

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5566

A bill to amend 1980 PA 243, entitled
"Emergency municipal loan act,"
by amending the title and sections 1, 2, 3, 4, 5, 6, and 7 (MCL
141.931, 141.932, 141.933, 141.934, 141.935, 141.936, and 141.937),
the title as amended by 1988 PA 198, section 1 as amended by 2007
PA 178, sections 2, 3, 6, and 7 as amended by 1998 PA 528, and
sections 4 and 5 as amended by 2007 PA 198, and by adding sections
3a and 6a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1

TITLE

2

An act to provide emergency financial assistance for certain

3

~~municipalities;~~ **POLITICAL SUBDIVISIONS OF THIS STATE;** to create a

4

local emergency financial assistance loan board and to prescribe

1 the powers and duties of this board; to prescribe conditions for
 2 granting and receiving loans, to prescribe terms and conditions for
 3 the repayment of loans, and to allow the limiting of repayment by a
 4 county from specified revenue sources; to impose certain
 5 requirements and duties on certain state departments,
 6 ~~municipalities~~ **POLITICAL SUBDIVISIONS** of this state, and officials
 7 of ~~the~~ **THIS** state and ~~municipalities~~ **POLITICAL SUBDIVISIONS** of this
 8 state; and to prescribe remedies and penalties.

9 Sec. 1. As used in this act:

10 (a) "Board" means the local emergency financial assistance
 11 loan board created under ~~this act~~ **SECTION 2**.

12 (b) "Fiscal year" means, unless otherwise provided in this
 13 act, the fiscal year of the municipality applying for a loan under
 14 this act.

15 (c) "Income tax collections" means the total collection of a
 16 municipality under the city income tax act, 1964 PA 284, MCL
 17 141.501 to 141.787, in any calendar year.

18 (d) "Income tax revenue growth rate" means the quotient of the
 19 following:

20 (i) The numerator is the income tax collections of the
 21 municipality for the calendar year immediately preceding the
 22 municipality's application for a loan under this act.

23 (ii) The denominator is the income tax collections for the
 24 municipality for the calendar year preceding the calendar year used
 25 in determining the numerator.

26 (e) "Municipality" means a county, city, village, or township
 27 ~~of~~ **IN** this state. **FOR THE PERIOD BEGINNING ON OCTOBER 1, 2011 AND**

1 ENDING ON SEPTEMBER 30, 2018, MUNICIPALITY ALSO INCLUDES A SCHOOL
2 DISTRICT IN THIS STATE.

3 (f) "Local tax base growth rate" for a municipality means the
4 state equalized valuation of the real and personal property of the
5 municipality for the most recent year for which data is available
6 divided by the state equalized valuation of real and personal
7 property of the municipality for the fifth year preceding the most
8 recent year for which data is available.

9 (g) "Statewide tax base growth rate" means the total state
10 equalized valuation for real and personal property for the most
11 recent year for which data is available divided by the total state
12 equalized valuation for the fifth year preceding the most recent
13 year for which data is available.

14 (h) "State equalized valuation of real and personal property
15 of the municipality" means the valuation determined under 1911 PA
16 44, MCL 209.1 to 209.8, of real and personal property within the
17 municipality plus an amount equal to the state equalized valuation
18 equivalent of certain revenues of the municipality as determined
19 under this subdivision. The state equalized valuation equivalent
20 shall be calculated by dividing the sum of the following amounts by
21 the municipality's millage rate for the fiscal year:

22 (i) The amount levied by the municipality for its own use
23 during the municipality's fiscal year from the specific tax levied
24 under 1974 PA 198, MCL 207.551 to 207.572.

25 (ii) The amount levied by the municipality for its own use
26 during the municipality's fiscal year from the specific tax levied
27 under the commercial redevelopment act, 1978 PA 255, MCL 207.651 to

1 207.668.

2 Sec. 2. (1) There is created a local emergency financial
3 assistance loan board within the department of treasury. This board
4 shall consist of the state treasurer, the director of the
5 department of ~~consumer and industry services,~~ **LICENSING AND**
6 **REGULATORY AFFAIRS**, and the director of the department of
7 **TECHNOLOGY**, management, and budget. Except for budgeting,
8 procurement, and related functions of the board that shall be
9 performed under the direction and supervision of the state
10 treasurer, the board shall exercise its prescribed statutory
11 powers, duties, and functions independently of the department of
12 treasury.

13 (2) The board has the powers necessary to carry out and
14 effectuate the purposes and provisions of this act, **AND POWERS**
15 **VESTED IN THE BOARD UNDER OTHER LAWS OF THIS STATE**, including, **BUT**
16 **NOT LIMITED TO**, all of the following powers:

17 (a) To act by an order issued in the name of the board and
18 signed by the members of the board. The signature of the designee
19 of a member, when the designee is acting for his or her principal,
20 has the same force and effect as the signature of the member.

21 (b) To authorize and make loans; to renegotiate the terms of
22 outstanding loans; and to make, execute, and deliver contracts and
23 other instruments necessary or convenient to the exercise of its
24 powers.

25 (c) To aid, advise, and consult with a municipality with
26 respect to fiscal questions arising from and relating to its
27 proposed or outstanding loans.

1 (d) To promulgate rules under the administrative procedures
2 act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that it considers
3 necessary.

