SENATE BILL No. 808

April 19, 1988, Introduced by Senators BARCIA, MILLER, IRWIN, KELLY, DE GROW, CROPSEY and MACK 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 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:

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

Sec. 2a. (1) The state treasurer may invest surplus funds under the state treasurer's control in certificates of deposit or other instruments of a financial institution qualified under this act to receive deposits or investments of surplus funds. In addition to terms that may be prescribed in the investment agreement by the state treasurer, an investment under this section shall be subject to all of the following conditions and restrictions:

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

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

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

(d) To the extent the financial institution has not made qualified agricultural loans as defined by subsection (9)(a)(*i*) in an amount at least equal to the amount of the investment within 90 days after the investment, the rate of interest payable on that portion of the outstanding investment shall be increased to a rate of interest provided in the investment agreement, with the increase in the rate of interest applied retroactively to the date on which the state treasurer invested the surplus funds.

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

(f) For a qualified agricultural loan as defined by subsection (9)(a)(*ii*) or (*iii*), the investment agreement may include incentives for the early repayment of the investment and for the acceleration of payments in the event of a state cash shortfall as prescribed by the investment agreement.

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

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

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

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

earned during the same period on other surplus funds, other than surplus funds invested pursuant to section 1 or 2, shall be credited to the general fund of the state. If interest from an investment made pursuant to this section is below the average rate of interest earned during the same period on other surplus funds, other than surplus funds invested pursuant to section 1 or 2, the general fund shall be reduced by the amount of the deficiency on an amortized basis over the remaining term of the investment. A loss of principal from an investment made pursuant to this section shall reduce the earnings of the general fund by the amount of that loss on an amortized basis over the remaining term of the investment.

(6) A new investment to which a qualified agricultural loan as defined by subsection (9)(a)(*ii*) is attributed shall not be made pursuant to this section after June 30, 1987, and shall not be made with a term which extends beyond January 1, 1997. An investment to which a qualified agricultural loan as defined by subsection (9)(a)(*iii*) is attributed shall not be made pursuant to this section after June 30, 1987, and shall not be made with a term extending beyond June 28, 1992. An investment to which a qualified agricultural loan as defined by subsection (9)(a)(*i*) is attributed shall not be made with a term extending beyond June 28, ~~1988~~ 1989.

(7) The commissioner shall monitor the compliance of a financial institution in which the state treasurer has made an investment pursuant to this section with the terms of the investment agreement and this act. For each investment, the

commissioner shall certify the extent of compliance with subsection (1)(b) for the purpose of subsection (1)(d) and subsection (9)(a)(*ii*) and (*iii*) and shall periodically report those and other findings to the state treasurer.

(8) Before October 1, 1987, the state treasurer shall prepare separate reports to the legislature regarding the disposition of money invested for purposes of qualified agricultural loans as defined by subsection (9)(a)(*i*) and for qualified agricultural loans as defined by subsection (9)(a)(*ii*) and (*iii*). The reports for each type of loan shall include all of the following information:

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

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

(c) The name of each financial institution participating in the loan program and the amount invested in each financial institution for purposes of such loan program.

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

(9) As used in this section:

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

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

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

(B) If necessary for the continuance of the operation of the farm through the crop year during which the loan is made, the purchase of used replacement equipment or machinery to the extent the person is not eligible for a loan for this purpose from the Michigan family farm development authority created under the Michigan family farm development act, Act No. 220 of the Public Acts of 1982, being sections 285.251 to 285.279 of the Michigan Compiled Laws.

(C) Operating capital including, but not limited to, capital necessary for the rental of equipment or machinery and the purchase of seed, feed, livestock, breeding stock, fertilizer, fuel, and chemicals.

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

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

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

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

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

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

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

(10) A qualified agricultural loan as defined by subsection (9)(a)(*ii*) shall be equal to the value of the crop loss as certified by the agricultural stabilization and conservation service but shall not exceed the lesser of $200,000.00 or the value of the crop loss minus the amount of any grant under the federal payment-in-kind assistance law or insurance proceeds received by the owner-operator as a result of the same crop loss.

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

(a) $200,000.00 per facility.

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

(c) $400,000.00 per individual, sole proprietorship, partnership, corporation, or other legal entity making application for the loan.

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

(a) The interest that would be charged by a financial institution on an amount equal to 100% or more of the qualified agricultural loan as determined by the department of treasury if the distribution provided by this subsection is not appropriated.

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

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

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

(15) The state treasurer may take any necessary action to ensure the successful operation of this section, including making investments with financial institutions to cover the administrative and risk-related costs associated with a qualified agricultural loan.

(16) There is hereby appropriated from the general fund for the fiscal year ending September 30, 1987 to Michigan state university, cooperative extension service, $875,000.00 for the following purposes:

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

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

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

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

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