



# HOUSE BILL No. 5790

April 23, 1996. Introduced by Reps. Green, Alley, Kukuk, Hill, Lowe, Bodem, Brewer, McManus, Gernaat, London, Rhead, Goschka, Cropsey, Middleton and Harder and referred to the Committee on Agriculture and Forestry.

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 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,"

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~~ WITHOUT 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 FORMER subsection  
25 (9)(a)(iii). NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION  
26 AND BEGINNING THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED  
27 THIS SENTENCE AND UNTIL OCTOBER 1, 1996, THE AGGREGATE AMOUNT OF

1 ANY ADDITIONAL INVESTMENTS MADE BY THIS SECTION SHALL NOT EXCEED  
2 \$25,000,000.00.

3 (5) Earnings from an investment made pursuant to this sec-  
4 tion which are in excess of the average rate of interest earned  
5 during the same period on other surplus funds, other than surplus  
6 funds invested pursuant to section 1 or 2, shall be credited to  
7 the general fund of the state. If interest from an investment  
8 made pursuant to this section is below the average rate of inter-  
9 est earned during the same period on other surplus funds, other  
10 than surplus funds invested pursuant to section 1 or 2, the gen-  
11 eral fund shall be reduced by the amount of the deficiency on an  
12 amortized basis over the remaining term of the investment. A  
13 loss of principal from an investment made pursuant to this sec-  
14 tion shall reduce the earnings of the general fund by the amount  
15 of that loss on an amortized basis over the remaining term of the  
16 investment.

17 (6) A new investment to which a qualified agricultural loan  
18 as defined by subsection (9)(a)(ii) is attributed shall not be  
19 made pursuant to this section after ~~June 30, 1987~~ OCTOBER 1,  
20 1996, and shall not be made with a term which extends beyond  
21 January 1, ~~1997~~ 2006. ~~An investment to which a qualified~~  
22 ~~agricultural loan as defined by subsection (9)(a)(iii) is~~  
23 ~~attributed shall not be made pursuant to this section after~~  
24 ~~June 30, 1987, and shall not be made with a term extending beyond~~  
25 ~~June 28, 1992.~~ THE TERMS OF THE QUALIFIED AGRICULTURAL LOAN AS  
26 DEFINED BY SUBSECTION (9)(A)(ii) SHALL PROVIDE THAT NO PAYMENTS  
27 ARE REQUIRED FOR THE FIRST 2 YEARS AND THAT 1/8 OF THE LOAN BE

1 REPAID IN EACH OF THE ENSUING 8 YEARS. An investment to which a  
2 qualified agricultural loan as defined by subsection (9)(a)(i) is  
3 attributed shall not be made with a term extending beyond  
4 ~~June 28, 1988~~ OCTOBER 1, 2008.

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

14 (8) Before October 1, ~~1987~~ 1998, the state treasurer shall  
15 prepare separate reports to the legislature regarding the dispo-  
16 sition 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 FORMER SUBSECTION (9)(A)(iii). The reports for each type of loan  
20 shall include all of the following 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~~ OCTOBER 1, 1996, a loan to a natu-  
7 ral or corporate person who is engaged as an owner-operator of a  
8 farm in the production of agricultural goods as defined by sec-  
9 tion 35(1)(h) of the single business tax act, Act No. 228 of the  
10 Public Acts of 1975, being section 208.35 of the Michigan  
11 Compiled Laws, who is experiencing financial stress and diffi-  
12 culty in meeting existing or projected debt obligations owed to  
13 financial institutions DUE TO A DEFAULT BY A THIRD PARTY IN 1 OR  
14 MORE PAYMENTS TO DAIRY PRODUCERS at rates commensurate with rates  
15 charged by financial institutions for loans of comparable type  
16 and terms at the time the loan is to be made, and who certifies  
17 to the financial institution that the owner-operator will not  
18 have more than \$100,000.00 in outstanding loans otherwise consid-  
19 ered qualified agricultural loans under this subparagraph,  
20 including the loan for which the owner-operator is applying. A  
21 qualified agricultural loan under this subparagraph may be made  
22 for 1 or more of the following purposes:

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

26 (B) If necessary for the continuance of the DAIRY operation  
27 of the farm through the ~~crop~~ year during which the loan is

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

7 (C) Operating capital FOR A DAIRY OPERATION including, but  
 8 not limited to, capital necessary for the rental of equipment or  
 9 machinery and the purchase of seed, feed, livestock, breeding  
 10 stock, fertilizer, fuel, and chemicals.