4 (e) To examine the books and records of a municipality
5 applying for or receiving a loan under this act for the purpose of
6 ascertaining if the municipality is complying, in relation to a
7 loan under this act, with the requirements of the board, the laws
8 of this state, and the charter, ordinances, and resolutions of the
9 municipality. Additionally, for effectuating this purpose, the
10 board may require sworn statements from any officer or employee of
11 the municipality and may require the municipality to furnish a
12 statement of its financial condition. The board has full power, in
13 furtherance of its investigations, to examine witnesses on oath, to
14 compel the attendance of witnesses, to compel the giving of
15 testimony, and to compel the production of books, papers, and
16 records. Witnesses may be summoned by the board by its process upon
17 the payment of the same fees as are allowed to witnesses attending
18 in the circuit court for the county in which a hearing is held. A
19 person duly subpoenaed under this section who fails to attend or
20 testify at the place named in the subpoena served for that purpose
21 is guilty of a misdemeanor.

22 (f) To serve notice upon a municipality of an order relating
23 to the municipality issued by the board. A municipality has prima
24 facie notice of and is bound by an order of the board if notice has
25 been served upon it by registered mail addressed to any officer of
26 the municipality upon whom legal process may be served.

27 (g) To enforce compliance with its orders; with the terms of

1 outstanding loans; with any provision of this act; or, in relation
2 to a loan under this act, with any law of this state or with the
3 charter, ordinances, or resolutions of a municipality that received
4 a loan under this act. As 1 method to enforce compliance, the board
5 may institute appropriate proceedings in the courts of this state,
6 including proceedings for writs of mandamus and injunctions.

7 (h) To subject a loan to the terms and conditions the board
8 considers necessary to ensure compliance with the uniform budgeting
9 and accounting act, 1968 PA 2, MCL 141.421 to 141.440a, and to
10 ensure timely repayment of the loan, including, but not limited to,
11 requiring the direct assignment for repayment of a loan of any
12 state money appropriated to the municipality **OR, FOR A MUNICIPALITY**
13 **THAT IS A SCHOOL DISTRICT, OTHER REVENUE OR MONEY THAT MAY BE**
14 **PLEDGED BY A SCHOOL DISTRICT UNDER SECTION 1211 OF THE REVISED**
15 **SCHOOL CODE, 1976 PA 451, MCL 380.1211, OR OTHER LAW.**

16 (i) To provide loan terms specifying conditions and events of
17 default and remedies available upon default by a municipality.

18 (j) To impose loan terms upon the disbursement of a loan
19 authorized to be made under section 3(2)(b) or (3).

20 (3) The board shall review each application for a loan from a
21 municipality to determine if the municipality satisfies the
22 requirements of this act. Except for loans authorized under section
23 3(2) or (3), upon determining those applications that satisfy the
24 application eligibility requirements of section 4 and, for
25 subsequent annual loans, section 8, the board may authorize an
26 annual loan to 1 or more of those eligible applicants upon
27 declaring that a local fiscal emergency exists in the municipality.

1 For loans authorized under section 3(2) or (3), the board may
2 authorize a loan upon determining that the municipality has
3 satisfied the requirements of this act applicable to loans under
4 section 3(2) or (3).

5 (4) All actions of the board shall be approved by all members
6 of the board. All meetings of the board shall be conducted at a
7 public meeting held in compliance with the open meetings act, 1976
8 PA 267, MCL 15.261 to 15.275.

9 (5) Subject to the requirements of this act, the board has the
10 sole authority to determine all of the following:

11 (a) The amount of a loan.

12 (b) The rate or rates of interest on a loan.

13 (c) Any other condition related to a loan including, but not
14 limited to, requiring that the proceeds of a loan be used for
15 specified purposes.

16 (6) The department of treasury shall provide staff services to
17 the board to carry out this act.

18 (7) A municipality may do 1 or more of the following:

19 (a) Borrow money under this act, **AND ISSUE EVIDENCES OF**
20 **INDEBTEDNESS FOR REPAYMENT OF OBLIGATIONS, INCLUDING, BUT NOT**
21 **LIMITED TO, MONEY ADVANCED OR PREVIOUSLY ADVANCED TO A SCHOOL**
22 **DISTRICT OR APPROVED OR PREVIOUSLY APPROVED FOR ADVANCEMENT TO A**
23 **SCHOOL DISTRICT UNDER SECTION 15(2) OF THE STATE SCHOOL AID ACT OF**
24 **1979, 1979 PA 94, MCL 388.1615, OR MONEY BORROWED BY THE SCHOOL**
25 **DISTRICT UNDER SECTION 1225 OF THE REVISED SCHOOL CODE, 1976 PA**
26 **451, MCL 380.1225.**

27 (b) Enter into a loan agreement with the board.

1 (c) Issue its notes evidencing the loan.

2 (d) Assign and convey any revenues allocated to it for
3 repayment of the loan.

4 (e) Take any other action necessary to receive, secure, or
5 repay a loan under this act.

