

HOUSE BILL No. 5515

March 17, 1988, Introduced by Reps. Niederstadt and Hickner and referred to the Committee on Appropriations.

A bill to amend section 2a of Act No. 105 of the Public Acts of 1855, entitled as amended

"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 require certain reports by those 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 an appropriation; and to prescribe the duties of certain state agencies,"

as amended by Act No. 27 of the Public Acts of 1987, being section 21.142a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 2a of Act No. 105 of the Public Acts of
2 1855, as amended by Act No. 27 of the Public Acts of 1987, being
3 section 21.142a of the Michigan Compiled Laws, is amended to read
4 as follows:

1 Sec. 2a. (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. In
5 addition to terms that may be prescribed in the investment agree-
6 ment by the state treasurer, an investment under this section
7 shall be subject to all of the following conditions and
8 restrictions:

9 (a) The interest accruing on the investment shall not be
10 more than the interest earned by the financial institution on
11 qualified agricultural loans made after the date of the
12 investment.

13 (b) The financial institution shall provide good and ample
14 security as the state treasurer requires and shall identify the
15 qualified agricultural loans and the terms and conditions of
16 those loans that are made after the date of the investment which
17 are attributable to that investment together with other informa-
18 tion required by this act.

19 (c) As established in the investment agreement by the state
20 treasurer, a qualified agricultural loan shall be made at a rate
21 or rates of interest, if any.

22 (d) To the extent the financial institution has not made
23 qualified agricultural loans as defined by subsection (9)(a)(i)
24 in an amount at least equal to the amount of the investment
25 within 90 days after the investment, the rate of interest payable
26 on that portion of the outstanding investment shall be increased
27 to a rate of interest provided in the investment agreement, with

1 the increase in the rate of interest applied retroactively to the
2 date on which the state treasurer invested the surplus funds.

3 (e) For a qualified agricultural loan as defined by subsec-
4 tion (9)(a)(ii), the investment agreement shall provide that the
5 financial institution does not have to repay any principal within
6 the first 3 years after which the investment is made unless the
7 investment is no longer being used to make a qualified agricul-
8 tural loan as defined by subsection (9)(a)(ii), or to the extent
9 the qualified agricultural loan has been repaid.

10 (f) For a qualified agricultural loan as defined by subsec-
11 tion (9)(a)(ii) or (iii), the investment agreement may include
12 incentives for the early repayment of the investment and for the
13 acceleration of payments in the event of a state cash shortfall
14 as prescribed by the investment agreement.

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

17 (3) The attorney general shall approve documentation for an
18 investment pursuant to this section as to legal form.

19 (4) Until June 30, 1988, the aggregate amount of investments
20 made pursuant to this section shall not exceed \$349,000,000.00.
21 Beginning July 1, 1988, the aggregate amount of investments made
22 and outstanding pursuant to this section shall not exceed
23 \$210,000,000.00, except that not more than \$10,000,000.00 of that
24 aggregate amount shall be allocated under subsection
25 (9)(a)(iii).

26 (5) Earnings from an investment made pursuant to this
27 section which are in excess of the average rate of interest

1 earned during the same period on other surplus funds, other than
2 surplus funds invested pursuant to section 1 or 2, shall be cred-
3 ited to the general fund of the state. If interest from an
4 investment made pursuant to this section is below the average
5 rate of interest earned during the same period on other surplus
6 funds, other than surplus funds invested pursuant to section 1 or
7 2, the general fund shall be reduced by the amount of the defi-
8 ciency on an amortized basis over the remaining term of the
9 investment. A loss of principal from an investment made pursuant
10 to this section shall reduce the earnings of the general fund by
11 the amount of that loss on an amortized basis over the remaining
12 term of the investment.

