

CHAPTER 15-69 CENTERS OF EXCELLENCE

15-69-01. (Effective through July 31, 2011) Definitions. In this chapter, unless the context otherwise requires:

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

15-69-02. (Effective through July 31, 2011) Centers of excellence.

1. The board shall establish a centers of excellence program relating to economic development. Workforce may not be the primary need addressed by a center. Through the program the commission shall make funding award recommendations for commission-approved applications to the board, the foundation, the emergency commission, and the budget section of the legislative management. A center must be an institution of higher education under the control of the board or a nonprofit university-related or college-related foundation of an institution of higher education under the control of the board. In order to be considered for center designation, the institution of higher education or nonprofit foundation must be working in partnership with the private sector. In addition to any center designated under this chapter, the North Dakota state university center for technology enterprise and the university of North Dakota center for innovation are centers.
2. A commission funding award recommendation must be for a specified amount. Designation of a center occurs upon board, foundation, and budget section approval of a commission funding award recommendation. In considering whether to designate a center, the board, foundation, and budget section may not modify the commission recommendation. The budget section may not take action on an original commission funding award recommendation until the emergency commission reviews the commission recommendation and makes a recommendation to the budget section. Upon receipt of a commission funding

award recommendation, the budget section shall approve the recommendation, reject the recommendation, or rerefer the recommendation to the commission with recommended modifications. If the commission receives a rereferred recommendation from the budget section, the commission shall determine whether to modify the recommendation or whether to retain the recommendation and provide additional information with the recommendation.

- a. If within thirty days of the budget section rereferring a recommendation the commission makes a determination of whether to modify the recommendation or to retain the recommendation and within the same thirty days the emergency commission meets to review the modified recommendation or the retained recommendation accompanied by additional information, the emergency commission shall approve or reject the recommendation. If within the thirty days following the budget section rereferral the emergency commission acts under this subdivision, the determination of the emergency commission is final and the recommendation is approved or rejected.
 - b. If thirty days expire following the budget section's rereferral and the process under subdivision a is not completed timely, the commission shall submit to the budget section the modified recommendation or the retained recommendation. Upon receipt of the recommendation under this subdivision, the budget section shall approve or reject the recommendation. The budget section may not rerefer a recommendation received under this subdivision.
3. A center that receives funds distributed under this chapter is not qualified to receive subsequent designations as a center until the biennium following the center's most recent designation.
 4. The board rules adopted under subsection 9 of section 15-10-17, relating to ownership of intellectual property, inventions, and discoveries, must address activities and issues unique to centers.

15-69-03. (Effective through July 31, 2011) Centers of excellence commission. The centers of excellence commission consists of six members. The foundation shall appoint three of the foundation's members to serve on the commission and the board shall appoint three of the board's members to serve on the commission. The commission members shall designate a chairman and a vice chairman of the commission. Each member of the commission shall serve for a term of three years, beginning July first; may be reappointed for additional terms; and serves at the pleasure of the appointing entity. If a commission member ceases to serve as a member of the appointing entity, that member's membership on the commission ceases immediately and the appointing entity shall appoint a new member for the remainder of the term. Terms of commission members must be staggered. On a meeting-by-meeting basis, an appointing entity may substitute a member of that appointing entity to serve in place of one of the regular members appointed by that entity. If the commission chairman and vice chairman are not present at a meeting, the commission members present at that meeting shall select a commission member to serve as chairman for that meeting. A commission member may receive compensation and travel and expense reimbursement from the appointing entity. The department of commerce shall provide the commission with appropriate staff services as may be requested by the commission.

15-69-04. (Effective through July 31, 2011) Application - Eligibility requirements.

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

the board may be submitted to the department of commerce for each round of center funding.

