

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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HOUSE PRINCIPAL CLERK

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HOUSE DRH10330-MC-65 (02/18)

Short Title: The NC Small Business Tech. & Innovation Act. (Public)

Sponsors: Representative Torbett.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE AID TO SMALL BUSINESSES FOR RESEARCH AND  
3 DEVELOPMENT BY THE CREATION OF THE SMALL BUSINESS TECHNOLOGY  
4 AND INNOVATION PROGRAM.

5 Whereas, research and development are major factors in the growth and progress of  
6 industry and the State economy; and

7 Whereas, the expense of carrying on research and development programs is beyond  
8 the means of many small businesses; and

9 Whereas, such concerns are handicapped in obtaining the benefits of research and  
10 development programs conducted at government expense and these small businesses are  
11 thereby placed at a competitive disadvantage; and

12 Whereas, this disadvantage weakens the competitive free enterprise system and  
13 inhibits the orderly development of the State economy; and

14 Whereas, it is the policy of the General Assembly that assistance be given to small  
15 businesses to enable them to undertake and obtain the benefits of research and development in  
16 order to maintain and strengthen the competitive free enterprise system and the State economy;

17 Now, therefore,

18 The General Assembly of North Carolina enacts:

19 SECTION 1. G.S. 143B-437.71 reads as rewritten:

20 "§ 143B-437.71. One North Carolina Fund established as a special revenue fund.

21 (a) Establishment. – The One North Carolina Fund is established as a special revenue  
22 fund in the Department of Commerce.

23 (b) Purposes. – Moneys in the One North Carolina Fund may only be allocated pursuant  
24 to this subsection. Moneys may be allocated (i) to local governments for use in connection with  
25 securing commitments for the recruitment, expansion, or retention of new and existing  
26 ~~businesses and business,~~ (ii) to the One North Carolina Small Business Account created  
27 pursuant to subsection (c) of this section in an amount not to exceed three million dollars  
28 ~~(\$3,000,000).~~(\$3,000,000), and (iii) to the One North Carolina Small Business Technology and  
29 Innovation Account created pursuant to subsection (d) of this section in an amount not to  
30 exceed ten million dollars (\$10,000,000). Moneys in the One North Carolina Fund allocated to  
31 local governments shall be used for the following purposes only:

- 32 (1) Installation or purchase of equipment.  
33 (2) Structural repairs, improvements, or renovations to existing buildings to be  
34 used for expansion.  
35 (3) Construction of or improvements to new or existing water, sewer, gas, or  
36 electric utility distribution lines or equipment for existing buildings.



1 (4) Construction of or improvements to new or existing water, sewer, gas, or  
2 electric utility distribution lines or equipment for new or proposed buildings  
3 to be used for manufacturing and industrial operations.

4 (5) Any other purposes specifically provided by an act of the General Assembly.

5 (b1) Awards. – The amounts committed in Governor's Letters issued in a single fiscal  
6 year may not exceed fourteen million dollars (\$14,000,000).

7 (c) There is created in the One North Carolina Fund a special account, the One North  
8 Carolina Small Business Account, to be used for the North Carolina SBIR/STTR Incentive  
9 Program and the North Carolina SBIR/STTR Matching Funds Program, as specified in Subpart  
10 A of Part 2I of Article 10 of Chapter 143B of the General Statutes.

11 (d) There is created in the One North Carolina Fund a special account, the One North  
12 Carolina Small Business Technology and Innovation Account, to be used for the North  
13 Carolina SBTI Program, as specified in Subpart B of Part 2I of Article 10 of Chapter 143B of  
14 the General Statutes."

15 **SECTION 2.** Part 2I of Article 10 of Chapter 143B of the General Statutes reads as  
16 rewritten:

17 "Part 2I. One North Carolina Small Business Program.

18 "Subpart A. Matching SBIR/STTR Incentive.

19 ...  
20 **"§ 143B-437.83. Reports.**

21 ...  
22 "Subpart B. Small Business Technology and Innovation Program.