13 (6) A new investment to which a qualified agricultural loan
14 as defined by subsection (9)(a)(ii) is attributed shall not be
15 made pursuant to this section after June 30, 1987, and shall not
16 be made with a term which extends beyond January 1, 1997. An
17 investment to which a qualified agricultural loan as defined by
18 subsection (9)(a)(iii) is attributed shall not be made pursuant
19 to this section after June 30, 1987, and shall not be made with a
20 term extending beyond June 28, 1992. An investment to which a
21 qualified agricultural loan as defined by subsection (9)(a)(i) is
22 attributed SHALL NOT BE MADE PURSUANT TO THIS SECTION AFTER JUNE
23 28, 1988, AND shall not be made with a term extending beyond
24 ~~June 28, 1988~~ DECEMBER 30, 1990. ALL INVESTMENTS DEPOSITED IN
25 A FINANCIAL INSTITUTION AS OF JUNE 28, 1988 TO WHICH A QUALIFIED
26 AGRICULTURAL LOAN AS DEFINED BY SUBSECTION (9)(A)(i) IS

1 ATTRIBUTED SHALL BE RETURNED BY THE FINANCIAL INSTITUTION TO THE
2 STATE TREASURY IN THE FOLLOWING MANNER:

3 (A) THIRTY-THREE PERCENT ON OR BEFORE DECEMBER 30, 1988.

4 (B) THIRTY-THREE PERCENT ON OR BEFORE DECEMBER 30, 1989.

5 (C) THIRTY-FOUR PERCENT ON OR BEFORE DECEMBER 30, 1990.

6 (7) The commissioner shall monitor the compliance of a
7 financial institution in which the state treasurer has made an
8 investment pursuant to this section with the terms of the invest-
9 ment agreement and this act. For each investment, the commis-
10 sioner shall certify the extent of compliance with subsection
11 (1)(b) for the purpose of subsection (1)(d) and subsection
12 (9)(a)(ii) and (iii) and shall periodically report those and
13 other findings to the state treasurer.

14 (8) Before October 1, 1987, the state treasurer shall pre-
15 pare separate reports to the legislature regarding the disposi-
16 tion of money invested for purposes of qualified agricultural
17 loans as defined by subsection (9)(a)(i) and for qualified agri-
18 cultural loans as defined by subsection (9)(a)(ii) and (iii).
19 The reports for each type of loan shall include all of the fol-
20 lowing information:

21 (a) The total number of farmers and the total number of
22 agricultural businesses who have received such a loan.

23 (b) By county, the total number and amounts of the loans.

24 (c) The name of each financial institution participating in
25 the loan program and the amount invested in each financial insti-
26 tution for purposes of such loan program.

1 (d) The information reported to the state treasurer by the
2 commissioner under subsection (7).

3 (9) As used in this section:

4 (a) "Qualified agricultural loan" means 1 or more of the
5 following types of loans, as applicable:

6 (i) Until June 30, 1988, a loan to a natural or corporate
7 person who is engaged as an owner-operator of a farm in the pro-
8 duction of agricultural goods as defined by section 35(1)(h) of
9 the single business tax act, Act No. 228 of the Public Acts of
10 1975, being section 208.35 of the Michigan Compiled Laws, who is
11 experiencing financial stress and difficulty in meeting existing
12 or projected debt obligations owed to financial institutions at
13 rates commensurate with rates charged by financial institutions
14 for loans of comparable type and terms at the time the loan is to
15 be made, and who certifies to the financial institution that the
16 owner-operator will not have more than \$100,000.00 in outstanding
17 loans otherwise considered qualified agricultural loans under
18 this subparagraph, including the loan for which the
19 owner-operator is applying. A qualified agricultural loan under
20 this subparagraph may be made for 1 or more of the following
21 purposes:

22 (A) If necessary for the continuance of the operation of the
23 farm through the crop year during which the loan is made, repair
24 of agricultural equipment or machinery.

