

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S

3

SENATE BILL 743*
Commerce Committee Substitute Adopted 6/4/14
Appropriations/Base Budget Committee Substitute Adopted 6/5/14

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.



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:

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

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

- a. Board. – The governing board of the nonprofit corporation with which the Department contracts pursuant to this section.
- b. Board member. – A member of the board.
- c. Business association. – A director, employee, officer, or partner of a business entity, or owner of more than ten percent (10%) interest in any business entity.
- d. Subject person. – A board member, officer, or employee of the nonprofit corporation.
- e. Department. – The Department of Commerce.
- f. Immediate family. – Spouse, children, parents, brothers, and sisters.
- g. Official action. – Actions taken in connection with the subject 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 (16) For any entity reported pursuant to subdivision (6) of subsection (f) of this
41 section for a gift, contribution, or item or service of value for which fair
42 market value exceeds one thousand dollars (\$1,000) and was not paid, a
43 provision requiring the nonprofit corporation to publish within seven days of
44 the award, the entity, the fair market value and description of that which was
45 received from the entity by the nonprofit corporation or the affiliate entity of
46 the corporation, and the date and amount of the award to the entity. This
47 publication requirement is satisfied if the Department publishes the
48 information required in this subdivision within seven days of the award
49 either separately or as part of a press release concerning the award.
- 50 (f) Report. – By September 30 of each year, and more frequently as requested, the
51 Department shall submit a report to the Joint Legislative Commission on Governmental

1 Operations, the Joint Legislative Economic Development and Global Engagement Oversight
2 Committee, and the Fiscal Research Division on any performance for which the Department
3 has contracted pursuant to this section. The report shall contain, at a minimum, each of the
4 following:

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

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

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

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

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

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

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

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

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

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

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

40 **"§ 143B-434.01. Comprehensive Strategic Economic Development Plan.**

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

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

43 ...

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

48 (b) ~~Board to Prepare Plan.~~ – ~~The Board Secretary shall prepare review and update the~~
49 existing Plan by April 1, 1994. on or before April 1 of each year. The Board shall review and
50 update this Plan by April 1 of each year. ~~The original Plan shall cover a period of four years~~
51 ~~and each annual update shall extend the time frame by one year so that a four-year plan is~~

1 always in effect. The ~~Board~~Secretary shall provide copies of the Plan and each annual update
2 to the Governor and the Joint Legislative Commission on Governmental Operations. The Plan
3 shall encompass all of the components set out in this section.

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

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

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

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

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

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

17 b. Local economic development departments and regional economic
18 development organizations.

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

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

23 a. Assess the strengths and weaknesses of recent regional economic
24 performance.

25 b. Examine the status and competitive position of the regional resource
26 base.

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

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

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

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

43 ...

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

45 (g) Vision and Mission Statements. – The ~~Board~~Secretary shall develop a vision
46 statement for economic development that would describe the preferred future for North
47 Carolina and what North Carolina would be like if all economic development efforts were
48 successful. The ~~Board~~Secretary shall then develop a mission statement that outlines the basic
49 purpose of each of North Carolina's economic development programs. Because special purpose
50 nonprofit organizations are uniquely situated to conduct the entrepreneurial and high-risk

1 activity of investing in and supporting new business creation in the State, they should be
2 assigned a dominant role in this key component of economic development activity.

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

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

20 ...

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

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

32 ...

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

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

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

- 46 (1) The Department shall develop a plan for private fund-raising efforts for the
47 nonprofit corporation for the performance of economic development
48 functions. The study shall include the creation of a budget for the nonprofit
49 corporation that provides for the performance of core functions of the
50 corporation, including economic development functions, in the absence of
51 private funds. The study shall compare the budget of the Department and the

1 budget developed for the nonprofit corporation according to Department
2 division and budget category, including personal services; purchased
3 services; supplies; property, plant, and equipment; other expenses and
4 adjustments; aid and public assistance; and other budget categories used by
5 the Department. The study shall include a measurement and estimation of
6 expected private fund-raising potential, and the Department shall examine
7 the efforts of other states that have permitted public-private partnerships for
8 economic development activities and report on the source or sources of
9 funds for those partnerships, separately accounting for funds provided by the
10 State and private funds.

11 (2) The Department shall report on each performance metric listed in this
12 subdivision. The report shall analyze the Department's performance for each
13 metric for (i) the last full year prior to contracting for performance of the
14 metric and (ii) the annual average for the five-year period preceding
15 contracting for performance of the metric. The performance metrics to be
16 reported upon are as follows:

17 a. For business recruitment:

- 18 1. Number of jobs announced by the Department in total.
- 19 2. Number of jobs announced resulting from recruitment of new
20 businesses.
- 21 3. Number of jobs announced resulting from existing business
22 expansions.
- 23 4. Total U.S. dollar amount of investment resulting from new
24 projects.
- 25 5. Total U.S. dollar amount of investment resulting from
26 recruitment of new businesses.
- 27 6. Total U.S. dollar amount of investment resulting from
28 existing business expansions.
- 29 7. Total U.S. dollar amount of foreign direct investment.