23 **"§ 143B-437.84. North Carolina SBTI Program.**

24 (a) Creation and Purpose of Program. – There is established the North Carolina Small  
25 Business Technology and Innovation Program ("SBTI Program") to be administered by the  
26 North Carolina Board of Science and Technology (the "Board"). The program is to provide  
27 funds to assist eligible small businesses to obtain government contracts for research and  
28 development, to assist eligible small businesses to obtain the benefits of research and  
29 development performed under government contracts or at government expense, and to  
30 coordinate with other State agencies a schedule for release of SBTI solicitations to maximize  
31 eligible small businesses' opportunities to respond to solicitations. The Board is authorized to  
32 consult and cooperate with all State agencies and all State agencies are authorized and directed  
33 to work with the Board in order to carry out and accomplish the purposes of this Subpart. The  
34 grants shall be paid from the One North Carolina Small Business Technology and Innovation  
35 Account established in G.S. 143B-437.71.

36 (b) Eligibility. – In order to be eligible for a grant under this section, a business must  
37 satisfy all of the following conditions:

38 (1) The business must be a for-profit, North Carolina-based business. For the  
39 purposes of this section, a North Carolina-based business is one that has its  
40 principal place of business in this State.

41 (2) The business must have submitted a qualified SBTI application to a  
42 participating State agency in response to a specific State solicitation.

43 (3) The business' employees, combined with the employees of all affiliates, do  
44 not exceed 500. For purposes of this Subpart, affiliate is defined in  
45 G.S. 105-163.010.

46 (4) The business shall not receive concurrent funding support from other sources  
47 that duplicates the purpose of this Subpart.

48 (5) The business must certify that at least fifty-one percent (51%) of the research  
49 described in an SBTI application will be conducted in this State and that the  
50 business will remain a North Carolina-based business for the duration of the  
51 SBTI project.

1           (6) The business must demonstrate its ability to conduct research in its SBTI  
2           application.

3           (c) Solicitation. – The Board shall solicit from State agencies research and development  
4           topics that address current, unresolved issues faced by the agency and that have the potential  
5           for successful commercialization. The Board shall accept research and development topics  
6           from State agencies from January 1 to March 31 of each calendar year. The Board shall  
7           determine which topics should be published for a solicitation of proposals from eligible  
8           businesses. The Board shall publish a solicitation for submissions of proposals from eligible  
9           businesses from June 1 to August 30 of each calendar year for each topic selected by the Board.  
10          The solicitation shall contain the information of the research and development topic provided  
11          by the State agency, the address of the State agency to which an eligible business should submit  
12          a research proposal, and any additional information the Board determines is necessary.

13          (d) Application. – A business shall apply, under oath, to the State agency at the  
14          appropriate address contained in the solicitation of proposals for a grant under this Subpart on a  
15          form prescribed by the Board.

16          (e) Selection. – Each State agency that receives one or more submitted proposals shall  
17          evaluate the proposals and shall recommend any proposals suitable for grants to the Board by  
18          October 30 of each calendar year. The recommendations of a State agency shall be made by  
19          entering the appropriate information on a form made available by the Board. The Board shall  
20          evaluate recommended proposals, taking into consideration the technical merit of the proposal,  
21          the qualifications of the applicant, the ability of the applicant to successfully implement the  
22          proposal, the commercial potential and societal benefit of the proposal, and the  
23          recommendation of the State agency. The Board shall award grants to those proposals that most  
24          closely fulfill the purposes of this Subchapter and notify each applicant to whom a grant is  
25          made.

26          (f) Grants. – The Board may provide the following under this Subpart:

27           (1) Phase I. – A grant of up to one hundred fifty thousand dollars (\$150,000) to  
28           an eligible business to enable the business to determine the scientific and  
29           technical merit and feasibility of a proposal with commercial potential. A  
30           recipient shall provide a feasibility report or proof of concept to the Board  
31           within six months of receiving funds from the Board, unless the Board  
32           determines the recipient has shown good cause to extend the time period.  
33           The Board may not extend a recipient's time under this subdivision by more  
34           than six months.

