health care, education, and business that will assist the
17 communities of North Carolina to remain competitive with respect to
18 knowledge of, and use of, as well as affordable access to the
19 high-speed Internet.

20 (10) To promote the use of constitutionally valid protective actions to limit
21 the electronic distribution of material that is considered obscene, as
22 defined by G.S. 14-190.1(b), to children via the Internet.

23 (d) Limitations. – The Authority shall not have the power of eminent domain or
24 the power to levy any tax.

25 (e) Reports. – The Authority shall submit quarterly reports to the Governor, the
26 Joint Select Committee on Information Technology, and the Joint Legislative
27 Commission on Governmental Operations. The reports shall summarize the Authority's
28 activities during the quarter and contain any information about the Authority's activities
29 that is requested by the Governor, the Committee, or the Commission."

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

31 "(77) The e-NC Authority created in Part 2F of Article 10 of Chapter 143B
32 of the General Statutes."

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

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

39 **SECTION 4.** Sections 1 and 2 of this act become effective December 31,
40 2003, with the e-NC Authority hereby designated as the successor entity of the Rural
41 Internet Access Authority that will dissolve on that date, as provided by Section 5 of
42 S.L. 2000-149. The remainder of this act is effective when it becomes law.