

# Senate Bill 1502

Sponsored by Senators COURTNEY, GIROD; Senators BEYER, KNOPP, ROBLAN (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes Agricultural Cooperative Member Low-Interest Loan Fund. Continuously appropriates moneys in fund to State Department of Agriculture for carrying out loan program.

Appropriates moneys from General Fund to State Department of Agriculture for deposit in Agricultural Cooperative Member Low-Interest Loan Fund for biennium ending June 30, 2021.

Authorizes State Department of Agriculture to make loans from fund to farmers that were members of agricultural cooperative on date that cooperative initiated bankruptcy proceedings. Specifies terms of loans.

Authorizes State Department of Agriculture to delegate application processing and loan servicing to lending institutions.

Makes loan program operative January 1, 2021.

Sunsetts loan program and abolishes Agricultural Cooperative Member Low-Interest Loan Fund January 2, 2040.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

Relating to assistance for members of agricultural cooperative; and prescribing an effective date.

**Be It Enacted by the People of the State of Oregon:**

### **SECTION 1. As used in sections 1 to 12 of this 2020 Act:**

(1) **"High viability crop"** means a crop having a sustainable market demand that is greater than the market demand that existed for the crop produced by a repositioning farmer on the date in 2019 that an agricultural cooperative described in subsection (3) of this section initiated bankruptcy proceedings.

(2) **"Lending institution"** means a bank, mortgage banking company, trust company, savings bank, credit union, national banking association, federal savings and loan association, federal credit union maintaining an office in this state, nonprofit community development financial institution or nonprofit public benefit corporation.

(3) **"Repositioning farmer"** means a person that was a member of an agricultural cooperative doing business in Oregon on the date in 2019 that the cooperative initiated bankruptcy proceedings.

**SECTION 2. The Legislative Assembly declares that the purpose of sections 1 to 12 of this 2020 Act is to make low-interest loans available to help repositioning farmers in this state transition to the production of a high viability crop.**

**SECTION 3. (1) The Agricultural Cooperative Member Low-Interest Loan Fund is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Agricultural Cooperative Member Low-Interest Loan Fund shall be credited to the fund. Moneys in the fund are continuously appropriated to the State Department of Agriculture for carrying out sections 1 to 12 of this 2020 Act.**

(2) **Moneys in the fund may, with the approval of the State Treasurer, be invested as provided by ORS 293.701 to 293.857, and the earnings from such investment shall be credited**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 to the fund.

2 **SECTION 4.** There is appropriated to the State Department of Agriculture, for the  
3 biennium ending June 30, 2021, out of the General Fund, the amount of \$\_\_\_\_\_ for  
4 deposit in the Agricultural Cooperative Member Low-Interest Loan Fund.

5 **SECTION 5.** (1) The State Department of Agriculture may, in the name and on behalf of  
6 the state, make a loan from the Agricultural Cooperative Member Low-Interest Loan Fund  
7 to a repositioning farmer for the purpose of helping the repositioning farmer to transition  
8 to the production of a high viability crop. The department may issue loans from the fund  
9 directly or through a lending institution.

10 (2) The total amount of loans to a single repositioning farmer from the fund may not  
11 exceed \$\_\_\_\_\_. The maximum term allowed for a loan issued from the fund is  
12 \_\_\_\_\_ years.

13 (3) Except as provided in this subsection, a loan from the fund must be secured by assets  
14 of the borrower that have a security value of at least 100 percent of the loan amount. If the  
15 assets of the borrower do not provide adequate security, the department may accept:

16 (a) A pledge of security from a third party; or

17 (b) Intangible property interests of the borrower, such as leases that provide a  
18 mortgageable value, water rights, easements, mineral rights or royalties.

19 (4) The department may not make or approve a loan from the fund after December 31,  
20 2025.

21 **SECTION 6.** (1) The State Department of Agriculture may enter into an agreement with  
22 a lending institution under which the lending institution:

23 (a) Receives and reviews applications for loans from the Agricultural Cooperative Mem-  
24 ber Low-Interest Loan Fund; or

25 (b) Processes or services loans from the fund.

26 (2) Contracts entered into under this section are exempt from the requirements of ORS  
27 279.835 to 279.855 and ORS chapters 279A, 279B and 279C regarding personal services con-  
28 tracts.

29 (3) An agreement under this section must:

30 (a) Require the lending institution to disburse to an approved borrower moneys for-  
31 warded by the department for a borrower's loan;

32 (b) Require that the lending institution pay to the department any moneys collected by  
33 the lending institution as payments on principal and interest for the loan; and

34 (c) State the compensation to be paid to the lending institution for services under the  
35 agreement.

