

Introduced by

Appropriations Committee

(At the request of the Governor)

1 A BILL for an Act to provide an appropriation for defraying the expenses of the the department
 2 of commerce; to create and enact a new chapter to title 17, a new chapter to title 54, and two
 3 new sections to chapter 54-60 of the North Dakota Century Code, relating to the biofuel blender
 4 pump incentive program, centers of research excellence program, centers of entrepreneurship
 5 excellence grants, and the internship fund; to amend and reenact sections 10-30.5-02,
 6 15-69-01, 15-69-02, 15-69-03, 15-69-04, 15-69-05, 15-69-06, 54-44.5-09, 54-60-21, 54-60-22,
 7 and 54-60-23 of the North Dakota Century Code, relating to the North Dakota development
 8 fund, incorporated, centers of excellence program, the office of renewable energy and
 9 efficiency, and centers of workforce excellence grants; to provide a continuing appropriation; to
 10 provide exemptions; to provide for transfers; to provide an effective date; to provide an
 11 expiration date; and to declare an emergency.

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

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

		Adjustments or	
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
21 Salaries and wages	\$10,020,840	\$851,139	\$10,871,979
22 Operating expenses	14,478,272	(370,012)	14,108,260
23 Capital assets	25,000	45,018	70,018
24 Grants	65,411,058	(4,783,064)	60,627,994

Sixty-second
Legislative Assembly

1	North Dakota development fund	0	400,000	400,000
2	Discretionary funds	928,083	(1)	928,082
3	Centers of workforce excellence	0	2,000,000	2,000,000
4	Economic development initiatives	186,846	0	186,846
5	Agricultural products utilization	2,536,630	203,137	2,739,767
6	Centers of excellence	0	13,000,000	13,000,000
7	North Dakota trade office	2,064,000	489,000	2,553,000
8	Partner programs	2,022,044	100,000	2,122,044
9	Division of energy	0	619,691	619,691
10	Federal fiscal stimulus funds	<u>0</u>	<u>24,496,750</u>	<u>24,496,750</u>
11	Total all funds	\$97,672,773	\$37,051,658	\$134,724,431
12	Less estimated income	<u>69,666,470</u>	<u>18,968,467</u>	<u>88,634,937</u>
13	Total general fund	\$28,006,303	\$18,083,191	\$46,089,494
14	Full-time equivalent positions	68.00	2.25	70.25

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:

19	<u>One-Time Funding Description</u>	<u>2009-11</u>	<u>2011-13</u>
20	Transfer to centers of workforce excellence fund	\$1,000,000	\$2,000,000
21	WorkKeys	0	125,000
22	Child care credential grants	0	150,000
23	American Indian business office	0	100,000
24	Biofuel blender pumps	1,000,000	0
25	Promotion and marketing of U.S.S. North Dakota	100,000	0
26	Lewis and Clark foundation grants	1,500,000	0
27	Theodore Roosevelt Medora foundation grant	500,000	0
28	Child care grants and loans	1,820,000	920,338
29	Centers of excellence	19,500,000	13,000,000
30	Great plains applied energy research center	5,000,000	0
31	Equine processing study	50,000	0

Sixty-second
Legislative Assembly

1	Federal fiscal stimulus	<u>68,594,635</u>	<u>24,496,750</u>
2	Total all funds	\$99,064,635	\$40,792,088
3	Less estimated income	<u>68,594,635</u>	<u>24,496,750</u>
4	Total general fund	\$30,470,000	\$16,295,338

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

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

11 **10-30.5-02. (Effective through July 31, 2011~~2013~~) Purpose and fund uses.**

- 12 1. It is the purpose of this chapter to create a statewide nonprofit development
13 corporation that will have the authority to take equity positions in, to provide loans to,
14 or to use other innovative financing mechanisms to provide capital for new or
15 expanding businesses in this state, or relocating businesses to this state. The
16 corporation's principal mission is the development and expansion of primary sector
17 business in this state. The corporation may form additional corporations, limited
18 liability companies, partnerships, or other forms of business associations in order to
19 further its mission of primary sector economic development.
- 20 2. The exclusive focus of this corporation is business development in this state; however,
21 it is not excluded from participation with other states or organizations in projects that
22 have a clear economic benefit to state residents in the creation of jobs or secondary
23 business. Emphasis should be to develop jobs that provide an income adequate to
24 support a family above the poverty level.
- 25 3. Moneys in the development fund may be used to provide working capital or for
26 financing the purchase of fixed assets but not to refinance existing debt. Moneys may
27 also be used to make matching grants to county-authorized or city-authorized
28 development corporations for the acquisition, leasing, or remodeling of real estate
29 facilities for locating a prospective new primary sector business. A grant must be made
30 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~~two 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. AMENDMENT.** Section 15-69-01 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **15-69-01. (Effective through July 31, ~~2014~~2021) Definitions.**

