

**FIRST ENGROSSMENT
with Conference Committee Amendments
ENGROSSED SENATE BILL NO. 2057**

Introduced by

Legislative Management

(Workforce Committee)

1 A BILL for an Act to provide an appropriation for defraying the expenses of the department of
2 commerce; to create and enact section 10-30.5-13, a new chapter to title 17, two new sections
3 to chapter 54-60, a new chapter to title 54, a new subdivision to subsection 7 of section
4 57-38-30.3, and a new section to chapter 57-38 of the North Dakota Century Code, relating to a
5 small business technology investment program, a biofuel blender pump incentive program, the
6 internship fund, an electronic portfolio program, centers of research excellence, and income tax
7 credits for purchases of manufacturing machinery and equipment for the purpose of automating
8 manufacturing processes; to amend and reenact sections 10-30.5-02, 15-69-01, 15-69-03,
9 15-69-04, and 15-69-05 of the North Dakota Century Code, relating to the North Dakota
10 development fund, incorporated, and centers of excellence program; to repeal chapter 15-69 of
11 the North Dakota Century Code, relating to the centers of excellence program; to provide for a
12 legislative management study; to provide a vaccinology initiative grant; to provide a continuing
13 appropriation; to provide exemptions; to provide for transfers; to provide legislative intent; to
14 provide an effective date; to provide an expiration date; and to declare an emergency.

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

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

		Adjustments or	
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
22			
23			
24	Salaries and wages	\$10,020,840	\$837,411
			\$10,858,251

Sixty-second
Legislative Assembly

1	Operating expenses	14,478,272	(451,622)	14,026,650
2	Capital assets	25,000	45,018	70,018
3	Grants	65,411,058	(5,383,064)	60,027,994
4	Discretionary funds	928,083	(1)	928,082
5	Workforce enhancement	0	375,000	375,000
6	Economic development initiatives	186,846	0	186,846
7	Agricultural products utilization	2,536,630	203,137	2,739,767
8	Centers of excellence	0	12,000,000	12,000,000
9	North Dakota trade office	2,064,000	549,400	2,613,400
10	Partner programs	2,022,044	50,000	2,072,044
11	Federal fiscal stimulus funds	<u>0</u>	<u>24,496,750</u>	<u>24,496,750</u>
12	Total all funds	\$97,672,773	\$32,722,029	\$130,394,802
13	Less estimated income	<u>69,666,470</u>	<u>18,968,467</u>	<u>88,634,937</u>
14	Total general fund	\$28,006,303	\$13,753,562	\$41,759,865
15	Full-time equivalent positions	68.00	0.25	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:

20	<u>One-Time Funding Description</u>	<u>2009-11</u>	<u>2011-13</u>
21	Workforce enhancement fund	\$1,000,000	\$375,000
22	American Indian business office	0	50,000
23	Biofuel blender pumps	1,000,000	0
24	Promotion and marketing of USS North Dakota	100,000	0
25	Lewis and Clark foundation grants	1,500,000	0
26	Theodore Roosevelt Medora foundation grant	500,000	0
27	Child care grants and loans	1,820,000	0
28	Centers of research excellence	19,500,000	12,000,000
29	Electronic portfolio pilot project	0	150,000
30	2020 and beyond	0	50,000
31	Great plains applied energy research center	5,000,000	0

1	Equine processing study	50,000	0
2	Federal fiscal stimulus	<u>68,594,635</u>	<u>24,496,750</u>
3	Total all funds	\$99,064,635	\$37,121,750
4	Less estimated income	<u>68,594,635</u>	<u>24,496,750</u>
5	Total general fund	\$30,470,000	\$12,625,000

6 The 2011-13 one-time funding amounts are not a part of the entity's base budget for the
7 2013-15 biennium. The department of commerce shall report to the appropriations committees
8 of the sixty-third legislative assembly on the use of this one-time funding for the biennium
9 beginning July 1, 2011, and ending June 30, 2013.

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

12 **10-30.5-02. (Effective through July 31, 2011~~2013~~) Purpose and fund uses.**

- 13 1. It is the purpose of this chapter to create a statewide nonprofit development
14 corporation that will have the authority to take equity positions in, to provide loans to,
15 or to use other innovative financing mechanisms to provide capital for new or
16 expanding businesses in this state, or relocating businesses to this state. The
17 corporation's principal mission is the development and expansion of primary sector
18 business in this state. The corporation may form additional corporations, limited
19 liability companies, partnerships, or other forms of business associations in order to
20 further its mission of primary sector economic development.
- 21 2. The exclusive focus of this corporation is business development in this state; however,
22 it is not excluded from participation with other states or organizations in projects that
23 have a clear economic benefit to state residents in the creation of jobs or secondary
24 business. Emphasis should be to develop jobs that provide an income adequate to
25 support a family above the poverty level.
- 26 3. Moneys in the development fund may be used to provide working capital or for
27 financing the purchase of fixed assets but not to refinance existing debt. Moneys may
28 also be used to make matching grants to county-authorized or city-authorized
29 development corporations for the acquisition, leasing, or remodeling of real estate
30 facilities for locating a prospective new primary sector business. A grant must be made
31 as part of a package of financing in which the state is a participant.

