

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

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**SENATE BILL 890**

Short Title: Business Incubation Authority. (Public)

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Sponsors: Senator Queen.

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Referred to: Appropriations/Base Budget.

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April 3, 2003

A BILL TO BE ENTITLED  
AN ACT TO CREATE THE NORTH CAROLINA BUSINESS INCUBATION  
AUTHORITY.

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 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, 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(a)(10) is amended by inserting a new sub-subdivision to read:

"w. The North Carolina Business Incubation Authority."

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

1                   "Part 20. North Carolina Business Incubation Authority.

2   "**§ 143B-472.100. Creation.**

3       The North Carolina Business Incubation Authority is created to increase the rate at  
4 which new jobs are created in all regions of the State by stimulating the development of  
5 existing and new small businesses. The Authority shall be administratively located  
6 within the Department of Commerce but shall exercise its powers independently of the  
7 head of that department, as if it had been transferred to the Department of Commerce by  
8 a Type II transfer as defined in G.S. 143A-6(b).

9   "**§ 143B-472.101. Governing body.**

10   (a)   The governing body of the Authority is a board composed of 12 members,  
11 four of whom shall be appointed by the Governor, four of whom shall be appointed by  
12 the General Assembly upon the recommendation of the President Pro Tempore of the  
13 Senate under G.S. 120-121, and four of whom shall be appointed by the General  
14 Assembly upon the recommendation of the Speaker of the House of Representatives in  
15 accordance with G.S. 120-121. Consideration should be given to the appointment of  
16 persons, including minorities and females, with technical expertise as well as experience  
17 in entrepreneurial business development. Each appointing authority shall include among  
18 its appointees at least one individual nominated by the North Carolina Business  
19 Incubation Association, Inc.

20   (b)   Members serve four-year terms effective July 1, 2003, and quadrennially  
21 thereafter, except that each appointing authority shall designate two of its initial  
22 appointees to serve an initial term of two years effective July 1, 2003. No person may  
23 serve more than two consecutive four-year terms.

24   (c)   Vacancies shall be filled by the original appointing authority to serve the  
25 remainder of the unexpired term.

26   "**§ 143B-472.102. Officers; meetings.**

27   (a)   The Governor shall appoint a chair from the members of the Authority. The  
28 Authority shall elect from among its members a vice-chair and shall elect a secretary.

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

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

32   "**§ 143B-472.103. Compensation.**

33   Members of the Authority shall receive per diem and travel and subsistence expense  
34 in accordance with G.S. 138-5.

35   "**§ 143B-472.104. Duties and powers.**

36   (a)   Duties. – The Authority is responsible for all levels of business incubation in  
37 the State. Accordingly, it has the following duties:

- 38       (1)   Serve as an advocate for an environment favorable to small business  
39           incubators.
- 40       (2)   Assist nonprofit corporations, community colleges, and universities  
41           seeking to operate business incubators.
- 42       (3)   Facilitate the State's goals in job creation and technology transfer.
- 43       (4)   Share collective knowledge and expertise for developing and operating  
44           business incubator facilities.

- 1           (5) Place special emphasis on high-technology companies and  
2           entrepreneurs.
- 3           (6) Stimulate innovation and promote economic growth.
- 4       (b) Powers. – The Authority has the following powers:
- 5           (1) Exercise the powers granted business corporations under Chapter 55 of  
6           the General Statutes.
- 7           (2) Employ an executive director, whose salary shall be set by the  
8           Governor and the Authority, after consultation with the Advisory  
9           Budget Commission. The Authority may employ any other  
10           professional staff and clerical and secretarial staff it considers  
11           necessary within the funds available to it. The salaries of the other  
12           personnel shall be set under the State Personnel Act.
- 13           (3) Establish an office for the transaction of its business at Raleigh.
- 14           (4) Apply for and accept grants of money from the State of North  
15           Carolina, or any political subdivision thereof, from the United States,  
16           or from any person, corporation, foundation, trust, or business or from  
17           any foreign government for any of the purposes authorized by this  
18           Part.
- 19           (5) Establish and administer the incubator facilities program.
- 20           (6) Adopt reasonable rules to effectuate the purposes of this Part.

21 **"§ 143B-472.105. Incubator facilities program.**

- 22       (a) Definitions. – The following definitions apply in this Part:
- 23           (1) Incubator facility. – A building that provides space and support  
24           services for small business concerns that are beginning.
- 25           (2) Small business concern. – Defined in the federal Small Business Act,  
26           15 U.S.C. § 632, and regulations adopted under the act.
- 27       (b) Consultation. – In carrying out the incubator facilities program, the Authority  
28       shall consult with the North Carolina Business Incubation Association, Inc.
- 29       (c) Sites. – The Authority shall establish one or more incubator facilities at sites  
30       it selects within the State. The criteria the Authority uses in selecting sites shall include  
31       all of the following:
- 32           (1) The unemployment rate.
- 33           (2) The need for industrial and economic diversification and development.
- 34           (3) The interest by the locality in the establishment of an incubator facility  
35           in the area as manifested by grants from public and private sources and  
36           cooperation agreements between local government, business, labor,  
37           and educational institutions demonstrating the probability of the  
38           success of the incubator facility.
- 39       (d) Grants. – The Authority may make one-time grants to establish incubator  
40       facilities. A grant may not exceed two hundred thousand dollars (\$200,000). The  
41       recipient must match the grant on a dollar-for-dollar basis with non-State funds or  
42       property.
- 43       (e) Eligibility. – Only nonprofit corporations that are affiliated with local  
44       universities, colleges, community colleges, or technical institutes or combinations

1 thereof to advance the educational and research programs of these institutions are  
2 eligible to receive a grant from the Authority. Pursuant to rules adopted by the  
3 Authority, the grantee must do all of the following:

4 (1) Manage and maintain the incubator facility.

5 (2) Develop a mechanism to provide technical, management, and  
6 entrepreneurial expertise to resident small business concerns and to  
7 small business concerns throughout the area.

8 (3) Abide by rules adopted by the Authority.

9 (f) Facility. – The incubator facility and any improvements shall be owned by  
10 the State but may be leased to the grantee. Small business concern residents of the  
11 facility may be provided secretarial and other support facilities and utilities for which  
12 the grantee may charge them a part or all of the cost. No small business concern may  
13 remain in the facility for more than two years. Notwithstanding any other provision of  
14 law, the State is not liable for any act or failure to act of any organization granted funds  
15 under this Part, or any small business concern benefiting from the incubator facilities  
16 program."

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

18 "(77) The North Carolina Business Incubation Authority as created by G.S.  
19 143B-472.100."

20 **SECTION 4.** There is appropriated from the General Fund to the  
21 Department of Commerce the sum of one hundred fifty thousand dollars (\$150,000) for  
22 the 2003-2004 fiscal year and the sum of one hundred fifty thousand dollars (\$150,000)  
23 for the 2004-2005 fiscal year to fund the North Carolina Business Incubation Authority  
24 created by this act.

25 **SECTION 5.** This act becomes effective July 1, 2003.