

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 743*
PROPOSED COMMITTEE SUBSTITUTE S743-PCS35557-MC-24

Short Title: NC Econ. Dev. Partnership Modifications.

(Public)

Sponsors:

Referred to:

May 15, 2014

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 contract with a North Carolina nonprofit corporation to assist
12 the Department in fostering and retaining jobs and business development, international trade,
13 marketing, and travel and tourism. It is the intent of the General Assembly that the Department
14 develop a plan to work cooperatively with a nonprofit corporation for these purposes while
15 safeguarding programmatic transparency and accountability as well as the fiscal integrity of
16 economic development programs of the State.

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

- 27 (1) The obligation or commitment of funds under this Article, such as the One
28 North Carolina Fund, the Job Development Investment Grant Program, the
29 Industrial Development Fund, or the Job Maintenance and Capital
30 Development Fund.
31 (2) The Division of Employment Security, including the administration of
32 unemployment insurance.
33 (3) The functions set forth in G.S. 143B-431(a)(2).
34 (4) The administration of funds or grants received from the federal government
35 or its agencies.



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

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

- 13 (1) Monitoring and oversight of the performance of a contract entered into
14 pursuant to this section by the Department with a North Carolina nonprofit
15 corporation.
- 16 (2) Receiving, reviewing, and referring complaints regarding the contract or the
17 performance of the North Carolina nonprofit corporation, as appropriate.
- 18 (3) Requesting enforcement of the contract by the Attorney General or the
19 Department.
- 20 (4) Auditing, at least annually, by the Office of State Auditor the records of the
21 North Carolina nonprofit corporation with which the Department has
22 contracted pursuant to this section during and after the term of the contract
23 to review financial documents of the corporation, performance of the
24 corporation, and compliance of the corporation with applicable laws.
- 25 (5) Coordination of economic development grant programs of the State between
26 the Department of Commerce, the Department of Transportation, and the
27 Department of Environment and Natural Resources.
- 28 (6) Any other duties deemed necessary by the Committee.

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

- 32 (1) At least 45 days prior to entering into or amending in a nontechnical manner
33 a contract authorized by this section, the Department shall submit the
34 contract or amendment, along with a detailed explanation of the contract or
35 amendment, to the Joint Legislative Commission on Governmental
36 Operations and the Fiscal Research Division.
- 37 (2) The nonprofit corporation adheres to the following governance provisions
38 related to its governing board:
 - 39 a. The board shall be composed of 17 voting members as follows: eight
40 members and the chair appointed by the Governor, four members
41 appointed by the Speaker of the House of Representatives, and four
42 members appointed by the President Pro Tempore of the Senate. The
43 Governor, the Speaker of the House of Representatives, and the
44 President Pro Tempore of the Senate shall each use best efforts to
45 select members so as to reflect the diversity of the State's geography,
46 and the Governor shall use best efforts to ensure that each member
47 appointed by the Governor has expertise in one or more of the
48 following areas:
 - 49 1. Agribusiness, as recommended by the Commissioner of
50 Agriculture.
 - 51 2. Financial services.