- 1 4. The commissioner of commerce shall adopt rules, subject to the approval of the board
2 of directors, necessary to implement the administration of the fund. The rules to
3 implement the grant program must be developed to encourage local fundraising
4 initiatives for developing locations for businesses financed by the corporation.
- 5 5. Moneys in the development fund may be used to provide financing to early childhood
6 facilities licensed under chapter 50-11.1. Moneys also may be used to make grants or
7 loans to match grants or loans made by county-authorized or city-authorized
8 development corporations, job development authorities created under chapter 11-11.1
9 or 40-57.4, and regional planning councils for acquiring, leasing, or remodeling of real
10 estate facilities or for acquiring equipment for establishing or expanding a licensed
11 early childhood facility. In providing financing under this subsection, the corporation
12 shall ensure funds are distributed fairly among for-profit early childhood facilities,
13 nonprofit early childhood facilities, and public early childhood facilities. An award under
14 this subsection may not exceed one hundred thousand dollars per award.

15 **(Effective after July 31, 2014~~2013~~) Purpose and fund uses.**

- 16 1. It is the purpose of this chapter to create a statewide nonprofit development
17 corporation that will have the authority to take equity positions in, to provide loans to,
18 or to use other innovative financing mechanisms to provide capital for new or
19 expanding businesses in this state, or relocating businesses to this state. The
20 corporation's principal mission is the development and expansion of primary sector
21 business in this state. The corporation may form additional corporations, limited
22 liability companies, partnerships, or other forms of business associations in order to
23 further its mission of primary sector economic development.
- 24 2. The exclusive focus of this corporation is business development in this state; however,
25 it is not excluded from participation with other states or organizations in projects that
26 have a clear economic benefit to state residents in the creation of jobs or secondary
27 business. Emphasis should be to develop jobs that provide an income adequate to
28 support a family above the poverty level.
- 29 3. Moneys in the development fund may be used to provide working capital or for
30 financing the purchase of fixed assets but not to refinance existing debt. Moneys may
31 also be used to make matching grants to county-authorized or city-authorized

1 development corporations for the acquisition, leasing, or remodeling of real estate
2 facilities for locating a prospective new primary sector business. A grant must be made
3 as part of a package of financing in which the state is a participant.

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

8 **SECTION 4.** Section 10-30.5-13 of the North Dakota Century Code is created and enacted
9 as follows:

10 **10-30.5-13. Small business technology investment program.**

11 1. The corporation shall administer a small business technology investment program that
12 provides matching investments to startup technology-based businesses.

13 2. The following provisions apply to small business technology investments:

14 a. A qualified applicant:

15 (1) Must be a North Dakota business that is at the startup stage;

16 (2) Must be a primary sector business in the technology field; and

17 (3) Shall meet underwriting guidelines established by the corporation.

18 b. Before the corporation distributes funds under this section, the recipient shall
19 provide the corporation with detailed documentation of the availability of two
20 dollars of angel fund investment matching funds for each dollar of state funds
21 distributed under this section. The matching funds must be cash, must come from
22 a North Dakota angel fund certified under section 57-38-01.26, and may not be
23 an in-kind asset.

24 3. An investment under this section may not exceed fifty thousand dollars. Eligible use of
25 the investment funds include developing a proof of concept. A recipient may not
26 receive more than one award under this section.

27 4. An investment under this section is not a business incentive under chapter 54-60.1.

28 **SECTION 5. AMENDMENT.** Section 15-69-01 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **15-69-01. (Effective through July 31, 2011) Definitions.**

31 In this chapter, unless the context otherwise requires:

- 1 1. "Board" means the state board of higher education.
- 2 2. "Center" means a center of excellence relating to economic development which has
3 been designated or named under this chapter.
- 4 3. "Commission" means the centers of excellence commission.
- 5 4. "Department" means the department of commerce.
- 6 5. "Foundation" means the North Dakota economic development foundation.
- 7 ~~5. "Industry cluster" means one of the following industries:~~
 - 8 a. ~~Advanced manufacturing;~~
 - 9 b. ~~Energy;~~
 - 10 e. ~~Information and technology;~~
 - 11 d. ~~Tourism;~~
 - 12 e. ~~Value-added agriculture; or~~
 - 13 f. ~~An industry, including the aerospace industry, specifically identified by the~~
14 ~~department of commerce as an industry that will contribute to the gross state-~~
15 ~~product.~~
- 16 6. "Infrastructure" means new building construction or major building renovation. The
17 term does not include a purchase of equipment or remodel of an existing building.

18 **SECTION 6. AMENDMENT.** Section 15-69-03 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **15-69-03. ~~(Effective through July 31, 2014)~~ Centers of excellence commission.**

21 The centers of excellence commission consists of six members. The foundation shall
22 appoint three of the foundation's members to serve on the commission and the board shall
23 appoint three of the board's members to serve on the commission. The commission members
24 shall designate a chairman and a vice chairman of the commission. Each member of the
25 commission shall serve for a term of three years, beginning July first; may be reappointed for
26 additional terms; and serves at the pleasure of the appointing entity. If a commission member
27 ceases to serve as a member of the appointing entity, that member's membership on the
28 commission ceases immediately and the appointing entity shall appoint a new member for the
29 remainder of the term. Terms of commission members must be staggered. On a
30 meeting-by-meeting basis, an appointing entity may substitute a member of that appointing
31 entity to serve in place of one of the regular members appointed by that entity. If the

1 commission chairman and vice chairman are not present at a meeting, the commission
2 members present at that meeting shall select a commission member to serve as chairman for
3 that meeting. A commission member may receive compensation and travel and expense
4 reimbursement from the appointing entity. The department of commerce shall provide the
5 commission with appropriate staff services as may be requested by the commission.