11 In this chapter, unless the context otherwise requires:

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

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

1 **15-69-02. (Effective through July 31, ~~2014~~2021) Centers of excellence.**

2 1. The board shall establish a centers of excellence program relating to economic
3 development. Workforce may not be the primary need addressed by a center. Through
4 the program the commission shall make funding award recommendations for
5 commission-approved applications to the board, the foundation, the emergency
6 commission, and the budget section of the legislative management. A center must be
7 an institution of higher education under the control of the board or a nonprofit
8 university-related or college-related foundation of an institution of higher education
9 under the control of the board. In order to be considered for center designation, the
10 institution of higher education or nonprofit foundation must be working in partnership
11 with the private sector. In addition to any center designated under this chapter, the
12 North Dakota state university center for technology enterprise and the university of
13 North Dakota center for innovation are centers.

14 2. A commission funding award recommendation must be for a specified amount.
15 Designation of a center occurs upon board, foundation, and budget section approval
16 of a commission funding award recommendation. In considering whether to designate
17 a center, the board, foundation, and budget section may not modify the commission
18 recommendation. The budget section may not take action on an original commission
19 funding award recommendation until the emergency commission reviews the
20 commission recommendation and makes a recommendation to the budget section.
21 Upon receipt of a commission funding award recommendation, the budget section
22 shall approve the recommendation, reject the recommendation, or rerefer the
23 recommendation to the commission with recommended modifications. If the
24 commission receives a rereferred recommendation from the budget section, the
25 commission shall determine whether to modify the recommendation or whether to
26 retain the recommendation and provide additional information with the
27 recommendation.

28 a. If within thirty days of the budget section rereferring a recommendation the
29 commission makes a determination of whether to modify the recommendation or
30 to retain the recommendation and within the same thirty days the emergency
31 commission meets to review the modified recommendation or the retained

1 recommendation accompanied by additional information, the emergency
2 commission shall approve or reject the recommendation. If within the thirty days
3 following the budget section rereferral the emergency commission acts under this
4 subdivision, the determination of the emergency commission is final and the
5 recommendation is approved or rejected.

6 b. If thirty days expire following the budget section's rereferral and the process
7 under subdivision a is not completed timely, the commission shall submit to the
8 budget section the modified recommendation or the retained recommendation.
9 Upon receipt of the recommendation under this subdivision, the budget section
10 shall approve or reject the recommendation. The budget section may not rerefer
11 a recommendation received under this subdivision.

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

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

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~~2021~~) 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, ~~2014~~2021) Application - Eligibility requirements.**