- 1 3. Information technology.
- 2 4. Biotechnology or life sciences.
- 3 5. Energy.
- 4 6. Manufacturing.
- 5 7. Military or defense.
- 6 8. Tourism, as recommended by the North Carolina Travel and
- 7 Tourism Coalition.
- 8 9. Tourism, as recommended by the North Carolina Travel
- 9 Industry Association.
- 10 b. The nonprofit corporation shall comply with the restrictions on
- 11 lobbying set forth in section 501(c)(3) of the Internal Revenue Code.
- 12 c. No State officer or employee may serve on the board.
- 13 d. The board shall meet at least quarterly at the call of its chair. Each
- 14 quarter and upon request, the board shall report to the Chair of the
- 15 Economic Development Accountability and Standards Committee on
- 16 the progress of the State's economic development.
- 17 e. The board is required to perform the following duties if the
- 18 Department contracts pursuant to G.S. 143B-431A for the
- 19 performance of the Secretary's responsibilities under
- 20 G.S. 143B-434.01:
- 21 1. To provide advice concerning economic and community
- 22 development planning for the State, including a strategic
- 23 business facilities development analysis of existing, available
- 24 buildings or shell or special-use buildings and sites.
- 25 2. To recommend economic development policy to the
- 26 Secretary of Commerce, the General Assembly, and the
- 27 Governor.
- 28 3. To recommend annually to the Governor biennial and annual
- 29 appropriations for economic development programs.
- 30 4. To recommend how best to coordinate economic
- 31 development efforts among the various agencies and entities,
- 32 including those created by executive order of the Governor,
- 33 that receive economic development appropriations, including
- 34 the assignment of key responsibilities for different aspects of
- 35 economic development and resource allocation and planning
- 36 designed to encourage each agency to focus on its area of
- 37 primary responsibility and not diffuse its resources by
- 38 conducting activities assigned to other agencies.
- 39 (3) The amount of State funds that may be used for the annual salary of any one
- 40 officer, employee, or member of a governing board of the nonprofit
- 41 corporation with which the Department contracts pursuant to this section
- 42 shall not exceed the greater of (i) one hundred twenty thousand dollars
- 43 (\$120,000) or (ii) the amount most recently set by the General Assembly in a
- 44 Current Operations Appropriations Act.
- 45 (4) The nonprofit corporation shall have received from fund-raising efforts and
- 46 sources, other than State funds, an amount totaling at least two hundred fifty
- 47 thousand dollars (\$250,000) to support operations and functions of the
- 48 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 from efforts of the nonprofit corporation.
12 This includes project leads that were not submitted to the Department
13 for possible discretionary incentives pursuant to Chapter 143B of the
14 General Statutes.
- 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 bonuses 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. Any bonuses paid to
28 employees shall be based upon overall job performance and not be
29 based on a specific project lead.
- 30 e. Any other information requested by the Department.
- 31 (3) A provision providing that, upon termination of the contract, or upon
32 dissolution of, or repeal by the General Assembly of, the charter of the
33 nonprofit corporation with which the Department has contracted under this
34 section, all assets and funds of the nonprofit corporation, including interest
35 on funds, financial and operational records, and the right to receive future
36 funds pursuant to the contract, will be surrendered to the Department within
37 30 days of the termination, dissolution, or repeal. During the 30-day period,
38 the corporation may not further encumber any assets or funds. For purposes
39 of this subdivision, assets and funds of the nonprofit corporation include
40 assets and funds of any subsidiary or affiliate of the nonprofit corporation.
41 An affiliate of the nonprofit corporation exists when both are directly or
42 indirectly controlled by the same parent corporation or by the same or
43 associated financial interests by stock ownership, interlocking directors, or
44 by any other means whatsoever, whether the control is direct or through one
45 or more subsidiary, affiliated, or controlled corporations.
- 46 (4) A provision providing that the nonprofit corporation shall adopt and publish
47 a resolution or policy containing a code of ethics, conflict of interest policy,
48 and gift policy to guide actions by the governing board members, officers,
49 and employees of the nonprofit corporation in the performance of their
50 duties. The resolution or policy required by this subdivision shall address at
51 least all of the following:

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

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

- 40 a. Board. – The governing board of the nonprofit corporation with
- 41 which the Department contracts pursuant to this section.
- 42 b. Board member. – A member of the board.
- 43 c. Business association. – A director, employee, officer, or partner of a
- 44 business entity, or owner of more than ten percent (10%) interest in
- 45 any business entity.
- 46 d. Subject person. – A board member, officer, or employee of the
- 47 nonprofit corporation.
- 48 e. Department. – The Department of Commerce.
- 49 f. Immediate family. – Spouse, children, parents, brothers, and sisters.
- 50 g. Official action. – Actions taken in connection with the subject
- 51 person's duties, including, but not limited to, voting on matters before