25 (B) If necessary for the continuance of the operation of the
26 farm through the crop year during which the loan is made, the
27 purchase of used replacement equipment or machinery to the extent

1 the person is not eligible for a loan for this purpose from the
2 Michigan family farm development authority created under the
3 Michigan family farm development act, Act No. 220 of the Public
4 Acts of 1982, being sections 285.251 to 285.279 of the Michigan
5 Compiled Laws.

6 (C) Operating capital including, but not limited to, capital
7 necessary for the rental of equipment or machinery and the pur-
8 chase of seed, feed, livestock, breeding stock, fertilizer, fuel,
9 and chemicals.

10 (D) Refinancing all or a portion of a loan entered into
11 before July 10, 1985 for a purpose identified in (A) to (C) of
12 this subparagraph.

13 (ii) A loan to an individual, sole proprietorship, partner-
14 ship, corporation, or other legal entity that is engaged and
15 intends to remain engaged as an owner-operator of a farm in the
16 production of agricultural goods as defined by section 35(1)(h)
17 of the single business tax act, Act No. 228 of the Public Acts of
18 1975, being section 208.35 of the Michigan Compiled Laws, who has
19 suffered a 25% or more loss in major enterprises or a 50% or more
20 production loss in any 1 crop on a farm located in this state, as
21 certified by the agricultural stabilization and conservation
22 service or the department of treasury. If eligible for a grant
23 under the federal payment-in-kind assistance law, the
24 owner-operator shall first apply for a grant in the maximum
25 amount for which the owner-operator may be eligible under the
26 federal payment-in-kind assistance law and have received a
27 determination as to the grant.

1 (iii) A loan to an individual, sole proprietorship,
2 partnership, corporation, or other legal entity that is engaged
3 in an agricultural business of buying, exchanging, or selling
4 farm produce, or is engaged in the business of making retail
5 sales directly to farmers and has 75% or more of its gross retail
6 sales volume exempted from sales tax under the Michigan agricul-
7 tural sales tax exemption, as provided in section 4a(f) of the
8 general sales tax act, Act No. 167 of the Public Acts of 1933,
9 being section 205.54a of the Michigan Compiled Laws. Businesses
10 engaged in the buying, exchanging, or selling of farm produce
11 must have suffered a 50% or greater loss in volume of 1 commodity
12 as compared with the average volume of that commodity which the
13 business handled over the last 3 years to qualify for loans under
14 this subparagraph. Businesses engaged in making retail sales
15 directly to farmers must have suffered a 50% or greater reduction
16 in gross retail sales volume subject to the Michigan agricultural
17 sales tax exemption as compared with that business's average
18 retail sales volume subject to that exemption over the last 3
19 years to qualify for loans under this subparagraph. All losses
20 claimed by businesses attempting to qualify for loans under this
21 subparagraph must be directly attributable to a natural disaster
22 occurring after July 1, 1986, and before December 31, 1986, as
23 determined by the department of treasury.

24 (b) "Surplus funds" means, at any given date, the excess of
25 cash and other recognized assets that are expected to be resolved
26 into cash or its equivalent in the natural course of events and

1 with a reasonable certainty, over the liabilities and necessary
2 reserves at the same date.

3 (c) "Financial institution" includes, but is not limited to,
4 a production credit association, a federal land bank association,
5 or a bank for cooperatives. For purposes of this section, a pro-
6 duction credit association or a bank for cooperatives may be
7 qualified as a financial institution eligible to receive an
8 investment under this section notwithstanding that its principal
9 office is not located in this state if the proceeds of the
10 investment will be committed to qualified agricultural loans in
11 this state.

12 (d) "Corporate person" or "corporation" means, except in
13 relation to a qualified agricultural loan under subdivision
14 (A)(iii), a corporation in which a majority of the corporate
15 stock is owned by persons operating the farm applying for a
16 loan.