35           (2) Phase II. – For an eligible business that provided a feasibility study or proof  
36           of concept showing, to the Board's satisfaction, the economic feasibility and  
37           sustainability of mass production and commercialization, a grant of up to  
38           one million dollars (\$1,000,000) to enable the business to further develop the  
39           proposal, as evidenced by Phase I, considering the proposal's commercial  
40           potential, as evidenced by (i) the eligible business' record of successfully  
41           commercializing previous SBTI or other research, (ii) the existence of Phase  
42           II funding commitments from the private sector or other non-SBTI funding  
43           sources, and (iii) the presence of other indicators of the commercial potential  
44           of the idea.

45           (3) Phase III. – For an eligible business that completed Phases I and II to the  
46           Board's satisfaction, a certification endorsing the commercial viability of the  
47           proposal and a grant to match funds received by the business from private  
48           sources. A Phase III grant may not exceed one-third of the amount of private  
49           source funding.

50           (4) Research grant. – A grant for a proposal of up to the amount allowed for the  
51           proposal, depending on the phase of the proposal, in subdivisions (1) or (2)

1 of this subsection to a college, university, nonprofit research organization, or  
2 research and development center to offset costs incurred as a result of jointly  
3 cooperating with a recipient of a grant under subdivisions (1) or (2) of this  
4 subsection. In order to be eligible for a grant under this subdivision, the  
5 partnering entity and the recipient must enter into a formal cooperative  
6 research and development agreement. The agreement must provide for each  
7 of the following:

- 8 a. The partnering entity's contribution to the proposal during the phase  
9 will be at least thirty percent (30%).  
10 b. The recipient's contribution to the proposal during the phase will be  
11 at least forty percent (40%).  
12 c. The allocation of rights in any intellectual property that may result  
13 from the joint cooperation.  
14 d. Any other information required by the Board.

15 **"§ 143B-437.84. Program guidelines.**

16 The Board shall develop guidelines related to the administration of the One North Carolina  
17 Small Business Technology and Innovation Program. At least 20 days before the effective date  
18 of any guidelines or nontechnical amendments to the guidelines, the Board must publish the  
19 proposed guidelines on the Web site of the Department of Commerce and provide notice to  
20 persons who have requested notice of proposed guidelines. In addition, the Board must accept  
21 oral and written comments on the proposed guidelines during the 15 business days beginning  
22 on the first day that the Board has completed these notifications. For the purpose of this section,  
23 a technical amendment is defined in G.S. 143B-437.82.

24 **"§ 143B-437.85. Reports.**

25 The Board shall report and the Department of Commerce shall publish a report on the use  
26 of funds in the One North Carolina Small Business Technology and Innovation Program on  
27 September 1 of each year until all funds have been expended. The report shall contain  
28 information on the disbursement and use of funds allocated under the One North Carolina  
29 Small Business Technology and Innovation Program. The report must be submitted to each of  
30 the following:

- 31 (1) The Joint Legislative Commission on Governmental Operations.  
32 (2) The chairs of the House of Representatives and Senate Finance Committees.  
33 (3) The chairs of the House of Representatives and Senate Appropriations  
34 Committees.  
35 (4) The Fiscal Research Division of the General Assembly."

36 **SECTION 3.** There is appropriated from the General Fund to the Department of  
37 Commerce the sum of four million dollars (\$4,000,000) for the 2013-2014 fiscal year and the  
38 sum of eight million dollars (\$8,000,000) for the 2014-2015 fiscal year. These funds shall be  
39 allocated to the North Carolina Board of Science and Technology for the One North Carolina  
40 Small Business Technology and Innovation Account for the Small Business Technology and  
41 Innovation Program in the 2013-2015 fiscal biennium. The Board may use up to five percent  
42 (5%) of funds allocated to the Account for the cost of administering the program. Funds  
43 appropriated for the program that are unexpended and unencumbered at the end of each fiscal  
44 year shall not revert but shall remain available for expenditure for the program.

45 **SECTION 4.** This act is effective when it becomes law.