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

- 1 (10) A provision limiting the term of the contract to no more than five years. The
2 term of the contract may be extended in one-year increments up to four
3 times after no less than four-fifths of the original contract term has passed. A
4 contract extension may not extend the remaining term of the contract,
5 including the term of the extension, to more than two years. Nothing in this
6 subdivision shall be construed as a prohibition against entering into a new
7 contract with the nonprofit corporation.
- 8 (11) A provision limiting the severance pay for the chief executive officer and
9 other officers of the nonprofit corporation to no more than the lesser of the
10 following:
- 11 a. The salary limitation contained in subdivision (3) of subsection (d) of
12 this section.
- 13 b. The salary limitation contained in subdivision (3) of subsection (d) of
14 this section multiplied by a fraction, the numerator of which is the
15 number of whole years the chief officer has been chief officer of the
16 corporation and the denominator of which is four.
- 17 (12) A provision requiring annual certification by the nonprofit corporation that it
18 is in compliance with the following:
- 19 a. The requirements of Chapter 55A of the General Statutes.
- 20 b. The requirements of each of the provisions listed in subsection (e) of
21 this section. For any provision in this subsection that the nonprofit
22 corporation did not comply with, the corporation shall provide a
23 detailed explanation of the circumstances and time of the
24 noncompliance.
- 25 (13) A provision requiring the nonprofit corporation to comply with and perform
26 the duties set out in G.S. 143B-434.2 in the event the Department contracts
27 with the nonprofit corporation to promote and market tourism.
- 28 (14) A provision requiring the nonprofit corporation to receive from fund-raising
29 efforts and sources other than State funds an amount totaling at least five
30 million seven hundred fifty thousand dollars (\$5,750,000) during the term of
31 the contract to support operations and functions of the corporation. The
32 corporation shall raise at least seven hundred fifty thousand dollars
33 (\$750,000) during the first year of the term of the contract and shall raise at
34 least one million two hundred fifty thousand dollars (\$1,250,000) during
35 each subsequent year of the term of the contract. Amounts raised prior to
36 entering the contract or during a year preceding the current year of the
37 contract shall not apply to the amount required to be raised during the
38 current year.
- 39 (15) A provision that the limitation of G.S. 143C-6-8 applies.
- 40 (f) Report. – By September 30 of each year, and more frequently as requested, the
41 Department shall submit a report to the Joint Legislative Commission on Governmental
42 Operations, the Joint Legislative Economic Development and Global Engagement Oversight
43 Committee, and the Fiscal Research Division on any performance for which the Department
44 has contracted pursuant to this section. The report shall contain, at a minimum, each of the
45 following:
- 46 (1) A copy of the most recent report required by the Department pursuant to
47 subdivision (2) of subsection (e) of this section.
- 48 (2) An executive summary of the report required by subdivision (1) of this
49 subsection.
- 50 (3) A listing of each entity referred to the Department by a North Carolina
51 nonprofit corporation with which the Department contracts pursuant to this

- 1 section and any other information the Secretary determines is necessary or
2 that is specifically requested in writing.
- 3 (4) An explanation of the response by the Department to any notifications of
4 noncompliance submitted to the Department by the nonprofit corporation, as
5 required by G.S. 143B-431A(e), including actions taken by the Department
6 to prevent repeat or similar instances of noncompliance.
- 7 (5) For each activity in which the Secretary of Commerce solicits funds for the
8 corporation, as permitted by subsection (i) of this section, a listing of each
9 activity, including the date and the name of each person or entity from whom
10 funds were solicited.
- 11 (6) If the nonprofit corporation or any affiliated entity of the corporation has
12 received, directly or indirectly, any gift, contribution, or item or service of
13 value for which fair market value was not paid and if an entity making the
14 gift or contribution receives an award, a list of the entity and the amount of
15 the award.
- 16 (g) Public Funds. – A North Carolina nonprofit corporation with which the Department
17 contracts pursuant to this section shall comply with the requirements provided in this
18 subsection regarding the use of State funds.
- 19 (1) Interest earned on State funds after receipt of the funds by the nonprofit
20 corporation shall be used for the same purposes for which the principal was
21 to be used.
- 22 (2) The travel and personnel policies and regulations of the State of North
23 Carolina Budget Manual limiting reimbursement for expenses of State
24 employees apply to reimbursements for expenses of officers, employees, or
25 members of a governing board of the nonprofit corporation. Deviations from
26 the policies and regulations shall be approved by the Secretary.
- 27 (3) State funds shall not be used to hire a lobbyist.
- 28 (h) Applicable Laws. – A North Carolina nonprofit corporation with which the
29 Department contracts pursuant to this section is subject to the requirements and the exceptions
30 of (i) Chapter 132 of the General Statutes and (ii) Article 33C of Chapter 143 of the General
31 Statutes.
- 32 (i) Prohibition. – A State officer or employee, other than the Secretary of Commerce,
33 shall not solicit funds for a North Carolina nonprofit corporation with which the Department
34 contracts pursuant to this section. The Secretary of Commerce may solicit funds for the
35 nonprofit corporation pursuant to G.S. 138A-31(b)(5).
- 36 (j) Benefits. – An officer, employee, or member of a governing board of a North
37 Carolina nonprofit corporation with which the Department contracts pursuant to this section is
38 not a State employee, is not covered by Chapter 126 of the General Statutes, and is not entitled
39 to State-funded employee benefits, including membership in the Teachers' and State
40 Employees' Retirement System and the State Health Plan for Teachers and State Employees."
- 41 **SECTION 1.1.(b)** G.S. 143B-431A(i), as enacted by this act, does not apply to
42 employees of the Department of Commerce, other than employees involved in the
43 recommendation and administration of State economic development incentive programs, prior
44 to the time the Department contracts with a North Carolina nonprofit corporation pursuant to
45 this act.
- 46 **SECTION 1.1.(c)** G.S. 132-6(d) reads as rewritten:
47 "(d) Notwithstanding the provisions of subsections (a) and (b) of this section, public
48 records relating to the proposed expansion or location of specific business or industrial projects
49 may be withheld so long as their inspection, examination or copying would frustrate the
50 purpose for which such public records were created; provided, however, that nothing herein
51 shall be construed to permit the withholding of public records relating to general economic