17 (e) "Facility" means a plant designed for receiving or stor-
18 ing farm produce or a retail sales establishment of a business
19 engaged in making retail sales directly to farmers, which estab-
20 lishment has 75% or more of its gross retail sales volume
21 exempted from sales tax under the Michigan agricultural sales tax
22 exemption, as provided in section 4a(f) of the general sales tax
23 act, Act No. 167 of the Public Acts of 1933, being section
24 205.54a of the Michigan Compiled Laws.

25 (10) A qualified agricultural loan as defined by subsection
26 (9)(a)(ii) shall be equal to the value of the crop loss as
27 certified by the agricultural stabilization and conservation

1 service but shall not exceed the lesser of \$200,000.00 or the
2 value of the crop loss minus the amount of any grant under the
3 federal payment-in-kind assistance law or insurance proceeds
4 received by the owner-operator as a result of the same crop
5 loss.

6 (11) A qualified agricultural loan as defined by
7 subsection 9(a)(iii) shall not exceed the lesser of the
8 following:

9 (a) \$200,000.00 per facility.

10 (b) An amount equal to 60% of the direct loss of the indi-
11 vidual, sole proprietorship, partnership, corporation, or other
12 legal entity making application for the loan, as determined by
13 the department of treasury under subsection (9)(a)(iii).

14 (c) \$400,000.00 per individual, sole proprietorship, part-
15 nership, corporation, or other legal entity making application
16 for the loan.

17 (12) The financial institutions participating in the loan
18 program pursuant to subsection (9)(a)(i), (ii), or (iii) shall
19 have the option of making state subsidized loans to farmers
20 before June 30, 1988, or to businesses described in subsection
21 (9)(a)(iii) before June 30, 1987, with terms approved by the
22 state treasurer by using their existing deposits for the loans
23 and receiving from the state treasurer an amount not to exceed
24 the lesser of the following:

25 (a) The interest that would be charged by a financial insti-
26 tution on an amount equal to 100% or more of the qualified
27 agricultural loan as determined by the department of treasury if

1 the distribution provided by this subsection is not
2 appropriated.

3 (b) The interest that would have been earned on an amount
4 equal to 100% or more of the qualified agricultural loan as
5 determined by the department of treasury if the rate charged for
6 each quarter the loan is outstanding were equal to the average
7 rate earned by the state during that quarter on surplus funds
8 other than those invested pursuant to sections 1 and 2 and this
9 section.

10 (13) There is hereby appropriated an amount sufficient to
11 make the distributions required under subsection (12) in the
12 1986-87 fiscal year for not to exceed ~~-\$210,000.000.00-~~
13 \$210,000,000.00 in qualified agricultural loans. For each quali-
14 fied agricultural loan for which a distribution is made pursuant
15 to subsection (12), the maximum amount of investments authorized
16 by subsection (4) shall be reduced by an amount equal to 100% or
17 more of the qualified agricultural loan, as determined by the
18 department of treasury, for which a distribution is made pursuant
19 to subsection (12).

20 (14) Any money for purposes of qualified agricultural loans
21 as defined by subsection (9)(a)(ii) that has not been invested by
22 the state treasurer by June 30, 1987, shall increase the maximum
23 amount available under this section for qualified agricultural
24 loans as defined by subsection (9)(a)(i).

25 (15) The state treasurer may take any necessary action to
26 ensure the successful operation of this section, including making
27 investments with financial institutions to cover the

1 administrative and risk-related costs associated with a qualified
2 agricultural loan.

3 (16) There is hereby appropriated from the general fund for
4 the fiscal year ending September 30, 1987 to Michigan state uni-
5 versity, cooperative extension service, \$875,000.00 for the fol-
6 lowing purposes:

7 (a) Expansion of extension management assistance teams
8 (EMATS) - \$500,000.00.

9 (b) Grain and feed analysis for nutrition levels and disease
10 - \$125,000.00.

11 (c) Technical information delivery - \$100,000.00.

12 (d) Rural community and small town problems - \$25,000.00.

13 (e) Agricultural experiment station for research -
14 \$125,000.00.