6 **SECTION 7. AMENDMENT.** Section 15-69-04 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **15-69-04. (Effective through July 31, 2011) Application -- Eligibility**
9 **requirementsCenters of excellence program.**

- 10 1. The department of commerce shall provide center application forms, accept
11 applications, review applications for completeness and compliance with board and
12 commission policy, forward complete applications to the commission in accordance
13 with guidelines established by the commission, and assist with preaward reviews and
14 postaward monitoring as may be requested by the commission. No more than two
15 applications per campus of an institution of higher education under the control of the
16 board may be submitted to the department of commerce for each round of center
17 funding.
- 18 2. The commission shall meet as necessary to review all complete applications; consider
19 the potential need for independent, expert review of complete applications; approve or
20 disapprove complete applications; make funding award recommendations for
21 commission approved proposed centers; direct the department of commerce to
22 distribute funds to the centers; monitor centers for compliance with award
23 requirements; review changes in assertions made in center applications; and conduct
24 postaward monitoring of centers.
- 25 3. In considering whether to approve or disapprove an application, the commission shall
26 determine whether the applicant has conducted the due diligence necessary to put
27 together a viable proposal, the commission shall determine whether the applicant has
28 provided information in the application which clearly outlines how the matching fund
29 requirement will be met, and the commission shall consider whether the center will:
- 30 a. Use university or college research to promote private sector job growth and
31 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 e. 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 8. 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 postaward
5 monitoring of the center. As a condition for receipt of funds under this chapter, a center
6 shall agree to provide the commission with the information necessary to monitor the
7 postaward activities of the center. Instead of requiring annual audits under this
8 subsection, the commission may require that the center be audited on all funds
9 distributed to the center under this chapter after the second full fiscal year of the
10 postaward monitoring and after all funds distributed to the center under this chapter
11 have been expended and that for all other years during the postaward monitoring the
12 center contract with an independent accountant for an agreed-upon procedures
13 engagement. A center may use funds distributed to the center under this chapter to
14 pay for audits required under this subsection or for an agreed-upon procedures
15 engagement. At a minimum, an agreed-upon procedures engagement under this
16 subsection must include:
- 17 a. Verification of the accuracy of jobs data regarding jobs claimed created by the
18 center, distinguishing between the creation of private sector jobs and jobs within
19 the institution of higher education;
- 20 b. Verification of compliance with the centers of excellence program matching fund
21 requirements;
- 22 c. Verification awarded center funds were used for authorized uses;
- 23 d. Verification the center complied with the center's application timeline and any
24 authorized revisions;
- 25 e. Verification the center complied with the center's scope of activities as provided
26 under the center's application and any authorized revisions;
- 27 f. Review of a sample of center expenditures to verify the expenses were
28 approved, supported with documentation, and made in accordance with the
29 scope identified in the center's application;
- 30 g. Verification of a sample of labor charged to the center; and

1 h. Comparison of the center's application budget to the center's actual
2 expenditures, including documentation explaining any material differences.

- 3 3. Before the commission directs the department of commerce to distribute funds
4 awarded under this chapter, the center shall provide the commission with detailed
5 documentation of private sector participation and the availability of two dollars of
6 matching funds for each dollar of state funds to be distributed under this chapter. Of
7 the two dollars of matching funds, at least one dollar must be cash, of which at least
8 fifty cents must be from the private sector. The matching funds may include funds
9 facilitated through the collaboration of the private sector participants with other funding
10 entities. The noncash matching funds may include in-kind assets with itemized value.
11 Private sector participation may be established through equity investments or through
12 contracts for services with private sector entities. ~~In making funding recommendations~~
13 ~~and designation determinations, the commission, board, foundation, and budget~~
14 ~~section shall give major consideration to the portion of the matching funds provided in~~
15 ~~cash by the private sector.~~
- 16 4. The commission shall direct the department of commerce to distribute the funds
17 awarded under this chapter in disbursements consistent with the center's budget and
18 timeframe outlined in the approved award. The commission may not direct distribution
19 of funds under this chapter if there are no private sector partners participating or if the
20 statutorily required matching funds are not available.
- 21 5. If, before funds are distributed by the department of commerce, a center undergoes a
22 change in the terms of or assertions made in its application, the commission may
23 direct that the department of commerce withhold all or a portion of any undistributed
24 funds pending commission review of the changes.
- 25 6. ~~The commission~~department may use funds ~~appropriated for~~available within the
26 centers of excellence ~~program~~fund to pay for the ~~commission's~~department's
27 administrative expenses, ~~which may include contracting for independent, expert~~
28 ~~reviews of complete applications and centers of excellence forums~~related to this
29 program. ~~The amount of funds the commission uses each biennium for administrative~~
30 ~~expenses may not exceed two and one-half percent of the funds appropriated for the~~
31 ~~program that biennium.~~

1 **SECTION 9.** A new chapter to title 17 of the North Dakota Century Code is created and
2 enacted as follows:

3 **Definitions.**

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

- 5 1. "Biodiesel" means any non-petroleum-based diesel fuel made from a renewable
6 resource such as vegetable oil or animal fat.
- 7 2. "E85 fuel" means a petroleum product that:
 - 8 a. Is a blend of agriculturally derived denatured ethanol and gasoline or natural
9 gasoline;
 - 10 b. Typically contains eighty-five percent ethanol by volume but must at a minimum
11 contain sixty percent ethanol by volume; and
 - 12 c. Complies with the American society for testing materials specification D 5798-96.
- 13 3. "Motor fuel retailer" means a person that acquires motor vehicle fuel from a supplier or
14 distributor for resale to a consumer at a retail location.
- 15 4. "Retail location" means a site at which motor vehicle fuel is dispensed through a pump
16 from an underground or aboveground storage tank into the supply tank of a motor
17 vehicle.

