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Short Title: NC Econ. Dev. Partnership Modifications.

(Public)

Sponsors:

Referred to:

May 15, 2014

A BILL TO BE ENTITLED

AN ACT TO FACILITATE ECONOMIC DEVELOPMENT WITHIN THE STATE.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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



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, by the Office of State Budget and Management,
23 State Auditor, or internal auditors of the Department, the records of the
24 North Carolina nonprofit corporation with which the Department has
25 contracted pursuant to this section during and after the term of the contract
26 to review financial documents of the corporation, performance of the
27 corporation, and compliance of the corporation with applicable laws.

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

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

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

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

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

42 a. The board shall be composed of 17 voting members as follows: eight
43 members and the chair appointed by the Governor, four members
44 appointed by the Speaker of the House of Representatives, and four
45 members appointed by the President Pro Tempore of the Senate. The
46 Governor, the Speaker of the House of Representatives, and the
47 President Pro Tempore of the Senate shall each use best efforts to
48 select members so as to reflect the diversity of the State's geography.
49 The Speaker of the House and the President Pro Tempore shall each
50 select their appointed members so that one-fourth come from a
51 development tier one area, one-fourth come from a development tier

1 two area, and no two members come from the same Collaboration for
2 Prosperity Zone. The Governor shall select appointed members so
3 that two-ninths come from a development tier one area, two-ninths
4 come from a development tier two area, and no more than two
5 members come from the same Collaboration for Prosperity Zone.
6 The Governor shall use best efforts to ensure that each member
7 appointed by the Governor has expertise in one or more of the
8 following areas:

- 9 1. Agribusiness, as recommended by the Commissioner of
10 Agriculture.
- 11 2. Financial services.
- 12 3. Information technology.
- 13 4. Biotechnology or life sciences.
- 14 5. Energy.
- 15 6. Manufacturing.
- 16 7. Military or defense.
- 17 8. Tourism, as recommended by the North Carolina Travel and
18 Tourism Coalition.
- 19 9. Tourism, as recommended by the North Carolina Travel
20 Industry Association.

21 b. The nonprofit corporation shall comply with the limitations on
22 lobbying set forth in section 501(c)(3) of the Internal Revenue Code.

23 c. No State officer or employee may serve on the board.

24 d. The board shall meet at least quarterly at the call of its chair. Each
25 quarter and upon request, the board shall report to the Chair of the
26 Economic Development Accountability and Standards Committee on
27 the progress of the State's economic development.

28 e. The board is required to perform the following duties if the
29 Department contracts pursuant to G.S. 143B-431A for the
30 performance of the Secretary's responsibilities under
31 G.S. 143B-434.01:

- 32 1. To provide advice concerning economic and community
33 development planning for the State, including a strategic
34 business facilities development analysis of existing, available
35 buildings or shell or special-use buildings and sites.
- 36 2. To recommend economic development policy to the
37 Secretary of Commerce, the General Assembly, and the
38 Governor.
- 39 3. To recommend annually to the Governor biennial and annual
40 appropriations for economic development programs.
- 41 4. To recommend how best to coordinate economic
42 development efforts among the various agencies and entities,
43 including those created by executive order of the Governor,
44 that receive economic development appropriations, including
45 the assignment of key responsibilities for different aspects of
46 economic development and resource allocation and planning
47 designed to encourage each agency to focus on its area of
48 primary responsibility and not diffuse its resources by
49 conducting activities assigned to other agencies.

50 (3) The amount of State funds that may be used for the annual salary of any one
51 officer or employee of the nonprofit corporation with which the Department

1 contracts pursuant to this section shall not exceed the greater of (i) one
2 hundred twenty thousand dollars (\$120,000) or (ii) the amount most recently
3 set by the General Assembly in a Current Operations Appropriations Act.
4 Members of the governing board may receive only per diem and allowances
5 pursuant to G.S. 138-5.

6 (4) The nonprofit corporation shall have received from fundraising efforts and
7 sources, other than State funds, an amount totaling at least two hundred fifty
8 thousand dollars (\$250,000) to support operations and functions of the
9 corporation.

