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SENATE BILL 743*
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Short Title: NC Econ. Dev. Partnership Modifications.

(Public)

Sponsors:

Referred to:

May 15, 2014

A BILL TO BE ENTITLED

AN ACT TO FACILITATE ECONOMIC DEVELOPMENT WITHIN THE STATE.

The General Assembly of North Carolina enacts:

**PART I. AUTHORIZE CONTRACTING OF ECONOMIC DEVELOPMENT
FUNCTIONS BY THE DEPARTMENT OF COMMERCE**

SECTION 1.1.(a) Part 1 of Article 10 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-431A. Department of Commerce – contracting of functions.

(a) Purpose. – The purpose of this section is to establish a framework whereby the Department of Commerce may contract with a North Carolina nonprofit corporation to assist the Department in fostering and retaining jobs and business development, international trade, marketing, and travel and tourism. It is the intent of the General Assembly that the Department develop a plan to work cooperatively with a nonprofit corporation for these purposes while safeguarding programmatic transparency and accountability as well as the fiscal integrity of economic development programs of the State.

(b) Contract. – The Department of Commerce is authorized to contract with a North Carolina nonprofit corporation to perform one or more of the Department's functions, powers, duties, and obligations set forth in G.S. 143B-431, except as provided in this subsection. If the Department contracts with a North Carolina nonprofit corporation to promote and grow the travel and tourism industries, then all funds appropriated to the Department for tourism marketing purposes shall be used for a research-based, comprehensive marketing program directed toward consumers in key markets most likely to travel to North Carolina and not for ancillary activities, such as statewide branding and business development marketing. The Department may not contract with a North Carolina nonprofit corporation regarding any of the following:

- (1) The obligation or commitment of funds under this Article, such as the One North Carolina Fund, the Job Development Investment Grant Program, the Industrial Development Fund, or the Job Maintenance and Capital Development Fund.
- (2) The Division of Employment Security, including the administration of unemployment insurance.
- (3) The functions set forth in G.S. 143B-431(a)(2).



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1 (4) The administration of funds or grants received from the federal government
2 or its agencies.

3 (c) Oversight. – There is established the Economic Development Accountability &
4 Standards Committee, which is a Board as that term is defined in G.S. 138A-3 of the State
5 Government Ethics Act. The Committee shall consist of seven members as follows: the
6 Secretary of Commerce as Chair of the Committee, the Secretary of Transportation, the
7 Secretary of Environment and Natural Resources, the Secretary of Revenue, one member
8 appointed by the Speaker of the House of Representatives, one member appointed by the
9 President Pro Tempore of the Senate, and one member jointly appointed by the Speaker of the
10 House of Representatives and the President Pro Tempore of the Senate.

11 The members of the Committee who are appointed by the Speaker of the House of
12 Representatives or by the President Pro Tempore of the Senate may not be members of the
13 General Assembly. The Committee shall meet at least quarterly upon the call of the Chair. The
14 duties of the Committee shall include all of the following:

15 (1) Monitoring and oversight of the performance of a contract entered into
16 pursuant to this section by the Department with a North Carolina nonprofit
17 corporation.

18 (2) Receiving, reviewing, and referring complaints regarding the contract or the
19 performance of the North Carolina nonprofit corporation, as appropriate.

20 (3) Requesting enforcement of the contract by the Attorney General or the
21 Department.

22 (4) Auditing, at least annually, by the Office of State Auditor the records of the
23 North Carolina nonprofit corporation with which the Department has
24 contracted pursuant to this section during and after the term of the contract
25 to review financial documents of the corporation, performance of the
26 corporation, and compliance of the corporation with applicable laws.

27 (5) Coordination of economic development grant programs of the State between
28 the Department of Commerce, the Department of Transportation, and the
29 Department of Environment and Natural Resources.

30 (6) Any other duties deemed necessary by the Committee.

31 (d) Limitations. – Prior to contracting with a North Carolina nonprofit corporation
32 pursuant to this section and in order for the North Carolina nonprofit corporation to receive
33 State funds, the following conditions shall be met:

34 (1) At least 45 days prior to entering into or amending in a nontechnical manner
35 a contract authorized by this section, the Department shall submit the
36 contract or amendment, along with a detailed explanation of the contract or
37 amendment, to the Joint Legislative Commission on Governmental
38 Operations and the Fiscal Research Division.

39 (2) The nonprofit corporation adheres to the following governance provisions
40 related to its governing board:

41 a. The board shall be composed of 17 voting members as follows: eight
42 members and the chair appointed by the Governor, four members
43 appointed by the Speaker of the House of Representatives, and four
44 members appointed by the President Pro Tempore of the Senate. The
45 Governor, the Speaker of the House of Representatives, and the
46 President Pro Tempore of the Senate shall each use best efforts to
47 select members so as to reflect the diversity of the State's geography,
48 and the Governor shall use best efforts to ensure that each member
49 appointed by the Governor has expertise in one or more of the
50 following areas:

- 1 1. Agribusiness, as recommended by the Commissioner of
- 2 Agriculture.
- 3 2. Financial services.
- 4 3. Information technology.
- 5 4. Biotechnology or life sciences.
- 6 5. Energy.
- 7 6. Manufacturing.
- 8 7. Military or defense.
- 9 8. Tourism, as recommended by the North Carolina Travel and
- 10 Tourism Coalition.
- 11 9. Tourism, as recommended by the North Carolina Travel
- 12 Industry Association.
- 13 b. The nonprofit corporation shall comply with the restrictions on
- 14 lobbying set forth in section 501(c)(3) of the Internal Revenue Code.
- 15 c. No State officer or employee may serve on the board.
- 16 d. The board shall meet at least quarterly at the call of its chair. Each
- 17 quarter and upon request, the board shall report to the Chair of the
- 18 Economic Development Accountability and Standards Committee on
- 19 the progress of the State's economic development.
- 20 e. The board is required to perform the following duties if the
- 21 Department contracts pursuant to G.S. 143B-431A for the
- 22 performance of the Secretary's responsibilities under
- 23 G.S. 143B-434.01:
- 24 1. To provide advice concerning economic and community
- 25 development planning for the State, including a strategic
- 26 business facilities development analysis of existing, available
- 27 buildings or shell or special-use buildings and sites.
- 28 2. To recommend economic development policy to the
- 29 Secretary of Commerce, the General Assembly, and the
- 30 Governor.
- 31 3. To recommend annually to the Governor biennial and annual
- 32 appropriations for economic development programs.
- 33 4. To recommend how best to coordinate economic
- 34 development efforts among the various agencies and entities,
- 35 including those created by executive order of the Governor,
- 36 that receive economic development appropriations, including
- 37 the assignment of key responsibilities for different aspects of
- 38 economic development and resource allocation and planning
- 39 designed to encourage each agency to focus on its area of
- 40 primary responsibility and not diffuse its resources by
- 41 conducting activities assigned to other agencies.
- 42 (3) The amount of State funds that may be used for the annual salary of any one
- 43 officer, employee, or member of a governing board of the nonprofit
- 44 corporation with which the Department contracts pursuant to this section
- 45 shall not exceed the greater of (i) one hundred twenty thousand dollars
- 46 (\$120,000) or (ii) the amount most recently set by the General Assembly in a
- 47 Current Operations Appropriations Act.
- 48 (4) The nonprofit corporation shall have received from fund-raising efforts and
- 49 sources, other than State funds, an amount totaling at least two hundred fifty
- 50 thousand dollars (\$250,000) to support operations and functions of the
- 51 corporation.

