HOUSE BILL No. 5330

October 30, 1997, Introduced by Reps. Leland, Hale, Law and Kelly and referred to the Committee on Appropriations.

A bill to amend 1980 PA 243, entitled "Emergency municipal loan act," by amending sections 2, 3, 4, 6, 7, and 8 (MCL 141.932, 141.933, 141.934, 141.936, 141.937, and 141.938), sections 2 and 3 as amended by 1987 PA 282, sections 4, 7, and 8 as amended by 1986 PA 6, and section 6 as amended by 1988 PA 198.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 2. (1) There is created a local emergency financial assistance loan board within the department of treasury. This board shall consist of the state treasurer, the director of commerce THE DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES, and the director of the department of management and budget. Except for budgeting, procurement, and related functions of the board which THAT shall be performed under the direction and supervision of the state treasurer, the board shall exercise its

03644'97 *

TLG

prescribed statutory powers, duties, and functions independently
 of the department of treasury.

3 (2) The board shall have HAS the powers necessary to carry
4 out and effectuate the purposes and provisions of this act,
5 including all of the following powers:

6 (a) To act by an order issued in the name of the board and 7 signed by the members of the board. The signature of the desig-8 nee of <u>any</u> A member, when the designee is acting for his or her 9 principal, <u>shall have</u> HAS the same force and effect as the sig-10 nature of the member.

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

15 (c) To aid, advise, and consult with <u>any</u> A municipality
16 with respect to fiscal questions arising from and relating to its
17 proposed or outstanding loans.

18 (d) To promulgate rules , pursuant to UNDER the adminis19 trative procedures act of 1969, Act No. 306 of the Public Acts
20 of 1969, as amended, being sections 24.201 to 24.328 of the
21 Michigan Compiled Laws, which 1969 PA 306, MCL 24.201 TO 24.328,
22 THAT it considers necessary.

(e) To examine the books and records of <u>any</u> A municipality applying for or receiving a loan under this act for the purpose of ascertaining if the municipality is complying, in relation to a loan under this act, with the requirements of the board, the laws of this state, and the charter, ordinances, and resolutions

03644'97 *

1 of the municipality. Additionally, for effectuating this 2 purpose, the board may require sworn statements from any officer 3 or employee of the municipality and may require the municipality 4 to furnish a statement of its financial condition. The board 5 -shall have HAS full power, in furtherance of its investiga-6 tions, to examine witnesses on oath, to compel the attendance of 7 witnesses, to compel the giving of testimony, and to compel the 8 production of books, papers, and records. Witnesses may be sum-9 moned by the board by its process upon the payment of the same 10 fees as are allowed to witnesses attending in the circuit court 11 for the county in which a hearing is held. Any A person duly 12 subpoenaed under this section who fails to attend or testify at 13 the place named in the subpoena served for that purpose is guilty 14 of a misdemeanor.

(f) To serve notice upon <u>any</u> A municipality of <u>any</u> AN order relating to the municipality <u>which was</u> issued by the board. A municipality <u>shall be considered to have</u> HAS prima facie notice of and <u>be</u> IS bound by an order of the board if notice has been served upon it by registered mail addressed to any officer of the municipality upon whom legal process may be served.

(g) To enforce compliance with its orders; with the terms of outstanding loans; with any provision of this act; or, in relation to a loan under this act, with any law of this state or with the charter, ordinances, or resolutions of a municipality which has THAT received a loan under this act. As 1 method to enforce compliance, the board may institute appropriate proceedings in

03644'97 *

1 the courts of this state, including proceedings for writs of 2 mandamus and injunctions.

3 (h) To subject a loan to the terms and conditions the board
4 considers necessary to ensure compliance with the uniform budget5 ing and accounting act, Act No. 2 of the Public Acts of 1968,
6 being sections 1968 PA 2, MCL 141.421 to 141.440a, and to ensure
7 timely repayment of the loan, including, but not limited to,
8 requiring the direct assignment for repayment of a loan of any
9 state money appropriated to the municipality.