1 development policies or activities. Once the State, a local government, or the specific business
2 has announced a commitment by the business to expand or locate a specific project in this State
3 ~~or a final decision not to do so and the business has communicated that commitment or decision~~
4 ~~to the State or local government agency involved with the project,~~ and that the business will
5 receive a discretionary incentive for the project pursuant to Chapter 143B of the General
6 Statutes, the provisions of this subsection allowing public records to be withheld by the agency
7 no longer apply. If the specific business has requested discretionary incentives for the project
8 pursuant to Chapter 143B of the General Statutes, but decides to not expand or locate the
9 project in this State or does not receive such discretionary incentives, then the only records that
10 are subject to disclosure pursuant to this Chapter are the records submitted to the Department of
11 Commerce by the nonprofit corporation with which the Department contracts pursuant to
12 G.S. 143B-431A. If a business decides to expand or locate a specific project in this State, but
13 the nonprofit corporation with which the Department contracts pursuant to G.S. 143B-431A
14 does not submit any documentation to the Department regarding a request for any discretionary
15 incentives by the State pursuant to Chapter 143B of the General Statutes, and the business does
16 not receive any such discretionary incentives, then any records regarding such project are not
17 subject to disclosure pursuant to this Chapter. Once the provisions of this subsection no longer
18 apply, the agency shall disclose as soon as practicable, and within 25 business days, public
19 records requested for the announced project that are not otherwise made confidential by law.
20 An announcement that a business or industrial project has committed to expand or locate in the
21 State shall not require disclosure of local government records relating to the project if the
22 business has not selected a specific location within the State for the project. Once a specific
23 location for the project has been determined, local government records must be disclosed, upon
24 request, in accordance with the provisions of this section. For purposes of this section, "local
25 government records" include records maintained by the State that relate to a local government's
26 efforts to attract the project."

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

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

29 **"§ 143B-434.01. Comprehensive Strategic Economic Development Plan.**

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

31 (1) ~~Board.~~ ~~The Economic Development Board.~~

32 ...

