

SENATE BILL No. 953

February 4, 2004, Introduced by Senators BROWN, CROPSEY, BARCIA, VAN
WOERKOM, McMANUS, ALLEN, GOSCHKA, KUIPERS, GARCIA and JELINEK and
referred to the Committee on Agriculture, Forestry and Tourism.

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.

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

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

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

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

14 (9) As used in this section:

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

18 (b) "Eligible farmer" means a natural or corporate person who
19 is engaged as an owner-operator of a farm in the production of
20 agricultural goods as defined by section 35(1)(h) of the single
21 business tax act, 1975 PA 228, MCL 208.35.

22 (c) "Qualified agricultural energy production loan" means a
23 loan to an eligible farmer for the construction and operation of
24 a qualified agricultural ethanol plant or a qualified
25 agricultural energy production system.

26 (d) "Qualified agricultural energy production system" means
27 the structures, equipment, and apparatus necessary to produce a

1 gaseous fuel from the noncombustive decomposition of agricultural
2 biomass and the apparatus and equipment used to generate
3 electricity or heat from the gaseous fuel or store the gaseous
4 fuel for future generation of electricity or heat. A qualified
5 agricultural energy production system includes, but is not
6 limited to, a methane digester, biomass gasification technology,
7 or thermal depolymerization technology.

8 (e) "Qualified agricultural ethanol plant" means a facility
9 that produces ethanol that meets all the specifications of the
10 American society for testing and materials specification D
11 4806-88 and is denatured to make it unfit for human consumption
12 and is produced from the fermentation of agricultural biomass.

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