

THIRD ENGROSSMENT

REENGROSSED SENATE BILL NO. 2328

Introduced by

Senators Wanzek, Erbele

Representatives Brandenburg, Headland

1 A BILL for an Act to create and enact a new chapter to title 54 of the North Dakota Century
2 Code, relating to a life science research council; to repeal section 4.1-01-20.1 of the North
3 Dakota Century Code, relating to the bioscience innovation grant program; to provide a report;
4 to provide a continuing appropriation; to provide an appropriation; to provide for a transfer; and
5 to declare an emergency.

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

7 **SECTION 1.** A new chapter to title 54 of the North Dakota Century Code is created and
8 enacted as follows:

9 **Definitions.**

10 As used in this chapter, unless the context otherwise requires:

- 11 1. "Biotechnology" means a scientific field of study involving crop genetics, biofuels,
12 biomaterials, biosensors, and biomolecular processes in food, nutrition, animals,
13 humans, equipment, medical and health products and services, medical diagnostics,
14 medical therapeutics, and farm-based pharmaceuticals.
- 15 2. "Life science" means the scientific study of living organisms and their processes.
- 16 3. "Medical devices" means a medical instrument, apparatus, implant, software, or other
17 equipment developed or manufactured for medical purposes.
- 18 4. "Pharmaceuticals" means the practice of discovery, development, and production of
19 drugs and vaccines that can prevent, treat, and cure diseases.

20 **Life science research council - Membership - Meetings.**

21 The industrial commission shall consult with the life science research council in matters of
22 policy affecting the administration of the life science development fund.

- 1 1. The life science research council consists of:
 - 2 a. The commissioner of commerce or the commissioner's designee.
 - 3 b. Two members with a substantial interest in medical devices appointed by the
4 attorney general.
 - 5 c. Two members with a substantial interest in pharmaceuticals appointed by the
6 governor.
 - 7 d. Two members with a substantial interest in biotechnology appointed by the
8 agriculture commissioner.
- 9 2. Subject to subsection 6, the term of office for members of the council is three years
10 but of those first appointed, two serve for one year, two serve for two years, and two
11 serve for three years.
- 12 3. The commissioner of commerce shall serve as chairman.
- 13 4. The council shall have at least one regular meeting each year and such additional
14 meetings as the chairman determines necessary at a time and place to be fixed by the
15 chairman. A special meeting must be called by the chairman on written request of any
16 three members. Four members constitute a quorum.
- 17 5. The council shall recommend to the industrial commission the approval of grants,
18 loans, or other financial assistance necessary or appropriate for funding, research,
19 development, marketing, and educational projects or activities and any other matters
20 related to this chapter.
- 21 6. Members of the council serve at the pleasure of the governor.

22 **Access to council records.**

- 23 1. Materials and data submitted to, or made or received by, the council or industrial
24 commission, to the extent the council or industrial commission determines the
25 materials or data consist of trade secrets or commercial, financial, or proprietary
26 information of individuals or entities applying to or contracting with the commission or
27 receiving council or industrial commission services under this chapter, are subject to
28 section 44-04-18.4.
- 29 2. A person shall file a request with the council or industrial commission to have material
30 designated as confidential under subsection 1. The request must contain any
31 information required by the council or industrial commission and must include:

- 1 a. A general description of the nature of the information sought to be protected.
- 2 b. An explanation of why the information derives independent economic value,
- 3 actual or potential, from not being generally known to others.
- 4 c. An explanation of why the information is not readily ascertainable by proper
- 5 means by others.
- 6 d. A general description of a person that may obtain economic value from disclosure
- 7 or use of the information, and how the person may obtain that value.
- 8 e. A description of the efforts used to maintain the secrecy of the information.
- 9 3. The information submitted under subsection 2 is confidential. The council or industrial
- 10 commission shall examine the request and determine whether the information is
- 11 relevant to the matter at hand and is a trade secret under the definition in section
- 12 44-04-18.4 or 47-25.1-01. If the council or industrial commission determines the
- 13 information is either not relevant or not a trade secret, the council or industrial
- 14 commission shall notify the requester and the requester may ask for the return of the
- 15 information and request within ten days of the notice. If no return is sought, the
- 16 information and request are a public record.
- 17 4. The names or identities of independent technical reviewers on a project or program
- 18 and the names of council members making recommendations are confidential, may
- 19 not be disclosed by the council, and are not public records subject to section 44-04-18
- 20 or section 6 of article XI of the Constitution of North Dakota.