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

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

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

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

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

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

- 1 (d) (1) Public and Private Input. – At each stage as it develops and updates the Plan,
2 the ~~Board-Secretary~~ shall solicit input from all parties involved in economic
3 development in North Carolina, including:
4 a. Each of the programs and organizations that, for State budget
5 purposes, identifies economic development as one of its global goals.
6 b. Local economic development departments and regional economic
7 development organizations.
8 c. The Board of Governors of The University of North Carolina.
- 9 (2) The ~~Board-Secretary~~ shall also hold hearings in each of the Regions to solicit
10 public input on economic development before the initial Plan is completed.
11 The purposes of the public hearings are to:
12 a. Assess the strengths and weaknesses of recent regional economic
13 performance.
14 b. Examine the status and competitive position of the regional resource
15 base.
16 c. Identify and seek input on issues that are key to improving the
17 economic well-being of the Region.
18 The ~~Board-Secretary~~ shall hold additional hearings from time to time to
19 solicit public input regarding economic development activities.
- 20 (3) Each component of the Plan shall be based on this broad input and, to the
21 extent possible, upon a consensus among all affected parties. The ~~Board~~
22 ~~Secretary~~ shall coordinate its planning process with any State capital
23 development planning efforts affecting State infrastructure such as roads and
24 water and sewer facilities.
- 25 (e) Environmental Scan. – The first step in developing the Plan shall be to develop an
26 environmental scan based on the input from economic development parties and the public and
27 on information about the economic environment in North Carolina. To prepare the scan, the
28 ~~Board-Secretary~~ shall gather the following information required in this subsection and ensure
29 that the information is updated periodically. The updated information may be provided in
30 whatever format and through whatever means is most efficient. The information required to
31 prepare the scan includes all of the following:
32 ...
- 33 (f) Repealed by Session Laws 2012-142, s. 13.4(a), effective July 1, 2012.
- 34 (g) Vision and Mission Statements. – The ~~Board-Secretary~~ shall develop a vision
35 statement for economic development that would describe the preferred future for North
36 Carolina and what North Carolina would be like if all economic development efforts were
37 successful. The ~~Board-Secretary~~ shall then develop a mission statement that outlines the basic
38 purpose of each of North Carolina's economic development programs. Because special purpose
39 nonprofit organizations are uniquely situated to conduct the entrepreneurial and high-risk
40 activity of investing in and supporting new business creation in the State, they should be
41 assigned a dominant role in this key component of economic development activity.
- 42 (h) Goals and Objectives. – The ~~Board-Secretary~~, using data from the public input and
43 the environmental scan, shall formulate a list of goals and objectives. Goals shall be
44 long-range, four years or more, and shall address both needs of economically distressed
45 Regions and counties as well as opportunities for Regions and counties not distressed. The
46 goals shall be developed with realism but should also be selected so as to encourage every
47 Region and county within the State to develop to its maximum potential. Objectives shall be
48 one year or less in scope and shall, if achieved, lead to the realization of the goals formulated
49 by the ~~Board-Secretary~~ as provided in this section.
- 50 Both goals and objectives should be stated largely in economic terms, that is, they should
51 be related to specific population, employment, demographic targets, or economic sector targets.

1 Both efficiency and equity considerations are to be addressed and balanced with special
2 emphasis placed on the needs of disadvantaged or economically distressed populations and
3 communities. The goals and objectives should not state how the economic targets are to be
4 reached, but rather what the economic conditions will be if they are obtained. So that the
5 progress of North Carolina's economic development efforts can be monitored, the ~~Board~~
6 Secretary shall set objectives for each goal that allow measurement of progress toward the goal.
7 Objectives should be quantifiable and time-specific in order to serve as performance indicators.

8 ...
9 (j) Implementation Plan. – Based upon all of the foregoing steps, the ~~Board~~Secretary
10 shall establish an implementation plan assigning to the appropriate parties specific
11 responsibilities for meeting measurable objectives. The implementation plan shall contain all
12 necessary elements so that it may be used as a means to monitor performance, guide
13 appropriations, and evaluate the outcomes of the parties involved in economic development in
14 the State.

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

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

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

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

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

50 (2) The Department shall report on each performance metric listed in this
51 subdivision. The report shall analyze the Department's performance for each

metric for (i) the last full year prior to contracting for performance of the metric and (ii) the annual average for the five-year period preceding contracting for performance of the metric. The performance metrics to be reported upon are as follows:

- a. For business recruitment:
 1. Number of jobs announced by the Department in total.
 2. Number of jobs announced resulting from recruitment of new businesses.
 3. Number of jobs announced resulting from existing business expansions.
 4. Total U.S. dollar amount of investment resulting from new projects.
 5. Total U.S. dollar amount of investment resulting from recruitment of new businesses.
 6. Total U.S. dollar amount of investment resulting from existing business expansions.
 7. Total U.S. dollar amount of foreign direct investment.
- b. For business services:
 1. Number of existing businesses receiving support.
 2. Number of Business Services Team leads that lead to an expansion of existing businesses.
 3. Number of businesses receiving export assistance.
 4. Total U.S. dollar amount of exports by assisted companies.
- c. For tourism and marketing:
 1. Number of consumer inquiries about travel to North Carolina.
 2. Total U.S. dollar amount of spending by visitors while in North Carolina.
 3. Total U.S. dollar amount of State and local tax revenues resulting from visitors' spending while in North Carolina.
 4. Number of business inquiries for business relocation, investment, and expansion.
- d. 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.
- e. 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:

...

