

Sixty-second
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2057

Introduced by

Legislative Management
(Workforce Committee)

1 A BILL ~~for an Act to create and enact a new chapter to title 54 and a new section to chapter~~
2 ~~54-60 of the North Dakota Century Code, relating to a centers of research excellence program~~
3 ~~and centers of entrepreneurship excellence grants; to amend and reenact section 54-60-22 of~~
4 ~~the North Dakota Century Code, relating to centers of workforce excellence grants; to provide~~
5 ~~for transfers; to provide a continuing appropriation; and to provide an appropriation.~~ for an Act to
6 provide an appropriation for defraying the expenses of the department of commerce; to create
7 and enact section 15-69-07, a new chapter to title 17, and a new section to chapter 54-60 of the
8 North Dakota Century Code, relating to the centers of excellence program, the biofuel blender
9 pump incentive program, and the internship fund; to amend and reenact sections 10-30.5-02,
10 15-69-01, 15-69-04, and 15-69-05 of the North Dakota Century Code, relating to the North
11 Dakota development fund, incorporated, and centers of excellence program; to repeal chapter
12 15-69 of the North Dakota Century Code, relating to the centers of excellence program; to
13 provide an appropriation and borrowing authority to Williston state college related to a workforce
14 training building project; to provide a continuing appropriation; to provide exemptions; to provide
15 for transfers; to provide an effective date; to provide an expiration date; and to declare an
16 emergency.

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

18 ~~— **SECTION 1. AMENDMENT.** Section 54-60-22 of the North Dakota Century Code is~~
19 ~~amended and reenacted as follows:~~
20 ~~— **54-60-22. Workforce enhancement council – Grants** Centers of workforce excellence~~
21 ~~**grants.**~~
22 ~~— The workforce enhancement council shall recommend to the commissioner the approval of~~
23 ~~centers of workforce excellence grants to institutions of higher education assigned primary~~
24 ~~responsibility for workforce training in this state to be used to create or enhance training~~

1 ~~programs that address workforce needs of private sector companies. A grant made under this~~
2 ~~section may be used for curriculum development, equipment, recruitment of participants, and~~
3 ~~training and certification for instructors but may not be used to supplant funding for current~~
4 ~~operations. The department may distribute funds under this section after:~~

5 ~~— 1. The division of workforce development certifies that a proposed training program~~
6 ~~meets a critical workforce shortage in a target industry or other high-demand~~
7 ~~occupation and is expected to lead to employment in this state; and~~

8 ~~— 2. The proposed recipient provides the department with detailed documentation of~~
9 ~~private sector participation, including the availability of one dollar of matching funds for~~
10 ~~each dollar of state funds.—~~

11 ~~— **SECTION 2.** A new section to chapter 54-60 of the North Dakota Century Code is created~~
12 ~~and enacted as follows:~~

13 ~~— **Centers of entrepreneurship excellence grants.**~~

14 ~~— The department shall administer a centers of entrepreneurship excellence grant program,~~
15 ~~which shall provide grants to department certified entrepreneurial centers to be used to assist~~
16 ~~entrepreneurs in accessing capital, to assist entrepreneurs through providing marketing~~
17 ~~assistance, to support building entrepreneur infrastructure, and to develop entrepreneurial~~
18 ~~talent. The centers of excellence commission, established under chapter 15-69, shall make~~
19 ~~grant award determinations under this section. The department shall work with the centers of~~
20 ~~excellence commission in establishing guidelines to qualify for a grant under this section which~~
21 ~~may include preference for an applicant that establishes the availability of matching funds.~~

22 ~~— **SECTION 3.** A new chapter to title 54 of the North Dakota Century Code is created and~~
23 ~~enacted as follows:~~

24 ~~— **Definitions.**~~

25 ~~— In this chapter, unless the context otherwise requires:~~

26 ~~— 1. "Center" means a center of research excellence that has been designated under this~~
27 ~~chapter.~~

28 ~~— 2. "Commission" means the centers of excellence commission as defined under chapter~~
29 ~~15-69.~~

30 ~~— 3. "Department" means the department of commerce;~~

31 ~~— 4. "Industry cluster" means one of the following industries:~~

1 ~~_____ a. Advanced manufacturing;~~

2 ~~_____ b. Energy;~~

3 ~~_____ c. Information and technology;~~

4 ~~_____ d. Tourism;~~

5 ~~_____ e. Value-added agriculture; or~~

6 ~~_____ f. An industry, including the aerospace industry, specifically identified by the~~
7 ~~department of commerce as an industry that will contribute to the gross state~~
8 ~~product.~~

9 ~~_____ 5. "Infrastructure" means new building construction or major building renovation. The~~
10 ~~term does not include a purchase of equipment or remodel of an existing building.~~

11 ~~_____ 6. "Research university" means an institution under the control of the state board of~~
12 ~~higher education.~~

13 ~~_____ **Centers of research excellence - Application - Eligibility.**~~

14 ~~_____ 1. The department shall establish a centers of research excellence program. The~~
15 ~~commission shall make funding award determinations under this program. A center~~
16 ~~must be a research university or a nonprofit university-related or college-related~~
17 ~~foundation of a research university which is working in partnership with the private~~
18 ~~sector.~~

19 ~~_____ 2. The department shall provide center application forms, accept applications, review~~
20 ~~applications for completeness and compliance with commission policy, forward~~
21 ~~complete applications to the commission in accordance with guidelines established by~~
22 ~~the commission, and assist with preaward reviews and postaward monitoring as may~~
23 ~~be requested by the commission. No more than two applications per campus of a~~
24 ~~research university institution may be submitted to the department for each round of~~
25 ~~center funding.~~

