

# HOUSE BILL No. 5659

March 17, 2004, Introduced by Reps. Stahl, Nofs, Koetje, Brandenburg, Hummel, Voorhees, Hune, Moolenaar, Nitz, Tabor, Gaffney, Casperson, Pastor, Farhat, Gleason, Meyer and Shaffer and referred to the Committee on Commerce.

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 shall 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 business loans. The state  
6 treasurer shall endeavor to make investments under this  
7 subsection in financial institutions such that qualified business

1 loans will be conveniently available in all geographic regions in  
2 this state. The state treasurer in consultation with the  
3 Michigan economic development corporation may enter into an  
4 investment agreement with a financial institution to provide for  
5 the investment under this subsection. The investment agreement  
6 shall contain all of the 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 business loans made after the  
12 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 business loans and the terms and  
16 conditions of those loans that are made after the date of the  
17 investment that are attributable to that investment together with  
18 other information required by this act.

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

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

27 (f) A requirement that a qualified business loan made by the

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

4 (g) A requirement that a qualified business loan made by the  
5 financial institution that is attributable to the investment  
6 shall not exceed \$2,000,000.00 per applicant.

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

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

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

23 (k) A requirement that the financial institution use  
24 generally accepted lending standards to determine the  
25 creditworthiness of the eligible business.

26 (l) Other terms as prescribed by the state treasurer.

27 (2) An investment made under this section is for the purpose

1 of providing an incentive to make a qualified business loan to  
2 retain business assets and jobs in this state and is found and  
3 declared to be for a valid public purpose.

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

6 (4) The aggregate amount of investments made under this  
7 section shall not exceed \$20,000,000.00.

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

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

26 (7) Annually, each financial institution in which the state  
27 treasurer has made an investment under this section shall file an

1 affidavit, signed by a senior executive officer of the financial  
2 institution, stating that the financial institution is in  
3 compliance with the terms of the investment agreement.

4 (8) The Michigan economic development corporation shall do  
5 all of the following:

6 (a) Publicize the qualified business loan program described  
7 in this section.

8 (b) Notify the business community, financial institutions,  
9 potential eligible businesses, and bankruptcy trustees of the  
10 qualified business loan program described in this section.

11 (9) The state treasurer and the Michigan economic development  
12 corporation shall annually prepare and submit a report to the  
13 legislature regarding the disposition of money invested for  
14 purposes of facilitating qualified business loans under this  
15 section. The report shall include all of the following  
16 information:

17 (a) The total number of applicants and the total number of  
18 eligible businesses that have received a qualified business  
19 loan.

20 (b) By county, the total number and amounts of the qualified  
21 business loans that were issued.

22 (c) The name of each financial institution participating in  
23 the qualified business loan program and the amount invested in  
24 each financial institution for purposes of the loan program.

25 (d) The total number of jobs that were created or retained.

26 (e) All efforts to publicize the qualified business loan  
27 program described in this section.

(10) As used in this section:

(a) "Eligible business" means a business that commits to all of the following as determined by the Michigan economic development corporation:

(i) To purchase assets in this state and agrees to keep those assets in this state.

(ii) To maintain or increase employment in this state using the purchased assets.

(iii) That the business is not able to purchase the assets without the qualified business loan under this section.

(b) "Michigan economic development corporation" means the public body corporate created under section 28 of article VII of the state constitution of 1963 and the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512, by a contractual interlocal agreement effective April 5, 1999 between local participating economic development corporations formed under the economic development corporations act, 1974 PA 338, MCL 125.1601 to 125.1636, and the Michigan strategic fund.

(c) "Qualified business loan" means a loan to an eligible business to be used to purchase assets of another business located in this state that is in bankruptcy proceedings or otherwise insolvent.

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