2. The commission shall meet as necessary to review all complete applications; consider the potential need for independent, expert review of complete applications; approve or disapprove complete applications; make funding award recommendations for commission-approved proposed centers; direct the department of commerce to distribute funds to the centers; monitor centers for compliance with award requirements; review changes in assertions made in center applications; and conduct postaward monitoring of centers.
3. In considering whether to approve or disapprove an application, the commission shall determine whether the applicant has conducted the due diligence necessary to put together a viable proposal, the commission shall determine whether the applicant has provided information in the application which clearly outlines how the matching fund requirement will be met, and the commission shall consider whether the center will:
 - a. Use university or college research to promote private sector job growth and expansion of knowledge-based industries or use university or college research to promote the development of new products, high-tech companies, or skilled jobs in this state;
 - b. Create high-value private sector employment opportunities in this state;
 - c. Provide for public-private sector involvement and partnerships;
 - d. Leverage other funding, including cash from the private sector;
 - e. Increase research and development activities that may involve federal funding from the national science foundation experimental program to stimulate competitive research;
 - f. Foster and practice entrepreneurship;
 - g. Promote the commercialization of new products and services in industry clusters;
 - h. Become financially self-sustaining; and
 - i. Establish and meet a deadline for acquiring and expending all public and private funds specified in the application.
4. In considering whether to approve an application, the commission may provide for an independent, expert review of the application to determine whether the proposed center is viable and whether the proposed center is likely to have the desired economic impact. As necessary, the commission may contract for additional technical review of applications. The commission may not approve an application unless the commission determines the proposed center has a high likelihood of viability and success in positively impacting economic development in the state.
5. For no fewer than six years and no more than ten years following center designation, the commission shall monitor the center's activities in order to determine whether the center is having the desired economic impact.

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

1. A center shall use funds awarded under this chapter to enhance capacity and leverage state, federal, and private sources of funding. A center awarded funds under this chapter may not use the funds for infrastructure, to supplant funding for current operations or academic instructions, or to pay indirect costs.
2. As a condition for receipt of funds under this chapter, a center shall agree to provide the board, foundation, and budget section of the legislative management with annual audits on all funds distributed to the center under this chapter. The annual audits must be provided until the completion of the commission's postaward monitoring of the center. As a condition for receipt of funds under this chapter, a center shall agree to provide the commission with the information necessary to monitor the postaward activities of the center.
3. Before the commission directs the department of commerce to distribute funds awarded under this chapter, the center shall provide the commission with detailed documentation of private sector participation and the availability of two dollars of matching funds for each dollar of state funds to be distributed under this chapter. Of the two dollars of matching funds, at least one dollar must be cash, of which at least fifty cents must be from the private sector. The matching funds may include funds facilitated through the collaboration of the private sector participants with other funding entities. The noncash matching funds may include in-kind assets with itemized value. Private sector participation may be established through equity investments or through contracts for services with private sector entities. In making funding recommendations and designation determinations, the commission, board, foundation, and budget section shall give major consideration to the portion of the matching funds provided in cash by the private sector.
4. The commission shall direct the department of commerce to distribute the funds awarded under this chapter in disbursements consistent with the center's budget and timeframe outlined in the approved award. The commission may not direct distribution of funds under this chapter if there are no private sector partners participating or if the statutorily required matching funds are not available.
5. If, before funds are distributed by the department of commerce, a center undergoes a change in the terms of or assertions made in its application, the commission may direct that the department of commerce withhold all or a portion of any undistributed funds pending commission review of the changes.
6. The commission may use funds appropriated for the centers of excellence program to pay for the commission's administrative expenses, which may include contracting for independent, expert reviews of complete applications and centers of excellence forums. The amount of funds the commission uses each biennium for administrative expenses may not exceed two and one-half percent of the funds appropriated for the program that biennium.

15-69-06. Centers of excellence fund - Continuing appropriation. The centers of excellence fund is a special fund in the state treasury. All moneys in the centers of excellence fund are appropriated to the department of commerce on a continuing basis for the purpose of implementing and administering this chapter. Interest earned on moneys in the fund must be credited to the fund.