26 ~~_____ 3. The commission shall meet as necessary to review all complete applications; consider~~
27 ~~the potential need for independent, expert review of complete applications; approve or~~
28 ~~disapprove complete applications; make funding award recommendations for~~
29 ~~commission-approved proposed centers; direct the department to distribute funds to~~
30 ~~the centers; monitor centers for compliance with award requirements; review changes~~

1 ~~in assertions made in center applications; and conduct postaward monitoring of~~
2 ~~centers.~~

3 ~~4. In considering whether to approve or disapprove a center application, the commission~~
4 ~~shall determine whether the applicant has conducted the due diligence necessary to~~
5 ~~put together a viable proposal, the commission shall determine whether the applicant~~
6 ~~has provided information in the application which clearly outlines how the matching~~
7 ~~fund requirement will be met, and the commission shall consider whether the center~~
8 ~~will:~~

9 ~~a. Use university research to promote private sector job growth and expansion of~~
10 ~~knowledge-based industries or use university research to promote the~~
11 ~~development of new products, high-tech companies, or skilled jobs in this state;~~

12 ~~b. Create high-value private sector employment opportunities in this state;~~

13 ~~c. Provide for public-private sector involvement and partnerships;~~

14 ~~d. Leverage other funding, including cash from the private sector;~~

15 ~~e. Promote the commercialization of new products and services in industry clusters;~~

16 ~~f. Become financially self-sustaining; and~~

17 ~~g. Establish and meet a deadline for acquiring and expending all public and private~~
18 ~~funds specified in the application.~~

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

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

29 ~~**Use of funds - Terms of funds - Distribution of funds - Postaward monitoring.**~~

30 ~~1. A center shall use center grant funds to enhance capacity and leverage state, federal,~~
31 ~~and private sources of funding. A center awarded center funds under this chapter may~~

1 ~~not use the funds for infrastructure, to supplant funding for current operations or~~
2 ~~academic instructions, or to pay indirect costs.~~

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

6 ~~3. As a condition for receipt of center funds under this chapter, a center shall agree to~~
7 ~~contract with an independent accountant annually in an agreed-upon procedures~~
8 ~~engagement and provide the budget section of the legislative management with a~~
9 ~~report of the results. The agreed-upon procedures report must be provided until the~~
10 ~~completion of the commission's postaward monitoring of the center. As a condition for~~
11 ~~receipt of center funds under this chapter, a center shall agree to provide the~~
12 ~~commission with the information necessary to monitor the postaward activities of the~~
13 ~~center.~~

14 ~~4. Before the commission directs the department to distribute center funds awarded~~
15 ~~under this chapter, the center shall provide the commission with detailed~~
16 ~~documentation of private sector participation and the availability of two dollars of~~
17 ~~matching funds for each dollar of state funds to be distributed. Of the two dollars of~~
18 ~~matching funds, at least one dollar must be cash, of which at least fifty cents must be~~
19 ~~from the private sector. The matching funds may include funds facilitated through the~~
20 ~~collaboration of the private sector participants with other funding entities. The noncash~~
21 ~~matching funds may include in-kind assets with itemized value. Private sector~~
22 ~~participation may be established through equity investments or through contracts for~~
23 ~~services with private sector entities. In making funding recommendations and~~
24 ~~designation determinations, the commission shall give major consideration to the~~
25 ~~portion of the matching funds provided in cash by the private sector.~~

26 ~~5. The commission shall direct the department to distribute the center funds awarded~~
27 ~~under this chapter in disbursements consistent with the center's budget and timeframe~~
28 ~~outlined in the approved award. The commission may not direct distribution of center~~
29 ~~funds under this chapter if there are no private sector partners participating or if the~~
30 ~~statutorily required matching funds are not available.~~

1 ~~6. If, before center funds are distributed by the department, a center undergoes a change~~
2 ~~in the terms of or assertions made in its application, the commission may direct that~~
3 ~~the department withhold all or a portion of any undistributed funds pending~~
4 ~~commission review of the changes.~~

5 ~~7. The commission may use funds appropriated for the centers of research excellence~~
6 ~~program to pay for the commissioner's administrative expenses.~~

7 ~~**Eminent researcher recruitment challenge grants.**~~

8 ~~As part of the centers of research excellence program, the department of commerce shall~~
9 ~~establish and administer an eminent researcher recruitment challenge grant program to provide~~
10 ~~challenge grants to raise funds to be used by research universities and foundations established~~
11 ~~to further the work of such research universities in endowing chairs to attract eminent research-~~
12 ~~scholars to join the faculties of the research universities. Under this program, the commission-~~
13 ~~shall make challenge grant award determinations. The commission shall adopt standards~~
14 ~~relative to the award of a challenge grant under this section which must require that a~~
15 ~~foundation contribute at least fifty percent and not more than seventy five percent of the total~~
16 ~~amount the commission deems necessary to endow a chair. The commission may revise the~~
17 ~~contribution formulas at any time in order to maximize the benefits that may result from~~
18 ~~endowing one or more chairs in the biennium and depending on the total funds available to the~~
19 ~~grant program. In determining whether to make a grant award under this section, the~~
20 ~~commission may consider the existing programs of the North Dakota university system, the~~
21 ~~necessity for such a chair, and any duplication the creation of the chair might cause.~~

22 ~~**Centers of research excellence fund – Continuing appropriation.**~~

23 ~~The centers of research excellence fund is a special fund in the state treasury. All moneys~~
24 ~~in the centers of research excellence fund are appropriated to the department of commerce on~~
25 ~~a continuing basis for the purpose of implementing and administering this chapter. Interest~~
26 ~~earned on moneys in the fund must be credited to the fund.~~