10 (i) To provide loan terms specifying conditions and events 11 of default and remedies available upon default by a 12 municipality.

(j) To impose loan terms <u>ensuring repayment of a loan made</u> pursuant to section 3(2) on the earliest possible date, including terms to require any general fund surplus and 1-time revenue gains to be used to repay the loan and terms to require board approval of general fund program expansions or additions not required by state law UPON THE DISBURSEMENT OF A LOAN AUTHORIZED TO BE MADE UNDER SECTION 3(2)(B) OR (3).

(3) The board shall review each application for a loan from
a municipality to determine if the municipality satisfies the
requirements of this act. Upon EXCEPT FOR LOANS AUTHORIZED
UNDER SECTION 3(2) OR (3), UPON determining those applications
which THAT satisfy the application eligibility requirements of
section 4 and, for subsequent annual loans, section 8, the board
may authorize an annual loan to 1 or more of those eligible
applicants upon declaring that a local fiscal emergency exists in

03644'97 *

1 the municipality. FOR LOANS AUTHORIZED UNDER SECTION 3(2) OR 2 (3), THE BOARD MAY AUTHORIZE A LOAN UPON DETERMINING THAT THE 3 MUNICIPALITY HAS SATISFIED THE REQUIREMENTS OF THIS ACT APPLICA-4 BLE TO LOANS UNDER SECTION 3(2) OR (3).

5 (4) All actions of the board -, including, but not limited
6 to, granting a loan, determining the amount of and rate or rates
7 of interest, if any, on the loan, and fixing any other condition
8 relating to the loan, shall be approved by all members of the
9 board. All meetings of the board shall be conducted at a public
10 meeting held in compliance with the open meetings act, -Act
11 No. 267 of the Public Acts of 1976, as amended, being sections
12 15.261 to 15.275 of the Michigan Compiled Laws 1976 PA 267, MCL
13 15.261 TO 15.275.

14 (5) Subject to the requirements of this act, the board has 15 the sole authority to determine <u>the amount of the loan</u>, the rate 16 or rates of interest on the loan, and any other condition related 17 to the loan including, but not limited to, requiring that the 18 proceeds of the loan be used for specified purposes. ALL OF THE 19 FOLLOWING:

20 (A) THE AMOUNT OF A LOAN.

21 (B) THE RATE OR RATES OF INTEREST ON A LOAN.

(C) ANY OTHER CONDITION RELATED TO A LOAN INCLUDING, BUT NOT
23 LIMITED TO, REQUIRING THAT THE PROCEEDS OF A LOAN BE USED FOR
24 SPECIFIED PURPOSES.

25 (6) The department of treasury shall provide staff services
26 to the board for purposes of carrying TO CARRY out this act.

03644'97 *

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(7) A MUNICIPALITY MAY DO 1 OR MORE OF THE FOLLOWING:

2 (A) BORROW MONEY UNDER THIS ACT.

3 (B) ENTER INTO A LOAN AGREEMENT WITH THE BOARD.

4 (C) ISSUE ITS NOTES EVIDENCING THE LOAN.

5 (D) ASSIGN AND CONVEY ANY REVENUES ALLOCATED TO IT FOR6 REPAYMENT OF THE LOAN.

7 (E) TAKE ANY OTHER ACTION NECESSARY TO RECEIVE, SECURE, OR8 REPAY A LOAN UNDER THIS ACT.

9 Sec. 3. (1) Except as provided in subsection (2), the board 10 shall not authorize loans under this act to municipalities 11 -which THAT total an amount greater than \$5,000,000.00 in -any 12 1- A STATE fiscal year. -of the state.

13 (2) THE BOARD MAY AUTHORIZE LOANS UNDER THIS ACT TO A COUNTY14 WITHIN THE FOLLOWING LIMITATIONS:

15 (A) (2) In the 1987-88 1997-98 state fiscal year, the 16 board may authorize loans under this act to a county with a popu-17 lation greater than 1,500,000 in an amount not greater than 18 \$120,000,000.00.

