HOUSE BILL No. 4819

April 21, 2009, Introduced by Reps. Scripps, Kennedy, Liss, Gregory, Lipton, Kandrevas and Roberts and referred to the Committee on New Economy and Quality of Life.

A bill to amend 1984 PA 270, entitled

"Michigan strategic fund act,"

by amending section 88q (MCL 125.2088q), as added by 2008 PA 175.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 88q. (1) The fund may create and operate a centers of energy excellence program to promote the development, acceleration, and sustainability of energy excellence sectors in this state. The fund may enter into agreements with 1 or more qualified entities for the designation and operation of a center of energy excellence as provided in subsection (5). Prior to entering into an agreement under this section, 1 or more qualified entities may apply to the fund for an agreement for designation and operation of a center of

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energy excellence. The application shall be in a form determined by the fund and shall include information the fund determines necessary and appropriate.

(2) The fund board shall not expend more than $45,000,000.00 of the money appropriated for programs authorized under this chapter from the 21st century jobs trust fund created in the Michigan trust fund act, 2000 PA 489, MCL 12.251 to 12.260, for the centers of energy excellence program. Grants given for the centers of energy excellence program shall only be awarded to for-profit companies for 1 of the following purposes:

(a) Providing a match for foundation funding, federal funding, or international investments of up to 50% of the total project costs.

(b) Supplementing in-kind contributions provided by a person or entity other than this state.

(c) Accelerating the commercialization of an innovative energy technology or process that will be ready to market within 3 years of the effective date of the agreement.

(d) Activities of the center, including, but not limited to, workforce development and technology demonstration.

(3) Not less than 50% of the funds allocated to the centers for energy excellence program shall be used to match foundation funding, federal funding, or international investments. The fund board may authorize investment terms in qualified entities as part of any agreement as provided in subsection (5). Not more than 15% of any grant awarded can be used for administrative costs or overhead by the grantee or any subcontractor hired to implement any

portion of the centers for energy excellence agreement. Grants authorized by this section shall be disbursed pursuant to a timeline and progress disbursement schedule included as part of an agreement under this section.

(4) The fund board shall establish a standard process to evaluate applications for an agreement under this section and shall appoint a committee of members of the fund board to assist in the review of applications. The fund or the fund board shall not appoint or designate any person paid or unpaid to a committee to review applications if that person has a conflict of interest with any potential applicants as determined by the office of the chief compliance officer established in section 88i. When determining whether to enter into an agreement under this section, the fund board shall consider all of the following:

(a) The potential that in the absence of an agreement the development, acceleration, and sustainability of energy excellence sectors addressed by the proposed center of energy excellence will occur in a location other than this state.

(b) The extent to which the proposed center of energy excellence will promote the development of energy excellence sectors in this state.

(c) The extent to which the proposed center of energy excellence will promote economic development or job creation in this state.

(d) The extent to which the proposed center of energy excellence could attract private investment or encourage commercialization in energy excellence sectors in this state.

(e) The extent to which the proposed center of energy excellence may leverage skills or resources in which this state possesses a competitive advantage, including, but not limited to, skills of workers, intellectual property, and natural resources.

(f) The extent to which the proposed center of energy excellence may encourage collaboration on commercialization and technology transfer among qualified entities in this state.

(g) The extent to which the proposed center of energy excellence may attract additional federal funding to this state or persons or entities within this state.

(h) The financial viability of the proposed center of energy excellence and the proposed business plan for the center of energy excellence, including, but not limited to, commitments of financial and other support for the proposed center and the potential availability of federal funding for the proposed center.

(i) The financial resources available to the fund board for operation of the centers of energy excellence program under this section.

(j) Any recommendations from the centers manager selected under subsection (6).

(5) If the fund board enters into an agreement with 1 or more qualified entities for the operation of a center of energy excellence, the agreement shall include participation by at least 1 qualified business and at least 1 institution of higher education. An agreement shall include, but is not limited to, all of the following:

(a) The roles and responsibilities of the fund and the qualified entities participating in the agreement.

(b) A governance structure for the center of energy excellence. The agreement may provide for representation of the fund in the governance of the center.

(c) The responsibilities of the fund and the qualified entities participating in the agreement, including, but not limited to, financial resources, technology, real property, personal property, or other resources contributed by the parties to the agreement.

(d) A commitment by the qualified entities participating in the agreement to collaborate on commercialization and technology transfer opportunities in energy excellence sectors in this state.

(e) A commitment by qualified entities that are institutions of higher education to provide incentives for faculty who participate in technology transfer and commercialization activities in energy excellence sectors and expansion of business formation efforts related to energy excellence sectors to increase the number of institution of higher education related start-up companies.

(f) A commitment to locate and retain commercialization opportunities resulting from the agreement or center of energy excellence within this state.

(g) A business plan for the center of energy excellence that identifies clear and measurable objectives, timelines, and deliverables for the center.

(h) The duration of the agreement and a mechanism for the dissolution of the center of energy excellence and the disposition of any assets. The fund board may revoke an agreement for the designation and operation of a center of energy excellence if a qualified entity that is a party to the agreement does not comply with the agreement.

(i) Provision for repayment of grants from the fund in the event a qualified entity fails to comply with the agreement.

(6) The fund board may select a person or entity as a centers manager to assist the fund in the administration of the centers of energy excellence program authorized by this section. Costs associated with the administration of the centers of energy excellence program are subject to section 88b(5). The centers manager shall do all of the following as determined by the fund board:

(a) Provide administrative services related to the centers of energy excellence program.

(b) Act as contract manager on behalf of the fund for any agreement establishing a center of energy excellence under this section.

(c) Recommend to the fund board a plan for managing the centers of energy excellence program and implement any plan authorized by the fund board.

(d) Assist centers of energy excellence in developing a supply chain for energy excellence sectors.

(e) Evaluate and report to the fund board on the centers of energy excellence program and progress made toward commercialization of technology in energy excellence sectors in this state.

(f) Review applications submitted under subsection (1) and make recommendations to the fund board on the applications for approval or disapproval of applications.

(g) Perform other functions related to the centers for energy excellence program authorized by this section as deemed necessary and appropriate by the fund board.

(7) As used in this section:

(a) "Centers manager" means a centers manager selected under subsection (6).

(b) "Energy excellence sectors" means new and developing industry sectors in the energy field in this state where the fund has determined the state has a competitive advantage and there are barriers to the commercialization of technology within the new and developing industry sector.

(c) "Energy field" means alternative energy technology, energy efficiency technology, technologies that contribute to energy security and independence, other advanced energy technologies, ~~or~~ water technology related to the development of energy excellence sectors**, OR GREEN CHEMISTRY**.

(d) "Qualified entity" means a qualified business, an institution of higher education, a Michigan nonprofit corporation, or a political subdivision of this state.