- 1 (e) Mandatory Contract Terms. – Any contract entered into under this section must
2 include all of the following:
- 3 (1) A provision requiring the North Carolina nonprofit corporation provide to
4 the Joint Legislative Economic Development and Global Engagement
5 Oversight Committee, the Department of Commerce, and the Fiscal
6 Research Division a copy of the corporation's annual audited financial
7 statement within seven days of issuance of the statement.
- 8 (2) A provision requiring the nonprofit corporation to provide by September 1
9 of each year, and more frequently as requested, a report to the Department
10 on prior State fiscal year program activities, objectives, and
11 accomplishments and prior State fiscal year itemized expenditures and fund
12 sources. The report shall also include all of the following:
- 13 a. Jobs anticipated to result from efforts of the nonprofit corporation.
14 This includes project leads that were not submitted to the Department
15 for possible discretionary incentives pursuant to Chapter 143B of the
16 General Statutes.
- 17 b. Developed performance metrics of economic development functions
18 itemized by county, by development tier area designation, as defined
19 by G.S. 143B-437.08, and by Collaboration for Prosperity Zones
20 created pursuant to G.S. 143B-28.1.
- 21 c. Any proposed amendments to the areas of expertise required to be
22 represented on the governing board of the nonprofit corporation.
- 23 d. A detailed explanation of how annual salaries are determined,
24 including base pay schedules and any additional salary amounts or
25 bonuses that may be earned as a result of job performance. The
26 explanation shall include the proportion of State and private funds for
27 each position and shall include the means used by the nonprofit
28 corporation to foster employee efforts for economic development in
29 rural and low-income areas in the State. Any bonuses paid to
30 employees shall be based upon overall job performance and not be
31 based on a specific project lead.
- 32 e. Any other information requested by the Department.
- 33 (3) A provision providing that, upon termination of the contract, or upon
34 dissolution of, or repeal by the General Assembly of, the charter of the
35 nonprofit corporation with which the Department has contracted under this
36 section, all assets and funds of the nonprofit corporation, including interest
37 on funds, financial and operational records, and the right to receive future
38 funds pursuant to the contract, will be surrendered to the Department within
39 30 days of the termination, dissolution, or repeal. During the 30-day period,
40 the corporation may not further encumber any assets or funds. For purposes
41 of this subdivision, assets and funds of the nonprofit corporation include
42 assets and funds of any subsidiary or affiliate of the nonprofit corporation.
43 An affiliate of the nonprofit corporation exists when both are directly or
44 indirectly controlled by the same parent corporation or by the same or
45 associated financial interests by stock ownership, interlocking directors, or
46 by any other means whatsoever, whether the control is direct or through one
47 or more subsidiary, affiliated, or controlled corporations.
- 48 (4) A provision providing that the nonprofit corporation shall adopt and publish
49 a resolution or policy containing a code of ethics, conflict of interest policy,
50 and gift policy to guide actions by the governing board members, officers,
51 and employees of the nonprofit corporation in the performance of their

1 duties. The resolution or policy required by this subdivision shall address at
2 least all of the following:

- 3 a. The need to obey all applicable laws regarding actions taken.
4 b. The need to uphold the integrity and independence of the board and
5 the nonprofit corporation.
6 c. The need to avoid impropriety in the exercise of their duties.
7 d. The need to faithfully perform their duties.
8 e. The need to conduct the affairs of the governing board and the
9 nonprofit corporation in an open and public manner and to avoid
10 conflicts of interest.

11 (5) The conflict of interest policy required by subdivision (4) of this subsection
12 shall contain at a minimum the information in this subdivision. No subject
13 person of the nonprofit corporation may take any official action or use the
14 subject person's official position to profit in any manner the subject person,
15 the subject person's immediate family, a business with which the subject
16 person or the subject person's immediate family has a business association,
17 or a client of the subject person or the subject person's immediate family
18 with whom the subject person, or the subject person's immediate family, has
19 an existing business relationship. No subject person shall attempt to profit
20 from a proposed project lead if the profit is greater than that which would be
21 realized by other persons living in the area where the project lead is located.
22 If the profit under this subdivision would be greater for the subject person
23 than other persons living in the area where the project lead is located, not
24 only shall the subject person abstain from voting on that issue, but once the
25 conflict of interest is apparent, the subject person shall not discuss the
26 project lead with any other subject person or representative of the
27 Department except to state that a conflict of interest exists. Under this
28 subdivision, a subject person is presumed to profit if the profit would be
29 realized by the subject person, the subject person's immediate family, a
30 business with which the subject person or the subject person's immediate
31 family has a business association, or a client of the subject person or the
32 subject person's immediate family with whom the subject person, or the
33 subject person's immediate family, has an existing business relationship with
34 a company that is the subject of a proposed project lead. No subject person,
35 in contemplation of official action by the subject person, or in reliance on
36 information that was made known to the subject person in the subject
37 person's official capacity and that has not been made public, shall (i) acquire
38 a pecuniary interest in any property, transaction, or enterprise or gain any
39 pecuniary benefit that may be affected by such information or official action
40 or (ii) intentionally aid another to do any of the above acts. As used in this
41 subdivision, the following terms mean:

- 42 a. Board. – The governing board of the nonprofit corporation with
43 which the Department contracts pursuant to this section.
44 b. Board member. – A member of the board.
45 c. Business association. – A director, employee, officer, or partner of a
46 business entity, or owner of more than ten percent (10%) interest in
47 any business entity.
48 d. Subject person. – A board member, officer, or employee of the
49 nonprofit corporation.
50 e. Department. – The Department of Commerce.
51 f. Immediate family. – Spouse, children, parents, brothers, and sisters.

- 1 g. Official action. – Actions taken in connection with the subject
2 person's duties, including, but not limited to, voting on matters before
3 the board, proposing or objecting to proposals for economic
4 development actions by the Department, discussing economic
5 development matters with other subject persons or Department staff
6 in an effort to further the matter after the conflict of interest has been
7 discovered, or taking actions in the course and scope of the position
8 as a subject person and actions leading to or resulting in profit.
9 h. Profit. – Receive monetary or economic gain or benefit, including an
10 increase in value whether or not recognized by sale or trade.
11 (6) The gift policy required by subdivision (4) of this subsection shall at a
12 minimum prohibit an employee, officer, or member of the board of the
13 corporation from knowingly accepting a gift from a person whom the
14 employee, officer, or member of the board knows or has reason to know (i)
15 is seeking to do business of any kind in the State or (ii) has financial
16 interests that may be substantially and materially affected, in a manner
17 distinguishable from the public generally, by the performance or
18 nonperformance of official duties of the employee, officer, or member of the
19 board. This prohibition shall not apply to either of the following:
20 a. Gifts given to the employee, officer, or member of the board where
21 the gift is food or beverages, transportation, lodging, entertainment or
22 related expenses associated with industry recruitment, promotion of
23 international trade, or the promotion of travel and tourism, and the
24 employee, officer, or member of the board is responsible for
25 conducting the business on behalf of the State, provided (i) the
26 employee, officer, or member of the board did not solicit the gift and
27 did not accept the gift in exchange for the performance or
28 nonperformance of corporate duties, and (ii) the employee, officer, or
29 member of the board reports electronically to the corporation within
30 30 days of receipt of the gift, including a description and value of the
31 gift and a description of how the gift contributed to industry
32 recruitment, promotion of international trade, or the promotion of
33 travel and tourism.
34 b. Gifts of personal property valued at less than one hundred dollars
35 (\$100.00) given to the employee, officer, or member of the board in
36 the commission of corporate duties if the gift is given as a personal
37 gift in another country as part of an overseas trade mission and the
38 giving and receiving of such personal gifts is considered a customary
39 protocol in the other country.
40 (7) A provision providing that the nonprofit corporation maintain a record
41 containing the name of all persons who have contributed to the nonprofit
42 corporation, the date of each contribution, and the aggregate total of all
43 contributions to the nonprofit corporation. The nonprofit corporation shall
44 include the record in the report required to be filed with the Department
45 pursuant to subdivision (2) of subsection (e) of this section.
46 (8) A provision requiring the nonprofit corporation to maintain separate
47 accounting records for and separate accounts for State and private funds and
48 prohibiting any commingling of State and private funds. Records and
49 accounts must be maintained according to generally accepted accounting
50 principles.

