

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

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SENATE BILL 1068

Short Title: E-NC Internet Connectivity/PEG Channel.

(Public)

Sponsors: Senators Dalton, Nesbitt; and Berger of Franklin.

Referred to: Appropriations/Base Budget.

March 21, 2007

A BILL TO BE ENTITLED
AN ACT TO ESTABLISH A PORTION OF THE STATE'S SHARE OF THE SALES
TAX ON TELECOMMUNICATIONS AND VIDEO PROGRAMMING
SERVICES FOR GRANTS FOR BROADBAND CONNECTIVITY, PEG
CHANNELS, AND COMMUNITY MEDIA CENTERS, AND TO REPEAL THE
E-NC AUTHORITY SUNSET.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-437.45 reads as rewritten:

"§ 143B-437.45. Definitions.

The following definitions apply in this Part:

(1) Account. – The Public Access Account.

~~(1)~~(2) Authority. – The e-NC Authority.

~~(2)~~(3) Commission. – The governing body of the Authority.

(4) Community Media Center (CMC). – A facility in which a community commonly creates or coordinates the operation of public, education, or government access channels, and provides digital media training, video production, and economic development opportunities for the community as a whole.

~~(3)~~(5) Distressed urban areas. – Areas where at least one of the following requirements is met: (i) more than ten percent (10%) of children enrolled in public schools meet the requirements for the Food Stamp Program of the United States Department of Agriculture, (ii) ten percent (10%) of the citizens meet the TANF guidelines of the United States Department of Health and Human Services, or (iii) twenty-five percent (25%) of the children in the public school district meet the requirements for a federal government-sponsored free lunch.

~~(4)~~(6) High-speed broadband Internet access. – Internet access with transmission speeds that are consistent with requirements for

1 high-speed broadband Internet access as defined by the Federal
2 Communications Commission from time to time.

3 (7) PEG channel. – Defined in G.S. 66-350.

4 ~~(5)~~(8) Regional Partnerships. – As defined Defined in G.S. 143B-437.21(6).

5 ~~(6)~~(9) Rural county. – A county with a density of fewer than 250 people per
6 square mile based on the 2000 United States decennial census."

7 **SECTION 2.** G.S. 143B-437.46(a) reads as rewritten:

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

13 The purpose of the Authority is to manage, oversee, promote, and monitor efforts to
14 provide rural counties and distressed urban areas with high-speed broadband Internet
15 ~~access.~~access and to promote the development of PEG channels and Community Media
16 Centers. The Authority shall also serve as the central rural and urban distressed areas
17 Internet access policy planning body of the State and shall communicate and coordinate
18 with ~~federal~~, State, regional, and local agencies and private entities in order to continue
19 the development and facilitation of a coordinated Internet access policy for the citizens
20 of North Carolina."

21 **SECTION 3.** G.S. 143B-437.47(e) reads as rewritten:

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

28 The Authority shall publish an annual report on grants awarded under this Part. The
29 report must list each grant applicant, the amount of the grant, and the purpose of the
30 grant. The Authority shall report every two years on the development of high-speed
31 broadband access in rural counties and distressed urban areas and on the development of
32 PEG channels through CMCs."

33 **SECTION 4.** Part 2F of Article 10 of Chapter 143B of the General Statutes
34 is amended by adding the following new section to read:

35 "**§ 143B-437.48. Public Access Account.**

36 (a) Account. – The Public Access Account is created within the Department of
37 Commerce. The Authority administers the Account. The Account provides revenue for
38 grants for broadband connectivity, PEG channels, and community media centers in
39 accordance with criteria established by the Authority. Revenue in the Account does not
40 revert at the end of the fiscal year. The Account consists of the following:

41 (1) Gifts and grants.

42 (2) Appropriations by the General Assembly.

43 (b) Use. – The Authority may use the revenue in the Account only as follows:

- 1 (1) Up to one hundred thousand dollars (\$100,000) annually to cover the
2 Authority's expenses in grant letting and monitoring.
- 3 (2) Up to fifty percent (50%) of the remaining revenue to award
4 broadband connectivity competitive incentive grants to providers of
5 broadband service so that at least seventy percent (70%) of the
6 households in each county have the ability to access broadband
7 services by 2011. A grant recipient must match a grant on a cash basis
8 in an amount equal to at least fifty percent (50%) of the grant. A grant
9 recipient must specify the number of additional households to be
10 served as a result of the grant.
- 11 (3) The remaining revenue to award grants to establish, operate, and
12 support PEG channels and Community Media Centers."