36 **SECTION 7.** (1) If a lending institution described in section 6 of this 2020 Act receives  
37 and reviews a loan application, the lending institution shall provide the State Department  
38 of Agriculture with a recommendation regarding whether the loan application should be ap-  
39 proved or disapproved. The department shall retain authority to approve or disapprove a loan  
40 application. If the department disapproves a loan application, the department shall:

41 (a) Notify the lending institution and the loan applicant; and

42 (b) State one or more reasons for the disapproval.

43 (2) If a lending institution recommends disapproval of a loan application, the department  
44 may decide to make the loan under section 8 of this 2020 Act.

45 (3) If the department approves a loan application, the department shall transfer an

1 amount equal to the approved loan from the Agricultural Cooperative Member Low-Interest  
2 Loan Fund to the lending institution.

3 (4) The department shall cause moneys that a lending institution collects and pays to the  
4 department under section 6 (3) of this 2020 Act, or that the department receives or recovers  
5 under section 9 (3) of this 2020 Act, to be deposited to the credit of the General Fund.

6 **SECTION 8.** (1) If the State Department of Agriculture receives a loan application and  
7 decides not to make the loan, the department shall:

8 (a) Notify the loan applicant; and

9 (b) State one or more reasons for deciding not to make the loan.

10 (2) If the department receives a loan application and decides to make the loan, the de-  
11 partment shall transfer an amount equal to the approved loan from the Agricultural Coop-  
12 erative Member Low-Interest Loan Fund to the borrower.

13 (3) The department shall cause moneys collected by the department as payments on  
14 principal and interest for a loan, or that the department receives or recovers under section  
15 9 (3) of this 2020 Act, to be deposited to the credit of the General Fund.

16 **SECTION 9.** (1) The borrower of a loan funded by moneys from the Agricultural Cooper-  
17 ative Member Low-Interest Loan Fund shall use the loan proceeds only for the purpose of  
18 transitioning to the production of a high viability crop on the repositioning farmer's existing  
19 farm.

20 (2) Receipt of a loan from the fund does not disqualify the borrower from participating  
21 in any other loan program funded with state moneys.

22 (3) If the State Department of Agriculture determines that a borrower has violated sub-  
23 section (1) of this section, the department may:

24 (a) Declare that the borrower is in default and immediately require repayment to the  
25 department of the unpaid balance of the loan; and

26 (b) Commence any action or proceeding necessary to recover for the state the unpaid  
27 balance of the loan or any property obtained with the loan moneys.

28 **SECTION 10.** The State Department of Agriculture may adopt rules to periodically pre-  
29 scribe the interest rate for loans from the Agricultural Cooperative Member Low-Interest  
30 Loan Fund, taking into consideration the solvency of the loan program and the interest rates  
31 in effect for farm-related loans made or guaranteed by the federal government. The depart-  
32 ment may, in its discretion, limit the application of a new interest rate to loans made on or  
33 after the date on which the new interest rate is adopted.

34 **SECTION 11.** A right, payment or proceed of a loan from the Agricultural Cooperative  
35 Member Low-Interest Loan Fund:

36 (1) Is not subject to garnishment, attachment or execution or the claim of any creditor;  
37 and

38 (2) May be assigned only as provided by State Department of Agriculture rules.

39 **SECTION 12.** (1) The Legislative Assembly declares that it is the policy of the State of  
40 Oregon to make a reasonable attempt not to foreclose on a loan from the Agricultural Co-  
41 operative Member Low-Interest Loan Fund if the borrower is unable to make loan payments  
42 due to illness, injury, death or involuntary job loss, or due to economic stress resulting from  
43 factors beyond the borrower's control.

44 (2) The State Department of Agriculture may adopt rules to implement the policy de-  
45 clared in subsection (1) of this section. After considering effects on the solvency of the loan

1 **program, the department may authorize:**

2 (a) **A temporary reduction of loan payments; or**

3 (b) **Another solution agreed to by the borrower and the department.**

4 **SECTION 13. (1) Sections 1 to 12 of this 2020 Act become operative on January 1, 2021.**

5 (2) **The State Department of Agriculture may adopt rules or take any actions before the**  
6 **operative date specified in subsection (1) of this section that are necessary to enable to de-**  
7 **partment, on and after the operative date specified in subsection (1) of this section, to carry**  
8 **out the provisions of sections 1 to 12 of this 2020 Act.**

9 **SECTION 14. (1) Sections 1 to 12 of this 2020 Act are repealed on January 2, 2040.**

10 (2) **Any moneys in the Agricultural Cooperative Member Low-Interest Loan Fund that**  
11 **are unexpended and unobligated on January 2, 2040, revert to the General Fund.**

12 **SECTION 15. This 2020 Act takes effect on the 91st day after the date on which the 2020**  
13 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

14