6 Sec. 3. (1) ~~Except as provided in subsection (2)~~ **FOR STATE**
7 **FISCAL YEARS ENDING BEFORE OCTOBER 1, 2011, the board shall not MAY**
8 **authorize loans under this act to municipalities that total an**
9 **amount greater than UP TO \$5,000,000.00 in a state fiscal year. FOR**
10 **STATE FISCAL YEARS BEGINNING AFTER SEPTEMBER 30, 2018, THE BOARD**
11 **MAY AUTHORIZE LOANS UNDER THIS ACT TO MUNICIPALITIES THAT TOTAL UP**
12 **TO \$10,000,000.00 IN A STATE FISCAL YEAR, BUT A LOAN TO A SINGLE**
13 **MUNICIPALITY SHALL NOT EXCEED \$4,000,000.00 IN A STATE FISCAL YEAR.**
14 **FOR THE PERIOD BEGINNING ON OCTOBER 1, 2011 AND ENDING ON SEPTEMBER**
15 **30, 2018, THE BOARD MAY DO ALL OF THE FOLLOWING:**

16 (A) **AUTHORIZE LOANS TO MUNICIPALITIES OTHER THAN SCHOOL**
17 **DISTRICTS THAT TOTAL UP TO \$35,000,000.00 DURING THE PERIOD. LOANS**
18 **TO A SINGLE MUNICIPALITY UNDER THIS SUBDIVISION SHALL NOT TOTAL**
19 **MORE THAN \$20,000,000.00. THE BOARD SHALL NOT AUTHORIZE A LOAN TO A**
20 **MUNICIPALITY UNDER THIS SUBDIVISION UNTIL 30 DAYS AFTER THE**
21 **EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBDIVISION.**

22 (B) **AUTHORIZE LOANS TO MUNICIPALITIES THAT ARE SCHOOL**
23 **DISTRICTS THAT TOTAL UP TO \$50,000,000.00 DURING THE PERIOD. LOANS**
24 **TO A SINGLE SCHOOL DISTRICT UNDER THIS SUBDIVISION SHALL NOT TOTAL**
25 **MORE THAN \$20,000,000.00.**

26 (2) The board may authorize loans under this act to a county
27 within the following limitations:

1 (a) In the 1998-99 state fiscal year, the board may authorize
2 loans under this act to a county with a population greater than
3 1,500,000.

4 (b) For a state fiscal year in which the block grant
5 appropriated to a county with a population of more than 1,500,000
6 that is organized under 1966 PA 293, MCL 45.501 to 45.521, and that
7 is a county juvenile agency is less than the amount required to be
8 distributed to that county in that year under the social welfare
9 act, 1939 PA 280, MCL 400.1 to 400.119b, the board may authorize a
10 loan to that county in an amount not greater than the difference
11 between the amount of the block grant and the amount required to be
12 distributed to that county for that fiscal year under the social
13 welfare act, 1939 PA 280, MCL 400.1 to 400.119b. The board is not
14 required to authorize loans under this subdivision to a county for
15 more than 1 state fiscal year.

16 (3) If in a state fiscal year the block grant appropriated to
17 a county other than a county described in subsection (2) that is a
18 county juvenile agency is less than the amount required to be
19 distributed to that county in that year under the social welfare
20 act, 1939 PA 280, MCL 400.1 to 400.119b, the board may authorize a
21 loan to that county in an amount not greater than the difference
22 between the amount of the block grant and the amount required to be
23 distributed to that county under the social welfare act, 1939 PA
24 280, MCL 400.1 to 400.119b, in that state fiscal year.

25 (4) Sections 6(2), 7, and 8 and the conditions listed in
26 section 4(1) do not apply to a loan authorized under subsection (2)
27 or (3).

1 (5) The proceeds of a loan made under subsection (2) or (3)
2 shall be maintained in a separate account and shall not be
3 ~~commingled~~**COMMINGLED** with the county's general fund or any other
4 special fund or account.

5 (6) The state treasurer or his or her designee shall monitor
6 the expenditure of the proceeds of any loan made under subsection
7 (2) or (3).

8 (7) The proceeds of a loan made under subsection (2) or (3)
9 are subject to the requirements of the county juvenile agency act,
10 1998 PA 518, MCL 45.621 TO 45.631.

11 (8) ~~Revenue~~**EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,**
12 **REVENUE** for loans made under this act shall be provided from the
13 surplus funds of this state under authorization granted under
14 section 1 of 1855 PA 105, MCL 21.141. **ALTERNATIVELY, FOR A SCHOOL**
15 **DISTRICT, REVENUE FOR A LOAN MADE UNDER THIS ACT MAY BE PROVIDED**
16 **FROM MONEY ADVANCED TO THE SCHOOL DISTRICT BY THIS STATE FROM MONEY**
17 **APPROPRIATED FROM THE STATE SCHOOL AID FUND ESTABLISHED UNDER**
18 **SECTION 11 OF ARTICLE IX OF THE STATE CONSTITUTION OF 1963 AND**
19 **PAYABLE TO THE SCHOOL DISTRICT UNDER THE STATE SCHOOL AID ACT OF**
20 **1979, 1979 PA 94, MCL 388.1601 TO 388.1896.**

21 (9) **AFTER SEPTEMBER 30, 2012, THE BOARD MAY RESTRUCTURE**
22 **PAYMENTS, BUT NOT THE OUTSTANDING PRINCIPAL BALANCE OR INTEREST, ON**
23 **A LOAN TO A MUNICIPALITY UNDER SUBSECTION (1) IF ALL OF THE**
24 **FOLLOWING APPLY:**

25 **(A) FOR A MUNICIPALITY THAT IS A SCHOOL DISTRICT, IN A STATE**
26 **FISCAL YEAR AFTER THE STATE FISCAL YEAR IN WHICH THE LOAN TO THE**
27 **SCHOOL DISTRICT WAS AUTHORIZED BY THE BOARD, THE FOUNDATION**

1 ALLOWANCE FOR THE SCHOOL DISTRICT UNDER THE STATE SCHOOL AID ACT OF
2 1979, 1979 PA 94, MCL 388.1601 TO 388.1896, IS LESS THAN THE
3 FOUNDATION ALLOWANCE FOR THE SCHOOL DISTRICT IN THE STATE FISCAL
4 YEAR IN WHICH THE LOAN WAS AUTHORIZED.