13 **SECTION 5.** Article 5 of Chapter 105 of the General Statutes is amended by
14 adding a new section to read:

15 "**§ 105-164.44J. Distribution of part of State share of sales tax on video**
16 **programming service and telecommunications service to Public Access**
17 **Account.**

18 (a) Distribution. – The State's share of the revenue imposed on
19 telecommunications service under G.S. 105-164.4(a)(4c) and on video programming
20 service under G.S. 105-164.4(a)(6) is the amount that is not distributed to counties and
21 cities under G.S. 105-164.44F and G.S. 105-164.44I. The Secretary must transfer part of
22 the State's share to the Public Access Account established in G.S. 143B-437.48 on a
23 quarterly basis. The Secretary must make the transfer within 75 days after the end of
24 each calendar quarter. The amount the Secretary must transfer is the amount by which
25 the State's share for the quarter exceeds the amount of the State's share for the same
26 quarter in calendar year 2007. The amount transferred may not exceed two million five
27 hundred thousand dollars (\$2,500,000) per quarter.

28 (b) Sunset. – This section is repealed December 31, 2015."

29 **SECTION 6.** G.S. 143B-437.48(a), as enacted by Section 4 of this act, reads
30 as rewritten:

31 "(a) Account. – The Public Access Account is created within the Department of
32 Commerce. The Authority administers the Account. The Account provides revenue for
33 grants for broadband connectivity, PEG channels, and ~~community media centers~~
34 Community Media Centers in accordance with criteria established by the Authority.
35 Municipalities, counties, and educational, nonprofit, for-profit, or public institutions
36 may apply directly for broadband grants. Municipalities, counties, and educational,
37 nonprofit, or public institutions may apply directly for PEG channel and Community
38 Media Center grants. Revenue in the Account does not revert at the end of the fiscal
39 year. The Account consists of the following:

- 40 (1) Gifts and grants.
- 41 (2) Revenue credited under G.S. 105-164.44J.
- 42 (2)(3) Appropriations by the General Assembly."

43 **SECTION 7.** Section 4 of S.L. 2003-425, as rewritten by Section 12.3(a) of
44 S.L. 2006-66, reads as rewritten:

1 **"SECTION 4.** Sections 1 and 2 of this act become effective December 31, 2003,
2 with the e-NC Authority hereby designated as the successor entity of the Rural Internet
3 Access Authority that will dissolve on that date, as provided by Section 5 of S.L.
4 2000-149. The remainder of this act is effective when it becomes law. ~~The e-NC~~
5 ~~Authority created in this act is dissolved effective December 31, 2011. This act is~~
6 ~~repealed effective December 31, 2011. Part 2F of Article 10 of Chapter 143B of the~~
7 ~~General Statutes and G.S. 120-123(77), as enacted by this act, are repealed effective~~
8 ~~December 31, 2011."~~

9 **SECTION 8.(a)** Effective from the date this act becomes law through June
10 30, 2007, G.S. 105-164.44F(a)(2) reads as rewritten:

11 "(a) Amount. – The Secretary must distribute part of the taxes imposed by
12 G.S. 105-164.4(a)(4c) on telecommunications service and ancillary service. The
13 Secretary must make the distribution within 75 days after the end of each calendar
14 quarter. The amount the Secretary must distribute is the following percentages of the net
15 proceeds of the taxes collected during the quarter:

16 ...

17 (2) ~~Seven and seven-tenths percent (7.7%)~~ Eight and three-tenths percent
18 (8.3%) must be distributed to counties and cities as provided in
19 G.S. 105-164.44I."

20 **SECTION 8.(b)** Effective July 1, 2007, G.S. 105-164.44F(a)(2), as it will be
21 effective on that date under Section 24.1(g) of S.L. 2006-66, reads as rewritten:

22 "(a) Amount. – The Secretary must distribute part of the taxes imposed by
23 G.S. 105-164.4(a)(4c) on telecommunications service and ancillary service. The
24 Secretary must make the distribution within 75 days after the end of each calendar
25 quarter. The amount the Secretary must distribute is the following percentages of the net
26 proceeds of the taxes collected during the quarter:

27 ...

28 (2) ~~Eight percent (8%)~~ Eight and six-tenths percent (8.6%) must be
29 distributed to counties and cities as provided in G.S. 105-164.44I."

30 **SECTION 9.(a)** Effective from the date this act becomes law through June
31 30, 2007, G.S. 105-164.44I(a) reads as rewritten:

32 "(a) Distribution. – The Secretary must distribute to the counties and cities part of
33 the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service and
34 G.S. 105-164.4(a)(6) on video programming service. The Secretary must make the
35 distribution within 75 days after the end of each calendar quarter. The amount the
36 Secretary must distribute is the sum of the revenue listed in this subsection. The
37 Secretary must distribute ~~two million dollars (\$2,000,000)~~ seven million dollars
38 (\$7,000,000) of this amount in accordance with subsection (b) of this section and the
39 remainder in accordance with subsections (c) and (d) of this section. The revenue to be
40 distributed under this section consists of the following:

41 (1) The amount specified in G.S. 105-164.44F(a)(2).

42 (2) ~~Twenty three and six tenths percent (23.6%)~~ Twenty-five and
43 four-tenths percent (25.4%) of the net proceeds of the taxes collected

1 during the quarter on video programming, other than on
2 direct-to-home satellite service.

