

Introduced by

1 A BILL for an Act to amend and reenact sections 15-69-02, 15-69-03, 15-69-04, and 15-69-05
2 of the North Dakota Century Code, relating to the centers of excellence.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 15-69-02 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **15-69-02. (Effective through July 31, 2011) Centers of excellence.**

- 7 1. The board shall establish a centers of excellence program relating to economic
8 development. The program must distinguish among center designations for
9 awards designed to address commercialization, workforce, and infrastructure
10 needs. Through the program the commission shall make funding award
11 recommendations for commission-approved applications to the board, the
12 foundation, and the budget section of the legislative council. A center must be an
13 institution of higher education under the control of the board or a nonprofit
14 university-related or college-related foundation of an institution of higher education
15 under the control of the board. In order to be considered for center designation,
16 the institution of higher education or nonprofit foundation must be working in
17 partnership with the private sector. In addition to any center designated under this
18 chapter, the North Dakota state university center for technology enterprise and the
19 university of North Dakota center for innovation are centers.
- 20 2. A commission funding award recommendation must be for a specified amount.
21 Designation of a center occurs upon board, foundation, and budget section
22 approval of a commission funding award recommendation. In considering whether
23 to designate a center, the board, foundation, and budget section may not modify
24 the commission recommendation. The budget section may not make a

determination of whether to approve or reject a commission funding award recommendation until the emergency commission reviews the commission recommendation and makes a recommendation to the budget section.

3. A center that receives funds distributed under this chapter is not qualified to receive subsequent designations as a center until the biennium following the center's most recent designation.

4. The board rules adopted under subsection 9 of section 15-10-17, relating to ownership of intellectual property, inventions, and discoveries, must address activities and issues unique to centers.

5. Unless otherwise provided through the appropriation process, the commission's funding awards to address workforce needs may not exceed ten percent and the commission's funding awards to address infrastructure needs may not exceed ten percent of the funds appropriated for funding centers during the biennium.

SECTION 2. AMENDMENT. Section 15-69-03 of the North Dakota Century Code is amended and reenacted as follows:

15-69-03. (Effective through July 31, 2011) Centers of excellence commission.

The centers of excellence commission consists of six members. The foundation shall appoint three of the foundation's members to serve on the commission and the board shall appoint three of the board's members to serve on the commission. The commission members shall designate a chairman and a vice chairman of the commission. Each member of the commission shall serve for a term of three years, beginning July first; may be reappointed for additional terms; and serves at the pleasure of the appointing entity. If a commission member ceases to serve as a member of the appointing entity, that member's membership on the commission ceases immediately and the appointing entity shall appoint a new member for the remainder of the term. ~~Terms of initial commission members begin on July 1, 2005, and must~~ be staggered. On a meeting-by-meeting basis, an appointing entity may substitute a member of that appointing entity to serve in place of one of the regular members appointed by that entity. If the commission chairman and vice chairman are not present at a meeting, the commission members present at that meeting shall select a commission member to serve as chairman for that meeting. A commission member may receive compensation and travel and expense reimbursement from the appointing entity. The ~~board~~ department of commerce shall

1 provide the commission with appropriate staff services as may be requested by the
2 commission.

3 **SECTION 3. AMENDMENT.** Section 15-69-04 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **15-69-04. (Effective through July 31, 2011) Application - Eligibility requirements.**

- 6 1. The ~~board~~ department of commerce shall provide center application forms, accept
7 applications, review applications for completeness and compliance with board and
8 commission policy, ~~and~~ forward complete applications to the commission in
9 accordance with guidelines established by the commission, and assist with
10 preaward reviews and postaward monitoring as may be requested by the
11 commission.
- 12 2. The commission shall meet as necessary to review all complete applications;
13 provide for independent, expert review of complete applications; approve or
14 disapprove complete applications; make funding award recommendations for
15 commission-approved proposed centers; direct the office of management and
16 budget to distribute funds to the centers; monitor centers for compliance with
17 award requirements; ~~and~~ review changes in assertions made in center
18 applications; and conduct postaward monitoring of centers.
- 19 3. In considering whether to approve or disapprove an application, the commission
20 shall determine whether the applicant has conducted the due diligence necessary
21 to put together a viable proposal and the commission shall consider whether the
22 center will:
- 23 a. Use university or college research to promote private sector job growth and
24 expansion of knowledge-based industries or use university or college
25 research to promote the development of new products, high-tech companies,
26 or skilled jobs in this state;
- 27 b. Create high-value private sector employment opportunities in this state;
- 28 c. Provide for public-private sector involvement and partnerships;
- 29 d. Leverage other funding;

- e. Increase research and development activities that may involve federal funding from the national science foundation experimental program to stimulate competitive research;
- f. Foster and practice entrepreneurship;
- g. Promote the commercialization of new products and services in industry clusters;
- h. Become financially self-sustaining; and
- i. Establish and meet a deadline for acquiring and expending all public and private funds specified in the application.

4. In considering whether to approve an application, the commission shall provide for an independent, expert review of the application to determine whether the proposed center is viable and whether the proposed center is likely to have the desired economic impact. As necessary, the commission may contract for additional technical review of applications. The commission may not approve an application unless the commission determines the proposed center has a high likelihood of viability and success in positively impacting economic development in the state.

5. For no fewer than six years and no more than ten years following center designation, the commission shall monitor the center's activities in order to determine whether the center is having the desired economic impact.

SECTION 4. AMENDMENT. Section 15-69-05 of the North Dakota Century Code is amended and reenacted as follows:

15-69-05. (Effective through July 31, 2011) Use of funds - Terms of funds - Distribution of funds.

1. A center shall use funds awarded under this chapter to enhance capacity; enhance infrastructure; and leverage state, federal, and private sources of funding. If a center's primary use of funds will be to enhance infrastructure, the commission must have specifically designated the center as addressing infrastructure needs. A center awarded funds under this chapter may not use the funds to supplant funding for current operations or academic instructions or to pay indirect costs.

- 1 2. As a condition for receipt of funds under this chapter, a center shall agree to
2 provide the board, foundation, and budget section of the legislative council with
3 annual audits on all funds distributed to the center under this chapter. The annual
4 audits must be provided until the completion of ~~four years following the final~~
5 ~~distribution of funds under this chapter~~ the commission's postaward monitoring of
6 the center. As a condition for receipt of funds under this chapter, a center shall
7 agree to provide the commission with the information necessary to monitor the
8 postaward activities of the center.
- 9 3. Before the commission directs the office of management and budget to distribute
10 funds awarded under this chapter, the center shall provide the commission with
11 detailed documentation of private sector participation and the availability of two
12 dollars of matching funds for each dollar of state funds to be distributed under this
13 chapter. The commission may not direct distribution of funds if the private sector
14 participants cease to participate. The matching funds may include funds facilitated
15 through the collaboration of the private sector participants with other funding
16 entities. The matching funds may include a combination of cash and in-kind assets
17 with itemized value. Private sector participation may be established through equity
18 investments or through contracts for services with private sector entities. In
19 making funding recommendations and designation determinations, the
20 commission, board, foundation, and budget section shall give major consideration
21 to the portion of the matching funds provided in cash by the private sector.
- 22 4. If, before funds are distributed by the office of management and budget, a center
23 undergoes a change in the terms of or assertions made in its application, the
24 commission may direct that the office of management and budget withhold all or a
25 portion of any undistributed funds pending commission review of the changes.