



# SENATE BILL No. 692

June 8, 1993, Introduced by Senators MC MANUS, KOIVISTO  
and GAST and referred to the Committee on Appropriations.

A bill to amend 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 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 partic-  
ipation in certain loan programs; to authorize an appropriation;  
and to prescribe the duties of certain state agencies,"

as amended, being sections 21.141 to 21.147 of the Michigan  
Compiled Laws, by adding section 2d.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 105 of the Public Acts of 1855, as  
2 amended, being sections 21.141 to 21.147 of the Michigan Compiled  
3 Laws, is amended by adding section 2d to read as follows:

4 SEC. 2D. (1) THE STATE TREASURER MAY INVEST SURPLUS FUNDS  
5 UNDER THE STATE TREASURER'S CONTROL IN CERTIFICATES OF DEPOSIT OR

1 OTHER INSTRUMENTS OF A FINANCIAL INSTITUTION QUALIFIED UNDER THIS  
2 ACT TO RECEIVE DEPOSITS OR INVESTMENTS OF SURPLUS FUNDS. IN  
3 ADDITION TO TERMS THAT MAY BE PRESCRIBED IN THE INVESTMENT AGREE-  
4 MENT BY THE STATE TREASURER, AN INVESTMENT UNDER THIS SECTION  
5 SHALL BE SUBJECT TO ALL OF THE FOLLOWING CONDITIONS AND  
6 RESTRICTIONS:

7 (A) THE INTEREST ACCRUING ON THE INVESTMENT SHALL NOT BE  
8 MORE THAN THE INTEREST EARNED BY THE FINANCIAL INSTITUTION ON  
9 QUALIFIED RAILROAD LOANS MADE AFTER THE DATE OF THE INVESTMENT.

10 (B) THE FINANCIAL INSTITUTION SHALL PROVIDE GOOD AND AMPLE  
11 SECURITY AS THE STATE TREASURER REQUIRES AND SHALL IDENTIFY THE  
12 QUALIFIED RAILROAD LOANS AND THE TERMS AND CONDITIONS OF THOSE  
13 LOANS THAT ARE MADE AFTER THE DATE OF THE INVESTMENT WHICH ARE  
14 ATTRIBUTABLE TO THAT INVESTMENT TOGETHER WITH OTHER INFORMATION  
15 REQUIRED BY THIS ACT.

16 (C) AS ESTABLISHED IN THE INVESTMENT AGREEMENT BY THE STATE  
17 TREASURER, A QUALIFIED RAILROAD LOAN SHALL BE MADE AT A RATE OR  
18 RATES OF INTEREST, IF ANY.

19 (D) TO THE EXTENT THE FINANCIAL INSTITUTION HAS NOT MADE  
20 QUALIFIED RAILROAD LOANS AS DEFINED BY SUBSECTION (9)(A)(i) IN AN  
21 AMOUNT AT LEAST EQUAL TO THE AMOUNT OF THE INVESTMENT WITHIN 90  
22 DAYS AFTER THE INVESTMENT, THE RATE OF INTEREST PAYABLE ON THAT  
23 PORTION OF THE OUTSTANDING INVESTMENT SHALL BE INCREASED TO A  
24 RATE OF INTEREST PROVIDED IN THE INVESTMENT AGREEMENT, WITH THE  
25 INCREASE IN THE RATE OF INTEREST APPLIED RETROACTIVELY TO THE  
26 DATE ON WHICH THE STATE TREASURER INVESTED THE SURPLUS FUNDS.

1 (E) FOR A QUALIFIED RAILROAD LOAN AS DEFINED BY SUBSECTION  
2 (9) (A) (ii), THE INVESTMENT AGREEMENT SHALL PROVIDE THAT THE  
3 FINANCIAL INSTITUTION DOES NOT HAVE TO REPAY ANY PRINCIPAL WITHIN  
4 THE FIRST 3 YEARS AFTER WHICH THE INVESTMENT IS MADE UNLESS THE  
5 INVESTMENT IS NO LONGER BEING USED TO MAKE A QUALIFIED RAILROAD  
6 LOAN AS DEFINED BY SUBSECTION (9) (A) (ii), OR TO THE EXTENT THE  
7 QUALIFIED RAILROAD LOAN HAS BEEN REPAID.

8 (F) FOR A QUALIFIED RAILROAD LOAN AS DEFINED BY SUBSECTION  
9 (9) (A) (iii), THE INVESTMENT AGREEMENT MAY INCLUDE INCENTIVES FOR  
10 THE EARLY REPAYMENT OF THE INVESTMENT AND FOR THE ACCELERATION OF  
11 PAYMENTS IN THE EVENT OF A STATE CASH SHORTFALL AS PRESCRIBED BY  
12 THE INVESTMENT AGREEMENT.