1 of that center; one member from the North Carolina Biotechnology Center, nominated by the
2 executive committee of the board of that center; four ~~six~~ members from private industry in
3 North Carolina, at least one of whom shall be a professional engineer registered pursuant to
4 Chapter 89C of the General Statutes or a person who holds at least a bachelors degree in
5 engineering from an accredited college or university; and two members from public agencies in
6 North Carolina. ~~Carolina~~; and seven at-large members. Two members shall be appointed by the
7 General Assembly, one shall be appointed upon the recommendation of the President Pro
8 Tempore of the Senate, and one shall be appointed upon the recommendation of the Speaker of
9 the House of Representatives in accordance with G.S. 120-121. The nominating authority for
10 any vacancy on the Board among members appointed by the Governor shall submit to the
11 Governor two nominations for each position to be filled, and the persons so nominated shall
12 represent different disciplines.

13"

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

15 "**§ 143B-437.80. North Carolina SBIR/STTR Incentive Program.**

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

24 ...

25 (c) Grant. – The North Carolina Board of ~~Science and Technology~~. Science, Technology,
26 and Innovation may award grants to reimburse an eligible business for up to fifty percent (50%)
27 of the costs of preparing and submitting a SBIR/STTR Phase I proposal, up to a maximum of
28 three thousand dollars (\$3,000). A business may receive only one grant under this section per
29 year. A business may receive only one grant under this section with respect to each federal
30 proposal submission. Costs that may be reimbursed include costs incurred directly related to
31 preparation and submission of the grant such as word processing services, proposal consulting
32 fees, project-related supplies, literature searches, rental of space or equipment related to the
33 proposal preparation, and salaries of individuals involved with the preparation of the proposals.
34 Costs that shall not be reimbursed include travel expenses, large equipment purchases, facility
35 or leasehold improvements, and legal fees.

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

39"

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

41 "**§ 143B-437.81. North Carolina SBIR/STTR Matching Funds Program.**

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

48 ...

49 (c) Grant. – The North Carolina Board of ~~Science and Technology~~. Science,
50 Technology, and Innovation may award grants to match the funds received by a business
51 through a SBIR/STTR Phase I proposal up to a maximum of one hundred thousand dollars

1 (\$100,000). Seventy-five percent (75%) of the total grant shall be remitted to the business upon
2 receipt of the SBIR/STTR Phase I award and application for funds under this section.
3 Twenty-five percent (25%) of the total grant shall be remitted to the business upon submission
4 by the business of the Phase II application to the funding agency and acceptance of the Phase I
5 report by the funding agency. A business may receive only one grant under this section per
6 year. A business may receive only one grant under this section with respect to each federal
7 proposal submission. Over its lifetime, a business may receive a maximum of five awards
8 under this section.

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

12

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

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

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

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

25 **"§ 143B-28.1. Create Collaboration for Prosperity Zones.**

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

- 29 (1) Western Region, consisting of Buncombe, Cherokee, Clay, Graham,
30 Haywood, Henderson, Jackson, Macon, Madison, Polk, Rutherford, Swain,
31 and Transylvania Counties.
 - 32 (2) Northwest Region, consisting of Alleghany, Ashe, Alexander, Avery, Burke,
33 Caldwell, Catawba, McDowell, Mitchell, Watauga, Wilkes, and Yancey
34 Counties.
 - 35 (3) Southwest Region, consisting of Anson, Cabarrus, Cleveland, Gaston,
36 Iredell, Lincoln, Mecklenburg, Rowan, Stanly, and Union Counties.
 - 37 (4) Piedmont-Triad (Central) Region, consisting of Alamance, Caswell,
38 Davidson, Davie, Forsyth, Guilford, Randolph, Rockingham, Stokes, Surry,
39 and Yadkin Counties.
 - 40 (5) North Central Region, consisting of Chatham, Durham, Edgecombe,
41 Franklin, Granville, Harnett, Johnston, Lee, Nash, Orange, Person, Vance,
42 Wake, Warren, and Wilson Counties.
 - 43 (6) Sandhills (South Central) Region, consisting of Bladen, Columbus,
44 Cumberland, Hoke, Montgomery, Moore, Richmond, Robeson, Sampson,
45 and Scotland Counties.
 - 46 (7) Northeast Region, consisting of Beaufort, Bertie, Camden, Chowan,
47 Currituck, Dare, Gates, Halifax, Hertford, Hyde, Martin, Northampton,
48 Pasquotank, Perquimans, Pitt, Tyrrell, and Washington Counties.
- 49