- 1 (9) A provision stating that the nonprofit corporation will not engage in the
2 awarding of grants of the public or private funds of the nonprofit
3 corporation.
- 4 (10) A provision limiting the term of the contract to no more than five years. The
5 term of the contract may be extended in one-year increments up to four
6 times after no less than four-fifths of the original contract term has passed. A
7 contract extension may not extend the remaining term of the contract,
8 including the term of the extension, to more than two years. Nothing in this
9 subdivision shall be construed as a prohibition against entering into a new
10 contract with the nonprofit corporation.
- 11 (11) A provision limiting the severance pay for the chief executive officer and
12 other officers of the nonprofit corporation to no more than the lesser of the
13 following:
- 14 a. The salary limitation contained in subdivision (3) of subsection (d) of
15 this section.
- 16 b. The salary limitation contained in subdivision (3) of subsection (d) of
17 this section multiplied by a fraction, the numerator of which is the
18 number of whole years the chief officer has been chief officer of the
19 corporation and the denominator of which is four.
- 20 (12) A provision requiring annual certification by the nonprofit corporation that it
21 is in compliance with the following:
- 22 a. The requirements of Chapter 55A of the General Statutes.
- 23 b. The requirements of each of the provisions listed in subsection (e) of
24 this section. For any provision in this subsection that the nonprofit
25 corporation did not comply with, the corporation shall provide a
26 detailed explanation of the circumstances and time of the
27 noncompliance.
- 28 (13) A provision requiring the nonprofit corporation to comply with and perform
29 the duties set out in G.S. 143B-434.2 in the event the Department contracts
30 with the nonprofit corporation to promote and market tourism.
- 31 (14) A provision requiring the nonprofit corporation to receive from fund-raising
32 efforts and sources other than State funds an amount totaling at least five
33 million seven hundred fifty thousand dollars (\$5,750,000) during the term of
34 the contract to support operations and functions of the corporation. The
35 corporation shall raise at least seven hundred fifty thousand dollars
36 (\$750,000) during the first year of the term of the contract and shall raise at
37 least one million two hundred fifty thousand dollars (\$1,250,000) during
38 each subsequent year of the term of the contract. Amounts raised prior to
39 entering the contract or during a year preceding the current year of the
40 contract shall not apply to the amount required to be raised during the
41 current year.
- 42 (15) A provision that the limitation of G.S. 143C-6-8 applies.
- 43 (16) For any entity reported pursuant to subdivision (6) of subsection (f) of this
44 section for a gift, contribution, or item or service of value for which fair
45 market value exceeds one thousand dollars (\$1,000) and was not paid, a
46 provision requiring the nonprofit corporation to publish within seven days of
47 the award, the entity, the fair market value and description of that which was
48 received from the entity by the nonprofit corporation or the affiliate entity of
49 the corporation, and the date and amount of the award to the entity. This
50 publication requirement is satisfied if the Department publishes the

1 information required in this subdivision within seven days of the award
2 either separately or as part of a press release concerning the award.

3 (f) Report. – By September 30 of each year, and more frequently as requested, the
4 Department shall submit a report to the Joint Legislative Commission on Governmental
5 Operations, the Joint Legislative Economic Development and Global Engagement Oversight
6 Committee, and the Fiscal Research Division on any performance for which the Department
7 has contracted pursuant to this section. The report shall contain, at a minimum, each of the
8 following:

- 9 (1) A copy of the most recent report required by the Department pursuant to
10 subdivision (2) of subsection (e) of this section.
- 11 (2) An executive summary of the report required by subdivision (1) of this
12 subsection.
- 13 (3) A listing of each entity referred to the Department by a North Carolina
14 nonprofit corporation with which the Department contracts pursuant to this
15 section and any other information the Secretary determines is necessary or
16 that is specifically requested in writing.
- 17 (4) An explanation of the response by the Department to any notifications of
18 noncompliance submitted to the Department by the nonprofit corporation, as
19 required by G.S. 143B-431A(e), including actions taken by the Department
20 to prevent repeat or similar instances of noncompliance.
- 21 (5) For each activity in which the Secretary of Commerce solicits funds for the
22 corporation, as permitted by subsection (i) of this section, a listing of each
23 activity, including the date and the name of each person or entity from whom
24 funds were solicited.
- 25 (6) If the nonprofit corporation or any affiliated entity of the corporation has
26 received, directly or indirectly, any gift, contribution, or item or service of
27 value for which fair market value was not paid and if an entity making the
28 gift or contribution receives an award, a list of the entity and the amount of
29 the award.

30 (g) Public Funds. – A North Carolina nonprofit corporation with which the Department
31 contracts pursuant to this section shall comply with the requirements provided in this
32 subsection regarding the use of State funds.

- 33 (1) Interest earned on State funds after receipt of the funds by the nonprofit
34 corporation shall be used for the same purposes for which the principal was
35 to be used.
- 36 (2) The travel and personnel policies and regulations of the State of North
37 Carolina Budget Manual limiting reimbursement for expenses of State
38 employees apply to reimbursements for expenses of officers, employees, or
39 members of a governing board of the nonprofit corporation. Deviations from
40 the policies and regulations shall be approved by the Secretary.
- 41 (3) State funds shall not be used to hire a lobbyist.

42 (h) Applicable Laws. – A North Carolina nonprofit corporation with which the
43 Department contracts pursuant to this section is subject to the requirements and the exceptions
44 of (i) Chapter 132 of the General Statutes and (ii) Article 33C of Chapter 143 of the General
45 Statutes.

46 (i) Prohibition. – A State officer or employee, other than the Secretary of Commerce,
47 shall not solicit funds for a North Carolina nonprofit corporation with which the Department
48 contracts pursuant to this section. The Secretary of Commerce may solicit funds for the
49 nonprofit corporation pursuant to G.S. 138A-31(b)(5).

50 (j) Benefits. – An officer, employee, or member of a governing board of a North
51 Carolina nonprofit corporation with which the Department contracts pursuant to this section is

1 not a State employee, is not covered by Chapter 126 of the General Statutes, and is not entitled
2 to State-funded employee benefits, including membership in the Teachers' and State
3 Employees' Retirement System and the State Health Plan for Teachers and State Employees."

4 **SECTION 1.1.(b)** G.S. 143B-431A(i), as enacted by this act, does not apply to
5 employees of the Department of Commerce, other than employees involved in the
6 recommendation and administration of State economic development incentive programs, prior
7 to the time the Department contracts with a North Carolina nonprofit corporation pursuant to
8 this act.

9 **SECTION 1.1.(c)** G.S. 132-6(d) reads as rewritten:

10 "(d) Notwithstanding the provisions of subsections (a) and (b) of this section, public
11 records relating to the proposed expansion or location of specific business or industrial projects
12 may be withheld so long as their inspection, examination or copying would frustrate the
13 purpose for which such public records were created; provided, however, that nothing herein
14 shall be construed to permit the withholding of public records relating to general economic
15 development policies or activities. Once the State, a local government, or the specific business
16 has announced a commitment by the business to expand or locate a specific project in this State
17 ~~or a final decision not to do so and the business has communicated that commitment or decision~~
18 ~~to the State or local government agency involved with the project, and that the business will~~
19 receive a discretionary incentive for the project pursuant to Chapter 143B of the General
20 Statutes, the provisions of this subsection allowing public records to be withheld by the agency
21 no longer apply. If the specific business has requested discretionary incentives for the project
22 pursuant to Chapter 143B of the General Statutes, but decides to not expand or locate the
23 project in this State or does not receive such discretionary incentives, then the only records that
24 are subject to disclosure pursuant to this Chapter are the records submitted to the Department of
25 Commerce by the nonprofit corporation with which the Department contracts pursuant to
26 G.S. 143B-431A. If a business decides to expand or locate a specific project in this State, but
27 the nonprofit corporation with which the Department contracts pursuant to G.S. 143B-431A
28 does not submit any documentation to the Department regarding a request for any discretionary
29 incentives by the State pursuant to Chapter 143B of the General Statutes, and the business does
30 not receive any such discretionary incentives, then any records regarding such project are not
31 subject to disclosure pursuant to this Chapter. Once the provisions of this subsection no longer
32 apply, the agency shall disclose as soon as practicable, and within 25 business days, public
33 records requested for the announced project that are not otherwise made confidential by law.
34 An announcement that a business or industrial project has committed to expand or locate in the
35 State shall not require disclosure of local government records relating to the project if the
36 business has not selected a specific location within the State for the project. Once a specific
37 location for the project has been determined, local government records must be disclosed, upon
38 request, in accordance with the provisions of this section. For purposes of this section, "local
39 government records" include records maintained by the State that relate to a local government's
40 efforts to attract the project."