27 ~~**SECTION 4. APPROPRIATION.** There is appropriated out of any moneys in the general-~~
28 ~~fund in the state treasury, not otherwise appropriated, the sum of \$5,000,000, or so much of the~~
29 ~~sum as may be necessary, to the department of commerce for the purpose of funding centers of~~
30 ~~entrepreneurship excellence grants under section 2 of this Act, for the biennium beginning-~~
31 ~~July 1, 2011, and ending June 30, 2013.~~

1 ~~— **SECTION 5. APPROPRIATION.** There is appropriated out of any moneys in the general~~
2 ~~fund in the state treasury, not otherwise appropriated, the sum of \$3,500,000, or so much of the~~
3 ~~sum as may be necessary, to the department of commerce for the purpose of working with the~~
4 ~~North Dakota university system's research institutions, the adjutant general, and the North~~
5 ~~Dakota aeronautics commission in leveraging private and federal funding to advance state~~
6 ~~opportunities associated with a limited deployment cooperative airspace project in the state, for~~
7 ~~the biennium beginning July 1, 2011, and ending June 30, 2013.~~

8 ~~— **SECTION 6. APPROPRIATION - TRANSFER - WORKFORCE ENHANCEMENT FUND.**~~
9 ~~There is appropriated out of any moneys in the general fund in the state treasury, not otherwise~~
10 ~~appropriated, the sum of \$2,000,000, which the office of management and budget shall transfer~~
11 ~~to the workforce enhancement fund for the purpose of implementing and administering sections~~
12 ~~54-60-21 and 54-60-22, for the biennium beginning July 1, 2011, and ending June 30, 2013.~~

13 ~~— **SECTION 7. APPROPRIATION - TRANSFER - CENTERS OF RESEARCH EXCELLENCE**~~
14 ~~**FUND.** There is appropriated out of any moneys in the general fund in the state treasury, not~~
15 ~~otherwise appropriated, the sum of \$8,000,000, which the office of management and budget~~
16 ~~shall transfer to the centers of research excellence fund for the purpose of implementing and~~
17 ~~administering the centers of research excellence grants provided for under section 3 of this Act,~~
18 ~~for the biennium beginning July 1, 2011, and ending June 30, 2013.~~

19 ~~— **SECTION 8. APPROPRIATION - TRANSFER - CENTERS OF RESEARCH EXCELLENCE**~~
20 ~~**FUND.** There is appropriated out of any moneys in the general fund in the state treasury, not~~
21 ~~otherwise appropriated, the sum of \$1,500,000, which the office of management and budget~~
22 ~~shall transfer to the centers of research excellence fund for the purpose of implementing and~~
23 ~~administering the eminent researcher recruitment challenge grants provided for under section 3~~
24 ~~of this Act, for the biennium beginning July 1, 2011, and ending June 30, 2013.~~

25 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
26 as may be necessary, are appropriated out of any moneys in the general fund in the state
27 treasury, not otherwise appropriated, and from special funds derived from federal funds and
28 other income, to the department of commerce for the purpose of defraying the expenses of the
29 department of commerce, for the biennium beginning July 1, 2011, and ending June 30, 2013,
30 as follows:

		Adjustments or		
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>	
1				
2				
3	Salaries and wages	\$10,020,840	\$851,139	\$10,871,979
4	Operating expenses	14,478,272	(595,012)	13,883,260
5	Capital assets	25,000	45,018	70,018
6	Grants	65,411,058	6,101,936	71,512,994
7	North Dakota development fund	0	250,000	250,000
8	Discretionary funds	928,083	(1)	928,082
9	Workforce enhancement	0	2,000,000	2,000,000
10	Economic development initiatives	186,846	0	186,846
11	Agricultural products utilization	2,536,630	203,137	2,739,767
12	North Dakota trade office	2,064,000	489,000	2,553,000
13	Partner programs	2,022,044	0	2,022,044
14	Federal fiscal stimulus funds	<u>0</u>	<u>24,496,750</u>	<u>24,496,750</u>
15	Total all funds	\$97,672,773	\$33,841,967	\$131,514,740
16	Less estimated income	<u>69,666,470</u>	<u>18,968,467</u>	<u>88,634,937</u>
17	Total general fund	\$28,006,303	\$14,873,500	\$42,879,803
18	Full-time equivalent positions	68.00	.25	68.25

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO

SIXTY-THIRD LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-first legislative assembly for the 2009-11 biennium and the 2011-13 one-time funding items included in the appropriation in section 1 of this Act:

	<u>One-Time Funding Description</u>	<u>2009-11</u>	<u>2011-13</u>
23			
24	Workforce enhancement fund	\$1,000,000	\$2,000,000
25	Biofuel blender pumps	1,000,000	0
26	Promotion and marketing of USS North Dakota	100,000	100,000
27	Lewis and Clark foundation grants	1,500,000	0
28	Theodore Roosevelt Medora foundation grant	500,000	0
29	Tourism infrastructure grant	0	1,500,000
30	Child care grants and loans	1,820,000	370,338
31	Child care service providers	0	4,935,000

1	recruitment, training, and retention grants		
2	Centers of excellence	19,500,000	0
3	Not-for-profit organization assisting individuals	0	300,000
4	with business ideas		
5	Great plains applied energy research center	5,000,000	0
6	Minot air force base realignment grant	0	400,000
7	Grand Forks air force base realignment grant	0	4,200,000
8	Equine processing study	50,000	0
9	Federal fiscal stimulus	<u>68,594,635</u>	<u>24,496,750</u>
10	Total all funds	\$99,064,635	\$38,302,088
11	Less estimated income	<u>68,594,635</u>	<u>24,496,750</u>
12	Total general fund	\$30,470,000	\$13,805,338

13 The 2011-13 one-time funding amounts are not a part of the entity's base budget for the
14 2013-15 biennium. The department of commerce shall report to the appropriations committees
15 of the sixty-third legislative assembly on the use of this one-time funding for the biennium
16 beginning July 1, 2011, and ending June 30, 2013.