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

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

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

13 The remainder of this Part becomes effective July 1, 2014.
14

15 **PART IV. REQUIRE AT LEAST ONE LIAISON IN EACH COLLABORATION FOR** 16 **PROSPERITY ZONE**

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

26 No later than January 1, 2015, the Community Colleges System Office shall
27 designate at least one representative from a community college or from the Community
28 Colleges System Office to serve as a liaison in each Collaboration for Prosperity Zone for the
29 community college system, the community colleges in the zone, and other educational agencies
30 and schools within the zone. A liaison may be from a business center located in a community
31 college. These liaisons are not required to be collocated with the liaisons from the Departments
32 of Commerce, Environment and Natural Resources, and Transportation.

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

39 **SECTION 4.2.** In addition to other related tasks assigned by their respective
40 agencies, liaisons in each Collaboration for Prosperity Zone shall work to enhance
41 collaboration and cooperation between their departments and other State agencies, local
42 governmental agencies, and other regional public and nonprofit entities. The liaisons from the
43 Departments of Environment and Natural Resources and Transportation shall work to
44 consolidate and simplify the process for citizens and businesses seeking permits from their
45 respective agencies. The liaisons from the Department of Commerce shall be used to support
46 local economic development efforts, to coordinate such efforts, and to coordinate the
47 Department of Commerce's activities within each Collaboration for Prosperity Zone. The
48 liaisons from the community college system and local school administrative units shall work
49 closely with the Department of Commerce and other State and local governmental agencies and
50 local businesses in the zone to promote job development through career technical education.

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

- 6 (1) No later than January 1, 2015, on the establishment of collocated liaisons
7 within each Collaboration for Prosperity Zone and a description of the
8 activities the liaisons have been assigned to perform.
9 (2) No later than April 1, 2015, on the activities of the liaisons, specifically any
10 activities undertaken that resulted in enhanced collaboration and
11 coordination with the other Department and with other governmental
12 agencies, improved administrative efficiencies, and any steps taken to make
13 services to citizens and businesses within each zone more efficient,
14 economical, and user-friendly.

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

- 20 (1) No later than January 1, 2015, on the establishment of liaisons within each
21 Collaboration for Prosperity Zone and a description of the activities the
22 liaisons have been assigned to perform.
23 (2) No later than April 1, 2015, on the activities of the liaisons, specifically any
24 activities undertaken that resulted in enhanced collaboration and
25 coordination with other governmental agencies, improved planning on use of
26 educational resources, and improved administrative efficiencies.

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

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

37 **SECTION 4.5.** This Part becomes effective July 1, 2014, and expires July 1, 2018.
38

39 **PART V. GENERAL ASSEMBLY REVIEW OF REPORTS**

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

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

- 1 (3) Additional recommendations regarding liaison personnel, including
2 expanding the requirement to other State departments.
3 (4) Ways to integrate collaboration between educational institutions in each
4 Collaboration for Prosperity Zone on the one hand and other governmental
5 agencies and local businesses on the other.
6 (5) Requiring the establishment of interagency one-stop shops in each
7 Collaboration for Prosperity Zone.
8 (6) Consolidating programs or services.
9 (7) Cross-training employees.
10 (8) Identifying offices, equipment, and support services that may be efficiently
11 and economically shared between agencies in each Collaboration for
12 Prosperity Zone.
13 (9) The grouping of counties within each Collaboration for Prosperity Zone to
14 determine whether there is a better configuration while keeping the same
15 overall number of zones.
16

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

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

20 **SECTION 6.2.** Except as otherwise provided, this act is effective when it becomes
21 law.