

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5477

A bill to amend 1984 PA 270, entitled
"Michigan strategic fund act,"
by amending sections 88d, 88f, and 88q (MCL 125.2088d, 125.2088f,
and 125.2088q), section 88d as amended by 2008 PA 571, section 88f
as added by 2005 PA 225, and section 88q as amended by 2009 PA 144.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 88d. (1) The fund shall create and operate a loan
2 enhancement program.

3 (2) As a separate and distinct part of the loan enhancement
4 program, the fund may create a loan guarantee program that does all
5 of the following:

6 (a) Provide a loan guarantee mechanism to financial
7 institutions located in this state that provide commercial loans to
8 qualified businesses, public authorities, and local units of

1 government.

2 (b) Ensures that participating financial institutions do not
3 refinance prior debt.

4 (c) Provide that a qualified business is only eligible for a
5 loan guarantee under this section if it has a documented growth
6 opportunity. As used in this subdivision, "documented growth
7 opportunity" means a plant expansion, capital equipment investment,
8 acquisition of intellectual property or technology, or the hiring
9 of new employees to meet or satisfy a new business opportunity.

10 (d) Provide that a qualified business that engages primarily
11 in retail sales is not eligible for a loan guarantee under this
12 chapter unless the fund board makes a specific finding that the
13 loan guarantee supports a new concept that has significant growth
14 potential.

15 (e) Provide repayment provisions for a loan or a guarantee
16 given to a qualified business that leaves Michigan within 3 years
17 of the provision of the loan or guarantee or otherwise breaches the
18 terms of an agreement with the fund.

19 (3) As a separate and distinct part of the loan enhancement
20 program, the fund shall reestablish the small business capital
21 access program that was previously operated by the fund for small
22 businesses in a manner similar to how that program was operated
23 before January 1, 2002. The small business capital access program
24 shall operate on a market-driven basis and provide for premium
25 payments by borrowers into a special reserve fund. The small
26 business capital access program established by the board shall
27 prohibit an officer, director, principal shareholder of a

1 participating financial institution, or his or her immediate family
2 members from receiving a small business capital access program loan
3 from the financial institution. A loan under the small business
4 capital access program may be issued to an eligible production
5 company or film and digital media private equity fund even if the
6 eligible production company or film and digital media private
7 equity fund is not a small business. A loan under the small
8 business capital access program shall provide that the proceeds of
9 a loan may only be used for a business purpose within this state
10 and may not be used for any of the following:

11 (a) The construction or purchase of residential housing.

12 (b) To finance passive real estate ownership.

13 (c) To refinance prior debt from the participating financial
14 institution that is not part of the small business capital access
15 program.

16 (4) As a separate and distinct part of the loan enhancement
17 program, the fund shall establish a Michigan film and digital media
18 investment loan program to invest in loans from the investment fund
19 to eligible production companies or film and digital media private
20 equity funds. The fund board shall make investments under this
21 subsection only upon approval of the chief compliance officer and
22 the Michigan film office after a review by the investment advisory
23 committee. If an investment is made under this section, not more
24 than \$15,000,000.00 may be loaned to any 1 eligible production
25 company or film and digital media private equity fund for any 1
26 qualified production. The fund board may make an investment in a
27 qualified production if all of the following are satisfied:

1 (a) The production is filmed wholly or substantially in this
2 state.

3 (b) The eligible production company or the film and digital
4 media private equity fund has shown to the satisfaction of the
5 Michigan film office that a distribution contract or plan is in
6 place with a reputable distribution company.

7 (c) The eligible production company or film and digital media
8 private equity fund agrees that, while filming in this state, a
9 majority of the below the line crew for the qualified production
10 will be residents of this state.

11 (d) The eligible production company or film and digital media
12 private equity fund posts a completion bond approved by the
13 Michigan film office and has obtained no less than 1/3 of the
14 estimated total production costs from other sources as approved by
15 the chief compliance officer and the Michigan film office or has
16 obtained a full, unconditional, and irrevocable guarantee of the
17 repayment of the amount invested by the fund in favor of the
18 investment fund that satisfies 1 or more of the following:

19 (i) The guarantee is from an entity that has a credit rating of
20 not less than BAA or BBB from a national rating agency.

21 (ii) The guarantee is from a substantial subsidiary of an
22 entity that has a credit rating of not less than BAA or BBB from a
23 national rating agency.