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

- 19 1. The department of commerce shall administer the biofuel blender pump incentive
20 program to provide cost-share grants of up to a maximum of twenty thousand dollars
21 per retail location to motor fuel retailers for the installation of biofuel blender pumps
22 and up to fourteen thousand dollars per retail location for the installation of associated
23 equipment, including the piping systems and storage components, when blender
24 pumps are installed for a maximum grant of thirty-four thousand dollars per location.
- 25 2. In determining eligibility for grant funds, the department shall establish by rule criteria
26 governing:
 - 27 a. The verification of costs for biofuel blender pumps and associated equipment,
28 including the piping system and storage components;
 - 29 b. The eligibility of grant recipients;
 - 30 c. The application and grant award procedure; and
 - 31 d. Reporting and accountability procedures for grant recipients.

1 **Blender pumps - Requirements.**

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

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

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

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

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

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

13 (3) E85 fuel; and

14 d. Complies with all alternative fuel, biofuel, and flexible fuel requirements
15 established by law.

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

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

20 b. Complies with all alternative fuel, biofuel, and flexible fuel requirements
21 established by law.

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

23 The department may use up to five percent of any amount appropriated to the biofuel
24 blender pump incentive program for administration, the dissemination of information regarding
25 the biofuel blender pump incentive program, and the dissemination of information regarding the
26 benefits of biofuels.

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

29 **Internship fund - Continuing appropriation.**

30 The internship fund is a special fund in the state treasury. All funds in the internship fund are
31 appropriated to the department of commerce on a continuing basis for the purpose of

1 implementing and administering section 54-60-17. Interest earned by the fund must be credited
2 to the fund.

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

5 **Division of workforce development - Pilot program - Higher education electronic**
6 **portfolio system.**

7 1. The division of workforce development, the North Dakota university system, job
8 service North Dakota, and representatives of the institutions of higher education under
9 the control of the state board of higher education shall work together to establish a
10 pilot program through which an electronic portfolio system will be implemented by
11 selected institutions of higher education under the control of the state board of higher
12 education in order to address the needs of students, faculty, and employers. The pilot
13 program may include Valley City state university and the North Dakota state college of
14 science. If Valley City state university or the North Dakota state college of science
15 chooses not to participate, any other institution of higher education under the control of
16 the state board of higher education may participate in this pilot program.

17 2. The pilot program must provide for an electronic portfolio system that:
18 a. Is online;
19 b. Is a multimedia system that enables the user to create and manage the user's
20 education and career information;
21 c. Enables students, job seekers, and professionals to showcase education and
22 skills to potential employers;
23 d. Provides for creation of and access to lifelong personal electronic portfolio
24 accounts and services to students, job seekers, and professionals seeking to
25 advance their careers in the state;
26 e. Provides access to job seekers residing outside the state who may be interested
27 in relocating or returning to the state; and
28 f. Allows employers and economic developers to conduct online searches to
29 determine workforce potential by geographic region, skill, education, experience,
30 and other factors.

- 1 3. Under this pilot program, the North Dakota university system, job service North
2 Dakota, and the division of workforce development shall work together to:
3 a. Facilitate the effective integration of future workers into the workforce system and
4 to enhance the ability of state and local economic development officials to
5 effectively access North Dakota's skilled workforce through the system; and
6 b. Ensure the system is complementary to the state's workforce system and higher
7 education system.
8 4. The division of workforce development shall administer the pilot program.
9 5. The division of workforce development shall report to the budget section on the use of
10 the funding provided for this program, including an overview of the program, program
11 expenditures, and statistics on the effectiveness of the program.

12 **SECTION 12.** A new chapter to title 54 of the North Dakota Century Code is created and
13 enacted as follows:

14 **Definitions.**

15 In this chapter, unless the context otherwise requires:

- 16 1. "Center" means a center of research excellence that has been designated under this
17 chapter.
18 2. "Commission" means the centers of excellence commission as defined under chapter
19 15-69.
20 3. "Department" means the department of commerce.
21 4. "Industry cluster" means one of the following industries:
22 a. Advanced manufacturing;
23 b. Energy;
24 c. Information and technology;
25 d. Value-added agriculture; or
26 e. An industry, including the aerospace industry, specifically identified by the
27 department of commerce as an industry that will contribute to the gross state
28 product.
29 5. "Infrastructure" means new building construction or major building renovation. The
30 term does not include a purchase of equipment or remodel of an existing building.

1 6. "Research university" means an institution under the control of the state board of
2 higher education which has a full-time student enrollment in excess of nine thousand
3 students.

4 **Centers of research excellence - Application - Eligibility.**

5 1. The department shall establish a centers of research excellence program. The
6 commission shall make funding award determinations under this program. A center
7 must be a research university or a nonprofit university-related or college-related
8 foundation of a research university which is working in partnership with the private
9 sector.

10 2. The department shall provide center application forms, accept applications, review
11 applications for completeness and compliance with commission policy, forward
12 complete applications to the commission in accordance with guidelines established by
13 the commission, and assist with preaward reviews and postaward monitoring as may
14 be requested by the commission.