17 **SECTION 3. AMENDMENT.** Section 10-30.5-02 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **10-30.5-02. (Effective through July 31, ~~2011~~2013) Purpose and fund uses.**

- 20 1. It is the purpose of this chapter to create a statewide nonprofit development
21 corporation that will have the authority to take equity positions in, to provide loans to,
22 or to use other innovative financing mechanisms to provide capital for new or
23 expanding businesses in this state, or relocating businesses to this state. The
24 corporation's principal mission is the development and expansion of primary sector
25 business in this state. The corporation may form additional corporations, limited
26 liability companies, partnerships, or other forms of business associations in order to
27 further its mission of primary sector economic development.
- 28 2. The exclusive focus of this corporation is business development in this state; however,
29 it is not excluded from participation with other states or organizations in projects that
30 have a clear economic benefit to state residents in the creation of jobs or secondary

1 business. Emphasis should be to develop jobs that provide an income adequate to
2 support a family above the poverty level.

3 3. Moneys in the development fund may be used to provide working capital or for
4 financing the purchase of fixed assets but not to refinance existing debt. Moneys may
5 also be used to make matching grants to county-authorized or city-authorized
6 development corporations for the acquisition, leasing, or remodeling of real estate
7 facilities for locating a prospective new primary sector business. A grant must be made
8 as part of a package of financing in which the state is a participant.

9 4. The commissioner of commerce shall adopt rules, subject to the approval of the board
10 of directors, necessary to implement the administration of the fund. The rules to
11 implement the grant program must be developed to encourage local fundraising
12 initiatives for developing locations for businesses financed by the corporation.

13 5. Moneys in the development fund may be used to provide financing to early childhood
14 facilities licensed under chapter 50-11.1. Moneys also may be used to make grants or
15 loans to match grants or loans made by county-authorized or city-authorized
16 development corporations, job development authorities created under chapter 11-11.1
17 or 40-57.4, and regional planning councils for acquiring, leasing, or remodeling of real
18 estate facilities or for acquiring equipment for establishing or expanding a licensed
19 early childhood facility. In providing financing under this subsection, the corporation
20 shall ensure funds are distributed fairly among for-profit early childhood facilities,
21 nonprofit early childhood facilities, and public early childhood facilities. An award under
22 this subsection may not exceed ~~one~~two hundred thousand dollars per award.

23 **(Effective after July 31, 20112013) Purpose and fund uses.**

24 1. It is the purpose of this chapter to create a statewide nonprofit development
25 corporation that will have the authority to take equity positions in, to provide loans to,
26 or to use other innovative financing mechanisms to provide capital for new or
27 expanding businesses in this state, or relocating businesses to this state. The
28 corporation's principal mission is the development and expansion of primary sector
29 business in this state. The corporation may form additional corporations, limited
30 liability companies, partnerships, or other forms of business associations in order to
31 further its mission of primary sector economic development.

1 2. The exclusive focus of this corporation is business development in this state; however,
2 it is not excluded from participation with other states or organizations in projects that
3 have a clear economic benefit to state residents in the creation of jobs or secondary
4 business. Emphasis should be to develop jobs that provide an income adequate to
5 support a family above the poverty level.

6 3. Moneys in the development fund may be used to provide working capital or for
7 financing the purchase of fixed assets but not to refinance existing debt. Moneys may
8 also be used to make matching grants to county-authorized or city-authorized
9 development corporations for the acquisition, leasing, or remodeling of real estate
10 facilities for locating a prospective new primary sector business. A grant must be made
11 as part of a package of financing in which the state is a participant.

12 4. The commissioner of commerce shall adopt rules, subject to the approval of the board
13 of directors, necessary to implement the administration of the fund. The rules to
14 implement the grant program must be developed to encourage local fundraising
15 initiatives for developing locations for businesses financed by the corporation.

16 **SECTION 4. AMENDMENT.** Section 15-69-01 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **15-69-01. ~~(Effective through July 31, 2011)~~ Definitions.**

19 In this chapter, unless the context otherwise requires:

20 1. "Board" means the state board of higher education.

21 2. "Center" means a center of excellence relating to economic development which has
22 been designated or named under this chapter.

23 3. "Commission" means the centers of excellence commission.

24 4. "Department" means the department of commerce.

25 5. "Foundation" means the North Dakota economic development foundation.

26 ~~5. "Industry cluster" means one of the following industries:~~

27 ~~a. Advanced manufacturing;~~

28 ~~b. Energy;~~

29 ~~c. Information and technology;~~

30 ~~d. Tourism;~~

31 ~~e. Value-added agriculture; or~~

~~f. An industry, including the aerospace industry, specifically identified by the department of commerce as an industry that will contribute to the gross state product.~~

6. "Infrastructure" means new building construction or major building renovation. The term does not include a purchase of equipment or remodel of an existing building.

SECTION 5. AMENDMENT. Section 15-69-04 of the North Dakota Century Code is amended and reenacted as follows:

15-69-04. (Effective through July 31, 2011) Application -- Eligibility requirementsCenters of excellence program.