11 (D) Refinancing all or a portion of a loan entered into  
 12 before ~~July 10, 1985~~ OCTOBER 1, 1996 for a purpose identified  
 13 in SUB-SUBPARAGRAPHS (A) to (C). ~~of this subparagraph.~~

14 (ii) A loan to an individual, sole proprietorship, partner-  
 15 ship, corporation, or other legal entity that is engaged and  
 16 intends to remain engaged as an owner-operator of a farm in the  
 17 production of agricultural goods as defined by section 35(1)(h)  
 18 of the single business tax act, Act No. 228 of the Public Acts of  
 19 1975, being section 208.35 of the Michigan Compiled Laws, who has  
 20 suffered a ~~25% or more~~ loss in ~~major enterprises or a 50% or~~  
 21 ~~more production loss in any 1 crop~~ A DAIRY OPERATION DUE TO  
 22 DEFAULT BY A THIRD PARTY IN 1 OR MORE PAYMENTS TO A DAIRY  
 23 PRODUCER on a farm located in this state, as certified by the  
 24 ~~agricultural stabilization and conservation service~~ MICHIGAN  
 25 DEPARTMENT OF AGRICULTURE or the department of treasury. If eli-  
 26 gible for a grant under the federal ~~payment in kind assistance~~  
 27 ~~law~~ EMERGENCY LOAN PROGRAM, the owner-operator shall first apply

1 for a grant in the maximum amount for which the owner-operator  
2 may be eligible under the federal ~~payment in kind assistance~~  
3 ~~law~~ EMERGENCY LOAN PROGRAM and have received a determination as  
4 to the grant.

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



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

6 (c) "Financial institution" includes, but is not limited to,  
7 ENTITIES OF THE FARM CREDIT SYSTEM, a production credit associa-  
8 tion, a federal land bank association, or a bank for  
9 cooperatives. For purposes of this section, ENTITIES OF THE FARM  
10 CREDIT SYSTEM, a production credit association, or a bank for  
11 cooperatives may be qualified as a financial institution eligible  
12 to receive an investment under this section notwithstanding that  
13 its principal office is not located in this state if the proceeds  
14 of the investment will be committed to qualified agricultural  
15 loans in this state.

16 (d) "Corporate person" or "corporation" means ~~—, except in~~  
17 ~~relation to a qualified agricultural loan under subdivision~~  
18 ~~(A)(iii),~~ a corporation in which a majority of the corporate  
19 stock is owned by persons operating the farm applying for a  
20 loan.

21 ~~(e) "Facility" means a plant designed for receiving or~~  
22 ~~storing farm produce or a retail sales establishment of a busi-~~  
23 ~~ness engaged in making retail sales directly to farmers, which~~  
24 ~~establishment has 75% or more of its gross retail sales volume~~  
25 ~~exempted from sales tax under the Michigan agricultural sales tax~~  
26 ~~exemption, as provided in section 4a(f) of the general sales tax~~

1 ~~act, Act No. 167 of the Public Acts of 1933, being section~~  
 2 ~~205.54a of the Michigan Compiled Laws.~~

3 (10) A qualified agricultural loan as defined by subsection  
 4 (9)(a)(ii) shall be equal to the value of the ~~crop~~ loss as cer-  
 5 tified by the ~~agricultural stabilization and conservation~~  
 6 ~~service~~ MICHIGAN DEPARTMENT OF AGRICULTURE but shall not exceed  
 7 the lesser of \$200,000.00 or the value of the ~~crop~~ loss minus  
 8 the amount of any grant under the federal ~~payment in kind~~  
 9 ~~assistance law~~ EMERGENCY LOAN PROGRAM or insurance proceeds  
 10 received by the owner-operator as a result of the same ~~crop~~  
 11 loss.

