

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE PRINCIPAL CLERK

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HOUSE DRH40109-MCz-231* (03/25)

Short Title: NC Econ. Dev. Partnership Modifications. (Public)

Sponsors: Representative Murry.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO FACILITATE ECONOMIC DEVELOPMENT WITHIN THE STATE.
3 The General Assembly of North Carolina enacts:

4
5 **PART I. AUTHORIZE CONTRACTING OF ECONOMIC DEVELOPMENT**
6 **FUNCTIONS BY THE DEPARTMENT OF COMMERCE**

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

9 **"§ 143B-431A. Department of Commerce – contracting of functions.**

10 (a) Purpose. – The purpose of this section is to establish a framework whereby the
11 Department of Commerce may support through financial and other means a nonprofit
12 corporation that will render advisory, research, and recruiting recommendations regarding
13 incentives or grant awards for fostering and retaining jobs and business development,
14 marketing, and consultation in the development of a comprehensive, long-range strategic plan
15 for economic development through public and private means. It is the intent of the General
16 Assembly that the Department develops a plan to work cooperatively with a nonprofit
17 corporation for these purposes while safeguarding programmatic transparency and
18 accountability as well as the fiscal integrity of economic development programs of the State.

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

- 29 (1) The obligation or commitment of funds under this Article, such as the One
30 North Carolina Fund, the Job Development Investment Grant Program, the
31 Industrial Development Fund, or the Job Maintenance and Capital
32 Development Fund.
33 (2) The Division of Employment Security, including the administration of
34 unemployment insurance.
35 (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 biennially, either by use of the State Auditor or internal
23 auditors of the Department, of the records of the North Carolina nonprofit
24 corporation with which the Department has contracted pursuant to this
25 section during and after the term of the contract to verify data affecting
26 performance and reports.

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 select members so as
47 to reflect the diversity of the State's geography, and each member
48 appointed by the Governor shall have expertise in one or more of the
49 following areas:

50 1. Agribusiness, as recommended by the Commissioner of
51 Agriculture.

- 1 2. Financial services.
- 2 3. Information technology.
- 3 4. Biotechnology or life sciences.
- 4 5. Energy.
- 5 6. Manufacturing.
- 6 7. Military or defense.
- 7 8. Tourism, as jointly recommended by the North Carolina
- 8 Travel and Tourism Coalition and the North Carolina Travel
- 9 Industry Association.
- 10 9. Retail, distribution, and logistics.
- 11 b. No member of the board may take any official action or use the
- 12 member's official position to profit in any manner the board
- 13 member's immediate family, a business with which the board
- 14 member or the board member's immediate family has a business
- 15 association, or a client of the board member or the board member's
- 16 immediate family with whom the board member or the board
- 17 member's immediate family has an existing business relationship for
- 18 matters before the board. No board member shall attempt to profit
- 19 from a proposed project of the Department if the profit is greater than
- 20 that which would be realized by other persons living in the area
- 21 where the project is located. If the profit under this sub-subdivision
- 22 would be greater for the board member than other persons living in
- 23 the area where the project is located, not only shall the member
- 24 abstain from voting on that issue, but once the conflict of interest is
- 25 apparent, the member shall not discuss the project with any other
- 26 board member or other officer or employee of the Department except
- 27 to state that a conflict of interest exists. Under this sub-subdivision, a
- 28 board member is presumed to profit if the profit would be realized by
- 29 a board member's immediate family, a business with which the board
- 30 member or the board member's immediate family has a business
- 31 association, or a client of the board member or the board member's
- 32 immediate family with whom the board member or the board
- 33 member's immediate family has an existing business relationship for
- 34 matters before the board. No board member, in contemplation of
- 35 official action by the board member, by the board, or in reliance on
- 36 information that was made known to the board member in the board
- 37 member's official capacity and that has not been made public, shall
- 38 (i) acquire a pecuniary interest in any property, transaction, or
- 39 enterprise or gain any pecuniary benefit that may be affected by such
- 40 information or official action or (ii) intentionally aid another to do
- 41 any of the above acts. As used in this sub-subdivision, the following
- 42 terms mean:
- 43 1. Board. – The governing board of the nonprofit corporation
- 44 with which the Department contracts pursuant to this section.
- 45 2. Board member. – A member of the board.
- 46 3. Business association. – A director, employee, officer, or
- 47 partner of a business entity, or owner of more than ten percent
- 48 (10%) interest in any business entity.
- 49 4. Department. – The Department of Commerce.
- 50 5. Immediate family. – Spouse, children, parents, brothers, and
- 51 sisters.

