

1 AN ACT concerning agriculture.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the
5 Illinois Agriculture Infrastructure Development Act of 2001.

6 Section 5. Definitions. In this Act:

7 "Advisory Board" or "board" means the Department of
8 Agriculture's Infrastructure Development Advisory Board for
9 Agriculture.

10 "Agribusiness" means any sole proprietorship, limited
11 partnership, co-partnership, joint venture, corporation, or
12 cooperative that operates or will operate a facility located
13 within the State of Illinois that is related to the
14 processing of agricultural commodities (including, but not
15 limited to, the products of aquaculture, hydroponics, and
16 silviculture) or the manufacturing, production, or
17 construction of agricultural buildings, structures,
18 equipment, implements, and supplies, or any other facilities
19 or processes used in agricultural production. "Agribusiness"
20 includes but is not limited to the following:

21 (1) grain handling and processing, including grain
22 storage, drying, treatment, conditioning, milling, and
23 packaging;

24 (2) seed and feed grain development and processing;

25 (3) fruit and vegetable processing, including
26 preparation, canning, and packaging;

27 (4) processing of livestock and livestock products,
28 dairy products, poultry and poultry products, fish or
29 apiarian products, including slaughter, shearing,
30 collecting, preparation, canning, and packaging;

31 (5) fertilizer and agricultural chemical

1 manufacturing, processing, application and supplying;

2 (6) farm machinery, equipment, and implement
3 manufacturing and supplying;

4 (7) manufacturing and supplying of agricultural
5 commodity processing machinery and equipment, including
6 machinery and equipment used in slaughter, treatment,
7 handling, collecting, preparation, canning, or packaging
8 of agricultural commodities;

9 (8) farm building and farm structure manufacturing,
10 construction, and supplying;

11 (9) construction, manufacturing, implementation,
12 supplying, or servicing of irrigation, drainage, and soil
13 and water conservation devices or equipment;

14 (10) fuel processing and development facilities
15 that produce fuel from agricultural commodities or
16 by-products;

17 (11) facilities and equipment for processing and
18 packaging agricultural commodities specifically for
19 export;

20 (12) facilities and equipment for forestry product
21 processing and supplying, including sawmilling
22 operations, wood chip operations, timber harvesting
23 operations, and manufacturing of prefabricated buildings,
24 paper, furniture, or other goods from forestry products;
25 and

26 (13) facilities and equipment for research and
27 development of products, processes, and equipment for the
28 production, processing, preparation, or packaging of
29 agricultural commodities and by-products.

30 "Agricultural facility" means land, any building or other
31 improvement on or to land, and any personal properties deemed
32 necessary or suitable for use, whether or not now in
33 existence, in farming, ranching, the production of
34 agricultural commodities (including, but not limited to, the

1 products of aquaculture, hydroponics, and silviculture) or
2 the treating, processing, or storing of agricultural
3 commodities when the activities are customarily engaged in by
4 farmers as a part of farming or as part of the Illinois
5 value-added agricultural enhancement program.

6 "Agricultural land" means land suitable for agriculture
7 production.

8 "Asset" includes, but is not limited to, the following:
9 cash crops or feed on hand; livestock held for sale; breeding
10 stock; marketable bonds and securities; securities not
11 readily marketable; accounts receivable; notes receivable;
12 cash invested in growing crops; net cash value of life
13 insurance; machinery and equipment; cars and trucks; farm and
14 other real estate including life estates and personal
15 residence; value of beneficial interest in trusts; government
16 payments or grants; and any other assets.

17 "Department" means the Department of Agriculture.

18 "Director" means the Director of Agriculture.

19 "Fund" means the Illinois Agriculture Infrastructure
20 Development Fund.

21 "Grantee" mean the person or entity to whom a grant is
22 made to from the Fund.

23 "Lender" means any federal or State chartered bank,
24 federal land bank, production credit association, bank for
25 cooperatives, federal or state chartered savings and loan
26 association or building and loan association, small business
27 investment company, or any other institution qualified within
28 this State to originate and service loans, including, but not
29 limited to, insurance companies, credit unions, and mortgage
30 loan companies. "Lender" includes a wholly owned subsidiary
31 of a manufacturer, seller or distributor of goods or services
32 that makes loans to businesses or individuals, commonly known
33 as a "captive finance company".