24 (iii) The eligible production company or the film and digital
25 media private equity fund provides a full, unconditional letter of
26 credit from a bank with a credit rating of not less than A from a
27 national rating agency.

1 (iv) The guarantee is from a substantial and solvent entity as
2 determined by the investment advisory committee.

3 (e) The fund board may make a loan under this subsection at a
4 market rate of interest for a qualified production of up to 80% of
5 expected and estimated tax credits available to the eligible
6 production company or film and digital media private equity fund
7 under sections 455 to 459 of the Michigan business tax act, 2007 PA
8 36, MCL 208.1455 to 208.1459, if the eligible production company or
9 the film and digital media private equity fund agrees to name the
10 fund as its agent for the purpose of filing for the tax credits
11 should the eligible production company not apply for the tax
12 credits. The Michigan film office and the state treasurer shall
13 determine the estimated amount of tax credits for purposes of this
14 subsection. The fund board shall approve guidelines for the
15 initiation of a loan and the terms of the loan under this
16 subsection.

17 (f) A loan under this subsection may be converted to an equity
18 investment by the fund board with the approval of the chief
19 compliance officer and the Michigan film office.

20 (g) An eligible production company or film and digital media
21 production company that receives a loan under this subsection is
22 not also eligible for a loan for the same qualified production
23 under subsection (5).

24 (h) Fifty percent of any earnings on a loan or investment
25 under this subsection shall be deposited in the investment fund and
26 the remainder of the earnings shall be deposited in the Michigan
27 film promotion fund created under chapter 2A. One hundred percent

1 of principal repaid under this subsection shall be deposited in the
2 investment fund upon repayment.

3 (5) As a separate and distinct part of the loan enhancement
4 program, the fund shall establish and operate the choose Michigan
5 film and digital media loan fund to invest in loans from the
6 investment fund to eligible production companies or film and
7 digital media private equity funds eligible for a tax credit under
8 the Michigan economic growth authority act, 1995 PA 24, MCL 207.801
9 to 207.810, or sections 455 to 459 of the Michigan business tax
10 act, 2007 PA 36, MCL 208.1455 to 208.1459. The fund board shall
11 make investments under this subsection only upon approval of the
12 chief compliance officer and the Michigan film office. A loan
13 issued under this subsection is subject to all of the following
14 requirements:

15 (a) A loan shall be provided at an interest rate of not less
16 than 1%.

17 (b) The minimum amount of a loan under this subsection is
18 \$500,000.00.

19 (c) The maximum term of a loan under this subsection is 10
20 years, including up to 3 years of deferred principal payments to
21 align principal payments with receipt of primary incentives, as
22 determined by the fund board.

23 (d) The value of the loan may not exceed the value of the
24 primary incentive that the eligible production company or film and
25 digital media private equity fund is eligible to receive over 7
26 years, as discounted by the fund board. A loan authorized by the
27 fund board may provide for a loan amount equal to a portion or all

1 of the discounted value of the primary incentives, as discounted by
2 the fund board.

3 (e) The eligible production company or film and digital media
4 private equity fund is responsible for repayment of the loan
5 regardless of actual primary incentive amounts received.

6 (f) The eligible production company or film and digital media
7 private equity fund is responsible for loan preparation and closing
8 costs.

9 (g) An eligible production company or film and digital media
10 private equity fund that receives a loan under this subsection is
11 not also eligible for a loan for the same qualified production
12 under subsection (4).

13 (h) The eligible production company or film and digital media
14 private equity fund also obtains an additional loan from an
15 accredited financial institution or other approved lending market.

16 (i) The loan shall be issued consistent with guidelines for
17 the initiation of a loan and the terms of the loan under this
18 subsection approved by the fund board.

19 (j) Fifty percent of any earnings on a loan under this
20 subsection shall be deposited in the investment fund and the
21 remainder of the earnings shall be deposited in the Michigan film
22 promotion fund created under chapter 2A. One hundred percent of
23 principal repaid under this subsection shall be deposited in the
24 investment fund upon repayment.

25 (6) As a separate and distinct part of the loan enhancement
26 program, the fund shall operate the choose Michigan fund program to
27 invest in loans from the investment fund to a qualified business.

