

September 2010

Introduced by

1 A BILL for an Act to create and enact a new chapter to title 54 and a new section to chapter  
2 54-60 of the North Dakota Century Code, relating to a centers of research excellence program  
3 and centers of entrepreneurship excellence grants; to amend and reenact section 54-60-22 of  
4 the North Dakota Century Code, relating to centers of workforce excellence grants; to provide  
5 for transfers; to provide a continuing appropriation; and to provide an appropriation.

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

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

9 **54-60-22. Workforce enhancement council - ~~Grants~~ Centers of workforce**

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

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

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

1           **Centers of entrepreneurship excellence grants.** The department shall administer a  
2 centers of entrepreneurship excellence grant program, which shall provide grants to  
3 department-certified entrepreneurial centers to be used to assist entrepreneurs in accessing  
4 capital, to assist entrepreneurs through providing marketing assistance, to support building  
5 entrepreneur infrastructure, and to develop entrepreneurial talent. The centers of excellence  
6 commission, established under chapter 15-69, shall make grant award determinations under  
7 this section. The department shall work with the centers of excellence commission in  
8 establishing guidelines to qualify for a grant under this section which may include preference for  
9 an applicant that establishes the availability of matching funds.

10           **SECTION 3.** A new chapter to title 54 of the North Dakota Century Code is created and  
11 enacted as follows:

12           **Definitions.** In this chapter, unless the context otherwise requires:

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

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

- 2           1. The department shall establish a centers of research excellence program. The  
3           commission shall make funding award determinations under this program. A  
4           center must be a research university or a nonprofit university-related or  
5           college-related foundation of a research university which is working in partnership  
6           with the private sector.
- 7           2. The department shall provide center application forms, accept applications, review  
8           applications for completeness and compliance with commission policy, forward  
9           complete applications to the commission in accordance with guidelines established  
10          by the commission, and assist with preaward reviews and postaward monitoring as  
11          may be requested by the commission. No more than two applications per campus  
12          of a research university institution may be submitted to the department for each  
13          round of center funding.
- 14          3. The commission shall meet as necessary to review all complete applications;  
15          consider the potential need for independent, expert review of complete  
16          applications; approve or disapprove complete applications; make funding award  
17          recommendations for commission-approved proposed centers; direct the  
18          department to distribute funds to the centers; monitor centers for compliance with  
19          award requirements; review changes in assertions made in center applications;  
20          and conduct postaward monitoring of centers.
- 21          4. In considering whether to approve or disapprove a center application, the  
22          commission shall determine whether the applicant has conducted the due diligence  
23          necessary to put together a viable proposal, the commission shall determine  
24          whether the applicant has provided information in the application which clearly  
25          outline how the matching fund requirement will be met, and the commission shall  
26          consider whether the center will:
- 27               a. Use university research to promote private sector job growth and expansion of  
28               knowledge-based industries or use university research to promote the  
29               development of new products, high-tech companies, or skilled jobs in this  
30               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
- 4                 clusters;
- 5           f. Become financially self-sustaining; and
- 6           g. Establish and meet a deadline for acquiring and expending all public and
- 7                 private funds specified in the application.
- 8        5. In considering whether to approve an application, the commission may provide for
- 9           an independent, expert review of the application to determine whether the
- 10          proposed center is viable and whether the proposed center is likely to have the
- 11          desired economic impact. As necessary, the commission may contract for
- 12          additional technical review of applications. The commission may not approve an
- 13          application unless the commission determines the proposed center has a high
- 14          likelihood of viability and success in positively impacting economic development in
- 15          the state.
- 16        6. The board rules adopted under subsection 9 of section 15-10-17, relating to
- 17          ownership of intellectual property, inventions, and discoveries, must address
- 18          activities and issues unique to centers.

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

- 20        1. A center shall use center grant funds to enhance capacity and leverage state,
- 21           federal, and private sources of funding. A center awarded center funds under this
- 22           chapter may not use the funds for infrastructure, to supplant funding for current
- 23           operations or academic instructions, or to pay indirect costs.
- 24        2. For no fewer than six years and no more than ten years following center
- 25           designation, the commission shall monitor the center's activities in order to
- 26           determine whether the center is having the desired economic impact.
- 27        3. As a condition for receipt of center funds under this chapter, a center shall agree to
- 28           contract with an independent accountant annually in an agreed-upon procedures
- 29           engagement and provide the budget section of the legislative management with a
- 30           report of the results. The agreed-upon procedures report must be provided until
- 31           the completion of the commission's postaward monitoring of the center. As a

1           condition for receipt of center funds under this chapter, a center shall agree to  
2           provide the commission with the information necessary to monitor the postaward  
3           activities of the center.