- 3 (3) Thirty-seven and one-tenths percent (37.1%) Thirty-nine and nine
4 tenths percent (39.9%) of the net proceeds of the taxes collected during
5 the quarter on direct-to-home satellite service."

6 **SECTION 9.(b)** Effective July 1, 2007, G.S. 105-164.44I(a), as it will be
7 effective on that date under Section 24.1(i) of S.L. 2006-66, reads as rewritten:

8 "(a) Distribution. – The Secretary must distribute to the counties and cities part of
9 the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service and
10 G.S. 105-164.4(a)(6) on video programming service. The Secretary must make the
11 distribution within 75 days after the end of each calendar quarter. The amount the
12 Secretary must distribute is the sum of the revenue listed in this subsection. The
13 Secretary must distribute ~~two million dollars (\$2,000,000)~~ seven million dollars
14 (\$7,000,000) of this amount in accordance with subsection (b) of this section and the
15 remainder in accordance with subsections (c) and (d) of this section. The revenue to be
16 distributed under this section consists of the following:

- 17 (1) The amount specified in G.S. 105-164.44F(a)(2).
18 (2) ~~Twenty five percent (25%)~~ Twenty-six and nine-tenths percent
19 (26.9%) of the net proceeds of the taxes collected during the quarter on
20 video programming, other than on direct-to-home satellite service.
21 (3) ~~Thirty seven and five tenths percent (37.5%)~~ Forty and four-tenths
22 percent (40.4%) of the net proceeds of the taxes collected during the
23 quarter on direct-to-home satellite service."

24 **SECTION 9.(c)** G.S. 105-164.44I(b) reads as rewritten:

25 "(b) Supplemental PEG Support. – The Secretary must include the applicable
26 amount of supplemental PEG channel support in each quarterly distribution to a county
27 or city. The amount to include is one-fourth of twenty-five thousand dollars (\$25,000)
28 for each qualifying PEG channel operated by the county or city. The amount of money
29 distributed under this subsection may not exceed ~~two million dollars (\$2,000,000)~~ seven
30 million dollars (\$7,000,000) in a fiscal year. If the amount to be distributed for
31 qualifying PEG channels in a fiscal year would otherwise exceed this maximum
32 amount, the Secretary must proportionately reduce the applicable amount distributable
33 for each PEG channel. If the amount to be distributed for qualifying PEG channels in a
34 fiscal year is less than ~~two million dollars (\$2,000,000)~~, seven million dollars
35 (\$7,000,000), the Secretary must credit the excess amount to the ~~PEG Channel Fund~~
36 established in G.S. 66-359. Public Access Account established in G.S. 143B-437.48.

37 A county or city must certify to the Secretary by July 15 of each year the number of
38 qualifying PEG channels it operates. A qualifying PEG channel is one that meets the
39 programming requirements under G.S. 66-357(d). A county or city may not receive
40 PEG channel support under this subsection for more than three qualifying PEG
41 channels.

42 The amount included under this subsection in a distribution to a county or city is
43 intended to supplement the PEG channel support available in the amount distributed
44 under this section. The money distributed to a county or city under this subsection must

1 be used by it for the operation and support of PEG channels. For purposes of this
2 subsection, the term "PEG channel" has the same meaning as in G.S. 66-350."

3 **SECTION 10.** G.S. 66-369(b) reads as rewritten:

4 "(b) Grants. – A county or city may apply to the e-NC Authority for a grant ~~from~~
5 ~~the PEG Channel Fund.~~ for PEG Channel funds or Community Media Centers from the
6 Public Access Account. In awarding grants from the ~~Fund,~~ Account, the e-NC
7 Authority must, to the extent possible, select applicants from all parts of the State based
8 upon need. Grants from the Fund are subject to the following limitations:

9 (1) ~~The grant~~ Grants for PEG channel support may not exceed twenty-five
10 thousand dollars (\$25,000). fifty thousand dollars (\$50,000) each and
11 for Community Media Centers may not exceed two hundred fifty
12 thousand dollars (\$250,000) each.

13 (2) ~~The applicant must match the grant on a dollar for dollar basis.~~

14 (3)(2) ~~The grant may be used only for~~ for, but is not limited to, capital
15 expenditures necessary to provide PEG channel programming. for
16 PEG channel programming and for Community Media Centers for
17 start-up costs or for expansion of the center and no more than fifty
18 percent (50%) for operating costs.

19 (3) Broadband grants are subject to contracts and procedures of the e-NC
20 Authority, but must be granted first to providers who would serve
21 counties with less than fifty percent (50%) access to high-speed
22 Internet, then seventy percent (70%) until the State reaches at least
23 ninety-five percent (95%) access from homes and businesses to
24 high-speed Internet.

25 (4) An applicant may receive no more than one grant per fiscal year."

26 **SECTION 11.** This act is effective when it becomes law.