- 1 6. Official action. – Actions taken while a board member related
2 to or in connection with the person's duties as a board
3 member, including, but not limited to, voting on matters
4 before the board, proposing or objecting to proposals for
5 economic development actions by the Department or the
6 board, discussing economic development matters with other
7 board members or Department staff or employees in an effort
8 to further the matter after the conflict of interest has been
9 discovered, or taking actions in the course and scope of the
10 position as a board member and actions leading to or resulting
11 in profit.
- 12 7. Profit. – Receive monetary or economic gain or benefit,
13 including an increase in value whether or not recognized by
14 sale or trade.
- 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 one hundred twenty thousand dollars (\$120,000).
- 46 (4) The nonprofit corporation shall have received from fundraising efforts and
47 sources, other than State funds, an amount totaling at least ten million dollars
48 (\$10,000,000) to support operations and functions of the corporation.
- 49 (e) Mandatory Contract Terms. – Any contract entered into under this section must
50 include all of the following:

- 1 (1) A provision requiring the North Carolina nonprofit corporation provide to
2 the Joint Legislative Economic Development and Global Engagement
3 Oversight Committee, the Department of Commerce, and the Fiscal
4 Research Division a copy of the corporation's annual audited financial
5 statement within seven days of issuance of the statement.
- 6 (2) A provision requiring the nonprofit corporation to provide, by September 1
7 of each year, and more frequently as requested, a report to the Department
8 on prior State fiscal year program activities, objectives, and
9 accomplishments and prior State fiscal year itemized expenditures and fund
10 sources. The report shall also include all of the following:
- 11 a. Jobs anticipated to result and actually resulting from efforts of the
12 nonprofit corporation, itemized by county, by development tier area
13 designation, as defined by G.S. 143B-437.08, and by Collaboration
14 for Prosperity Zones created pursuant to G.S. 143B-28.1.
- 15 b. Developed performance metrics of economic development functions,
16 itemized by county, by development tier area designation, as defined
17 by G.S. 143B-437.08, and by Collaboration for Prosperity Zones
18 created pursuant to G.S. 143B-28.1.
- 19 c. Any proposed amendments to the areas of expertise required to be
20 represented on the governing board of the nonprofit corporation.
- 21 d. A detailed explanation of how annual salaries are determined,
22 including base pay schedules and any additional salary amounts or
23 incentives that may be earned as a result of job performance. The
24 explanation shall include the proportion of State and private funds for
25 each position and shall include the means used by the nonprofit
26 corporation to foster employee efforts for economic development in
27 rural and low-income areas in the State.
- 28 (3) A provision providing that, upon termination of the contract or a request by
29 the Department for enforcement of the contract by the Attorney General, or
30 upon repeal of the charter of the nonprofit corporation with which the
31 Department has contracted under this section by the General Assembly, all
32 assets and funds of the nonprofit corporation, including interest on funds,
33 financial and operational records, and the right to receive future funds
34 pursuant to the contract, will be surrendered to the Department within 30
35 days of the termination, request, or repeal. During the 30-day period, the
36 corporation may not further encumber any assets or funds. For funds
37 surrendered pursuant to this provision that are subject to a written agreement
38 signed by the board to create a legal and enforceable obligation of the
39 corporation pursuant to subdivision (8) of this subsection, the Department
40 shall use the funds for the same purposes for which the funds were
41 obligated; for all other funds surrendered pursuant to this provision, the
42 Department shall deposit the funds in the General Fund, and the funds shall
43 remain unexpended and unencumbered until appropriated by the General
44 Assembly. For purposes of this subdivision, assets and funds of the nonprofit
45 corporation include assets and funds of any subsidiary or affiliate of the
46 nonprofit corporation. An affiliate of the nonprofit corporation exists when
47 both are directly or indirectly controlled by the same parent corporation or
48 by the same or associated financial interests by stock ownership,
49 interlocking directors, or by any other means whatsoever, whether the
50 control is direct or through one or more subsidiary, affiliated, or controlled
51 corporations.