1 The choose Michigan fund program shall operate on an incentive
2 basis and shall provide loans to qualified businesses to promote
3 and enhance significant job creation or retention within this
4 state. The choose Michigan fund shall not make a loan under this
5 subsection after September 30, 2009. Notwithstanding any
6 requirement imposed by the fund before April 1, 2008, to receive a
7 loan under this subsection, the fund board may or may not require a
8 qualified business to obtain an additional loan from an accredited
9 financial institution or other approved lending market to obtain a
10 loan under this subsection. At the discretion of the fund board,
11 not more than 3 loans provided through the choose Michigan fund may
12 be forgivable. A loan issued under this subsection is subject to
13 all of the following requirements:

14 (a) A loan shall be provided at an interest rate of not less
15 than 1%.

16 (b) The minimum amount of a loan under this subsection is
17 \$500,000.00.

18 (c) The maximum term of a loan under this subsection is 10
19 years, including up to 3 years of deferred principal payments to
20 align principal payments with receipt of any primary incentives, as
21 determined by the fund board.

22 (d) Except as provided in subdivision (g), the qualified
23 business is responsible for repayment of the loan regardless of any
24 primary incentives received.

25 (e) The qualified business is responsible for loan preparation
26 and closing costs.

27 (f) The loan shall be issued consistent with guidelines for

1 the initiation of a loan and the terms of the loan under this
2 subsection approved by the fund board.

3 (g) A loan under this subsection may be converted to an equity
4 investment by the fund board.

5 (h) The loan shall be subject to repayment provisions. If the
6 loan is with a qualified business that closes down or relocates
7 outside of Michigan anytime within 3 years after the term of the
8 loan, then the provisions of the loan shall also include, at a
9 minimum, immediate repayment of any outstanding principal, payment
10 of a default interest rate, and repayment of any amounts forgiven.

11 (i) In determining whether to forgive all or a portion of a
12 loan to a qualified business, the fund shall consider the net
13 economic impact of the project on the state's economy. The loan
14 agreement between the fund and the qualified business shall clearly
15 enumerate the terms, conditions and requirements under which all or
16 a portion of the loan may be forgiven, including, but not limited
17 to, job creation and investment in this state.

18 (7) AS A SEPARATE AND DISTINCT PART OF THE LOAN ENHANCEMENT
19 PROGRAM, THE FUND SHALL OPERATE THE MICHIGAN MICRO LOAN PROGRAM TO
20 INVEST IN, MAKE LOANS TO, OR PROVIDE OTHER ECONOMIC ASSISTANCE TO
21 SUPPORT LOANS MADE BY QUALIFIED MICRO LOAN LENDERS. THE FUND SHALL
22 ESTABLISH GUIDELINES FOR THE MICHIGAN MICRO LOAN PROGRAM THAT
23 INCLUDE, BUT ARE NOT LIMITED TO, ALL OF THE FOLLOWING:

24 (A) A PROVISION THAT REQUIRES CONSIDERATION OF A GUARANTEE BY
25 A PERSON AS DETERMINED BY THE FUND TO ACT AS A GUARANTOR, OR THAT
26 PROVIDES A SURETY AGREEMENT FOR THE QUALIFIED MICRO LOAN LENDER'S
27 LOAN.

1 (B) A PROVISION THAT THE AMOUNT OF A LOAN MAY NOT EXCEED THE
2 GREATER OF \$50,000.00 OR SMALL BUSINESS ADMINISTRATION MICRO LOAN
3 AMOUNT LIMITATIONS.

4 (C) A PROVISION THAT REQUIRES A POSITION OF SECURITY FOR THE
5 BENEFIT OF THE QUALIFIED MICRO LOAN LENDER, WHICH MAY INCLUDE
6 SECURITY ON ASSETS OF THE BORROWER THAT ARE FINANCED THROUGH THE
7 SUPPORT OF THE MICHIGAN MICRO LOAN PROGRAM.

8 (D) A PROVISION THAT REQUIRES CONSIDERATION OF THE DEFAULT
9 RATE OF CREDIT FACILITIES EXTENDED BY THE QUALIFIED MICRO LOAN
10 LENDER BEFORE APPROVING SUPPORT UNDER THE MICHIGAN MICRO LOAN
11 PROGRAM.

12 (E) A PROVISION THAT PROVIDES THAT THE QUALIFIED MICRO LOAN
13 LENDER AGREES TO MAINTAIN A LOAN LOSS RESERVE IN AN AMOUNT AS
14 DETERMINED BY THE FUND.