15 3. The commission shall meet as necessary to review all complete applications; consider
16 the potential need for independent, expert review of complete applications; approve or
17 disapprove complete applications; make funding award recommendations for
18 commission-approved proposed centers; direct the department to distribute funds to
19 the centers; monitor centers for compliance with award requirements; review changes
20 in assertions made in center applications; and conduct postaward monitoring of
21 centers.

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

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

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

- 1 c. Provide for public-private sector involvement and partnerships;
- 2 d. Leverage other funding, including cash from the private sector;
- 3 e. Promote the commercialization of new products and services in industry clusters;
- 4 and
- 5 f. Establish and meet a deadline for acquiring and expending all public and private
- 6 funds specified in the application.
- 7 5. In considering whether to approve an application, the commission may provide for an
- 8 independent, expert review of the application to determine whether the proposed
- 9 center is viable and whether the proposed center is likely to have the desired
- 10 economic impact. As necessary, the commission may contract for additional technical
- 11 review of applications. The commission may not approve an application unless the
- 12 commission determines the proposed center has a high likelihood of viability and
- 13 success in positively impacting economic development in the state.
- 14 6. The board rules adopted under subsection 9 of section 15-10-17, relating to ownership
- 15 of intellectual property, inventions, and discoveries, must address activities and issues
- 16 unique to centers.

17 **Use of funds - Terms of funds - Distribution of funds - Postaward monitoring.**

- 18 1. A center shall use center grant funds to enhance capacity and leverage state, federal,
- 19 and private sources of funding. A center awarded center funds under this chapter may
- 20 not use the funds for infrastructure, to supplant funding for current operations or
- 21 academic instructions, or to pay indirect costs.
- 22 2. For no fewer than six years and no more than ten years following center designation,
- 23 the commission shall monitor the center's activities in order to determine whether the
- 24 center is having the desired economic impact.
- 25 3. As a condition for receipt of funds under this chapter, a center shall agree to provide
- 26 the board, foundation, and budget section of the legislative management with annual
- 27 audits on all funds distributed to the center under this chapter. The annual audits must
- 28 be provided until the completion of the commission's postaward monitoring of the
- 29 center. As a condition for receipt of funds under this chapter, a center shall agree to
- 30 provide the commission with the information necessary to monitor the postaward
- 31 activities of the center. Instead of requiring annual audits under this subsection, the

1 commission may require that the center be audited on all funds distributed to the
2 center under this chapter after the second full fiscal year of the postaward monitoring
3 and after all funds distributed to the center under this chapter have been expended
4 and that for all other years during the postaward monitoring the center contract with an
5 independent accountant for an agreed-upon procedures engagement. A center may
6 use funds distributed to the center under this chapter to pay for audits required under
7 this subsection or for an agreed-upon procedures engagement. At a minimum, an
8 agreed-upon procedures engagement under this subsection must include:

- 9 a. Verification of the accuracy of jobs data regarding jobs claimed created by the
10 center, distinguishing between the creation of private sector jobs and jobs within
11 the institution of higher education;
12 b. Verification of compliance with the centers of excellence program matching fund
13 requirements;
14 c. Verification awarded center funds were used for authorized uses;
15 d. Verification the center complied with the center's application timeline and any
16 authorized revisions;
17 e. Verification the center complied with the center's scope of activities as provided
18 under the center's application and any authorized revisions;
19 f. Review of a sample of center expenditures to verify the expenses were
20 approved, supported with documentation, and made in accordance with the
21 scope identified in the center's application;
22 g. Verification of a sample of labor charged to the center; and
23 h. Comparison of the center's application budget to the center's actual
24 expenditures, including documentation explaining any material differences.

- 25 4. Before the commission directs the department to distribute center funds awarded
26 under this chapter, the center shall provide the commission with detailed
27 documentation of private sector participation and the availability of two dollars of
28 matching funds for each dollar of state funds to be distributed. Of the two dollars of
29 matching funds, at least one dollar must be cash, of which at least fifty cents must be
30 from the private sector. The matching funds may include funds facilitated through the
31 collaboration of the private sector participants with other funding entities. The noncash

1 matching funds may include in-kind assets with itemized value. Private sector
2 participation may be established through equity investments or through contracts for
3 services with private sector entities. In making funding recommendations and
4 designation determinations, the commission shall give major consideration to the
5 portion of the matching funds provided in cash by the private sector.

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

11 6. If, before center funds are distributed by the department, a center undergoes a change
12 in the terms of or assertions made in its application, the commission may direct that
13 the department withhold all or a portion of any undistributed funds pending
14 commission review of the changes.

15 7. The commission may use funds appropriated for the centers of research excellence
16 program to pay for the commission's administrative expenses.

17 **Base realignment grants.**

18 As part of the centers of research excellence program, the department of commerce shall
19 establish and administer a base realignment grant program to provide grants to a research
20 university or a nonprofit university-related foundation to enhance economic development and
21 employment opportunities associated with the Grand Forks air force base resulting from action
22 by the federal defense base closure and realignment commission and infrastructure and
23 economic development projects or programs to accommodate growth in proximity to or at the
24 Grand Forks air force base. Under this program, the commission shall make grant award
25 determinations. The department shall work with the commission in establishing guidelines to
26 qualify for a grant under this section.