(B) FOR A STATE FISCAL YEAR IN WHICH THE BLOCK GRANT APPROPRIATED TO A COUNTY WITH A POPULATION OF MORE THAN 1,500,000 THAT
IS ORGANIZED UNDER 1966 PA 293, MCL 45.501 TO 45.521, AND THAT IS
A COUNTY JUVENILE AGENCY AS DEFINED IN SECTION 2 OF THE COUNTY
JUVENILE AGENCY ACT IS LESS THAN THE AMOUNT REQUIRED TO BE DISTRIBUTED TO THAT COUNTY IN THAT YEAR UNDER THE SOCIAL WELFARE
ACT, 1939 PA 280, MCL 400.1 TO 400.119B, THE BOARD MAY AUTHORIZE
A LOAN TO THAT COUNTY IN AN AMOUNT NOT GREATER THAN THE
DIFFERENCE BETWEEN THE AMOUNT OF THE BLOCK GRANT AND THE AMOUNT

03644'97 *

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1 REQUIRED TO BE DISTRIBUTED TO THAT COUNTY FOR THAT FISCAL YEAR 2 UNDER THE SOCIAL WELFARE ACT, 1939 PA 280, MCL 400.1 TO **3** 400.119B. THE BOARD IS NOT REQUIRED TO AUTHORIZE LOANS UNDER 4 THIS SUBDIVISION TO A COUNTY FOR MORE THAN 1 STATE FISCAL YEAR. (3) IF IN A STATE FISCAL YEAR THE BLOCK GRANT APPROPRIATED 5 6 TO A COUNTY WITH A POPULATION OF LESS THAN 1,500,000 THAT IS A 7 COUNTY JUVENILE AGENCY AS DEFINED IN SECTION 2 OF THE COUNTY 8 JUVENILE AGENCY ACT IS LESS THAN THE AMOUNT REQUIRED TO BE DIS-9 TRIBUTED TO THAT COUNTY IN THAT YEAR UNDER THE SOCIAL WELFARE 10 ACT, 1939 PA 280, MCL 400.1 TO 400.119B, THE BOARD MAY AUTHORIZE 11 A LOAN TO THAT COUNTY IN AN AMOUNT NOT GREATER THAN THE DIFFER-12 ENCE BETWEEN THE AMOUNT OF THE BLOCK GRANT AND THE AMOUNT 13 REQUIRED TO BE DISTRIBUTED TO THAT COUNTY UNDER THE SOCIAL WEL-14 FARE ACT, 1939 PA 280, MCL 400.1 TO 400.119B, IN THAT STATE 15 FISCAL YEAR.

16 (4) SECTIONS 6(2), 7, AND 8 AND THE CONDITIONS LISTED IN 17 SECTION 4(1) DO NOT APPLY TO A LOAN AUTHORIZED UNDER SUBSECTIONS 18 (2) OR (3).

19 (5) (3) Revenue for loans made pursuant to UNDER this
20 act shall be provided from the surplus funds of this state
21 pursuant to UNDER authorization granted under section 1 of Act
22 No. 105 of the Public Acts of 1855, being section 21.141 of the
23 Michigan Compiled Laws 1855 PA 105, MCL 21.141.

Sec. 4. (1) If the governing body of a municipality desires to request a loan, it shall provide by resolution for the submisfor a loan made pursuant to UNDER this act. The municipality shall certify and substantiate

03644'97 *

1 all of the following information and conditions to be eligible 2 for consideration for a loan authorization by the board:

3 (a) A deficit for the municipality's general fund is4 projected for the current fiscal year.