5 (B) FOR A MUNICIPALITY OTHER THAN A SCHOOL DISTRICT, IN A
6 STATE FISCAL YEAR AFTER THE STATE FISCAL YEAR IN WHICH THE LOAN TO
7 THE MUNICIPALITY WAS AUTHORIZED BY THE BOARD, STATUTORY REVENUE
8 SHARING FOR THE MUNICIPALITY UNDER THE GLENN STEIL STATE REVENUE
9 SHARING ACT OF 1971, 1971 PA 140, MCL 141.901 TO 141.921, COMBINED
10 WITH ANY ECONOMIC VITALITY INCENTIVE PROGRAM MONEY PAYABLE TO THE
11 MUNICIPALITY IS LESS THAN THE STATUTORY REVENUE SHARING FOR THE
12 MUNICIPALITY COMBINED WITH ANY ECONOMIC VITALITY INCENTIVE PROGRAM
13 MONEY PAYABLE TO THE MUNICIPALITY IN THE STATE FISCAL YEAR IN WHICH
14 THE LOAN WAS AUTHORIZED.

15 (C) THE MUNICIPALITY IS IN COMPLIANCE WITH THE TERMS OF THE
16 LOAN AND ANY OTHER REQUIREMENTS APPLICABLE TO THE MUNICIPALITY
17 UNDER THIS ACT.

18 (D) THE MUNICIPALITY IS IN COMPLIANCE WITH ANY REQUIREMENTS
19 RELATING TO A DEFICIT ELIMINATION PLAN UNDER STATE LAW.

20 (E) THE MUNICIPALITY IS IN COMPLIANCE WITH ANY APPLICABLE
21 CONSENT AGREEMENT OR ORDER OF AN EMERGENCY MANAGER UNDER THE LOCAL
22 GOVERNMENT AND SCHOOL DISTRICT FISCAL ACCOUNTABILITY ACT, 2011 PA
23 4, MCL 141.1501 TO 141.1531.

24 (F) FOR A MUNICIPALITY THAT IS A SCHOOL DISTRICT, THE SCHOOL
25 DISTRICT IS IN COMPLIANCE WITH ALL REQUIREMENTS FOR RECEIPT OF THE
26 FOUNDATION ALLOWANCE AND ANY OTHER REQUIREMENTS APPLICABLE TO THE
27 SCHOOL DISTRICT UNDER THE STATE SCHOOL AID ACT OF 1979, 1979 PA 94,

1 MCL 388.1601 TO 388.1896.

2 (G) FOR A MUNICIPALITY OTHER THAN A SCHOOL DISTRICT, THE
3 MUNICIPALITY IS IN COMPLIANCE WITH ALL CONDITIONS FOR ECONOMIC
4 VITALITY INCENTIVE PROGRAM MONEY OR STATUTORY REVENUE SHARING OR
5 OTHER REQUIREMENTS APPLICABLE TO THE MUNICIPALITY UNDER THE GLENN
6 STEIL STATE REVENUE SHARING ACT OF 1971, 1971 PA 140, MCL 141.901
7 TO 141.921.

8 (H) THE RESTRUCTURING OF PAYMENTS COMPLIES WITH APPLICABLE
9 LAW.

10 (I) THE LOAN HAS NOT BEEN SOLD OR TRANSFERRED UNDER SECTION
11 6A.

12 (10) ~~(9)~~—As used in this section, "county juvenile agency"
13 means that term as defined in section 2 of the county juvenile
14 agency act, 1998 PA 518, MCL 45.622.

15 SEC. 3A. THE PROCEEDS OF A LOAN ISSUED UNDER THIS ACT TO A
16 MUNICIPALITY SHALL NOT BE USED BY THE MUNICIPALITY TO FINANCE ANY
17 COSTS ASSOCIATED WITH A SPECIAL ASSESSMENT OR SPECIAL ASSESSMENT
18 DISTRICT ESTABLISHED AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT
19 THAT ADDED THIS SECTION.

20 Sec. 4. (1) If the governing body of a municipality desires to
21 request a loan, it shall provide by resolution for the submission
22 of an application to the board for a loan made under this act. The
23 municipality shall certify and substantiate all of the following
24 information and conditions to be eligible for consideration for a
25 loan authorization by the board:

26 (a) A deficit for the municipality's general fund is projected
27 for the current fiscal year.

1 (b) That 1 or both of the following have occurred within the 6
2 18 months immediately preceding the loan request:

3 (i) The municipality has issued tax anticipation notes or
4 revenue sharing notes under the revised municipal finance act, 2001
5 PA 34, MCL 141.2101 to 141.2821, **OR FOR A SCHOOL DISTRICT, ISSUED**
6 **NOTES UNDER SECTION 1225 OF THE REVISED SCHOOL CODE, 1976 PA 451,**
7 **MCL 380.1225.**

8 (ii) The department of treasury has acted upon a request by the
9 municipality to issue tax anticipation notes or revenue sharing
10 notes under the revised municipal finance act, 2001 PA 34, MCL
11 141.2101 to 141.2821.