34 "Liability" includes, but is not limited to, the

1 following: accounts payable; notes or other indebtedness owed
2 to any source; taxes; rent; amounts owed on real estate
3 contracts or real estate mortgages; judgments; accrued
4 interest payable; and any other liability.

5 "Person" means, unless limited to a natural person by the
6 context in which it is used, a person, corporation,
7 association, trust, partnership, limited partnership, joint
8 venture, or cooperative.

9 "State" means the State of Illinois.

10 "Value-added" means the processing, packaging, or
11 otherwise enhancing the value of farm and agricultural
12 products or by-products produced in Illinois.

13 Section 10. Legislative findings.

14 (a) The General Assembly finds that in this State the
15 following conditions exist:

16 (1) There exists an inadequate supply of funds at
17 interest rates sufficiently low to enable persons engaged
18 in agriculture in this State to pursue agricultural or
19 agribusiness operations at present levels.

20 (2) The inability to pursue agricultural operations
21 lessens the supply of agricultural commodities available
22 to fulfill the needs of the citizens of this State.

23 (3) The inability to continue operations decreases
24 available employment in the agricultural sector of the
25 State and results in unemployment and its attendant
26 problems.

27 (4) These conditions prevent the acquisition of an
28 adequate capital stock of farm equipment and machinery,
29 much of which is manufactured in this State, therefore
30 impairing the productivity of agricultural land and
31 causing unemployment or lack of appropriate increase in
32 employment in that manufacturing.

33 (5) These conditions are conducive to consolidation

1 of acreage of agricultural land with fewer individuals
2 living and farming on the traditional family farm.

3 (6) These conditions result in a loss in
4 population, unemployment, and movement of persons from
5 rural to urban areas accompanied by added costs to
6 communities for creation of new public facilities and
7 services.

8 (7) There have been recurrent shortages of funds
9 from private market sources at reasonable rates of
10 interest.

11 (8) The ordinary operations of private enterprise
12 have not in the past corrected these conditions.

13 (9) There is a need for value-added products and
14 processing in this State.

15 (10) A stable supply of adequate funds for
16 agricultural financing is required to encourage family
17 farmers and agribusiness in an orderly and sustained
18 manner and to reduce the problems described in this
19 Section.

20 (b) The General Assembly determines and declares that
21 there exist conditions in the State that require the
22 Department to issue grants on behalf of the State for the
23 acquisition and development of agricultural facilities and
24 value-added products and processing.

25 Section 15. Infrastructure Development Advisory Board
26 for Agriculture; grant requirements.

27 (a) The Infrastructure Development Advisory Board for
28 Agriculture is created in the Department of Agriculture. The
29 Advisory Board consists of 7 members, no more than 4 of whom
30 may be of the same political party, appointed by the
31 Governor. One Advisory Board member must represent each of
32 the following: the banking and lending industry, the economic
33 development industry, the agribusiness industry, and the

1 manufacturing industry. Three members must be involved in
2 production agriculture. All members must be residence of the
3 State.

4 In making the first appointments, the Governor must
5 designate 2 members to serve until the third Monday in
6 January, 2002, 2 members to serve until the third Monday in
7 January, 2003, 2 members to serve until the third Monday in
8 January, 2004, and one member to serve until the third Monday
9 in January, 2005, or until their successors are appointed and
10 qualified. The successors shall be appointed to serve 4-year
11 terms expiring on the third Monday in January or until their
12 successors are appointed and qualified. Any vacancy occurring
13 in the Board whether by death, resignation, or otherwise
14 shall be filled by appointment by the Governor in the same
15 manner as original appointments. A member appointed to fill a
16 vacancy shall serve for the remainder of the unexpired term
17 or until his successor is qualified.

18 (b) The Director or his or her designee shall serve as
19 chairman of the Advisory Board. Meetings of the Board will be
20 called by the chair. Notice of special meetings shall be
21 given to members of the Board as provided by law. Members may
22 waive notice and do so without further action by being
23 present at any meeting. Meetings of the Board are subject to
24 the Open Meetings Act. Members of the Board may participate,
25 and shall be counted for a quorum, in all meetings via
26 electronic means including telephone conference calls or
27 video conferencing.