13 (2) AN INVESTMENT MADE UNDER THIS SECTION IS FOUND AND  
14 DECLARED TO BE FOR A VALID PUBLIC PURPOSE.

15 (3) THE ATTORNEY GENERAL SHALL APPROVE DOCUMENTATION FOR AN  
16 INVESTMENT PURSUANT TO THIS SECTION AS TO LEGAL FORM.

17 (4) THROUGH JUNE 30, 1996, THE AGGREGATE AMOUNT OF INVEST-  
18 MENTS MADE PURSUANT TO THIS SECTION SHALL NOT EXCEED  
19 \$15,000,000.00.

20 (5) EARNINGS FROM AN INVESTMENT MADE PURSUANT TO THIS SEC-  
21 TION WHICH ARE IN EXCESS OF THE AVERAGE RATE OF INTEREST EARNED  
22 DURING THE SAME PERIOD ON OTHER SURPLUS FUNDS, OTHER THAN SURPLUS  
23 FUNDS INVESTED PURSUANT TO SECTION 1 OR 2, SHALL BE CREDITED TO  
24 THE GENERAL FUND OF THE STATE. IF INTEREST FROM AN INVESTMENT  
25 MADE PURSUANT TO THIS SECTION IS BELOW THE AVERAGE RATE OF INTER-  
26 EST EARNED DURING THE SAME PERIOD ON OTHER SURPLUS FUNDS, OTHER  
27 THAN SURPLUS FUNDS INVESTED PURSUANT TO SECTION 1 OR 2, THE

1 GENERAL FUND SHALL BE REDUCED BY THE AMOUNT OF THE DEFICIENCY ON  
2 AN AMORTIZED BASIS OVER THE REMAINING TERM OF THE INVESTMENT. A  
3 LOSS OF PRINCIPAL FROM AN INVESTMENT MADE PURSUANT TO THIS SEC-  
4 TION SHALL REDUCE THE EARNINGS OF THE GENERAL FUND BY THE AMOUNT  
5 OF THAT LOSS ON AN AMORTIZED BASIS OVER THE REMAINING TERM OF THE  
6 INVESTMENT.

7 (6) A NEW INVESTMENT TO WHICH A QUALIFIED RAILROAD LOAN AS  
8 DEFINED BY SUBSECTION (9)(A)(ii) IS ATTRIBUTED SHALL NOT BE MADE  
9 PURSUANT TO THIS SECTION AFTER JUNE 30, 1996, AND SHALL NOT BE  
10 MADE WITH A TERM WHICH EXTENDS BEYOND JANUARY 1, 1999.

11 (7) THE COMMISSIONER SHALL MONITOR THE COMPLIANCE OF A  
12 FINANCIAL INSTITUTION IN WHICH THE STATE TREASURER HAS MADE AN  
13 INVESTMENT PURSUANT TO THIS SECTION WITH THE TERMS OF THE INVEST-  
14 MENT AGREEMENT AND THIS ACT. FOR EACH INVESTMENT, THE COMMIS-  
15 SIONER SHALL CERTIFY THE EXTENT OF COMPLIANCE WITH SUBSECTION  
16 (1)(B) FOR THE PURPOSE OF SUBSECTION (1)(D) AND SUBSECTION  
17 (9)(A)(ii) AND SHALL PERIODICALLY REPORT THOSE AND OTHER FINDINGS  
18 TO THE STATE TREASURER.

19 (8) BEFORE OCTOBER 1, 1994, THE STATE TREASURER SHALL PRE-  
20 PARE SEPARATE REPORTS TO THE LEGISLATURE REGARDING THE DISPOSI-  
21 TION OF MONEY INVESTED FOR PURPOSES OF QUALIFIED RAILROAD LOANS  
22 AS DEFINED BY SUBSECTION (9)(A)(i) AND FOR QUALIFIED RAILROAD  
23 LOANS AS DEFINED BY SUBSECTION (9)(A)(ii) AND (iii). THE REPORTS  
24 FOR EACH TYPE OF LOAN SHALL INCLUDE ALL OF THE FOLLOWING  
25 INFORMATION:

26 (A) THE TOTAL NUMBER OF RAILROADS THAT HAVE RECEIVED SUCH A  
27 LOAN.

1 (B) BY COUNTY, THE TOTAL NUMBER AND AMOUNTS OF THE LOANS.

2 (C) THE NAME OF EACH FINANCIAL INSTITUTION PARTICIPATING IN  
3 THE LOAN PROGRAM AND THE AMOUNT INVESTED IN EACH FINANCIAL INSTI-  
4 TUTION FOR PURPOSES OF SUCH LOAN PROGRAM.