27 **Centers of research excellence fund - Continuing appropriation.**

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

1 **SECTION 13.** A new subdivision to subsection 7 of section 57-38-30.3 of the North Dakota
2 Century Code is created and enacted as follows:

3 Automating manufacturing processes tax credit under section 14 of this Act.

4 **SECTION 14.** A new section to chapter 57-38 of the North Dakota Century Code is created
5 and enacted as follows:

6 **Income tax credit for purchases of manufacturing machinery and equipment for the**
7 **purpose of automating manufacturing processes.**

8 1. A taxpayer that is a primary sector business is allowed a nonrefundable credit against
9 the tax imposed under section 57-38-30 or 57-38-30.3 for purchases of manufacturing
10 machinery and equipment for the purpose of automating manufacturing processes in
11 this state. The amount of the credit under this section is twenty percent of the costs
12 incurred in the taxable year to purchase manufacturing machinery and equipment for
13 the purpose of automating manufacturing processes. Qualified expenditures under this
14 section may not be used in the calculation of any other income tax deduction or credit
15 allowed by law.

16 2. For purposes of this section:

17 a. "Manufacturing machinery and equipment for the purpose of automating
18 manufacturing processes" means new or used automation and robotic
19 equipment.

20 b. "Primary sector business" means a business certified by the department of
21 commerce which, through the employment of knowledge or labor, adds value to a
22 product, process, or service that results in the creation of new wealth.

23 3. The taxpayer shall claim the total credit amount for the taxable year in which the
24 manufacturing machinery and equipment are purchased. The credit under this section
25 may not exceed the taxpayer's liability as determined under this chapter for any
26 taxable year.

27 4. If the amount of the credit determined under this section exceeds the liability for tax
28 under this chapter, the excess may be carried forward to each of the next five
29 succeeding taxable years.

- 1 5. The aggregate amount of credits allowed under this section may not exceed two
2 million dollars in any calendar year. Credits subject to this limitation must be
3 determined based upon the date of the qualified purchase.
- 4 6. If a taxpayer entitled to the credit provided by this section is a member of a group of
5 corporations filing a North Dakota consolidated tax return using the combined
6 reporting method, the credit may be claimed against the aggregate North Dakota tax
7 liability of all the corporations included in the North Dakota consolidated return.
- 8 7. A partnership, subchapter S corporation, limited partnership, limited liability company,
9 or any other passthrough entity entitled to the credit under this section must be
10 considered to be the taxpayer for purposes of calculating the credit. The amount of the
11 allowable credit must be determined at the passthrough entity level. The total credit
12 determined at the entity level must be passed through to the partners, shareholders, or
13 members in proportion to their respective interests in the passthrough entity. An
14 individual taxpayer may take the credit passed through under this subsection against
15 the individual's state income tax liability under section 57-38-30.3.
- 16 8. The department of commerce shall provide the tax commissioner the name, address,
17 and federal identification number or social security number of the taxpayer approved
18 as qualifying for the credit under this section, and a list of those items that were
19 approved as a qualified expenditure by the department. The taxpayer claiming the
20 credit shall file with the taxpayer's return, on forms prescribed by the tax
21 commissioner, the following information:
- 22 a. The name, address, and federal identification number or social security number
23 of the taxpayer who made the purchase; and
- 24 b. An itemization of:
- 25 (1) Each item of machinery or equipment purchased for automation;
26 (2) The amount paid for each item of machinery or equipment if the amount
27 paid for the machinery or equipment is being used as a basis for calculating
28 the credit; and
- 29 (3) The date on which payment for the purchase was made.

1 9. Notwithstanding the time limitations contained in section 57-38-38, this section does
2 not prohibit the tax commissioner from conducting an examination of the credit
3 claimed and assessing additional tax due under section 57-38-38.

4 **SECTION 15. EXEMPTION.** The amount appropriated for the agricultural products
5 utilization commission in section 1 of chapter 46 of the 2009 Session Laws is not subject to
6 section 54-44.1-11 and any unexpended funds from this line item for grants are available for
7 grants during the biennium beginning July 1, 2011, and ending June 30, 2013.

8 **SECTION 16. EXEMPTION.** The amount appropriated for the discretionary funds line item
9 in section 1 of chapter 46 of the 2009 Session Laws is not subject to section 54-44.1-11 and any
10 unexpended funds from this line item are available during the biennium beginning July 1, 2011,
11 and ending June 30, 2013.

12 **SECTION 17. EXEMPTION - TRANSFER.** The amount appropriated for internships
13 contained in the operating expenses line item in section 1 of chapter 46 of the 2009 Session
14 Laws is not subject to section 54-44.1-11. The office of management and budget shall transfer
15 any unexpended funds from this appropriation to the internship fund at the end of the 2011-13
16 biennium.

17 **SECTION 18. EXEMPTION - TRANSFER.** Of the \$5,000,000 appropriated for the great
18 plains applied energy research center in section 1 of chapter 26 of the 2009 Session Laws,
19 \$4,100,000 is not subject to section 54-44.1-11. The department of commerce shall spend these
20 funds for the purposes provided for in this section, for the biennium beginning July 1, 2011, and
21 ending June 30, 2013. The office of management and budget shall transfer \$1,000,000 of these
22 funds to the North Dakota development fund, incorporated, for the purpose of providing
23 investments to startup stage technology-based businesses under section 4 of this Act. The
24 office of management and budget shall transfer \$1,125,000 of these funds to the workforce
25 enhancement fund for the purpose of implementing and administering sections 54-60-21 and
26 54-60-22. The department of commerce shall use \$750,000 of these funds for tourism
27 infrastructure grants. The department of commerce shall use \$600,000 of these funds for a
28 grant to assist in the acquisition of the antiballistic missile site at the Stanley R. Mickelson
29 safeguard complex in Nekoma. The department of commerce shall use \$325,000 for providing a
30 base realignment grant to enhance economic development and employment opportunities
31 associated with the Minot air force base resulting from action by the federal defense base

1 closure and realignment commission. The department of commerce shall use \$300,000 for a
2 grant to a not-for-profit organization assisting individuals with business ideas.