30 b. For business services:

- 31 1. Number of existing businesses receiving support.
- 32 2. Number of Business Services Team leads that lead to an
33 expansion of existing businesses.
- 34 3. Number of businesses receiving export assistance.
- 35 4. Total U.S. dollar amount of exports by assisted companies.

36 c. For tourism and marketing:

- 37 1. Number of consumer inquiries about travel to North Carolina.
- 38 2. Total U.S. dollar amount of spending by visitors while in
39 North Carolina.
- 40 3. Total U.S. dollar amount of State and local tax revenues
41 resulting from visitors' spending while in North Carolina.
- 42 4. Number of business inquiries for business relocation,
43 investment, and expansion.

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

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

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

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

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

10 **"§ 126-5. Employees subject to Chapter; exemptions.**

11 ...

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

13 ...

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

17 ...

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

22 ...

23 (2b) Designation of Liaison Positions. – Liaisons to the Collaboration for
 24 Prosperity Zones set out in G.S. 143B-28.1 for the Departments of
 25 Commerce, Environment and Natural Resources, and Transportation are
 26 designated as exempt.

27"

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

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

31
 32 **PART II. MODIFY NORTH CAROLINA BOARD OF SCIENCE AND**
 33 **TECHNOLOGY**

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

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

38 **"§ 143B-472.80. North Carolina Board of ~~Science and Technology~~; Science, Technology,**
 39 **and Innovation; creation; powers and duties.**

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

42 ...

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

49 ...

50 **"§ 143B-472.81. North Carolina Board of ~~Science and Technology~~; Science, Technology,**
 51 **and Innovation; membership; organization; compensation; staff services.**

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

26"

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

28 "**§ 143B-437.80. North Carolina SBIR/STTR Incentive Program.**

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

37 ...

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

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

...."

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

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

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

...

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

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

...."

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

PART III. CREATION OF COLLABORATION FOR PROSPERITY ZONES

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

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

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

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

- (1) Western Region, consisting of Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, Polk, Rutherford, Swain, and Transylvania Counties.
- (2) Northwest Region, consisting of Alleghany, Ashe, Alexander, Avery, Burke, Caldwell, Catawba, McDowell, Mitchell, Watauga, Wilkes, and Yancey Counties.
- (3) Southwest Region, consisting of Anson, Cabarrus, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Rowan, Stanly, and Union Counties.

SIXTH DISTRICT

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

SEVENTH DISTRICT

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

EIGHTH DISTRICT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

50
51 **PART V. GENERAL ASSEMBLY REVIEW OF REPORTS**

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

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

28 **PART VI. THE FILM AND ENTERTAINMENT GRANT FUND**

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

31 **"§ 143B-437.02A. The Film and Entertainment Grant Fund.**

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

- 40 (1) The funds are reserved for a production on which the production company
41 has qualifying expenses of at least the following:
- 42 a. For a feature-length film, ten million dollars (\$10,000,000).
- 43 b. For a video or television series, one million dollars (\$1,000,000) per
44 episode.
- 45 c. For a commercial for theatrical or television viewing, five hundred
46 thousand dollars (\$500,000).
- 47 (2) The funds are not used to provide a grant in excess of any of the following:
- 48 a. An amount more than twenty-five percent (25%) of the qualifying
49 expenses for the production.
- 50 b. An amount more than five million dollars (\$5,000,000) for a
51 feature-length film, more than five million dollars (\$5,000,000) for a