41 **SECTION 1.2.(a)** G.S. 143B-434 is repealed.

42 **SECTION 1.2.(b)** G.S. 143B-434.01 reads as rewritten:

43 **"§ 143B-434.01. Comprehensive Strategic Economic Development Plan.**

44 (a) Definitions. – The following definitions apply in this section:

45 (1) ~~Board. – The Economic Development Board.~~

46 ...

47 (6) Secretary. – The Secretary of Commerce or the governing board of a North
48 Carolina nonprofit corporation with which the Department contracts
49 pursuant to G.S. 143B-431A for the performance of the Secretary's
50 responsibilities under this section.

1 (b) ~~Board to Prepare Plan.~~ – The ~~Board Secretary~~ shall ~~prepare~~ review and update the
2 existing Plan by April 1, 1994, on or before April 1 of each year. ~~The Board shall review and~~
3 ~~update this Plan by April 1 of each year.~~ The ~~original~~ Plan shall cover a period of four years
4 and each annual update shall extend the time frame by one year so that a four-year plan is
5 always in effect. The ~~Board Secretary~~ shall provide copies of the Plan and each annual update
6 to the Governor and the Joint Legislative Commission on Governmental Operations. The Plan
7 shall encompass all of the components set out in this section.

8 (c) Purpose. – The purpose of this section is to require the ~~Board Secretary~~ to apply
9 strategic planning principles to its economic development efforts. This requirement is expected
10 to result in:

11 (1) The selection of a set of priority development objectives that recognizes the
12 increasingly competitive economic environment and addresses the changing
13 needs of the State in a more comprehensive manner.

14 (2) The effective utilization of available and limited resources.

15 (3) A commitment to achieve priority objectives and to sustain the process.

16 (d) (1) Public and Private Input. – At each stage as it develops and updates the Plan,
17 the ~~Board Secretary~~ shall solicit input from all parties involved in economic
18 development in North Carolina, including:

19 a. Each of the programs and organizations that, for State budget
20 purposes, identifies economic development as one of its global goals.

21 b. Local economic development departments and regional economic
22 development organizations.

23 c. The Board of Governors of The University of North Carolina.

24 (2) The ~~Board Secretary~~ shall also hold hearings in each of the Regions to solicit
25 public input on economic development before the initial Plan is completed.
26 The purposes of the public hearings are to:

27 a. Assess the strengths and weaknesses of recent regional economic
28 performance.

29 b. Examine the status and competitive position of the regional resource
30 base.

31 c. Identify and seek input on issues that are key to improving the
32 economic well-being of the Region.

33 The ~~Board Secretary~~ shall hold additional hearings from time to time to
34 solicit public input regarding economic development activities.

35 (3) Each component of the Plan shall be based on this broad input and, to the
36 extent possible, upon a consensus among all affected parties. The ~~Board~~
37 ~~Secretary~~ shall coordinate its planning process with any State capital
38 development planning efforts affecting State infrastructure such as roads and
39 water and sewer facilities.

40 (e) Environmental Scan. – The first step in developing the Plan shall be to develop an
41 environmental scan based on the input from economic development parties and the public and
42 on information about the economic environment in North Carolina. To prepare the scan, the
43 ~~Board Secretary~~ shall gather the ~~following~~ information required in this subsection and ensure
44 that the information is updated periodically. The updated information may be provided in
45 whatever format and through whatever means is most efficient. The information required to
46 prepare the scan includes all of the following:

47 ...

48 (f) Repealed by Session Laws 2012-142, s. 13.4(a), effective July 1, 2012.

49 (g) Vision and Mission Statements. – The ~~Board Secretary~~ shall develop a vision
50 statement for economic development that would describe the preferred future for North
51 Carolina and what North Carolina would be like if all economic development efforts were

1 successful. The ~~Board-Secretary~~ shall then develop a mission statement that outlines the basic
2 purpose of each of North Carolina's economic development programs. Because special purpose
3 nonprofit organizations are uniquely situated to conduct the entrepreneurial and high-risk
4 activity of investing in and supporting new business creation in the State, they should be
5 assigned a dominant role in this key component of economic development activity.

6 (h) Goals and Objectives. – The ~~Board-Secretary~~, using data from the public input and
7 the environmental scan, shall formulate a list of goals and objectives. Goals shall be
8 long-range, four years or more, and shall address both needs of economically distressed
9 Regions and counties as well as opportunities for Regions and counties not distressed. The
10 goals shall be developed with realism but should also be selected so as to encourage every
11 Region and county within the State to develop to its maximum potential. Objectives shall be
12 one year or less in scope and shall, if achieved, lead to the realization of the goals formulated
13 by the ~~Board-Secretary~~ as provided in this section.

14 Both goals and objectives should be stated largely in economic terms, that is, they should
15 be related to specific population, employment, demographic targets, or economic sector targets.
16 Both efficiency and equity considerations are to be addressed and balanced with special
17 emphasis placed on the needs of disadvantaged or economically distressed populations and
18 communities. The goals and objectives should not state how the economic targets are to be
19 reached, but rather what the economic conditions will be if they are obtained. So that the
20 progress of North Carolina's economic development efforts can be monitored, the ~~Board~~
21 ~~Secretary~~ shall set objectives for each goal that allow measurement of progress toward the goal.
22 Objectives should be quantifiable and time-specific in order to serve as performance indicators.

23 ...

24 (j) Implementation Plan. – Based upon all of the foregoing steps, the ~~Board-Secretary~~
25 shall establish an implementation plan assigning to the appropriate parties specific
26 responsibilities for meeting measurable objectives. The implementation plan shall contain all
27 necessary elements so that it may be used as a means to monitor performance, guide
28 appropriations, and evaluate the outcomes of the parties involved in economic development in
29 the State.

30 (k) Annual Evaluation. – The ~~Board-Secretary~~ shall annually evaluate the State's
31 economic performance based upon the statistics listed in this subsection and upon the ~~Board's~~
32 ~~Secretary's~~ stated goals and objectives in its Plan. The statistics upon which the evaluation is
33 made should be available to policymakers. The information may be provided in whatever
34 format and through whatever means is most efficient.

35 ...

36 (l) Accountability. – The ~~Board-Secretary~~ shall make all data, plans, and reports
37 available to the General Assembly, the Joint Legislative Commission on Governmental
38 Operations, the Joint Legislative Economic Development and Global Engagement Oversight
39 Committee, the Senate Appropriations Committee on Natural and Economic Resources, and the
40 House of Representatives Appropriations Subcommittee on Natural and Economic Resources at
41 appropriate times and upon request. The ~~Board-Secretary~~ shall prepare and make available on
42 an annual basis public reports on each of the major sections of the Plan and the Annual Report
43 indicating the degree of success in attaining each development objective."

44 **SECTION 1.2.(c)** G.S. 143B-437.03 is repealed.

45 **SECTION 1.3.** The Department of Commerce shall study and develop a plan for
46 contracting with a North Carolina nonprofit corporation pursuant to G.S. 143B-431A, as
47 enacted by this act, for the performance of economic development activities and duties of the
48 Department. The study shall include each of the following:

- 49 (1) The Department shall develop a plan for private fund-raising efforts for the
50 nonprofit corporation for the performance of economic development
51 functions. The study shall include the creation of a budget for the nonprofit

1 corporation that provides for the performance of core functions of the
2 corporation, including economic development functions, in the absence of
3 private funds. The study shall compare the budget of the Department and the
4 budget developed for the nonprofit corporation according to Department
5 division and budget category, including personal services; purchased
6 services; supplies; property, plant, and equipment; other expenses and
7 adjustments; aid and public assistance; and other budget categories used by
8 the Department. The study shall include a measurement and estimation of
9 expected private fund-raising potential, and the Department shall examine
10 the efforts of other states that have permitted public-private partnerships for
11 economic development activities and report on the source or sources of
12 funds for those partnerships, separately accounting for funds provided by the
13 State and private funds. The study shall include an analysis of salaries,
14 bonuses, and compensation levels for employees, officers, and other
15 personnel of public-private partnerships for economic development activities
16 in other states for the purpose of determining and reporting on average and
17 appropriate levels of compensation.