- 9 1. The department of commerce shall provide center application forms, accept
10 applications, review applications for completeness and compliance with board and
11 commission policy, forward complete applications to the commission in accordance
12 with guidelines established by the commission, and assist with preaward reviews and
13 postaward monitoring as may be requested by the commission. No more than two
14 applications per campus of an institution of higher education under the control of the
15 board may be submitted to the department of commerce for each round of center
16 funding.
- 17 2. The commission shall meet as necessary to review all complete applications; consider
18 the potential need for independent, expert review of complete applications; approve or
19 disapprove complete applications; make funding award recommendations for
20 commission-approved proposed centers; direct the department of commerce to
21 distribute funds to the centers; monitor centers for compliance with award
22 requirements; review changes in assertions made in center applications; and conduct
23 postaward monitoring of centers.
- 24 3. In considering whether to approve or disapprove an application, the commission shall
25 determine whether the applicant has conducted the due diligence necessary to put
26 together a viable proposal, the commission shall determine whether the applicant has
27 provided information in the application which clearly outlines how the matching fund
28 requirement will be met, and the commission shall consider whether the center will:
- 29 a. Use university or college research to promote private sector job growth and
30 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 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, 2014~~2021~~) 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, foundation, and budget section of the legislative management with annual
3 audits on all funds distributed to the center under this chapter. The annual audits must
4 be provided until the completion of the commission's postaward monitoring of the
5 center. As a condition for receipt of funds under this chapter, a center shall agree to
6 provide the commission with the information necessary to monitor the postaward
7 activities of the center. Instead of requiring annual audits under this subsection, the
8 commission may require that the center be audited on all funds distributed to the
9 center under this chapter at the halfway point of the postaward monitoring and at the
10 end of the postaward monitoring and that for all other years during the postaward
11 monitoring the center contract with an independent accountant for an agreed-upon
12 procedures engagement. A center may use funds distributed to the center under this
13 chapter to pay for audits required under this subsection.
- 14 3. Before the commission directs the department of commerce to distribute funds
15 awarded 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 under this chapter. Of
18 the two dollars of matching funds, at least one dollar must be cash, of which at least
19 fifty cents must be from the private sector. The matching funds may include funds
20 facilitated through the collaboration of the private sector participants with other funding
21 entities. The noncash matching funds may include in-kind assets with itemized value.
22 Private sector participation may be established through equity investments or through
23 contracts for services with private sector entities. In making funding recommendations
24 and designation determinations, the commission, board, foundation, and budget
25 section shall give major consideration to the portion of the matching funds provided in
26 cash by the private sector.
- 27 4. The commission shall direct the department of commerce to distribute the funds
28 awarded under this chapter in disbursements consistent with the center's budget and
29 timeframe outlined in the approved award. The commission may not direct distribution
30 of funds under this chapter if there are no private sector partners participating or if the
31 statutorily required matching funds are not available.

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

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

11 **SECTION 9. AMENDMENT.** Section 15-69-06 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **15-69-06. Centers of excellence fund - Continuing appropriation.**

14 The centers of excellence fund is a special fund in the state treasury. All moneys in the
15 centers of excellence fund are appropriated to the department of commerce on a continuing
16 basis for the purpose of implementing and administering ~~this chapter~~the centers of excellence,
17 centers of research excellence, and centers of entrepreneurship excellence programs. Interest
18 earned on moneys in the fund must be credited to the fund.

19 **SECTION 10.** A new chapter to title 17 of the North Dakota Century Code is created and
20 enacted as follows:

21 **Definitions.**

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

- 23 1. "Biodiesel" means any non-petroleum-based diesel fuel made from a renewable
24 resource such as vegetable oil or animal fat.
25 2. "E85 fuel" means a petroleum product that:
26 a. Is a blend of agriculturally derived denatured ethanol and gasoline or natural
27 gasoline;
28 b. Typically contains eighty-five percent ethanol by volume but must at a minimum
29 contain sixty percent ethanol by volume; and
30 c. Complies with the American society for testing materials specification D 5798-96.

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

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

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

7 1. The department of commerce shall administer the biofuel blender pump incentive
8 program to provide cost-share grants of up to five thousand dollars per pump to motor
9 fuel retailers for the installation of biofuel blender pumps and associated equipment at
10 retail locations.

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

13 a. The verification of costs for biofuel blender pumps and associated equipment;

14 b. The eligibility of grant recipients;

15 c. The application and grant award procedure; and

16 d. Reporting and accountability procedures for grant recipients.

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

20 **Blender pumps - Requirements.**

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

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

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

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

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

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

- 1 (3) E85 fuel; and
2 d. Complies with all alternative fuel, biofuel, and flexible fuel requirements
3 established by law.
4 2. In order to qualify for a grant under this chapter, a retailer must install a biodiesel
5 blender pump that:
6 a. Dispenses at retail varying blends of biodiesel and mineral diesel in the ratio
7 selected by the purchaser; and
8 b. Complies with all alternative fuel, biofuel, and flexible fuel requirements
9 established by law.

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

11 The department may use up to five percent of any amount appropriated to the biofuel
12 blender pump incentive program for administration, the dissemination of information regarding
13 the biofuel blender pump incentive program, and the dissemination of information regarding the
14 benefits of biofuels.

