

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 899
HOUSE BILL 1122

AN ACT TO CREATE THE NEW TECHNOLOGY JOBS ACT.

Whereas, unemployment rates vary considerably from one region of the State to the next; and

Whereas, the creation of more and better job opportunities for North Carolinians at all age and skill levels in all regions of the State are a top priority in relation to balanced growth considerations; and

Whereas, small businesses of all kinds, including but not limited to agriculture, aquaculture and forestry enterprises, are the primary sources of employment throughout the State and they are likely to remain the primary sources of employment in the future; and

Whereas, biotechnology is a new frontier of science that is already the basis for new products and businesses in the human and animal health field and has even greater potential to lead to new, valuable agriculture and forestry products; and

Whereas, in recognition of the importance of biotechnology to the industrial base of the State, the North Carolina Board of Science and Technology established the North Carolina Biotechnology Center to pursue opportunities in biotechnology research, education, and business development special benefit to the State; and

Whereas, the Biotechnology Center has documented that it can leverage its State funds with at least an equal additional amount from non-State sources and that it can contribute to the development of new and existing businesses and research opportunities; and

Whereas, scientific and technical advances in general flowing from research and academic institutions can be applied to the development of existing and new small businesses throughout the State; and

Whereas, principal growth in employment has come from the introduction of new technology; and

Whereas, adequate capital and affordable space for the research activities of existing and new small businesses are key ingredients to the development of new and existing small businesses; and

Whereas, partnerships between State and local government, financial institutions, business, labor, and research and academic institutions provide the most effective means for utilizing technological resources to create new jobs throughout the State; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. G.S. 143B-433 is amended by inserting a new subsection to read:
"(22) The North Carolina Technological Development Authority,".

Sec. 2. Article 10 of Chapter 143B of the General Statutes is amended by adding a new Part to read:

"Part 12. North Carolina Technological
Development Authority.

"§ 143B-471. Creation of Authority.—There is hereby created the North Carolina Technological Development Authority, to increase the rate at which new jobs are created in all regions of the State, by stimulating the development of existing and new small businesses. The Authority shall be administratively located within the Department of Commerce, but shall exercise its powers independently of the head of that department, as if it had been transferred to the Department of Commerce by a Type II transfer as defined in G.S. 143A-6(b).

"§ 143B-471.1. Composition of Authority.—(a) The Authority shall be governed by a board composed of 12 members, eight of whom shall be appointed by the Governor, two of whom shall be appointed by the General Assembly upon the recommendation of the President of the Senate under G.S. 120-121, and two of whom shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives in accordance with G.S. 120-121. Consideration should be given to the appointment of persons, including minorities and females, with technical expertise as well as experience in entrepreneurial business development and capital formation.

(b) Members shall serve four-year terms effective July 1, 1983, and quadrennially thereafter, except that the two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives shall serve for two-year terms effective July 1, 1983, and biennially thereafter. No person appointed to a four-year term shall serve more than two consecutive terms.

(c) Vacancies shall be filled by the Governor to serve the remainder of the unexpired term, except that vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122.

"§ 143B-471.2. Officers; meetings.—(a) The Governor shall appoint from the members of the Authority a chairman. The Authority shall elect from among its members a Vice-Chairman and shall elect a secretary.

(b) The Authority shall meet at the call of the Chairman, upon the written call of the majority of its members or upon resolution of the Authority.

(c) A quorum shall consist of seven members of the Authority.

"§ 143B-471.3. Compensation.—Members of the Authority shall receive per diem and necessary travel and subsistence expense in accordance with G.S. 138-5.

"§ 143B-471.3A. Powers.—In order to enable it to carry out the purposes of this Part, the Authority may:

- (1) Exercise the powers granted corporations under G.S. 55-17;
- (2) Employ an Executive Director, whose salary shall be set by the Governor and the Authority, after consultation with the Advisory Budget Commission. The Authority may employ such other professional staff and clerical and secretarial staff as it deems

necessary within the funds available to it. The salaries of such other personnel shall be set under the State Personnel Act;

- (3) Establish an office for the transaction of its business at Raleigh;
- (4) Apply for and accept grants of money from the State of North Carolina, or any political subdivision thereof, from the United States, or from any person, corporation, foundation, trust, or business or from any foreign government for any of the purposes authorized by this Part;
- (5) Establish and administer the incubator facilities program;
- (6) Administer the North Carolina Innovation Research Fund; and
- (7) Adopt reasonable rules to effectuate the purposes of this Part.

"§ 143B-471.4. Incubator facilities program.—(a) The Authority shall establish one or more incubator facilities within the State. An incubator facility is a building or buildings that provides space and support services for small businesses concerns which are beginning. 'Small business concern' has the same meaning as that contained in Chapter 14A of Title 15, United States Code, and regulations promulgated under it.

(b) The Authority shall select sites for incubator facilities.