28 (c) Four members of the Advisory Board and the chairman
29 shall constitute a quorum at any meeting. No vacancy in the
30 membership of the Board shall impair the right of a quorum to
31 exercise all the rights and perform all the duties of the
32 Advisory Board. The members of the Board shall serve without
33 compensation, but each member shall be reimbursed for his or
34 her necessary expenses incurred in the discharge of his or

1 her duties as a member of the Advisory Board.

2 (d) The Advisory Board shall review grant requests for
3 the Agriculture Infrastructure Development Grant Program that
4 are submitted to the Department and must advise the Director
5 on whether the project should receive all or part of the
6 funding request. The Board may request additional details and
7 information on all grant submissions prior to making any
8 recommendations to the Director. The Advisory Board, in
9 reviewing the applications, must consider, but is not limited
10 to considering the following criteria:

11 (1) The project has a reasonable assurance of
12 enhancing the value of agricultural products or will
13 expand agribusiness in Illinois.

14 (2) Preliminary market and feasibility research has
15 been conducted by the applicant or others and there is a
16 reasonable assurance of a potential market.

17 (3) The applicant has demonstrated the ability to
18 manage the business or commercialize the idea.

19 (4) There is favorable community support for the
20 project.

21 (5) There are favorable recommendations from local
22 economic development groups, university-based technical
23 specialists, or other qualified service providers.

24 (6) The applicant demonstrates a personal
25 commitment and a commercialization development plan.

26 (7) There is an adequate and realistic budget
27 projection.

28 (8) The application meets the eligibility
29 requirements and the project costs are eligible under
30 this Act.

31 (9) The applicant has established a need for the
32 grant.

33 (10) The economic impact of the project on the
34 state's agriculture and agribusiness sector.

1 (e) No grant may be made by the Director without a
 2 review and recommendation of the Advisory Board. The Director
 3 may include the Advisory Board's recommendations for a grant
 4 or to impose additional or lesser requirements for the grant.
 5 Preference for grants shall be given to, but is not limited
 6 to, the following:

7 (1) Proposals for industrial and nonfood production
 8 processes using Illinois agricultural products.

9 (2) Proposals for food, feed, and fiber products
 10 that use Illinois agricultural products and add to the
 11 value of Illinois agricultural products.

12 (3) Research proposals that have not been
 13 duplicated by other research efforts.

14 (4) Proposals that demonstrate that the applicant
 15 has invested his or her own funds, time, and or other
 16 valued consideration in the project.

17 (5) Proposals that are reasonably expected to
 18 result in a viable commercial application.

19 (6) Proposals that have a positive economic impact
 20 on the State's agriculture and agribusiness sector.

21 Section 20. Conflict of interest. No member of the
 22 Advisory Board may be employed by, hold any official relation
 23 to, or have any financial interest in (i) any corporation or
 24 entity receiving guarantees, advances, or grants under this
 25 Act or (ii) to any agricultural facility financed or assisted
 26 under this Act. No moneys of the Department may be deposited
 27 in any financial institution in which any officer, director,
 28 or holder of a substantial proprietary interest is also a
 29 member of the Board. No real estate to which a member of the
 30 Board holds legal title or in which that person has any
 31 beneficial interest, including any interest in a land trust,
 32 may be purchased or financed under this Act. In the event it
 33 is later disclosed that the applicant purchased real estate

1 in which a member had an interest, the purchase is void and
2 the member involved shall be disqualified from membership on
3 the Advisory Board.

4 Section 25. Report. The Director must file with the
5 Governor, the State Treasurer, the Secretary of the Senate,
6 and the Clerk of the House of Representatives, by March 1 of
7 each year, a written report covering the activities of the
8 Department for the previous calendar year. The report is a
9 public record and must be available for inspection at the
10 offices of the Department during normal business hours. The
11 report must include a complete list of (i) all applications
12 for grants under the Agriculture Infrastructure Development
13 Grant Program during the calendar year; (ii) all persons that
14 have received any form of financial assistance from the
15 Department during the calendar year; and (iii) the nature and
16 amount of all financial assistance.