~~1. The department of commerce shall provide center application forms, accept applications, review applications for completeness and compliance with board and commission policy, forward complete applications to the commission in accordance with guidelines established by the commission, and assist with preaward reviews and postaward monitoring as may be requested by the commission. No more than two applications per campus of an institution of higher education under the control of the board may be submitted to the department of commerce for each round of center funding.~~

~~2. The commission shall meet as necessary to review all complete applications; consider the potential need for independent, expert review of complete applications; approve or disapprove complete applications; make funding award recommendations for commission-approved proposed centers; direct the department of commerce to administer the centers of excellence program; distribute funds to the centers; monitor centers for compliance with award requirements; review changes in assertions made in center applications; and conduct postaward monitoring of centers.~~

~~3. In considering whether to approve or disapprove an application, the commission shall determine whether the applicant has conducted the due diligence necessary to put together a viable proposal, the commission shall determine whether the applicant has provided information in the application which clearly outlines how the matching fund requirement will be met, and the commission shall consider whether the center will:~~

~~a. Use university or college research to promote private sector job growth and expansion of knowledge-based industries or use university or college research to~~

- 1 promote the development of new products, high-tech companies, or skilled jobs-
- 2 in this state;
- 3 ~~b. Create high-value private sector employment opportunities in this state;~~
- 4 ~~c. Provide for public-private sector involvement and partnerships;~~
- 5 ~~d. Leverage other funding, including cash from the private sector;~~
- 6 ~~e. Increase research and development activities that may involve federal funding-~~
- 7 ~~from the national science foundation experimental program to stimulate-~~
- 8 ~~competitive research;~~
- 9 ~~f. Foster and practice entrepreneurship;~~
- 10 ~~g. Promote the commercialization of new products and services in industry clusters;~~
- 11 ~~h. Become financially self-sustaining; and~~
- 12 ~~i. Establish and meet a deadline for acquiring and expending all public and private-~~
- 13 ~~funds specified in the application.~~
- 14 ~~4. In considering whether to approve an application, the commission may provide for an-~~
- 15 ~~independent, expert review of the application to determine whether the proposed-~~
- 16 ~~center is viable and whether the proposed center is likely to have the desired-~~
- 17 ~~economic impact. As necessary, the commission may contract for additional technical-~~
- 18 ~~review of applications. The commission may not approve an application unless the-~~
- 19 ~~commission determines the proposed center has a high likelihood of viability and-~~
- 20 ~~success in positively impacting economic development in the state.~~
- 21 ~~5. For no fewer than six years and no more than ten years following center designation,-~~
- 22 ~~the commission shall monitor the center's activities in order to determine whether the-~~
- 23 ~~center is having the desired economic impact.~~

24 **SECTION 6. AMENDMENT.** Section 15-69-05 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **15-69-05. ~~(Effective through July 31, 2011)~~ Use of funds - Terms of funds -**
27 **Distribution of funds.**

- 28 1. A center shall use funds awarded under this chapter to enhance capacity and leverage
- 29 state, federal, and private sources of funding. A center awarded funds under this
- 30 chapter may not use the funds for infrastructure, to supplant funding for current
- 31 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 provide
2 the ~~board~~department, foundation, and budget section of the legislative management
3 with annual audits on all funds distributed to the center under this chapter. The annual
4 audits must be provided until the completion of the ~~commission's~~department's
5 postaward monitoring of the center. As a condition for receipt of funds under this
6 chapter, a center shall agree to provide the ~~commission~~department with the
7 information necessary to monitor the postaward activities of the center. Effective on
8 the effective date of this Act, the department shall assume the postaward monitoring
9 duties previously fulfilled by the commission and the center shall provide the
10 department, rather than the commission, with the information necessary to monitor the
11 postaward activities of the center.
- 12 3. Before the ~~commission directs the~~ department of commerce ~~to distribute~~distributes
13 funds awarded under this chapter, the center shall provide the ~~commission~~department
14 with detailed documentation of private sector participation and the availability of two
15 dollars of matching funds for each dollar of state funds to be distributed under this
16 chapter. Of the two dollars of matching funds, at least one dollar must be cash, of
17 which at least fifty cents must be from the private sector. The matching funds may
18 include funds facilitated through the collaboration of the private sector participants with
19 other funding entities. The noncash matching funds may include in-kind assets with
20 itemized value. Private sector participation may be established through equity
21 investments or through contracts for services with private sector entities. ~~In making~~
22 ~~funding recommendations and designation determinations, the commission, board,~~
23 ~~foundation, and budget section shall give major consideration to the portion of the~~
24 ~~matching funds provided in cash by the private sector.~~
- 25 4. The ~~commission shall direct the~~ department of commerce ~~to~~shall distribute the funds
26 awarded under this chapter in disbursements consistent with the center's budget and
27 timeframe outlined in the approved award. The ~~commission~~department may not direct
28 distribution of funds under this chapter if there are no private sector partners
29 participating or if the statutorily required matching funds are not available.
- 30 5. If, before funds are distributed by the department of commerce, a center undergoes a
31 change in the terms of or assertions made in its application, the ~~commission may~~

1 ~~direct that the~~ department of commerce may withhold all or a portion of any
2 undistributed funds pending ~~commission~~department review of the changes.

