

# SENATE BILL No. 418

March 31, 2009, Introduced by Senators ALLEN, GARCIA and KUIPERS and referred to the Committee on Commerce and Tourism.

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:

1       Sec. 88q. (1) The fund may create and operate a centers of  
2 energy excellence program to promote the development, acceleration,  
3 and sustainability of energy excellence sectors in this state. The  
4 fund may enter into agreements with 1 or more qualified entities  
5 for the designation and operation of a center of energy excellence  
6 as provided in subsection (5). Prior to entering into an agreement  
7 under this section, 1 or more qualified entities may apply to the  
8 fund for an agreement for designation and operation of a center of  
9 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 **THROUGH FISCAL YEAR 2008-2009 AND NOT MORE THAN \$60,000,000.00 FOR FISCAL YEAR 2009-2010 THROUGH FISCAL YEAR 2011-2012** 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-ALL~~ of the following purposes:

(a) Providing ~~a-UP TO A 1-FOR-1 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%-ALL~~ 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

1 for administrative costs or overhead by the grantee or any  
2 subcontractor hired to implement any portion of the centers for  
3 energy excellence agreement. Grants authorized by this section  
4 shall be disbursed pursuant to a timeline and progress disbursement  
5 schedule included as part of an agreement under this section.

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

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

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

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

26 (d) The extent to which the proposed center of energy  
27 excellence could attract private investment or encourage

1 commercialization in energy excellence sectors in this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (h) The duration of the agreement and a mechanism for the  
27 dissolution of the center of energy excellence and the disposition

1 of any assets. The fund board may revoke an agreement for the  
2 designation and operation of a center of energy excellence if a  
3 qualified entity that is a party to the agreement does not comply  
4 with the agreement.

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

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

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

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

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

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

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

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

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

7 (7) As used in this section:

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

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

15 (c) "Energy field" means alternative energy technology, energy  
16 efficiency technology, technologies that contribute to energy  
17 security and independence, other advanced energy technologies, or  
18 water technology related to the development of energy excellence  
19 sectors.

20 (d) "Qualified entity" means a qualified business, an  
21 institution of higher education, a Michigan nonprofit corporation,  
22 **A NATIONAL LABORATORY**, or a political subdivision of this state.