- 1 (4) A provision providing that any recommendation or advice to the Department
2 be accompanied by a statement indicating whether the nonprofit corporation
3 or any affiliated member of the corporation has received, directly or
4 indirectly, any gift, contribution, or item or service of value for which fair
5 market value was not paid if such was received from an entity that is the
6 subject of the recommendation or advice. The statement shall also include
7 the amount and date of each gift, contribution, or item or service of value
8 received.
- 9 (5) A provision providing that the nonprofit corporation maintain a Web site
10 disclosing, within 30 days of occurrence, each of the following:
- 11 a. The receipt, including the name of any entity from which the
12 nonprofit corporation or any affiliated member of the corporation has
13 received, directly or indirectly, of any gift, contribution, or item or
14 service of value for which fair market value was not paid. The
15 statement shall also include the amount and date of each gift,
16 contribution, or item or service of value received. If the entity listed
17 on the Web site has a contract with this State, the nonprofit
18 corporation shall note expressly the existence of contract with the
19 State.
- 20 b. The disbursement, including amount, recipient, and purpose and date
21 of disbursement, of any funds awarded, granted, or loaned by the
22 corporation.
- 23 (6) A provision encouraging the nonprofit corporation to seek private funds
24 from businesses and entities that are unlikely to seek economic development
25 incentives from or contracts with the State.
- 26 (7) A provision requiring the nonprofit corporation to maintain separate
27 accounting records for and separate accounts for State and private funds and
28 prohibiting any commingling of State and private funds. Records and
29 accounts must be maintained according to generally accepted accounting
30 principles.
- 31 (8) A provision requiring any lending, awarding, or granting of private funds of
32 the nonprofit corporation be in a written agreement and signed by the Board
33 in order to create a legal and enforceable obligation of the corporation.
- 34 (9) A provision limiting the term of the contract to no more than four years. The
35 term of the contract may be extended in one-year increments up to four
36 times after no less than three-fourths of the original contract term has passed.
37 A contract extension may not extend the remaining term of the contract,
38 including the term of the extension, to more than two years. Nothing in this
39 subdivision shall be construed as a prohibition against entering into a new
40 contract with the nonprofit corporation.
- 41 (10) A provision limiting the severance pay for the chief executive officer and
42 other officers of the nonprofit corporation to no more than the lesser of the
43 following:
- 44 a. The salary limitation contained in subdivision (3) of subsection (d) of
45 this section.
- 46 b. The salary limitation contained in subdivision (3) of subsection (d) of
47 this section multiplied by a fraction, the numerator of which is the
48 number of whole years the chief officer has been chief officer of the
49 corporation and the denominator of which is four.
- 50 (11) A provision requiring annual certification by the nonprofit corporation that it
51 is in compliance with the following:

- 1 a. The requirements of Chapter 55A of the General Statutes.
2 b. The requirements of each of the provisions listed in subsection (e) of
3 this section. For any provision in this subsection that the nonprofit
4 corporation did not comply with, the corporation shall provide a
5 detailed explanation of the circumstances and time of the
6 noncompliance.
- 7 (12) A provision requiring the nonprofit corporation to contract with the Office of
8 State Budget Management for performance review, including verifying
9 eligibility for disbursement of funds from and reimbursement by the
10 Department to the corporation. The performance review required by this
11 section must occur no less than annually and must be according to generally
12 accepted auditing principles.
- 13 (f) Report. – By September 30 of each year, and more frequently as requested, the
14 Department shall submit a report to the Joint Legislative Commission on Governmental
15 Operations, the Joint Legislative Economic Development and Global Engagement Oversight
16 Committee, and the Fiscal Research Division on any performance for which the Department
17 has contracted pursuant to this section. The report shall contain, at a minimum, each of the
18 following:
- 19 (1) A copy of the most recent report required by the Department pursuant to
20 subdivision (2) of subsection (e) of this section.
- 21 (2) An executive summary of the report required by subdivision (1) of this
22 subsection.
- 23 (3) A listing of each entity to which a North Carolina nonprofit corporation with
24 which the Department contracts pursuant to this section has recommended
25 awarding funds and the amount of funds recommended to be awarded, and
26 any other information the Secretary determines is necessary or that is
27 specifically requested in writing.
- 28 (4) An explanation of the response by the Department to any notifications of
29 noncompliance submitted to the Department by the nonprofit corporation, as
30 required by G.S. 143B-431A(e), including actions taken by the Department
31 to prevent repeat or similar instances of noncompliance.
- 32 (5) For each activity in which the Secretary of Commerce solicits funds for the
33 corporation, as permitted by subsection (i) of this section, a listing of each
34 activity, including the date and the name of each person or entity from whom
35 funds were solicited.
- 36 (g) Public Funds. – A North Carolina nonprofit corporation with which the Department
37 contracts pursuant to this section shall comply with the requirements provided in this
38 subsection regarding the use of State funds.
- 39 (1) Interest earned on State funds after receipt of the funds by the nonprofit
40 corporation shall be used for the same purposes for which the principal was
41 to be used.
- 42 (2) The travel and personnel policies and regulations of the State of North
43 Carolina Budget Manual limiting reimbursement for expenses of State
44 employees apply to reimbursements for expenses of officers, employees, or
45 members of a governing board of the nonprofit corporation.
- 46 (h) Applicable Laws. – A North Carolina nonprofit corporation with which the
47 Department contracts pursuant to this section is subject to the requirements of (i) Chapter 132
48 of the General Statutes and (ii) Article 33C of Chapter 143 of the General Statutes. Officers,
49 employees, and members of the governing board of the corporation are public servants, as
50 defined in G.S. 138A-3, and are subject to the requirements of Chapter 138A of the General
51 Statutes. Officers, members of the governing board, and employees of the corporation whose

1 annual compensation is equal to or greater than sixty thousand dollars (\$60,000) are subject to
2 G.S. 138A-22.

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

7 (j) Benefits. – An officer, employee, or member of a governing board of a North
8 Carolina nonprofit corporation with which the Department contracts pursuant to this section is
9 not a State employee, is not covered by Chapter 126 of the General Statutes, and is not entitled
10 to State-funded employee benefits, including membership in the Teachers' and State
11 Employees' Retirement System and the State Health Plan for Teachers and State Employees."

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

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

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

19 **"§ 143B-434.01. Comprehensive Strategic Economic Development Plan.**

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

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

22 ...

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

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

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

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

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

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

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

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

47 b. Local economic development departments and regional economic
48 development organizations.

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

- 1 (2) The ~~Board~~Secretary shall also hold hearings in each of the Regions to solicit
2 public input on economic development before the initial Plan is completed.
3 The purposes of the public hearings are to:
4 a. Assess the strengths and weaknesses of recent regional economic
5 performance.
6 b. Examine the status and competitive position of the regional resource
7 base.
8 c. Identify and seek input on issues that are key to improving the
9 economic well-being of the Region.

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

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

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

24 ...

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

26 (g) Vision and Mission Statements. – The ~~Board~~Secretary shall develop a vision
27 statement for economic development that would describe the preferred future for North
28 Carolina and what North Carolina would be like if all economic development efforts were
29 successful. The ~~Board~~Secretary shall then develop a mission statement that outlines the basic
30 purpose of each of North Carolina's economic development programs. Because special purpose
31 nonprofit organizations are uniquely situated to conduct the entrepreneurial and high-risk
32 activity of investing in and supporting new business creation in the State, they should be
33 assigned a dominant role in this key component of economic development activity.