5 (D) THE INFORMATION REPORTED TO THE STATE TREASURER BY THE  
6 COMMISSIONER UNDER SUBSECTION (7).

7 (9) AS USED IN THIS SECTION:

8 (A) "QUALIFIED RAILROAD LOAN" MEANS 1 OR MORE OF THE FOLLOW-  
9 ING TYPES OF LOANS, AS APPLICABLE:

10 (i) A LOAN TO A RAILROAD COMPANY ENGAGED IN THE TRANSPORTA-  
11 TION OF RAIL FREIGHT THAT HAS RECEIVED FINANCIAL ASSISTANCE PUR-  
12 SUANT TO THE STATE TRANSPORTATION PRESERVATION ACT OF 1976, ACT  
13 NO. 295 OF THE PUBLIC ACTS OF 1976, BEING SECTIONS 474.51 TO  
14 474.70 OF THE MICHIGAN COMPILED LAWS, THAT IS EXPERIENCING FINAN-  
15 CIAL STRESS AND DIFFICULTY IN MEETING EXISTING OR PROJECTED DEBT  
16 OBLIGATIONS OWED TO FINANCIAL INSTITUTIONS AT RATES COMMENSURATE  
17 WITH RATES CHARGED BY FINANCIAL INSTITUTIONS FOR LOANS OF COM-  
18 PARABLE TYPE AND TERMS AT THE TIME THE LOAN IS TO BE MADE, AND  
19 THAT CERTIFIES TO THE FINANCIAL INSTITUTIONS THAT THE RAILROAD  
20 WILL NOT HAVE MORE THAN \$5,000,000.00 IN OUTSTANDING LOANS UNDER  
21 THIS SUBPARAGRAPH, INCLUDING THE LOAN FOR WHICH THE RAILROAD IS  
22 APPLYING. A QUALIFIED RAILROAD LOAN UNDER THIS SUBPARAGRAPH MAY  
23 BE MADE FOR 1 OR MORE OF THE FOLLOWING PURPOSES:

24 (A) IF NECESSARY FOR THE CONTINUANCE OF THE OPERATION OF A  
25 RAILROAD LINE THROUGH THE PERIOD DURING WHICH THE LOAN IS MADE  
26 FOR THE PRESERVATION OF A RAILROAD TRACK.

1 (B) IF THE PROPOSED RAILROAD LINE TO BE FINANCED IS DIRECTLY  
2 CONNECTED TO AN EXISTING CURRENTLY OPERATING STATE-OWNED LINE.

3 (ii) A LOAN TO A RAILROAD COMPANY THAT HAS SUFFERED A RECENT  
4 50% LOSS IN FREIGHT REVENUES INCLUDING, BUT NOT LIMITED TO, THE  
5 TRACKS AND TIES, RIGHTS-OF-WAY, LAND, BUILDINGS, APPURTENANCES,  
6 OTHER FACILITIES, ROLLING STOCK, LOCOMOTIVES, AND EQUIPMENT  
7 WHETHER OR NOT NECESSARY FOR THE OPERATION OF THE RAILROAD AND  
8 FOR THE PRESERVATION OF A RAILROAD LINE. IN ADDITION, THE QUALI-  
9 FIED RAILROAD LOAN MAY BE USED TO ACQUIRE BY PURCHASE OR OTHER-  
10 WISE, OTHER PROPERTY OWNED BY AN ENTITY OTHER THAN A RAILROAD  
11 COMPANY WHICH IS FOUND TO BE NECESSARY FOR THE PRESENT OR FUTURE  
12 OPERATION OF A RAIL LINE.

13 (iii) A LOAN TO A RAILROAD COMPANY THAT HAS SUFFERED A LOSS  
14 IN VOLUME OF 1 OR MORE COMMODITIES AS COMPARED WITH THE AVERAGE  
15 VOLUME OF THAT COMMODITY THAT THE RAILROAD HANDLED OVER THE 3  
16 YEARS IMMEDIATELY PRECEDING THE LOSS. A RAILROAD ATTEMPTING TO  
17 QUALIFY FOR A LOAN UNDER THIS SUBPARAGRAPH SHALL DEMONSTRATE AN  
18 INABILITY TO PAY OR FINANCIAL HARDSHIP AS DETERMINED BY THE  
19 DEPARTMENT OF TREASURY.

20 (B) "SURPLUS FUNDS" MEANS, AT ANY GIVEN DATE, THE EXCESS OF  
21 CASH AND OTHER RECOGNIZED ASSETS THAT ARE EXPECTED TO BE RESOLVED  
22 INTO CASH OR ITS EQUIVALENT IN THE NATURAL COURSE OF EVENTS AND  
23 WITH A REASONABLE CERTAINTY, OVER THE LIABILITIES AND NECESSARY  
24 RESERVES AT THE SAME DATE.