18 (2) The Department shall report on each performance metric listed in this
19 subdivision. The report shall analyze the Department's performance for each
20 metric for (i) the last full year prior to contracting for performance of the
21 metric and (ii) the annual average for the five-year period preceding
22 contracting for performance of the metric. The performance metrics to be
23 reported upon are as follows:

24 a. For business recruitment:

- 25 1. Number of jobs announced by the Department in total.
- 26 2. Number of jobs announced resulting from recruitment of new
27 businesses.
- 28 3. Number of jobs announced resulting from existing business
29 expansions.
- 30 4. Total U.S. dollar amount of investment resulting from new
31 projects.
- 32 5. Total U.S. dollar amount of investment resulting from
33 recruitment of new businesses.
- 34 6. Total U.S. dollar amount of investment resulting from
35 existing business expansions.
- 36 7. Total U.S. dollar amount of foreign direct investment.

37 b. For business services:

- 38 1. Number of existing businesses receiving support.
- 39 2. Number of Business Services Team leads that lead to an
40 expansion of existing businesses.
- 41 3. Number of businesses receiving export assistance.
- 42 4. Total U.S. dollar amount of exports by assisted companies.

43 c. For tourism and marketing:

- 44 1. Number of consumer inquiries about travel to North Carolina.
- 45 2. Total U.S. dollar amount of spending by visitors while in
46 North Carolina.
- 47 3. Total U.S. dollar amount of State and local tax revenues
48 resulting from visitors' spending while in North Carolina.
- 49 4. Number of business inquiries for business relocation,
50 investment, and expansion.

- 1 d. Any other information or performance metrics allowing comparison
 2 between departmental and corporate performance for any other
 3 economic development division in the Department for which the
 4 Department contracts for performance with a North Carolina
 5 nonprofit corporation pursuant to this act.
 6 e. Any other information or performance metrics deemed useful or
 7 necessary by the Department in the listed areas or other areas.

8 The Department shall make a report to the Office of State Budget Management, to
 9 the Joint Legislative Commission on Governmental Operations, to the Joint Legislative
 10 Economic Development and Global Engagement Oversight Committee, and to the Fiscal
 11 Research Division no later than December 1, 2014.

12 The Department shall require the nonprofit corporation to include in each report
 13 mandated by G.S. 143B-431A(e)(2) an analysis of the corporation's performance and a
 14 comparison to departmental performance using the same performance metrics studied and
 15 reported by the Department, as required by subdivision (2) of this section.

16 **SECTION 1.4.** G.S. 126-5 reads as rewritten:

17 "**§ 126-5. Employees subject to Chapter; exemptions.**

18 ...

19 (c2) The provisions of this Chapter shall not apply to:

20 ...

21 (5) Officers, employees, and members of the governing board of a North
 22 Carolina nonprofit corporation with which the Department of Commerce has
 23 contracted pursuant to the authority granted in G.S. 143B-431A.

24 ...

25 (d) (1) Exempt Positions in Cabinet Department. – Subject to the provisions of this
 26 Chapter, which is known as the North Carolina Human Resources Act, the
 27 Governor may designate a total of 1,000 exempt positions throughout the
 28 following departments:

29 ...

30 (2b) Designation of Liaison Positions. – Liaisons to the Collaboration for
 31 Prosperity Zones set out in G.S. 143B-28.1 for the Departments of
 32 Commerce, Environment and Natural Resources, and Transportation are
 33 designated as exempt.

34"

35 **SECTION 1.5.** Section 15.7A of S.L. 2013-360 is repealed.

36 **SECTION 1.6.** Section 1.5 of this act is effective when it becomes law. The
 37 remainder of this Part becomes effective July 1, 2014.

38
 39 **PART II. MODIFY NORTH CAROLINA BOARD OF SCIENCE AND**
 40 **TECHNOLOGY**

41 **SECTION 2.1.** Part 18 of Article 10 of Chapter 143B of the General Statutes reads
 42 as rewritten:

43 "Part 18. North Carolina Board of ~~Science and Technology~~. Science, Technology, and
 44 Innovation.

45 "**§ 143B-472.80. North Carolina Board of ~~Science and Technology~~; Science, Technology,**
 46 **and Innovation; creation; powers and duties.**

47 The North Carolina Board of ~~Science and Technology~~. Science, Technology, and Innovation
 48 of the Department of Commerce is created. The Board has the following powers and duties:

49 ...

50 (4) To advise and make recommendations to the Governor, the General
 51 Assembly, the Secretary of Commerce, and ~~the Economic Development~~

1 ~~Board any North Carolina nonprofit corporation with which the Department~~
2 ~~of Commerce contracts pursuant to G.S. 143B-431A on the role of science~~
3 ~~and technology science, technology, and innovation in the economic growth~~
4 ~~and development of North Carolina.~~

5 ...

6 "**§ 143B-472.81. North Carolina Board of Science and Technology; Science, Technology,**
7 **and Innovation; membership; organization; compensation; staff services.**

8 (a) The North Carolina Board of ~~Science and Technology~~ Science, Technology, and
9 Innovation consists of the Governor, the Secretary of Commerce, and ~~17-23~~ members
10 appointed as follows: the Governor shall appoint one member from the University of North
11 Carolina at Chapel Hill, one member from North Carolina State University at Raleigh, and two
12 members from other components of the University of North Carolina, one of which shall be
13 from a historically black college or university, all nominated by the President of the University
14 of North Carolina; one member from Duke University, nominated by the President of Duke
15 University; one member from a private college or university, other than Duke University, in
16 North Carolina, nominated by the President of the Association of Private Colleges and
17 Universities; one member of the North Carolina Community College System; one member
18 representing K-12 public education; one member from the Research Triangle Institute,
19 ~~nominated by the executive committee of the board of that institute; one member from the~~
20 ~~Microelectronics Center of North Carolina, nominated by the executive committee of the board~~
21 ~~of that center; one member from the North Carolina Biotechnology Center, nominated by the~~
22 ~~executive committee of the board of that center; four six~~ members from private industry in
23 North Carolina, ~~at least one of whom shall be a professional engineer registered pursuant to~~
24 ~~Chapter 89C of the General Statutes or a person who holds at least a bachelors degree in~~
25 ~~engineering from an accredited college or university; and two members from public agencies in~~
26 ~~North Carolina.~~ Two members shall be appointed by the
27 General Assembly, one shall be appointed upon the recommendation of the President Pro
28 Tempore of the Senate, and one shall be appointed upon the recommendation of the Speaker of
29 the House of Representatives in accordance with G.S. 120-121. The nominating authority for
30 any vacancy on the Board among members appointed by the Governor shall submit to the
31 Governor two nominations for each position to be filled, and the persons so nominated shall
32 represent different disciplines.

33"

34 **SECTION 2.2.** G.S. 143B-437.80 reads as rewritten:

35 "**§ 143B-437.80. North Carolina SBIR/STTR Incentive Program.**

36 (a) Program. – There is established the North Carolina SBIR/STTR Incentive Program
37 to be administered by the North Carolina Board of ~~Science and Technology.~~ Science,
38 Technology, and Innovation. In order to foster job creation and economic development in the
39 State, the Board may provide grants to eligible businesses to offset costs associated with
40 applying to the United States Small Business Administration for Small Business Innovative
41 Research (SBIR) grants or Small Business Technology Transfer (STTR) grants. The
42 grants shall be paid from the One North Carolina Small Business Account established in
43 G.S. 143B-437.71.

44 ...