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

- 1 (1) Department. – The Department of Commerce.
2 (2) Employee. – A person who is employed for consideration for at least 35
3 hours a week and whose wages are subject to withholding under Article 4A
4 of Chapter 105 of the General Statutes.
5 (3) Highly compensated individual. – An individual who directly or indirectly
6 receives compensation in excess of one million dollars (\$1,000,000) for
7 personal services with respect to a single production. An individual receives
8 compensation indirectly when a production company pays a personal service
9 company or an employee leasing company that pays the individual.
10 (4) Loan out company. – A personal service corporation that employs an
11 individual who is hired by a film or digital media production company.
12 (5) Production. – Any of the following:
13 a. A motion picture intended for commercial distribution to a motion
14 picture theater or directly to the consumer viewing market that has a
15 running time of at least 75 minutes.
16 b. A video or television series or a commercial for theatrical or
17 television viewing. For video and television series, a production is all
18 of the episodes of the series produced for a single season.
19 (6) Production company. – Defined in G.S. 105-164.3.
20 (7) Qualifying expenses. – The sum of the following amounts substantiated
21 pursuant to subsection (d) of this section and spent in this State by a
22 production company in connection with a production, less the amount paid
23 in excess of one million dollars (\$1,000,000) to a highly compensated
24 individual:
25 a. Goods and services leased or purchased. For goods with a purchase
26 price of twenty-five thousand dollars (\$25,000) or more, the amount
27 included in qualifying expenses is the purchase price less the fair
28 market value of the good at the time the production is completed.
29 Goods and services includes the costs of tangible and intangible
30 property used for, and services performed primarily and customarily
31 in, production, including preproduction and postproduction and other
32 direct costs of producing the project in accordance with generally
33 accepted entertainment industry practices. Goods and services
34 exclude costs for development, marketing, and distribution.
35 b. Compensation and wages and payments on which withholding
36 payments are remitted to the Department of Revenue under Article
37 4A of Chapter 105 of the General Statutes. Payments made to a loan
38 out company for services provided in North Carolina shall be subject
39 to gross income tax withholding at the applicable rate under the
40 Article 4 of Chapter 105 of the General Statutes.
41 c. Employee fringe contributions, including health, pension, and
42 welfare contributions.
43 d. Per diems, stipends, and living allowances paid for work being
44 performed in this State.
45 (8) Related member. – Defined in G.S. 105-130.7A.
46 (9) Secretary – The Secretary of Commerce
47 (c) Application. – A production company shall apply, under oath, to the Secretary for a
48 grant on a form prescribed by the Secretary. The Secretary shall evaluate the applications to
49 ensure the production's content is created for entertainment purposes. The application shall
50 include all documentation and information the Secretary deems necessary to evaluate the grant
51 application. When filing an application under this section, the business shall pay the

1 Department a fee of one thousand dollars (\$1,000). The fee is due at the time the application is
2 filed. The proceeds of the fee are receipts of the Department.

3 (d) Substantiation. – The Secretary shall work with the North Carolina Film Office to
4 adopt rules to provide a process to verify the actual qualifying expenses of a certified
5 production. The Secretary may not release grant funds until the substantiation process required
6 by this subsection is complete and the final verified amount of qualified expenses is
7 determined. The process shall require each of the following:

8 (1) The production company shall submit all the qualifying expenses for the
9 production and data substantiating the qualifying expenses, including
10 documentation on the net expenditure on equipment and other tangible
11 personal property to an independent certified public accountant licensed in
12 this State.

13 (2) The accountant shall conduct a compliance audit, at the certified
14 production's expense, pursuant to rules established by the Secretary and
15 submit the results as a report, along with the required substantiating data, to
16 the production company and the North Carolina Film Office.

17 (3) The North Carolina Film Office shall review the report and advise the
18 Department on the final verified amount of qualifying expenses made by the
19 certified production.

20 (e) Report. – The Department shall provide to the Department of Revenue, and the
21 Department of Revenue must include in the economic incentives report required by
22 G.S. 105-256, the following information, itemized by production company:

23 (1) The location of sites used in a production for which a grant was awarded.

24 (2) The qualifying expenses, classified by whether the expenses were for goods,
25 services, or compensation paid by the production company.

26 (3) The number of people employed in the State with respect to grants awarded,
27 including the number of residents of the State employed.

28 (4) The total cost of the grants awarded.

29 (f) NC Film Office. – To claim a grant under this section, a production company must
30 notify the Division of Tourism, Film, and Sports Development in the Department of Commerce
31 of its intent to apply for a grant. The notification must include the title of the production, the
32 name of the production company, a financial contact for the production company, the proposed
33 dates on which the production company plans to begin filming the production, and any other
34 information required by the Division."

35 **SECTION 6.2.** There is appropriated from the Repairs and Renovations Reserve to
36 the Film and Entertainment Grant Fund the sum of ten million dollars (\$10,000,000) for the
37 2014-2015 fiscal year in nonrecurring funds.

38 **SECTION 6.3.** There is appropriated from the Savings Reserve to the Film and
39 Entertainment Grant Fund the sum of ten million dollars (\$10,000,000) for the 2014-2015 fiscal
40 year in nonrecurring funds.

41 **SECTION 6.4.** This Part becomes effective January 1, 2015, and expires July 1,
42 2020. The Secretary shall not award a grant for any qualifying expenses for which a taxpayer
43 receives a tax credit under G.S. 105-130.47 or G.S. 105-151.29.

44 **PART VII. EFFECTIVE DATE AND CONSTRUCTION**

45 **SECTION 7.1.** Nothing in this act shall be construed to obligate the General
46 Assembly to appropriate funds to implement this act.

47 **SECTION 7.2.** Except as otherwise provided, this act is effective when it becomes
48 law.
49