12 (c) The municipality meets 1 or more of the following
13 conditions:

14 (i) Its income tax revenue growth rate is .90 or less, or the
15 municipality has 2 or more emergency loans outstanding at the time
16 its application is submitted and its income tax revenue growth rate
17 is 1.3 or less.

18 (ii) Its local tax base growth rate is 75% or less of the
19 statewide tax base growth rate.

20 (iii) The state equalized valuation of real and personal
21 property within the municipality at the time the loan application
22 is made is less than the state equalized valuation of real and
23 personal property within the municipality in the immediately
24 preceding year.

25 (iv) **THE MUNICIPALITY IS LEVYING THE MAXIMUM NUMBER OF MILLS IT**
26 **IS AUTHORIZED TO LEVY AS APPROVED BY THE VOTERS AND HAS EITHER OF**
27 **THE FOLLOWING:**

1 (A) ONE OR MORE DELINQUENT SPECIAL ASSESSMENTS.

2 (B) OUTSTANDING BONDS, NOTES, OR OTHER EVIDENCES OF
3 INDEBTEDNESS THAT WERE ISSUED IN ANTICIPATION OF A CONTRACT
4 OBLIGATION WITH, OR AN ASSESSMENT OBLIGATION AGAINST, ANOTHER
5 MUNICIPALITY THAT HAS 1 OR MORE DELINQUENT SPECIAL ASSESSMENTS THAT
6 WERE LEVIED TO SATISFY, IN WHOLE OR IN PART, THE CONTRACT OR
7 ASSESSMENT OBLIGATION.

8 (v) FOR A SCHOOL DISTRICT, THE SCHOOL DISTRICT'S MEMBERSHIP
9 UNDER SECTION 6 OF THE STATE SCHOOL AID ACT OF 1979, 1979 PA 94,
10 MCL 388.1606, AT THE TIME THE LOAN APPLICATION IS MADE HAS DECLINED
11 OVER A PRECEDING 3-STATE-FISCAL-YEAR PERIOD BY A TOTAL OF 15% OR
12 MORE, AS DETERMINED BY THE DEPARTMENT OF TREASURY.

13 (vi) THE MUNICIPALITY IS IN RECEIVERSHIP OR IS SUBJECT TO A
14 CONSENT AGREEMENT UNDER THE LOCAL GOVERNMENT AND SCHOOL DISTRICT
15 FISCAL ACCOUNTABILITY ACT, 2011 PA 4, MCL 141.1501 TO 141.1531, OR
16 A SUCCESSOR STATUTE, AND LOAN AUTHORIZATION BY THE BOARD IS
17 NECESSARY TO IMPLEMENT A FINANCIAL AND OPERATING PLAN, A CONSENT
18 AGREEMENT, OR A CONTINUING OPERATIONS PLAN OR RECOVERY PLAN FOR THE
19 MUNICIPALITY UNDER THE LOCAL GOVERNMENT AND SCHOOL DISTRICT FISCAL
20 ACCOUNTABILITY ACT, 2011 PA 4, MCL 141.1501 TO 141.1531, OR A
21 SUCCESSOR STATUTE.

22 (vii) THE MUNICIPALITY IS A MUNICIPALITY FOR WHICH A FINANCIAL
23 EMERGENCY HAS BEEN CONFIRMED TO EXIST AND RESPONSIBILITIES FOR THE
24 MUNICIPALITY ARE VESTED IN AN EMERGENCY FINANCIAL MANAGER UNDER
25 FORMER 1990 PA 72 OR IS A MUNICIPALITY FOR WHICH A CONSENT
26 AGREEMENT, INCLUDING A PLAN TO ADDRESS A SERIOUS FINANCIAL PROBLEM,
27 IS IN PLACE FOR THE MUNICIPALITY UNDER FORMER 1990 PA 72. THIS

1 SUBPARAGRAPH APPLIES ONLY IF THE LOCAL GOVERNMENT AND SCHOOL
 2 DISTRICT FISCAL ACCOUNTABILITY ACT, 2011 PA 4, MCL 141.1501 TO
 3 141.1531, IS REPEALED OR OTHERWISE NOT EFFECTIVE AND FORMER 1990 PA
 4 72 IS AGAIN IN EFFECT OR APPLICABLE.

5 (d) The municipality submits a ~~long-range~~ **5-YEAR** plan, that
 6 has been approved by the governing body of the municipality,
 7 ~~outlining actions to be taken to~~ **AND THAT WILL** balance future
 8 expenditures with anticipated revenues.

9 (2) If the board determines it necessary, the board may
 10 inspect, copy, or audit the books and records of a municipality.

11 (3) Subsection (1) does not apply to a loan authorized under
 12 section 3(2) or (3).

13 Sec. 5. Except for a county subject to section 3(2), **UNTIL**
 14 **SEPTEMBER 30, 2011**, the board may authorize loans to any 1
 15 municipality in an amount not to exceed \$3,000,000.00 in any 1
 16 fiscal year of the municipality. Except for a county subject to
 17 section 3(2), a municipality is not eligible to receive loans in
 18 more than 5 fiscal years in any 10-year period.