45 (c) Grant. – The North Carolina Board of ~~Science and Technology~~ Science,
46 Technology, and Innovation may award grants to reimburse an eligible business for up to fifty
47 percent (50%) of the costs of preparing and submitting a SBIR/STTR Phase I proposal, up to a
48 maximum of three thousand dollars (\$3,000). A business may receive only one grant under this
49 section per year. A business may receive only one grant under this section with respect to each
50 federal proposal submission. Costs that may be reimbursed include costs incurred directly
51 related to preparation and submission of the grant such as word processing services, proposal

1 consulting fees, project-related supplies, literature searches, rental of space or equipment
2 related to the proposal preparation, and salaries of individuals involved with the preparation of
3 the proposals. Costs that shall not be reimbursed include travel expenses, large equipment
4 purchases, facility or leasehold improvements, and legal fees.

5 (d) Application. – A business shall apply, under oath, to the North Carolina Board of
6 ~~Science and Technology~~ Science, Technology, and Innovation for a grant under this section on
7 a form prescribed by the Board that includes at least all of the following:

8"

9 **SECTION 2.3.** G.S. 143B-437.81 reads as rewritten:

10 "**§ 143B-437.81. North Carolina SBIR/STTR Matching Funds Program.**

11 (a) Program. – There is established the North Carolina SBIR/STTR Matching Funds
12 Program to be administered by the North Carolina Board of ~~Science and Technology~~ Science,
13 Technology, and Innovation. In order to foster job creation and economic development in the
14 State, the Board may provide grants to eligible businesses to match funds received by a
15 business as a SBIR or STTR Phase I award and to encourage businesses to apply for Phase II
16 awards.

17 ...

18 (c) Grant. – The North Carolina Board of ~~Science and Technology~~ Science,
19 Technology, and Innovation may award grants to match the funds received by a business
20 through a SBIR/STTR Phase I proposal up to a maximum of one hundred thousand dollars
21 (\$100,000). Seventy-five percent (75%) of the total grant shall be remitted to the business upon
22 receipt of the SBIR/STTR Phase I award and application for funds under this section.
23 Twenty-five percent (25%) of the total grant shall be remitted to the business upon submission
24 by the business of the Phase II application to the funding agency and acceptance of the Phase I
25 report by the funding agency. A business may receive only one grant under this section per
26 year. A business may receive only one grant under this section with respect to each federal
27 proposal submission. Over its lifetime, a business may receive a maximum of five awards
28 under this section.

29 (d) Application. – A business shall apply, under oath, to the North Carolina Board of
30 ~~Science and Technology~~ Science, Technology, and Innovation for a grant under this section on
31 a form prescribed by the Board that includes at least all of the following:

32"

33 **SECTION 2.4.** This Part becomes effective July 1, 2014.

34 **PART III. CREATION OF COLLABORATION FOR PROSPERITY ZONES**

35 **SECTION 3.1.** Intent to create Collaboration for Prosperity Zones. – It is the intent
36 of the General Assembly to establish geographically uniform zones in this State to facilitate
37 collaborative and coordinated planning and use of resources, to improve cooperation with other
38 governmental and nonprofit entities at the local and regional level, to facilitate administrative
39 efficiencies within State government, to receive advice on economic development issues by
40 local boards established by a North Carolina nonprofit corporation with which the Department
41 of Commerce contracts, and, to the extent feasible, to establish one-stop sources in each region
42 for citizens and businesses seeking State services at a regional level.

43 **SECTION 3.2.** Article 1 of Chapter 143B of the General Statutes is amended by
44 adding a new section to read:

45 **"§ 143B-28.1. Create Collaboration for Prosperity Zones.**

46 For purposes of enhanced collaboration and cooperation between governmental agencies,
47 planning, use of resources, and improved efficiency at a regional level, the State is hereby
48 divided into eight permanent zones as follows:
49

- (1) Western Region, consisting of Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, Polk, Rutherford, Swain, and Transylvania Counties.
- (2) Northwest Region, consisting of Alleghany, Ashe, Alexander, Avery, Burke, Caldwell, Catawba, McDowell, Mitchell, Watauga, Wilkes, and Yancey Counties.
- (3) Southwest Region, consisting of Anson, Cabarrus, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Rowan, Stanly, and Union Counties.
- (4) Piedmont-Triad (Central) Region, consisting of Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Randolph, Rockingham, Stokes, Surry, and Yadkin Counties.
- (5) North Central Region, consisting of Chatham, Durham, Edgecombe, Franklin, Granville, Harnett, Johnston, Lee, Nash, Orange, Person, Vance, Wake, Warren, and Wilson Counties.
- (6) Sandhills (South Central) Region, consisting of Bladen, Columbus, Cumberland, Hoke, Montgomery, Moore, Richmond, Robeson, Sampson, and Scotland Counties.
- (7) Northeast Region, consisting of Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Gates, Halifax, Hertford, Hyde, Martin, Northampton, Pasquotank, Perquimans, Pitt, Tyrrell, and Washington Counties.
- (8) Southeast Region, consisting of Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, and Wayne Counties."

SECTION 3.3. The Departments of Commerce, Environment and Natural Resources, and Transportation, the Community Colleges System Office, and the State Board of Education shall, by January 1, 2015, report to the Joint Legislative Commission on Governmental Operations, the Senate Appropriations/Base Budget Committee, and the House Appropriations Committee on how they plan to establish Collaboration for Prosperity Zones as defined by this act.

SECTION 3.4. G.S. 115C-65 reads as rewritten:

"§ 115C-65. State divided into districts.

The State of North Carolina shall be divided into eight educational ~~districts~~districts, which shall match the composition of the zones set forth in G.S. 143B-28.1.embracing the counties herein set forth:

FIRST DISTRICT

~~Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Gates, Hertford, Hyde, Martin, Pasquotank, Perquimans, Pitt, Tyrrell, Washington.~~

SECOND DISTRICT

~~Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, Sampson, Wayne.~~

THIRD DISTRICT

~~Durham, Edgecombe, Franklin, Granville, Halifax, Johnston, Nash, Northampton, Vance, Wake, Warren, Wilson.~~

FOURTH DISTRICT

~~Bladen, Columbus, Cumberland, Harnett, Hoke, Lee, Montgomery, Moore, Richmond, Robeson, Scotland.~~

FIFTH DISTRICT

~~Alamance, Caswell, Chatham, Davidson, Forsyth, Guilford, Orange, Person, Randolph, Rockingham, Stokes.~~

SIXTH DISTRICT

~~Anson, Cabarrus, Cleveland, Gaston, Lincoln, Mecklenburg, Stanly, Union.~~

SEVENTH DISTRICT

~~Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Davie, Iredell, Rowan, Surry, Watauga, Wilkes, Yadkin.~~

EIGHTH DISTRICT

~~Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey."~~

SECTION 3.5. Section 3.4 of this act becomes effective April 1, 2015. Members of the State Board of Education appointed by the Governor and confirmed by the General Assembly prior to 2015 with terms ending in 2017, 2019, and 2021 shall be designated as the appointees of the following districts for the remainder of the member's current term:

- a. Western Region: Wayne McDevitt
- b. Southwest Region: Gregory Alcorn
- c. Piedmont-Triad (Central) Region: A.L. Collins
- d. Sandhills (South Central) Region: Olivia Oxendine
- e. Northeast Region: Rebecca Taylor
- f. Southeast Region: Reginald Kenan

The remainder of this Part becomes effective July 1, 2014.

PART IV. REQUIRE AT LEAST ONE LIAISON IN EACH COLLABORATION FOR PROSPERITY ZONE

SECTION 4.1. No later than January 1, 2015, the Departments of Commerce, Environment and Natural Resources, and Transportation shall have at least one employee physically located in the same office in each of the Collaboration for Prosperity Zones set out in G.S. 143B-28.1 to serve as that department's liaison with the other departments and with local governments, schools and colleges, planning and development bodies, and businesses in that zone. The departments shall jointly select the office. For purposes of this Part, the Department of Commerce may contract with a North Carolina nonprofit corporation pursuant to G.S. 143B-431A, as enacted by this act, to fulfill the departmental liaison requirements for each office in each of the Collaboration for Prosperity Zones.