21 **Industrial commission powers.**

- 22 1. The industrial commission may:
- 23 a. Make a grant or loan, and provide other forms of financial assistance as
- 24 necessary or appropriate, to a qualified person for funding research,
- 25 development, marketing, and educational projects or activities, feasibility studies,
- 26 applied research and demonstrations, venture capital investments, and
- 27 low-interest loans and loan buydowns to foster the development of the life
- 28 science industry. Any financial assistance the commission awards to a project
- 29 may not be the project's sole support. Any financial assistance the commission
- 30 awards must be conditioned on the assurance the applicant or a third party will

1 support the project by either monetary or nonmonetary means. The amount of the
2 additional support is at the commission's discretion.

3 b. Provide incentives to expand the life science industry in the state.

4 c. Provide incentives for scaleable technologies.

5 d. Provide incentives to increase research and utilization of the life science industry
6 in the state.

7 e. Execute contracts and all other instruments necessary or convenient for the
8 performance of its powers and functions under this chapter.

9 f. Accept aid, grants, or contributions of money or other things of value from any
10 source, to be held, used, and applied to carry out this chapter, subject to the
11 conditions upon which the aid, grants, or contributions are made, including aid,
12 grants, or contributions from any department, agency, or instrumentality of the
13 United States for any purpose consistent with this chapter.

14 g. Establish interest buydown programs for equipment needed to development the
15 life science industry in the state.

16 h. Fund technical assistance from the university system and private entities to
17 producers.

18 2. The industrial commission may contract with the department of commerce to provide
19 technical assistance to the life science research council and the industrial commission
20 to carry out the purposes of this chapter, including pursuit of aid, grants, or
21 contributions of money or other things of value from any source for any purpose
22 consistent with this chapter. The department may contract with a public or private third
23 party to provide the technical assistance necessary to implement the purposes of this
24 chapter.

25 **Life science development fund - Continuing appropriation.**

26 The life science development fund is a special fund in the state treasury. All funds in the life
27 science development fund are appropriated to the industrial commission on a continuing basis
28 for the purpose of carrying out this chapter. Interest earned by the fund must be credited to the
29 fund.

30 **Reporting - Public transparency requirements.**

- 1 1. The industrial commission shall submit a report to the legislative management by
2 September thirtieth of each year and to the appropriations committees of the
3 legislative assembly each legislative session on activities under this chapter. The
4 report must include:
 - 5 a. A list of all grants, loans, and financial assistance awarded under this chapter,
6 including recipient names, project descriptions, and funding amounts, excluding
7 proprietary information as defined under section 44-04-18.4;
 - 8 b. A detailed accounting of fund expenditures, including administrative costs and
9 total funding from all sources for each project supported under this chapter; and
 - 10 c. A cumulative record of all projects receiving funding since the program's
11 inception, whether the entity that received funding remains operational, and the
12 status of each project receiving funding, including the return on investment, any
13 repayments from program recipients, continued obligations of the recipient, and
14 whether the project met intended goals.
- 15 2. The report required in subsection 1 must be archived and made publicly available on
16 the industrial commission website.

17 **SECTION 2. REPEAL.** Section 4.1-01-20.1 of the North Dakota Century Code is repealed.

18 **SECTION 3. TRANSFER - BIOSCIENCE INNOVATION GRANT FUND TO LIFE SCIENCE**
19 **DEVELOPMENT FUND.** The office of management and budget shall transfer any balance in
20 the bioscience innovation grant fund to the life science development fund on June 30, 2025.

21 **SECTION 4. APPROPRIATION - TRANSFER TO LIFE SCIENCE DEVELOPMENT FUND.**
22 There is appropriated out of any moneys in the general fund in the state treasury, not otherwise
23 appropriated, the sum of \$9,000,000, which the office of management and budget shall transfer
24 to the life science development fund, for the period beginning with the effective date of this Act,
25 and ending June 30, 2027.

26 **SECTION 5. EMERGENCY.** Sections 1, 3, and 4 of this Act are declared to be an
27 emergency measure.