(b) The municipality has applied to the department of trea-5 6 sury, within a period of not more than 6 months before its appli-7 cation for a loan under this act, for permission to issue tax 8 anticipation notes or revenue sharing anticipation notes 9 pursuant to UNDER the municipal finance act, Act No. 202 of 10 the Public Acts of 1943, as amended, being sections 131.1 to 11 139.3 of the Michigan Compiled Laws 1943 PA 202, MCL 131.1 TO 12 139.3, and the department of treasury has acted upon the This subdivision shall be considered to have been **13** application. 14 complied with if, pursuant to section 11 of chapter III of -Act 15 No. 202 of the Public Acts of 1943, being section 133.11 of the 16 Michigan Compiled Laws THE MUNICIPAL FINANCE ACT, 1943 PA 202, 17 MCL 131.11, the municipality, within a period of not more than 6 18 months before its application for a loan under this act, has 19 filed for an exception from prior approval for the issuance of 20 tax anticipation notes or revenue sharing anticipation notes and 21 has been eligible to issue -such THOSE notes without the prior 22 approval of the department of treasury.

23 (c) The municipality meets 1 or more of the following24 conditions:

(i) Its income tax revenue growth rate is .90 or less.
(ii) Its local tax base growth rate is 75% or less of the
27 statewide tax base growth rate.

03644'97 *

(*iii*) The state equalized valuation of real and personal
 property within the municipality at the time the loan application
 is made is less than the state equalized valuation of real and
 personal property within the municipality in the immediately pre ceding year.

6 (d) The municipality submits a long-range plan, that has
7 been approved by the governing body of the municipality, outlin8 ing actions to be taken to balance future expenditures with
9 anticipated revenues.

10 (2) If the board determines it necessary, the board may
11 inspect, copy, or audit the books and records of a municipality.
12 (3) SUBSECTION (1) DOES NOT APPLY TO A LOAN AUTHORIZED UNDER
13 SECTION 3(2) OR (3).

Sec. 6. (1) A loan made under this act shall bear an annual rate or rates of interest, if any, as established by the board pursuant to section 2(4) UNDER SECTION 2(5). The board may restablish interest for a loan under this act either at a rate or rates that are fixed for the term of the loan or, if the formula rates that are fixed for the term of the loan is made or renegotiated as authorized in section 2, at a rate calculated upon a formula that varies the rate annually. If the interest rate for a loan under this act is a single fixed rate, the annual rate of interest for the term of a loan shall not exceed the average rate of interest earned at the time the loan is approved by the board for the investment of surplus funds, other than those surplus funds invested under this act and section 1 of Act No. 105 of

03644'97 *

1 the Public Acts of 1855, being section 21.141 of the Michigan
2 Compiled Laws 1855 PA 105, MCL 21.141.

3 (2) Interest payments shall become ARE due and payable **4** annually, beginning 1 year after the loan is issued to the 5 municipality. Notes of indebtedness executed to the state by a 6 municipality for a loan made under this act shall not require 7 payment of principal until 10 years after the loan is issued to 8 the municipality. Repayment of the principal shall be made in 9 not less than 10 equal annual installments, except as provided in 10 subsection (5). This subsection, -and SECTIONS 7 AND 8, AND THE **11** CONDITIONS LISTED IN section -4(1)(b) and (c) 4(1) do not apply 12 to a loan authorized by UNDER section 3(2) OR (3). Unless 13 waived by the board or unless reports and information are 14 required by an order of the board to be submitted on a reasonable 15 date or schedule different than required by section 7, the 16 requirements of section 7 shall apply to a loan authorized by **17** section 3(2).

18 (3) The loan agreement between the board and a county on 19 FOR a loan authorized by UNDER section 3(2) OR (3) shall estab-20 lish the schedule for payment of the principal of and interest on 21 the loan, the nature of the obligation of the county to repay a 22 loan made under this act, and any security for that loan. 23 Payments of principal AND INTEREST for a loan authorized by sec-24 tion 3(2) may SHALL be limited by the board, at its 25 discretion, to revenues allocated to the county under Act 26 No. 264 of the Public Acts of 1987, being sections 141.471 to 27 141.479 of the Michigan Compiled Laws THE HEALTH AND SAFETY FUND