17 Section 30. Powers of the Department. The Department
18 has the following powers, together with all powers incidental
19 to or necessary for the discharge of those powers:

20 (1) To grant its moneys to one or more persons to
21 be used by those persons to pay the costs of acquiring,
22 constructing, reconstructing, or improving agricultural
23 facilities. Grants must be on any terms and conditions
24 that the Department determines.

25 (2) To grant its moneys to any agribusiness which
26 operates or will operate a facility located in Illinois
27 for the purposes of adding value to Illinois agricultural
28 commodities. Grants must be on any terms and conditions
29 as the Department requires.

30 (3) To contract with lenders or others for the
31 origination of or the servicing of the grants made by the
32 Department.

1 (4) To receive and accept, from any source, aid or
2 contributions of money, property, labor, or other items
3 of value for furtherance of any of its purposes, subject
4 to any conditions not inconsistent with this Act or the
5 laws of this State pertaining to the contributions,
6 including, but not limited to, gifts, guarantees, or
7 grants from any department, agency, or instrumentality of
8 the United States of America.

9 (5) To collect any fees and charges in connection
10 with its grants, advances, servicing, and other
11 activities that it determines.

12 (6) To appoint, employ, contract with, and provide
13 for the compensation of any employees and agents,
14 including, but not limited to, engineers, attorneys,
15 management consultants, fiscal advisers, and
16 agricultural, silvicultural, and aquacultural experts,
17 that business of the Department requires. No Advisory
18 Board member or member of his or her firm, business,
19 partnership, or corporation shall be employed or
20 compensated by the Department.

21 (7) To make, enter into, and execute any contracts,
22 agreements, and other instruments with any person,
23 including but not limited to, any federal, State, or
24 local governmental agency and to take any other actions
25 that may be necessary or convenient to accomplish any
26 purpose for which this authority was granted to the
27 Department or to exercise any power expressly granted
28 under this Act.

29 (8) To establish funds for financial surety and
30 escrow accounts.

31 (9) To adopt any necessary rules that are
32 consistent with this Act.

33 Section 35. Liability. The Director, any Department

1 employee, or any authorized person executing grants is not
2 personally liable on the grants and is not subject to any
3 personal liability or accountability by reason of the
4 issuance of the grants.

5 Section 40. Agriculture Infrastructure Development Grant
6 Program.

7 (a) The Department must develop and administer an
8 Agriculture Infrastructure Development Grant Program for the
9 purpose of promoting the value-added processing of Illinois
10 agriculture products and by-products through grants to
11 current and potential processors. Qualifying processing
12 facilities must be located in Illinois and must process,
13 package, or otherwise enhance the value of farm products or
14 by-products produced in Illinois. Grants may be used for the
15 costs of developing, establishing, and operating a
16 value-added processing facility, including, but not limited
17 to, (i) purchasing land, (ii) purchasing, constructing, or
18 refurbishing buildings, (iii) purchasing or refurbishing
19 machinery or equipment, (iv) installation, (v) repairs, (vi)
20 labor, (vii) professional services, and (viii) working
21 capital.

22 The recipient of a grant under this Section must provide
23 a minimum percentage, as determined by the Department, of the
24 total cost of the processing project, with the balance of the
25 project's total cost available from other sources. Other
26 sources include, but are not limited to, commercial and
27 private lenders, leasing companies, and grants. The
28 recipient's match may be in cash, cash-equivalent
29 investments, or bonds, irrevocable letters of credit, or any
30 combination thereof. A grant under this Section may provide
31 (i) up to 75% of the cost for technical assistance to develop
32 a project to enhance the value of agricultural products or to
33 expand agribusiness in Illinois but not to exceed \$25,000,

1 (ii) up to 50% of the cost of undertaking feasibility
2 studies, competitive assessments, and consulting or
3 productivity services that the Department determines may
4 result in the enhancement of value-added agricultural
5 products, and (iii) up to 10% of the project's total capital
6 construction cost not to exceed \$5,000,000. Notwithstanding
7 any other provision of this Section, the grant moneys may not
8 be used for the purpose of compliance with the provisions of
9 the Livestock Management Facilities Act.

10 Grant applications must be made on forms provided by and
11 in accordance with procedures established by the Department.
12 At a minimum, an applicant must be an Illinois resident, as
13 defined by Department rule, and must provide the names,
14 addresses, and occupations of all project owners, the project
15 address, relevant credit and financial information
16 (including, but not limited to, assets and liabilities), and
17 any other information deemed necessary by the Advisory Board
18 or the Department for review of the grant application.