10 (e) Mandatory Contract Terms. – Any contract entered into under this section must
11 include all of the following:

12 (1) A provision requiring the North Carolina nonprofit corporation provide to
13 the Joint Legislative Economic Development and Global Engagement
14 Oversight Committee, the Department of Commerce, and the Fiscal
15 Research Division a copy of the corporation's annual audited financial
16 statement within seven days of issuance of the statement.

17 (2) A provision requiring the nonprofit corporation to provide by September 1
18 of each year, and more frequently as requested, a report to the Department
19 on prior State fiscal year program activities, objectives, and
20 accomplishments and prior State fiscal year itemized expenditures and fund
21 sources. The report shall also include all of the following:

22 a. Jobs anticipated to result from efforts of the nonprofit corporation.
23 This includes project leads that were not submitted to the Department
24 for possible discretionary incentives pursuant to Chapter 143B of the
25 General Statutes.

26 b. Developed performance metrics of economic development functions
27 itemized by county, by development tier area designation, as defined
28 by G.S. 143B-437.08, and by Collaboration for Prosperity Zones
29 created pursuant to G.S. 143B-28.1.

30 c. Any proposed amendments to the areas of expertise required to be
31 represented on the governing board of the nonprofit corporation.

32 d. A detailed explanation of how annual salaries are determined,
33 including base pay schedules and any additional salary amounts or
34 bonuses that may be earned as a result of job performance. The
35 explanation shall include the proportion of State and private funds for
36 each position and shall include the means used by the nonprofit
37 corporation to foster employee efforts for economic development in
38 rural and low-income areas in the State. Any bonuses paid to
39 employees shall be based upon overall job performance and not be
40 based on a specific project lead.

41 e. Any other information requested by the Department.

42 (3) A provision providing that, upon termination of the contract, or upon
43 dissolution of, or repeal by the General Assembly of, the charter of the
44 nonprofit corporation with which the Department has contracted under this
45 section, all assets and funds of the nonprofit corporation, including interest
46 on funds, financial and operational records, and the right to receive future
47 funds pursuant to the contract, will be surrendered to the Department within
48 30 days of the termination, dissolution, or repeal. During the 30-day period,
49 the corporation may not further encumber any assets or funds. For purposes
50 of this subdivision, assets and funds of the nonprofit corporation include
51 assets and funds of any subsidiary or affiliate of the nonprofit corporation.

1 An affiliate of the nonprofit corporation exists when both are directly or
2 indirectly controlled by the same parent corporation or by the same or
3 associated financial interests by stock ownership, interlocking directors, or
4 by any other means whatsoever, whether the control is direct or through one
5 or more subsidiary, affiliated, or controlled corporations.

6 (4) A provision providing that the nonprofit corporation shall adopt and publish
7 a resolution or policy containing a conflict of interest policy and gift policy
8 to guide actions by the governing board members, officers, and employees
9 of the nonprofit corporation in the performance of their duties.

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

41 a. Board. – The governing board of the nonprofit corporation with
42 which the Department contracts pursuant to this section.

43 b. Board member. – A member of the board.

44 c. Business association. – A director, employee, officer, or partner of a
45 business entity, or owner of more than ten percent (10%) interest in
46 any business entity.

47 d. Subject person. – A board member, officer, or employee of the
48 nonprofit corporation.

49 e. Department. – The Department of Commerce.

50 f. Immediate family. – Spouse, children, parents, brothers, and sisters.

1 g. Official action. – Actions taken in connection with the subject
2 person's duties, including, but not limited to, voting on matters before
3 the board, proposing or objecting to proposals for economic
4 development actions by the Department, discussing economic
5 development matters with other subject persons or Department staff
6 in an effort to further the matter after the conflict of interest has been
7 discovered, or taking actions in the course and scope of the position
8 as a subject person and actions leading to or resulting in profit.

9 h. Profit. – Receive monetary or economic gain or benefit, including an
10 increase in value whether or not recognized by sale or trade.