- 3 6. The ~~commission~~department may use funds ~~appropriated for~~available within the
4 centers of excellence ~~program~~fund to pay for the ~~commission's~~department's
5 administrative expenses, ~~which may include contracting for independent, expert~~
6 ~~reviews of complete applications and centers of excellence forums~~ related to this
7 program. ~~The amount of funds the commission uses each biennium for administrative~~
8 ~~expenses may not exceed two and one-half percent of the funds appropriated for the~~
9 ~~program that biennium.~~

10 **SECTION 7.** Section 15-69-07 of the North Dakota Century Code is created and enacted as
11 follows:

12 **15-69-07. Centers of excellence postaward monitoring.**

- 13 1. For no fewer than six years and no more than ten years following center designation,
14 the department shall monitor a center's activities in order to determine whether the
15 center is having the desired economic impact.
- 16 2. Instead of requiring annual audits under subsection 2 of section 15-69-05, the
17 department may require that the center be audited on all funds distributed to the
18 center under this chapter at the halfway point of the postaward monitoring and at the
19 end of the postaward monitoring and that for all other years during the postaward
20 monitoring the center contract with an independent accountant for an agreed-upon
21 procedures engagement. A center may use funds distributed to the center under this
22 chapter to pay for audits required under subsection 2 of section 15-69-05 or for an
23 agreed-upon procedures engagement.
- 24 3. At a minimum, an agreed-upon procedures engagement under subsection 2 must
25 include:
- 26 a. Verification of the accuracy of jobs data regarding jobs claimed related by the
27 center, distinguishing between the creation of private sector jobs and jobs within
28 the institution of higher education;
- 29 b. Verification of compliance with the centers of excellence program matching fund
30 requirements;
- 31 c. Verification awarded center funds were used for authorized uses;

1 d. Verification the center complied with the center's application timeline and any
2 authorized revisions;

3 e. Verification the center complied with the center's scope of activities as provided
4 under the center's application and any authorized revisions;

5 f. Review of a sample of center expenditures to verify the expenses were
6 approved, supported with documentation, and made in accordance with the
7 scope identified in the center's application;

8 g. Verification of a sample of labor charged to the center;

9 h. Verification business incentive agreements comply with chapter 54-60.1; and

10 i. Comparison of the center's application budget to the center's actual
11 expenditures, including documentation explaining any material differences.

12 **SECTION 8.** A new chapter to title 17 of the North Dakota Century Code is created and
13 enacted as follows:

14 **Definitions.**

15 For purposes of this chapter, unless the context otherwise requires:

16 1. "Biodiesel" means any non-petroleum-based diesel fuel made from a renewable
17 resource such as vegetable oil or animal fat.

18 2. "E85 fuel" means a petroleum product that:

19 a. Is a blend of agriculturally derived denatured ethanol and gasoline or natural
20 gasoline;

21 b. Typically contains eighty-five percent ethanol by volume but must at a minimum
22 contain sixty percent ethanol by volume; and

23 c. Complies with the American society for testing materials specification D 5798-96.

24 3. "Motor fuel retailer" means a person that acquires motor vehicle fuel from a supplier or
25 distributor for resale to a consumer at a retail location.

26 4. "Retail location" means a site at which motor vehicle fuel is dispensed through a pump
27 from an underground or aboveground storage tank into the supply tank of a motor
28 vehicle.

29 **Biofuel blender pump incentive program - Administration.**

30 1. The department of commerce shall administer the biofuel blender pump incentive
31 program to provide cost-share grants of up to fourteen thousand dollars per retail

1 location to motor fuel retailers for the installation of biofuel blender pumps and
2 associated equipment at retail locations, including the piping system and storage
3 components.

4 2. In determining eligibility for grant funds, the department shall establish by rule criteria
5 governing:

6 a. The verification of costs for biofuel blender pumps and associated equipment,
7 including the piping system and storage components;

8 b. The eligibility of grant recipients;

9 c. The application and grant award procedure; and

10 d. Reporting and accountability procedures for grant recipients.

11 3. The amount of incentives payable to any retail location under this chapter may not
12 exceed two percent of the total amount appropriated for the biofuel blender pump
13 incentive program.

14 **Blender pumps - Requirements.**

15 1. To qualify for a grant under this chapter, a retailer must install an ethanol blender
16 pump and an associated storage and piping system. The pump must be the type that:

17 a. Dispenses at retail a blend of gasoline and ethanol in the ratio selected by the
18 purchaser;

19 b. Is manufactured to an industry standard and carries a warranty for compatibility
20 with dispenser components and storage and piping systems;

21 c. Has at least four hoses and dispenses the following:

22 (1) Either a blend of ten percent ethanol or the minimum blend percentage
23 approved for all vehicles by the United States environmental protection
24 agency;

25 (2) A blend of at least twenty percent ethanol; and

26 (3) E85 fuel; and

27 d. Complies with all alternative fuel, biofuel, and flexible fuel requirements
28 established by law.

29 2. In order to qualify for a grant under this chapter, a retailer must install a biodiesel
30 blender pump that:

1 a. Dispenses at retail varying blends of biodiesel and mineral diesel in the ratio
2 selected by the purchaser; and

3 b. Complies with all alternative fuel, biofuel, and flexible fuel requirements
4 established by law.

5 **Biofuel blender pump incentive program - Administrative costs.**

6 The department may use up to five percent of any amount appropriated to the biofuel
7 blender pump incentive program for administration, the dissemination of information regarding
8 the biofuel blender pump incentive program, and the dissemination of information regarding the
9 benefits of biofuels.

10 **SECTION 9.** A new section to chapter 54-60 of the North Dakota Century Code is created
11 and enacted as follows:

12 **Internship fund - Continuing appropriation.**

13 The internship fund is a special fund in the state treasury. All funds in the internship fund are
14 appropriated to the department of commerce on a continuing basis for the purpose of
15 implementing and administering section 54-60-17. Interest earned by the fund must be credited
16 to the fund.