15 (8) ~~(7)~~—As used in this section:

16 (a) "Below the line crew" means that term as defined under
17 section 459 of the Michigan business tax act, 2007 PA 36, MCL
18 208.1459.

19 (b) "Eligible production company" means that term as defined
20 under section 455 of the Michigan business tax act, 2007 PA 36, MCL
21 208.1455.

22 (c) "Film and digital media private equity fund" means any
23 limited partnership, limited liability company, or corporation
24 organized and operating in the United States that satisfies all of
25 the following:

26 (i) Has as its primary business activity the investment of
27 funds in return for equity in qualified productions.

1 (ii) Holds out the prospect for capital appreciation from the
2 investments.

3 (iii) Accepts investments only from accredited investors as that
4 term is defined in section 2 of the federal securities act of 1963
5 and rules promulgated under that act.

6 (d) "Investment advisory committee" means the committee
7 created within the department under section 91 of the executive
8 organization act of 1965, 1965 PA 380, MCL 16.191.

9 (e) "Michigan film office" means the office created under
10 chapter 2A.

11 (f) "Primary incentive" means a tax credit an eligible
12 production company is eligible to receive under the Michigan
13 economic growth authority act, 1995 PA 24, MCL 207.801 to 207.810,
14 or under sections 455 to 459 of the Michigan business tax act, 2007
15 PA 36, MCL 208.1455 to 208.1459.

16 **(G) "QUALIFIED MICRO LOAN LENDER" MEANS A NONPROFIT ENTITY,**
17 **COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION, REGIONAL REVOLVING**
18 **LOAN FUND, OR OTHER ORGANIZATION MAKING MICRO LOANS TO QUALIFIED**
19 **MICRO BUSINESSES AS DETERMINED BY THE FUND.**

20 **(H)** ~~(g)~~—"Qualified production" means that term as defined
21 under section 455 of the Michigan business tax act, 2007 PA 36, MCL
22 208.1455.

23 Sec. 88f. **(1)** When creating programs for 21st century
24 investments under this chapter, the fund shall create and operate
25 the venture capital investment program. The fund board shall
26 authorize investments that shall invest only in or alongside a
27 qualified venture capital fund that invests primarily in early

1 stage businesses. The venture capital investment program shall do
2 all of the following:

3 (a) Provide that the return on investment that is sought is
4 greater than the return on investment under the commercial loan
5 portion of the loan enhancement program to reflect the greater risk

6 **AND TRACK ACTUAL RETURN ON INVESTMENT PERFORMANCE COMPARISON**
7 **BETWEEN VENTURE CAPITAL INVESTMENT AND COMMERCIAL LOAN ENHANCEMENT**
8 **INVESTMENTS ON AN ONGOING BASIS IN THE ANNUAL REPORT.**

9 (b) Provide that the qualified venture capital fund will have
10 an amount at risk greater than the fund's investment.

11 (c) Provide that a qualified venture capital fund is not
12 eligible to participate in a venture capital investment program
13 unless it operates a business development office in this state
14 staffed with at least 1 full-time equivalent employee who is
15 actively seeking opportunities for venture capital investments in
16 businesses located in this state unless the investment opportunity
17 requested by the qualified venture capital fund is targeted to a
18 specific transaction involving a competitive edge technology that
19 will not occur without the fund's investment as determined by the
20 fund board.

21 (d) Provide that a qualified venture capital fund is not
22 eligible to participate in a venture capital investment program
23 unless it agrees to make venture capital investments in this state
24 at a percentage rate that is not less than the percentage rate that
25 the fund's investment in the qualified venture capital fund bears
26 to the total amount in the qualified venture capital fund.

27 (e) Provide that a qualified venture capital fund is not

1 eligible to participate in a venture capital investment program if
 2 its investment strategy provides for the breakup and liquidation of
 3 businesses. The fund board shall make sure that the agreements with
 4 a venture capital fund have the appropriate provisions to prohibit
 5 the actions described in this subdivision.

6 (f) Coordinate with the Michigan early stage venture
 7 investment fund as defined in section 3 of the Michigan early stage
 8 venture investment act of 2003, 2003 PA 296, MCL 125.2233, to
 9 ensure that a continuum of venture capital is available in this
 10 state.