25 (C) "FINANCIAL INSTITUTION" INCLUDES, BUT IS NOT LIMITED TO,  
26 A BANK. FOR PURPOSES OF THIS SECTION, A BANK MAY BE QUALIFIED AS  
27 A FINANCIAL INSTITUTION ELIGIBLE TO RECEIVE AN INVESTMENT UNDER

1 THIS SECTION NOTWITHSTANDING THAT ITS PRINCIPAL OFFICE IS NOT  
2 LOCATED IN THIS STATE IF THE PROCEEDS OF THE INVESTMENT WILL BE  
3 COMMITTED TO QUALIFIED RAILROAD LOANS IN THIS STATE.

4 (D) "CORPORATION" MEANS, EXCEPT IN RELATION TO A QUALIFIED  
5 RAILROAD LOAN UNDER SUBDIVISION (A)(iii), A CORPORATION IN WHICH  
6 A MAJORITY OF THE CORPORATE STOCK IS OWNED BY PERSONS OPERATING  
7 THE RAILROAD APPLYING FOR A LOAN.

8 (10) A QUALIFIED RAILROAD LOAN AS DEFINED BY SUBSECTION (9)  
9 SHALL NOT EXCEED \$5,000,000.00 PER RAILROAD.

10 (11) THE FINANCIAL INSTITUTIONS PARTICIPATING IN THE LOAN  
11 PROGRAM PURSUANT TO SUBSECTION (9)(A)(i), (ii), OR (iii) SHALL  
12 HAVE THE OPTION OF MAKING STATE SUBSIDIZED LOANS TO RAILROADS  
13 BEFORE JUNE 30, 1993, WITH TERMS APPROVED BY THE STATE TREASURER  
14 BY USING THEIR EXISTING DEPOSITS FOR THE LOANS AND RECEIVING FROM  
15 THE STATE TREASURER AN AMOUNT NOT TO EXCEED THE LESSER OF THE  
16 FOLLOWING:

17 (A) THE INTEREST THAT WOULD BE CHARGED BY A FINANCIAL INSTI-  
18 TUTION ON AN AMOUNT EQUAL TO 100% OR MORE OF THE QUALIFIED RAIL-  
19 ROAD LOAN AS DETERMINED BY THE DEPARTMENT OF TREASURY IF THE DIS-  
20 TRIBUTION PROVIDED BY THIS SUBSECTION IS NOT APPROPRIATED.

21 (B) THE INTEREST THAT WOULD HAVE BEEN EARNED ON AN AMOUNT  
22 EQUAL TO 100% OR MORE OF THE QUALIFIED RAILROAD LOAN AS DETER-  
23 MINED BY THE DEPARTMENT OF TREASURY IF THE RATE CHARGED FOR EACH  
24 QUARTER THE LOAN IS OUTSTANDING WERE EQUAL TO THE AVERAGE RATE  
25 EARNED BY THE STATE DURING THAT QUARTER ON SURPLUS FUNDS OTHER  
26 THAN THOSE INVESTED PURSUANT TO SECTIONS 1 AND 2 AND THIS  
27 SECTION.

1           (12) FOR EACH QUALIFIED RAILROAD LOAN FOR WHICH A  
2 DISTRIBUTION IS MADE PURSUANT TO SUBSECTION (11), THE MAXIMUM  
3 AMOUNT OF INVESTMENTS AUTHORIZED BY SUBSECTION (4) SHALL BE  
4 REDUCED BY AN AMOUNT EQUAL TO 100% OR MORE OF THE QUALIFIED RAIL-  
5 ROAD LOAN, AS DETERMINED BY THE DEPARTMENT OF TREASURY, FOR WHICH  
6 A DISTRIBUTION IS MADE PURSUANT TO SUBSECTION (11).

7           (13) ANY MONEY FOR PURPOSES OF QUALIFIED RAILROAD LOANS AS  
8 DEFINED BY SUBSECTION (9)(A)(ii) THAT HAS NOT BEEN INVESTED BY  
9 THE STATE TREASURER BY JUNE 30, 1994, SHALL INCREASE THE MAXIMUM  
10 AMOUNT AVAILABLE UNDER THIS SECTION FOR QUALIFIED RAILROAD LOANS  
11 AS DEFINED BY SUBSECTION (9)(A)(i).

12           (14) THE STATE TREASURER MAY TAKE ANY NECESSARY ACTION TO  
13 ENSURE THE SUCCESSFUL OPERATION OF THIS SECTION, INCLUDING MAKING  
14 INVESTMENTS WITH FINANCIAL INSTITUTIONS TO COVER THE ADMINISTRA-  
15 TIVE AND RISK-RELATED COSTS ASSOCIATED WITH A QUALIFIED RAILROAD  
16 LOAN.