11 (6) The gift policy required by subdivision (4) of this subsection shall at a
12 minimum prohibit an employee, officer, or member of the board of the
13 corporation from knowingly accepting a gift from a person whom the
14 employee, officer, or member of the board knows or has reason to know (i)
15 is seeking to do business of any kind in the State or (ii) has financial
16 interests that may be substantially and materially affected, in a manner
17 distinguishable from the public generally, by the performance or
18 nonperformance of official duties of the employee, officer, or member of the
19 board. This prohibition shall not apply to either of the following:

20 a. Gifts given to the employee, officer, or member of the board where
21 the gift is food or beverages, transportation, lodging, entertainment or
22 related expenses associated with industry recruitment, promotion of
23 international trade, or the promotion of travel and tourism, and the
24 employee, officer, or member of the board is responsible for
25 conducting the business on behalf of the State, provided (i) the
26 employee, officer, or member of the board did not solicit the gift and
27 did not accept the gift in exchange for the performance or
28 nonperformance of corporate duties, and (ii) the employee, officer, or
29 member of the board reports electronically to the corporation within
30 30 days of receipt of the gift, including a description and value of the
31 gift and a description of how the gift contributed to industry
32 recruitment, promotion of international trade, or the promotion of
33 travel and tourism.

34 b. Gifts of personal property valued at less than one hundred dollars
35 (\$100.00) given to the employee, officer, or member of the board in
36 the commission of corporate duties if the gift is given as a personal
37 gift in another country as part of an overseas trade mission and the
38 giving and receiving of such personal gifts is considered a customary
39 protocol in the other country.

40 (7) A provision providing that the nonprofit corporation maintain a record
41 containing the name of all persons who have contributed to the nonprofit
42 corporation, the date of each contribution, and the aggregate total of all
43 contributions to the nonprofit corporation. The nonprofit corporation shall
44 include the record in the report required to be filed with the Department
45 pursuant to subdivision (2) of subsection (e) of this section.

46 (8) A provision requiring the nonprofit corporation to maintain separate
47 accounting records for and separate accounts for State and private funds and
48 prohibiting any commingling of State and private funds. Records and
49 accounts must be maintained according to generally accepted accounting
50 principles.

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

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

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

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

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

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

43 (h) Applicable Laws. – A North Carolina nonprofit corporation with which the
44 Department contracts pursuant to this section is subject to the requirements of (i) Chapter 132
45 of the General Statutes and (ii) Article 33C of Chapter 143 of the General Statutes. Officers,
46 employees, and members of the governing board of the corporation are public servants, as
47 defined in G.S. 138A-3, and are subject to the requirements of Chapter 138A of the General
48 Statutes. Officers, members of the governing board, and employees of the corporation whose
49 annual compensation is equal to or greater than sixty thousand dollars (\$60,000) are subject to
50 G.S. 138A-22.

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

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

10 (k) Raised Funds. – For funds raised from sources other than State funds by the
11 nonprofit corporation, at least twenty-five percent (25%) of the funds shall be used for the
12 benefit of or for salaried positions located in or working solely on development in development
13 tier one or two areas, as defined in G.S. 143B-437.08."

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

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

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

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

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

2 "**§ 143B-434.01. Comprehensive Strategic Economic Development Plan.**

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

4 (1) ~~Board.~~—~~The Economic Development Board.~~

5 ...

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

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

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

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

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

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

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

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

30 b. Local economic development departments and regional economic
31 development organizations.

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

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

36 a. Assess the strengths and weaknesses of recent regional economic
37 performance.

38 b. Examine the status and competitive position of the regional resource
39 base.

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

42 The Board Secretary shall hold additional hearings from time to time to
43 solicit public input regarding economic development activities.

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

49 (e) Environmental Scan. – The first step in developing the Plan shall be to develop an
50 environmental scan based on the input from economic development parties and the public and
51 on information about the economic environment in North Carolina. To prepare the scan, the

1 ~~Board-Secretary~~ shall gather the following information required in this subsection and ensure
2 that the information is updated periodically. The updated information may be provided in
3 whatever format and through whatever means is most efficient. The information required to
4 prepare the scan includes all of the following:

5 ...