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

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

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

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

28           **Eminent researcher recruitment challenge grants.** As part of the centers of research  
29           excellence program, the department of commerce shall establish and administer an eminent  
30           researcher recruitment challenge grant program to provide challenge grants to raise funds to be  
31           used by research universities and foundations established to further the work of such research

1 universities in endowing chairs to attract eminent research scholars to join the faculties of the  
2 research universities. Under this program, the commission shall make challenge grant award  
3 determinations. The commission shall adopt standards relative to the award of a challenge  
4 grant under this section which must require that a foundation contribute at least fifty percent and  
5 not more than seventy-five percent of the total amount the commission deems necessary to  
6 endow a chair. The commission may revise the contribution formulas at any time in order to  
7 maximize the benefits that may result from endowing one or more chairs in the biennium and  
8 depending on the total funds available to the grant program. In determining whether to make a  
9 grant award under this section, the commission may consider the existing programs of the  
10 North Dakota university system, the necessity for such a chair, and any duplication the creation  
11 of the chair might cause.

12 **Centers of research excellence fund - Continuing appropriation.** The centers of  
13 research excellence fund is a special fund in the state treasury. All moneys in the centers of  
14 research excellence fund are appropriated to the department of commerce on a continuing  
15 basis for the purpose of implementing and administering this chapter. Interest earned on  
16 moneys in the fund must be credited to the fund.

#### 17 **SECTION 4. CENTERS OF RESEARCH EXCELLENCE INFRASTRUCTURE**

18 **GRANTS.** The department of commerce shall use \$4,000,000 of the funds transferred to the  
19 centers of research excellence fund for centers of research excellence infrastructure grants  
20 during the biennium beginning July 1, 2011, and ending June 30, 2013. These centers of  
21 research excellence infrastructure grants may be made available to research universities under  
22 the control of the state board of higher education or nonprofit university-related foundations for  
23 use in infrastructure or enhancement of economic development and employment opportunities.  
24 Appropriate use of funds include a base realignment grant to enhance economic development  
25 and employment opportunities associated with the Grand Forks air force base resulting from  
26 action by the federal defense base closure and realignment commission; infrastructure and  
27 economic development projects or programs to accommodate growth in proximity to or at the  
28 Grand Forks air force base; and infrastructure and economic development projects or programs  
29 to enhance the capacity of a research university to interface and collaborate with private  
30 industry on research, development, demonstration, and commercialization of technology. The  
31 commissioner of commerce shall develop application criteria, including local support criteria for

1 requests relating to the Grand Forks air force base; review submitted applications; and  
2 recommend applications for approval to the centers of excellence commission.

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

8 **SECTION 6. APPROPRIATION.** There is appropriated out of any moneys in the  
9 general fund in the state treasury, not otherwise appropriated, the sum of \$10,000,000, or so  
10 much of the sum as may be necessary, to the North Dakota university system for the purpose  
11 of funding the North Dakota experimental program to stimulate competitive research, for the  
12 biennium beginning July 1, 2011, and ending June 30, 2013.

13 **SECTION 7. APPROPRIATION - TRANSFER - CENTERS OF WORKFORCE**  
14 **EXCELLENCE FUND.** There is appropriated out of any moneys in the general fund in the state  
15 treasury, not otherwise appropriated, the sum of \$4,000,000, which the office of management  
16 and budget shall transfer to the centers of workforce excellence fund for the purpose of  
17 providing centers of research excellence infrastructure grants, for the biennium beginning  
18 July 1, 2011, and ending June 30, 2013.

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

25 **SECTION 9. APPROPRIATION - TRANSFER - CENTERS OF RESEARCH**  
26 **EXCELLENCE FUND.** There is appropriated out of any moneys in the general fund in the state  
27 treasury, not otherwise appropriated, the sum of \$10,000,000, which the office of management  
28 and budget shall transfer to the centers of research excellence fund for the purpose of  
29 implementing and administering the centers of research excellence grants provided for under  
30 section 3 of this Act, for the biennium beginning July 1, 2011, and ending June 30, 2013.

1           **SECTION 10. APPROPRIATION - TRANSFER - CENTERS OF RESEARCH**

2   **EXCELLENCE FUND.** There is appropriated out of any moneys in the general fund in the state  
3 treasury, not otherwise appropriated, the sum of \$1,000,000, which the office of management  
4 and budget shall transfer to the centers of research excellence fund for the purpose of  
5 implementing and administering the eminent researcher recruitment challenge grants provided  
6 for under section 3 of this Act, for the biennium beginning July 1, 2011, and ending June 30,  
7 2013.