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

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

51 ...

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

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

12 ...

13 (l) Accountability. – The ~~Board~~Secretary shall make all data, plans, and reports
14 available to the General Assembly, the Joint Legislative Commission on Governmental
15 Operations, the Joint Legislative Economic Development and Global Engagement Oversight
16 Committee, the Senate Appropriations Committee on Natural and Economic Resources, and the
17 House of Representatives Appropriations Subcommittee on Natural and Economic Resources at
18 appropriate times and upon request. The ~~Board~~Secretary shall prepare and make available on
19 an annual basis public reports on each of the major sections of the Plan and the Annual Report
20 indicating the degree of success in attaining each development objective."

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

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

26 (1) The Department shall develop a plan for private fundraising efforts for the
27 nonprofit corporation for the performance of economic development
28 functions. The study shall include the creation of a budget for the nonprofit
29 corporation that provides for the performance of core functions of the
30 corporation, including economic development functions, in the absence of
31 private funds. The study shall compare the budget of the Department and
32 budget developed for the nonprofit corporation according to Department
33 division and budget category, including personal services; purchased
34 services; supplies; property, plant, and equipment; other expenses and
35 adjustments; aid and public assistance; and other budget categories used by
36 the Department. The study shall include a measurement and estimation of
37 expected private fundraising potential, and the Department shall examine the
38 efforts of other states that have permitted public-private partnerships for
39 economic development activities and report on the source or sources of
40 funds for those partnerships, separately accounting for funds provided by the
41 state and private funds.

42 (2) The Department shall report on each performance metric listed in this
43 subdivision. The report shall analyze the Department's performance for each
44 metric for (i) the last full year prior to contracting for performance of the
45 metric, (ii) the annual average for the five-year period preceding contracting
46 for performance of the metric, and (iii) the annual average for the 10-year
47 period preceding contracting for performance of the metric. The
48 performance metrics to be reported upon are as follows:

49 a. For business and industry:

50 1. Number of projects announced by the Department.

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2. Number of projects pursued by the Department that were not subsequently announced.
 3. The originating source of and number of projects identified in sub-sub-subdivisions 1. and 2. of this sub-subdivision, including a designation of whether the project was identified by Departmental staff, local economic development partner, business source, or other source.
 4. Percentage of projects pursued by the Department that resulted in announcement.
 5. Number of jobs anticipated to be created at the time the projects are announced.
 6. Cost per job in incentives awarded or granted.
 7. Average number of years required for recoupment by the State of incentives awarded and authorized by the Department through increased State tax revenues.
 8. Any foreign direct investment resulting from departmental activities or expenditures or both.
- b. For marketing:
1. Advertising and marketing budget for the State. Expenditures shall be itemized by print media, radio, television, Internet, business trade shows and conventions, and other communication media.
 2. Efficacy and means of evaluating efficacy of marketing efforts in promoting the State as a business destination, including instances of positive mentions of the State or the business environment of the State resulting from marketing efforts.
- c. For international trade:
1. Expenditures of the Department, itemized by departmental staff, independent entities with which the Department contracts, marketing and communication, trade shows, trade missions, and conventions.
 2. Information on additional exports generated as a result of departmental activities or expenditures or both.
- d. For small business:
1. List of each service and support offered for small businesses in or exploring expansion in or into the State.
 2. Number of small businesses to which services or support has been provided.
 3. Number of jobs created or retained as a result of services or support provided.
- e. For tourism:
1. Advertising and marketing budget for the State. Expenditures shall be itemized by print media, radio, television, Internet, industry shows and conventions, and other communication media.
 2. Efficacy and means of evaluating efficacy of marketing efforts in promoting the State as a tourism destination, including instances of positive mentions of the State or the tourism environment of the State resulting from marketing efforts.

3. Number of tourists attracted as a result of departmental efforts.

f. Any other information or performance metrics allowing comparison between departmental and corporate performance for any other economic development division in the Department for which the Department contracts for performance with a North Carolina nonprofit corporation pursuant to this act.

g. Any other information or performance metrics deemed useful or necessary by the Department in the listed areas or other areas.