17 **SECTION 10. GRANT - DIVISION OF TOURISM - TOURISM INFRASTRUCTURE**

18 **GRANTS.** The grants line item in section 1 of this Act includes the sum of \$1,500,000 from the
19 general fund for providing a tourism infrastructure grant.

20 **SECTION 11. GRANT - MINOT AIR FORCE BASE REALIGNMENT GRANT.** The grants
21 line item in section 1 of this Act includes the sum of \$400,000 from the general fund for
22 providing a base realignment grant to enhance economic development and employment
23 opportunities associated with the Minot air force base resulting from action by the federal
24 defense base closure and realignment commission.

25 **SECTION 12. CHILD CARE GRANTS - WORKFORCE DEVELOPMENT - QUALITY**
26 **IMPROVEMENT - TECHNICAL ASSISTANCE - CAPACITY BUILDING.** The grants line item in
27 section 1 of this Act includes the sum of \$4,935,000 from the general fund for providing grants
28 to child care service providers for workforce development, quality improvement, technical
29 assistance, and capacity building in collaboration with the department of human services under
30 section 50-11.1-14.1.

1 **SECTION 13. GRANT - GRAND FORKS AIR FORCE BASE REALIGNMENT GRANTS.**

2 The grants line item in section 1 of this Act includes the sum of \$4,200,000 from the general
3 fund for providing grants to research universities under the control of the state board of higher
4 education or nonprofit university-related foundations for use in infrastructure or enhancement of
5 economic development and employment opportunities, for the biennium beginning July 1, 2011,
6 and ending June 30, 2013. The department may use funds appropriated in this section for a
7 base realignment grant to enhance economic development and employment opportunities
8 associated with the Grand Forks air force base resulting from action by the federal defense
9 base closure and realignment commission, a grant of up to \$200,000 to the Grand Forks
10 housing authority for a planning initiative, or grants for infrastructure and economic development
11 projects or programs to accommodate growth in proximity to or at the Grand Forks air force
12 base.

13 **SECTION 14. APPROPRIATION - WILLISTON STATE COLLEGE.** There is appropriated
14 out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum
15 of \$500,000, or so much of the sum as may be necessary, to Williston state college for the
16 purpose of a workforce training building project, for the biennium beginning July 1, 2011, and
17 ending June 30, 2013.

18 **SECTION 15. APPROPRIATION - BORROWING AUTHORITY - WILLISTON STATE**
19 **COLLEGE.** Williston state college may borrow the sum of \$1,500,000, or so much of the sum
20 as may be necessary, from the Bank of North Dakota, the proceeds of which are appropriated
21 for the purpose of a workforce training building project, for the biennium beginning July 1, 2011,
22 and ending June 30, 2013.

23 **SECTION 16. INNOVATION 2020 AWARD.** The department may administer an innovation
24 2020 award program to provide proof-of-concept funding to a qualified entrepreneur to assist in
25 moving a new technology from academia into the commercialization cycle, for the biennium
26 beginning July 1, 2011, and ending June 30, 2013. The following provisions apply to an award
27 under this section:

- 28 1. An applicant must be an individual who is associated with a North Dakota institution of
29 higher education as a student, an employee, or other relationship the department may
30 authorize.
- 31 2. The applicant must have an early-stage technology with high commercial potential.

- 1 3. The department shall establish the qualified uses of funds received under this section.
- 1 4. As a term for receipt of funds under this section, the recipient shall agree to the
2 department's repayment terms equal to two times the amount of the award.
- 3 5. The department's repayment terms may include the department taking an equity
4 position in, providing a loan to, or using any other innovative financing mechanism to
5 provide the funds to the recipient. The terms of repayment may be conditioned on the
6 new technology becoming income generating.
- 7 6. An award under this section may not exceed \$50,000. A recipient may not receive
8 more than one award under this section.
- 9 7. An award under this section is not a business incentive under chapter 54-60.1.

10 **SECTION 17. TECHNOLOGY AWARD EQUITY INVESTMENT PROGRAM.** The
11 department may administer a technology award equity investment program that provides
12 matching equity investments to technology-based businesses, for the biennium beginning
13 July 1, 2011, and ending June 30, 2013. The following provisions apply to technology award
14 equity investments:

- 15 1. An applicant must:
 - 16 a. Be a North Dakota business that is at the startup stage;
 - 17 b. Be a primary sector business in the technology field; and
 - 18 c. Have a legal structure that was established following comprehensive vetting,
19 development of proof of concept, and a completed business plan.
- 20 2. Before funds are distributed under this section, the recipient shall provide the
21 department with detailed documentation of the availability of \$2 of angel fund
22 investment matching funds for each \$1 of state funds distributed under this section.
23 Matching funds must come from a North Dakota angel fund certified under section
24 57-38-01.26 and be in cash. Matching funds may not be in-kind assets.
- 25 3. An equity investment under this section may not exceed \$50,000. A recipient may not
26 receive more than one award under this section.
- 27 4. An award equity investment under this section is not a business incentive under
28 chapter 54-60.1.

29 **SECTION 18. EXEMPTION.** The amount appropriated for the agricultural products
30 utilization commission in section 1 of chapter 46 of the 2009 Session Laws is not subject to

1 section 54-44.1-11 and any unexpended funds from this line item for grants are available for
2 grants during the biennium beginning July 1, 2011, and ending June 30, 2013.

3 **SECTION 19. EXEMPTION.** The amount appropriated for the discretionary funds line item
4 in section 1 of chapter 46 of the 2009 Session Laws is not subject to section 54-44.1-11 and any
5 unexpended funds from this line item are available during the biennium beginning July 1, 2011,
6 and ending June 30, 2013.