3 **SECTION 19. EXEMPTION.** The amount appropriated for the technology-based
4 entrepreneurship grant program contained in the grants line item in section 1 of chapter 46 of
5 the 2009 Session Laws is not subject to section 54-44.1-11 and any unexpended funds from
6 this line item are available during the biennium beginning July 1, 2011, and ending June 30,
7 2013.

8 **SECTION 20. EXEMPTION.** The amount appropriated for early childhood facility grants in
9 section 6 of chapter 108 of the 2009 Session Laws is not subject to section 54-44.1-11 and any
10 unexpended funds from this line item are available during the biennium beginning July 1, 2011,
11 and ending June 30, 2013.

12 **SECTION 21. EXEMPTION.** The amount appropriated for the biofuel blender pump
13 incentive program in sections 1 and 2 of chapter 46 of the 2009 Session Laws is not subject to
14 section 54-44.1-11 and any unexpended funds from this line item are available during the
15 biennium beginning July 1, 2011, and ending June 30, 2013.

16 **SECTION 22. EXEMPTION.** The amount appropriated for the promotion and marketing of
17 the USS North Dakota contained in the grants line item in section 1 of chapter 46 of the 2009
18 Session Laws is not subject to section 54-44.1-11 and any unexpended funds from this line item
19 are available during the biennium beginning July 1, 2011, and ending June 30, 2013.

20 **SECTION 23. TRANSFER - WORKFORCE ENHANCEMENT FUND.** The office of
21 management and budget shall transfer the amount appropriated in the workforce enhancement
22 line item in section 1 of this Act to the workforce enhancement fund for the purpose of
23 implementing and administering sections 54-60-21 and 54-60-22 for the biennium beginning
24 July 1, 2011, and ending June 30, 2013.

25 **SECTION 24. TRANSFER - CENTERS OF RESEARCH EXCELLENCE FUND - USES.**
26 The office of management and budget shall transfer the amount appropriated in the centers of
27 research excellence line item in section 1 of this Act to the centers of research excellence fund
28 for the purpose of implementing and administering the centers of research excellence grants,
29 for the biennium beginning July 1, 2011, and ending June 30, 2013. Of the funds transferred,
30 the centers of excellence commission may use up to \$4,000,000 for a limited
31 deployment-cooperative airspace project grant as provided in section 28 of this Act. Of the

1 \$8,000,000 remaining, the centers of excellence commission may not award more than
2 \$4,000,000 to one research university or nonprofit foundation related to that research university.
3 Of the \$4,000,000 available to the university of North Dakota, \$3,000,000 shall be used for base
4 realignment grants. The commission may use any funds that are not committed within the first
5 eighteen months of the biennium for the centers of research excellence program.

6 **SECTION 25. TRANSFER - INTERNSHIP FUND.** The office of management and budget
7 shall transfer \$900,000 of the amount appropriated in the operating expenses line item in
8 section 1 of this Act to the internship fund.

9 **SECTION 26. TRADE OFFICE - MATCHING FUND REQUIREMENT.** The total North
10 Dakota trade office special line and the general fund appropriation in section 1 of this Act
11 include \$2,613,400 of funding relating to the North Dakota trade office. The department of
12 commerce may spend seventy percent of this amount without requiring any matching funds
13 from the trade office. Any additional amounts may be spent only to the extent that the North
14 Dakota trade office provides \$1 of matching funds from private or other public sources for each
15 \$1 provided by the department for the biennium beginning July 1, 2011, and ending June 30,
16 2013. Matching funds may include money spent by businesses or organizations to pay salaries
17 to export assistants, provide training to export assistants, or buy computer equipment as part of
18 the North Dakota trade office's export assistance program.

19 **SECTION 27. APPROPRIATION - DEPARTMENT OF HUMAN SERVICES.** There is
20 appropriated out of any moneys in the general fund in the state treasury, not otherwise
21 appropriated, the sum of \$3,100,000, or so much of the sum as may be necessary, to the
22 department of human services, for the purpose of providing grants to child care service
23 providers for workforce development, quality improvement, technical assistance, and capacity
24 building as provided for in section 50-11.1-14.1, for the biennium beginning July 1, 2011, and
25 ending June 30, 2013.

26 **SECTION 28. CENTERS OF RESEARCH EXCELLENCE LIMITED**
27 **DEPLOYMENT-COOPERATIVE AIRSPACE PROJECT GRANT.** The department of commerce
28 may use \$4,000,000 of the funds transferred to the centers of research excellence fund in
29 section 24 of this Act for grants to the North Dakota university system's research institutions for
30 the purpose of leveraging private and federal funding to advance state opportunities associated
31 with a limited deployment-cooperative airspace project in the state during the biennium

1 beginning July 1, 2011, and ending June 30, 2013. Up to \$2,700,000 of this amount may be
2 awarded to the university of North Dakota and up to \$1,300,000 to North Dakota state
3 university. The commissioner of commerce shall develop application criteria, review submitted
4 applications, and recommend applications for approval to the centers of excellence
5 commission. The commission may use any funds available under this section which are not
6 committed by July 1, 2012, for the centers of research excellence program. Of the remaining
7 available funds, the commission may not award more than one-half to one research university
8 or nonprofit foundation related to that research university.