11 (g) Provide that 80% of the funds allocated to a venture
 12 capital investment program shall focus on competitive edge
 13 technologies.

14 (h) Provide that a qualified venture capital fund may make
 15 follow-up investments that were eligible for investment at the time
 16 of initial investment but that subsequently may not be
 17 characterized as an investment in an early stage business.

18 **(2) THE FUND BOARD MAY LIMIT OVERHEAD RATES FOR RECIPIENTS OF**
 19 **AWARDS TO REFLECT ACTUAL OVERHEAD, ADMINISTRATIVE FEES, AND**
 20 **MANAGEMENT FEES, TO AN AMOUNT AS DETERMINED BY THE FUND BOARD,**
 21 **WHICH OVERHEAD RATES SHALL NOT EXCEED 25% OF THE AWARD. START-UP**
 22 **COSTS MAY BE REIMBURSED AS DETERMINED BY THE FUND BOARD.**

23 Sec. 88q. (1) The fund may create and operate a ~~centers~~**CENTER**
 24 of ~~energy excellence~~**INNOVATION** program to promote the development,
 25 acceleration, and sustainability of ~~energy excellence~~**COMPETITIVE**
 26 **EDGE TECHNOLOGY** sectors in this state. The fund may enter into
 27 agreements with 1 or more qualified entities for the designation

1 and operation of a center of ~~energy excellence~~ **INNOVATION** as
 2 provided in subsection (5). Prior to entering into an agreement
 3 under this section, 1 or more qualified entities may apply to the
 4 fund for an agreement for designation and operation of a center of
 5 ~~energy excellence~~ **INNOVATION**. The application shall be in a form
 6 determined by the fund and shall include information the fund
 7 determines necessary and appropriate.

8 ~~(2) The fund board shall not expend more than \$45,000,000.00~~
 9 ~~through fiscal year 2008-2009 and not more than \$30,000,000.00 for~~
 10 ~~fiscal year 2009-2010 through fiscal year 2010-2011 of the money~~
 11 ~~appropriated for programs authorized under this chapter from the~~
 12 ~~21st century jobs trust fund created in the Michigan trust fund~~
 13 ~~act, 2000 PA 489, MCL 12.251 to 12.260, for the centers of energy~~
 14 ~~excellence program.~~ **Grants, LOANS, OR OTHER ECONOMIC ASSISTANCE**
 15 given for the centers of ~~energy excellence~~ **INNOVATION** program shall
 16 ~~only~~ **MAY** be awarded to for-profit companies, **BENEFIT COMPANIES,**
 17 **NONPROFIT COMPANIES, UNIVERSITIES, AND NATIONAL LABORATORIES** for
 18 all of the following purposes:

19 (a) Providing up to a 1-for-1 match for federal, **COLLABORATIVE**
 20 **PARTNERS, OR THIRD PARTY** funding of up to 50% of the total project
 21 costs.

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

24 (c) Accelerating the commercialization of an innovative ~~energy~~
 25 technology or process that will be ready to market within ~~3-5~~ years
 26 of the effective date of the agreement.

27 (d) Activities of the center, including, but not limited to,

1 workforce development and technology demonstration.

2 (3) All of the funds allocated to the centers for ~~energy~~
3 ~~excellence~~**INNOVATION** program shall be used to match federal,
4 **COLLABORATIVE PARTNERS, OR THIRD PARTY** funding. The fund board may
5 authorize investment terms in qualified entities as part of any
6 agreement as provided in subsection (5). Not more than ~~15%~~**25%** of
7 any grant, **LOAN, OR OTHER ECONOMIC ASSISTANCE** awarded, **AS**
8 **DETERMINED BY THE FUND BOARD**, can be used for administrative costs
9 or overhead by the ~~grantee~~**AWARDEE** or any subcontractor hired to
10 implement any portion of the centers for ~~energy-excellence~~
11 **INNOVATION** agreement. Grants, **LOANS, OR OTHER ECONOMIC ASSISTANCE**
12 authorized by this section shall be disbursed pursuant to a
13 timeline and progress disbursement schedule included as part of an
14 agreement under this section.

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

25 (a) The potential that in the absence of an agreement the
26 development, acceleration, and sustainability of ~~energy-excellence~~
27 **COMPETITIVE EDGE TECHNOLOGY** sectors addressed by the proposed

1 center of ~~energy excellence~~ **INNOVATION** will occur in a location
2 other than this state.

