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HOUSE BILL 1194
Committee Substitute Favorable 4/24/03
Third Edition Engrossed 4/30/03
Senate Information Technology Committee Substitute Adopted 6/26/03

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.

- 1 (5) The intent of the e-NC Authority is to continue and conclude the work
2 of the North Carolina Rural Internet Access Authority, as specified in
3 G.S. 143B-347.47.

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 that are consistent with requirements for
10 high-speed broadband Internet access as defined by the Federal
11 Communications Commission from time to time.
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) Six ex officio, voting members to include the Secretary of Commerce,
5 the State Chief Information Officer, the President of the North
6 Carolina Rural Economic Development Center, Inc., the Executive
7 Director of the North Carolina Justice and Community Development
8 Center, the Executive Director of the North Carolina League of
9 Municipalities, the Executive Director of the North Carolina
10 Association of County Commissioners, or their designees.

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

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

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

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

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

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

41 (h) Compensation of the Commission. – No part of the revenues or assets of the
42 Authority shall inure to the benefit of or be distributable to the members of the
43 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 shall disclose the interest to the
11 Commission, which shall 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 review and recommend changes in all laws, rules, programs, and
26 policies of this State or any agency or subdivision thereof to further the
27 goals of rural and distressed urban area Internet access.

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

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

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

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

42 (4) To attract and coordinate funding of federal, foundation, and corporate
43 dollars for regional and Statewide technology initiatives and to assist
44 local government, including e-communities (the 85 rural counties and

1 the Eastern Band of the Cherokee who have completed the
2 e-communities process), in obtaining grants to further enhance their
3 technology infrastructure.

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

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

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

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

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

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

24 (d) Limitations. – The Authority shall not have the power of eminent domain or
25 the power to levy any tax, or to impose any charge, surcharge, or fees on telephone or
26 telecommunications services..

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

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

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

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

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

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

1 Authority created in this act is dissolved effective December 31, 2006. This act is
2 repealed effective December 31, 2006. Part 2F of Article 10 of Chapter 143B of the
3 General Statutes and G.S. 120-123(77), as enacted by this act, are repealed effective
4 December 31, 2006.