

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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HOUSE BILL 1194

Short Title: Establish e-NC Authority.

(Public)

Sponsors: Representative Tolson.

Referred to: Science and Technology.

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) 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.
- (2) Access to computers and the Internet, along with the ability to effectively use these technologies, continues to be increasingly important for full participation in America's economic, political, and social life.
- (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) In this digital economy, universal connectivity at affordable prices is a necessity for business operations, education and training, health care,

1 homeland security and crisis management, government services, and  
2 the democratic process.

3 (6) Unequal access to computer technology and Internet connectivity by  
4 income, educational level, or geography will deepen and reinforce the  
5 divisions that exist in our society.

6 (7) The intent of the e-NC Authority is to continue to close this digital  
7 divide and to continue to work to see that the information  
8 infrastructure of North Carolina remains in a competitive condition to  
9 enhance the economy for the citizens of North Carolina.

10 **"§ 143B-437.45. Definitions.**

11 The following definitions apply in this Part:

12 (1) Authority. – The e-NC Authority.

13 (2) Commission. – The governing body of the Authority.

14 (3) High-speed broadband Internet access. – Internet access with  
15 transmission speeds of at least 384 kilobits per second symmetrical for  
16 residential and business customers.

17 (4) Rural county. – A county with a density of fewer than 250 people per  
18 square mile based on the 2000 United States decennial census.

19 (5) Urban distressed areas. – Areas where at least one of the following  
20 requirements is met: (i) more than ten percent (10%) of children  
21 enrolled in public schools meet the requirements for the Food Stamp  
22 Program of the United States Department of Agriculture, (ii) ten  
23 percent (10%) of the citizens meet the TANF guidelines of the United  
24 States Department of Health and Human Services, or (iii) twenty-five  
25 percent (25%) of the children in the public school district meet the  
26 requirements for a federal government-sponsored free lunch.

27 (6) Regional Partnerships. – As defined in G.S. 143B-437.21(6).

28 **"§ 143B-437.46. e-NC Authority.**

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

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

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

42 (1) Four members appointed by the Governor. The Association of North  
43 Carolina Electric Cooperatives, the North Carolina Telephone

1           Cooperatives, and the North Carolina Internet Service Providers  
2           Organization shall each nominate one appointee.

3           (2) Four members appointed by the General Assembly upon the  
4           recommendation of the President Pro Tempore of the Senate in  
5           accordance with G.S. 120-121. The North Carolina Association of  
6           County Commissioners and the North Carolina Electronic and  
7           Information Technologies Association shall each nominate one of  
8           those recommended. At least one appointee shall represent the  
9           interests of rural counties.

10          (3) Four members appointed by the General Assembly upon the  
11          recommendation of the Speaker of the House of Representatives in  
12          accordance with G.S. 120-121. The North Carolina League of  
13          Municipalities and the North Carolina Telephone Association shall  
14          each nominate one of those recommended. At least one appointee shall  
15          represent the interests of distressed urban areas.

16          (4) Three ex officio, voting members, including the Secretary of  
17          Commerce, the State Chief Information Officer, and the President of  
18          the North Carolina Rural Economic Development Center, Inc.

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

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

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

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

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

40          (h) Compensation of the Commission. – No part of the revenues or assets of the  
41          Authority shall inure to the benefit of or be distributable to the members of the  
42          Commission or officers or other private persons. The members of the Commission shall  
43          receive no salary for their services but may receive per diem and allowances in  
44          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 must disclose the interest to the  
9 Commission, which must 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 operate telecommunications entities in areas where the  
24 Commission determines no alternatives exist.

25            (5) 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 high-speed broadband Internet access for rural counties and  
28 urban distressed areas.

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

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

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

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

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

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

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

43            (3) To provide leadership, coordination, and support for  
44 telecommunications policy assessment.

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

1 activities during the quarter and contain any information about the Authority's activities  
2 that is requested by the Governor, the Committee, or the Commission."

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

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

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

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

12 **SECTION 4.** Sections 1 and 2 of this act become effective December 31,  
13 2003, with the e-NC Authority hereby designated as the successor entity of the Rural  
14 Internet Access Authority, which is set to expire and dissolve on that date, as provided  
15 by Section 5 of S.L. 2000-149. The remainder of this act is effective when it becomes  
16 law.