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

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

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

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

32 ...

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

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

44 ...

45 (l) Accountability. – The ~~Board-Secretary~~ shall make all data, plans, and reports
46 available to the General Assembly, the Joint Legislative Commission on Governmental
47 Operations, the Joint Legislative Economic Development and Global Engagement Oversight
48 Committee, the Senate Appropriations Committee on Natural and Economic Resources, and the
49 House of Representatives Appropriations Subcommittee on Natural and Economic Resources at
50 appropriate times and upon request. The ~~Board-Secretary~~ shall prepare and make available on

1 an annual basis public reports on each of the major sections of the Plan and the Annual Report
2 indicating the degree of success in attaining each development objective."

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

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

8 (1) The Department shall develop a plan for private fund-raising efforts for the
9 nonprofit corporation for the performance of economic development
10 functions. The study shall include the creation of a budget for the nonprofit
11 corporation that provides for the performance of core functions of the
12 corporation, including economic development functions, in the absence of
13 private funds. The study shall compare the budget of the Department and the
14 budget developed for the nonprofit corporation according to Department
15 division and budget category, including personal services; purchased
16 services; supplies; property, plant, and equipment; other expenses and
17 adjustments; aid and public assistance; and other budget categories used by
18 the Department. The study shall include a measurement and estimation of
19 expected private fund-raising potential, and the Department shall examine
20 the efforts of other states that have permitted public-private partnerships for
21 economic development activities and report on the source or sources of
22 funds for those partnerships, separately accounting for funds provided by the
23 State and private funds.

24 (2) The Department shall report on each performance metric listed in this
25 subdivision. The report shall analyze the Department's performance for each
26 metric for (i) the last full year prior to contracting for performance of the
27 metric and (ii) the annual average for the five-year period preceding
28 contracting for performance of the metric. The performance metrics to be
29 reported upon are as follows:

30 a. For business recruitment:

- 31 1. Number of jobs announced by the Department in total.
- 32 2. Number of jobs announced resulting from recruitment of new
33 businesses.
- 34 3. Number of jobs announced resulting from existing business
35 expansions.
- 36 4. Total U.S. dollar amount of investment resulting from new
37 projects.
- 38 5. Total U.S. dollar amount of investment resulting from
39 recruitment of new businesses.
- 40 6. Total U.S. dollar amount of investment resulting from
41 existing business expansions.
- 42 7. Total U.S. dollar amount of foreign direct investment.

43 b. For business services:

- 44 1. Number of existing businesses receiving support.
- 45 2. Number of Business Services Team leads that lead to an
46 expansion of existing businesses.
- 47 3. Number of businesses receiving export assistance.
- 48 4. Total U.S. dollar amount of exports by assisted companies.

49 c. For tourism and marketing:

- 50 1. Number of consumer inquiries about travel to North Carolina.

1 "**§ 143B-472.80. North Carolina Board of ~~Science and Technology~~; Science, Technology,**
2 **and Innovation; creation; powers and duties.**

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

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

12 ...

13 "**§ 143B-472.81. North Carolina Board of ~~Science and Technology~~; Science, Technology,**
14 **and Innovation; membership; organization; compensation; staff services.**

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

40"

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

42 "**§ 143B-437.80. North Carolina SBIR/STTR Incentive Program.**

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

51 ...

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

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

15"

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

17 "**§ 143B-437.81. North Carolina SBIR/STTR Matching Funds Program.**

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

24 ...

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

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

41 42 **PART III. CREATION OF COLLABORATION FOR PROSPERITY ZONES**

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

THIRD DISTRICT

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

FOURTH DISTRICT

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

FIFTH DISTRICT

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

SIXTH DISTRICT

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

SEVENTH DISTRICT

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

EIGHTH DISTRICT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 13 **PART V. GENERAL ASSEMBLY REVIEW OF REPORTS**

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

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

40 41 **PART VI. EFFECTIVE DATE AND CONSTRUCTION**

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

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