19 (b) All requests for the waiver of any requirements in
20 this Section must be made in writing to the Department. A
21 grant award is subject to modification or alteration under,
22 but is not limited to, the following conditions:

23 (1) The grant award is subject to any modifications
24 that may be required by changes in State law or
25 regulations. Any required modification shall be
26 incorporated into and made a part of the grant as
27 provided in the Illinois Grant Funds Recovery. The
28 Department shall notify the recipient in writing of any
29 amendment to the regulations and the effective date of
30 those amendments.

31 (2) A recipient's request for budget variations in
32 the amount or line item costs shall be in writing by
33 certified mail and shall give justifications for the
34 requested variations. The Department may approve

1 modification requests if the Department determines the
 2 modification is necessary to achieve program objectives.
 3 Any changes in cost categories or line items shall not
 4 alter the activities or deliverables for the project. If
 5 the Department approves the modification request, the
 6 recipient must be notified in writing of the change and
 7 the effective date of the change.

8 (3) If either the Department or the recipient
 9 requests to modify the terms of the grant award other
 10 than as set forth in paragraphs (1) and (2), written
 11 notice of the proposed modification shall be given to the
 12 other party. No modification shall take effect unless
 13 agreed to in writing by both the Department and the
 14 recipient.

15 (c) The Agricultural Infrastructure Development Fund is
 16 created as a special fund within the State treasury.
 17 Appropriations and moneys from any public or private source
 18 may be deposited into the Fund. Amounts in the Fund not
 19 currently needed to meet the obligations of the Fund shall be
 20 invested as permitted by law. All interest earned from those
 21 investments shall be deposited into the Fund, except that 1%
 22 of annual investment earning may be used by the Department
 23 for expenses. Subject to appropriation, the Fund shall be
 24 used to make grants under this Section. Repayments of grants
 25 made under this Section shall be deposited into the Fund.

26 Section 45. Project reporting. The grantee of a funded
 27 project shall submit to the Department periodic reports, as
 28 specified in the grant agreement, outlining progress,
 29 timeline, and budget compliance. Deviations from the
 30 agreement may result in the withholding of further funding or
 31 in a grant default. A final written report, describing the
 32 work performed, results obtained, and economic impact is
 33 required with 30 days after a project is completed. The

1 final report shall also include a financial report of all
2 expenses actually incurred and income generated by the
3 project, if any. Grantees may be required to submit to the
4 Department the following information: employment reports,
5 federal tax returns or financial statements, and other
6 information as requested by the Department where economic or
7 business conditions may be necessary to determine conformance
8 with grant conditions. The Department may require the
9 financial statements be compiled, reviewed, or audited by an
10 independent accountant at the expense of the grantee at any
11 time for 3 years following the completion of the grant.

12 Section 50. Certification. The Department may develop an
13 organic, identity preserved, and or value-added certification
14 processes and programs that guarantees a buyer that the
15 certified Illinois products have traits and qualities that
16 warrant a premium price or an increase in added value. The
17 Department may adopt rules setting certification and
18 licensing standards for persons to certify products under
19 this Section.

20 Section 55. Market access. The Department may (i)
21 identify international and domestic consumer preferences,
22 (ii) identify the new markets those preferences indicate,
23 particularly for value-added products, (iii) identify
24 preserved products, (iv) underwrite demonstrations on foreign
25 soils, and (v) provide market analyses and trend projections
26 to farmers and other interested persons.

27 Section 60. Default or termination of grant agreement.
28 If the recipient of a grant violates any of the terms of the
29 grant agreement, the Department shall send a writing notice
30 to the recipient that he or she is in default and be given
31 the opportunity to correct the violations.

1 (a) If the violation is not corrected within 10 days
2 after receipt of the notification, the Director may take, but
3 is not limited to, one or more of the following actions:

4 (1) Declare due and payable the amount of the grant
5 and cease additional grant payments not yet made to the
6 grantee.

7 (2) Take possession of the facility or project,
8 repair, maintain, operate, sell, lease, or otherwise
9 dispose of the project or facility to another entity.