7 **SECTION 20. EXEMPTION - TRANSFER.** The amount appropriated for internships
8 contained in the operating expenses line item in section 1 of chapter 46 of the 2009 Session
9 Laws is not subject to section 54-44.1-11. The office of management and budget shall transfer
10 any unexpended funds from this appropriation to the internship fund at the end of the 2011-13
11 biennium.

12 **SECTION 21. EXEMPTION - TRANSFER.** Up to \$5,000,000 of the amount appropriated for
13 the great plains applied energy research center in section 1 of chapter 26 of the 2009 Session
14 Laws is not subject to section 54-44.1-11. The department of commerce shall spend these
15 funds for the purposes provided for in this section, for the biennium beginning July 1, 2011, and
16 ending June 30, 2013. The department of commerce shall use up to \$4,335,000 of these funds
17 for a grant to Bismarck state college for the purpose of completing the national energy center of
18 excellence fourth floor renovation project. The department of commerce shall use up to
19 \$600,000 of these funds for a grant to assist in the acquisition of the antiballistic missile site at
20 the Stanley R. Mickelson safeguard complex in Nekoma. The department of commerce shall
21 use up to \$65,000 of these funds for grants to child care service providers for workforce
22 development, quality improvement, technical assistance, and capacity building in collaboration
23 with the department of human services under section 50-11.1-14.1.

24 **SECTION 22. EXEMPTION.** The amount appropriated for the technology-based
25 entrepreneurship grant program contained in the grants line item in section 1 of chapter 46 of
26 the 2009 Session Laws is not subject to section 54-44.1-11 and any unexpended funds from
27 this line item are available during the biennium beginning July 1, 2011, and ending June 30,
28 2013.

29 **SECTION 23. EXEMPTION.** The amount appropriated for early childhood facility grants in
30 section 6 of chapter 108 of the 2009 Session Laws is not subject to section 54-44.1-11 and any

1 unexpended funds from this line item are available during the biennium beginning July 1, 2011,
2 and ending June 30, 2013.

3 **SECTION 24. EXEMPTION.** The amount appropriated for the biofuel blender pump
4 incentive program in sections 1 and 2 of chapter 46 of the 2009 Session Laws is not subject to
5 section 54-44.1-11 and any unexpended funds from this line item are available during the
6 biennium beginning July 1, 2011, and ending June 30, 2013.

7 **SECTION 25. TRANSFER - WORKFORCE ENHANCEMENT FUND.** The office of
8 management and budget shall transfer the amount appropriated in the workforce enhancement
9 line item in section 1 of this Act to the workforce enhancement fund for the purpose of
10 implementing and administering sections 54-60-21 and 54-60-22 for the biennium beginning
11 July 1, 2011, and ending June 30, 2013.

12 **SECTION 26. TRANSFER - EARLY CHILDHOOD FACILITY LOANS.** The office of
13 management and budget shall transfer \$250,000 of the amount appropriated in the North
14 Dakota development fund line item in section 1 of this Act to the North Dakota development
15 fund, incorporated, for the purpose of providing financing to early childhood facilities for the
16 biennium beginning July 1, 2011, and ending June 30, 2013.

17 **SECTION 27. TRADE OFFICE - MATCHING FUND REQUIREMENT.** The total North
18 Dakota trade office special line and the general fund appropriation in section 1 of this Act
19 include \$2,553,000 of funding relating to the North Dakota trade office. The department of
20 commerce may spend seventy percent of this amount without requiring any matching funds
21 from the trade office. Any additional amounts may be spent only to the extent that the North
22 Dakota trade office provides \$1 of matching funds from private or other public sources for each
23 \$1 provided by the department for the biennium beginning July 1, 2011, and ending June 30,
24 2013. Matching funds may include money spent by businesses or organizations to pay salaries
25 to export assistants, provide training to export assistants, or buy computer equipment as part of
26 the North Dakota trade office's export assistance program.

27 **SECTION 28. DEPARTMENT OF COMMERCE - GRANTS FOR EARLY CHILDHOOD**
28 **FACILITIES.**

- 29 1. During the biennium beginning July 1, 2011, and ending June 30, 2013, the
30 department of commerce shall establish and implement a grant program to provide
31 matching grants to North Dakota early childhood facilities.

- 1 2. A recipient of a grant under this section shall use the grant funds for technical
2 assistance, a business plan, or infrastructure. A grant awarded under this section for
3 infrastructure may not exceed \$5,000 per recipient and a grant awarded under this
4 section for technical assistance or a business plan may not exceed \$10,000 per
5 recipient.
- 6 3. To receive a grant under this section, an applicant shall establish the applicant has
7 available \$1 of matching funds for every \$3 of grant funds. The matching funds must
8 be in cash and may come from private or public sources, or from a combination of
9 private and public sources.
- 10 4. In making awards under this program, the department shall ensure funds are fairly
11 distributed between for-profit early childhood facilities, nonprofit early childhood
12 facilities, and public early childhood facilities.

13 **SECTION 29. REPEAL.** Chapter 15-69 of the North Dakota Century Code is repealed.

14 **SECTION 30. EFFECTIVE DATE.** Section 29 of this Act becomes effective on August 1,
15 2023.

16 **SECTION 31. EXPIRATION DATE.** Section 8 of this Act is effective through July 31, 2013,
17 and after that date is ineffective.

18 **SECTION 32. EMERGENCY.** Funding of \$900,000 in the operating expenses line item in
19 section 1 of this Act, relating to the operation intern program, and sections 8, 9, and 21 of this
20 Act are declared to be an emergency measure.