15 **SECTION 11.** A new chapter to title 54 of the North Dakota Century Code is created and
16 enacted as follows:

17 **Definitions.**

18 In this chapter, unless the context otherwise requires:

- 19 1. "Board" means the state board of higher education.
20 2. "Center" means a center of research excellence that has been designated under this
21 chapter.
22 3. "Commission" means the centers of excellence commission as defined under
23 chapter 15-69.
24 4. "Department" means the department of commerce.
25 5. "Industry cluster" means one of the following industries:
26 a. Advanced manufacturing;
27 b. Energy;
28 c. Information and technology;
29 d. Tourism;
30 e. Value-added agriculture; or

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

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

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

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

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

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

22 3. The commission shall meet as necessary to review all complete applications; consider
23 the potential need for independent, expert review of complete applications; approve or
24 disapprove complete applications; make funding award recommendations for
25 commission-approved proposed centers; direct the department to distribute funds to
26 the centers; monitor centers for compliance with award requirements; review changes
27 in assertions made in center applications; and conduct postaward monitoring of
28 centers.

29 4. In considering whether to approve or disapprove a center application, the commission
30 shall determine whether the applicant has conducted the due diligence necessary to
31 put together a viable proposal, the commission shall determine whether the applicant

- 1 has provided information in the application which clearly outline how the matching fund
2 requirement will be met, and the commission shall consider whether the center will:
- 3 a. Use university research to promote private sector job growth and expansion of
4 knowledge-based industries or use university research to promote the
5 development of new products, high-tech companies, or skilled jobs in this state:
- 6 b. Create high-value private sector employment opportunities in this state;
7 c. Provide for public-private sector involvement and partnerships;
8 d. Leverage other funding, including cash from the private sector;
9 e. Promote the commercialization of new products and services in industry clusters;
10 f. Become financially self-sustaining; and
11 g. Establish and meet a deadline for acquiring and expending all public and private
12 funds specified in the application.
- 13 5. In considering whether to approve an application, the commission may provide for an
14 independent, expert review of the application to determine whether the proposed
15 center is viable and whether the proposed center is likely to have the desired
16 economic impact. As necessary, the commission may contract for additional technical
17 review of applications. The commission may not approve an application unless the
18 commission determines the proposed center has a high likelihood of viability and
19 success in positively impacting economic development in the state.
- 20 6. The board rules adopted under subsection 9 of section 15-10-17, relating to ownership
21 of intellectual property, inventions, and discoveries, must address activities and issues
22 unique to centers.
- 23 **Use of funds - Terms of funds - Distribution of funds - Postaward monitoring.**
- 24 1. A center shall use center grant funds to enhance capacity and leverage state, federal,
25 and private sources of funding. A center awarded center funds under this chapter may
26 not use the funds for infrastructure, to supplant funding for current operations or
27 academic instructions, or to pay indirect costs.
- 28 2. For no fewer than six years and no more than ten years following center designation,
29 the commission shall monitor the center's activities in order to determine whether the
30 center is having the desired economic impact.

- 1 3. As a condition for receipt of funds under this chapter, a center shall agree to provide
2 the board, foundation, and budget section of the legislative management with annual
3 audits on all funds distributed to the center under this chapter. The annual audits must
4 be provided until the completion of the commission's postaward monitoring of the
5 center. As a condition for receipt of funds under this chapter, a center shall agree to
6 provide the commission with the information necessary to monitor the postaward
7 activities of the center. Instead of requiring annual audits under this subsection, the
8 commission may require that the center be audited on all funds distributed to the
9 center under this chapter at the halfway point of the postaward monitoring and at the
10 end of the postaward monitoring and that for all other years during the postaward
11 monitoring the center contract with an independent accountant for an agreed-upon
12 procedures engagement. A center may use funds distributed to the center under this
13 chapter to pay for audits required under this subsection.
- 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 commission's administrative expenses.

7 **Eminent researcher recruitment grants.**

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

24 **SECTION 12. AMENDMENT.** Section 54-44.5-09 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **54-44.5-09. Office of renewable energy and energy efficiency.**

27 The office of renewable energy and energy efficiency is established within the ~~division of~~
28 ~~community services~~ department of commerce. The office shall assist in the development of
29 renewable energy within this state to provide secure, diverse, sustainable, and competitive
30 renewable energy supplies and promote the conservation of energy and the wise use of energy
31 resources in both the public and private sectors. The office shall communicate and disseminate

1 information concerning state and federal energy conservation and renewable energy incentives,
2 including tax credits, financing and grants to business entities seeking to invest in
3 wind-generated power and transmission, ethanol production and distribution; and the
4 development of biodiesel, biomass, solar, hydropower, geothermal, and other renewable energy
5 sources. The office shall also manage and distribute all production incentive payments as
6 authorized by chapter 17-02.