No later than January 1, 2015, the Community Colleges System Office shall designate at least one representative from a community college or from the Community Colleges System Office to serve as a liaison in each Collaboration for Prosperity Zone for the community college system, the community colleges in the zone, and other educational agencies and schools within the zone. A liaison may be from a business center located in a community

1 college. These liaisons are not required to be colocated with the liaisons from the Departments
2 of Commerce, Environment and Natural Resources, and Transportation.

3 No later than January 1, 2015, the State Board of Education shall designate at least
4 one representative from a local school administrative unit or from the Department of Public
5 Instruction to serve as a liaison in each Collaboration for Prosperity Zone for the local school
6 administrative units and other public schools within the zone. These liaisons are not required to
7 be colocated with the liaisons from the Departments of Commerce, Environment and Natural
8 Resources, and Transportation.

9 **SECTION 4.2.** In addition to other related tasks assigned by their respective
10 agencies, liaisons in each Collaboration for Prosperity Zone shall work to enhance
11 collaboration and cooperation between their departments and other State agencies, local
12 governmental agencies, and other regional public and nonprofit entities. The liaisons from the
13 Departments of Environment and Natural Resources and Transportation shall work to
14 consolidate and simplify the process for citizens and businesses seeking permits from their
15 respective agencies. The liaisons from the Department of Commerce shall be used to support
16 local economic development efforts, to coordinate such efforts, and to coordinate the
17 Department of Commerce's activities within each Collaboration for Prosperity Zone. The
18 liaisons from the community college system and local school administrative units shall work
19 closely with the Department of Commerce and other State and local governmental agencies and
20 local businesses in the zone to promote job development through career technical education.

21 **SECTION 4.3.(a)** The Departments of Transportation and Environment and
22 Natural Resources shall jointly report to the Office of State Budget and Management, the Joint
23 Legislative Commission on Governmental Operations, the Joint Legislative Transportation
24 Oversight Committee, the Environmental Review Commission, the Senate Appropriations/Base
25 Budget Committee, and the House Appropriations Committee, as follows:

- 26 (1) No later than January 1, 2015, on the establishment of colocated liaisons
27 within each Collaboration for Prosperity Zone and a description of the
28 activities the liaisons have been assigned to perform.
- 29 (2) No later than April 1, 2015, on the activities of the liaisons, specifically any
30 activities undertaken that resulted in enhanced collaboration and
31 coordination with the other Department and with other governmental
32 agencies, improved administrative efficiencies, and any steps taken to make
33 services to citizens and businesses within each zone more efficient,
34 economical, and user-friendly.

35 **SECTION 4.3.(b)** The Community Colleges System Office and the State Board of
36 Education shall each report to the Office of State Budget and Management, the Joint
37 Legislative Commission on Governmental Operations, the Joint Legislative Education
38 Oversight Committee, the Senate Appropriations/Base Budget Committee, and the House
39 Appropriations Committee, as follows:

- 40 (1) No later than January 1, 2015, on the establishment of liaisons within each
41 Collaboration for Prosperity Zone and a description of the activities the
42 liaisons have been assigned to perform.
- 43 (2) No later than April 1, 2015, on the activities of the liaisons, specifically any
44 activities undertaken that resulted in enhanced collaboration and
45 coordination with other governmental agencies, improved planning on use of
46 educational resources, and improved administrative efficiencies.

47 **SECTION 4.3.(c)** The Department of Commerce shall include in its first report
48 under G.S. 143B-431(f), as enacted by this act, a report on the establishment and activities of
49 its liaisons in each Collaboration for Prosperity Zone. The Department of Commerce shall send
50 a copy of this report to the Office of State Budget and Management, the Senate
51 Appropriations/Base Budget Committee, and the House Appropriations Committee.

1 **SECTION 4.4.** The Departments of Commerce, Environment and Natural
2 Resources, and Transportation, the Community Colleges System Office, and the State Board of
3 Education shall use funds available to carry out the requirements of this section. Nothing in this
4 act shall be construed as an authorization for payment of additional compensation for persons
5 serving as liaisons.

6 **SECTION 4.5.** This Part becomes effective July 1, 2014, and expires July 1, 2018.

7 8 **PART V. GENERAL ASSEMBLY REVIEW OF REPORTS**

9 **SECTION 5.** It is the intent of the General Assembly to receive and review the
10 reports required by Section 4.3 of this act concerning the creation of the Collaboration for
11 Prosperity Zones and to use those reports to further address the following topics:

- 12 (1) Enhancing collaboration and cooperation between State and other
13 governmental agencies in order to streamline and improve services to
14 citizens and businesses, to make such services more user-friendly, and to
15 implement collaborative and cooperative interagency measures to enhance
16 access to services.
- 17 (2) Reducing barriers faced by citizens and businesses in accessing services that
18 are unnecessarily caused by agency specialization, which may produce a
19 "silo mentality."
- 20 (3) Additional recommendations regarding liaison personnel, including
21 expanding the requirement to other State departments.
- 22 (4) Ways to integrate collaboration between educational institutions in each
23 Collaboration for Prosperity Zone on the one hand and other governmental
24 agencies and local businesses on the other.
- 25 (5) Requiring the establishment of interagency one-stop shops in each
26 Collaboration for Prosperity Zone.
- 27 (6) Consolidating programs or services.
- 28 (7) Cross-training employees.
- 29 (8) Identifying offices, equipment, and support services that may be efficiently
30 and economically shared between agencies in each Collaboration for
31 Prosperity Zone.
- 32 (9) The grouping of counties within each Collaboration for Prosperity Zone to
33 determine whether there is a better configuration while keeping the same
34 overall number of zones.

35 36 **PART VI. THE FILM AND ENTERTAINMENT GRANT FUND**

37 **SECTION 6.1.** Article 10 of Chapter 143B of the General Statutes is amended by
38 adding a new section to read:

39 **"§ 143B-437.02A. The Film and Entertainment Grant Fund.**

40 (a) Creation and Purpose of Fund. – There is created in the Department of Commerce a
41 special, nonreverting account to be known as the Film and Entertainment Grant Fund to
42 provide funds to encourage the production of motion pictures, television shows, and
43 commercials and to develop the film-making industry within the State. The Department of
44 Commerce shall adopt guidelines providing for the administration of the program. Those
45 guidelines may provide for the Secretary to award the grant proceeds over a period of time, not
46 to exceed three years. Those guidelines shall include the following provisions, which shall
47 apply to each grant from the account:

- 48 (1) The funds are reserved for a production on which the production company
49 has qualifying expenses of at least the following:
 - 50 a. For a feature-length film, ten million dollars (\$10,000,000).

- 1 b. For a video or television series, one million dollars (\$1,000,000) per
2 episode.
- 3 c. For a commercial for theatrical or television viewing, five hundred
4 thousand dollars (\$500,000).
- 5 (2) The funds are not used to provide a grant in excess of any of the following:
- 6 a. An amount more than twenty-five percent (25%) of the qualifying
7 expenses for the production.
- 8 b. An amount more than five million dollars (\$5,000,000) for a
9 feature-length film, more than five million dollars (\$5,000,000) for a
10 television or video series, or two hundred fifty thousand dollars
11 (\$250,000) for a commercial for theatrical or television viewing.
- 12 (3) The funds are not used to provide a grant to more than one production
13 company for a single production.
- 14 (4) The funds are not used to provide a grant for a production that meets one or
15 more of the following:
- 16 a. It contains material that is obscene, as defined in G.S. 14-190.1.
- 17 b. It has the primary purpose of political advertising, fundraising, or
18 marketing, other than by commercial, a product, or service.
- 19 c. News programming, including weather, financial market, and current
20 events reporting.
- 21 d. Live sporting event programming, including pre-event and post-event
22 coverage and scripted sports entertainment. For purposes of this
23 exception, a live sporting event is a scheduled sporting competition,
24 game, or race that is originated solely by an amateur, collegiate, or
25 professional organization, institution, or association for live or
26 tape-delayed television or satellite broadcast. The term does not
27 include commercial advertising, an episodic television series, a
28 television pilot, a music video, a motion picture, or a documentary
29 production in which sporting events are presented through archived
30 historical footage or similar footage taken at least 30 days before it is
31 used.
- 32 e. Radio productions.
- 33 f. It is a talk, game, or awards show or other gala event. For purposes
34 of this exception, an awards show is television programming
35 involving the filming of a ceremony in which individuals, groups, or
36 organizations are given an award.
- 37 g. It fails to contain, in the end credits of the production, a statement
38 that the production was "Filmed in North Carolina," a logo provided
39 by the North Carolina Film Office, and an acknowledgement of the
40 regional film office responsible for the geographic area in which the
41 filming of the production occurred. Additionally, the production
42 company will offer marketing opportunities to be evaluated by the
43 North Carolina Film Office to ensure that they offer promotional
44 value to the State.
- 45 (5) Priority for the use of funds shall be given to productions that are reasonably
46 anticipated to maximize the benefit to the State, in consideration of at least
47 the following factors:
- 48 a. Percentage of employees that are permanent residents in the State.
- 49 b. The extent to which the production features identifiable attractions or
50 State locales in a manner that would be reasonably expected to