03644'97 *

1 ACT, 1987 PA 264, MCL 141.471 TO 141.479, minus those revenues
2 authorized by the board in the loan agreement for use in the pay3 ment of other county obligations. The loan agreement shall pro4 vide that the county shall pay 10% annual interest on the loan
5 except that the interest is waived in each year that the county
6 meets and the state administrative board, created under Act No. 2
7 of the Public Acts of 1921, being sections 17.1 to 17.3 of the
8 Michigan Compiled Laws, certifies that the county has met all of
9 the following conditions:

10 (a) The county establishes and operates a patient care man-11 agement system as provided in section 66j of the social welfare 12 act, Act No. 280 of the Public Acts of 1939, being section 13 400.66j of the Michigan Compiled Laws.

14 (b) The county complies with the local government fiscal
15 responsibility act, Act No. 101 of the Public Acts of 1988, being
16 sections 141.1101 to 141.1118 of the Michigan Compiled Laws.

17 (c) If a county official is appointed to the council on 18 intergovernmental relations created under chapter 8 of the legis-19 lative council act, Act No. 268 of the Public Acts of 1986, being 20 sections 4.1801 to 4.1807 of the Michigan Compiled Laws, the 21 appointed county official participates in the council on inter-22 governmental relations.

23 (d) The county meets scheduled payments to reduce the
 24 county's accumulated debt to all parties other than the state.
 25 (e) The county maintains a balanced operating budget.

26 (f) The county contributes the county's 10% share and makes
27 appropriate payment to the state for community mental health

03644'97 *

services as provided in the mental health code, Act No. 258 of
 the Public Acts of 1974, being sections 330.1001 to 330.2106 of
 the Michigan Compiled Laws.

4 (g) The county complies with the terms and conditions of the
5 loan agreement for the loan authorized by section 3(2).

6 (4) Unless other state appropriations to a municipality are
7 pledged or assigned in an amount sufficient for the municipality
8 to make a required principal or interest payment, if the
9 municipality's payment of required principal or interest is
10 delinquent, the state treasurer shall withhold the amount of all
11 delinquent payments that are due on a loan issued under this act
12 from state payments to the municipality under the state revenue
13 sharing act of 1971, Act No. 140 of the Public Acts of 1971, as
14 amended, being sections 141.901 to 141.921 of the Michigan
15 Compiled Laws 1971 PA 140, MCL 141.901 TO 141.921.

16 (5) Notwithstanding the payment schedules and methods estab-17 lished by this section or by the terms of a loan agreement, a 18 municipality may initiate repayment of all or part of a loan made 19 under this act at an earlier date or may make repayment in fewer 20 installment payments, or both. The board shall not condition 21 either eligibility for consideration for a loan or the grant of a 22 loan under this act on repayment schedules and terms other than 23 those required by subsections (1), (2), -3- (3), and (4). In 24 addition, failure of a municipality to make repayments under 25 terms or a schedule it has instituted under this subsection does 26 not disqualify the municipality from eligibility for 27 consideration for loans in subsequent fiscal years.

03644'97 *

(6) A loan issued under this act shall be a general
 obligation of the municipality except that the principal of a
 loan issued under section 3(2) may be repaid SHALL NOT BE A
 GENERAL OBLIGATION OF THE MUNICIPALITY AND SHALL BE REPAID SOLELY
 from specific revenues if authorized by the board and then only
 the interest obligation is required to be a general obligation of
 the county PLEDGED FOR REPAYMENT OF THE LOAN.

8 Sec. 7. (1) A municipality which THAT receives a loan
9 pursuant to UNDER this act shall perform all of the following:
10 (a) Employ a full-time professional administrator to direct
11 or participate directly in the management of the municipality's
12 operations until otherwise ordered by the board.

(b) Not more than 6 months after receiving a loan and semi14 annually after that date for the period the loan is outstanding,
15 submit to the board an evaluation of the performance of the
16 municipality against the long-range plan submitted under section
17 4(1).

18 (c) Submit all of the following to the board on a quarterly 19 basis:

20 (i) A statement of actual revenues received in the last21 quarter and in the current fiscal year to date.