19 Sec. 6. (1) A loan made under this act shall bear an annual
 20 rate or rates of interest, if any, as established by the board
 21 under section 2(5). The board may establish interest for a loan
 22 under this act either at a rate or rates that are fixed for the
 23 term of the loan or, if the formula is approved by the board at the
 24 time the loan is made or renegotiated as authorized in section 2,
 25 at a rate calculated upon a formula that varies the rate annually.
 26 ~~IF~~ **THE BOARD MAY PROVIDE THAT THE INTEREST RATE OR RATES FOR A LOAN**
 27 **UNDER THIS ACT MAY ADJUST TO AN INTEREST RATE OR RATES DETERMINED**

1 AT THE TIME OF THE SALE OR TRANSFER BY THE STATE TREASURER TO BE
2 SUFFICIENT TO FACILITATE THE SALE OF THE LOANS UNDER SECTION 6A.
3 EXCEPT FOR LOANS SOLD OR TRANSFERRED UNDER SECTION 6A, IF the
4 interest rate for a loan under this act is a single fixed rate, the
5 annual rate of interest for the term of a loan shall not ~~exceed the~~
6 ~~average rate of interest earned at the time the loan is approved by~~
7 ~~the board on the investment of surplus funds, other than those~~
8 ~~surplus funds invested under this act and section 1 of 1855 PA 105,~~
9 ~~MCL 21.141.~~ BE LESS THAN THE MUNICIPAL 10-YEAR RATE AS DETERMINED BY
10 THE STATE TREASURER. THE BOARD MAY CONSIDER A HIGHER INTEREST RATE
11 BASED ON BOTH THE MARKET INTEREST RATES AND THE RISK OF THE
12 MUNICIPALITY REQUESTING THE LOAN.

13 (2) Interest payments are due and payable ~~annually, beginning~~
14 ~~1 year after the loan is issued to the municipality. Notes of~~
15 ~~indebtedness executed to the state by a municipality for a loan~~
16 ~~made under this act shall not require payment of principal until 10~~
17 ~~years after the loan is issued to the municipality~~ AS DETERMINED BY
18 THE BOARD OR THE STATE TREASURER UNDER SECTION 6A. Repayment of ALL
19 OF the principal shall be made ~~in not less than 10 equal annual~~
20 ~~installments,~~ NOT MORE THAN 30 YEARS FROM THE DATE OF ISSUANCE
21 DETERMINED BY THE BOARD OR STATE TREASURER UNDER SECTION 6A, except
22 as provided in subsection (5). This subsection, sections 7 and 8,
23 and the conditions listed in section 4(1) do not apply to a loan
24 authorized under section 3(2) or (3).

25 (3) The loan agreement between the board and a county for a
26 loan authorized under section 3(2) or (3) shall establish the
27 schedule for payment of the principal of and interest on the loan,

1 the nature of the obligation of the county to repay a loan made
2 under this act, and any security for that loan. Payments of
3 principal and interest for a loan authorized by section 3(2) shall
4 be limited to revenues allocated to the county under the health and
5 safety fund act, 1987 PA 264, MCL 141.471 to 141.479, minus those
6 revenues authorized by the board in the loan agreement for use in
7 the payment of other county obligations.

8 (4) Unless other state appropriations to a municipality are
9 pledged or assigned in an amount sufficient for the municipality to
10 make a required principal or interest payment, if the
11 municipality's payment of required principal or interest is
12 delinquent, the state treasurer ~~shall~~**MAY** withhold the amount of
13 all delinquent payments that are due on a loan issued under this
14 act from state payments to the municipality under the **GLENN STEIL**
15 state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to
16 141.921.

17 (5) ~~Notwithstanding~~**EXCEPT FOR LOANS SOLD OR TRANSFERRED UNDER**
18 **SECTION 6A OR AS OTHERWISE DETERMINED BY THE BOARD, NOTWITHSTANDING**
19 the payment schedules and methods established by this section or by
20 the terms of a loan agreement, a municipality may initiate
21 repayment of all or part of a loan made under this act at an
22 earlier date or may make repayment in fewer installment payments,
23 or both. The board shall not condition either eligibility for
24 consideration for a loan or the grant of a loan under this act on
25 repayment schedules and terms other than those required by
26 subsections (1), (2), (3), and (4). In addition, failure of a
27 municipality to make repayments under terms or a schedule it has

1 instituted under this subsection does not disqualify the
2 municipality from eligibility for consideration for loans in
3 subsequent fiscal years.

4 (6) A loan issued under this act shall be a general obligation
5 of the municipality except that a loan issued under section 3(2)
6 shall not be a general obligation of the municipality and shall be
7 repaid solely from specific revenues pledged for repayment of the
8 loan.

9 SEC. 6A. (1) THE STATE TREASURER MAY SELL OR TRANSFER A LOAN
10 UNDER THIS ACT AND ENTER INTO AN AGREEMENT RELATED TO THE SALE OR
11 TRANSFER OF THE LOAN. THE STATE TREASURER ALSO MAY ASSIGN TO THE
12 PURCHASER OR TRANSFEREE OF A LOAN UNDER THIS ACT ALL SECURITY
13 PLEDGED FOR THE LOAN BY A MUNICIPALITY. A LOAN SOLD OR TRANSFERRED
14 UNDER THIS SECTION SHALL BE SECURED IN THE SAME MANNER AS A LOAN
15 UNDER THIS ACT NOT SOLD OR TRANSFERRED, INCLUDING, BUT NOT LIMITED
16 TO, BENEFITING FROM THE SECURITY PROVIDED BY SECTION 6(4).