- 1 induce visitation by nonresidents of the State to the attraction or
2 locale.
- 3 c. The extent to which the production invests in permanent
4 improvements to open, public spaces, commercial districts,
5 traditional downtown areas, public landmarks, residential areas, or
6 similar properties or areas.
- 7 d. The extent to which the production will be filmed in an economically
8 distressed county or area of the State.
- 9 e. The duration of production activities in the State.
- 10 (b) Definitions. – The following definitions apply in this section:
- 11 (1) Department. – The Department of Commerce.
- 12 (2) Employee. – A person who is employed for consideration for at least 35
13 hours a week and whose wages are subject to withholding under Article 4A
14 of Chapter 105 of the General Statutes.
- 15 (3) Highly compensated individual. – An individual who directly or indirectly
16 receives compensation in excess of one million dollars (\$1,000,000) for
17 personal services with respect to a single production. An individual receives
18 compensation indirectly when a production company pays a personal service
19 company or an employee leasing company that pays the individual.
- 20 (4) Loan out company. – A personal service corporation that employs an
21 individual who is hired by a film or digital media production company.
- 22 (5) Production. – Any of the following:
- 23 a. A motion picture intended for commercial distribution to a motion
24 picture theater or directly to the consumer viewing market that has a
25 running time of at least 75 minutes.
- 26 b. A video or television series or a commercial for theatrical or
27 television viewing. For video and television series, a production is all
28 of the episodes of the series produced for a single season.
- 29 (6) Production company. – Defined in G.S. 105-164.3.
- 30 (7) Qualifying expenses. – The sum of the following amounts substantiated
31 pursuant to subsection (d) of this section and spent in this State by a
32 production company in connection with a production, less the amount paid
33 in excess of one million dollars (\$1,000,000) to a highly compensated
34 individual:
- 35 a. Goods and services leased or purchased. For goods with a purchase
36 price of twenty-five thousand dollars (\$25,000) or more, the amount
37 included in qualifying expenses is the purchase price less the fair
38 market value of the good at the time the production is completed.
39 Goods and services includes the costs of tangible and intangible
40 property used for, and services performed primarily and customarily
41 in, production, including preproduction and postproduction and other
42 direct costs of producing the project in accordance with generally
43 accepted entertainment industry practices. Goods and services
44 exclude costs for development, marketing, and distribution.
- 45 b. Compensation and wages and payments on which withholding
46 payments are remitted to the Department of Revenue under Article
47 4A of Chapter 105 of the General Statutes. Payments made to a loan
48 out company for services provided in North Carolina shall be subject
49 to gross income tax withholding at the applicable rate under the
50 Article 4 of Chapter 105 of the General Statutes.

- 1 c. Employee fringe contributions, including health, pension, and
2 welfare contributions.
- 3 d. Per diems, stipends, and living allowances paid for work being
4 performed in this State.
- 5 (8) Related member. – Defined in G.S. 105-130.7A.
- 6 (9) Secretary – The Secretary of Commerce
- 7 (c) Application. – A production company shall apply, under oath, to the Secretary for a
8 grant on a form prescribed by the Secretary. The Secretary shall evaluate the applications to
9 ensure the production's content is created for entertainment purposes. The application shall
10 include all documentation and information the Secretary deems necessary to evaluate the grant
11 application.
- 12 (d) Substantiation. – The Secretary shall work with the North Carolina Film Office to
13 adopt guidelines to provide a process to verify the actual qualifying expenses of a certified
14 production. The Secretary may not release grant funds until the substantiation process required
15 by this subsection is complete and the final verified amount of qualified expenses is
16 determined. The process shall require each of the following:
- 17 (1) The production company shall submit all the qualifying expenses for the
18 production and data substantiating the qualifying expenses, including
19 documentation on the net expenditure on equipment and other tangible
20 personal property to an independent certified public accountant licensed in
21 this State.
- 22 (2) The accountant shall conduct a compliance audit, at the certified
23 production's expense, pursuant to guidelines established by the Secretary and
24 submit the results as a report, along with the required substantiating data, to
25 the production company and the North Carolina Film Office.
- 26 (3) The North Carolina Film Office shall review the report and advise the
27 Department on the final verified amount of qualifying expenses made by the
28 certified production.
- 29 (e) Report. – The Department shall provide to the Department of Revenue, and the
30 Department of Revenue must include in the economic incentives report required by
31 G.S. 105-256, the following information, itemized by production company:
- 32 (1) The location of sites used in a production for which a grant was awarded.
- 33 (2) The qualifying expenses, classified by whether the expenses were for goods,
34 services, or compensation paid by the production company.
- 35 (3) The number of people employed in the State with respect to grants awarded,
36 including the number of residents of the State employed.
- 37 (4) The total cost of the grants awarded.
- 38 (f) NC Film Office. – To claim a grant under this section, a production company must
39 notify the Division of Tourism, Film, and Sports Development in the Department of Commerce
40 of its intent to apply for a grant. The notification must include the title of the production, the
41 name of the production company, a financial contact for the production company, the proposed
42 dates on which the production company plans to begin filming the production, and any other
43 information required by the Division.
- 44 (g) Guidelines. – The Department of Commerce shall develop guidelines related to the
45 administration of the Film and Entertainment Grant Fund and to the selection of productions
46 that will receive grants from the Fund. At least 20 days before the effective date of any
47 guidelines or nontechnical amendments to the guidelines, the Department of Commerce shall
48 publish the proposed guidelines on the Department's Web site and provide notice to persons
49 who have requested notice of proposed guidelines. In addition, the Department must accept oral
50 and written comments on the proposed guidelines during the 15 business days beginning on the
51 first day that the Department has completed these notifications."

1 **SECTION 6.2.** G.S. 150B-1(d) is amended by adding a new subdivision to read:
2 "(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the
3 following:

4 ...
5 (18) The Department of Commerce and the Economic Investment Committee in
6 developing criteria and administering the Job Maintenance and Capital
7 Development Fund under G.S. 143B-437.012.

8 (18a) The Department of Commerce in administering the Film and Entertainment
9 Grant Fund under G.S. 143B-437.02A.

10 "

11 **SECTION 6.3.** Of the funds appropriated to the Repairs and Renovations Reserve
12 for the 2014-2015 fiscal year, the sum of ten million dollars (\$10,000,000) shall be transferred
13 to the Film and Entertainment Grant Fund.

14 **SECTION 6.4.** There is appropriated from the Savings Reserve Account to the
15 Film and Entertainment Grant Fund the sum of ten million dollars (\$10,000,000) for the
16 2014-2015 fiscal year in nonrecurring funds.

17 **SECTION 6.5.** This Part becomes effective January 1, 2015, and expires July 1,
18 2020. The Secretary shall not award a grant for any qualifying expenses for which a taxpayer
19 receives a tax credit under G.S. 105-130.47 or G.S. 105-151.29.

20
21 **PART VII. EFFECTIVE DATE AND CONSTRUCTION**

22 **SECTION 7.1.** Except as provided in Part VI of this act, nothing in this act shall be
23 construed to obligate the General Assembly to appropriate funds to implement this act.

24 **SECTION 7.2.** Except as otherwise provided, this act is effective when it becomes
25 law.