3 (b) The extent to which the proposed center of ~~energy~~
4 ~~excellence~~ **INNOVATION** will promote the development of ~~energy~~
5 ~~excellence~~ **COMPETITIVE EDGE TECHNOLOGY** sectors in this state.

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

9 (d) The extent to which the proposed center of ~~energy~~
10 ~~excellence~~ **INNOVATION** could attract private investment or encourage
11 commercialization in ~~energy excellence~~ **COMPETITIVE EDGE TECHNOLOGY**
12 sectors in this state.

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

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

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

25 (h) The financial viability of the proposed center of ~~energy~~
26 ~~excellence~~ **INNOVATION** and the proposed business plan for the center
27 of ~~energy excellence~~ **INNOVATION**, including, but not limited to,

1 commitments of financial and other support for the proposed center
2 and the potential availability of federal funding for the proposed
3 center.

4 (i) The financial resources available to the fund board for
5 operation of the centers of ~~energy-excellence~~**INNOVATION** program
6 under this section.

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

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

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

17 (b) A governance structure for the center of ~~energy-excellence~~
18 **INNOVATION**. The agreement may provide for representation of the
19 fund in the governance of the center.

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

25 (d) A commitment by the qualified entities participating in
26 the agreement to collaborate on commercialization and technology
27 transfer opportunities in ~~energy-excellence~~**COMPETITIVE EDGE**

1 **TECHNOLOGY** sectors in this state.

2 (e) A commitment by qualified entities that are institutions
3 of higher education to provide incentives for faculty who
4 participate in technology transfer and commercialization activities
5 in ~~energy-excellence~~**COMPETITIVE EDGE TECHNOLOGY** sectors and
6 expansion of business formation efforts related to ~~energy~~
7 ~~excellence~~**COMPETITIVE EDGE TECHNOLOGY** sectors to increase the
8 number of institution of higher education related start-up
9 companies.

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

13 (g) A business plan for the center of ~~energy-excellence~~
14 **INNOVATION** that identifies clear and measurable objectives,
15 timelines, and deliverables for the center.

16 (h) The duration of the agreement and a mechanism for the
17 dissolution of the center of ~~energy-excellence~~**INNOVATION** and the
18 disposition of any assets. The fund board may revoke an agreement
19 for the designation and operation of a center of ~~energy-excellence~~
20 **INNOVATION** if a qualified entity that is a party to the agreement
21 does not comply with the agreement.

22 ~~(i) Provision for repayment of grants from the fund in the~~
23 ~~event a qualified entity fails to comply with the~~
24 ~~agreement.~~**NEGOTIATION OF SPECIFIC CLAW BACK AND REPAYMENT**

25 **PROVISIONS IF PERFORMANCE TO CONTRACT RELATED TO JOB CREATION,**
26 **COMMERCIALIZATION, OR OTHER METRICS DO NOT COMPLY WITH THE**
27 **AGREEMENT. THIS PROVISION SHALL BE PART OF THE PUBLIC RECORD AND IS**

1 **SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231**
2 **TO 15.246.**

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

10 (a) Provide administrative services related to the centers of
11 ~~energy excellence~~**INNOVATION** program.

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

15 (c) Recommend to the fund board a plan for managing the
16 centers of ~~energy excellence~~**INNOVATION** program and implement any
17 plan authorized by the fund board.

18 (d) Assist centers of ~~energy excellence~~**INNOVATION** in
19 developing a supply chain for ~~energy excellence~~**COMPETITIVE EDGE**
20 **TECHNOLOGY** sectors.

21 (e) Evaluate and report to the fund board on the centers of
22 ~~energy excellence~~**INNOVATION** program and progress made toward
23 commercialization of technology in ~~energy excellence~~**COMPETITIVE**
24 **EDGE TECHNOLOGY** sectors in this state.

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

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

4 (7) As used in this section:

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

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

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

17 **(B) "COMPETITIVE EDGE TECHNOLOGY SECTORS" MEANS SECTORS**
18 **INVOLVING COMPETITIVE EDGE TECHNOLOGY.**

19 **(C)** ~~(d)~~ "Qualified entity" means a qualified business, an
20 institution of higher education, a Michigan nonprofit corporation,
21 a national laboratory, or a political subdivision of this state.