

SUBSTITUTE FOR  
SENATE BILL NO. 953

A bill to amend 1855 PA 105, entitled

"An act to regulate the disposition of the surplus funds in the state treasury; to provide for the deposit of surplus funds in certain financial institutions; to lend surplus funds pursuant to loan agreements secured by certain commercial, agricultural, or industrial real and personal property; to authorize the loan of surplus funds to certain municipalities; to authorize the participation in certain loan programs; to authorize an appropriation; and to prescribe the duties of certain state agencies,"

(MCL 21.141 to 21.147) by adding section 2g.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 2g. (1) The state treasurer may invest surplus funds  
2 under the state treasurer's control in certificates of deposit or  
3 other instruments of a financial institution qualified under this  
4 act to receive deposits or investments of surplus funds for the  
5 purpose of facilitating qualified agricultural energy production  
6 loans. The state treasurer shall endeavor to make investments  
7 under this subsection in financial institutions such that

1 qualified agricultural energy production loans will be  
2 conveniently available in all geographic regions in this state.  
3 The state treasurer may enter into an investment agreement with a  
4 financial institution to provide for the investment under this  
5 subsection. The investment agreement shall contain all of the  
6 following:

7 (a) The term of the investment which shall be not more than  
8 15 years.

9 (b) A requirement that the interest accruing on the  
10 investment shall not be more than the interest earned by the  
11 financial institution on qualified agricultural energy production  
12 loans made after the date of the investment.

13 (c) A requirement that the financial institution shall  
14 provide good and ample security as the state treasurer requires  
15 and shall identify the qualified agricultural energy production  
16 loans and the terms and conditions of those loans that are made  
17 after the date of the investment that are attributable to that  
18 investment together with other information required by this act.

19 (d) A requirement that a qualified agricultural energy  
20 production loan made by the financial institution that is  
21 attributable to the investment shall be issued at a rate or rates  
22 of interest that are established in the investment agreement.

23 (e) A requirement that a qualified agricultural energy  
24 production loan made by the financial institution that is  
25 attributable to the investment shall be made not later than 5  
26 years after the effective date of this section.

27 (f) A requirement that a qualified agricultural energy

1 production loan made by the financial institution that is  
2 attributable to the investment shall be issued for a loan  
3 repayment period of not more than 15 years.

4 (g) A requirement that a qualified agricultural energy  
5 production loan made by the financial institution that is  
6 attributable to the investment shall not exceed \$5,000,000.00 per  
7 applicant.

8 (h) A requirement that a qualified agricultural energy  
9 production loan made by the financial institution that is  
10 attributable to the investment shall not be released by the  
11 financial institution unless the loan applicant has certified  
12 that it is an eligible farmer.

13 (i) A requirement that, to the extent the financial  
14 institution has not made qualified agricultural energy production  
15 loans in an amount at least equal to the amount of the investment  
16 within 90 days after the investment, the rate of interest payable  
17 on that portion of the outstanding investment shall be increased  
18 to a rate of interest provided in the investment agreement, with  
19 the increase in the rate of interest applied retroactively to the  
20 date on which the state treasurer made the investment.

21 (j) Incentives for the early repayment of the investment and  
22 for the acceleration of payments in the event of a state cash  
23 shortfall as prescribed by the investment agreement, if required  
24 by the state treasurer.

25 (k) Other terms as prescribed by the state treasurer.

26 (2) An investment made under this section is found and  
27 declared to be for a valid public purpose.

1           (3) The attorney general shall approve documentation for an  
2 investment under this section as to legal form.

3           (4) The aggregate amount of investments made under this  
4 section shall not exceed \$25,000,000.00.

5           (5) Earnings from an investment made under this section that  
6 are in excess of the average rate of interest earned during the  
7 same period on other surplus funds, other than surplus funds  
8 invested under section 1, shall be credited to the general fund  
9 of the state. If interest from an investment made under this  
10 section is below the average rate of interest earned during the  
11 same period on other surplus funds, other than surplus funds  
12 invested under section 1, the general fund shall be reduced by  
13 the amount of the deficiency on an amortized basis over the  
14 remaining term of the investment. A loss of principal from an  
15 investment made under this section shall reduce the earnings of  
16 the general fund by the amount of that loss on an amortized basis  
17 over the remaining term of the investment.

18          (6) The state treasurer may take any necessary action to  
19 ensure the successful operation of this section, including making  
20 investments with financial institutions to cover the  
21 administrative and risk-related costs associated with a qualified  
22 agricultural energy production loan.

23          (7) Annually, each financial institution in which the state  
24 treasurer has made an investment under this section shall file an  
25 affidavit, signed by a senior executive officer of the financial  
26 institution, stating that the financial institution is in  
27 compliance with the terms of the investment agreement.

(8) The state treasurer shall annually prepare and submit a report to the legislature regarding the disposition of money invested for purposes of facilitating qualified agricultural energy production loans under this section. The report shall include all of the following information:

(a) The total number of eligible farmers who have received a qualified agricultural energy production loan.

(b) By county, the total number and amounts of the qualified agricultural energy production loans that were issued.

(c) The name of each financial institution participating in the qualified agricultural energy production loan program and the amount invested in each financial institution for purposes of the loan program.

(9) As used in this section:

(a) "Agricultural biomass" means agricultural crops, residue and waste generated from the production and processing of agricultural products, animal wastes, or food processing wastes.

(b) "Eligible farmer" means a person or entity that processes agricultural products or a natural or corporate person who is engaged as an owner-operator of a farm in the production of agricultural goods as defined by section 35(1)(h) of the single business tax act, 1975 PA 228, MCL 208.35. Eligible farmer does not include a person who has been found guilty of a criminal violation under, or a person who has been determined responsible for a civil violation under, part 31 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.3101 to 324.3133, within a 1-year period immediately preceding the date

1 of application for the qualified agricultural energy production  
2 loan.

3 (c) "Qualified agricultural energy production loan" means a  
4 loan to an eligible farmer for the construction and operation of  
5 a qualified agricultural ethanol plant or a qualified  
6 agricultural energy production system.

7 (d) "Qualified agricultural energy production system" means  
8 the structures, equipment, and apparatus necessary to produce a  
9 gaseous fuel from the noncombustive decomposition of agricultural  
10 biomass and the apparatus and equipment used to generate  
11 electricity or heat from the gaseous fuel or store the gaseous  
12 fuel for future generation of electricity or heat. A qualified  
13 agricultural energy production system includes, but is not  
14 limited to, a methane digester, biomass gasification technology,  
15 or thermal depolymerization technology.

16 (e) "Qualified agricultural ethanol plant" means a facility  
17 that produces ethanol that meets all the specifications of the  
18 American society for testing and materials specification D 4806  
19 and is denatured to make it unfit for human consumption and is  
20 produced from the fermentation of agricultural biomass.

21 (f) "Surplus funds" means, at any given date, the excess of  
22 cash and other recognized assets that are expected to be resolved  
23 into cash or its equivalent in the natural course of events and  
24 with a reasonable certainty, over the liabilities and necessary  
25 reserves at the same date.