7 **SECTION 13.** A new section to chapter 54-60 of the North Dakota Century Code is created
8 and enacted as follows:

9 **Internship fund - Continuing appropriation.**

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

14 **SECTION 14.** A new section to chapter 54-60 of the North Dakota Century Code is created
15 and enacted as follows:

16 **Centers of entrepreneurship excellence grants.**

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

25 **SECTION 15. AMENDMENT.** Section 54-60-21 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **54-60-21. Workforce enhancementCenters of workforce excellence council.**

28 The workforce enhancementcenters of workforce excellence council consists of the private
29 sector members of the workforce development council, the director of the department of career
30 and technical education, and the director of the division of workforce development, who shall
31 serve as chairman.

1 **SECTION 16. AMENDMENT.** Section 54-60-22 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **54-60-22. ~~Workforce enhancement~~Centers of workforce excellence council -**
4 **GrantsCenters of workforce excellence grants.**

5 The ~~workforce enhancement~~centers of workforce excellence council shall recommend to
6 the commissioner the approval of centers of workforce excellence grants to institutions of higher
7 education assigned primary responsibility for workforce training in this state to be used to create
8 or enhance training programs that address workforce needs of private sector companies. A
9 grant made under this section may be used for curriculum development, equipment, recruitment
10 of participants, and training and certification for instructors but may not be used to supplant
11 funding for current operations. The department may distribute funds under this section after:

- 12 1. The division of workforce development certifies that a proposed training program
13 meets a critical workforce shortage in a target industry or other high-demand
14 occupation and is expected to lead to employment in this state; and
- 15 2. The proposed recipient provides the department with detailed documentation of
16 private sector participation, including the availability of one dollar of matching funds for
17 each dollar of state funds.

18 **SECTION 17. AMENDMENT.** Section 54-60-23 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **54-60-23. ~~Workforce enhancement~~Centers of workforce excellence fund - **Continuing****

21 **appropriation.**

22 The centers of workforce enhancementexcellence fund is a special fund in the state
23 treasury. All funds in the centers of workforce enhancementexcellence fund are appropriated to
24 the department of commerce on a continuing basis for the purpose of implementing and
25 administering sections 54-60-21 and 54-60-22. Interest earned by the fund must be credited to
26 the fund.

27 **SECTION 18. EXEMPTION.** The amount appropriated for the agricultural products
28 utilization commission in section 1 of chapter 46 of the 2009 Session Laws is not subject to
29 section 54-44.1-11 and any unexpended funds from this line item for grants are available for
30 grants during the biennium beginning July 1, 2011, and ending June 30, 2013.

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

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

10 **SECTION 21. EXEMPTION - TRANSFER.** The amount appropriated for the great plains
11 applied energy research center in section 1 of chapter 46 of the 2009 Session Laws is not
12 subject to section 54-44.1-11. On June 30, 2011, the office of management and budget shall
13 transfer any unexpended funds from this line item to the centers of excellence fund, for the
14 purpose of providing funding for centers of research excellence-awarded and centers of
15 entrepreneurship excellence-awarded projects, for the biennium beginning July 1, 2011, and
16 ending June 30, 2013. The department of commerce may use up to \$5,000,000 of the funds
17 transferred to the centers of excellence fund for centers of entrepreneurship excellence grants.

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

23 **SECTION 23. EXEMPTION.** The amount appropriated for early childhood facility grants in
24 section 6 of chapter 108 of the 2009 Session Laws is not subject to section 54-44.1-11 and any
25 unexpended funds from this line item are available during the biennium beginning July 1, 2011,
26 and ending June 30, 2013.

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

1 **SECTION 25. TRANSFER - CENTERS OF WORKFORCE EXCELLENCE FUND.** The
2 office of management and budget shall transfer the amount appropriated in the centers of
3 workforce excellence line item in section 1 of this Act to the centers of workforce excellence
4 fund for the purpose of implementing and administering sections 54-60-21 and 54-60-22 for the
5 biennium beginning July 1, 2011, and ending June 30, 2013.

6 **SECTION 26. TRANSFER - CENTERS OF EXCELLENCE FUND.** The office of
7 management and budget shall transfer the amount appropriated in the centers of excellence
8 line item in section 1 of this Act to the centers of excellence fund for the purpose of
9 implementing and administering the centers of research excellence grants and centers of
10 research excellence infrastructure grants for the biennium beginning July 1, 2011, and ending
11 June 30, 2013. The department of commerce may use up to \$2,000,000 of the funds
12 transferred to the centers of excellence fund for eminent researcher recruitment grants.