9 **SECTION 29. NORTH DAKOTA ECONOMIC DEVELOPMENT FOUNDATION - 2020 AND**
10 **BEYOND INITIATIVE.**

- 11 1. During the 2011-12 interim, the North Dakota economic development foundation shall
12 contract with an organization with North Dakota business membership which is
13 statewide in scope and represents business interests across the state in order to
14 conduct a 2020 and beyond initiative. The 2020 and beyond initiative must include
15 periodic meetings of six legislators appointed by the chairman of the legislative
16 management, with two members of the senate, one of whom must be from the
17 majority party and one of whom must be from the minority party and two members of
18 the house of representatives, one of whom must be from the majority party and one of
19 whom must be from the minority party; individuals representing North Dakota business
20 interests, individuals representing North Dakota education interests, and individuals
21 representing state and local government interests.
- 22 2. The 2020 and beyond initiative must:
- 23 a. Assess current assets and resources of the state and whether these assets and
24 resources match the emerging opportunities and trends in the state;
 - 25 b. Study and assess successful models of other states and countries in creating
26 economic growth and whether those models could be replicated and improved
27 upon in this state;
 - 28 c. Evaluate the effectiveness of programs and investments in the state designed to
29 develop the state's workforce and to attract and retain businesses in the state;
 - 30 d. Identify impediments to and opportunities for economic growth and job creation in
31 the state;

- 1 e. Consider what new investments in infrastructure and changes to the state's tax
2 and regulatory environment could be made to maintain and increase the state's
3 standing as a business-friendly state;
- 4 f. Evaluate the state's higher education model to determine whether maximum
5 opportunities for synergy between public and private sectors are being realized;
- 6 g. Consider how higher education institutions in the state could spur economic
7 development in the state through innovation, knowledge transfer, and community
8 engagement;
- 9 h. Find ways to unite public, nonprofit, and business interests behind common goals
10 and solutions for faster, better results; and
- 11 i. Make recommendations to the North Dakota economic development foundation
12 based on the outcome of the initiative.
- 13 3. The legislative members of the 2020 and beyond initiative are entitled to receive
14 compensation and expenses from the legislative council in the same manner as
15 provided for members of the legislative management committees under section
16 54-35-10.
- 17 4. The grants line item in section 1 of this Act includes the sum of \$50,000 from the
18 general fund for providing a grant to implement the 2020 and beyond initiative.

19 **SECTION 30. DEPARTMENT OF COMMERCE GRANT - INSTITUTION OF HIGHER**
20 **EDUCATION VACCINOLOGY INITIATIVE.** Of the funds appropriated in the discretionary funds
21 line item in section 1 of this Act, \$50,000 from the general fund may be used by the department
22 of commerce to provide a matching grant to an institution of higher education for a vaccinology
23 initiative. The department shall require one dollar of matching funds from the institution for each
24 one dollar of state funds awarded as a grant.

25 **SECTION 31. LEGISLATIVE MANAGEMENT STUDY - EXAMINATION OF POPULATION**
26 **GROWTH IMPACT ON REVENUES.** During the 2011-12 interim, the legislative management
27 shall consider studying the development of a reliable means of estimating the effect of future
28 population growth on state and local government revenues. The legislative management shall
29 report its findings and recommendations, together with any legislation required to implement the
30 recommendations, to the sixty-third legislative assembly.

1 **SECTION 32. LEGISLATIVE MANAGEMENT STUDY - EARLY CHILDHOOD SERVICES**
2 **PROVIDER TRAINING AND ASSISTANCE.** During the 2011-12 interim, the legislative
3 management shall consider studying the means by which training and assistance are provided
4 to early childhood services providers and the efficiency of administering training and assistance
5 to early childhood services providers, including whether there is duplication of efforts. The study
6 should review the effectiveness of funding provided to the department of human services for
7 early childhood care, including workforce development, child care capacity, and quality
8 improvement for early childhood facilities, for the 2009-11 biennium and to the department of
9 commerce for financing to early childhood facilities and early childhood facility grants for
10 technical assistance, a business plan, or infrastructure for the 2009-11 biennium. The study
11 should also consider the effectiveness of funding provided to the department of human services
12 for child care service provider grants for the 2011-13 biennium. The legislative management
13 shall report its findings and recommendations, together with any legislation required to
14 implement the recommendations, to the sixty-third legislative assembly.

15 **SECTION 33. LEGISLATIVE INTENT - CENTER OF RESEARCH EXCELLENCE**
16 **PROGRAM CONTINUITY.** It is the intent of the sixty-second legislative assembly that the
17 center of research excellence program be considered an ongoing program of the department of
18 commerce.

19 **SECTION 34. REPEAL.** Chapter 15-69 of the North Dakota Century Code is repealed.

20 **SECTION 35. EFFECTIVE DATE.** Section 34 of this Act becomes effective on August 1,
21 2023.

22 **SECTION 36. EXPIRATION DATE.** Section 9 of this Act is effective through July 31, 2013,
23 and after that date is ineffective. Section 11 of this Act is effective through June 30, 2013, and
24 after that date is ineffective.

25 **SECTION 37. EFFECTIVE DATE - EXPIRATION DATE.** Sections 13 and 14 of this Act are
26 effective for the first three taxable years beginning after December 31, 2012, and are thereafter
27 ineffective.

28 **SECTION 38. EMERGENCY.** Funding of \$900,000 in the operating expenses line item in
29 section 1 of this Act, relating to the operation intern program, and sections 9, 10, and 18 of this
30 Act are declared to be an emergency measure.