17 (2) THE STATE TREASURER MAY ENTER INTO AN AGREEMENT WITH THE
18 PURCHASER OR TRANSFEREE OF A LOAN UNDER THIS ACT TO REPURCHASE THE
19 LOAN AT A PRICE AND TIME OR UPON THE OCCURRENCE OF AN EVENT
20 PROVIDED IN THE AGREEMENT.

21 (3) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, AT THE
22 TIME A LOAN IS SOLD OR TRANSFERRED UNDER THIS SECTION, THE STATE
23 TREASURER MAY SET THE INTEREST RATE, OR METHOD OF DETERMINING THE
24 INTEREST RATE, ON THE LOAN BEING SOLD OR TRANSFERRED, INCLUDING,
25 BUT NOT LIMITED TO, A LOAN MADE BEFORE THE EFFECTIVE DATE OF THE
26 AMENDATORY ACT THAT ADDED THIS SECTION, AT A RATE THE STATE
27 TREASURER DETERMINES NECESSARY AND ADVISABLE TO ACCOMPLISH THE SALE

1 OR TRANSFER. A RATE DETERMINED BY THE STATE TREASURER SHALL NOT
2 EXCEED THE MAXIMUM RATE OTHERWISE AUTHORIZED BY LAW.

3 (4) WHEN A LOAN IS SOLD OR TRANSFERRED UNDER THIS SECTION, THE
4 STATE TREASURER MAY MAKE CHANGES TO THE TERMS OF THE LOAN,
5 INCLUDING A LOAN MADE BEFORE THE EFFECTIVE DATE OF THE AMENDATORY
6 ACT THAT ADDED THIS SECTION, AS THE STATE TREASURER DETERMINES
7 NECESSARY AND ADVISABLE TO PERMIT A PURCHASER OR TRANSFEREE TO SELL
8 OBLIGATIONS SECURED BY THE LOANS AS TAX-EXEMPT UNDER FEDERAL LAW,
9 INCLUDING, BUT NOT LIMITED TO, MODIFYING REDEMPTION PROVISIONS,
10 PRINCIPAL AMORTIZATION, AND INTEREST AND PRINCIPAL PAYMENT DATES OF
11 THE LOAN. THE STATE TREASURER ALSO MAY REQUIRE A MUNICIPALITY TO
12 MAKE CERTAIN COVENANTS THE STATE TREASURER DETERMINES NECESSARY OR
13 ADVISABLE RELATING TO THE TAX-EXEMPT STATUS OF THE OBLIGATIONS OF A
14 PURCHASER OR TRANSFEREE.

15 (5) AT ANY TIME, THE STATE TREASURER MAY REQUIRE A
16 MUNICIPALITY TO ENTER INTO AN AGREEMENT WITH A PURCHASER OR
17 TRANSFEREE OF A LOAN REGARDING CONTINUING DISCLOSURE OBLIGATIONS
18 UNDER FEDERAL LAW OR ANY OTHER MATTERS THE STATE TREASURER
19 DETERMINES ARE NECESSARY AND ADVISABLE. THE STATE TREASURER MAY
20 REQUIRE ENTRY INTO AN AGREEMENT WITH A RECIPIENT OF A LOAN ISSUED
21 BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
22 SECTION.

23 (6) IF A LOAN IS SOLD OR TRANSFERRED UNDER THIS SECTION, THE
24 STATE TREASURER SHALL NOTIFY ALL OF THE FOLLOWING THAT THE LOAN WAS
25 SOLD OR TRANSFERRED:

26 (A) GOVERNOR.

27 (B) SENATE MAJORITY LEADER.

1 (C) SENATE MINORITY LEADER.

2 (D) SPEAKER OF THE HOUSE OF REPRESENTATIVES.

3 (E) HOUSE MINORITY LEADER.

4 (F) SENATE FISCAL AGENCY.

5 (G) HOUSE FISCAL AGENCY.

6 Sec. 7. (1) A municipality that receives a loan under this act
7 shall perform all of the following:

8 (a) ~~Employ~~ **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION,**
9 **EMPLOY** a full-time professional administrator **OR CONTRACT WITH A**
10 **PERSON WITH EXPERTISE IN MUNICIPAL FINANCE AND ADMINISTRATION** to
11 direct or participate directly in the management of the
12 municipality's operations until otherwise ordered by the board. **IF**
13 **THE MUNICIPALITY IS IN RECEIVERSHIP UNDER THE LOCAL GOVERNMENT AND**
14 **SCHOOL DISTRICT FISCAL ACCOUNTABILITY ACT, 2011 PA 4, MCL 141.1501**
15 **TO 141.1531, OR A SUCCESSOR STATUTE, COMPENSATE THE EMERGENCY**
16 **MANAGER FOR THE MUNICIPALITY AND REIMBURSE THE EMERGENCY MANAGER'S**
17 **ACTUAL AND NECESSARY EXPENSES AS PROVIDED UNDER SECTION 15(5)(E) OF**
18 **THE LOCAL GOVERNMENT AND SCHOOL DISTRICT FISCAL ACCOUNTABILITY ACT,**
19 **2011 PA 4, MCL 141.1515, OR A SUCCESSOR STATUTE. IF THE**
20 **MUNICIPALITY IS UNDER A CONSENT AGREEMENT AS PROVIDED UNDER THE**
21 **LOCAL GOVERNMENT AND SCHOOL DISTRICT FISCAL ACCOUNTABILITY ACT,**
22 **2011 PA 4, MCL 141.1501 TO 141.1531, OR A SUCCESSOR STATUTE,**
23 **COMPENSATE THOSE OFFICIALS WHO ARE REQUIRED TO BE COMPENSATED UNDER**
24 **THE CONSENT AGREEMENT WITH THE MUNICIPALITY AND REIMBURSE THOSE**
25 **OFFICIALS' ACTUAL AND NECESSARY EXPENSES AS PROVIDED UNDER THE**
26 **CONSENT AGREEMENT.**