13 **SECTION 27. TRANSFER.** The office of management and budget shall transfer any
14 unexpended funds from the workforce enhancement fund to the centers of workforce excellence
15 fund at the end of the 2009-11 biennium.

16 **SECTION 28. TRANSFER - EARLY CHILDHOOD FACILITY LOANS.** The office of
17 management and budget shall transfer \$400,000 of the amount appropriated in the North
18 Dakota development fund line item in section 1 of this Act to the North Dakota development
19 fund, incorporated, for the purpose of providing financing to early childhood facilities for the
20 biennium beginning July 1, 2011, and ending June 30, 2013.

21 **SECTION 29. TRADE OFFICE - MATCHING FUND REQUIREMENT.** The total North
22 Dakota trade office special line and the general fund appropriation in section 1 of this Act
23 include \$2,553,000 of funding relating to the North Dakota trade office. The department of
24 commerce may spend seventy percent of this amount without requiring any matching funds
25 from the trade office. Any additional amounts may be spent only to the extent that the North
26 Dakota trade office provides \$1 of matching funds from private or other public sources for each
27 \$1 provided by the department for the biennium beginning July 1, 2011, and ending June 30,
28 2013. Matching funds may include money spent by businesses or organizations to pay salaries
29 to export assistants, provide training to export assistants, or buy computer equipment as part of
30 the North Dakota trade office's export assistance program.

1 **SECTION 30. CENTERS OF RESEARCH EXCELLENCE INFRASTRUCTURE GRANTS.**

2 The department of commerce may use up to \$3,000,000 of the funds transferred to the centers
3 of excellence fund for centers of research excellence infrastructure grants during the biennium
4 beginning July 1, 2011, and ending June 30, 2013. These centers of research excellence
5 infrastructure grants may be made available to research universities under the control of the
6 state board of higher education or nonprofit university-related foundations for use in
7 infrastructure or enhancement of economic development and employment opportunities.
8 Appropriate use of funds include a base realignment grant to enhance economic development
9 and employment opportunities associated with the Grand Forks air force base resulting from
10 action by the federal defense base closure and realignment commission; infrastructure and
11 economic development projects or programs to accommodate growth in proximity to or at the
12 Grand Forks air force base; and infrastructure and economic development projects or programs
13 to enhance the capacity of a research university to interface and collaborate with private
14 industry on research, development, demonstration, and commercialization of technology. The
15 commissioner of commerce shall develop application criteria, including local support criteria for
16 requests relating to the Grand Forks air force base; review submitted applications; and
17 recommend applications for approval to the centers of excellence commission.

18 **SECTION 31. CHILD DEVELOPMENT CREDENTIAL GRANTS.** The grants line item
19 contained in section 1 of this Act includes \$150,000 for the purpose of providing grants in the
20 amount of \$1,200 to individuals seeking a child development associate credential for the
21 biennium beginning July 1, 2011, and ending June 30, 2013.

22 **SECTION 32. DEPARTMENT OF COMMERCE - GRANTS FOR EARLY CHILDHOOD**
23 **FACILITIES.**

- 24 1. During the biennium beginning July 1, 2011, and ending June 30, 2013, the
25 department of commerce shall establish and implement a grant program to provide
26 matching grants to North Dakota early childhood facilities.
- 27 2. A recipient of a grant under this section shall use the grant funds for technical
28 assistance, a business plan, or infrastructure. A grant awarded under this section for
29 infrastructure may not exceed \$5,000 per recipient and a grant awarded under this
30 section for technical assistance or a business plan may not exceed \$10,000 per
31 recipient.

1 3. To receive a grant under this section, an applicant shall establish the applicant has
2 available \$1 of matching funds for every \$3 of grant funds. The matching funds must
3 be in cash and may come from private or public sources, or from a combination of
4 private and public sources.

5 4. In making awards under this program, the department shall ensure funds are fairly
6 distributed between for-profit early childhood facilities, nonprofit early childhood
7 facilities, and public early childhood facilities.

8 **SECTION 33. EXPIRATION DATE.** Section 10 of this Act is effective through July 31, 2013,
9 and after that date is ineffective.

10 **SECTION 34. EMERGENCY.** Funding of \$900,000 in the operating expenses line item in
11 section 1 of this Act, relating to the operation intern program, and sections 10, 13, and 21 of this
12 Act are declared to be an emergency measure.