12 ~~(11) A qualified agricultural loan as defined by~~  
 13 ~~subsection 9(a)(iii) shall not exceed the lesser of the~~  
 14 ~~following:~~

15 ~~(a) \$200,000.00 per facility.~~

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

20 ~~(c) \$400,000.00 per individual, sole proprietorship, part-~~  
 21 ~~nership, corporation, or other legal entity making application~~  
 22 ~~for the loan.~~

23 (11) ~~(12)~~ The financial institutions participating in the  
 24 loan program pursuant to subsection (9)(a)(i) ~~OR~~ (ii) ~~or~~  
 25 ~~(iii)~~ shall have the option of making state subsidized loans to  
 26 farmers before ~~June 30, 1988, or to businesses described in~~  
 27 ~~subsection (9)(a)(iii) before June 30, 1987~~ OCTOBER 1, 1996,

1 with terms approved by the state treasurer by using their  
 2 existing deposits for the loans and receiving from the state  
 3 treasurer an amount not to exceed the lesser of the following:

4 (a) The interest that would be charged by a financial insti-  
 5 tution on an amount equal to 100% or more of the qualified agri-  
 6 cultural loan as determined by the department of treasury if the  
 7 distribution provided by this subsection is not appropriated.

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

15 (12) ~~(13)~~ There is hereby appropriated an amount suffi-  
 16 cient to make the distributions required under subsection ~~(12)~~  
 17 (11) in the ~~1986-87~~ 1996-97 fiscal year for not to exceed  
 18 ~~\$210,000.000.00~~ \$25,000,000.00 in qualified agricultural  
 19 loans. For each qualified agricultural loan for which a distri-  
 20 bution is made pursuant to subsection ~~(12)~~ (11), the maximum  
 21 amount of investments authorized by subsection (4) shall be  
 22 reduced by an amount equal to 100% or more of the qualified agri-  
 23 cultural loan, as determined by the department of treasury, for  
 24 which a distribution is made pursuant to subsection ~~(12)~~ (11).

25 (13) ~~(14)~~ Any money for purposes of qualified agricultural  
 26 loans as defined by subsection (9)(a)(ii) that has not been  
 27 invested by the state treasurer by ~~June 30, 1987~~ OCTOBER 1,

1 1996, shall increase the maximum amount available under this  
 2 section for qualified agricultural loans as defined by subsection  
 3 (9)(a)(i).

4 (14) ~~-(15)-~~ The state treasurer may take any necessary  
 5 action to ensure the successful operation of this section,  
 6 including making investments with financial institutions to cover  
 7 the administrative and risk-related costs associated with a qual-  
 8 ified agricultural loan.

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

13 ~~(a) Expansion of extension management assistance teams~~  
 14 ~~(EMATS) \$500,000.00.~~

15 ~~(b) Grain and feed analysis for nutrition levels and disease~~  
 16 ~~\$125,000.00.~~

17 ~~(c) Technical information delivery \$100,000.00.~~

18 ~~(d) Rural community and small town problems \$25,000.00.~~

19 ~~(e) Agricultural experiment station for research~~  
 20 ~~\$125,000.00.~~

21 (15) A PERSON WHO HAS RECEIVED A QUALIFIED AGRICULTURAL LOAN  
 22 AND WHO RECEIVED ANY RESTITUTION, REIMBURSEMENT, OR GRANT FROM  
 23 ANY SOURCE TO COMPENSATE FOR THE LOSS SUSTAINED BY A DAIRY  
 24 PRODUCER BECAUSE OF FAILURE TO RECEIVE 1 OR MORE PAYMENTS FROM A  
 25 THIRD PARTY SHALL REPAY ANY PORTION OF THE QUALIFIED AGRICULTURAL  
 26 LOAN EQUAL TO THE AMOUNT OF THAT RESTITUTION, REIMBURSEMENT, OR  
 27 GRANT.