The Authority in selecting sites shall evaluate areas for potential sites using the following criteria but is not limited to them:

- (1) the unemployment rate,
- (2) the need for industrial and economic diversification and development,
- (3) the interest by the locality in the establishment of an incubator facility in the area as manifested by grants from public and private sources and cooperation agreements between local government, business, labor and educational institutions demonstrating the probability of the success of the incubator facility.

(c) The Authority may make one-time grants to establish incubator facilities. A grant may not exceed two hundred thousand dollars (\$200,000). Local government and interests must at least equal in cash or real estate value any grant made by the Authority; provided, however, that contributions by State agencies may not be included in the matching grant.

(d) Only nonprofit corporations which are affiliated with local universities, colleges, community colleges or technical institutes or combinations thereof to advance the educational and research programs of these institutions shall be eligible to receive a grant from the Authority. Pursuant to rules adopted by the Authority, the corporation shall:

- (1) manage and maintain the incubator facility,
- (2) develop a mechanism to provide technical, management and entrepreneurial expertise to resident small business concerns and to small business concerns throughout the area, and
- (3) abide by rules adopted by the Authority.

(e) The incubator facility and any improvements shall be owned by the State but may be leased to the corporation. Small business concern residents of the facility may be provided secretarial and other support facilities and utilities for which the corporation

may charge them a part or all of the cost. No small business concern may remain in the facility for more than two years. Notwithstanding any other provision of law, the State shall not be liable for any act or failure to act of any organization granted funds under this Part, or any small business concern benefiting from the incubator facilities program.

"§ 143B-471.5. North Carolina Innovation Research Fund.—(a) The North Carolina Innovation Research Fund is hereby created to provide equity financing for the research activities of new and existing small business concerns in various regions of the State, including agriculture, aquaculture and forestry enterprises. This financing is designed to enable small business concerns to acquire technical and management assistance and otherwise to conduct research leading to new or improved product or service development.

(b) The Fund will take an equity position in contracting concerns through the purchase of stock, the receipt of royalties, or other equity instruments.

(c) The Fund will consist of appropriations from the State; monies derived from federal, local governments and private grants; receipt of royalties and sale of equities.

(d) Awards per research project shall not exceed fifty thousand dollars (\$50,000) per fiscal year. Awards will be limited to concerns physically located in North Carolina, but the awards shall not be limited to incubator-affiliated projects.

(e) To protect its investments, the Authority shall make development agreements with contracting concerns, to ensure proper use of Fund awards and the receipt of royalties, where appropriate. Development agreements shall assign all rights to abandoned projects to the Authority.

(f) Any funds received through the receipt of royalties, dividends, or the sale of equity instruments shall be deposited in the Fund and are available to the Authority for use under this Part."

Sec. 3. G.S. 120-123 is amended by adding a new subdivision to read:

"(6a) The North Carolina Technological Development Authority as created by G.S. 143B-471."

Sec. 4. Of the funds appropriated from the General Fund to the Department of Commerce in Section 2 of Chapter 761 of the 1983 Session Laws, for fiscal year 1983-84 the sum of five hundred thousand dollars (\$500,000) and for fiscal year 1984-85 the sum of five hundred fifty thousand dollars (\$550,000) is designated for the purposes of the North Carolina Technological Development Authority. Of the funds so appropriated for fiscal year 1983-84, the sum of two hundred twenty-five thousand dollars (\$225,000) is available only for the North Carolina Innovation Research Fund, the sum of two hundred thousand dollars (\$200,000) is available only for grants to incubator facilities, and the sum of seventy-five thousand dollars (\$75,000) is available only for the operation of the Technological Development Authority. Of the funds appropriated for fiscal year 1984-85, the sum of two hundred fifty thousand dollars (\$250,000) is available only for the North Carolina Innovation Research Fund, the sum of two hundred thousand dollars (\$200,000) is available only for grants to incubator facilities, and the sum of one hundred thousand dollars (\$100,000) is available for the operation of the Technological Development Authority.

Sec. 5. Of the funds appropriated from the General Fund to the Department of Commerce in Section 2 of Chapter 761 of the 1983 Session Laws, for fiscal year 1983-84 the sum of four hundred eighty-five thousand dollars (\$485,000) and for fiscal year 1984-85 the sum of four hundred ninety thousand dollars (\$490,000) is designated for the purposes of the Biotechnology Center, provided that funds for fiscal year 1984-85 shall not be released unless the Biotechnology Center has raised at least five hundred thousand dollars (\$500,000) in non-State funds during the period beginning with the date of ratification of this act and ending on June 30, 1984; provided further that these appropriations shall not become part of the continuation budget for 1985-87 unless the Biotechnology Center has raised a total of one million dollars (\$1,000,000) in non-State funds by December 31, 1984.

Sec. 6. Of the funds appropriated from the General Fund to the Department of Commerce in Section 2 of Chapter 761 of the 1983 Session Laws, the sum of fifteen thousand dollars (\$15,000) in fiscal year 1983-84 and the sum of ten thousand dollars (\$10,000) in fiscal year 1984-85 is transferred to the Legislative Research Commission to conduct a study of the field of biotechnology.

Sec. 7. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 21st day of July, 1983.