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

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

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

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

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

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

(d) (1) Exempt Positions in Cabinet Department. – Subject to the provisions of this Chapter, which is known as the State Personnel Act, the Governor may designate a total of 1,000 exempt positions throughout the following departments:

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

...."

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

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

PART II. MODIFY NORTH CAROLINA BOARD OF SCIENCE AND TECHNOLOGY

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

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

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

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

...

- 1 (4) To advise and make recommendations to the Governor, the General
2 Assembly, the Secretary of Commerce, and ~~the Economic Development~~
3 ~~Board~~ any North Carolina nonprofit corporation with which the Department
4 of Commerce contracts pursuant to G.S. 143B-431A on the role of science
5 and technology ~~science, technology, and innovation~~ in the economic growth
6 and development of North Carolina.

7 ...
8 "**§ 143B-472.81. North Carolina Board of ~~Science and Technology~~; Science, Technology,**
9 **and Innovation; membership; organization; compensation; staff services.**

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

35"

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

37 "**§ 143B-437.80. North Carolina SBIR/STTR Incentive Program.**

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

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

1 proposal submission. Costs that may be reimbursed include costs incurred directly related to
2 preparation and submission of the grant such as word processing services, proposal consulting
3 fees, project-related supplies, literature searches, rental of space or equipment related to the
4 proposal preparation, and salaries of individuals involved with the preparation of the proposals.
5 Costs that shall not be reimbursed include travel expenses, large equipment purchases, facility
6 or leasehold improvements, and legal fees.

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

10"

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

12 **"§ 143B-437.81. North Carolina SBIR/STTR Matching Funds Program.**

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

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

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

34"

35
36 **PART III. CREATION OF COLLABORATION FOR PROSPERITY ZONES**

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

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

47 **"§ 143B-28.1. Create Collaboration for Prosperity Zones.**

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

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

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

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

19 **SECTION 4.3.(a)** The Departments of Transportation and Environment and
20 Natural Resources shall jointly report to the Office of State Budget and Management, the Joint
21 Legislative Commission on Governmental Operations, the Joint Legislative Transportation
22 Oversight Committee, the Environmental Review Commission, and the Study Commission on
23 Interagency Collaboration for Prosperity, as follows:

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

33 **SECTION 4.3.(b)** The Community Colleges System Office and the State Board of
34 Education shall each report to the Office of State Budget and Management, the Joint
35 Legislative Commission on Governmental Operations, the Joint Legislative Education
36 Oversight Committee, and the Study Commission on Interagency Collaboration for Prosperity,
37 as follows:

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

45 **SECTION 4.3.(c)** The Department of Commerce shall include in its first report
46 under G.S. 143B-431(c1), as enacted by this act, a report on the establishment and activities of
47 its liaisons in each Collaboration for Prosperity Zone. The Department of Commerce shall send
48 a copy of this report to the Office of State Budget and Management and to the Study
49 Commission on Interagency Collaboration for Prosperity.

50 **SECTION 4.4.** The Departments of Commerce, Environment and Natural
51 Resources, and Transportation, the Community Colleges System Office, and the State Board of

1 Education shall use funds available to carry out the requirements of this section. Nothing in this
2 act shall be construed as an authorization for payment of additional compensation for persons
3 serving as liaisons.

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

5
6 **PART V. STUDY COMMISSION ON INTERAGENCY COLLABORATION FOR**
7 **PROSPERITY**

8 **SECTION 5.1.(a)** Creation of Commission. – The Study Commission on
9 Interagency Collaboration for Prosperity is established in the General Assembly.

10 **SECTION 5.1.(b)** Membership. – The Study Commission on Interagency
11 Collaboration for Prosperity shall consist of eight members, four members of the Senate
12 appointed by the President Pro Tempore of the Senate and four members of the House of
13 Representatives appointed by the Speaker of the House of Representatives.