(*ii*) A statement of total revenues estimated to be received23 by the municipality in the current fiscal year.

24 (*iii*) A statement of expenditures made and encumbrances
25 entered into by the municipality in the last quarter and in the
26 current fiscal year to date.

03644'97 *

(*iv*) A statement of revenues which had been THAT WERE
 estimated to be received and expenditures which had been THAT
 WERE estimated to be made during the current 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 have exceeded EXCEED the total estimated revenues for the cur8 rent fiscal year and for the last quarter, respectively.

9 (d) Submit the general appropriations act of the municipali10 ty, and any amendments to that act, adopted pursuant to UNDER
11 the uniform budgeting and accounting act, Act No. 2 of the
12 Public Acts of 1968, as amended, being sections 141.421 to
13 141.440a of the Michigan Compiled Laws 1968 PA 2, MCL 141.421 TO
14 141.440A, or any equivalent report as may be required by the
15 board if the municipality is not required to adopt a general
16 appropriations act.

17 (e) Submit any budget change in the current fiscal year or
18 any amendment to <u>its</u> THE general appropriations act OF THE
19 MUNICIPALITY for the current fiscal year to the board before
20 adoption.

(f) Submit any budget for the ensuing fiscal year or its
THE general appropriations act OF THE MUNICIPALITY for the ensuing fiscal year to the board before adoption.

(g) Certify that the municipality has fully complied with
all statutory requirements concerning use of the uniform chart of
accounts and audits.

03644'97 *

(2) As used in this section, "expenditure" and "revenue"
 mean those terms as defined in Act No. 2 of the Public Acts of
 1968, as amended SECTIONS 2C AND 2D OF THE UNIFORM BUDGETING AND
 ACCOUNTING ACT, 1968 PA 2, MCL 141.422C AND 141.422D.

5 (3) SUBSECTION (1) DOES NOT APPLY TO A LOAN AUTHORIZED UNDER
6 SECTION 3(2) OR (3).

7 Sec. 8. (1) In addition to the requirements of section 4,
8 to be eligible for consideration for a fiscal year loan under
9 this act after having qualified for and received the first or any
10 subsequent fiscal year loan under this act, a municipality shall
11 satisfy all of the following requirements:

12 (a) Fulfilled the requirements of section 7.

(b) Submitted a progress report to the board detailing the steps which THAT have been taken to achieve the long-range plan submitted pursuant to section 4(1) and the management measures which THAT have been taken to improve fiscal management of the municipality.

18 (c) Satisfy the board that reasonable progress has been made 19 to resolve any federal discrimination suit pending against the 20 municipality.

21 (2) SUBSECTION (1) DOES NOT APPLY TO A LOAN AUTHORIZED UNDER
22 SECTION 3(2) OR (3).

Enacting section 1. This amendatory act does not take
effect unless the United States department of health and human
services grants part 3 of the family independence agency's waiver
filed under the child welfare demonstration project to permit a
transfer of title IV-E funding from the state to 1 or more

03644'97 *

1 affected counties and the family independence agency files with 2 the secretary of state a certification that the necessary waiver 3 was granted. Enacting section 2. This amendatory act does not take 4 5 effect unless all of the following bills of the 89th Legislature 6 are enacted into law: (a) Senate Bill No. _____ or House Bill No. _____ (request 7 8 no. 03597'97 *). (b) Senate Bill No. _____ or House Bill No. _____ (request 9 **10** no. 03598'97 *). 11 (c) Senate Bill No. _____ or House Bill No. _____ (request **12** no. 03598'97 a *). (d) Senate Bill No. _____ or House Bill No. _____ (request 13 **14** no. 03598'97 b *). (e) Senate Bill No. _____ or House Bill No. _____ (request 15 **16** no. 03599'97 *). (f) Senate Bill No. _____ or House Bill No. _____ (request 17 **18** no. 03917'97 *).

16

03644'97 *

Final page.

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