27 (B) IF THE LOCAL GOVERNMENT AND SCHOOL DISTRICT FISCAL

1 ACCOUNTABILITY ACT, 2011 PA 4, MCL 141.1501 TO 141.1531, IS
2 REPEALED OR OTHERWISE NOT EFFECTIVE AND FORMER 1990 PA 72 IS AGAIN
3 IN EFFECT OR APPLICABLE AND AN EMERGENCY FINANCIAL MANAGER IS IN
4 PLACE FOR THE MUNICIPALITY UNDER FORMER 1990 PA 72, COMPENSATE THE
5 EMERGENCY FINANCIAL MANAGER AND REIMBURSE THE EMERGENCY FINANCIAL
6 MANAGER'S ACTUAL AND NECESSARY EXPENSES. IF THE LOCAL GOVERNMENT
7 AND SCHOOL DISTRICT FISCAL ACCOUNTABILITY ACT, 2011 PA 4, MCL
8 141.1501 TO 141.1531, IS REPEALED OR OTHERWISE NOT EFFECTIVE AND
9 FORMER 1990 PA 72 IS AGAIN IN EFFECT OR APPLICABLE AND A CONSENT
10 AGREEMENT IS IN PLACE FOR THE MUNICIPALITY UNDER FORMER 1990 PA 72,
11 COMPENSATE THOSE OFFICIALS WHO ARE REQUIRED TO BE COMPENSATED UNDER
12 THE CONSENT AGREEMENT WITH THE MUNICIPALITY AND REIMBURSE THOSE
13 OFFICIALS' ACTUAL AND NECESSARY EXPENSES AS PROVIDED UNDER THE
14 CONSENT AGREEMENT.

15 (C) ~~(b)~~—Not more than 6 months after receiving a loan and
16 semiannually after that date for the period the loan is
17 outstanding, submit to the board an evaluation of the performance
18 of the municipality against the ~~long-range~~ **5-YEAR** plan submitted
19 under section 4(1).

20 (D) ~~(e)~~—Submit all of the following to the board on a
21 quarterly basis:

22 (i) A statement of actual revenues received in the last quarter
23 and in the current fiscal year to date.

24 (ii) A statement of total revenues estimated to be received by
25 the municipality in the current fiscal year.

26 (iii) A statement of expenditures made and encumbrances entered
27 into by the municipality in the last quarter and in the current

1 fiscal year to date.

2 (iv) A statement of revenues that were estimated to be received
3 and expenditures that were estimated to be made during the current
4 fiscal year and through the end of the last quarter.

5 (v) A balance sheet indicating whether total estimated
6 expenditures for the current fiscal year and for the last quarter
7 exceed the total estimated revenues for the current fiscal year and
8 for the last quarter, respectively.

9 (E) ~~(d)~~—Submit the general appropriations act of the
10 municipality, and any amendments to that act, adopted under the
11 uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to
12 141.440a, or any equivalent report as may be required by the board
13 if the municipality is not required to adopt a general
14 appropriations act.

15 (F) ~~(e)~~—Submit any budget change in the current fiscal year or
16 any amendment to the general appropriations act of the municipality
17 for the current fiscal year to the board before adoption.

18 (G) ~~(f)~~—Submit any budget for the ensuing fiscal year or the
19 general appropriations act of the municipality for the ensuing
20 fiscal year to the board before adoption.

21 (H) ~~(g)~~—Certify that the municipality has fully complied with
22 all statutory requirements concerning use of the uniform chart of
23 accounts and audits.

24 (2) IF THE STATE TREASURER DETERMINES THAT A MUNICIPALITY IS
25 NOT IN COMPLIANCE WITH ALL OF THE REQUIREMENTS UNDER SUBSECTION (1)
26 AND WITH THE 5-YEAR PLAN SUBMITTED UNDER SECTION 4(1), THE STATE
27 TREASURER MAY MODIFY THE TERMS OF THE LOAN TO REQUIRE A HIGHER

1 **INTEREST RATE OR TO ACCELERATE THE REPAYMENT OF THE LOAN.**

2 (3) ~~(2)~~—As used in this section, "expenditure" and "revenue"
3 mean those terms as defined in sections 2c and 2d of the uniform
4 budgeting and accounting act, 1968 PA 2, MCL 141.422c and 141.422d.

5 (4) ~~(3)~~—Subsection (1) does not apply to a loan authorized
6 under section 3(2) or (3).

7 Enacting section 1. This amendatory act does not take effect
8 unless all of the following bills of the 96th Legislature are
9 enacted into law:

- 10 (a) House Bill No. 5567.
11 (b) House Bill No. 5568.
12 (c) House Bill No. 5569.
13 (d) House Bill No. 5570.