14 **SECTION 5.1.(c)** Cochairs; Vacancies; Quorum. – The Study Commission on
15 Interagency Collaboration for Prosperity shall have two cochairs, one designated by the
16 President Pro Tempore of the Senate and one designated by the Speaker of the House of
17 Representatives from among their respective appointees. The Commission shall meet upon the
18 call of the cochairs. Any vacancy on the Commission shall be filled by the original appointing
19 authority. A majority of the members of the Commission constitutes a quorum.

20 **SECTION 5.1.(d)** Compensation; Administration. – Members of the Study
21 Commission on Interagency Collaboration for Prosperity shall receive per diem, subsistence,
22 and travel allowances in accordance with G.S. 120-3.1. The Commission, while in the
23 discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and
24 G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet in the Legislative Building or
25 the Legislative Office Building.

26 With approval of the Legislative Services Commission, the Legislative Services
27 Officer shall assign professional staff to assist the Study Commission on Interagency
28 Collaboration for Prosperity in its work. The House of Representatives' and the Senate's
29 Directors of Legislative Assistants shall assign clerical staff to the Study Commission on
30 Interagency Collaboration for Prosperity, and the expenses relating to the clerical employees
31 shall be borne by the Commission. The Study Commission on Interagency Collaboration for
32 Prosperity may contract for professional, clerical, or consultant services, as provided by
33 G.S. 120-32.02.

34 **SECTION 5.2.(a)** Duties. – The Study Commission on Interagency Collaboration
35 for Prosperity shall review the reports submitted by the Departments of Commerce,
36 Environment and Natural Resources, and Transportation, the Community Colleges System
37 Office, and the State Board of Education pursuant to Part IV of this act and any other
38 information the Commission deems relevant. The Commission may also study and recommend
39 to the 2015 Regular Session of the General Assembly legislation on the following topics:

- 40 (1) Enhancing collaboration and cooperation between State and other
41 governmental agencies in order to streamline and improve services to
42 citizens and businesses, to make such services more user-friendly, and to
43 implement collaborative and cooperative interagency measures to enhance
44 access to services.
- 45 (2) Reducing barriers faced by citizens and businesses in accessing services that
46 are unnecessarily caused by agency specialization (which may produce a
47 "silo mentality").
- 48 (3) Additional recommendations regarding liaison personnel, including
49 expanding the requirement to other State departments.

- 1 (4) Ways to integrate collaboration between educational institutions in each
2 Collaboration for Prosperity Zone on the one hand and other governmental
3 agencies and local businesses on the other.
4 (5) Requiring the establishment of interagency one-stop shops in each
5 Collaboration for Prosperity Zone.
6 (6) Consolidation of programs or services.
7 (7) Cross-training of employees.
8 (8) Identification of offices, equipment, and support services that may be
9 efficiently and economically shared between agencies in each Collaboration
10 for Prosperity Zone.
11 (9) The grouping of counties within each Collaboration for Prosperity Zone to
12 determine whether there is a better configuration while keeping the same
13 overall number of zones.

14 The report containing the recommendations shall identify any savings or costs identified by the
15 Commission as likely to result from its recommendations.

16 **SECTION 5.2.(b)** Report. – The Study Commission on Interagency Collaboration
17 for Prosperity shall report its recommendations under this section to the 2015 Regular Session
18 of the General Assembly.

19 **SECTION 5.2.(c)** Agency Cooperation. – All State departments and agencies and
20 local governments and their subdivisions shall furnish the Study Commission on Interagency
21 Collaboration for Prosperity with any information in their possession or available to them.

22 **SECTION 5.2.(d)** Commission Termination. – The Study Commission on
23 Interagency Collaboration for Prosperity shall terminate on the filing of its report or on July 1,
24 2015, whichever is later.

25 **PART VI. EFFECTIVE DATE AND CONSTRUCTION**

26 **SECTION 6.1.** Nothing in this act shall be construed to obligate the General
27 Assembly to appropriate funds to implement this act.

28 **SECTION 6.2.** Except as otherwise provided, this act is effective when it becomes
29 law.
30