

**CHAPTER 15-69**  
**CENTERS OF EXCELLENCE**

[Repealed effective August 1, 2023, by S.L. 2011, ch. 50, § 34]

**15-69-01. (Effective through July 31, 2023) 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. "Department" means the department of commerce.
5. "Foundation" means the North Dakota economic development foundation.
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. Centers of excellence.** Expired under S.L. 2005, ch. 151, § 25.

**15-69-03. (Effective through July 31, 2023) 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, 2023) Centers of excellence program.**

1. The department of commerce shall assist with postaward monitoring as may be requested by the commission.
2. The commission shall meet as necessary to 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. 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, 2023) 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 department, 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. Instead of requiring annual audits under this subsection, the commission may require that the center be audited on all funds distributed to the center under this chapter after the second full fiscal year of the postaward monitoring and after all funds distributed to the center under this chapter have been expended and that for all other years during the postaward monitoring the center contract with an independent accountant for an agreed-upon procedures engagement. A center may use funds distributed to the center under this chapter to pay for audits required under this subsection or for an agreed-upon procedures engagement. At a minimum, an agreed-upon procedures engagement under this subsection must include:

- a. Verification of the accuracy of jobs data regarding jobs claimed created by the center, distinguishing between the creation of private sector jobs and jobs within the institution of higher education;
  - b. Verification of compliance with the centers of excellence program matching fund requirements;
  - c. Verification awarded center funds were used for authorized uses;
  - d. Verification the center complied with the center's application timeline and any authorized revisions;
  - e. Verification the center complied with the center's scope of activities as provided under the center's application and any authorized revisions;
  - f. Review of a sample of center expenditures to verify the expenses were approved, supported with documentation, and made in accordance with the scope identified in the center's application;
  - g. Verification of a sample of labor charged to the center; and
  - h. Comparison of the center's application budget to the center's actual expenditures, including documentation explaining any material differences.
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.
  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 department may use funds available within the centers of excellence fund to pay for the department's administrative expenses related to this program.

**15-69-06. (Effective through July 31, 2023) 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.