10 (3) Take any other action considered appropriate to
11 protect the interest of the project.

12 (b) The Department shall determine that a recipient has
13 failed to faithfully perform the terms and conditions of the
14 scope of work of the project when:

15 (1) The Department has notified the recipient in
16 writing of the existence of circumstances such as
17 repeated failure to submit required reports,
18 misapplication of grant funds, failure to match
19 Department funds, evidence of fraud and abuse, repeated
20 failure to meet performance timelines or standards, or
21 failure to resolve negotiated points of the agreement.

22 (2) The recipient fails to develop and implement a
23 corrective action plan within 30 calendar days of the
24 Department's notice.

25 (c) A grant shall be terminated for, but termination is
26 not limited to, under any of the following circumstances:

27 (1) In the absence of State funding for a specific
28 year, all grants that year will be terminated in full.
29 In the event of a partial loss of State funding, the
30 Department may make proportionate cuts to all recipients.

31 (2) If the Department determines that the recipient
32 has failed to comply with the terms and conditions of the
33 grant agreement, the Department shall terminate the grant
34 in whole, or in part, at any time before the date of

1 completion.

2 (3) The Department and the recipient shall
3 terminate the grant in whole, or in part, when the
4 Department and recipient agree that the continuation of
5 the project would not produce beneficial results
6 commensurate with the further expenditures of funds.

7 (4) The recipient may refuse or elect not to
8 complete the grant agreement and terminate the grant. The
9 recipient shall notify the Department within 10 days
10 after the date upon which performance ceases.

11 (d) Any money collected from the default or termination
12 of a grant shall be placed into the Fund and expended for the
13 purposes of this Act.

14 Section 65. State agriculture planning agency. The
15 Department is the State agriculture planning agency. The
16 Department may accept and use planning grants or other
17 financial assistance from the federal government (i) for
18 statewide comprehensive planning work, including research and
19 coordination activity directly related to agriculture needs;
20 and (ii) for State and interstate comprehensive planning and
21 research and coordination activity related to that planning.
22 All such grants shall be subject to the terms and conditions
23 prescribed by the federal government.

24 Section 70. Construction. This Act is necessary for the
25 welfare of this State and must be liberally construed to
26 effect its purposes.

27 Section 800. The Open Meetings Act is amended by
28 changing Section 1.02 as follows:

29 (5 ILCS 120/1.02) (from Ch. 102, par. 41.02)

30 Sec. 1.02. For the purposes of this Act:

1 "Meeting" means any gathering of a majority of a quorum
2 of the members of a public body held for the purpose of
3 discussing public business.

4 "Public body" includes all legislative, executive,
5 administrative or advisory bodies of the State, counties,
6 townships, cities, villages, incorporated towns, school
7 districts and all other municipal corporations, boards,
8 bureaus, committees or commissions of this State, and any
9 subsidiary bodies of any of the foregoing including but not
10 limited to committees and subcommittees which are supported
11 in whole or in part by tax revenue, or which expend tax
12 revenue, except the General Assembly and committees or
13 commissions thereof. "Public body" includes tourism boards
14 and convention or civic center boards located in counties
15 that are contiguous to the Mississippi River with populations
16 of more than 250,000 but less than 300,000. "Public body"
17 includes the Health Facilities Planning Board. "Public body"
18 includes the Infrastructure Development Advisory Board for
19 Agriculture. "Public body" does not include a child death
20 review team established under the Child Death Review Team Act
21 or an ethics commission, ethics officer, or ultimate
22 jurisdictional authority acting under the State Gift Ban Act
23 as provided by Section 80 of that Act.

24 (Source: P.A. 90-517, eff. 8-22-97; 90-737, eff. 1-1-99;
25 91-782, eff. 6-9-00.)

26 Section 805. The State Finance Act is amended by adding
27 Section 5.545 as follows:

28 (30 ILCS 105/5.545 new)

29 Sec. 5.545. The Agricultural Infrastructure Development
30 Fund.

31 (20 ILCS 205/40.43 rep.)

1 Section 810. The Department of Agriculture Law of the
2 Civil Administrative Code of Illinois is amended by repealing
3 Section 40.43 as added by Public Act 91-560.

4 Section 999. Effective date. This Act takes effect upon
5 becoming law.